




## MEMORANDUM

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**Date:** July 13, 2023

**To:** Honorable Mayor and Commissioners

**Via:** Albert P. Childress  
City Manager 

**From:** Katie P. Halloran  
Planning Director

**Subject:** **Variance – 1244 14<sup>th</sup> Street (RE# 00064590-000000, 00065790-000000, and 00064600-000000)** – A request for a height variance for property located within the Public and Semipublic Services (PS) Zoning District pursuant to Sections 90-395 and 122-1020 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida; and City of Key West Charter, Article I, Section 1.05.

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### Introduction

**Request:** A request for a variance to the maximum height in order to reconstruct existing stadium bleachers and a press box, currently with a legally nonconforming height of 32-feet, and proposed for a new height of 40-feet.

**Applicant:** Patrick Lefere

**Property Owner:** The Board of Public Instruction of Monroe County, FL

**Location:** 1244 14th Street  
(RE# 00064590-000000, 00065790-000000, and 00064600-000000)

**Zoning:** PS (Public and Semipublic Services)

### Process:

**Board of Adjustments Meeting:** July 13, 2023

**Local Appeal Period:** 10 Days

**Planning renders to DEO for review:** Up to 45 days

**Background**

The subject property at Tommy Roberts Memorial Stadium consists of two different project areas: the baseball field (Rex Weech Field) and football field (Tommy Roberts Memorial Stadium). The proposed project includes (1) one two-story baseball press box building, and (2) a complete replacement of the existing football bleachers, including new grandstand and press box, and the construction of five single-story mixed-use buildings (located beneath the football bleachers). The work also includes site improvements associated with the new buildings, the relocation of two sports lighting poles, replacement of the grass at the football field and a concrete plaza underneath the new football grandstands.

The applicant is requesting a height variance to allow for construction of the new stadium bleachers and press box. The existing football bleachers were installed in the 1950’s and are now condemned (and in need of replacement) due to extensive corrosion and deterioration, according to the applicant. The legally nonconforming height of the existing bleachers is 32-feet to the top of the press box roof fencing. The maximum height of the proposed new bleachers is 40-feet from the crown of the road (Per Sec. 122-1149 of the Land Development Regulations, height is to be measured from the crown of the nearest adjacent street to the highest point of the proposed building). Replacement of the existing legal nonconforming use requires development to adhere to standards established within the zoning district, subjecting the property to the 25-foot maximum height. The applicant is requesting a height variance to allow a maximum height of 40-feet from the crown of the road (an additional 15-feet from the 25-foot maximum established in the PS zoning designation; an additional 8-foot from the existing 32-foot football bleachers and press box) to accommodate the replacement of grandstand bleachers and press box at Tommy Roberts Memorial Stadium. The requested variance also reflects the additional 2.5-feet grade required by FDEP regulations for environmental mitigation and stormwater management. The applicant has submitted supporting documents in the form of environmental reports indicating the level of existing soil contamination on site. The existing grandstand bleachers seat 3,000 patrons; the new bleachers are proposed to utilize the same floorplate as the existing bleachers and accommodate the same seating capacity of 3,000.

The site data table below provides the current and proposed relevant site data for the property. The proposed variance is for maximum building height.

<b>Site Data Table:</b>			
	<b>Code Required</b>	<b>Existing</b>	<b>Proposed</b>
<b>Maximum Height</b>	25-feet	32-feet	40-feet

Based on the plans submitted, the proposed design would require a variance to the following requirement:

- A variance for maximum height within the PS zoning designation is required as a result of the replacement of one legal nonconforming structure, from 25-feet to 40-feet maximum height.

The application was sent to the Development Review Committee (DRC) members for comment on June 2, 2023. Two DRC members responded with comments, which are listed below:

1. Elizabeth Ignoffo, Permit Engineer: “Utilities has reviewed the application for height variance at 1244 Glynn Archer Drive and requests the applicant screen the dumpster from public view, pursuant to Sec. 108-279.”

2. Matt Willman, Utility Administrator / GIS: "Please note that the address on the app is not a valid address, should be 1204 14<sup>th</sup> St<sup>1</sup>. Also, City Staff should be utilizing TRAKiT Reviews for a method of retaining the comments as part of the project record."

### **Staff Analysis - Evaluation:**

The criteria for evaluating a variance are listed in Section 90-395 of the City Code. The Board of Adjustments, 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.*

There are existing special conditions which are peculiar to the land and structure involved, which are not applicable to other land, structures, or buildings in the same zoning district. The applicant provides that the site is registered with the Florida Department of Environmental Protection (FDEP) for environmental mitigation due to pre-existing environmental contamination in the soil. As part of this project, the Monroe County School District (MCSD) is capping the surface to mitigate all environmental conditions and close the site mitigation process with FDEP. As part of mitigation efforts, the existing grade of the site area is being raised 2.5-feet to the final project grade for the required environmental mitigation and stormwater management infrastructure.

### **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.*

Special conditions and circumstances do exist in the form of the environmental site conditions. However, the applicant provides that the environmental conditions are not the result of the applicant's action or negligence, as conditions were pre-existing. The action performed by the applicant is due to required mitigation, including raising the existing grade on site for environmental mitigation and the corresponding increase in the height of the bleachers as a result, therefore, are not caused by the applicant. Per Sec. 122-1149 of the Land Development Regulations, height is to be measured from the crown of the nearest adjacent street to the highest point of the proposed building.

### **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.*

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. Although the site is located within the PS zoning designation with a 25-foot maximum height, the existing football bleachers are legally nonconforming, as they were installed in the 1950's prior to the adoption of the current Land Development Regulations. The applicant states

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<sup>1</sup> Upon further discussion with the applicant, the City has since assigned the address 1244 14<sup>th</sup> Street to the project area.

that the existing bleachers have been condemned due to extensive corrosion and deterioration and that the bleachers are proposed to be rebuilt within the existing floorplate and will accommodate the same capacity of patrons (3,000). The proposed height is 8-feet over the existing 32-feet; the requested variance reflects the additional 2.5-foot grade required by FDEP regulations for environmental mitigation.

#### **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 application of the height maximum restriction of 25-feet on this property would effectively prohibit and unreasonably restrict the utilization of the property for high school football games. The proposed new bleachers are proposed to remain within the existing floorplate and maintain the same seating capacity, with a standard bleacher height of 1.5-feet per row.

The requirement to raise the existing grade on site for environmental mitigation and the corresponding increase in the height of the bleachers are a hardship not created by the applicant. The additional height of 8-feet over the existing height is an appropriate measure to ensure the health and safety of the public and those utilizing the facilities, while also maintain the existing capacity of patrons (3,000).

#### **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 reflects the minimum height that would be required to maintain the existing seating capacity within the same floorplate, while maintaining the press box line of sight to the baseball field and accommodating the additional grading of the site by 2.5-ft. required by FDEP for environmental mitigation and stormwater management.

#### **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 granting of the height variance will not be injurious to the area involved or otherwise detrimental to the public interest of welfare. The proposed new bleachers, with an increase of 8-foot height from what is existing, will maintain the current seating capacity within the same floorplate.

#### **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.*

The height of the existing stadium bleachers is legally nonconforming, as it was constructed in the 1950's. No nonconforming use of neighboring lands, structures, or buildings in other districts have been considered in staff's analysis.

#### **IN COMPLIANCE**

**The Board of Adjustments 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 height variance request.

#### **Recommendation**

The Planning Department recommends that the request for a variance to the maximum height be **approved**, with the following conditions/revisions.

1. Screen the dumpster from public view, pursuant to Sec. 108-279.