

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 I

Meeting Date: October 15th, 2020

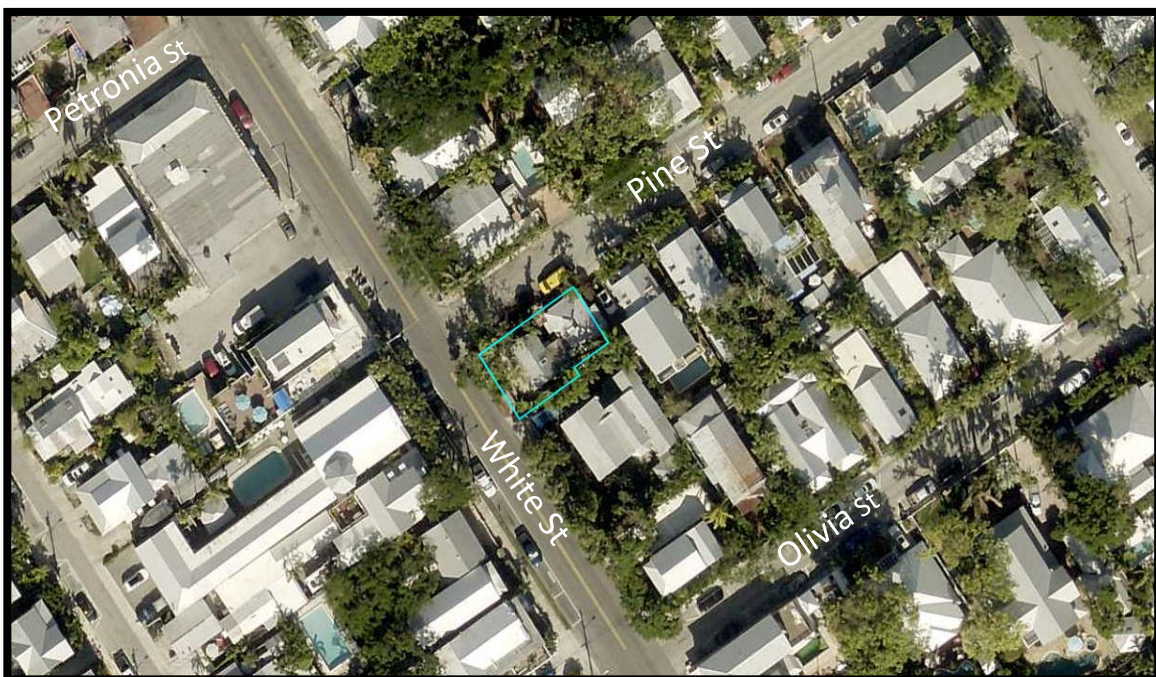
Application: **Variance** – 819 White Street (RE# 00024890-000000) – A request for an after-the-fact variance to construct a covered porch within the street-side setback and a variance to increase the maximum allowed building coverage on a property located in the Historic Medium Density Residential (HMDR) zoning district pursuant to Sections 90-395, 122-600 (4) a., 122-600 (6) d.

Request: The applicant is requesting a variance to both the maximum allowed building coverage and the minimum street side setbacks for a principal structure in the HMDR zoning district. This variance will allow the applicant to apply for a permit for an after-the-fact covered porch located in the code required street side setbacks and to increase the currently noncomplying building coverage.

Applicant: Albert Hall

Property Owner: Albert Hall

Location: 1020 Margaret Street (RE# 00030490-000000)

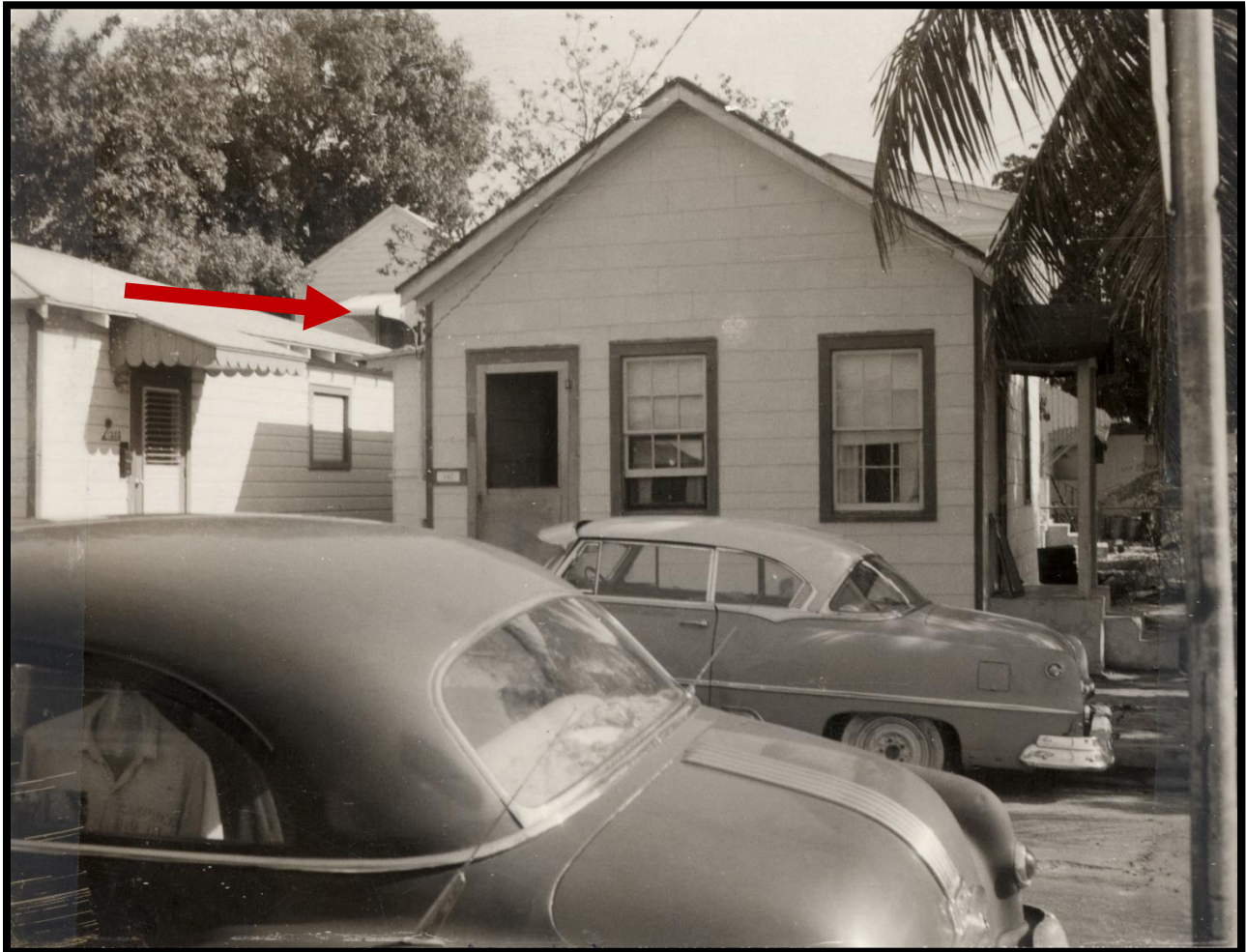


Background:

The subject parcel is located at 819 White Street on the corner of White Street and Pine Street. According to the Historical Architectural Review Commission (HARC), the property had contained two buildings that first appear on the 1948 Sanborn Map addressed as 819 White Street and 1202 Pine Street. Neither are listed as contributing structures in the HARC survey due to an array of alterations to the structures throughout the years. The parcel is surrounded by HMDR zoned properties to the north, south, and west, and Historic Neighborhood Commercial (HNC-2) zoned properties to the east.

Historically the large parcel has contained two separate structures, but in 2018 the applicant connected the two non-contributing structures. During the construction of the addition that connected the two formerly distinct structures, the applicant also added a covered porch on the northern side of the parcel. The plans submitted indicated an *open porch* that consisted of a *wood frame open porch 12" from grade, no railings*. The applicant constructed a roofed porch with railings on the stairs. The roofed porch that was added is located in the code required minimum side setback and increases the lot's nonconforming building coverage.

North elevation of 819 White St. Circa 1950s



North elevation 819 White St., 2018



North elevation 819 White St., 2020

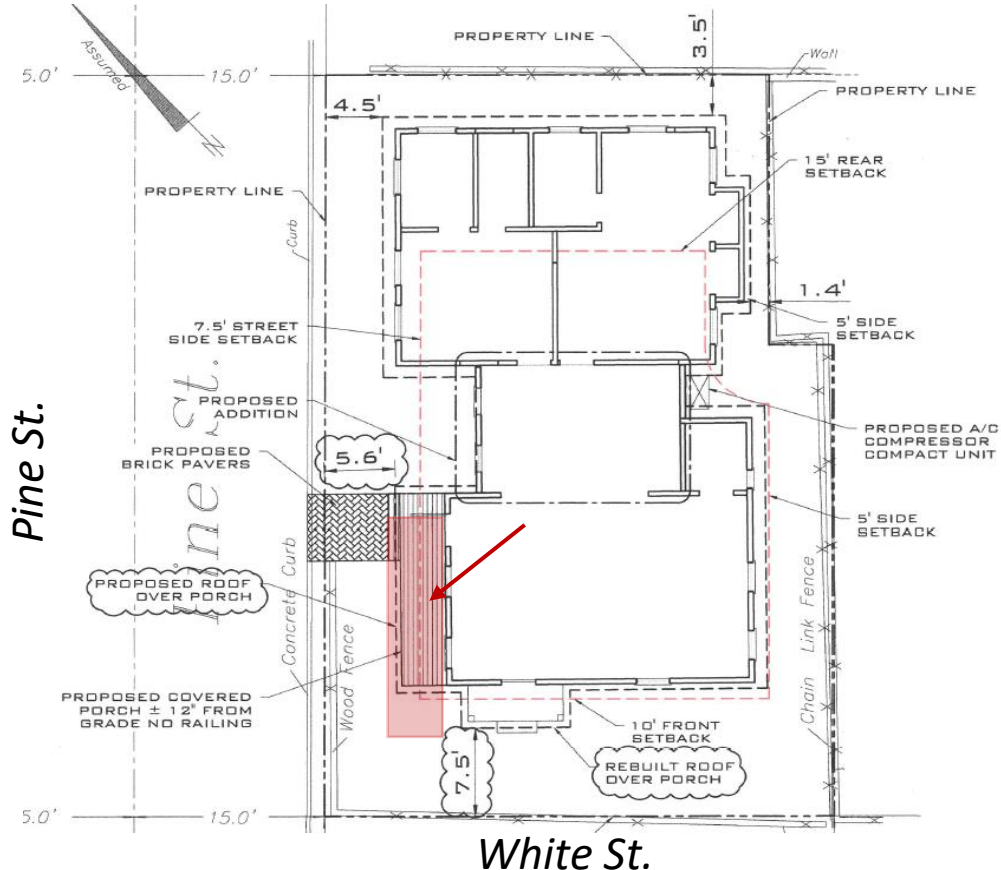


Proposed Development:

The site table below details the current and proposed site data for the property. The structure was originally approved by the Planning Department without the covered porch in June of 2019. The covered porch was added to the building permit as a revision in March 2020 and has been in corrections since March 2020 with the Planning Department.

| Site Data Table | | | | |
|---------------------|-------------------|--------------------------|---------------------|------------------|
| | Code Required | Existing | Proposed | Variance Request |
| Zoning | HMDR | | | |
| Flood Zone | X | | | |
| Size of Site | 2,401 sqft | | | |
| Front Setback | 10' | 7.5' | n/a | Existing |
| Side Setback | 5' | 5' | n/a | n/a |
| Street Side Setback | 7.5' | 4.5' (rear structure) | 5.6' (ATF porch) | 1.9' |
| Rear Setback | 15' | 3.5' | n/a | Existing |
| Building Coverage | 40% -- 960 sqft | 53% -- 1,291 sqft | 56% -- 1,356 sqft | 396 sqft |
| Impervious Surface | 60% -- 1,441 sqft | 55% -- 1,390 sqft | n/a | n/a |
| Open Space | 35% -- 840 sqft | 39% -- 937 sqft | 42% -- 1,011 sqft | n/a |

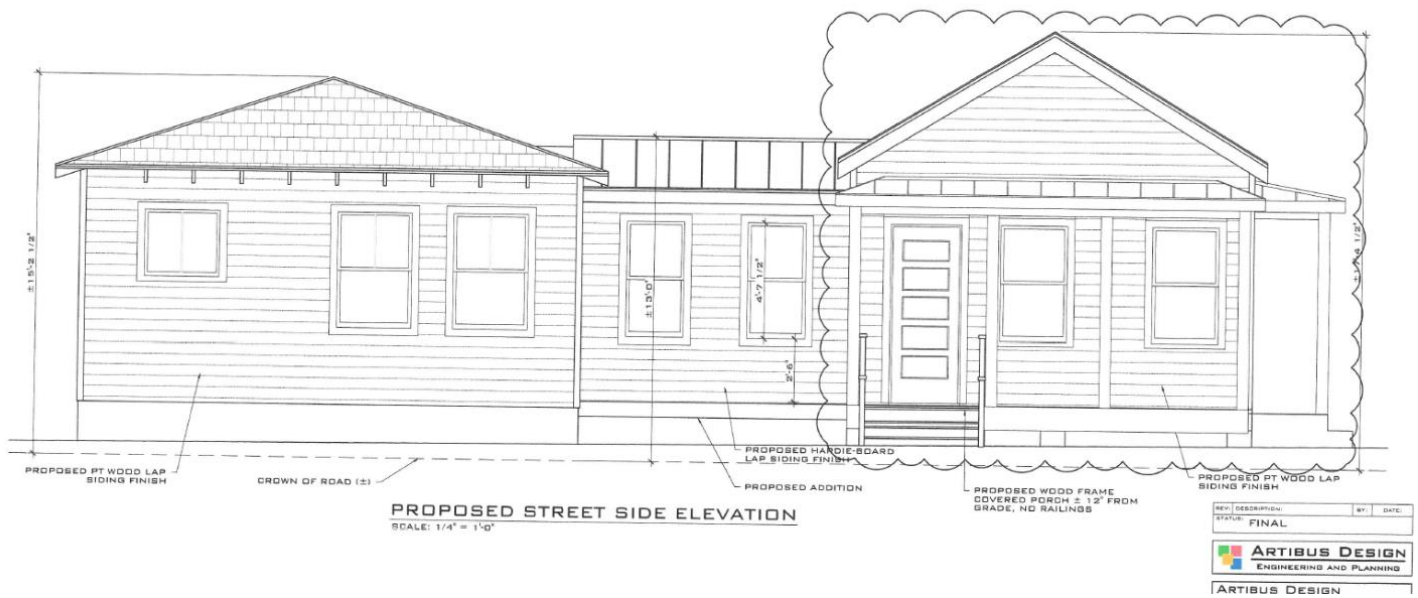
Revised Building Plans, 819 White St., submitted by applicant, 2020



Building Plans, 819 White St., submitted by applicant, 2018



After the Fact Building Plans, 819 White St., submitted by applicant, 2020



Process:

| | |
|-------------------------------------|-----------------------------|
| Planning Board Meeting: | Oct 15 th , 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 property consists of several structures that were unified in 2018/2019 and have not complied with setbacks since being constructed. The total lot area is 2,400 sq.ft., lower than the 4,000 sq.ft. required in the HMDR zoning district. The parcel is the smallest parcel on the block that is surrounded by Pine St, White St, Georgia St, and Olivia St. Major renovations occurred on the property in 2018/2019 to connect the two structures and remove several incidental structures such as sheds and a rooftop deck. During this major renovation, the property owner renovated their property and reduced the nonconforming building coverage from 59% to 53%; the property remains noncompliant in building coverage, the front setback, the rear setback, and the side setback. Many properties in the HMDR zoning district are similarly noncomplying, and many lots are similarly smaller than the code required minimum.

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 applicant had undergone major renovations in 2018/2019 and did not propose a covered porch structure. The architect similarly did not label the porch structure to be covered, but instead specified an *open porch* in the original plans. An *open porch* does not contribute to building coverage. The roofed/covered porch was constructed by the applicant without the benefit of approved and permitted plans.

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 after the fact addition of the covered porch, will confer special privileges to the applicant that are denied by the land development regulations to other property owners. While the covered porch does not directly pose a safety risk it may lead to a precedent of other porches being constructed without benefit of approved and permitted plans. Any structure constructed without approved plans may be hazardous to the general welfare for the property owners and surrounding property owners, as the structure may not be structurally sound or storm ready.

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 819 White Street is comparative to many parcels in the HMDR zoning district, although it is the smallest parcel on the block. 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 HMDR zoning district would not pose a significant hardship on the applicant as the porch could be covered by a retractable awning which would be code compliant in the same location, or the roof could be removed as was originally permitted. A retractable awning and an open porch would either reduce the variance greatly or eliminate the need for a building coverage variance all-together.

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 could amend their plans to not require a variance by using a retractable awning or an open porch concept as was originally proposed.

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 proposed variance would not be injurious to the public welfare; however, it is not in harmony with the general intent of the land development regulations. The covered porch increases noncomplying building coverage. Without gutters, stormwater runoff may cause unmitigated flooding and pooling. The unpermitted construction of a covered porch in the required setbacks may set a precedent for other homeowners. The covered porch is visible from both Pine Street and White Street, White Street being highly trafficked by cars, bikes, and passersby.

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 site plan for the property located at 819 White Street will allow an after the fact structure to remain in the code required street-side setback and allow an increase in the maximum allowed building coverage. While this unpermitted structure does not pose a health or safety hazard, the structure may create a precedent for unpermitted construction to occur in the surrounding area. Had the applicant applied for the proposed structure before constructing it, the staff report would largely remain the same, including our recommendation that the applicant use a retractable awning or an open porch structure instead of the covered porch. The variance to the minimum street side setback does 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 construction shall be consistent with the plans signed, sealed, and dated 5/10/2020 by Artibus Design; except for the addition of gutters; see condition #2.
2. The covered porch structure have gutters with a downspout that drains into a swale, or other approved water mitigative technique, so as to avoid street flooding and water pooling due to the proximity to the road.