

**THE CITY OF KEY WEST
PLANNING BOARD**

Staff Report

To: Chairman and Planning Board Members

Through: Jim Singelyn, Acting Planning Director

From: Ben Gagnon, Planner II

Meeting Date: December 18th, 2025

Application: **Variance – 328 Whitehead Street (RE# 00004590-002100)** – Applicant requests a variance to the maximum required fence height to add an eight (8) foot tall residential fence at a property located in the Historic Planned Redevelopment District (HPRD) zoning district, pursuant to Section 90-395 and 122-1183 of the Code of Ordinances of the City of Key West, Florida.

Request: The subject property proposes to add an eight (8ft) fence to a residential property.

Applicant: Michael Lepine

Property Owner: Key West 328 Whitehead LLC

Zoning: Historic Planned Redevelopment District (HPRD)



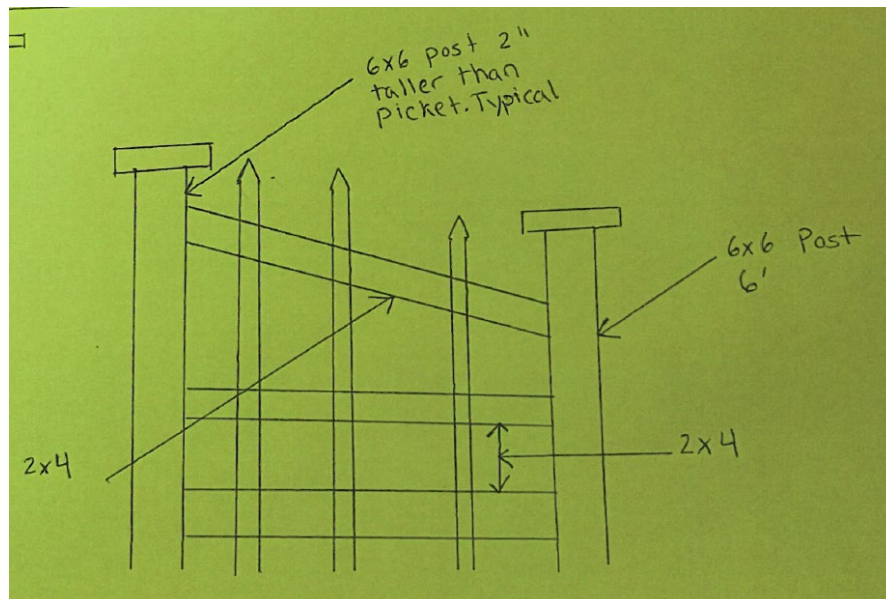
Background & Request

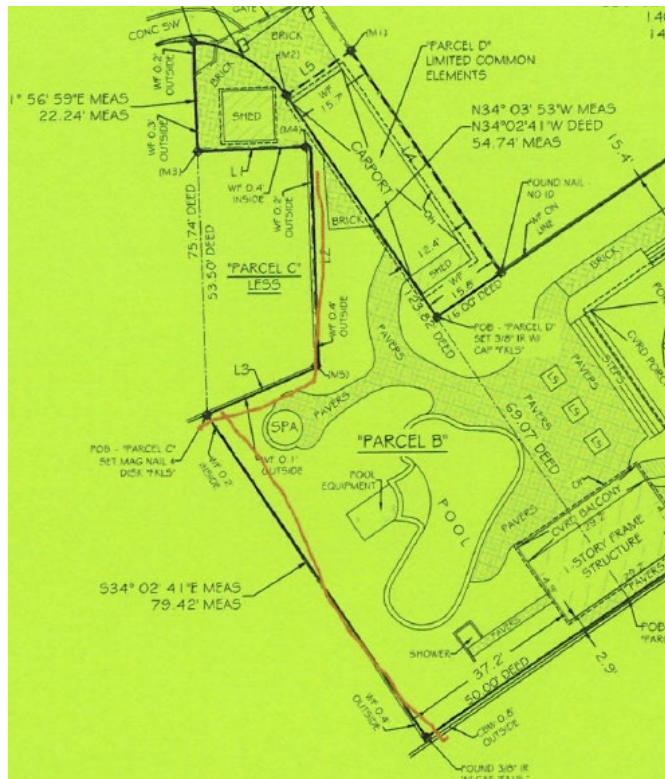
The subject property is a 14,417 square-foot parcel located at 328 Whitehead Street. The variance is triggered by the request to build an eight (8) foot tall residential fence, which exceeds section 122-1183 maximum fence height. The Interim City Attorney has confirmed a variance is required.

SITE DATA

A site data table is not required for this type of application where no site calculations would be affected. The request is for a variance from the fence code.

Existing / Proposed Site Plan / Survey





Process:

Planning Board Meeting:

December 18, 2025

Local Appeal Period:

10 Days

Planning renders to DOC for review:

Up to 45 days

Staff Evaluation:

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 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.*

No special conditions exist. The applicant states that the fence line is not seen from any street view, only by neighbors who have approved. Staff do not believe that this falls under special conditions.

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 creating the conditions.

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 8' fence would confer upon the applicant special privileges denied by the LDRs to other parcels.

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.*

There is no hardship. The applicant cites that other properties in Truman have taller fences but that cannot be the basis of approval.

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 fence code already allows 6' residential fences, this goes above and beyond.

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 variance is not likely to 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 nonconforming uses of other properties are being used in the basis of this request.

NOT 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.

Life Safety Concerns:

The Key West Fire Department has stated no concerns for an 8' fence.

The Planning Board 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.*

Staff have found that the standards established by Section 90-395 of the City Code have not been met by the applicant.

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 December 11th, staff have received no letters of objection for the item. The HOA at Truman has approved the proposal

Recommendation:

The request to build an 8ft fence does not meet all the criteria stated in Section 90-395. Therefore, the Planning Department recommends that the request for a variance be **Denied**.