



THE CITY OF KEY WEST PLANNING
BOARD
Staff Report

To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Kimberly Barua, Corradino Group

Meeting Date: December 16, 2021

Agenda Item: **Variance – 1021 Packer St (RE# 00031160-000000)** A request for a variance to the minimum allowed open space requirement, building coverage, and impervious surface, for a pool and pool deck at a residence in the Historic Medium Density Residential (HMDR) zoning district pursuant to Section 90-39, Section 122-600(4)a. and Section 122-600(4)b. of the City of Key West Land Development Regulations.

Request: A request for a variance to allow reduced minimum open space, increased building coverage and reduces impervious surface. The applicant is proposing to build a pool.

**Property Owners/
Applicant:** Chris Copeland

Location: 1021 Packer St (RE # 000311600-000000)

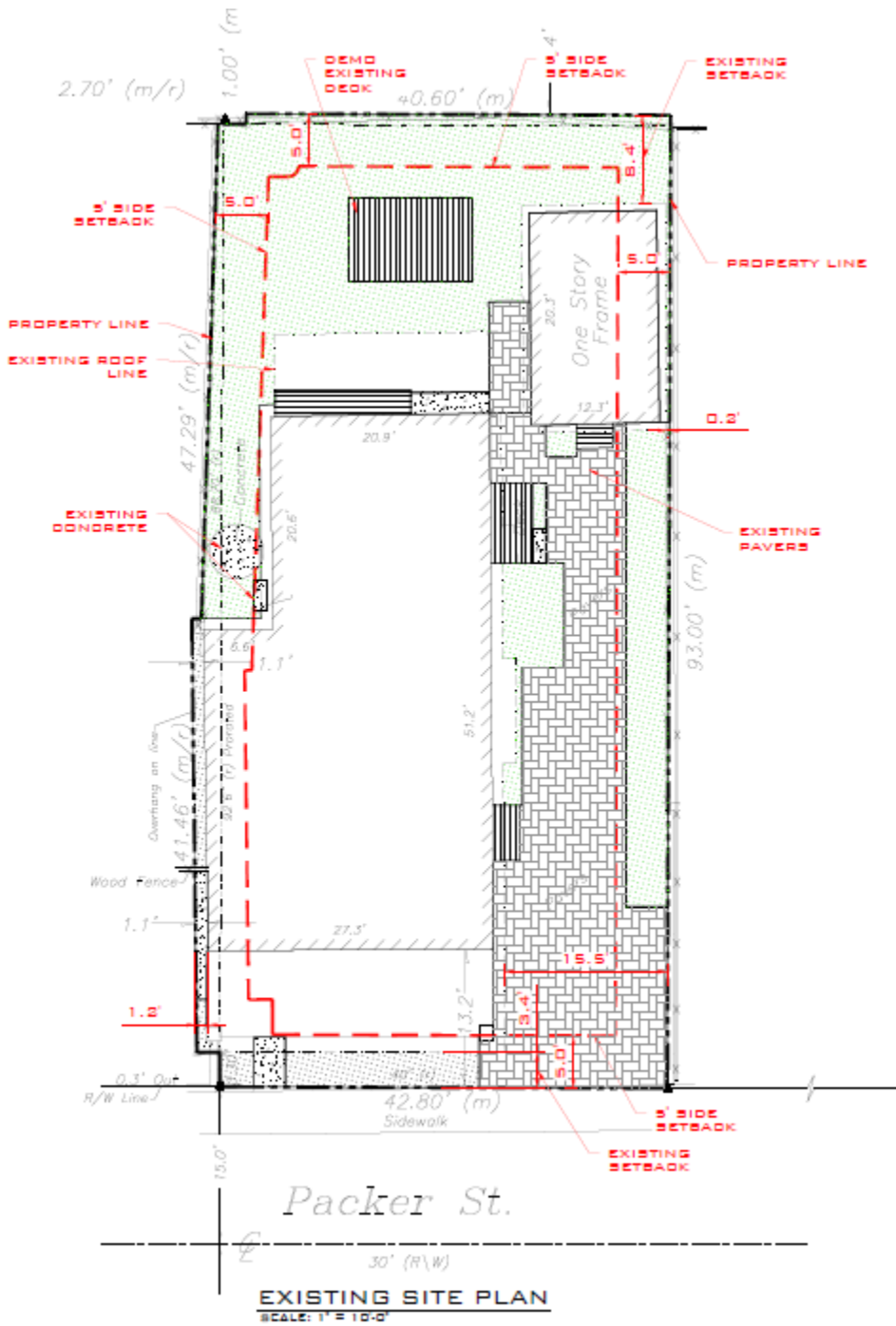
Zoning: Historic Medium Density Residential (HMDR)

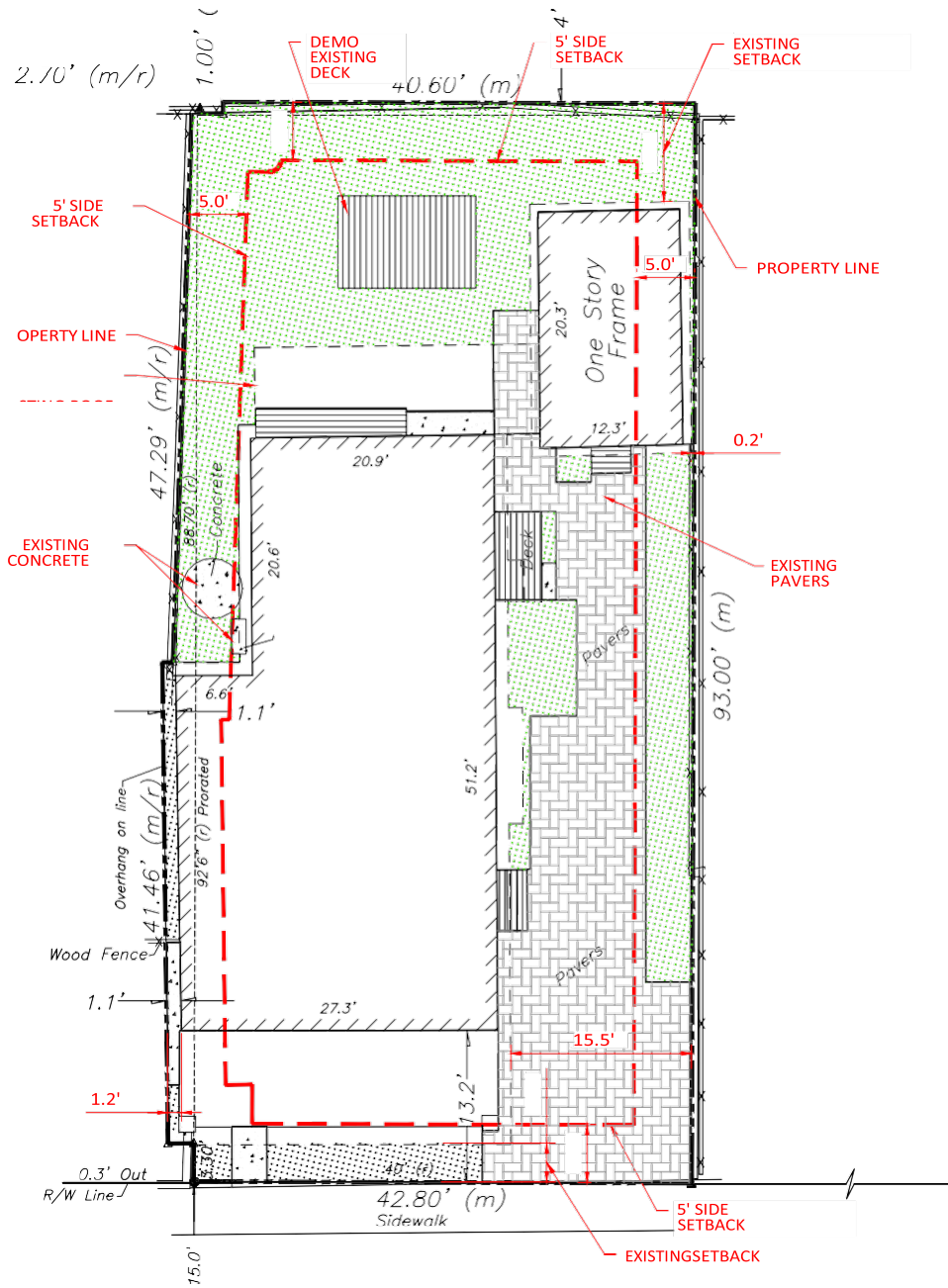


Background/Request: The subject parcel is one lot of record and is located within the Historic Medium Density Residential (HMDR) zoning district facing Packer Street. The lot includes a 1 story wood frame structure. The applicant is proposing to build a pool and a pervious wooden pool deck. The applicant is also proposing to replace the driveway and existing pavers with pervious pavers. (Pervious Paver spec sheet included in the applicant's file.) The applicant met with the Planning Department in person. The Planning Department suggested using pervious pavers to help mitigate the impervious surface ratio. The proposed pool would need a variance as it would not meet open space requirements, building coverage or impervious surface requirements.

This is the second time this application has been reviewed by the Planning Board. The first time was at the November 18 Planning Board. The applicant has made minimal changes to the site plan. The applicant's previous maximum impervious ratio was 67.4%, the new application shows 67.6%. The applicant's previous open space ratio was 20.1%, the new application shows 27.4%. An increase of 7%.

Current site plans, submitted by the applicant





Proposed Site Plans, submitted by the applicant November 2021

Site Table Data. November 2021

SITE DATA:

TOTAL SITE AREA: ±4,140.82 SQ.FT LAND USE:

HMDR

FLOOD ZONE: AE6 SETBACKS

FRONT:
REQUIRED 10 FT
EXISTING ±3.4 FT
PROPOSED NO CHANGE

SIDE:
REQUIRED 5 FT
EXISTING ±1.2 FT
PROPOSED NO CHANGE

SIDE:
REQUIRED 5 FT
EXISTING ±0.2 FT
PROPOSED NO CHANGE

REAR:
REQUIRED 15 FT
EXISTING ±8.4 FT
PROPOSED NO CHANGE

MAXIMUM IMPERVIOUS SURFACE RATIO:

REQUIRED:	60%	(2,484.49 SQ.FT.)
EXISTING	69.72%	(±2,887.2 SQ.FT.)
PROPOSED	67.40%	(±2,790.2 SQ.FT.)

IMPROVEMENT

BUILDING: ±2,132.95 SQ.FT.
POOL: ±232.93 SQ.FT. POOL
EQUIPMENT: ±23.14 SQ.FT. BRICK PAVERS &
CONC: ±738.18 SQ.FT. PERVIOUS PAVERS: -337
SQ.FT. (CREDIT)

TOTAL: ±2,790.2 SQ.FT.

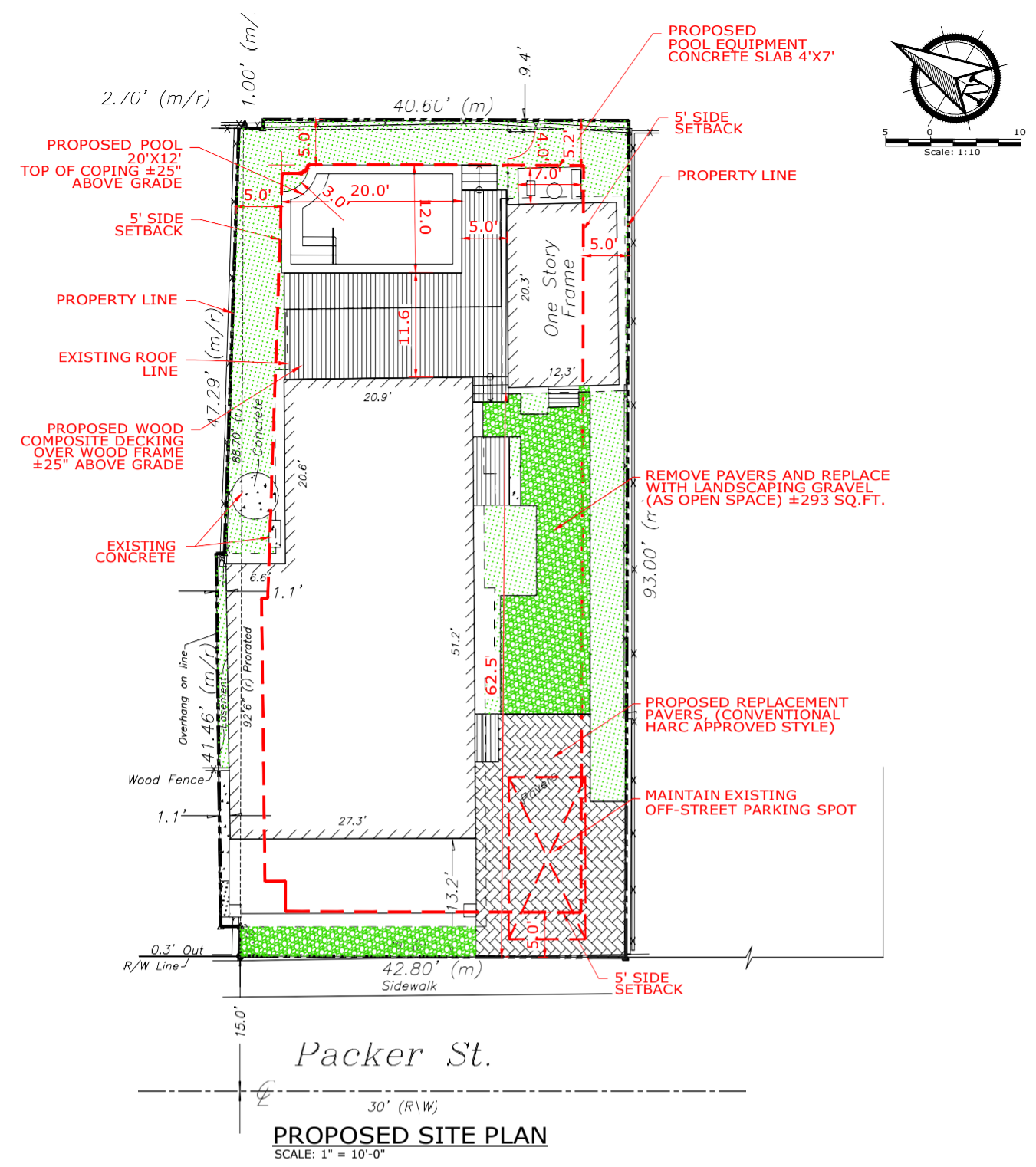
MAXIMUM BUILDING COVERAGE:

REQUIRED	40%	(1,656.33 SQ.FT)
EXISTING	51.51%	(±2,132.95 SQ.FT)
PROPOSED	NO CHANGE	

OPEN SPACE MINIMUM:

REQUIRED	35%	(1,449.29 SQ.FT)
EXISTING	27.39%	(±1,134.4 SQ.FT.)
PROPOSED	20.17%	(±835.2 SQ.FT.)

VARIANCE REQUIRED



Site Data Table December 2021

SITE DATA:

TOTAL SITE AREA: ±4,140.82 SQ.FT LAND USE:
HMDR
FLOOD ZONE: AE6 SETBACKS
FRONT:
REQUIRED 10 FT
EXISTING ±3.4 FT
PROPOSED NO CHANGE
SIDE:
REQUIRED 5 FT
EXISTING ±1.2 FT
PROPOSED NO CHANGE
SIDE:
REQUIRED 5 FT
EXISTING ±0.2 FT
PROPOSED NO CHANGE
REAR:
REQUIRED 15 FT
EXISTING ±8.4 FT
PROPOSED NO CHANGE

MAXIMUM IMPERVIOUS SURFACE RATIO:

REQUIRED:	60%	(2,484.49 SQ.FT.)
EXISTING	69.72%	(±2,887.2 SQ.FT.)
PROPOSED	67.69%	(±2,803 SQ.FT.)

IMPROVEMENT

BUILDING: ±2,132.95 SQ.FT.
POOL: ±232.93 SQ.FT. POOL
EQUIPMENT: ±23.14 SQ.FT. BRICK PAVERS &
CONC: ±738.18 SQ.FT. PERVIOUS PAVERS: -337
SQ.FT. (CREDIT)

TOTAL: ±2,790.2 SQ.FT.

MAXIMUM BUILDING COVERAGE:

REQUIRED 40% (1,656.33 SQ.FT)
EXISTING 51.51% (±2,132.95 SQ.FT)
PROPOSED NO CHANGE

OPEN SPACE MINIMUM:

REQUIRED	35%	(1,449.29 SQ.FT)
EXISTING	27.39%	(±1,134.4 SQ.FT.)
PROPOSED	27.4%	(±1,135.6 SQ.FT.)

VARIANCE REQUIRED

Site Data Table

	Required/Allowed	Existing	Proposed	Change/Variance Required?
Zoning		HMDR		
Flood Zone	AE6			
Size of Site	4,140 sq ft			
Building Coverage	40%	51% (2,440 sq ft for both buildings)	51% (2,440 sq ft for both buildings)	Existing non-compliance. Variance Requested for 476.62 sq ft
Impervious Surface	60%	69%	67.69%	Existing non-compliance. Variance Requested for 319 sq ft
Open Space Requirement	35%	27.39%	27.4%	Variance Requested for 313 sq ft

The applicant is requesting a variance pursuant to Section 90-39, Section 122-600(4)a. and Section 122-600(4)b. of the City of Key West Land Development Regulations: Required open space/landscaping. The code requires 35%. The existing open space is 27.39%. The applicant is requesting 27.4%. (Last month, the applicant requested 20.17%). The applicant is requesting greater than 60% impervious surface, however this is an improvement from the existing condition of 69%, to 67.69%. (Last month, the applicant requested 67.4%). The applicant is requesting 51% building coverage, where the code requires no more than 40%.

Process:

Planning Board Meeting: December 16, 2021
HARC: TBD
Local Appeal Period: 30 days
DEO Review Period: up to 45 days

Staff Analysis- Evaluation:

The criteria for evaluating a variance are listed in Sections 90-391 through 397 of the City of Key West Land Development Regulations. The Planning Board before granting a variance must find all the following:

1. *Existence of special conditions or circumstances. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district.*

Main building was built in 1938 on a small parcel with several additions and alterations permitted in 1993 (brick patio) and 1996 (accessory structure). The additions along with the main house put the parcel over the open space requirement, building coverage and impervious surfaces allowed. This is an existing non-conforming situation.

NOT IN COMPLIANCE

2. *Conditions not created by applicant. That the special conditions and circumstances do not result from the action or negligence of the applicant.*

Home was constructed in 1938. Applicant purchased the home in 2021. The proposal of the pool addition is created by the applicant. The property is already not in compliance for allowed impervious surface as well as maximum building coverage.

NOT IN COMPLIANCE

3. *Special Privileges not conferred. That granting the variance requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings, or structures in the same zoning district.*

The Land Development Regulations set maximum building coverage and impervious surface ratios in order to ensure life safety, general welfare, health standards, and aesthetics. The proposed pool addition would increase the impervious surface over the code allowed maximum by 306 sq ft. The property is already over the allowed impervious surface.

NOT IN COMPLIANCE

4. *Hardship Conditions Exist. That literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by the other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.*

The parcel located at 1021 Packer Street is already not meeting the open space requirement. The Land Development Regulation's open space requirement is designed to curtail overdevelopment on lots as well as ensuring sustainability of the block by regulating open space.

NOT IN COMPLIANCE*

*Applicant is stating hardships exist due to medical reasons. A saltwater pool will provide significant relief to homeowner's health conditions. *

5. *Only minimum variance granted. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.*

There are already two existing non-conforming requirements (building coverage and impervious surface) on this property. The open space/landscaping requirement would then make a third.

NOT IN COMPLIANCE

6. *Not injurious to the public welfare. That the granting of the variance will be in harmony with the general intent and purpose of the land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.*

Although the intended use is for the applicant's backyard, the variance will not be in harmony with the general intent of the land development regulations but would not be injurious to the area involved or detrimental to the public interest or welfare.

NOT IN COMPLIANCE

7. *Existing nonconforming uses of other property shall not be considered as the basis for approval. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.*

Existing non-conforming uses of other properties, use of neighboring lands, structures, or buildings in the same district, or other zoning districts, are not the basis for this request.

IN COMPLIANCE

Concurrency Facilities and Other Utilities or Service (Section 108-233):

It does not appear that the requested variance will trigger any public facility or utility service capacity issues.

The Planning Board shall make factual findings regarding the following:

That the standards established by the City Code have been met by the applicant for a variance.

The standards established by the City Code have not been fully met by the applicant for the variance requested.

That the applicant has demonstrated “Good Neighbor Policy” by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by these neighbors.

The Planning Department has not received any public comment for the variance request as of the date of this report.

The Planning Board shall not grant a variance to permit a use not permitted by right or as a conditional use in the zoning district involved or any use expressly or by implication prohibited by the terms of the ordinance in the zoning district.

No use not permitted by right or as a conditional use in the zoning district involved or any use expressly or by implication prohibited by the terms or the ordinance in the zoning district would be permitted.

No nonconforming use of neighboring lands, structures, or buildings in the same zoning district and no permitted use of lands, structures, or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

No such grounds were considered.

No variance shall be granted that increase or has the effect of the increasing density or intensity of a use beyond that permitted by the comprehensive plan or these LDRs.

No density or intensity of a use would be increased beyond that permitted by the comprehensive plan or these LDRs.

RECOMMENDATION:

The proposed construction of an addition of a pool would increase the already existing nonconformity of the property in “open space requirement”. The pervious pavers would mitigate the impervious surface ratio. The variance to the open space requirement does not meet the criteria stated in Section 90-395. The Planning Department recommends **DENIAL**.

If the Planning Board chooses to approve the variance, the Planning Department recommends the following conditions:

1. The proposed construction shall be consistent (except for conditions of approval listed below) with the plans, signed, sealed and dated 12/1/2021 by Serge Mashtakov.