

**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: June 21, 2018

Agenda Item: **Variance – 1610 Trinidad Drive – (RE# 00071050-000000)** – A request for variances to the required side setbacks, required rear yard setback, and the maximum building coverage allowed in order to construct a screened in porch in the rear yard for property located within the Single Family (SF) Zoning District pursuant to Sections 90-395, 122-238 (4)(a)(1), 122-238 (6)(a)(2), 122-238 (6)(a)(3) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

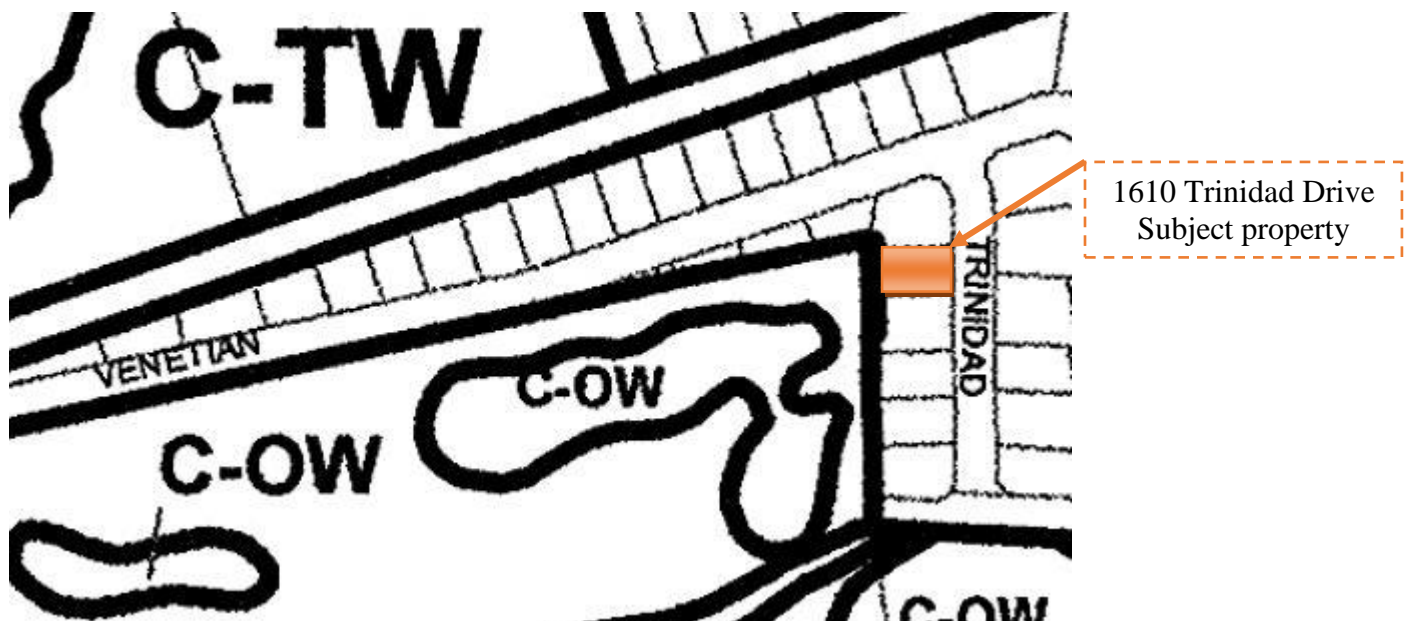
Request: The applicant is seeking a both side yard setbacks, rear yard setback, and maximum building coverage variances in order to construct a screened in porch in the rear yard.

Applicant: Alison Johnson

Property Owner: Alison Johnson

Location: 1610 Trinidad Drive – (RE# 00071050-000000)

Zoning: Single Family (SF) Zoning District



Background/Request:

The property at 1610 Trinidad Drive is located within the Venetian Subdivision south of the Riviera Canal, and is one lot of record. The one story residential structure faces Trinidad Drive near the corner of Venetian Drive.

The property has an existing 6 foot concrete wall surrounding both sides and rear of the property. The applicant is proposing to construct a screened in porch on top of the 6 foot concrete wall located to the side and rear of the property. The screened in porch will encroach into both of the required side yard setbacks, rear yard setback. The plans submitted would require variances to the minimum required side yard setbacks, minimum rear yard setback, and the maximum building coverage allowed.

The following table summarizes the requested variances.

| Relevant SF Zoning District Dimensional Requirements: Code Section 122-238 | | | | |
|---|---|--------------------------|--------------------------|---|
| Dimensional Requirement | Required/ Allowed | Existing | Proposed | Change / Variance Required? |
| Lot Size | 8,000 Square feet | 5,600 square feet | 5,600 square feet | Existing Non-conformity In compliance |
| Maximum Height | 25 feet plus an additional five feet for non-habitable purposes if the structure has a pitched roof | 16 feet 5 inches | 16 feet 5 inches | In compliance |
| Maximum building coverage for the Venetian Subdivision located south of the Riviera Canal | 30% (1,680 Square feet) | 42% (2,369 Square feet) | 43% (2,427 Square feet) | Variance Required -747 square feet |
| Maximum impervious surface | 50% (2800 Square feet) | 73 % (4,098 Square feet) | 73 % (4,098 Square feet) | Existing Non-conformity In compliance |
| Minimum open space | 35% (1,960 Square feet) | 20 % (1,148 Square feet) | 20 % (1,148 Square feet) | Existing Non-conformity In compliance |
| Minimum front setback | 20 feet | N/A | N/A | In compliance |
| Minimum side setback | 5 feet | 7 feet 10 1/2 inches | 0 inches | Variance Required -5 feet |
| Minimum side setback | 5 feet | 8 feet 1 1/2 inches | 0 inches | Variance Required -5 feet |
| Minimum rear setback | 25 feet | 29 feet 2 3/4 inches | 0 inches | Variance Required -25 feet |

Process:

| | |
|--------------------------------|--------------------------|
| Planning Board Meeting: | June 21, 2018 |
| Planning Board Meeting: | May 17, 2018 (postponed) |
| 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 land, structures and buildings involved are located on the property within the SF zoning district specifically in the Venetian Subdivision located south of the Riviera Canal. The required minimum lot size in the SF zoning district, Venetian Subdivision is 8,000 square feet. The 1610 Trinidad Drive property has a lot size of 5,600 square feet. The lot was developed prior to the adoption of the current Land Development Regulations (LDRs).

However, many other land, structures and buildings within the SF Zoning District were also developed prior to the adoption of the current LDRs. Therefore, there are no special conditions or circumstances that exist that are peculiar to the land, structures or buildings involved.

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 plans submitted by the applicant are for a new screened in porch to the rear and side of the property. The applicant could screen in a portion of the back yard and not the entire back yard of the property.

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.***

Section 122-27 of the Land Development Regulations discourages the expansion of site nonconformities. The property currently does not need any variances to the property. The plans submitted require special privileges to go beyond the SF zoning district's both side yard, and rear yard setback requirements, and the maximum allowed building coverage requirements.

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.*

The applicant has stated she has a severe insect allergy that precludes her from enjoying the outside space. She has tried other methods of insect control without success. Please see the attached doctor's note.

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 twenty-one public comments of support for the variance request as of the date of this report including the applicant's doctor's letter of support.

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**.