



THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report

**To:** Chairman and Planning Board Members

**Through:** Katie P. Halloran, Planning Director

**From:** Scarlet Hammons, AICP CTP

**Meeting Date:** April 20<sup>th</sup>, 2023

**Agenda Item:** **Variance** - 1617 Bahama Drive (RE# 00070240-000000) - A request for a variance to the minimum allowed side setback requirement and to exceed the maximum building coverage for a pool house and pool deck at a residence in the Single Family (SF) zoning district pursuant to Sections 90-391 through 397 of the City of Key West Land Development Regulations.

**Request:** The applicant is proposing to replace and enlarge an accessory structure in the rear of the property and to construct a pool deck. The applicant is requesting variances from the Land Development Regulations for properties zoned SF, to exceed the allowable maximum building coverage and side setback.

**Applicant:** Joshua Baeten

**Property Owner:** Joshua Baeten

**Location:** 1617 Bahama Drive (RE# 00070240-000000)

**Zoning:** Single Family (SF)



1. Subject property limits denoted by blue line.



2. View of subject property from Bahama Drive.

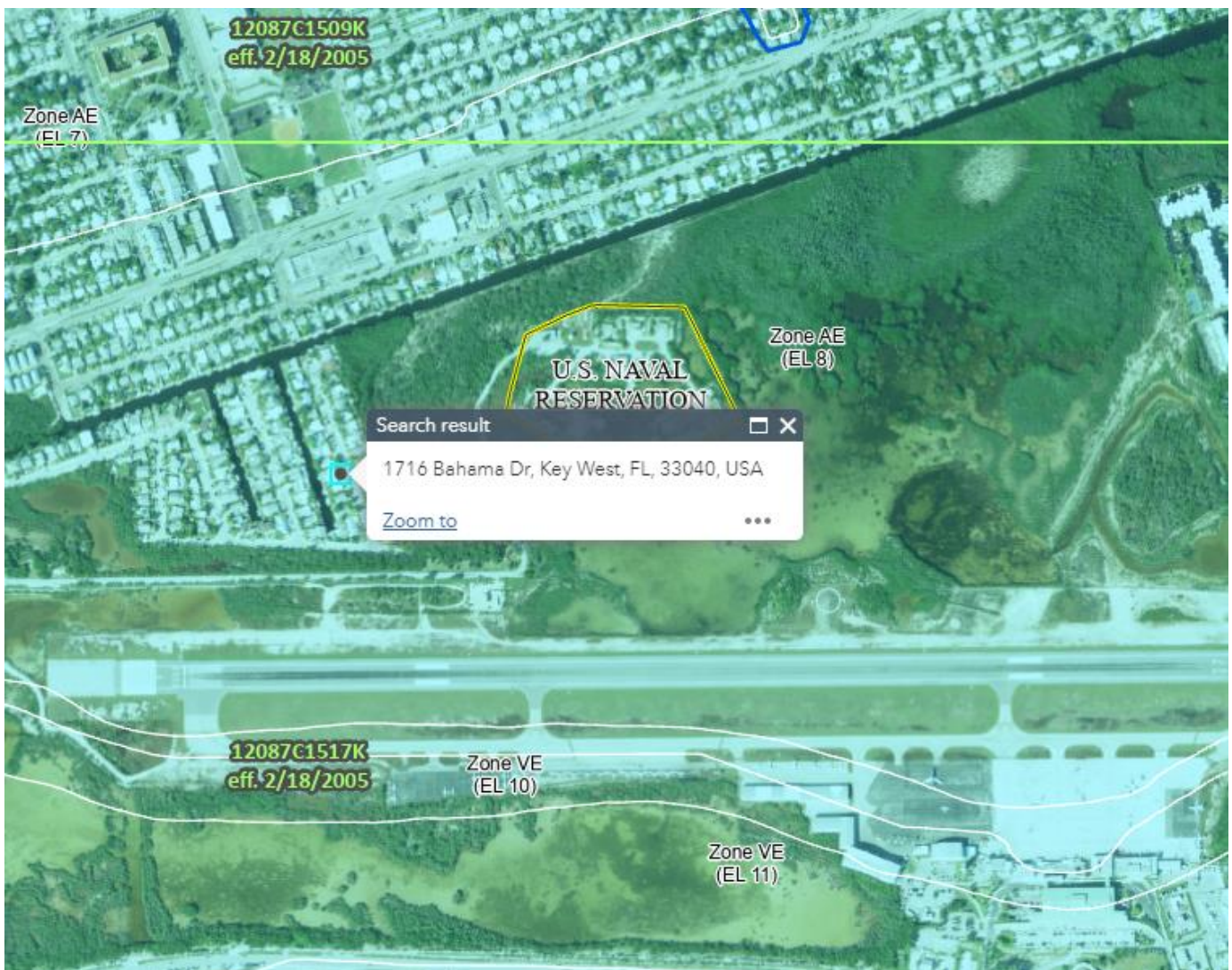


**Background:**

The subject property is located in the mid-block of Bahama Drive, within the Single Family zoning district, near the airport.

The property is improved with three (3) structures, a one-story house consisting of 1,587 S.F., built in 1972 in the front of the property and two (2) sheds in the rear. The larger of the two sheds (168 S.F.) is being used as a pool house. In 2021 the homeowner constructed a pool, with a concrete deck consisting of 260 S.F. The craftsmanship of the concrete deck was not of the highest quality, and the deck is already starting to show damage and stress cracks. According to FEMA flood maps, the home is located within a special flood hazard zone (Zone AE, elevation 8). When considering one additional foot of freeboard to elevate new structures above base flood elevation, new construction should be built with the finished floor elevation at nine (9) feet above existing grade.

The homeowner is also considering the potential of a need to rebuild his home, in the event of flood or wind damage, and desires to have a small place to live on his property if and when his home may become uninhabitable.



**Request:**

Today, the applicant is requesting variances from the City's Land Development Regulations (LDRs) to replace the rear accessory structure on the property with a larger pool house of 300 S.F. and replace the pool deck with a new wood composite over a wood frame. By removing the concrete deck and elevating the new pool house, the impervious surface area will be much improved. The mini split air conditioning unit on the new pool house will encroach into the side setback by two (2) feet. Currently the existing accessory structure encroaches into the side setback over three (3) feet and into the rear setback by one (1) foot .

In order to effectuate the proposal, the applicant is requesting the following variances:

- from Sections 122-238(4)(a) to exceed the maximum building coverage by 5%
- from Sections 122-238(6) (a) to permit a 3' side setback

The applicant cited the desire to have a contingency residence, on a temporary basis if ever needed, due to a natural disaster damaging his main home. The existing structures do not comply with the required setbacks, and the replacement of an elevated pool house will improve the impervious coverage ratios. The setback requests result from the air conditioning unit encroachment.

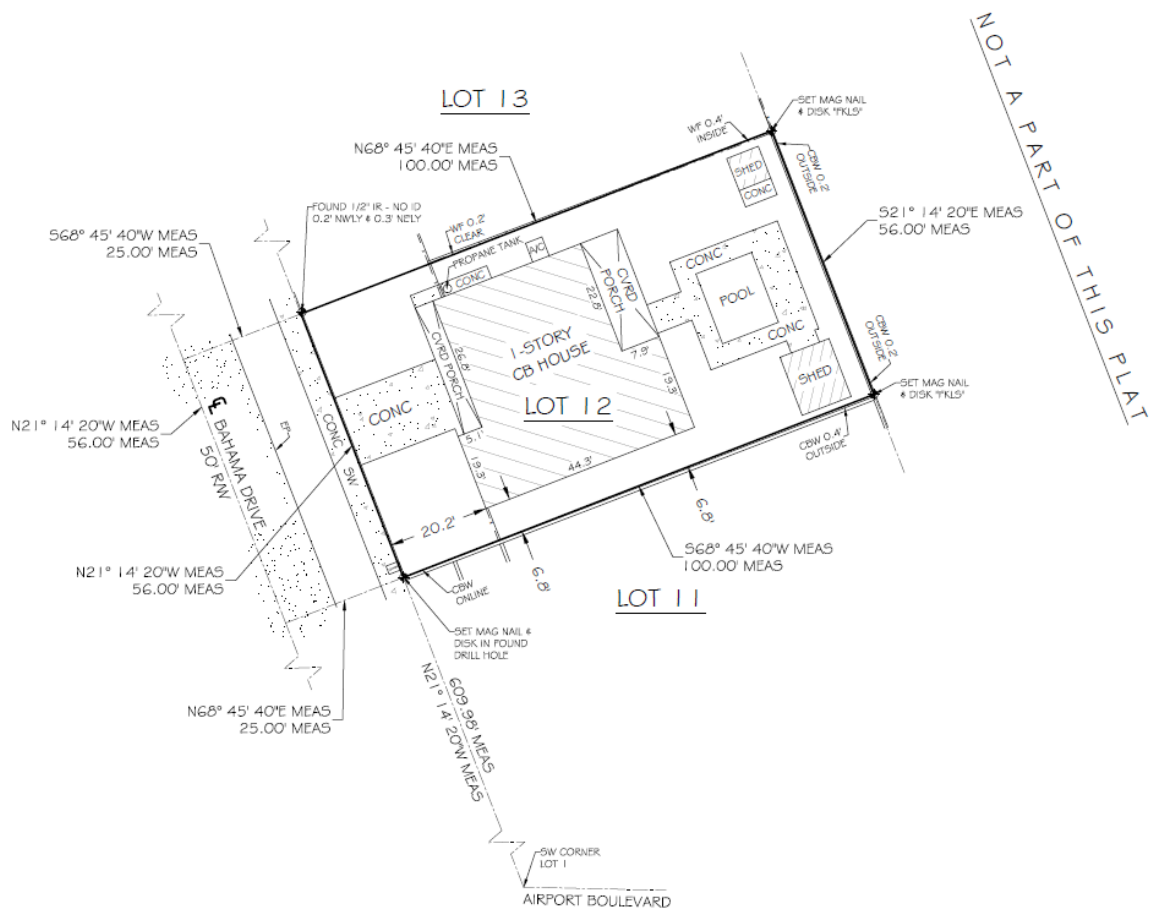
While the item did not have a formal meeting before the Development Review Committee, staff members reviewed the request and provided comments. Comments received are summarized below:

Karen DeMaria: I have no direct comment regarding the variance. Google Earth does indicate some tree/palms might be in or near the proposed work areas so a tree protection plan might be needed if and when demo/building permits are submitted.

Enid Torregrosa: The house is not listed as a contributing resource to the historic district and it is in the SF zoning District. HARC has no jurisdiction.

**Survey:**

Below is a current survey of the subject property. The property is developed with a single-family home with a pool and two sheds.



**Current site survey**

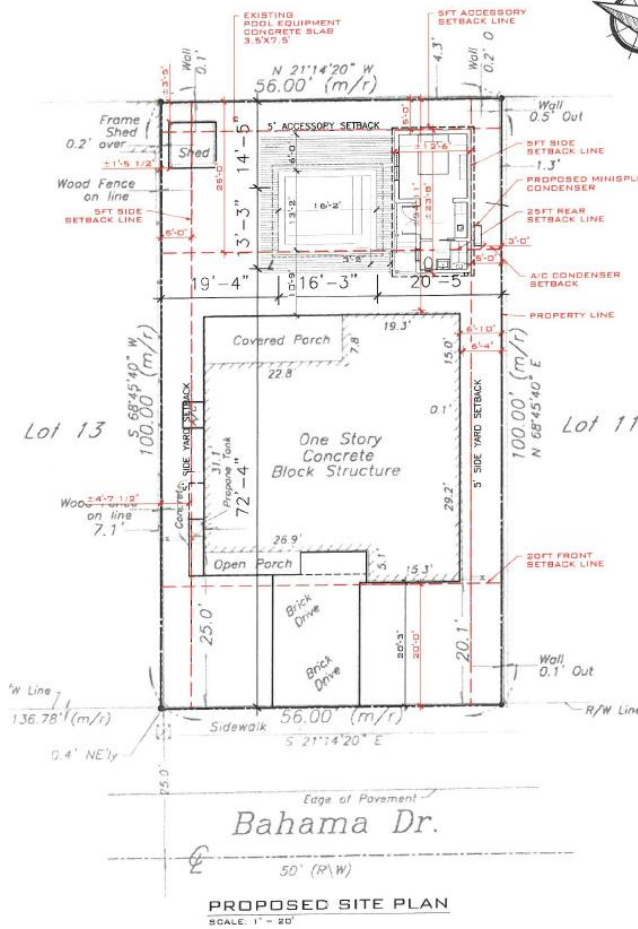


**From left to right: shed to be removed, existing pool and deck, shed to remain**



**Proposed Site Plan:**

The applicant requires a setback variance because the mini split air conditioner will have noncomplying setbacks. The rear and north side setback are in compliance as shown in the proposed site plan below. The image the following page depicts the proposed interior floor plan for the new accessory structure in the rear.



**SITE DATA:**

TOTAL SITE AREA: 15,600.0 SQ. FT.  
 LAND USE: SF  
 FLOOD ZONE: AEB

**SETBACKS**

**FRONT:**  
 REQUIRED: 20 FT.  
 EXISTING: 12'-0"  
 PROPOSED: NO CHANGES

**LEFT SIDE:**  
 REQUIRED: 5 FT.  
 EXISTING: 15'-0"  
 PROPOSED: NO CHANGES

**PRINCIPLE RIGHT SIDE:**  
 REQUIRED: 5 FT.  
 EXISTING: 16'-10"  
 PROPOSED: NO CHANGES

**ACCESSORY RIGHT SIDE:**  
 REQUIRED: 5 FT.  
 EXISTING: 1'-7"  
 PROPOSED: 13'-0" (TO MINISPLIT)  
 IMPROVEMENT: VARIANCE REQUIRED

**PRINCIPLE REAR:**  
 REQUIRED: 25 FT.  
 EXISTING: 23'-11"  
 PROPOSED: NO CHANGES

**ACCESSORY REAR:**  
 REQUIRED: 5 FT.  
 EXISTING: 3'-0"  
 PROPOSED: 5'-0"  
 IMPROVEMENT

**MAXIMUM IMPERVIOUS SURFACE RATIO:**

REQUIRED: 50% (12,800.0 SQ. FT.)  
 EXISTING: 52.63% (12,947.0 SQ. FT.)  
 PROPOSED: 50.57% (12,822.0 SQ. FT.)  
 IMPROVEMENT

(NOTE: AREA UNDER NEW ELEVATED ON PIERS POOL HOUSE IS CONSIDERED AS IMPERVIOUS. IF USED AS PERVIOUS - ADDITIONAL 296 SQ. FT. OF PERVIOUS AREA IS ADDED TO THE TOTAL 2,536 SQ. FT. = 45.28%)

**MAXIMUM BUILDING COVERAGE:**

REQUIRED: 35% (11,960.0 SQ. FT.)  
 EXISTING: 36.57% (12,048.0 SQ. FT.)  
 PROPOSED: 30.93% (12,215.0 SQ. FT.)  
 VARIANCE REQUIRED

**OPEN SPACE MINIMUM:**

REQUIRED: 35% (11,960.0 SQ. FT.)  
 EXISTING: 47.37% (12,653.0 SQ. FT.)  
 PROPOSED: 44.11% (12,470.0 SQ. FT.)

**MAXIMUM HEIGHT:** NO CHANGES

**REAR YARD COVERAGE:**

TOTAL AREA: 1,400.0 SQ. FT.  
 COVERED BY POOL HOUSE  
 AND SHED: 354 SQ. FT. = 25.3% < 30%

THIS DRAWING IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL SEAL.

Digitally signed by Serge Mashtakov, PE  
 71480 State of Florida  
 Date: 2022.11.26  
 12:16:22 -05'00'

SERGE MASHTAKOV  
 LICENSE NO. 71480  
 PROFESSIONAL ENGINEER  
 STATE OF FLORIDA

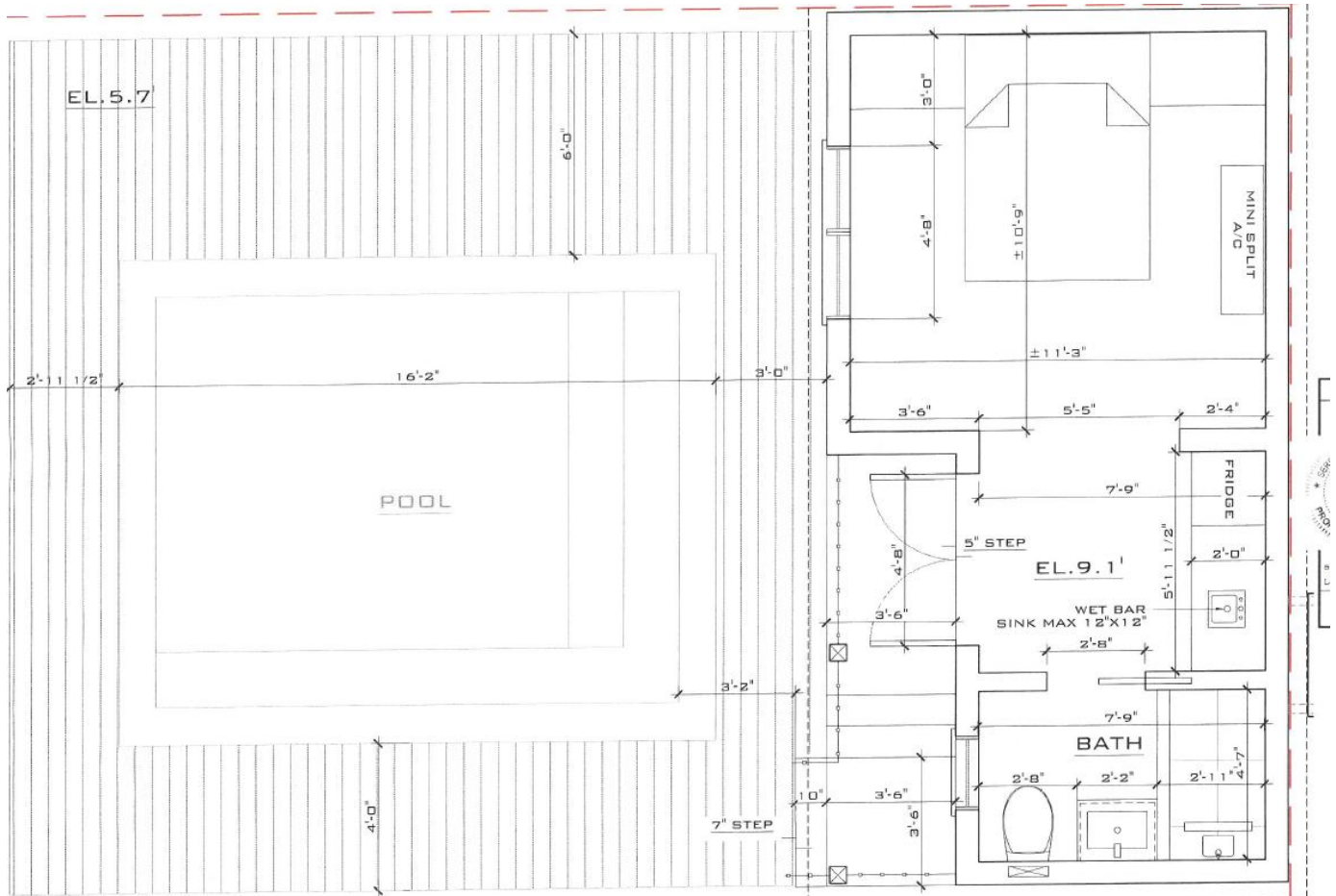
SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
 TITLE: FINAL

**ARTIBUS DESIGN**  
 ENGINEERING AND PLANNING  
 3710 N. ROOSEVELT BLVD  
 KEY WEST, FL 33040  
 (305) 304-3512  
 WWW.ARTIBUSDESIGN.COM  
 CA # 30835

PROJECT: JOSHUA BAETEN  
 SUBJECT: ACCESSORY STRUCTURE

DATE: 1617 BAHAMA DR  
 KEY WEST, FL 33040  
 TITLE: PROPOSED SITE PLAN

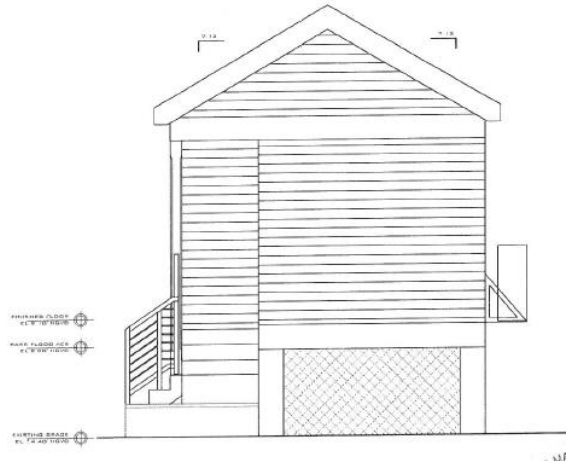
REVISION	DATE	BY	CHKD	APP'D
2210-07	11/26/22	AM		SAM



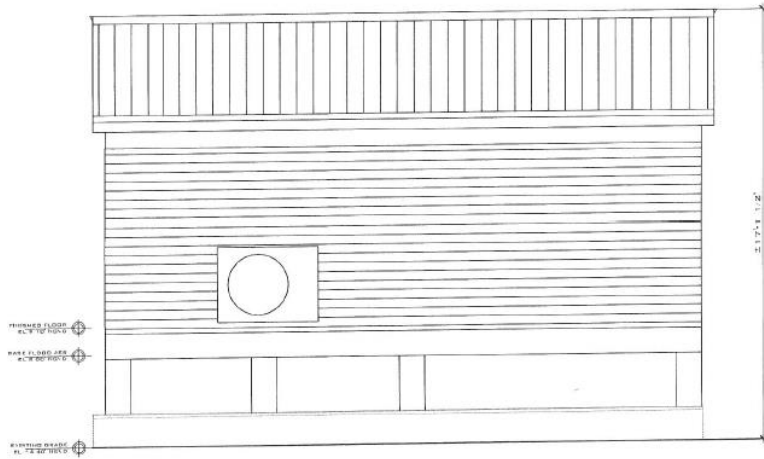
**PROPOSED FLOOR PLAN  
ACCESSORY STRUCTURE**  
SCALE: 3/8" = 1'-0"



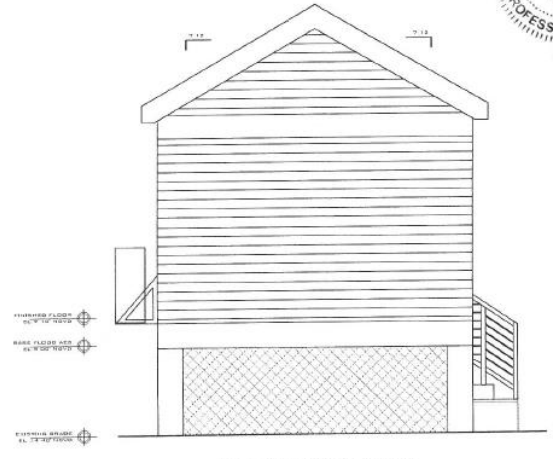
**POOL SIDE ELEVATION**  
SCALE: 1/4" = 1'-0"



**FRONT ELEVATION**  
SCALE: 1/4" = 1'-0"



**SIDE ELEVATION**  
SCALE: 1/4" = 1'-0"



**REAR ELEVATION**  
SCALE: 1/4" = 1'-0"



**Site Data Table**

1617 Bahama Drive				
	CODE REQUIRED	EXISTING	PROPOSED	COMMENTS
ZONING	SF			n/a
FLOOD ZONE	AE 8			n/a
MINIMUM LOT SIZE	6,000 SF.	5,600 SF.	n/a	Legal nonconforming
HEIGHT	30 FT.	12 FT.	17.5 FT.	Complies
FRONT SETBACK	20 FT.	20 FT.	n/a	Complies
SOUTH SIDE SETBACK	5 FT.	1 FT. 7 IN. (Shed)	3 FT. (Shed)	Variance Needed
NORTH SIDE SETBACK	5 FT.	5 FT. 9 IN.	n/a.	Complies
REAR SETBACK	25/5 FT.	34 FT/4 FT.	34/5 FT.	Complies
MAXIMUM BUILDING COVERAGE	35% 1,960 SF	37% 2,072 Sf	40% 2,240 SF	Variance Request 5% 280 SF
MAXIMUM IMPERVIOUS SURFACE	50% 2,800 SF	53% 2,968 SF	50% 2,800 SF	Complies.
OPEN SPACE	35% 1,960 SF	47% 2,632 SF	44% 2,464 SF	Complies
PARKING	2	2	n/a	Complies

**Process:**

Development Review Committee: N/A  
 Planning Board: April 20, 2023  
 Local Appeal Period: 10 days  
 DEO Review: Up to 45 days

**Staff Analysis- Evaluation:**

The criteria for evaluating a variance are listed in Sections 90-391 through 397 of the City of Key West Land Development Regulations (LDRs). 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 parcel located at 1617 Bahama Drive does not conform to the minimum lot size required by Code. Per the LDRS, the minimum lot size for properties in the SF zoning district is 6,000 SF, while the subject property has a lot size of 5,600 SF. The site's noncompliance is exacerbated by the structures on the property which exceed the building coverage allowances and do not comply with the minimum setback requirements. These conditions are typical for many lots in the City and do not present a special circumstance. In 2020, the current owner purchased the property. While the proposed redevelopment of the site may reduce the property's noncompliance with the LDRs, the applicant is requesting relief from the code.

**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 site's impervious surface area, building coverage, rear yard coverage, and required setbacks do not comply with the current zoning regulations. The current property owner purchased the home in 2020 with the existing conditions. The owner intends to slightly impervious surface and side setback noncompliance but proposes to slightly increase the site's noncompliance with respect to building coverage.

**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, impervious surface ratios, and setbacks to ensure life safety, general welfare and health standards. The proposed replacement of one accessory structure requires a setback variance request. The proposed accessory structures (a pool house) will comply with the development standards, except for the air conditioning unit attached to the building. The proposed redevelopment will improve the site's impervious surface ratio; however, the site will still exceed the Code allowances by approximately 5% for building coverage and two feet for the south side setback. No special privileges are being conferred.

**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 parcel is substandard and does not meet the minimum lot size required, which creates limitations for the property owner. The existing noncompliant structures were in existence prior to the purchase by

the current property owner. While the overall proposed project will be an improvement to current conditions, the desire for a new pool house is not a hardship that deprives the applicant of rights to enjoy the back yard.

**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.*

There are multiple existing non-complying conditions (building coverage and impervious surface, rear and side setbacks) on this property. The variances requested are not the minimum required that will make possible the reasonable use of the land, however it is the desire of the property owner to have an alternate shelter in the event that the main house is uninhabitable due to forces of nature.

**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.*

Although there are requested variances, the proposed development is not anticipated to be detrimental to neighboring properties or the public welfare.

**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 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 variances 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 not received any public comment for the variances requested 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 of 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 which is permitted by the comprehensive plan or Land Development Regulations.

**RECOMMENDATION:**

Based on the existing conditions, the Planning Department recommends to the Planning Board **DENIAL** of the proposed variances given all review criteria have not been met.

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

1. The proposed construction shall be consistent with the signed and sealed plans prepared by Artibus Design Engineering and Planning and dated November 26, 2022.
2. Submit a tree protection plan when demolition permits are submitted.