

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: August 19, 2021

Agenda Item: Variance – 1705 Laird Street - (RE# 00060640-000000) - A request for a variance to the maximum building coverage to construct an elevated concrete pool and planter on property located within the Single Family (SF) zoning district pursuant to Sections 90-395, and 122-238 (4) a. of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

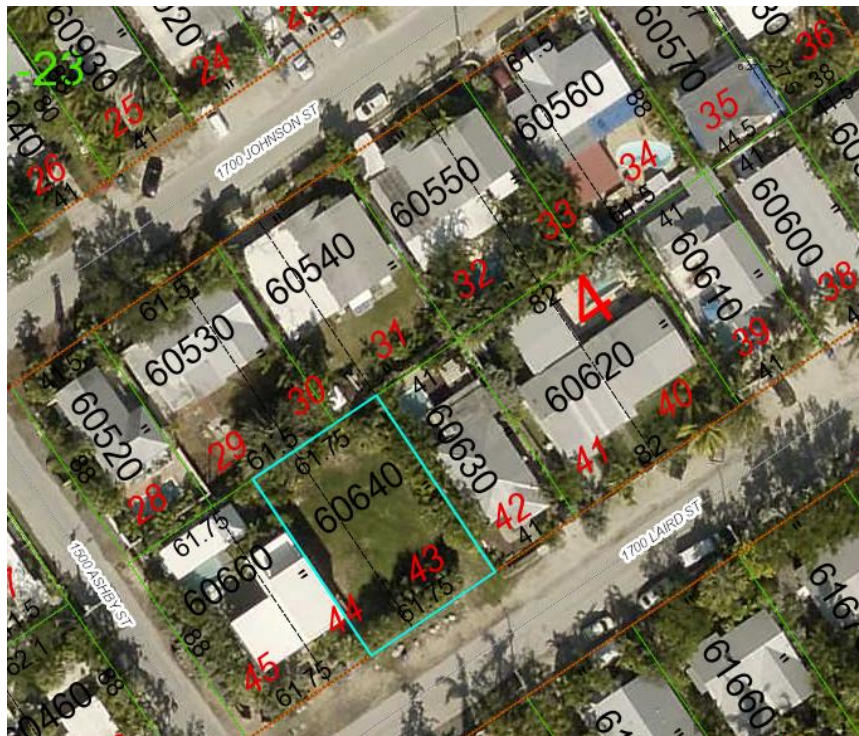
Request: The applicant is proposing to construct an elevated concrete pool and planter.

Applicant: Brenton & Joanne Teixeira

Property Owner: Brenton & Joanne Teixeira

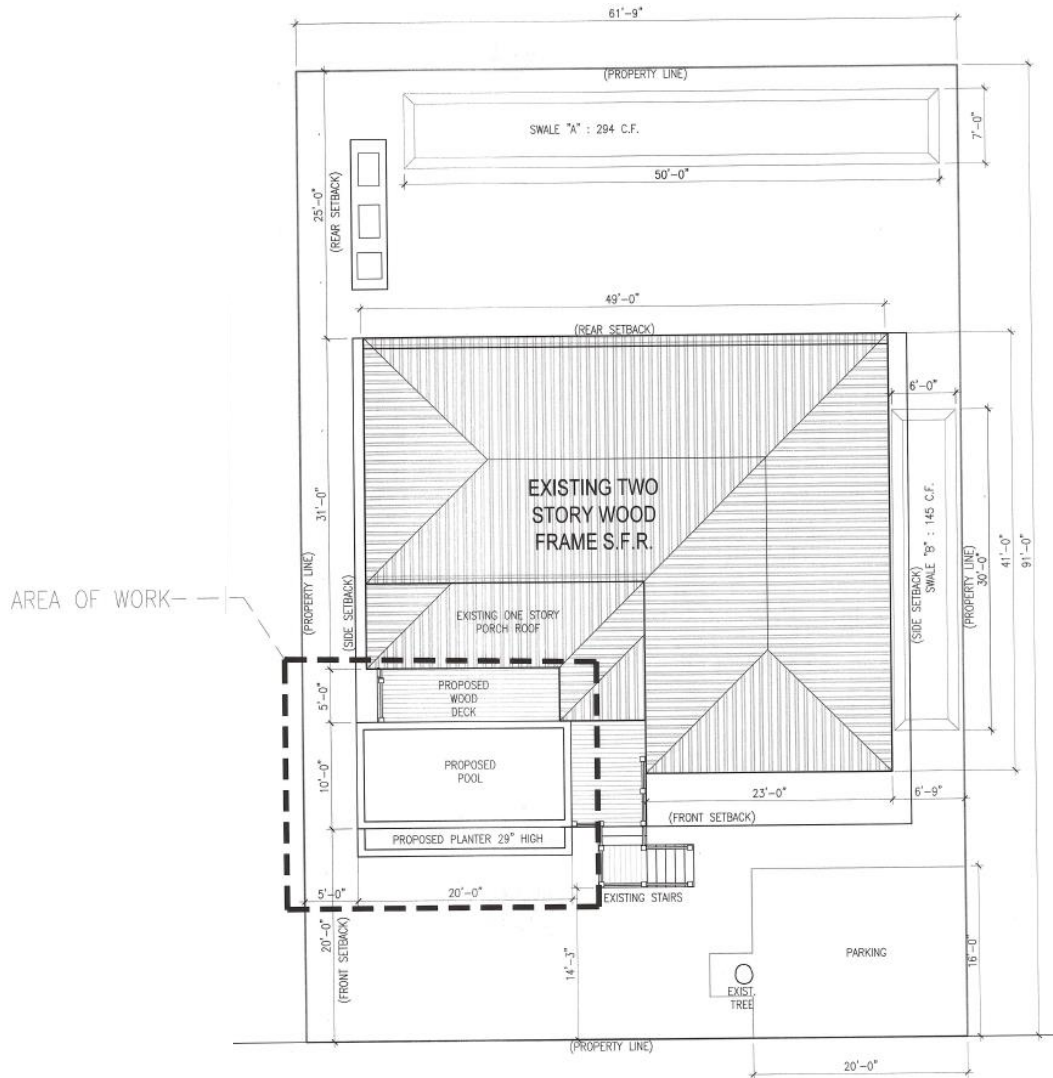
Location: 1705 Laird Street – (RE# 00060640-000000)

Zoning: Single Family (SF) zoning district



Background/Request:

The subject property is located near the corner of Ashby Street and Laird Street, facing Laird Street. The parcel size is 5,434.00 square feet and incorporates 20.75 feet of lot 44 and all of lot 43. The lot includes a two-story elevated single-family residence.



1705 Laird Street – Proposed Site Plan

The applicant is proposing to construct a 200 square foot elevated pool and a 100 square foot planter on the parcel of 1705 Laird Street. Based on the plans submitted, the proposed design would require a variance to the following dimensional requirement:

- The required maximum building coverage in the (SF) zoning district is 35%, or 1966.65 square feet. The existing building coverage is 34%, or 1,907 square feet. The applicant is proposing 39%, or 2,217 square feet.



2 PROPOSED SOUTH ELEVATION
 A3.1 SCALE: 1/4"=1'-0"



2 EXISTING SOUTH ELEVATION
 A3.1 SCALE: 1/4"=1'-0"

Relevant SF Zoning District Dimensional Requirements: Code Section 122-238

Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Flood Zone	AE-7			
Maximum Height	25 feet plus an additional five feet for non-habitable purposes if the structure has a pitched roof.	30'	N/A	In compliance
Minimum Lot Size	6,000 SF	5,434 SF	5,434 SF	In compliance
Maximum Building Coverage	35 % 1,966.65 SF	34 % 1,907 SF	39 % 2,217 SF	Variance Required +250.35 SF
Maximum Impervious Surface Ratio	50 % 2809.5 SF	34 % 1,907 SF	40 % 2,270 SF	In compliance
Minimum Open Space	35 % 1,966.65 SF	66 % 3,712 SF	60 % 3,349 SF	In compliance
Minimum Front Yard Setback	20 feet	20 feet	20 feet	In compliance
Minimum West Side Yard Setback	5 feet	5 feet - 9 inches	5 feet	In compliance
Minimum East Side Yard Setback	5 feet	6 feet – 9 inches	6 feet – 9 inches	In compliance
Minimum Rear Yard Setback	25 feet	25 feet	25 feet	In compliance

Process:

Planning Board Meeting:

July 15, 2021

Local Appeal Period:

10 days

DEO Review Period:

up to 45 days

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 minimum parcel size in the SF zoning district is 6,000 square feet whereas, the subject property has a lot size of 5,619 square feet, slightly smaller. The parcel was vacant until 2019. The property owner could have planned for a smaller two-story single-family residence to include an elevated pool with a planter that does not trigger a building coverage variance. Therefore, there are no special conditions or circumstances.

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 variance request is a result of the actions of the applicant proposing to construct an addition to the one-story structure.

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.***

An elevated pool is not a not requirement in the SF zoning district.

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 SF zoning district. The applicant is proposing to increase the maximum building coverage to have an elevated pool and planter. 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.

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 may 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 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 received (3) three letters of support 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 variances be **denied**.

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

1. The proposed design shall be consistent with the plans signed, sealed, and dated, May 11, 2021 by William B. Shepler, P.A.
2. Per the Urban Forester: The proposed design will require a tree protection plan for the area along Laird Street for their building permit application.
3. Floodplain requirements will apply at permitting. Requirements will include appropriate anchoring of the pool to prevent buoyancy and lateral movement.