

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



To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Vanessa Sellers, Planner II

Meeting Date: November 15, 2018

Agenda Item: **After-the-Fact Variance – 4 Go Lane (RE # 00072040-000000)** – A request for variances to the minimum front-yard setback requirements and accessory structure requirements in order to maintain a zero-foot front-yard setback for an accessory structure in a required front yard on property located within the Single-Family (SF) zoning district pursuant to Sections 90-395, 122-238 (6) a. 1., and 122-1181.

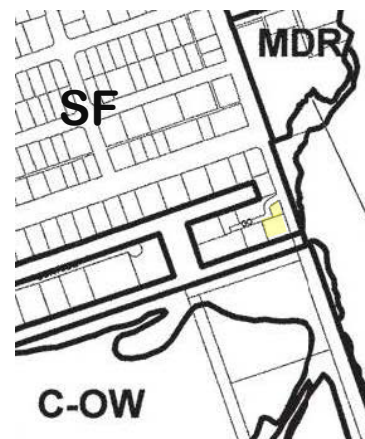
Request: The applicant is requesting a variance to the minimum front-yard setback requirements and a variance to the accessory structure location regulation in order to maintain an accessory structure in a required front yard.

Applicant: Oropeza, Stones, & Cardenas, PLLC

Property Owner: Wendell A. Wall

Location: 4 Go Lane, Key West

Zoning: Single-Family (SF)



Background:

The property at 4 Go Lane is located within the Single-Family (SF) zoning district. The two-story principal structure faces Go Lane and has a street-side of South Roosevelt Boulevard / AIA. The rear of the parcel abuts the Riviera Canal.

On April 11, 2018, a City building inspector placed a “Stop Work Order” notice on the property for construction without the proper permits or plans. A notice of code violation (case number 18-00000556) was sent to the property owner via Certified Mail on April 12, 2018.

The location of the construction is in the required front setback and cannot be permitted without a variance. On October 5, 2018, the owner submitted an application for an after-the-fact variance.

The following table summarizes the requested variances:

| Relevant SF Zoning District Dimensional Requirements: Code Section 122-238 | | | | |
|---|---|-----------------|---|------------------------------------|
| Dimensional Requirement | Required/ Allowed | Existing | Proposed | Change / Variance Required? |
| Maximum height | 25' | 0' | No Change | No |
| Minimum lot size | 6,000 SF | 12,475 SF | No Change | No |
| Maximum density | 8 dwelling units per acre | 1 | No Change | No |
| Maximum floor area ratio | N/A | N/A | N/A | No |
| Maximum building coverage | 35% | 37.1% | 37% | No (Improved) |
| Maximum impervious surface | 50% | 72.5% | 70.6% | No (Improved) |
| Minimum open space (residential) | 35% | 35.6% | 36.2% | No (Improved) |
| Minimum front setback | 30' or the avg. depth of front yards on developed lots within 100' each side, but not less than 20' | 15'-0" | 0'-0" | YES |
| Minimum side setback | 5' | ' | No Change | No |
| Minimum street-side setback | 10' | 14'-7" | No Change | No |
| Minimum rear setback | 25' | 10-9" | No Change | No |
| Relevant Accessory Uses and Structures Requirements: Code Section 122-1181 | | | | |
| No accessory use or structure shall be erected in any required front yard. | | | An accessory structure in the required front yard | YES |
| No separate accessory structure shall be erected less than five feet of any lot line. | | | An accessory structure less than 5' from the front lot line | YES |

Process:

Planning Board Meeting: November 15, 2018
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 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 parcel at 4 Go Lane abuts a major 4-lane thoroughfare for 158 linear feet. Although this close proximity allows for little privacy, there are other methods available other than an accessory structure to create screening.

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 after-the-fact accessory structure was constructed by the applicant. The conditions are a result of the actions of 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 122-27 of the Land Development Regulations discourages the expansion of site nonconformities. Therefore, a variance to allow a zero-foot front setback for an accessory structure within a required front yard 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.*

Literal interpretation of the LDRs would not deprive the applicant of rights commonly enjoyed by other properties in the SF zoning district.

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 after-the-fact variances requested are not the minimum required that will make possible the reasonable use of the land, building, or structure. However, they are 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.*

Due to the non-compliance with all of the standards for considering variances, the granting of the requested variances would 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 request 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:

Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variances be **DENIED**.

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

General Conditions:

The proposed development shall be consistent with the plans dated September 28, 2018 by Richard J. Milelli, Professional Engineer. No approval granted for any other work or improvements shown on the plans other than the proposed construction of an accessory structure.