



THE CITY OF KEY WEST

PLANNING BOARD

Staff Report

To: Chairman and Planning Board Members

Through: Taylor Brown, Planning Director

From: Sheetal Almas, Planner I

Meeting Date: July 16, 2026

Application: **Variance – 1107 Fleming Street (RE# 00005000-000000)**

A request for a variance to allow the enclosure of an existing porch structure within the required side yard setback, with an existing side yard setback of one foot four inches where five feet is required, at a property located in the Historic Medium Density Residential (HMDR) zoning district, pursuant to Sections 90-395 and 122-600(6) of the Code of Ordinances of the City of Key West, Florida

Request: The applicant requests a variance to allow the enclosure of an existing screened porch located within the required side yard setback of the principal structure.

Applicant: Richard McChesney / Spottswood Law Firm

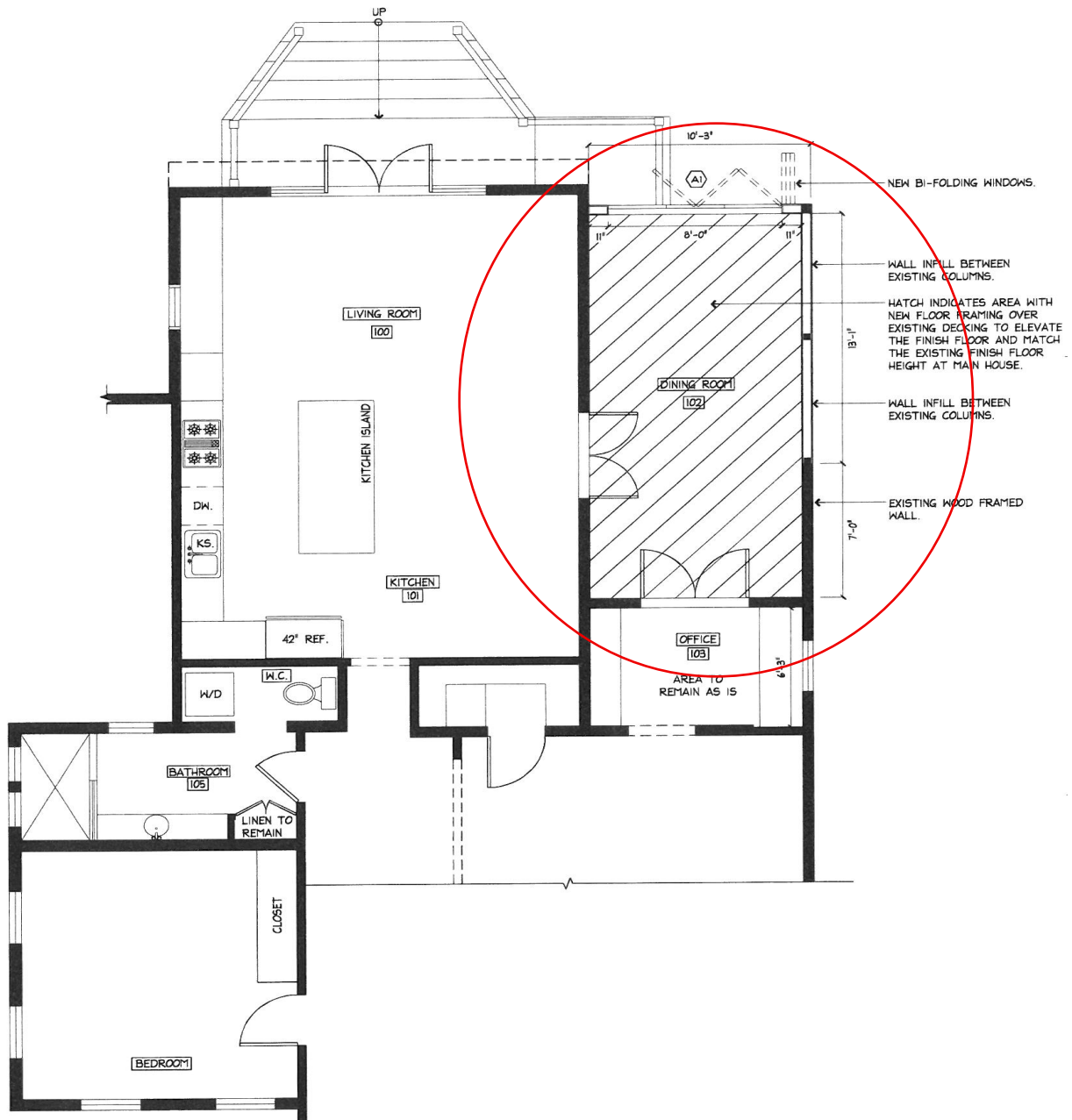
Property Owner: Charles W. Bengel and Janet A. Bengel

Zoning: Historic Medium Density Residential (HMDR)

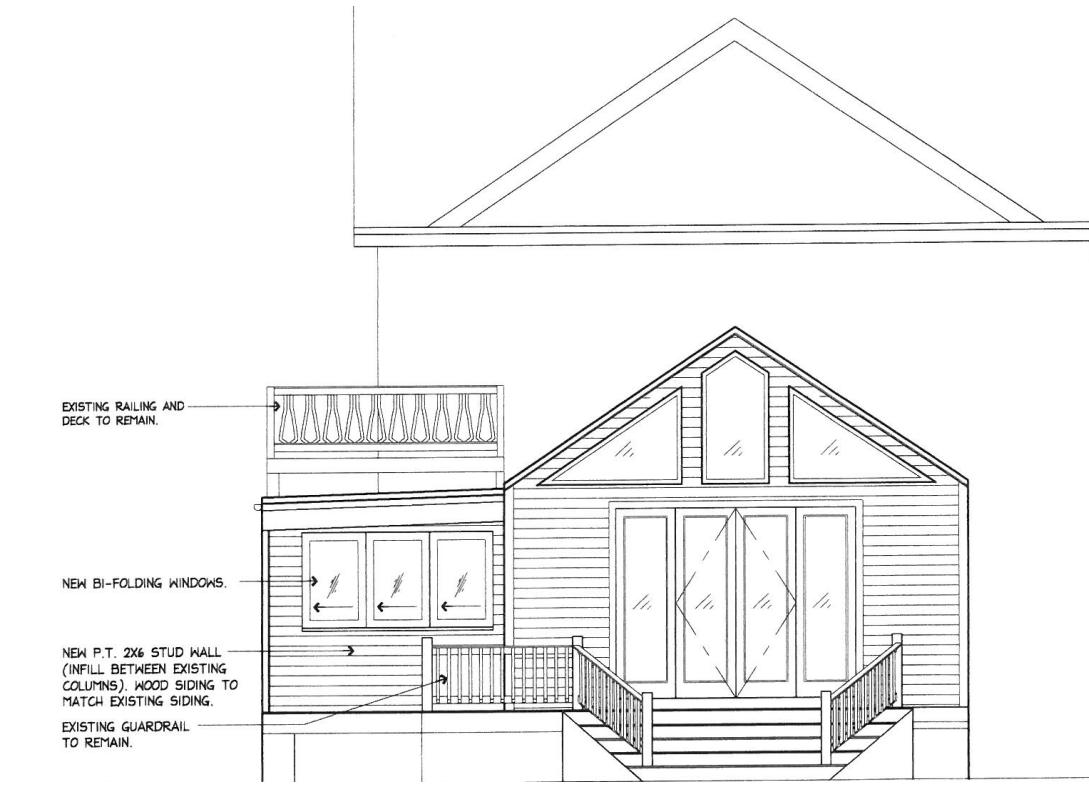
Existing Screen Porched



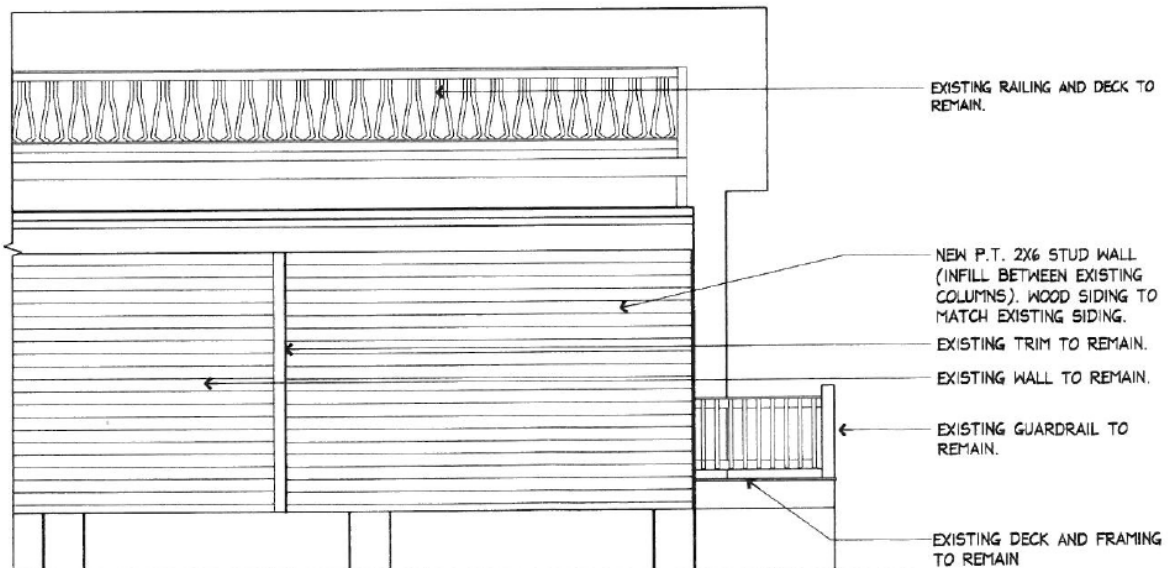
Site Plan



Proposed North Elevation



Existing East Elevation



Process:

Planning Board Meeting:

July 16, 2026

Local Appeal Period:
Planning renders to DOC for review:

10 Days
Up to 45 days

Staff Evaluation:

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 variance request is associated with the conversion of an existing screened porch structure to enclose for an interior space and does not involve an expansion of the existing building footprint. The existing screened porch structure is located within the required side setback and represents a condition peculiar to the existing structure on the property.

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.*

Based on staff review of historical aerial imagery, the porch structure appears to have existed prior to the current owner's acquisition of the property in 2011 and can be observed in aerial imagery dating back to at least 2004.

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 variance would not permit an expansion of the existing structure into the required side setback or confer development rights beyond those associated with the existing structure on the property.

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 requested variance does not seek to expand the existing porch encroachment or authorize additional development rights beyond those associated with the existing structure. Approval of the variance would therefore not confer a special privilege denied to other properties with similar existing conditions within the same zoning district.

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 requested variance is limited to the existing footprint of the screened porch structure and does not involve an expansion of the existing encroachment into the required side setback. The applicant is requesting only the relief necessary to permit the conversion of the existing porch structure to enclosed interior space.

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 variance is not likely to be injurious to the area involved or otherwise detrimental to the public interest or welfare.

IN COMPLIANCE

7. *Existing nonconforming uses of other property are 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 nonconforming uses or structures on neighboring properties are not the basis for this variance 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.

Life Safety:

Following is the comment provided by Fire Department, “ Fire has no concerns with the proposal provided that the enclosed space is constructed entirely within the exact same existing footprint from the ground all the way up. This includes ensuring that no portion of the structure extends beyond the existing footprint, including the roof, eaves, soffits, or any other architectural elements. As long as the enclosure remains completely within the existing footprint with no expansion or additional encroachment, Fire has no objections.”

The Planning Board shall make factual findings regarding the following:

1. *That the standards established by Section 90-395 of the City Code have been met by the applicant for a variance.*

Staff has found that the standards established by Section 90-395 of the City Code have been met by the applicant.

2. *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.*

While there is not a strict variance criterion it is important to note of the report that as of July 6th, 2026 staff have received no letters of objection.

Recommendation:

The proposed variance would allow the conversion of an existing screened porch structure to enclosed interior space within the existing building footprint. The request does not involve an expansion of the existing structure or encroachment, and staff finds that the variance request meets all of the criteria stated in Section 90-395 of the City Code. Therefore, the Planning Department recommends that the request for a variance to allow the enclosure of an existing screened porch structure located within the required side setback at the property located at 1107 Fleming Street be APPROVED.

If the Planning Board chooses to approve the variances, the Planning Department recommends the following conditions:

General Conditions:

1. The proposed work shall be consistent with the attached signed and sealed plans on May 15, 2026, by Haven Burkee-Rogers.
2. The enclosed space shall be constructed entirely within the existing footprint of the screened porch structure, from the ground level through the roofline. No portion of the enclosed space, including but not limited to the roof, eaves, soffits, walls, columns, or any other architectural features, shall extend beyond the existing footprint or result in any additional encroachment into the required side setback.