

THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report



To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Daniel Sobczak, AICP-C, Planner II

Meeting Date: August 19<sup>th</sup>, 2021

Application: **Variance** - 1317 Ashby (RE# 00044430-000000) - A request for a variance to the minimum front yard setback and the minimum rear yard setback in order to demolish an existing single-family home and construct a new single-family home to meet flood zone requirements on a parcel located in the Single-Family (SF) zoning district pursuant to Sections 90-395, 122-238(6)a.1., and 122-238(6)a.3.

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Request: The applicant is requesting a variance in order to reconstruct a single-family residential structure in order to meet flood zone requirements.

Applicant: Edger Fontanez

Property Owner: Monika Kropornicka

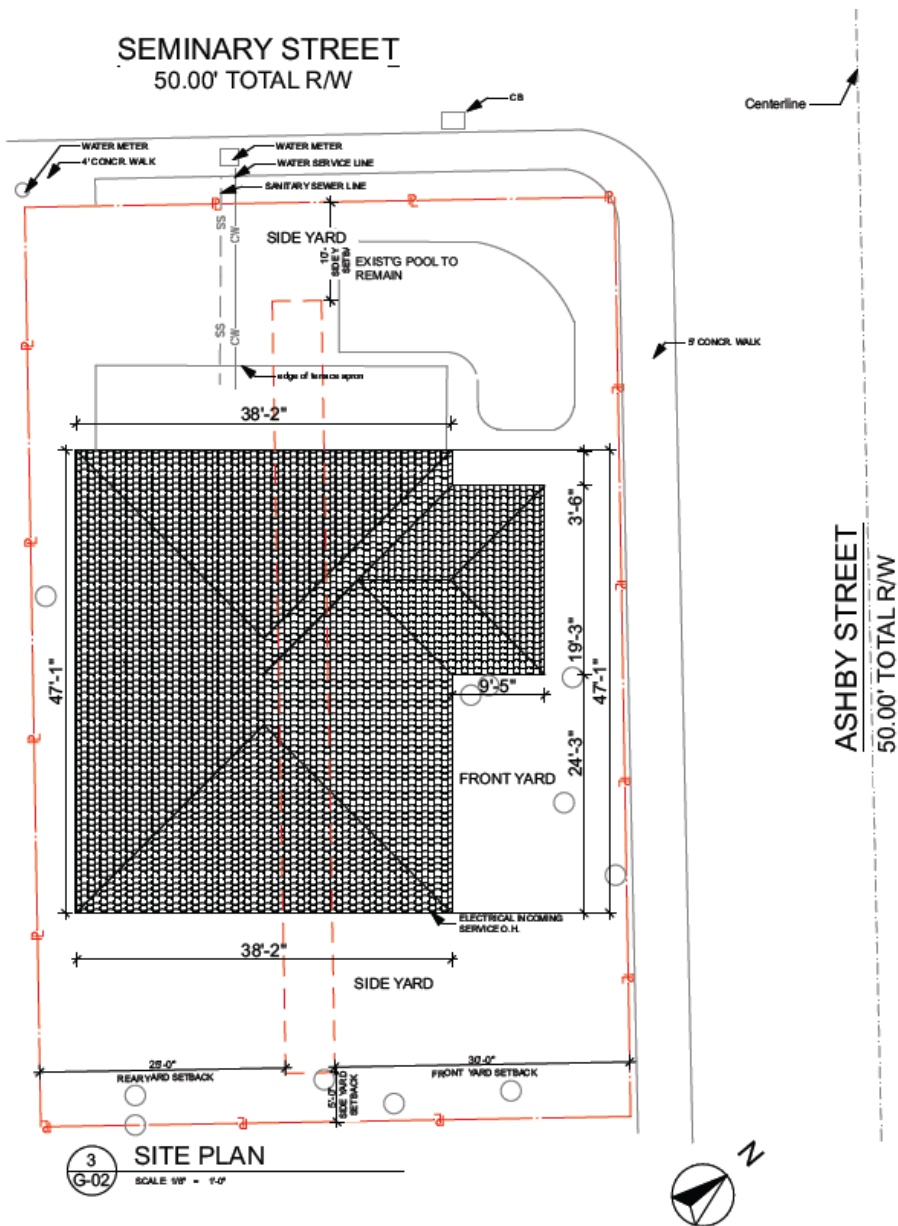
Location: 1317 Ashby (RE# 00044430-000000)



**Background:**

The subject parcel is located at 1317 Ashby Street on the corner of Seminary Street and Ashby Street. The current structure at the parcel is not a historic contributing structure. The parcel is zoned Single Family (SF) and is surrounded by SF zoned properties in all directions. 1317 Ashby is a corner lot, the current structure on the lot faces Ashby and is non-conforming to front and rear setbacks. The proposed structure would also front Ashby and would also be non-conforming to front and rear setbacks.

The applicant had applied for a building permit to demolish the existing single-story residence, leaving the slab and some exterior walls to remain. The applicant applied for an additional building permit to construct a two-story living structure above a parking/storage area. The applicant has chosen to design their proposed structure in order to meet the updated Base Flood Elevation of 10-feet. The applicant would meet the site dimension regulations for impervious surface, building coverage, and open space, however due to the lot's configuration on a corner, the applicant's proposed design does not meet the front and rear setbacks.

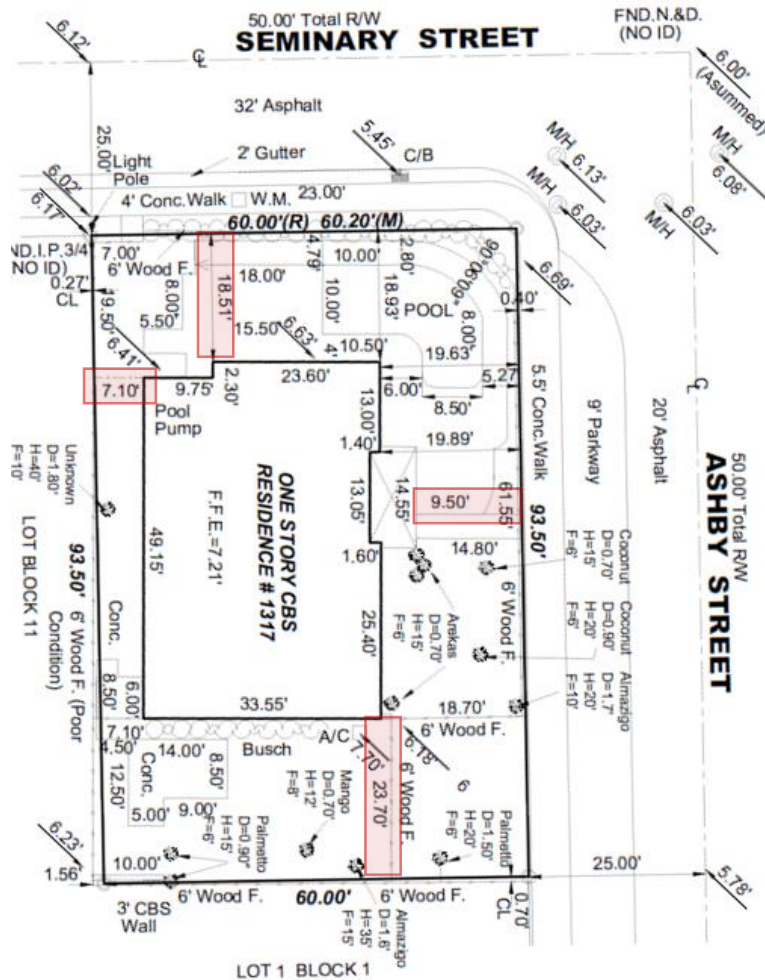


Proposed Site Plans, submitted by applicant

**Proposed Development:**

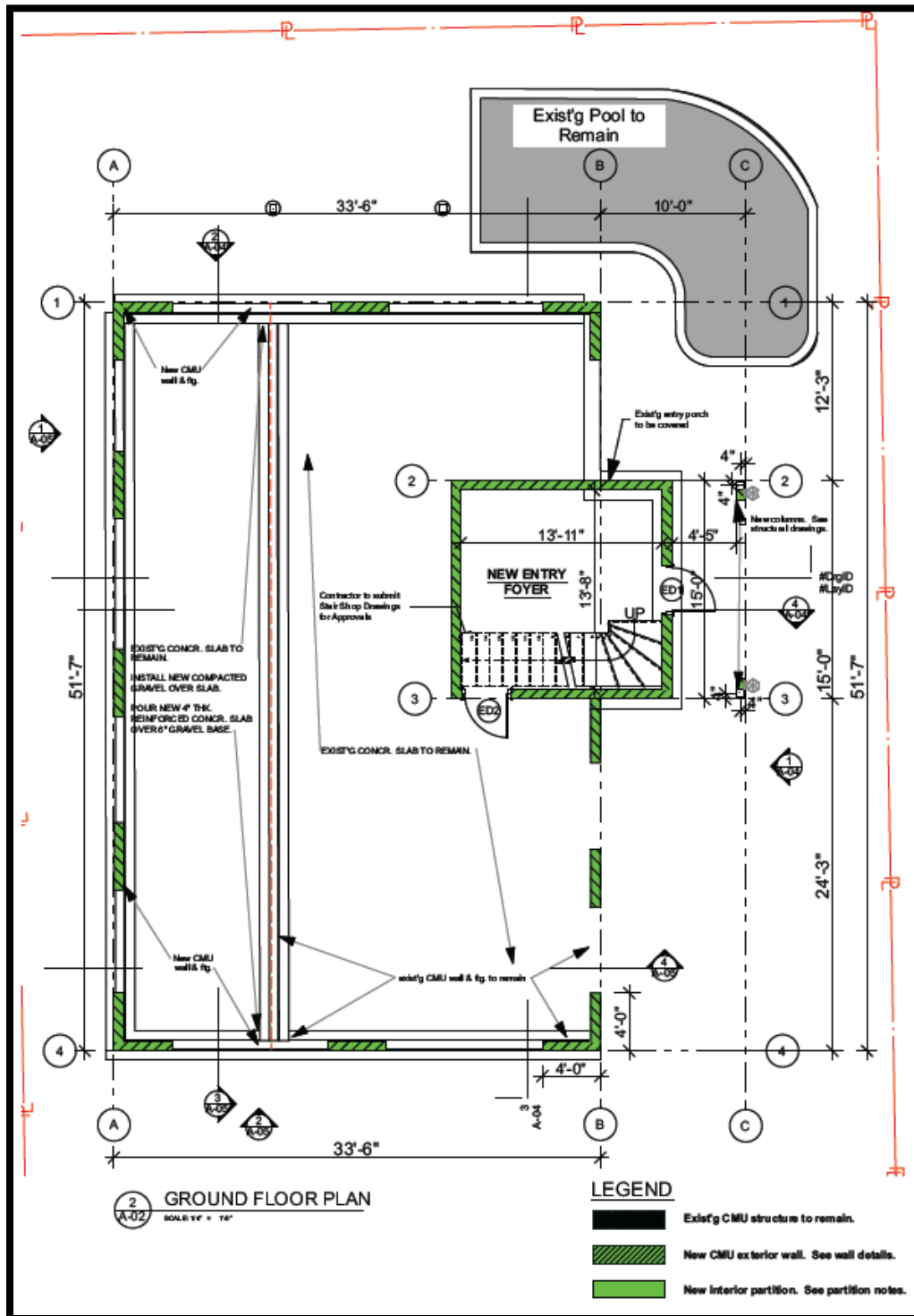
The site table below details the current and proposed site data for the property. Two variances are proposed for this development.

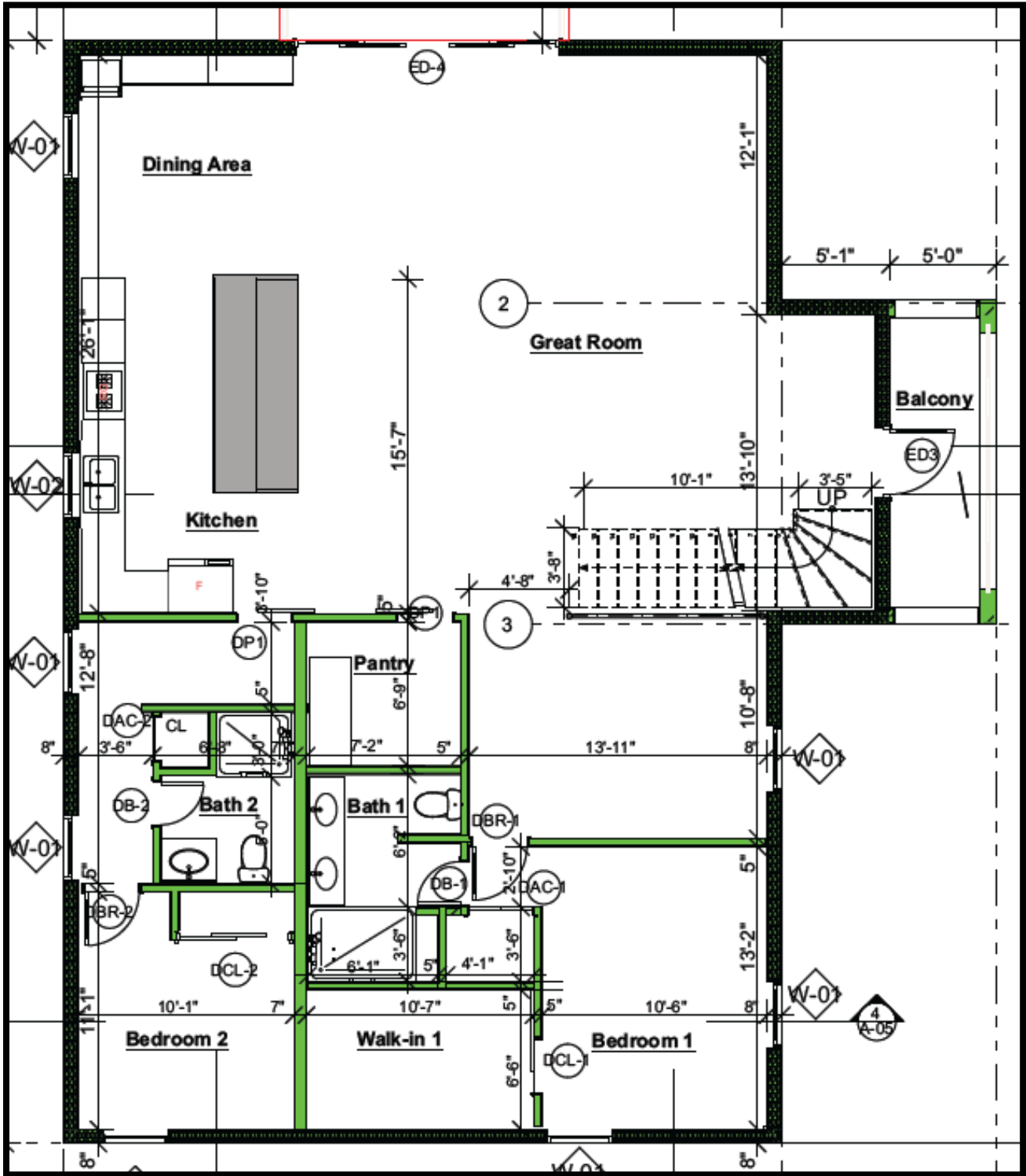
Site Data Table				
	Code Required	Existing	Proposed	Variance Request
Zoning	SF			
Flood Zone	X			
Size of Site	5,610 sqft			
Height	33'	10	31.50	n/a
Front Setback	30'	9.5'	10.2'	19.8'
Side Setback	5'	23.70'	23.70'	n/a
Street Setback	10'	18.51'	13.2'	n/a
Rear Setback	25'	7.10'	6.2'	18.8'
Building Coverage	35% -- 1,964 sqft	32% -- 1,777 sqft	34% -- 1,880 sqft	n/a
Impervious Surface	50% -- 2,805 sqft	50% -- 2,780 sqft	50% -- 2,780 sqft	n/a
Open Space	35% -- 1,964	47% -- 1,777 sqft	48% -- 1,880 sqft	n/a



Proposed Ground Floor Plans, submitted by applicant




The proposed structure would still be constructed in the front and rear setbacks; however, the applicant has proposed to expand the rear of the house slightly further into the rear setback.

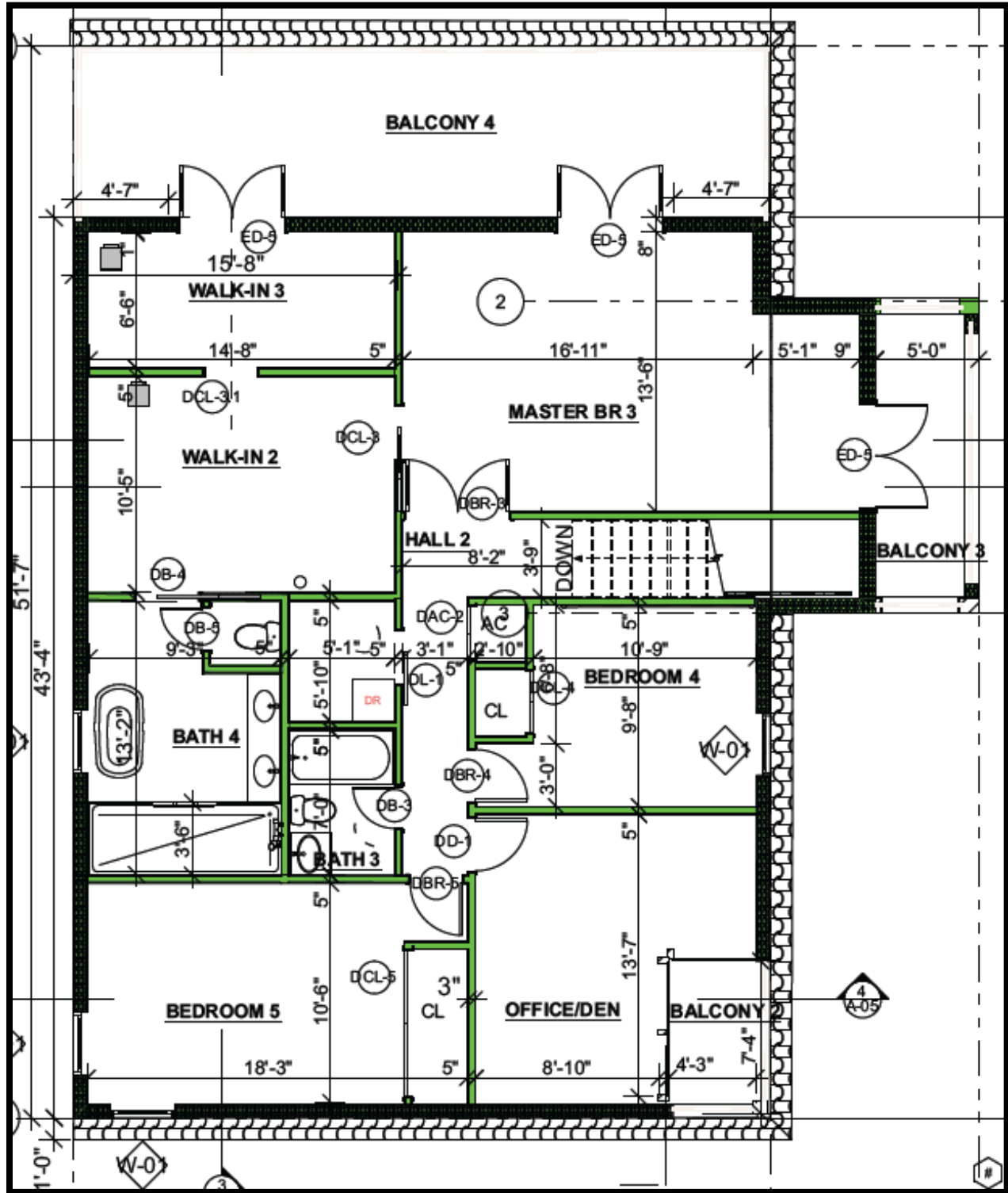




1 FIRST FLOOR PLAN  
A-03 SCALE: 1/4" = 1'-0"

LEGEND

-  Exist'g CMU structure to remain.
-  New CMU exterior wall. See wall details.
-  New interior partition. See partition notes.



**LEGEND**

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**Process:**

Planning Board Meeting:	Aug. 19 <sup>th</sup> , 2020
Local Appeal Period:	10 Days
Planning renders to DEO for review:	Up to 45 days

**Staff Analysis - 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 parcel located at 1317 Ashby St. is smaller than the code required minimum lot size. The existing structure is currently located in the front and rear setbacks, the applicant has proposed to use the existing slab as the base of their new structure. The applicant's proposed project will encroach in the rear setback an additional one foot, enclosing the rear porch to allow a kitchen and additional bathroom. There are other properties in the SF zoning district that are smaller than the code required minimum lot size and have structures in the front and rear setbacks.

**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 conditions were partially created by the applicant; however, the applicant may be bettering the situation for the rear property owner. The applicant has proposed to encroach into the rear setback by another foot, however they have also proposed to enclose the rear porch for a kitchen and bathroom. It would be reasonable that the applicant does not use the original slab of the existing structure and pour a new one in a conforming location, potentially oriented toward Seminary Street, however it may not be feasible due to excess costs, etc.

**NOT IN COMPLIANCE**

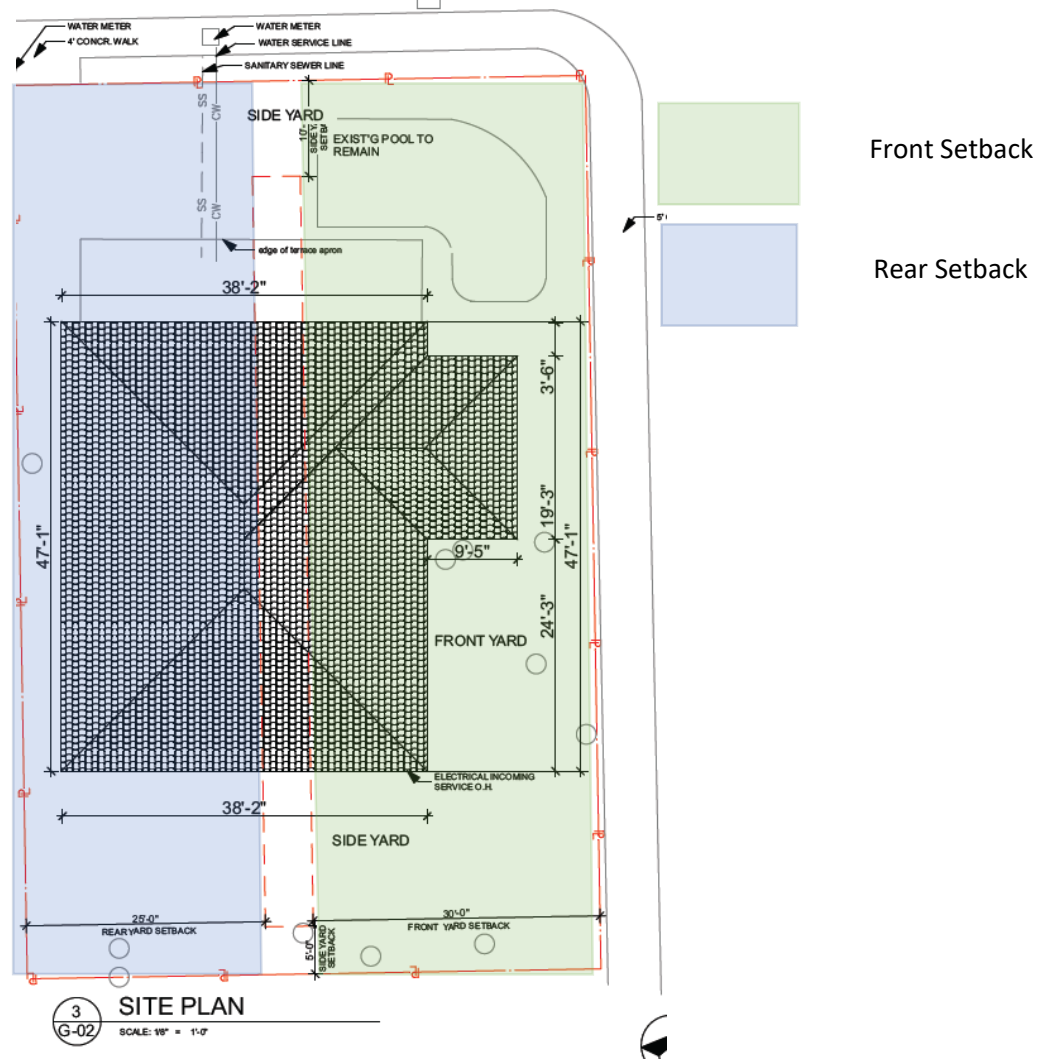
3. *Special privileges not conferred. That granting the variance requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings, or structures in the same zoning district.*

The Land Development Regulations require setbacks in order to ensure life safety, general welfare, health standards, and aesthetics. The proposed structure would sit atop the same slab that is currently on the property. The Fire Marshal's office is the authority for life safety in regard to setbacks and building safety. At this time, the Fire Marshal's office has no objections to the proposed setbacks. The proposed rear and front setback variances may bestow special privileges upon the parcel and the structure that may be denied by the land development regulations.

**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 parcel located at 1317 Ashby is smaller than code required minimum lot size. The Land Development Regulation's required setbacks are designed to provide open space around and between structures for health, safety and aesthetic purpose. Strict compliance with the minimum setbacks required for the SF zoning district would not pose a significant hardship on the applicant, however the applicant would have to demolish the existing structure and the existing slab and construct a new slab and create a longer house that would fit neatly into the lot, oriented toward Seminary Street, as seen in the diagram below:



If the lot were to be refaced/re-oriented and the address changed to Seminary Street, the proposed structure would still need a variance to both front and rear setbacks. However, a differently shaped structure could be compliant with setbacks. Literal interpretation of the provisions of the Land Development Regulations would not deprive the applicant of rights commonly enjoyed by other surrounding properties under the terms of this ordinance.



**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 requested is not the minimum required that will make possible the reasonable use of the land, building and/or structure. It is reasonable that the applicant reface/re-orient the lot, change the address, and have City redetermine the setbacks to have Seminary Street designated as the front and Ashby Street as the secondary street. The applicant would still need to adapt the structure to the re-oriented lot and shorten the structure, however a minimum variance would be needed if the applicant re-oriented the lot.

**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 variance will not be in harmony with the general intent of the land development regulations, but if granted would allow a principal unit to be situated near the rear and front property lines. The rear portion of the proposed principal structure would be 6.2-feet from the rear property line that abuts 1616 Seminary. The portion of the principal structure that would abut the 6.2-foot setback is the kitchen and bathroom, whereas the existing structure is currently 7.1-feet from the property line and is used as a patio area. From a privacy standpoint, the applicant has positioned the balconies so that there are no balconies positioned to the rear of the structure.

**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 or utility service 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.*

The Planning Department has not received any public comment for the variance request as of the date of this report.

**Recommendation:**

The proposed reconstruction of a principal structure at 1317 Ashby St. would encroach into the rear setbacks one foot further than the current existing structure. The structure proposed is three stories tall to meet flood zone requirements, the first story being used for parking and storage. The applicant has positioned all the balconies so that there are no balconies to the rear of the property, abutting the rear property line. The variance to the minimum required front and rear setbacks do not meet the criteria stated in Section 90-395. The Planning Department recommends **denial**.

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

1. The proposed construction shall be consistent (except for conditions of approval listed below) with the plans signed, sealed, and dated 5/26/2021 by Eco-Urban Solutions.
2. Gutters be placed on the structure and downspouts be added to drain all rain-water runoff into proposed swales.