



THE CITY OF KEY WEST PLANNING
BOARD
Staff Report

To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Kimberly Barua, AICP, The Corradino Group

Meeting Date: June 16, 2022

Agenda Item: **Variance – 1010-1012 Olivia Street (RE# 00020850-000100)**- Variance request for exceeding the allowed front yard setback and rear yard setback at a proposed residence in the Historic High Density Residential (HHDR) zoning district pursuant to Sections 90-395, 122-630(6)a and 122-630 (6)c of the City of Key West Land Development Regulations.

Request: The applicant is demolishing two condemned buildings and constructing a new home with a pool. The new two-story house will have a footprint comparable to the demolished buildings.

**Property Owners/
Applicant:** Spottswood, Spottswood, Spottswood and Sterling/ Nature’s Boundary, LLC

Location: 1010-1012 Olivia Street (RE# 00020850-000100)

Zoning: Historic High Density Residential (HHDR)

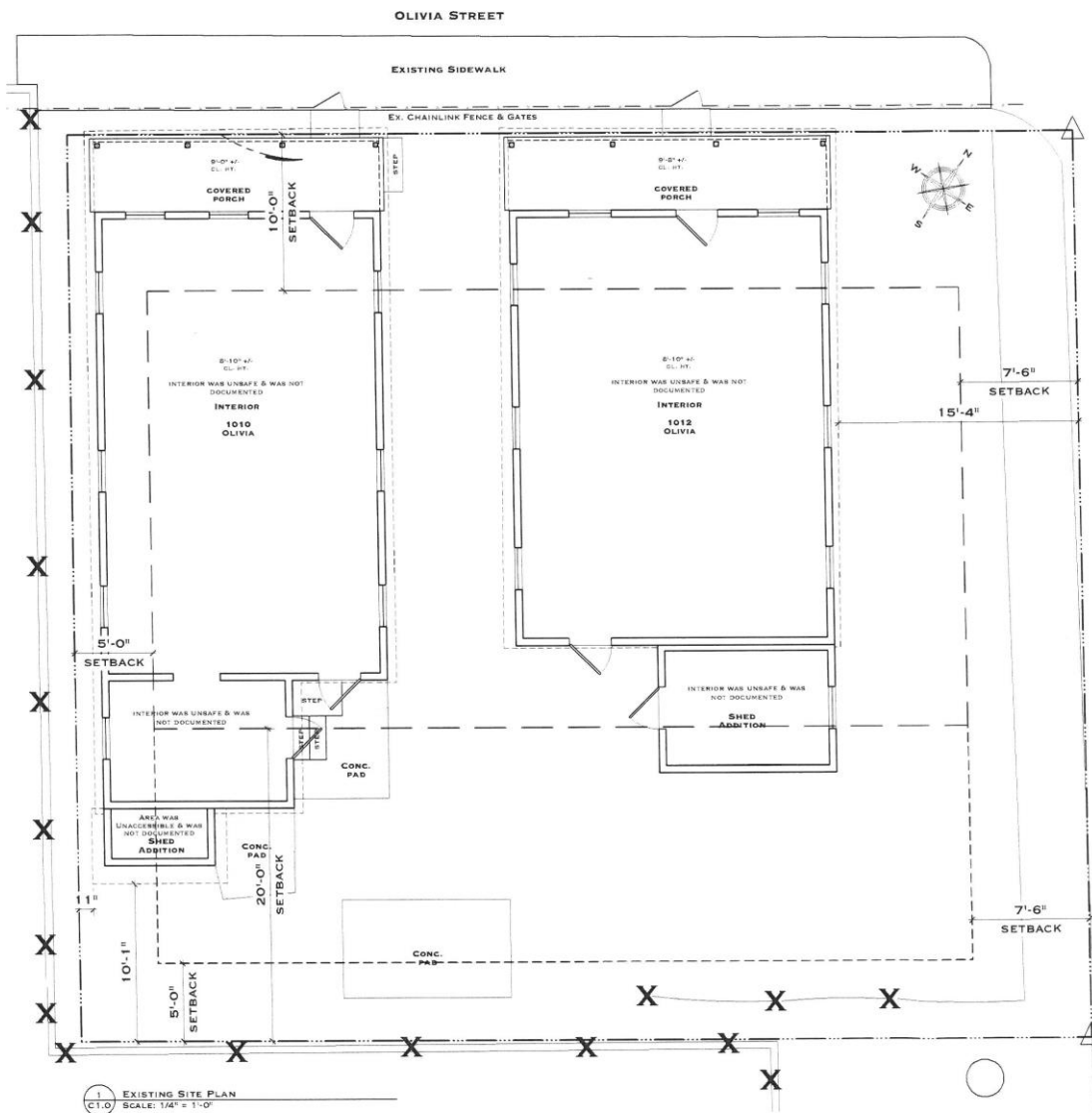


Background/Request: The subject parcel is one lot of record and is located within the Historic High Density Residential (HHDR) zoning district facing Olivia Street and the corner of Watson Street. The lot includes two condemned dwelling units. The applicant is requesting to replace the two (2) one and a half story homes with one 2-story single-family residence within a footprint like the two existing structures. The new home proposes a pool and deck in the rear yard as part of this redevelopment. Both the pool and pool deck are raised due to future flood level requirements for the house. Both the pool and pool deck are elevated due to future flood level requirements for the house, but since the April Planning Board meeting have been redesigned to 28.5" above grade versus 30". As a result, neither the pool nor deck are included in the building coverage calculations.

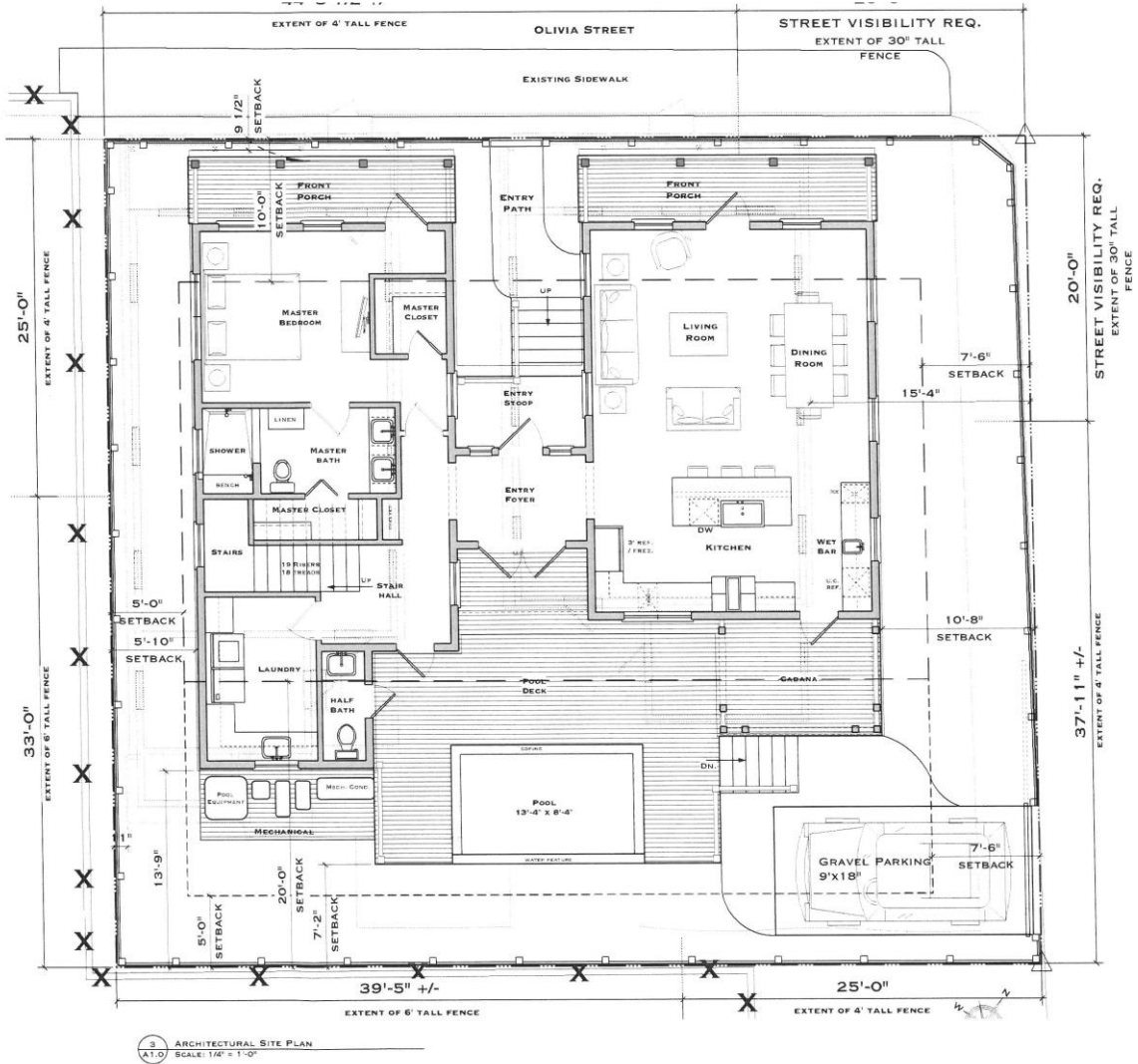
The two structures were condemned by the Chief Building Official of the City of Key West on December 10, 2019. Unfortunately, both historic structures are unstable and beyond repair. Given that the houses are identical in style, these modest "shotgun" structures are termed "sister houses". Both are one and a half story frame structures situated on the lot with noncomplying setbacks to the front, side, and rear yards. The proposed replacement will be a two-story structure situated on the lot with a footprint like the original structures, but with improvements to front and side setbacks. The proposed site plan requires variances to the front and rear setbacks. Given the changes to the deck and pool since the April Planning Board meeting, a building coverage variance is no longer required.

Historic preservation staff have reviewed site plans and elevations associated with these proposed variances. Staff have determined that this project may not be compliant with adopted historic district guidelines for new construction, specifically regulations for scale, mass, and proportions. If the Planning Board chooses to approve these variances, staff recommends inclusion of a condition to allow for some design changes to the site plan if necessary. This is the third time this application is going in front of the Planning Board. The first time was in April. The second time in May, the applicant reduced the height of the pool and wood deck. The third time, the June Planning Board, no changes were made on the site plan.

Current Site Plan, Submitted by Applicant



Proposed Site Plans, submitted by the applicant. April Planning Board



Previous Site Data Table for April Planning Board

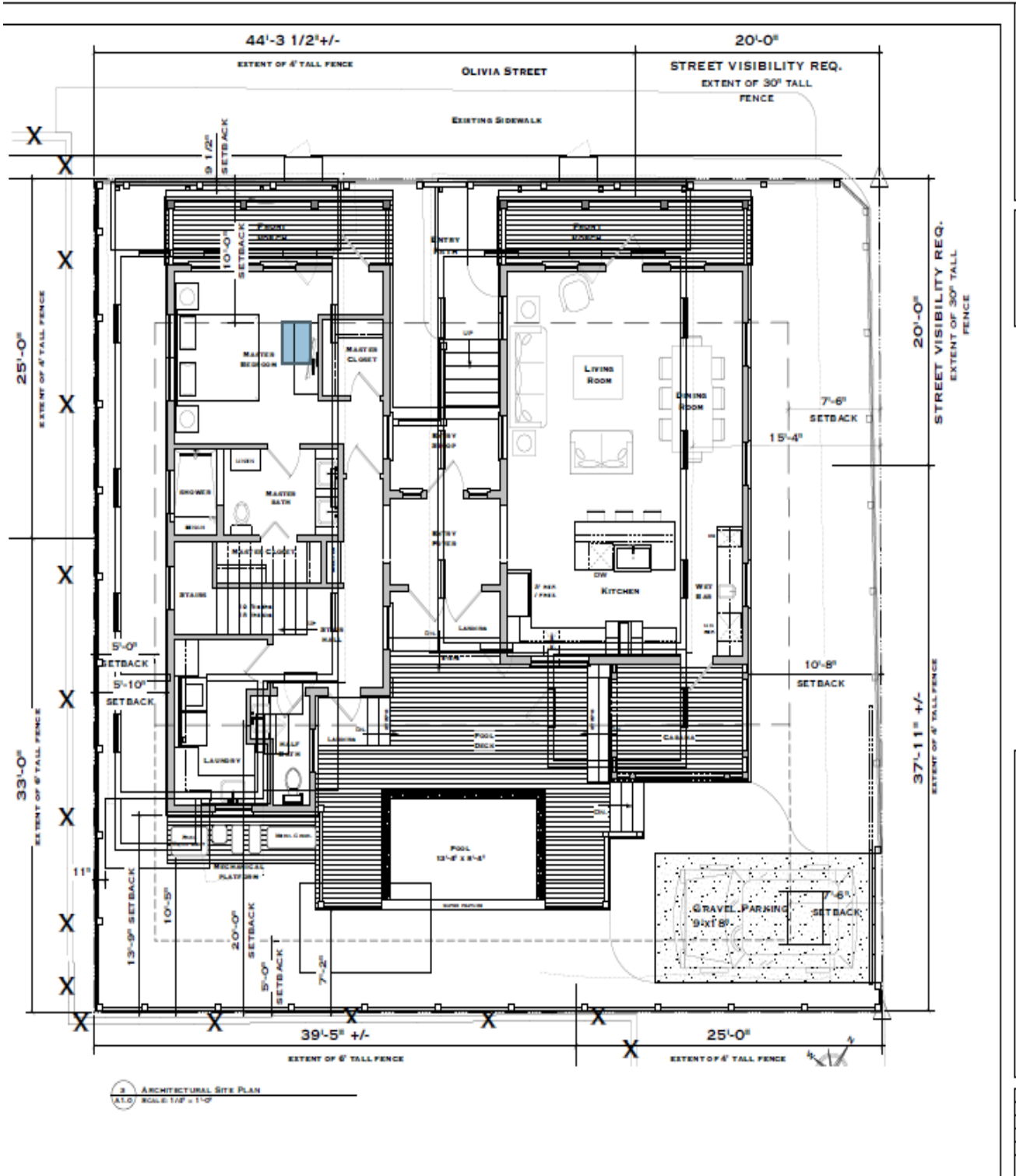
	Required/Allowed	Existing	Proposed	Variance Requested
Zoning		HHDR		
Flood Zone	NA			
Size of Site	4,000 sq ft	3,734 sq ft		
Impervious Surface	60% 2,240 sq ft	47% 1,780 sq ft	57% 2,163 sq ft	None
Building Coverage	50% 1,867 sq ft	43% 1,627 sq ft	57% 2,163 sq ft	Variance Requested 296 sq ft or 7%
Open Space Requirement	35% 1,306 sq ft	52% 1,953 sq ft	37% 1,385 sq ft	None
Front Setback	10'	2" over the property line	9 1/2"	Variance Requested 9' 2 1/2" (Improvement)
Side Setback	5'	11"	5"	None
Side Street Setback	7.5'	15'4"	10'8"	None
Rear Setback	20'	10'1"	7'2"	Variance Requested 12'10"

The applicant is requesting a variance pursuant to Sections 122-630(6)a, 122-630(6)c and 122-630(4)a of the City of Key West Land Development Regulations:

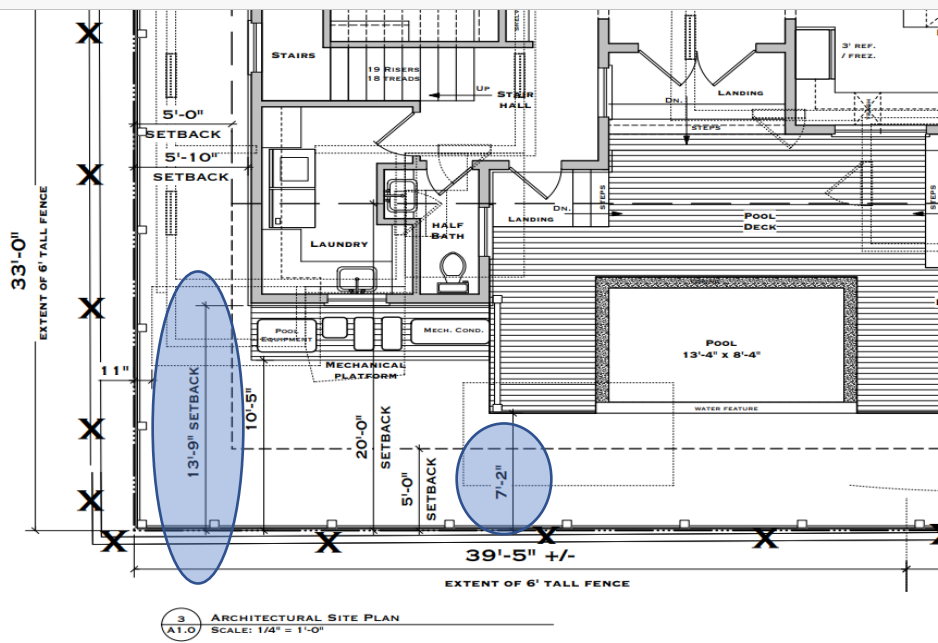
For the proposed residence and pool:

- The applicant is requesting 57.9% building coverage. The code requires no more than 50%.
- The applicant is proposing that the new principal structure will be built nine and a half inches from the front property line and is requesting a 9' 2 1/2" front setback variance. The code requires 10'.
- The applicant is proposing to construct a new rear raised deck and pool 7'2" from the rear property line and is requesting a 12'10" rear setback variance. The code requires 20'.

Proposed Site Plan, Submitted by Applicant. May and June Planning Board



Close up of Rear Set Back dimensions. Same as previous plans. Nothing changed, except the way the rear setback is counted. The new pool deck was lowered to 28 1/2". This now makes the pool an accessory structure, will not be included in the building coverage.



Site Data Table for **May/June** Planning Board

	Required/Allowed	Existing	Proposed	Variance Requested
Zoning		HHDR		
Flood Zone	NA			
Size of Site	4,000 sq ft	3,734 sq ft		
Impervious Surface	60% 2,240 sq ft	47% 1,780 sq ft	51% 1,917 sq ft	None
Building Coverage	50% 1,867 sq ft	43% 1,627 sq ft	48.3% 1,806 sq ft	None*
Open Space Requirement	35% 1,306 sq ft	52% 1,953 sq ft	37% 1,393 sq ft	None
Front Setback	10'	0"	9 1/2"	Variance Requested 9' 2 1/2" (Improvement)
Side Setback	5'	11"	5"	None (Improvement)
Side Street Setback	7.5'	15'4"	10'8"	None
Rear Setback	20'	10'1"	13'9"	Variance Requested 6'3"

*Improvement from April Planning Board

For April Planning Board:

The applicant is requesting a variance pursuant to Sections 122-630(6)a, 122-630(6)c and 122-630(4)a of the City of Key West Land Development Regulations:

For the proposed residence and pool:

- The applicant is requesting 57.9% building coverage. The code requires no more than 50%.
- The applicant is proposing that the new principal structure will be built 10" inch from the front property line and is requesting a 9' 2 ½" front setback variance. The code requires 10'.
- The applicant is proposing to construct a new rear raised deck and pool 7'2" from the rear property line and is requesting a 12'10" rear setback variance. The code requires 20'.

For May/June Planning Board, Applicant made corrections based on previous Planning Board Members Request:

The applicant is requesting a variance pursuant to Sections 122-630(6)a. and 122-630(6)c. of the City of Key West Land Development Regulations:

For the proposed residence:

- The applicant is proposing that the new principal structure will be 9 ½" inches from the front property line and is requesting a 9' 2 ½" front setback variance. The code requires 10'.
- The applicant is proposing to construct a new principal structure 13'9" from the rear property line and is requesting a 6'3" rear setback variance. The code requires 20'.

The applicant added an underground stormwater retention area on the northeast side of the property. See C-1 in Planning Package for details and drawing.

Process:

Planning Board Meeting:	June 16, 2022
HARC:	TBD
Local Appeal Period:	10 days
DEO Review Period:	up to 45 days

Staff Analysis- Evaluation:

The criteria for evaluating a variance are listed in Sections 122-630 of the City of Key West Land Development Regulations. 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 is located within historic old town, across from the cemetery and built at a time when small frame cottages were erected close together on the same lot as family compounds. As such, the homes were constructed very close together on a smaller than average lot size relative to current standards. The current structures do not meet current front, side, or rear setbacks. Although the lot is smaller than standard size for the zoning district, there are no special conditions. The applicant is proposing to demolish the existing condemned structures and replace them in their original location with a new house with variances to the front and rear setbacks and to building coverage.

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 original buildings were constructed in 1928 and 1923. The applicant purchased the homes in 2021. The proposal of the bigger home is created by the applicant. The properties were already not in compliance for front and rear setbacks. The proposed new home eliminates the front encroachment into the right-of-way. The rear setback encroachment would expand by approximately three feet required per proposed 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 set maximum building coverage and impervious surface ratios to ensure life safety, general welfare, health standards, and aesthetics. The variance requested would confer building rights not available to other properties in this zoning district, however, all property owners may avail themselves to the variance process. The design and siting of the house is like what existed previously.

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 the other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.*

The structures located at 1010 and 1012 Olivia Street are not in compliance with front and rear setback requirements for the zoning district, but no specific hardship conditions 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 requested is not the minimum variance that will make possible the continued use of the land, building, or structure. The proposed variance would allow the replacement of a historic structure on a small lot on a small lane in the heart of the historic district maintaining the layout of the historic neighborhood to the specifications proposed by the applicant. However, the design could be modified to adhere to the zoning district dimensional standards more closely.

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 granting of the variance does not appear to be injurious to the area involved or detrimental to the public interest. It would allow for the reconstruction of a safe structure and remove a current public health and safety problem in that the historic structures have been condemned by the City Building Department. The new residential structure also must be HARC approved and designed to be compatible with the surrounding historic neighborhood.

IN COMPLIANCE

7. *Existing nonconforming uses of other property shall not be considered as 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 the City Code have been met by the applicant for a variance.

The standards established by the City Code have not been fully met by the applicant for the variance requested.

That the applicant has demonstrated “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 one negative e-comment for the variance request as of the date of this report.

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 or 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 increase or has the effect of the 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:

The variance request for exceeding the allowed front yard setback, rear yard setback, and building coverage at the subject property does not comply with all evaluation criteria, although the proposed construction would be an improvement to the current dilapidated structures. The Planning Department recommends **DENIAL**.

If the Planning Board chooses to approve the variance, the Planning Department recommends the following conditions:

1. The proposed construction shall be consistent with the plans, signed, sealed, and dated 4/27/2022 by T.S Neal.
2. Historic preservation staff have determined that this project may not be compliant with adopted historic district guidelines for new construction. Revisions to the site plan and elevations to reduce building coverage, or mass and scale of the new design will be allowed.