



**Background:**

The City of Key West acquired the former Glynn R. Archer Elementary School property located at 1300 White Street from the Monroe County School Board in August 2013 with the intention of renovating the historic building to become its new City Hall, including administrative offices for many City departments and Commission Chambers. The City would consolidate and relocate City departments from elsewhere in the City, including all offices from the current City Hall in Habana Plaza located at 3100 Flagler Avenue. In order to allow the proposed development, several development approvals would be necessary including the subject height variance for a new mechanical structure and a new elevated hallway/breezeway.

Concurrent with the height variance application, the City also applied for:

- Major Development Plan review is required due to the reconstruction of more than 2,500 square feet of gross floor area, pursuant to Section 108-91.A.2.(b) of the Land Development Regulations (LDRs) of the Code of Ordinances (the “Code”) of the City of Key West (the “City”).
- Conditional use review is required for cultural and civic activities within the HPS Zoning District, pursuant to City Code Section 122-958(2).
- The City is also requesting waivers to landscaping requirements, pursuant to City Code Section 108-517.
- A variance for the reduction, but continuation, of nonconforming impervious surface ratio
- A petition for vacation of City property to abandon a portion of former Whalton Street right-of-way.

The above applications are being reviewed separately. On March 20, 2014, the Planning Board recommended to the City Commission to approval with conditions of the Major Development Plan/Conditional Use and landscape waivers. The Planning Board also approved the impervious surface variance.

The existing historic building that would become the new City Hall (referred to as Building A and B) is a two-story, neoclassical-style structure built in two phases in 1923 and 1927 as Key West High School. The site was developed prior to the city’s current Land Development Regulations (LDRs) and the existing building does not conform to current maximum height regulations, and is considered to be legally non-conforming.

**Request:**

As part of the proposed adaptive reuse of the historic building, a new two-story mechanical structure and a new two-story breezeway/hallway structure would be added between Buildings A and B on the Seminary Street side of the Commission Chambers. The new mechanical structure is proposed as the preferred method to accommodate the modern electrical and mechanical equipment that would be installed for the new City Hall, while providing visual screening and effective sound buffering. The new breezeway/hallway structure would provide convenient covered, unenclosed access between Buildings A and B on the first floor, as well as a fully-enclosed hallway between Buildings A and B on the second floor. More importantly, the breezeway/hallway would provide the required secondary means of ingress and egress between Buildings A and B, particularly for emergency purposes. The building would be equipped with interior stairways for the primary means of emergency egress.

As designed, the proposed mechanical structure and breezeway/hallway structure would require a height variance as non-habitable space. The maximum building height within the HPS Zoning District is 25 feet. The height of the existing building, as measured from crown of road to the topmost portion of the structure pursuant to the LDRs, is 42.22 feet at the front pediment (49.42' NGVD – 7.20' NGVD = 42.22). The top of the new mechanical and breezeway structures is designed to match the top of the existing school roof, which is 32'-2" from crown of road. Thus, while the overall height of the existing building would not be increased, the two new structures would exceed the 25-foot maximum height. This necessitates the height variance.

The height variance request is for the 32'-2" proposed height of the new mechanical and breezeway/hallway structures. This would be 7'-2" higher than the maximum height of 25 feet allowed within the HPS Zoning District. The proposed structures were designed to be compatible with the historic building and the project was approved by the Historic Architectural Review Commission on April 24, 2014.

The following table summarizes the relevant project data.

| <b>Project Data Summary</b>      |                           |   |   |  |
|----------------------------------|---------------------------|---|---|--|
| <b>Dimensional Requirement</b>   | <b>Required/ Allowed</b>  | <b>Existing</b>                           | <b>Proposed</b>   | <b>Change / Variance Required?</b>   |
| Zoning District                  | HPS                       |   |   |  |
| Flood Zone                       | X                         |   |   |  |
| Site size                        | 120,909 SF;<br>2.77 acres |   |   |  |
| Maximum density                  | N/A                       | 0 units                                   | 0 units   | None   |
| Maximum floor area ratio         | 1.0                       | 0.48                                      | 0.30  | -0.18  |
| Maximum height                   | 25 feet                   | 42.22 feet to pediment;<br>32'-2" to roof | 42.22 feet to pediment;<br>32'-2" to roof;<br>nonconforming | None. Two new structures would exceed 25' height limit, but not exceed 32'-2". Height variance required. |
| Maximum building coverage        | 40%                       | 35.6%                                     | 20.5%   | -15.1  |
| Maximum impervious surface       | 50%                       | 76.6%                                     | 65.9%;<br>nonconforming                                     | -10.7; variance required   |
| Minimum lot size                 | 5,000 SF                  | 120,909 SF                                | 120,909 SF  | None   |
| Minimum lot width                | 50 feet                   | 92.50 to 185.00 feet                      | 92.50 to 185.00 feet  | None   |
| Minimum lot depth                | 100 feet                  | 600.08 to 834.46 feet                     | 600.08 to 834.46 feet                                       | None   |
| Minimum front setback (White St) | 20 feet                   | 39'-2.5"                                  | 39'-2.5"  | None   |

| Project Data Summary                      |   |                                   |  |                             |
|---|---|-----------------------------------|--|-----------------------------|
| Dimensional Requirement                   | Required/ Allowed                                   | Existing                          | Proposed                               | Change / Variance Required? |
| Minimum side setback (interior)           | Greater of 5 feet or 10% of lot width up to 15 feet | 10% of 92.5 feet = 9.25 feet      | 14.5 feet to generator                 | None                        |
| Minimum rear setback (Grinnell)           | 20 feet or 15 feet on alley                         | 442.41 feet to principal building | 573.58 feet to principal building      | +131.17 feet                |
| Minimum street side setback (United St)   | 10 feet   | 27'-3.5"                          | 27'-3.5"                               | None                        |
| Minimum street side setback (Seminary St) | 10 feet   | 28'-3.5"                          | 28'-3.5"                               | None                        |
| Minimum vehicular parking                 | 1 space / 300 SF = 124 spaces                       | 30 spaces                         | 124 spaces including 5 handicap spaces | +94 spaces                  |
| Minimum handicap parking                  | 5 spaces  |                                   | 5 spaces                               |                             |
| Minimum bicycle parking                   | 25% of vehicular spaces = 31 spaces                 | 0 spaces                          | 32 spaces                              | +32 spaces                  |
| Minimum open space                        | 20%   | 23.3%                             | 34.2%                                  | +10.9                       |
| Landscaping                               | Code Ch 108, Arts V & VI                            | See development plan analysis     | See development plan analysis          | Waivers requested           |
| Consumption area or number of seats       |   | None                              | None                                   | None                        |

**Non-Habitable Space Requirement:**

Pursuant to City Code Section 122-1149, “building height” as used in the LDRs means “the vertical distance from the crown of the nearest adjacent street to the highest point of the proposed building.” “These height regulations may be waived in order to accommodate nonhabitable hardware and utility structures typically associated with the principal structure, including spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy or use.”

Furthermore, the City Charter allows that variances to height regulations may be granted by the Board of Adjustment. The full provision is provided as follows:

**City Charter Section 1.05, Height Restriction:**

- (a) Building height restrictions in the City's Land Development Regulations and building code in effect as of the adoption of this charter section are subject to change only upon approval of a majority of the qualified electors casting ballots at a general municipal election.

- (b) If the Board of Adjustment approves a height variance for habitable building space, this approval shall be submitted to the voters for ratification in the next regularly scheduled election. Board of Adjustment approval shall not become effective until voter ratification. **Board of Adjustment height variances for nonhabitable purposes, including, but not limited to, radio towers, antennae and spires, shall be final and not be subject to referendum** [Emphasis added.] Board of Adjustment height variances for build back of involuntarily destroyed structures which are nonconforming in their height shall also be final and not subject to referendum.

The Planning Director wrote an interpretation of the above non-habitable space requirements regarding the proposed City Hall project. The interpretation is attached, and hereby incorporated by reference to this staff report.

**Process:**

|                               |  |
|-------------------------------|--|
| Development Review Committee: | January 23, 2014                             |
| Planning Board Meeting:       | March 20, 2014                               |
| HARC:                         | April 24, 2014                               |
| Board of Adjustment:          | June 3, 2014                                 |
| DEO:                          | Up to 45 days, following local appeal period |

**Analysis – Evaluation for Compliance With The Land Development Regulations:**

Pursuant to City Code Section 90-97, the Board of Adjustment may authorize in specific cases a variance from the maximum height requirements of the LDRs and Article 1.05 of the City Charter where the requirements of City Code Section 90-394 are met. The criteria for evaluating variances are listed in City Code Section 90-395(a). Before any variance may be granted, the Board of Adjustment 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 conditions of the building pre-date the dimensional requirements of the current LDRs, and therefore is legally non-conforming to some dimensional requirements in the HPS Zoning District, particularly maximum height. The building is also a contributing structure within the historic district. Furthermore, the proposed adaptive reuse of the historic building into a new City Hall facility is a special condition or circumstance that is unique to the land or building within the HPS Zoning District.

- (2) ***Conditions not created by applicant. That the special conditions and circumstances do not result from the action or negligence of the applicant.***

The special conditions and circumstances outlined above do not result from the action or negligence of the Applicant. The proposed development is intended to enhance the adaptive reuse of the historic structure by providing visual and noise screening from the surrounding area, and by providing convenient and safe ingress/egress between the buildings.

- (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 granting of the variance request would not confer any special privileges denied by the LDRs to other lands, buildings or structures in the HPS Zoning District. The property is unique, and granting the requested variance would protect its historic and architectural integrity while gracefully mitigating visual and noise impacts.

- (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.

If the height variance for the proposed mechanical and breezeway/hallway structures is denied, the Applicant would have to relocate the necessary modern electrical and mechanical equipment somewhere else on the property, possibly at a lower level which would reduce the effectiveness of the noise dampening design. Placing this equipment on the roof of the existing building would not be feasible either, due to the height limit and HARC guidelines. Therefore, hardship conditions do exist.

- (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 proposed mechanical structure and the breezeway/hallway structure were designed to accommodate only the necessary mechanical, electrical and other equipment without exceeding the roof height of the existing school building. The overall height of the existing school building would not be increased. Granting the requested variance would make possible the reasonable use of the land, buildings and structures.

- (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 would not be injurious to the area involved or otherwise detrimental to the public interest. Rather, preservation of the historic nonconforming structure would be beneficial to the public as a local civic landmark. The connective walkway was designed in harmony with the existing structure, and the mechanical enclosure provides soundproofing. Therefore, the granting of the requested variances would be in harmony with the general intent and purpose of the LDRs.

- (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 nonconforming uses of other property in the HPS Zoning District or permitted uses of property in other zoning districts has not been considered in the analysis of the requested variances.

**Pursuant to Code Section 90-395(b), the Board of Adjustment shall make factual findings regarding the following:**

- (1) That the standards established by Section 90-395 of the City Code have been met by the applicant for a variance.**

The Applicant has met all of the standards established by the City Code for a variance.

- (2) 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.**

As of the writing of this report, Staff is not aware of any objections at this time.

**RECOMMENDATION:**

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends the request for variance be **APPROVED** with the following conditions:

1. This approval shall not become effective until the concurrent applications for Major Development Plan/Conditional Use and Right-of-Way Vacation are approved and effective.
2. This height variance shall only be for the new mechanical structure and breezeway/hallway structure as shown on the approved plans by Bender & Associates Architects, P.A. Any future increase of height beyond this would require a new height variance application.