

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



To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Ginny Haller, Planner II

Meeting Date: July 20, 2017

Agenda Item: **Variances – 1421 First Street (RE # 00045100-000000)** - A request for variances to building coverage, rear setback, side setback, street-side setback, and parking requirements for one (1) vehicle space for the construction of a single-family residential dwelling unit on property located in the Limited Commercial (CL) Zoning District pursuant Section 90-395, 122-390(4)(a), 122-390(6)(a), 122-390(6)(b), 122-390(6)(c), and 108-572(1) for the construction of a single-family residential dwelling unit on property located in the Limited Commercial (CL) Zoning District pursuant to Sections 122-62 and 122-388 (1) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida

Request: Variances to maximum building coverage, minimum rear yard, side and street setback requirements, and vehicle parking space in order to construct a new single-family residential dwelling unit on the property.

Applicant: Trepanier & Associates, Inc.

Owner: Trepanier & Associates, Inc.

Location: 1421 First Street (RE # 00045100-000000)

Zoning: Limited Commercial (CL)



Background and Request:

The subject property is located in the 1400 block of First Street bound by Staples Street and Flagler Avenue. A ten foot alley runs along the northern side of the property. The surrounding zoning is SF to the north and the other sides are within the CL zoning district. The entire property is approximately 5,050 square feet.

The property currently operates as a commercial space with office and restaurant uses. The applicant is proposing to construct a single-family residential dwelling unit with parking underneath the proposed structure. The property has an existing non-conformity for 9 vehicle parking spaces for the existing commercial uses. The proposed site plans show 2 parking spaces, one of which will be ADA compliant. The parking variance is for one additional vehicle space. The plans show bicycle and scooter parking spaces.

The existing commercial uses will remain. The project was awarded one Building Permit Allocation System (BPAS) unit in Year 4. The lot size is nonconforming at 5,050 square feet (50' X 101') where the minimum lot size for the CL zoning district is 10,000 square feet (70' X 100').

The applicant is requesting variances to rear yard setback requirements, maximum building coverage, side setback, street side setback and vehicle parking as part of the proposed construction. The following table summarizes the requested variances:

Relevant Land Development Regulations: Code Section 122-810				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Rear Yard Setback	20.2'	5"	5'	Variance Requested
Building Coverage	40% (2,020 sq. ft.)	54% (2,727 sq. ft.)	70 % (3,535 sq. ft.)	Variance Requested
Side Setback	15'	N/A	5'	Variance Requested
Street Side Setback	20'	N/A	5'	Variance Requested
Vehicle Parking	11	9 Existing Nonconformity	2	Variance Requested

Process:

Planning Board Meeting: July 20, 2017

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:

- 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 on the subject property do not have special conditions or circumstance involved that any other property located within the CL Zoning District possesses. The lot size is nonconforming at 5,050 square feet since the minimum lot size for the zoning district is 10,000 square feet, 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 existing setback requirements were not created by the owner or applicant. The additional nonconformities will be created by the applicant due to the nature of the design. This is a circumstance resulting from the proposed action of the applicant, therefore some of the conditions are created 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.***

The existing condition of the nonconforming lot size was not created by the owner or applicant. Granting a variance to parking requirements would confer special privileges upon the applicant denied by the land development regulations to other lands, buildings or structures in the same zoning district. Some of the conditions of the variances, such as the increase of building coverage, rear, side and street side setbacks were created by the applicant. Therefore, granting the requested variances would confer special privileges upon the applicant that are denied by the LDRs to other lands, buildings and structures in the CL 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.***

The literal interpretation of the LDRs would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district, therefore hardship conditions do not exist. The applicant has reasonable use of their land currently.

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.***

The requested variance will not be injurious to the public. The request will be beneficial to the public interest and welfare by providing additional housing.

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 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.

As of the date of this report, the Planning Department has not received public comment regarding the requested variance.

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.

Conditional Use is required.

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 the 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**.