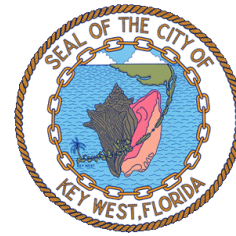


**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**



To: Chairman and Planning Board Members

From: Angela Budde, Planner I

Through: Patrick Wright, Planning Director

Meeting Date: August 15, 2019

Agenda Item: **Variance -1227 Washington Street (RE# 00041400-000000)** – A request for variance to minimum rear yard setback requirement to construct an addition on the principal structure on a property located within the Historic Medium Density Residential (HMDR) Zoning District pursuant to Sections 90-395 and 122-600 (6)(c) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida

Request: The applicant is seeking a variance in order to make site modifications to remove the existing rear covered porch to construct a new wood frame one-story addition on the rear of the principal structure. The existing rear yard setback is 15-feet and 6 inches (15-feet required).

Applicant: Mr. William P. Horn, Registered Architect

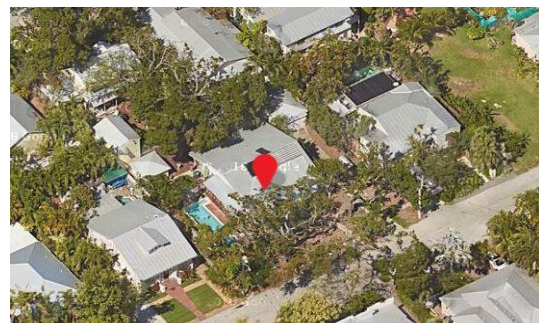
Property Owner: Timothy and Buffy Mitchell

Location: 1227 Washington Street (Re# 00041400-000000)

Zoning: Historic Medium Density Residential (HMDR) Zoning District

Background:

The property at 1227 Washington Street is a one-story home located within the Historic Medium Density Residential (HMDR) Zoning District between Tropical and White Streets. The single-family residence is in the Historic District and is recognized on the 1926 Sanborn map.



The following table summarizes the requested variance:

Relevant HMDR Zoning District Dimensional Requirements: Code Section 122-600				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Flood Zone	AE + 6 Feet			
Maximum height	30 Feet	13 Feet 6 Inches	No change	No
Minimum lot size	4,000 Square Feet	9,408 Square Feet	No change	No
Maximum floor area ratio	1.0			
Maximum building coverage	40% (3,763.2 Square Feet)	30.6% (2,877 Square Feet)	38.8 % (3,656 Square Feet)	No
Maximum impervious surface	60% (5,644.8 Square Feet)	57.4% (5,398 Square Feet)	59% (5,574 Square Feet)	No
Minimum open space	35% (3,293 Square Feet)	42.6% (4,010 Square Feet)	41 % (3,834 Square Feet)	No
Minimum front setback	10 Feet	20 Feet 3 Inches	No change	No
Minimum right-side yard setback	5 Feet	6 Feet 10 Inches	No change	No
Minimum left-side yard setback	5 Feet	5 Feet	No change	No
Minimum rear setback	15 Feet	15 Feet 6 Inches	5 Feet	Yes

Table

Process:

Planning Board Meeting: August 15, 2019

HARC: TBD

Local Appeal Period: 10 days

DEO Review Period: up to 45 days



Rear porch



Covered porch



Covered porch



Covered porch

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 of 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 existing primary structure is located in the historic residential area on a double lot and conforms with all dimensional requirements. However, the land, structure and buildings do not have any special conditions or circumstances involved that any other property located within the HMDR zoning district possess.

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 is proposing site modifications that will increase the rear yard setback by 10 feet, 6 inches. Therefore, the condition is generated from specific actions initiated by the applicant.

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.***

Section 122-32 (g) of the Land Development Regulations discourages the creation of new nonconformities. Though the principal structure is historic and predates the current property owners, the constructing of an addition into the rear yard setback would confer special privileges upon the applicant.

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.***

According to the applicant, HARC has opined any proposed improvements made to the historic residence is restricted to the rear yard of the property. However, the applicant currently has existing use of the site without the variance approval. Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the HMDR Zoning District. 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. However, it is the minimum necessary to accommodate the request.

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.*

It does not appear that granting of the variance will be injurious to the area involved or otherwise detrimental to the public interest.

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 standard established by Section 90-395 of the City Code have not been fully met by the applicant for the variance 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.

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 the variance be **denied**.

However, if the Planning Board approved this request, staff would like to require the following conditions:

General Conditions:

1. The proposed development shall be consistent with the plans dated May 15, 2019 by William P. Horn, Registered Architect. No approval granted for any other work or improvements shown on the plans other than the proposed construction of an addition located in the rear of the property.
2. No impacts are authorized to occur to any regulated trees or palms including their roots and canopy branches during demolition or construction.
3. Trees near and within the project area will be protected during construction. Trees located within the work area that may need to be removed would require approval from the Urban Forestry Manager.

Conditions required to be completed prior to issuance of a building permit.

4. The owner shall obtain a Certificate of Appropriateness for the proposed construction.