

**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**



To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Melissa Paul-Leto, Planner Analyst

Meeting Date: August 16, 2018

Agenda Item: **524 Grinnell Street – (RE# 00007670-000100)** – A request for variances to the minimum setback requirements in order to construct a pool in the rear side yard on property located within in the Historic High Density Residential (HHDR) zoning district pursuant to Sections 90-395, 122-1181 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

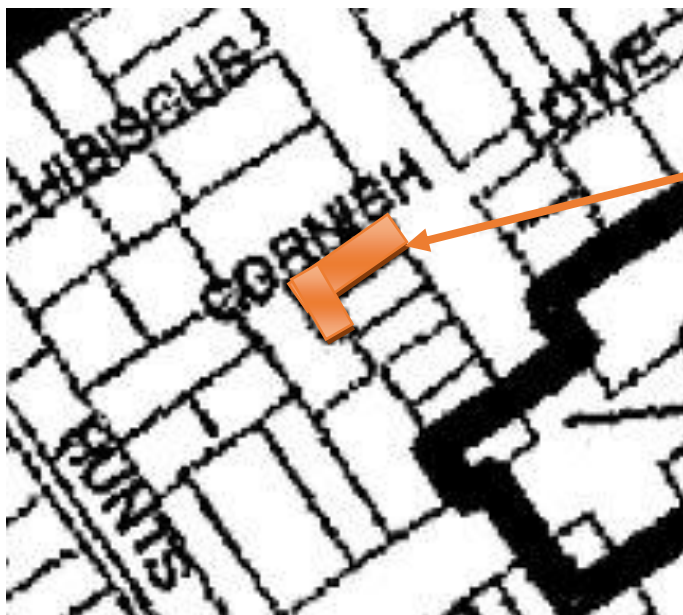
Request: The applicant is requesting a variance to the minimum setback requirements for an accessory structure in order to construct a pool in the rear side yard.

Applicant: Kevin Melloncamp

Property Owner: Kevin Melloncamp

Location: 524 Grinnell Street – (RE# 00007670-000100)

Zoning: Historic High Density Residential (HHDR)



524 Grinnell Street
Subject Property

Background/Request:

The property at 524 Grinnell Street is a one story single family residence constructed in 1912 located within the Historic High Density Residential Zoning District, and is one lot of record. The subject property received an easement on February 6, 2007 for an existing front porch with steps and roof overhang (eave) to the front (Grinnell Street) and side (Cornish Lane).

The applicant is proposing to construct decking and a pool in the rear side of the property. A building permit 17-5098 was approved for the construction of the pool. At the time of the building permit approval, the plans submitted had no coping for the pool. The applicant has now added 6 inch coping around the pool resulting in setback encroachments to the front and rear of the coping of the pool to the nearest property lines.

The following table summarizes the requested variance.

Relevant HHDR Zoning District Dimensional Requirements: Code Section 122-630				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Lot Size	4,000 Square Feet	1,824 Square Feet	1,824 Square Feet	Existing Non-conformity In Compliance
Maximum building coverage	50% (912 Square Feet)	49.8% (908 Square Feet)	49.8% (908 Square Feet)	In compliance
Maximum impervious surface	60% (1,094.4 Square Feet)	49.8% (908 Square Feet)	49.8% (1,011 Square Feet)	In compliance
Minimum open space	35% (638.4 Square Feet)	41% (743 Square Feet)	35% (638 Square Feet)	In compliance
Minimum pool front setback	5 Feet from coping of pool to the nearest property line.	N/A	4 Feet	Variance requested -1 Foot
Minimum pool side setback	5 Feet from coping of pool to the nearest property line.	N/A	5 Feet	In compliance
Minimum pool side setback	5 Feet from coping of pool to the nearest property line.	N/A	5 Feet	In compliance
Minimum pool rear setback	5 Feet from coping of pool to the nearest property line.	N/A	4 Feet 7 1/2 Inches	Variance requested -4 1/2 Inches

Process:

Planning Board Meeting:

August 16, 2018

HARC:

TBD

Local Appeal Period:

30 days

DEO Review Period: up to 45 days

Analysis – Evaluation for Compliance with the Land Development Regulations:

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 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 land, structures and buildings involved are located on the property within the HHDR zoning district. The required minimum lot size in the HHDR zoning district is 4,000 square feet. The 524 Grinnell Street property has a lot size of 1,824 square feet. The lot was developed prior to the adoption of the current Land Development Regulations (LDRs).

However, many other land, structures and buildings within the HHDR zoning district were also developed prior to the adoption of the current LDRs. Therefore, there are no special conditions or circumstances that exist that are peculiar to the land, structures or buildings involved.

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 has chosen to construct a pool with a 6 inch coping around the perimeter of the pool which results in the coping encroaching into the required 5 foot setbacks for accessory structures. The choice to construct the pool with a 6 foot coping design instead of a thinner coping was created by the property owner.

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 minimum setbacks for accessory structures will confer special privileges to the applicant that is denied by the Land Development Regulations to other lands, buildings or structures in the same zoning district.

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.***

Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the Historic High Density Residential zoning district. The property owner was approved for the pool with no coping as it met the 5 foot setback requirements for accessory structures. Is now proposing a six inch coping design for the pool that encroaches into the required setbacks. Therefore, hardship conditions do not 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 request is not the minimum required that will make possible the reasonable use of the land, building, or structure. However, they are the minimum necessary to accommodate the request.

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.***

Due to not being in compliance with all of the standards for considering variances, the granting of the requested variances would be injurious to the area involved and otherwise detrimental to the public interest.

NOT 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 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 capacity issues.

The Planning Board shall make factual findings regarding the following:

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

The standards established by Section 90-395 of the City Code have been fully met by the applicant for the variance requested.

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.

The Planning Department has received one public comment for the variance request as of the date of this report.

Pursuant to Code Section 90-392, in granting such application the Planning Board must make specific affirmative findings respecting each of the matters specified in Code Section 90-394.

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 increases or has the effect of 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:

Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variances be **denied**.

If Planning Board chooses to approve the request for variances then staff suggests the following condition:

1. The proposed development shall be consistent with the plans dated, June 15, 2018 by Hugo Araque, P.A. No approval granted for any other work or improvements shown on the plans other than the proposed construction of the rear side deck and pool.