



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

To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Vanessa Sellers, Planner I

Meeting Date: July 19, 2018

Agenda Item: **Variance – 409 Margaret Street (RE # 000050621-000400; AK # 9085543)** - A request for variances to the maximum allowable building coverage, the maximum allowable impervious surface, and the minimum side setback requirement in order to construct a new roof over an existing rear yard wood deck at property located within the Historic Medium Density Residential (HMDR) zoning district pursuant to Sections 90-395 and 122-600 (4) a. & b. and (6) b. of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is seeking variances in order to construct a new roof over an existing rear yard wood deck. The proposed building coverage is 49% and the maximum allowable is 40%. The proposed impervious surface is 64%, and the maximum allowable is 60%. The proposed side setback is 3.54', and the minimum required is 5'.

Applicant: David Knoll, Architect

Property Owner: Glenn Jackson and Denise Yaag

Location: 409 Margaret Street, Key West

Zoning: Historic Medium Density Residential (HMDR)



Background:

The property at 409 Margaret Street is located between Eaton Street and Fleming Street and is one lot of record. The existing nonconforming structures are located within the front and side yard setbacks. The property is located within the Key West Historic District, and contains contributing structures.

The applicant is proposing to replace an involuntarily destroyed nonconforming canvas awning with a new, V-crimp metal roof. The plans submitted would require variances to maximum allowable building coverage, the maximum allowable impervious surface, and the minimum side yard setback requirement.

The following table summarizes the requested variances:

Relevant HMDR Zoning District Dimensional Requirements: Code Section 122 - 600				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Maximum height	30'	N/A	N/A	No
Minimum lot size	4,000 SF	4,623 SF	No change	No
Maximum density	16 dwelling units per acre	5 units	No change	No
Maximum floor area ratio	N/A	N/A	N/A	No
Maximum building coverage	40%	45% (2,085 SF)	49% (2,289 SF)	Yes
Maximum impervious surface	60%	58% (2,700 SF)	64% (2,940 SF)	Yes
Minimum open space (residential)	35%	11% (518 SF)	No change	No
Minimum front setback	10'	2.83'	No change	No
Minimum side setback	5'	3.54'	No change, but expanding upon	Yes
Minimum street-side setback	7.5'	N/A	N/A	No
Minimum rear setback	15'	32.5'	17.75'	No

Process:

Planning Board Meeting:

July 19, 2018

Local Appeal Period:

10 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, structure, and buildings do not have any special conditions or circumstances involved that any other property located within the HMDR zoning district possess. The lot is nonconforming to maximum allowable density and building coverage, however, other lots in the area are similarly nonconforming.

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 rear structure is within the southeast side setback and is nonconforming. However, the construction of a roof over the rear deck is a condition created by the applicant. Therefore, the conditions are generated from specific actions initiated by the applicant.

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. Therefore, expanding upon the southeast side setback with the addition of a deck roof would confer special privileges upon the applicant.

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.***

Although a roof provides protection from sun and rain, the applicant currently has use of the existing rear deck without the variance approval. In addition, the lack of a covered deck does not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district. Therefore, hardship conditions do not exist. Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the HMDR zoning district.

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 variances requested are 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 non-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 variances 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 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 not been fully met by the applicant for the variances 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 not received any public comment for the variance request as of the date of this report.

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.

However, if the Planning Board approves this request, staff would like to require the following conditions:

General Conditions:

1. The proposed development shall be consistent with the plans dated June 4, 2018 by David Knoll. No approval granted for any other work or improvements shown on the plans other than the proposed installation of a roof addition over an existing wood deck.

Condition required to be completed prior to issuance of a building permit:

2. A Certificate of Appropriateness shall be obtained for the proposed development.