



THE CITY OF KEY WEST

PLANNING BOARD

Staff Report

To: Chairman and Planning Board Members

Through: Taylor Brown, Planning Director

From: James Singelyn, Senior Planner

Meeting Date: June 18th, 2026

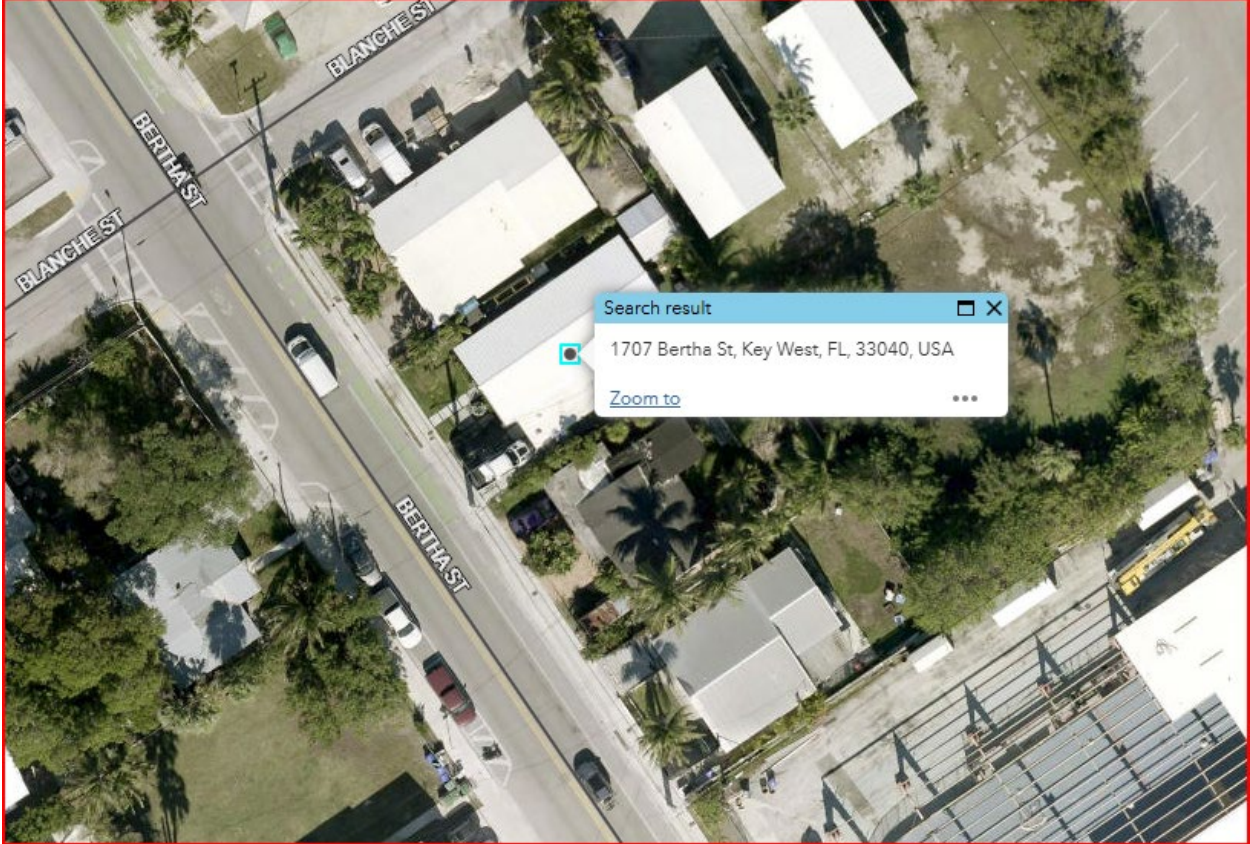
Application: **After-The-Fact Variance – 1707 Bertha Street (RE# 00062550-000000)** - An after-the-fact request for a variance from the minimum rear yard setback and maximum building coverage and impervious surface requirements to allow a rear addition and an open rear porch at a property located in the Coastal Medium Density Residential (MDR-C) zoning district, pursuant to Sections 90-395, 122-300(4)a, 122-300(4)b and 122-300(6)a.3 of the Code of Ordinances of the City of Key West, Florida.

Request: The subject property requests after-the-fact variances to allow a rear building addition containing a bedroom and associated overhang, as well as a rear porch and overhang encroaching into the required rear yard setback.

Applicant: Owen Trepanier, Trepanier & Associates

Property Owner: George Beys & Ihona Gonzales, 1707 Bertha Street

Zoning: Coastal Medium Density Residential (MDR-C)



Background & Request

The subject property is a 4,625-square-foot parcel located at 1707 Bertha Street in the Coastal Medium Density Residential (MDR-C) zoning district of the City of Key West. The site is currently developed as a single-family residence.

The applicant seeks after-the-fact variances associated with an addition constructed without prior approval. The addition consists of an expanded living area to accommodate an additional bedroom, as well as a rear yard porch.

As a result of this construction, the property exceeds the maximum allowable building coverage established under Section 122-300(4)a of the Key West Land Development Regulations (LDRs). The MDR-C district permits a maximum building coverage of 40%; however, pre-construction the applicant's property was at approximately 33% coverage, now the property is at 41% coverage triggering the need for a variance of 1%.

The property also exceeds the allowable impervious established under Section 122-300(4)b of the Key West Land Development Regulations (LDRs). The MDR-C district permits a maximum impervious surface ratio of 50%; however, prior to construction the property contained approximately 58% impervious surface coverage, and the current condition contains approximately 54% impervious surface coverage, resulting in the need for a variance of 4%.

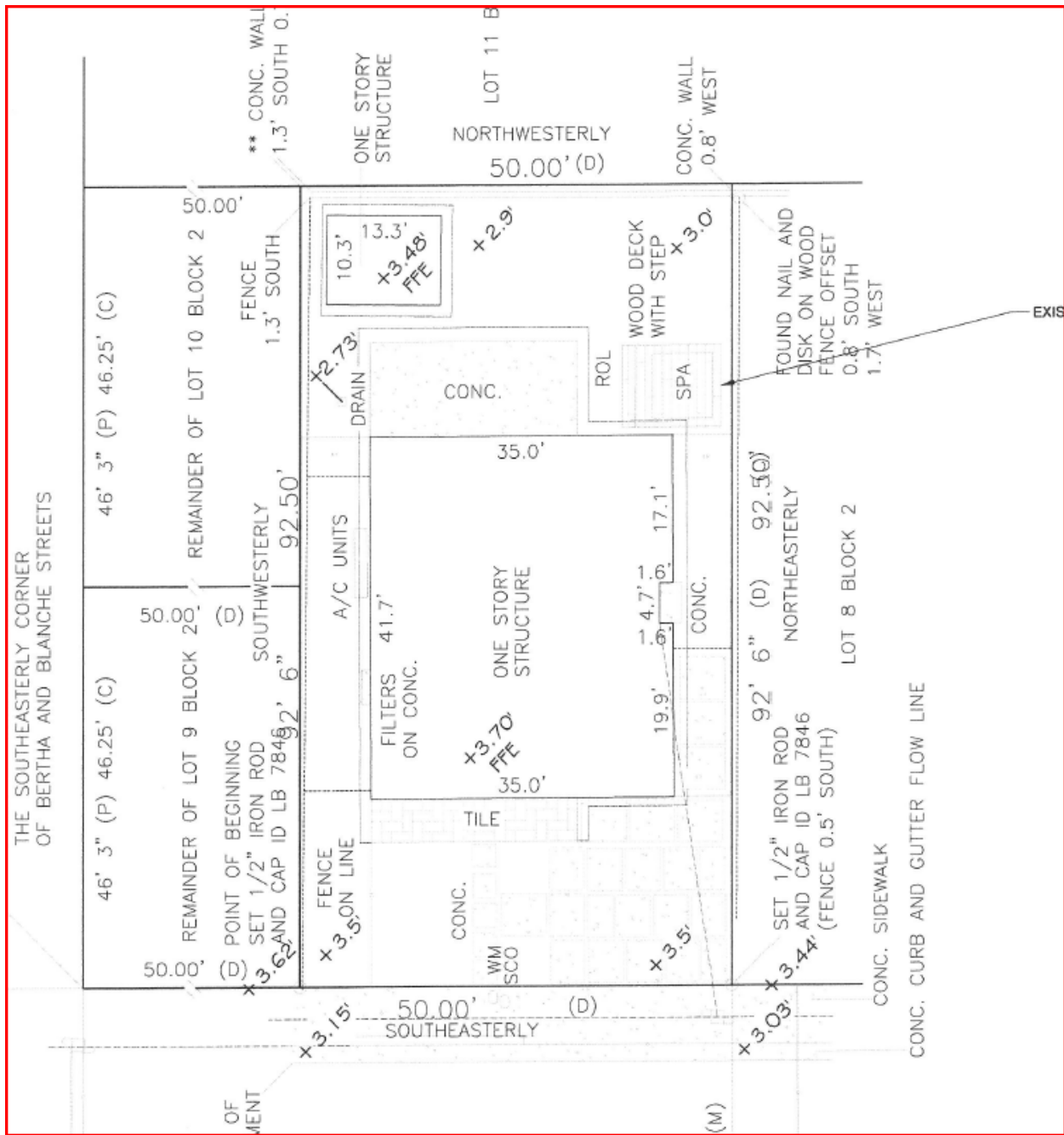
Staff acknowledges that the current condition represents an improvement over the previously existing impervious surface ratio.

Additionally, a variance is required pursuant to Section 122-300(6) a.3 of the LDRs for the rear yard setback. The unpermitted addition and porch encroached into the required rear setback, reducing it from the required 20 feet to approximately 16.5 feet. The rear setback variance is for 3'-7" from the required 20 feet.

Accordingly, the applicant is requesting after-the-fact variances for both building coverage and the rear setback to bring the existing improvements into compliance with the City's Land Development Regulations.

SITE DATA

| Zoned | Permitted | Existing | Proposed | Variance? |
|----------------------------------|----------------------|------------------|----------------------------|------------------|
| Lot Size | 4,000 sq. ft. MIN | 4,625 sf sq. ft. | No Change | |
| <u>Building Coverage</u> | <u>40%</u> | <u>33%</u> | <u>41%</u> | <u>YES</u> |
| <u>Impervious Surface</u> | <u>50%</u> | <u>58%</u> | <u>54%</u> | <u>YES</u> |
| Open Space | 35% | 41% | 46% | No |
| SETBACKS | | | | |
| Front Setback | 20' | 16'-8" | No Change | No |
| West Side Setback | 5' | 5'-1" | No Change | No |
| East Side Setback | 5' | 6'-9" | No Change | No |
| <u>Rear Setback</u> | <u>20'</u> | <u>27'-4"</u> | <u>16'-5" (3'-7" over)</u> | <u>YES</u> |



Previous Site Plan Zoom

Process:

Planning Board Meeting:
 Local Appeal Period:
 Planning renders to DOC for review:

June 18th, 2026
 10 Days
 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.*

There is no special circumstance which exists that is peculiar to the land, structure, or building involved and is not applicable to other land, structures, or buildings in the same zoning district.

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 need for the requested after-the-fact variances arises from the applicant's unpermitted construction of a bedroom addition and rear porch that do not comply with the required rear yard setback, building coverage, and impervious surface limitations. Any hardship associated with correcting this condition is self-created and cannot form the basis for granting a variance. The need for the variances was created 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.*

Granting the requested variances would confer upon the applicant special privileges not generally available to other properties within the same zoning district, particularly where the need for the requested relief results from unpermitted after-the-fact construction.

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.*

The need for the requested variance arises from the applicant's unpermitted construction of an addition for a bedroom and a rear-covered porch. The literal enforcement of lot coverage would not deprive the applicant of rights commonly enjoyed by owners.

NOT IN COMPLIANCE

5. *Only minimum variance granted. That the variance granted is the minimum variance that will make possible reasonable use of the land, building, or structure.*

The variances requested are the minimum necessary to make reasonable use of the undersized lot.

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 are 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 not the basis of 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:

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

Staff has 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.*

While there is not a strict variance criterion it is important to note for the report that as of June 12th, staff has received no letters of objection and no letters of support for this item.

Recommendation:

Staff finds that the applicant has not demonstrated compliance with all required criteria set forth in Section 90-395 of the Code of Ordinances of the City of Key West, particularly because the need for the requested after-the-fact variances results from unpermitted construction and is therefore considered self-created.

Staff does not recognize that the property is constrained by its undersized condition, which limits the ability to develop in full compliance with the requirements of the Coastal Medium Density Residential (MDR-C) zoning district. Staff further finds that the requested variances for building and impervious surface coverage and rear yard setback appear to be the minimum necessary to allow reasonable use of the property, and that the existing improvements are generally consistent with the scale and character of the surrounding area. Additionally, the request is not anticipated to result in adverse impacts to public facilities or services, and no objections from surrounding property owners have been received. Based on these considerations, staff forwards the application to the Planning Board with a recommendation of **DENIAL**.

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

General Conditions:

1. The proposed work shall be consistent with the attached signed and sealed plans on April 17, 2026 by Robert Hulec, P.E. of Lakewood Engineering.
2. No additional work shall be permitted without proper building permits.