

**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:** October 18, 2018

**Agenda Item:** **Variance – 2800 Staples Avenue - (RE# 00067000-000000)** – A request for a variance to the maximum allowed building coverage in order to construct an accessory structure in the rear yard on property located within the Single Family (SF) Zoning District pursuant to Sections 90-395, 122-238 (4) (a), of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

**Request:** The applicant is seeking a variance to the maximum building coverage allowed in order to construct an accessory structure in the rear yard of the property.

**Applicant:** Meridian Engineering LLC c/o Rick Milelli, P.A.

**Property Owner:** Wesley House Family Services Inc.

**Location:** 2800 Staples Avenue - (RE# 00067000-000000)

**Zoning:** Single Family (SF) Zoning District



**Background/Request:**

The property at 2800 Staples Avenue is located on the corner of Staples Avenue and 10th Street. The property is one lot of record and consists of a one story residential framed structure within a 7,346.5 square foot parcel.

The plans submitted would require a variance to the maximum allowed building coverage. The maximum allowed building coverage in the Single Family zoning district is 35%. Currently, the building coverage on the property is non-conforming at 37.08%, 2,782 square feet. The applicant is proposing to add an additional 215 square feet of building coverage making the total building coverage on the lot 40.7 %, 2,997 square feet. Resulting in an overall 5.7%, 425.8 square feet increase from the maximum allowed building coverage.

The following table summarizes the requested variance.

<b>Relevant SF Zoning District Dimensional Requirements: Code Section 122-238</b>				
<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Lot Size	6,000 Square Feet	7,346.5 Square Feet	7,346.5 Square Feet	In compliance
Building Height For the accessory structure	25 feet	N/A	18 feet 2 inches	In compliance
<b>Maximum building coverage</b>	<b>35% (2,571.2 Square Feet)</b>	<b>37.08% (2,782 Square Feet)</b>	<b>40.7% (2,997 Square Feet)</b>	<b>Variance Required 425.8 Square Feet</b>
Maximum impervious surface	50% (3,673.2 Square Feet)	42.2 % (3,105.5 Square Feet)	45.1 % (3,320.5 Square Feet)	In compliance
Minimum open space	35% (2,571.2 Square Feet)	57.7 % (4,241 Square Feet)	54.8 % (4,026 Square Feet)	In compliance
Minimum front setback for the accessory structure	20 Feet	N/A	84 feet 10 ½ inches	In compliance
Minimum side setback for the accessory structure	5 Feet	N/A	8 feet 10 inches	In compliance
Minimum street side setback for the accessory structure	10 Feet	N/A	46 feet 10 inches	In compliance
Minimum rear setback For the accessory structure	5 Feet	N/A	5 Feet 4 Inches	In compliance

**Process:**

**Planning Board Meeting:**

October 18, 2018

**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. The required minimum lot size in the SF zoning district is 6,000 square feet. The 2800 Staples Avenue property has a lot size of 7,346.5 square feet, much larger than the minimum size required.

The land should have more than enough square feet to accommodate the 35% maximum allowed building coverage. 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 an accessory structure in the rear yard. The property is currently non-conforming with the maximum building coverage requirements. The proposed accessory structure will further increase this non-conformity. The applicant could remove some portion of building coverage from somewhere else on the property so as not to need the variance request.

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 is currently non-conforming with the maximum building coverage requirement in the Single Family zoning district. The plans submitted require special privileges to go beyond the property owner's current non-conformity and increase it further.

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 SF Zoning District. The property owner can remove some sheds that are currently on the property or other building coverage in order to accommodate the proposed accessory structure.

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 not received any 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**.

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, August 13, 2018 by Richard Milelli, P.E. No approval granted for any other work or improvements shown on the plans other than the proposed construction of the accessory structure in the rear yard of the property.