

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



To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Daniel Sobczak, Planner I

Meeting Date: July 16th, 2020

Application: Variance – 1115 Casa Marina Court (RE # 00058550-000000) – A request for variances to the minimum front-yard setback, minimum street-side setback, and maximum allowable impervious surface ratio in order to construct an accessory structure in the Single-Family (SF) zoning district pursuant to sections 90-395, 122-238(4) b.1., 122-238 (6) a.1., and 122-238(6) a.4., and 122-1181 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 construct an accessory structure in the required front yard and encroach into both the front setback and street side setback. The applicant is proposing to construct a covered pool bar in the front yard of the principle structure that will increase the current noncomplying impervious surface.

Applicant: Smith Hawks, PL

Property Owner: ACS Harbour Place 216, LLC

Location: 1115 Casa Marina Court (RE # 00058550-000000)



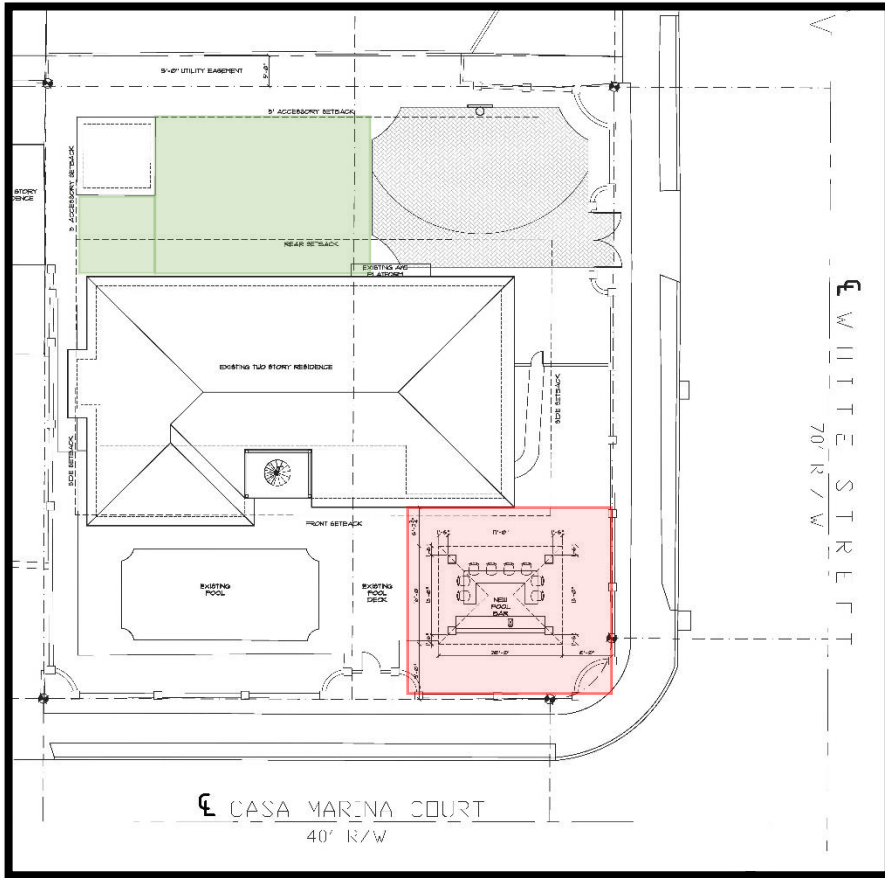
Background:

The subject parcel is located at 1115 Casa Marina Court in the Single-Family zoning district. The parcel is not located within the Key West Historic District; the principal structure is not contributing. The current homeowner purchased the parcel in 2019 and has been issued building permit 2020-1098 to reduce the overall dwelling units from two units to one unit and demolish existing walkways, a tile patio, and create a larger driveway and parking area. Construction work has begun for permit BLD 2020-1098. The reduction of impervious surface from 63.9% to 60.2% helps the parcel become less noncompliant with City Code. The maximum allowed impervious surface area in the SF zoning district is 50%. The proposed construction of the pool bar by the applicant will add an additional 257 sqft of impervious surface to the already non-complying lot.

The purpose of required yards in the land development regulations is to provide open space around and between structures for health, safety and aesthetic purposes. The depth of a required yard is equivalent to the required setback and measured from the lot line. The lot is addressed as 1115 Casa Marina Court and has its required front yard abutting Casa Marina Court. The main structure is situated 32-feet from the front property line and has an in-ground swimming pool and deck in the required front yard. The legal non-complying pool and deck were installed in 1990 when the 1987 Land Development Code was in place. Both the 1987 Code and the City’s current code do not allow accessory structures to be placed in the required front or side yard of any parcel. The City of Key West could not locate a variance for the pool and deck and no variances were provided by the applicant. The proposed pool bar would be placed in both the required front yard and the required side yard. Based on the supplied survey and proposed building plans, there is more or less 1,300 square feet of open space in the rear yard that would be suitable for the construction of a rear accessory structure.

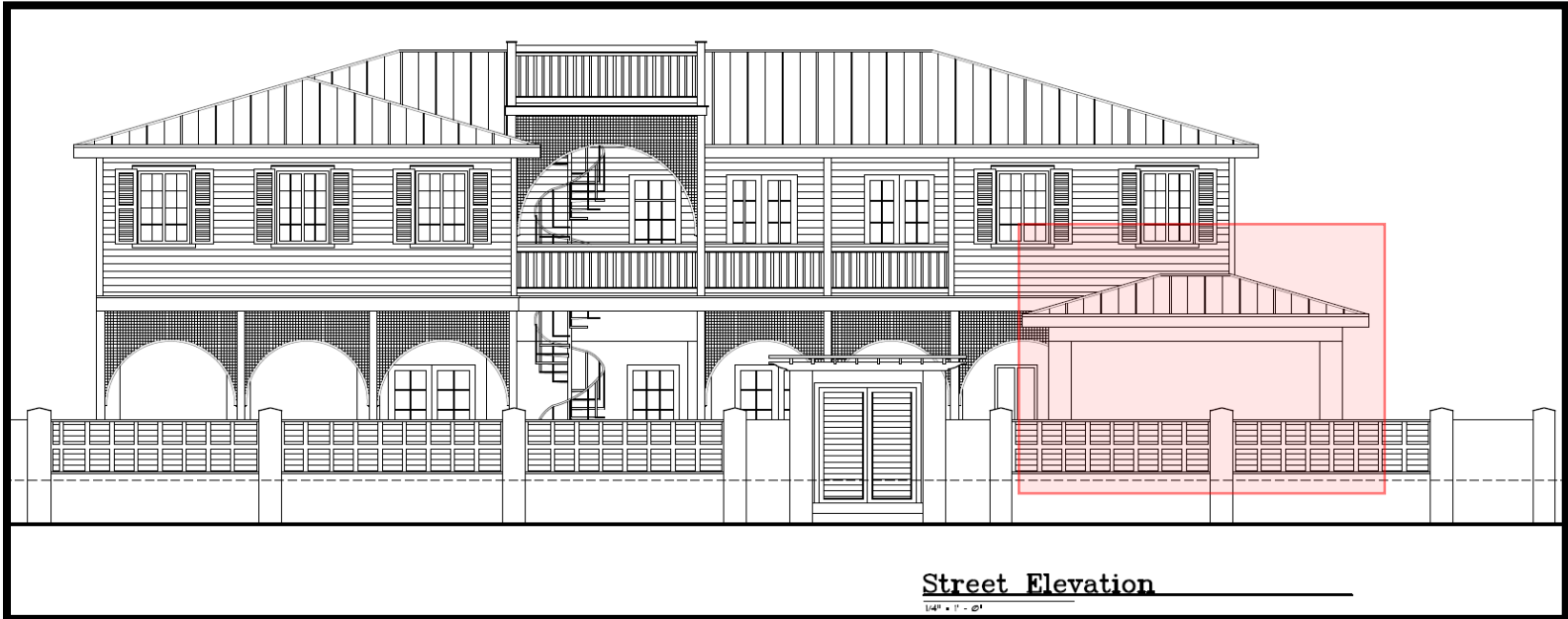
Site Data Table				
	Code Required	Existing	Proposed	Variance Required
Zoning	SF			
Flood Zone	AE – 7			
Size of Site	5,000 sqft	9,171 sqft		
Height	n/a	n/a		n/a
Front Setback	30’	28’ 3”	9’	21’
Side Setback	5’	3’ 8”	3’ 8 “	Existing
Street Side Setback	10’	16’ 2”	8’	2’
Rear Setback	25’	31’	31’	Existing
Building Coverage	35% -- 3,210 sqft	31.4% --2,879 sqft	34.9% -- 3,199 sqft	n/a
Impervious Surface	50% -- 4,586 sqft	60.2% -- 5,521 sqft	61.9% -- 5,674 sqft	11.7% -- 153 sqft
Parking	n/a	n/a		n/a
Accessible Parking	n/a	n/a		n/a
Bicycle Parking	n/a	n/a		n/a
Open Space	35% -- 3,210 sqft	39% --3,587 sqft	37% -- 3,434 sqft	n/a
Consumption Area	n/a	n/a		n/a

Site Plan, Pope – Scarbrough, 2020



The site plan shows the legal non-complying pool and pool deck in the front yard as well as the proposed accessory structure in the required front and side yard. The elevation below shows the structure when viewing from Casa Marina Court

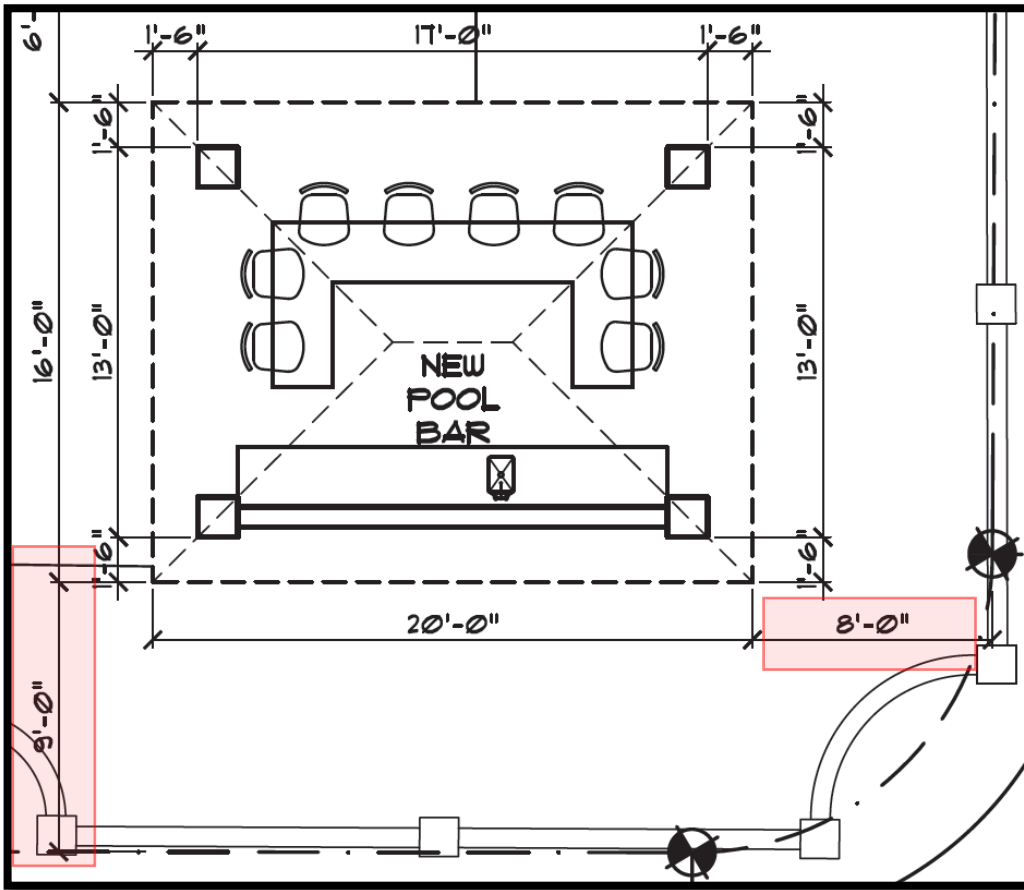
- = Proposed Accessory Structure
- = 1,300 square feet m.o.i. of open space



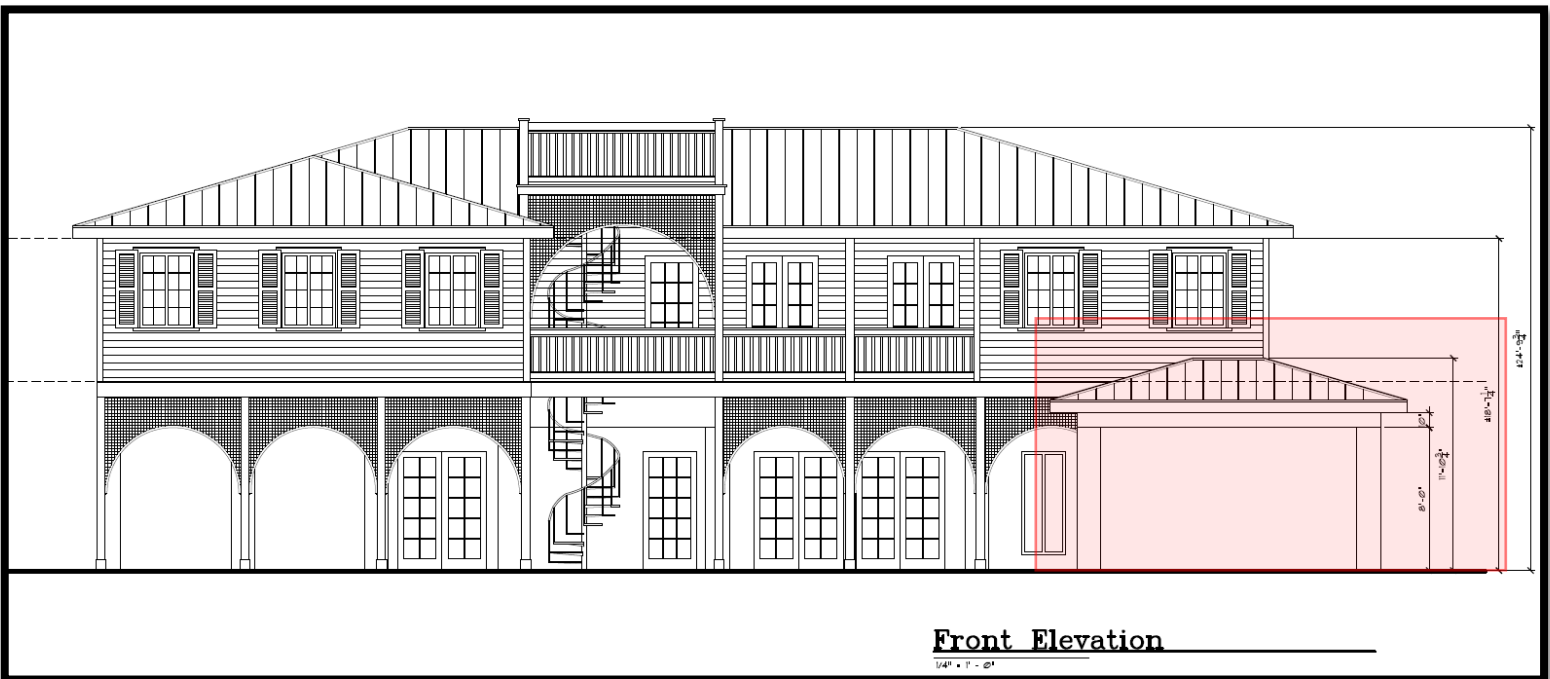
Street Elevation

1/4" = 1' - 0"

Pool Bar Site Plan, Pope – Scarbrough, 2020



The pool bar site plan shows the accessory structure eight feet from White Street and nine feet from Casa Marina Court. The below elevation shows the structure has an elevation of 11-feet and 11-inches.



Staff Analysis - Evaluation:

The applicant is applying to construct an accessory structure in the required front yard and the required side yard. The proposed structure will be a pool bar in the front setback and the street side setback. According to Section 122-1181, no accessory uses, or structure shall be erected in any required front or side yard.

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 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 subject parcel measures nearly twice the size as the minimum regulations for a single-family zoned property. Eighty percent of the lots on Casa Marina Court are larger than the minimum regulations for a single-family zoned property. The parcel is already currently non-complying in maximum impervious surface area due to two large non-complying structures in the front yard. The addition of a third non-complying structure in the front yard and street-side yard would further the parcel's noncompliance with the City Code.

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 current owner purchased the property in 2019. There are no variances or notes for the property that show that past owners applied for or were granted variances or other administrative leniencies that would have granted the non-complying structures in 1990. The current owner would like to construct a covered bar next to the pool in the front yard, although the rear yard has sufficient size and cleared land to construct such an accessory structure.

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.*

Eighty percent of the parcels located on Casa Marina Court are, or nearly are, twice the minimum size required for a SF zoned property. There are no other recorded variances attributed to other properties located on Casa Marina Court. The current non-complying concrete pool and decking will be exacerbated by the addition of a pool bar to the front and side yard. Granting this variance would exacerbate the property's noncompliance and would confer special privileges to the homeowner.

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 parcel at 1115 Casa Marina is a corner lot with an ample back yard that consists of a single accessory structure and brick paving for parking per BLD 2020-1098. Literal interpretation of the provisions of the land development regulations would not deprive the applicant of the rights enjoyed by other property owners. There is more or less 1,300 square feet in the rear of the lot to construct an accessory structure that would conform with all setbacks for the SF zoning district. The applicant also has a large concrete deck that is directly abutting the pool that he proposes to expand so that it includes the pool bar itself. It would be reasonable to place the entire pool bar on the existing concrete decking thus minimizing expansion of a noncomplying structure.

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 requested is not the minimum required that will make possible the reasonable use of the land, building and/or structure. It is reasonable that the applicant could construct the accessory structure in such a way that would meet all building setbacks for an accessory structure. The applicant could also construct the covered bar closer to the pool on an already paved portion of concrete decking instead of expanding a nonconformity into the street side setback.

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.*

The purpose of required yards in the land development regulations is to provide open space around and between structures for health, safety and aesthetic purpose. Diminishing the required front and street side yard could set a precedent for the block and surrounding neighbors. The property at 1115 Casa Marina is on the corner across from Higgs Park and on White Street. The proposed pool bar would be seen by passersbys and parkgoers. The addition of a pool bar to the property would not be in harmony with the intent of the LDRs, nor would it be in harmony with the surrounding area and neighborhood.

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 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.

No objections to the variance have been received.

Recommendation:

Pursuant to Section 122-1181, no accessory structure shall be constructed in the required front or side yards. The applicant is proposing to construct an accessory structure in both the required front and side yards. The parcel is currently noncomplying with impervious surface area by 12% or about 1,200 square feet. The addition of the proposed pool bar would add to the already non-complying front accessory structures without mitigating any of the property’s noncompliance. It is reasonable the applicant remove some of the concrete decking in the front yard to bring down the parcel’s overall impervious surface or to construct this accessory structure in a way that would not need a variance. The subject parcel is 4,100 square feet larger than the minimum dimensions required by the City’s Code. The structure will be highly visible to all park goers and passersbys. This structure does not conform to City Code nor is it in harmony with the general intent of the Land Development Regulations nor the surrounding neighborhood. Based on the provided survey and building plans, it is reasonable the applicant place the proposed accessory structure in the 1,300 square feet of open space in the rear yard.

Based on a review of the application according to the stringent evaluation criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for a variance be **DENIED**. If the Planning Board votes to approve, the Planning Department recommends the following conditions:

1. The accessory structure must be in accordance to the building plans drafted and revised by Thomas Pope on 1/23/2020. The location of the accessory structure shall be placed on the existing pool deck without adding further impervious surface area to the lot.

2. A swale or another mitigative technique be implemented on the property to mitigate for the noncomplying impervious space per Section 108-34
3. Vegetation be planted to screen the structure from the right of way