

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



To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Vanessa Sellers, Planner I

Meeting Date: January 18, 2018

Agenda Item: **Variance – 811 Whitehead Street (RE # 00017070-000100; AK # 1017493)** – A request for variances to the minimum open space requirements, maximum allowable building coverage, left-side setback requirement, and right-side setback requirement in order to construct a rear covered porch, an inground swimming pool, a wood deck, and a wood fence on property located within the Historic Medium Density Residential (HMDR) zoning district pursuant to Section 90-395, Section 108-346 (b), and Section 122-600 (4) a. and (6) b. of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is seeking variances in order to construct a rear covered porch, an inground swimming pool, a wood deck, and a wood fence. The proposed open space is 45.5%, and the requirement is 35% minimum. The proposed building coverage is 47.8%, and allowable is 40% maximum. The proposed left-side setback is .58' and the proposed right-side setback is 2.42', and the requirement is 5' minimum for each side.

Applicant: Meridian Engineering LLC c/o Richard Milelli

Property Owner: Paradise Found of KW LLC c/o Michael Johnson

Location: 811 Whitehead Street

Zoning: Historic Medium Density Residential (HMDR) Zoning District



Background:

The property at 811 Whitehead Street is located between Olivia Street and Petronia Street and is one lot of record. The existing noncomplying residential structure is located within the right and left-yard setbacks. The property is within the Key West Historic District, and it is considered a contributing structure.

The applicant is proposing to construct a rear covered porch, an inground swimming pool, a wood deck, and a wood fence. The plans submitted would require variances to minimum open space requirements, maximum allowable building coverage, and minimum left and right-side setback requirements.

The following table summarizes the requested variances:

Relevant HMDR Zoning District Dimensional Requirements: Code Section 122-600				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Maximum height	30'	N/A	14'	No
Minimum lot size	4,000 SF	2,670 SF	2,670 SF	No
Maximum density	16 dwelling units per acre	No Change	No Change	No
Maximum floor area ratio	1.0	N/A	N/A	No
Maximum building coverage	40%	40.7% (1,087 SF)	47.8% (1,277 SF)	Yes 7.8%
Maximum impervious surface	60%	55% (1,374 SF)	57.7% (1,542 SF)	No
Minimum open space (residential)	35%	45.5% (1,217 SF)	31.2% (835 SF)	Yes 3.8%
Minimum front setback	10'	10.25'	No Change	No
Minimum right-side setback	5'	2.42'	2.83'	Yes 2.17' (Expansion of Existing Nonconformity)
Minimum left-side setback	5'	.58'	.58'	Yes 4.42' (Expansion of Existing Nonconformity)
Minimum rear setback	15'	41.67'	34'	No

Process:

Planning Board Meeting:

January 18, 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 land, structure, and building involved do not have special conditions or circumstances involved that any other property located within the HMDR zoning district possesses. The lot size is noncomplying at 2,670 square feet since the minimum lot size for the district is 4,000 square feet, however, other lots in the area are similarly noncomplying.

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 existing building coverage of 40.7 percent and the existing house and wood decks within the right and left-side setbacks are existing nonconformities. However, the construction of an inground swimming pool, a new wood deck, a new six-foot wood fence, and a covered porch is a condition created by the applicant. Therefore, the conditions are 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 122-27 of the Land Development Regulations discourages the expansion of site nonconformities. Therefore, decreasing the open space, increasing the building coverage, and expanding upon the right and left-yard setbacks 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.***

Although the removal of both existing rear decks and the spa will increase the open space and decrease the amount of coverage within the left and right yard setbacks, the addition of a new deck, covered porch, inground swimming pool, and wood fence will increase the building coverage over the limit, decrease the open space below the minimum required, and build back into both side setbacks. In addition, a lack of a swimming pool and roof

over the rear deck does not deprive the applicant of rights commonly enjoyed by other properties in this same zoning district. Therefore, hardship conditions do not exist. Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the HMDR 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 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 non-compliance with all of the standards for considering variances, the granting of the requested variance 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 requested variances 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:

1. The proposed development shall be consistent with the plans dated December 11, 2017 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 a rear covered porch, an inground swimming pool, a wood deck, and a wood fence.

Condition required to be completed prior to the issuance of a building permit:

2. A Certificate of Appropriateness shall be obtained for the proposed development.

