

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



To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Melissa Paul-Leto, Planner I

Meeting Date: June 17, 2021

Agenda Item: **Variance - 1307 Newton Street (RE# 00022630-000000)** - A request for variances to the maximum building coverage, and minimum open space ratio to construct a rear addition to the principal structure, a pool, and a wood framed deck on property located within the Historic Medium Density Residential (HMDR) zoning district pursuant to Sections 90-395, 122-600 (4) a., and 108-346 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

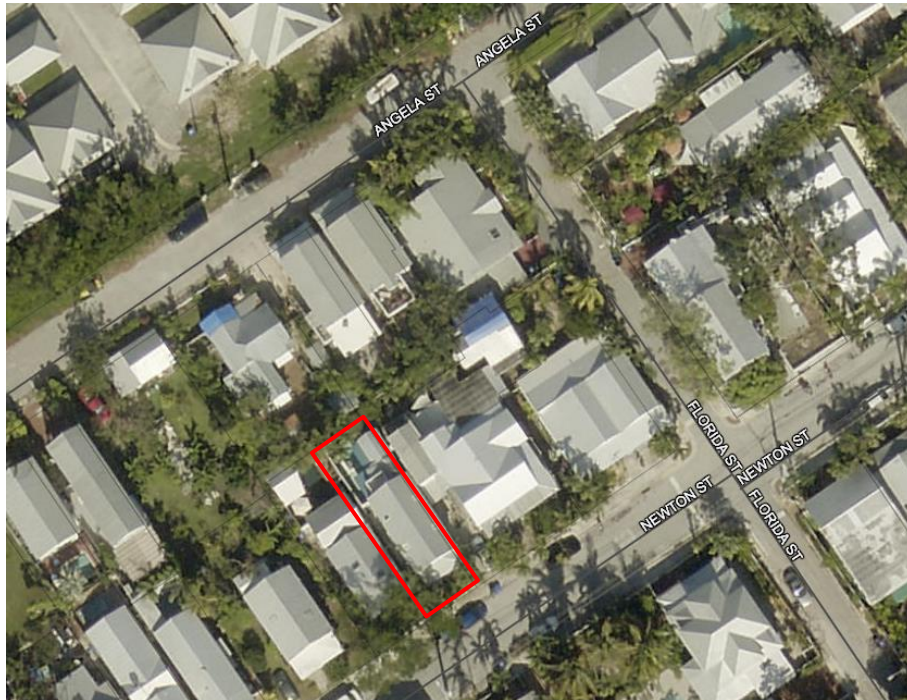
Request: The applicant is proposing to construct a rear addition, a pool, and a wood deck.

Applicant: Michael Mazzorana

Property Owner: Michael Mazzorana

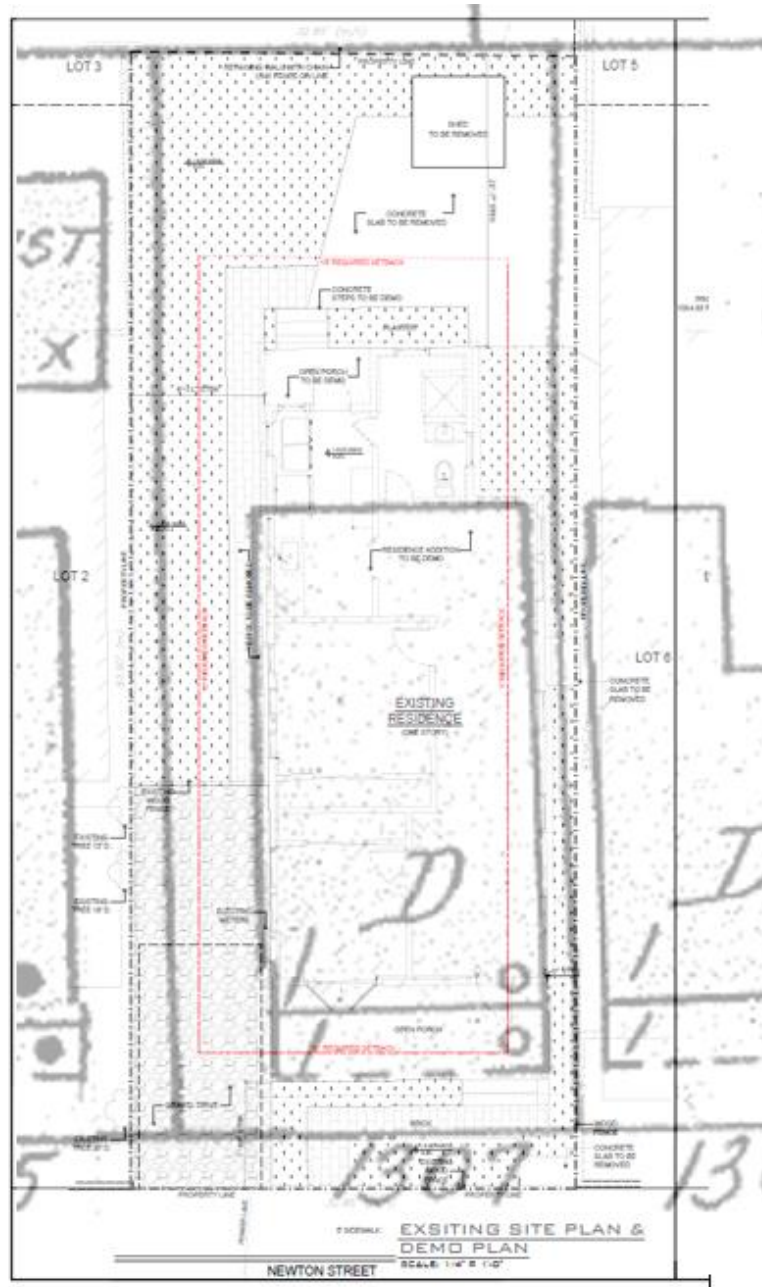
Location: 1307 Newton Street – (RE# 00022630-000000)

Zoning: Historic Medium Density Residential (HMDR) zoning district

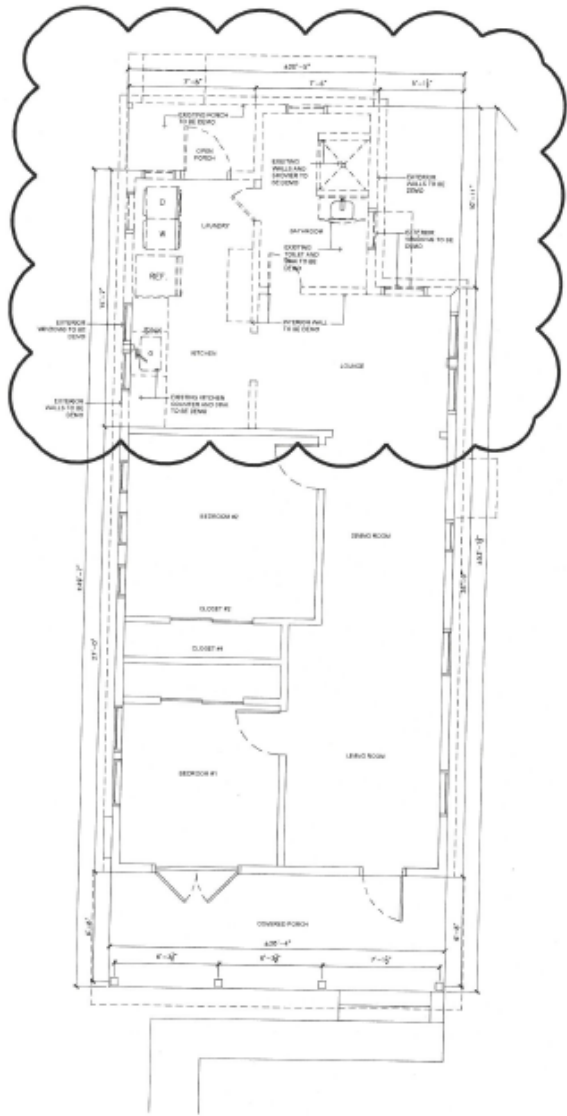


Background/Request:

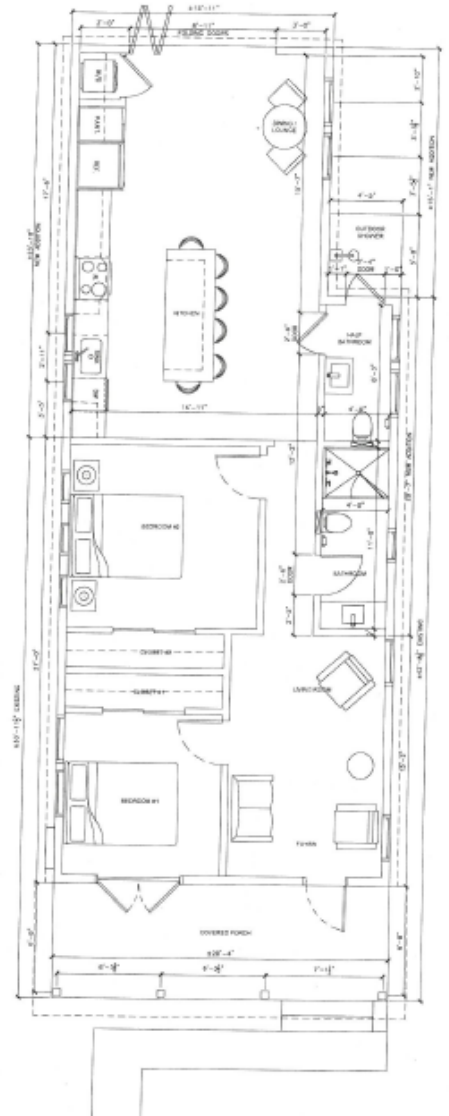
The subject property is located between Florida Street and Georgia Street, facing Newton Street. The parcel size is 2,751 square feet and is one lot of record. The lot includes a one story framed single family residence and a plastic shed to the rear of the property. The house is listed as a contributing resource to the historic district and was built circa 1890.



A 1962 Sanborn map over the existing site plan



EXISTING FIRST FLOOR AND DEMO PLAN
 SCALE: 1/4" = 1'-0"



PROPOSED FLOOR PLAN
 SCALE: 1/4" = 1'-0"



EXISTING FRONT ELEVATION
SCALE: 3/8" = 1'-0"



PROPOSED FRONT ELEVATION
SCALE: 3/8" = 1'-0"

The applicant is proposing to demolish 312 square feet and to construct a 418 square foot addition to the one-story wood framed structure on the parcel at 1307 Newton Street. There would be an additional 106 square feet of building coverage based on the proposed addition. The applicant is proposing a swale to the side of the addition. Based on the plans submitted, the proposed design would require variances to the following dimensional requirements:

- The required maximum building coverage in the (HMDR) zoning district is 40%, or 1,100.4 square feet. The existing building coverage is 41.65%, or 1,146 square feet. The applicant is proposing 45.91%, or 1,263 square feet.
- The minimum open space ratio is 35%, or 962.85 square feet. The existing open space ratio is 34.24%, or 942 square feet. The proposed open space ratio is 28.17%, or 775 square feet.

Relevant HMDR Zoning District Dimensional Requirements: Code Section 122-600				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Flood Zone	AE-6			
Maximum Height	30 feet	22 feet (existing house)	19 feet 8 inches (rear addition)	In compliance
Minimum Lot Size	4,000 SF	2,751 SF	2,751 SF	Existing non-conformity
Maximum Building Coverage	40 % 1,100.4 SF	41.65 % 1,146 SF	45.91 % 1,263 SF	Variance Required 5.91%, or +162.6 SF
Maximum Impervious Surface Ratio	60 % 1,650.6 SF	58.78 % 1,607 SF	58.42 % 1,607 SF	In compliance
Minimum Open Space	35 % 962.85 SF	34.24 % 942 SF	28.17 % 775 SF	Variance Required 6.83%, or -187.85 SF
Minimum Front Yard Setback	10 feet	6 feet 10 inches	6 feet 10 inches	Existing non-conformity
Minimum Left Side Yard Setback	5 feet	9 feet 6 inches	9 feet 6 inches	In compliance
Minimum Right Side Yard Setback	5 feet	1 foot	1 foot	Existing non-conformity
Minimum Rear Yard Setback	15 feet	21 feet 1 inch	16 feet 10 inches	In compliance

Process:

Planning Board Meeting:

June 17, 2021

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 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 parcel is located at 1307 Newton Street and is 2,751 square feet, smaller than the code required minimum lot size of 4,000 square feet in the HMDR zoning district. The parcel is currently slightly over on the maximum permitted building coverage, and very slightly under the minimum code required open space. The proposed design would increase the existing non-conformity of those dimensional requirements. Therefore, there are no special conditions or circumstances.

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 variance request is a result of the actions of the applicant proposing to construct an addition to the one-story structure, install a pool, pool equipment, and a wood deck. The proposed design would increase the non-conformities for minimum open space and to the maximum building coverage on this parcel.

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 property currently is nonconforming with the maximum building coverage, and minimum open space. The proposed design would include 2 variance requests. An enlarged kitchen/living room, a pool, and a wood deck is not a requirement in the HMDR 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.***

Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the HMDR zoning district. The applicant is currently nonconforming with the maximum building coverage, and minimum open space. The applicant is proposing to further increase these nonconformities to have a larger kitchen/living room, pool, and wood deck. 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.

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 following all 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 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 received no public comments for the variance requests 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**.

If Planning Board chooses to approve the request for variances, then staff suggests the following condition:

1. The proposed design shall be consistent with the plans dated, March 24, 2021 by Serge Mashtakov, P.E.