

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: November 19<sup>th</sup>, 2020

Application: **Variance** – 1309 20<sup>th</sup> Terrace (RE# 00055320-000000) - A request for variances to the minimum side and front yard setback requirements in order to convert an existing carport into habitable space on property located within the Single Family (SF) Zoning District pursuant to Sections 90-395, 122-238 (6)(a)(1), and 122-238 (6)(a)(2) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is requesting a variance to minimum required side and front yard setbacks in order to convert a carport into an addition to the principal structure.

Applicant: Richard J. Milelli, Principle of Meridian Engineering, LLC

Property Owner: Freddy M. Varela

Location: 1309 20<sup>th</sup> Terrace (RE# 00055320-000000)



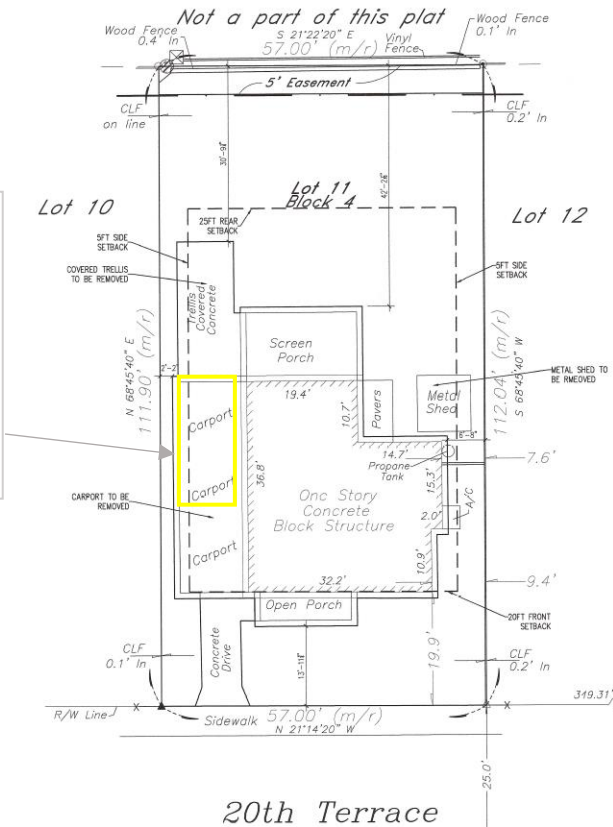
**Background:**

The subject parcel is located at 1309 20<sup>th</sup> Terrace in the Single-Family (SF) zoning district and is one lot of record. The parcel abuts the General Commercial (CG) zoning district to the rear of the property. According to the Monroe County Property Appraisers, the one-story concrete block structure was built in 1958 and the lot size is 6,382 square feet.

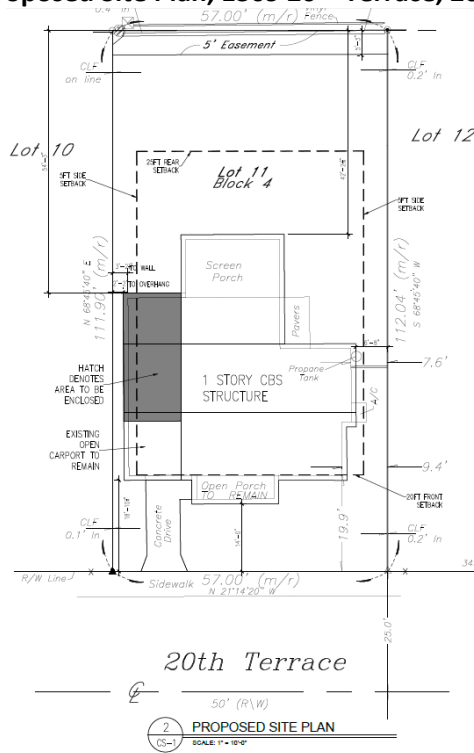
Site Data Table				
	Code Required	Existing	Proposed	Variance Required
Zoning	SF			
Flood Zone	AE-8			
Size of Site	6,000 sqft	6,382 sqft		
Height	25'	13'2" from grade of house	13'2" from grade of house	n/a
Front Setback	20'	14'4"	14'4"	5'8"
Side Setback	5'	2' 2"	2'2"	2'10"
Rear Setback	25'	30' 9 1/4"	42'2 1/1"	n/a
Building Coverage	35% --2,233.7 sqft	37.1% --2,367.7 sqft	31.9% --2,035.8 sqft	n/a
Impervious Surface	50% -- 3,191 sqft	40.3% --2,571.9 sqft	35.1% -- 2,240 sqft	n/a
Open Space	35% --2,233.7 sqft	59.6% --3,803.6 sqft	64.8% --4,135.5 sqft	n/a

**Existing Site Plan, 1309 20<sup>th</sup> Terrace, 2020**

The applicant is requesting to convert the carport into additional habitable space to the principal structure.



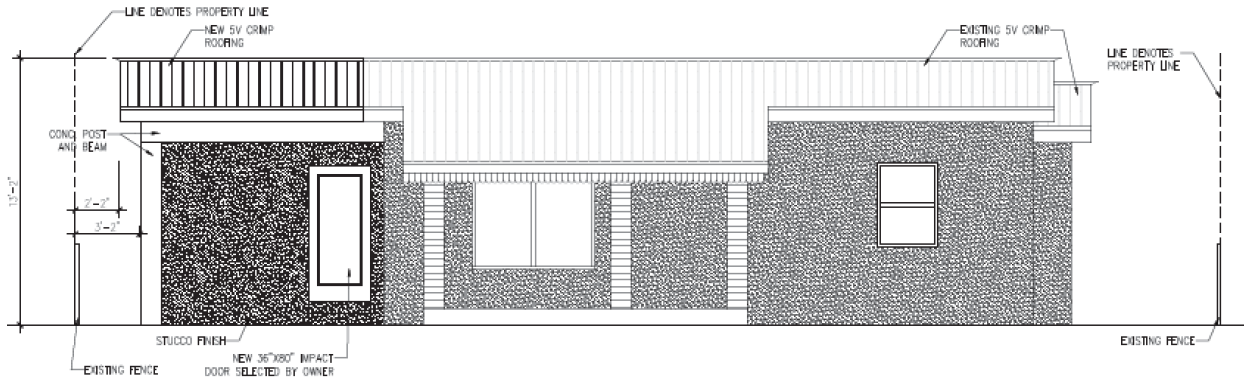
**Proposed Site Plan, 1309 20<sup>th</sup> Terrace, 2020**



The applicant proposes to demolish the existing carport structure and construct an addition to the principal structure. The carport currently has a flat roof, the proposed design includes a pitched roof which follows the principal structure's roof line (see elevations below). The proposed addition would follow the existing setbacks of the carport with a side setback of 2 feet 2 inches and a front yard setback of 14 feet 4 inches. The proposed floor plan shows the addition will enable a larger living room/ kitchen area as well as a larger master bathroom/ closet.

**Elevations, 1309 20<sup>th</sup> Terrace, 2020**



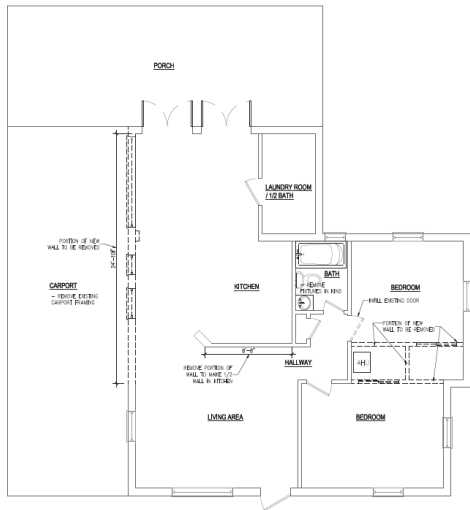


4  
A-1 PROPOSED FRONT ELEVATION  
SCALE: 1/4"=1'-0"

**Process:**

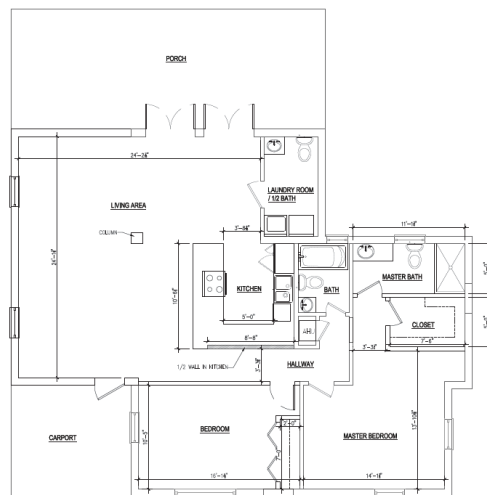
**Planning Board Meeting:** November 19, 2020  
**Local Appeal Period:** 30 days  
**DEO Review Period:** up to 45 days

**Existing Floor Plan, 1309 20<sup>th</sup> Terrace, 2020**



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

**Proposed Floor Plan, 1309 20<sup>th</sup> Terrace, 2020**



3  
A-1 PROPOSED FLOOR PLAN  
SCALE: 1/4"=1'-0"

**Staff Analysis - Evaluation:**

The applicant is applying to remove an existing carport and construct an addition to the principal structure within the same footprint of the carport. City Code Section 122-1182 states, "An open carport may be erected adjacent to interior lot lines within one foot of the front and side property lines." The proposed conversion of the carport into habitable space within the same footprint of the carport creates limited access to the side yard since the open side of the carport structure would be enclosed. The Fire Marshal's office typically does not allow side setback variances. Due to the fact this is an existing footprint and there would be adequate accessibility on all the other setbacks within the

property, the Key West Fire Department has stated that there are no life safety concerns with this project. However, the Fire Department's requirements to move forward with this project is that there be no obstructions down the north west side of the property, this includes utilities or landscaping.



*Subject Property*

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 minimum lot size in the Single-Family zoning district is 6,000 square feet. The subject parcel located at 1309 20<sup>th</sup> Terrace has a lot size of 6,382 square feet. The parcel has enough room in the rear of the property to meet the required rear yard setback and relocate the proposed addition to the rear of the principal structure.

**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 property owner is requesting the proposed addition to the house which is triggering the setback variances. Detached carports can have a 1-foot side and front setback but the addition to the principal structure require minimum five-foot side setbacks in the SF zoning district. The proposed pitched roof over the addition further increases the three-dimensional footprint non-conformity; the roof overhang will project 2.8 feet into the required setback.

**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 restrict principal structures in the Single-Family zoning district from being closer than five feet from the side property lines in order to maintain safety and access. Other properties in the same zoning district are required to meet the five-foot minimum side yard setback and 20-foot minimum front yard setback standards, this request would confer special privileges to the homeowner.

**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.*

Literal interpretations of the LDRs would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district. A larger master bathroom and a larger living room is not a hardship. The property owner could build the requested addition in the rear of the principal structure without requiring any variances; the Planning Department does not find a hardship.

**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 addition could be shifted away from the side property line to comply with the required five-foot side setback so that only a front setback variance would be needed.

**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 reason that carports have significantly smaller side and front setback requirements in our Code is that carports are designed to have the front and side open and accessible. Other properties may have a carport that is situated within the carport setback requirements, but they are not able to make the carport and its existing granted setbacks into an enclosed habitable space. Diminishing the required side and front yard could set a precedent for the block and surrounding neighbors.

**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.*

No objections to the variance have been received.

##### **Recommendation:**

Based on a review of the application according to the stringent evaluation criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for a variance be **DENIED**. If the Planning Board votes to approve, the Planning Department recommends the following conditions:

1. The construction shall be consistent with the plans signed, sealed, and dated on May 26, 2020 by Richard J. Milelli, Meridian Engineering LLC., excepting for the addition of gutters and downspouts; see condition #2.
2. The new structure shall have gutters with downspouts that drain into a swale, or other approved water mitigative technique, to avoid flooding and water pooling due to the proximity to the property line. Water should be directed away from the adjacent property.
3. Per Fire: There shall be no obstructions down the north west side of the property, this includes utilities and landscaping.
4. Per Urban Forrester: A site visit shall be conducted to review any existing landscape obstructions.