

**THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report**



**To:** Chairman and Planning Board Members

**Through:** Patrick Wright, Planning Director

**From:** Melissa Paul-Leto, Planner Analyst

**Meeting Date:** August 16, 2018

**Agenda Item:** **215 Eanes Lane – (RE# 00017950-000000)** – A request for variances to the minimum side setback requirements in order to reconstruct a single family residence on property located within in the Duval Street Oceanside (HRCC-3) zoning district pursuant to Sections 90-395, 122-750 (6) (b), of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

**Request:** The applicant is requesting a variance to the minimum side yard setbacks in order to demolish the existing structure and reconstruct a single family residence.

**Applicant:** T. Seth Neal, TSN Neal Architects, Inc.

**Property Owner:** 419 Truman LLC

**Location:** 215 Eanes Lane – (RE# 00017950-000000)

**Zoning:** Duval Street Oceanside (HRCC-3) zoning district



**Background/Request:**

The property at 215 Eanes Lane is a one story concrete block single family residence located within the Duval Street Oceanside (HRCC-3) zoning district, and is one lot of record. The applicant is proposing to demolish the one story structure with HARC approval and will reconstruct the house with a smaller footprint length wise but will be encroaching on the North West and South East side setbacks.

The following table summarizes the requested variance.

<b>Relevant HRCC-3 Zoning District Dimensional Requirements: Code Section 122-750</b>				
<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Lot Size	4,000 Square Feet	1,315 Square Feet	1,315 Square Feet	Existing Non-conformity In Compliance
Maximum Height	35 Feet plus an additional 5 feet if the structure has a pitched roof.	10 Feet 7 Inches	16 Feet 1 1/2 Inches	In compliance
Maximum building coverage	50% (657 Square Feet)	55% (726 Square Feet)	32% (420 Square Feet)	In compliance
Maximum impervious surface	60% (789 Square Feet)	70% (923 Square Feet)	46% (611 Square Feet)	In compliance
Minimum open space	35% (460 Square Feet)	29% (385 Square Feet)	40% (531 Square Feet)	In compliance
Minimum front setback	5 Feet	2 Inches	5 Feet 11 ½ Inches	In compliance
<b>Minimum North West side setback</b>	<b>5 Feet</b>	<b>4 Feet 1 Inch</b>	<b>4 Feet 1 Inch</b>	<b>Variance requested -11 Inches</b>
<b>Minimum South East side setback</b>	<b>5 Feet</b>	<b>4 Inches</b>	<b>7 Inches</b>	<b>Variance requested -4 Feet 5 Inches</b>
Minimum rear setback	15 Feet	2 Inches	29 Feet 11 Inches	In compliance

**Process:**

**Planning Board Meeting:**

August 16, 2018

**HARC:**

TBD

**Local Appeal Period:**

30 days

**DEO Review Period:**

up to 45 days

**Analysis – Evaluation for Compliance with the Land Development Regulations:**

The criteria for evaluating a variance are listed in Section 90-395 of the City Code. The Planning Board before granting a variance must find all of 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.***

The existing conditions of the one story single family structure pre-dates the dimensional requirements of the current LDR's, and therefore is legally non-conforming to some dimensional requirements in the HRRC-3 zoning district. However, the applicant is demolishing the existing structure and constructing a new single family residence that encroaches into the side setbacks similar to the existing structure does. The applicant could have chosen a design that did not encroach into the side setbacks. Therefore, there are no special conditions or circumstances.

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.***

The applicant has chosen to demolish the existing one story structure that is non-conforming with front, side, and rear setback requirements, as well as building coverage, impervious surface, and open space. The choice to reconstruct the new single family residence with the roof lines encroaching into both the North West and South East side setback requirements was created by the property owner.

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.***

Granting the minimum side yard setbacks will confer special privileges to the applicant that is denied by the Land Development Regulations to other lands, buildings or structures in the same zoning district.

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 other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.***

Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the Duval Street Oceanside zoning district. The property owner may choose a single family residence design that does not encroach into the side setbacks. Therefore, hardship conditions do not exist.

NOT IN COMPLIANCE.

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.***

The variance request is not the minimum required that will make possible the reasonable use of the land, building, or structure. However, they are the minimum necessary to accommodate the request.

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.***

Due to not being in compliance with all of the standards for considering variances, the granting of the requested variances would be injurious to the area involved and otherwise detrimental to the public interest.

NOT IN COMPLIANCE

7. ***Existing nonconforming uses of other property not 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 capacity issues.

**The Planning Board shall make factual findings regarding the following:**

*That the standards established by Section 90-395 of the City Code have been met by the applicant for a variance.*

The standards established by Section 90-395 of the City Code have been fully met by the applicant for the variance requested.

*That the applicant has demonstrated a "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 received no public comments for the variance request as of the date of this report.

Pursuant to Code Section 90-392, in granting such application the Planning Board must make specific affirmative findings respecting each of the matters specified in Code Section 90-394.

*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 of 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 increases or has the effect of 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:**

Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variances be **denied**.

If Planning Board chooses to approve the request for variances then staff suggests the following condition:

1. The proposed development shall be consistent with the plans dated, May 30, 2018 by T. Seth Neal, P.A. No approval granted for any other work or improvements shown on the plans other than the proposed construction of a single family residence with a rear deck and pool.