

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



To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Angela Budde, Planner I

Meeting Date: March 21, 2019

1321 Angela Street - (RE# 00022730-000000) - A request for Variances to the maximum allowed building coverage and minimum side yard setback requirements to allow for the expansion of an addition and to construct a wall, on a property located at 1321 Angela Street within the Historic Medium Density Residential (HMDR) Zoning District pursuant to Sections 90-395, 122-600(4)(a), and 122-600(6)(b) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is seeking variances to the maximum building coverage and minimum side yard setback requirements to expand a rear laundry room with habitable space encroaching into the current nonconforming west side yard setback and to increase the existing nonconforming maximum building coverage to construct a wall.

Applicant: Heather Korth, AIA, Registered Architect

Property Owner: Peggy and Jerry Jacobson

Location: 1321 Angela Street – (RE# 000022730-000000)

Zoning: Historic Medium Density Residential (HMDR) zoning district



Background/Request:

The property at 1321 Angela Street is located within the HMDR zoning district between Florida and Georgia Streets. The lot of parcel consists of a two-story wood framed single family residence.

The applicant is proposing to expand the rear laundry room structure by 88 square feet to provide for the addition of a kitchen and half bath. The proposed expansion will be under the existing second story landing/deck and not increase the maximum building coverage however, the expansion will encroach on the existing nonconforming west side setback. The additional square footage to the rear laundry room will not increase the nonconformity. The inclusion of a wall, to shield the air conditioning condensor units, will trigger a variance request to the maximum building coverage by 88 square feet. The property is currently nonconforming with the maximum building coverage, setbacks and maximum impervious surface.

Relevant HMDR Zoning District Dimensional Requirements: Code Section 122-600				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Minimum Height	30 Feet	22 Feet 4.5 Inches	14 Feet 2 Inches	In compliance
Minimum lot size	4,000 Sq. Feet	1996 Sq. Feet	1996 Sq. Feet	In compliance
Maximum building coverage	40% (1,520 Sq. Feet)	61.1% (1,219 Sq. Feet)	61.6% (1,229 Sq. Feet)	Variance Required (.5%) (+88 Sq. Feet)
Maximum impervious surface	60% (2,280 Sq. Feet)	77.4% (1,544 Sq. Feet)	66.2% (1,322 Sq. Feet)	Improvement Non-conforming
Minimum open space	35% (1,330 Sq. Feet)	22.6% (452 Sq. Feet)	33.8% (674 Sq. Feet)	Improvement In compliance
Minimum front setback	10 feet	1 Feet 5 Inches	1 Feet 5 Inches	No Change Non-conforming In compliance
Minimum east side setback	5 feet	1 Foot 11 Inches	1 Foot 11 Inches	No Change Non-conforming In compliance
Minimum west side setback	5 feet	2 Foot 2 Inches	2 Foot 2 Inches	No Change Non-conforming In compliance
Minimum rear setback	15 feet	25 Feet	25 Feet	No Change Non-conforming In compliance

Process:

Planning Board Meeting:

March 21, 2019

HARC:

TBD

Local Appeal Period:

30 days

DEO Review Period:

up to 45 days

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. It is not a requirement to have a second kitchen, a pool, and a wall concealing HVAC equipment on your property. 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 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 variance requested.

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 land, structures and buildings involved are located on the property within the HMDR zoning district. The required minimum lot size in the HMDR zoning district is 4,000 square feet. The 1321 Angela Street property has a lot size of 1,996 square feet. The lot size is smaller than the minimum required. The lot was developed prior to the adoption of the current Land Development Regulations (LDRs).

Other land, structures and buildings within the HMDR zoning district were also developed prior to the adoption of the current LDR's. 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 expand the building coverage of the existing footprint. The proposed expansion will increase habitable space into the non-conforming side setback. The parcel is currently non-conforming with the maximum building coverage requirements. The proposed wall will further increase the property's maximum building coverage non-conformity.

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 non-conformities. The property is currently non-conforming with the maximum building coverage, impervious surface, and side setback requirements in the Historic Medium Density Residential zoning district. The plans submitted require special privileges to go beyond the property owner's current non-conformities and increase them 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 HMDR zoning district. It is not a requirement to have a second kitchen, a pool, and a wall concealing HVAC equipment on your property. 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 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 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 comment 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 a variance be **denied**.

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

1. The proposed development shall be consistent with the signed and sealed plans dated January 7, 2019 by Heather Korth, AIA, Registers Architect. No approval granted for any other work or improvements shown on the plans other than the expansion of the rear laundry room, the addition of a pool, wall, and the addition of a new air conditioner unit.
2. The existing Gumbo Limbo tree shall be protected during construction. Tree permits shall be obtained as required.

Conditions required to be completed prior to issuance of a building permit.

3. The owner shall obtain Certificates of Appropriateness for the proposed construction.







