

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



**To:** Chairman and Planning Board Members

**Through:** Katie Halloran, Planning Director

**From:** Nicholas Perez-Alvarez, AICP, Stantec

**Meeting Date:** August 17, 2023

**Agenda Item:** **Variance** – 11 Hutchinson Lane (RE# 00015150-000400) – A request for variances on maximum building coverage and minimum open space for an addition to an existing single-family home for property located within the Historic Medium Density Residential (HMDR) Zoning District pursuant to Sections 90-395 and 122-600 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

**Request:** A request for a variance to the building coverage maximum and open space minimum to allow for an addition to the residential structure to accommodate a bathroom. The HMDR Zoning District permits a building coverage maximum of 40%; the variance request is 41.5%. The HMDR Zoning District requires an open space minimum of 35%; the variance requests 28.3%.

**Applicant:** Richard McChesney / Spottswood Law Firm

**Property Owner:** Kenton and Kathy Nice

**Location:** 11 Hutchinson Lane, Key West, Florida  
(RE # 00015150-000400)



*Aerial Map of the Subject Property*

**Background:**

The subject property, with a total lot area of 2,896 sq. ft., is in the Historic Medium-Density Residential (HMDR) Zoning District. The parcel includes two structures however they are not considered contributing to the historic district due to alterations; the structures are noncomplying with respect to setbacks, building coverage, and open space. The parcel is located within a compound entitled the “Hutchinson Lane Compound Homeowners Association, Inc. a Florida Non-Profit Corporation; the compound includes three other privately owned parcels. The applicant provides that the two structures act as a single dwelling unit.

Staff has noted that Paragraph 2.2 of the 2011 amended and restated Hutchinson Lane declaration requires that any exterior additions must be, “. . .approved in writing by the Association . . .”.

While two-family residential dwellings is a permitted use in the HMDR zoning district, the maximum density of 16 dwelling units per acre only allows for one dwelling unit on a parcel of this size. According to the property card, this property last transferred ownership in March 2023.

	<b>Area</b>	<b>Rooms Within Structure</b>
Structure 1	496 sq. ft.	Kitchen/Living Room, Bedroom
Structure 2	670 sq. ft.	Master Bedroom, Shared-Bathroom, Open Living Space

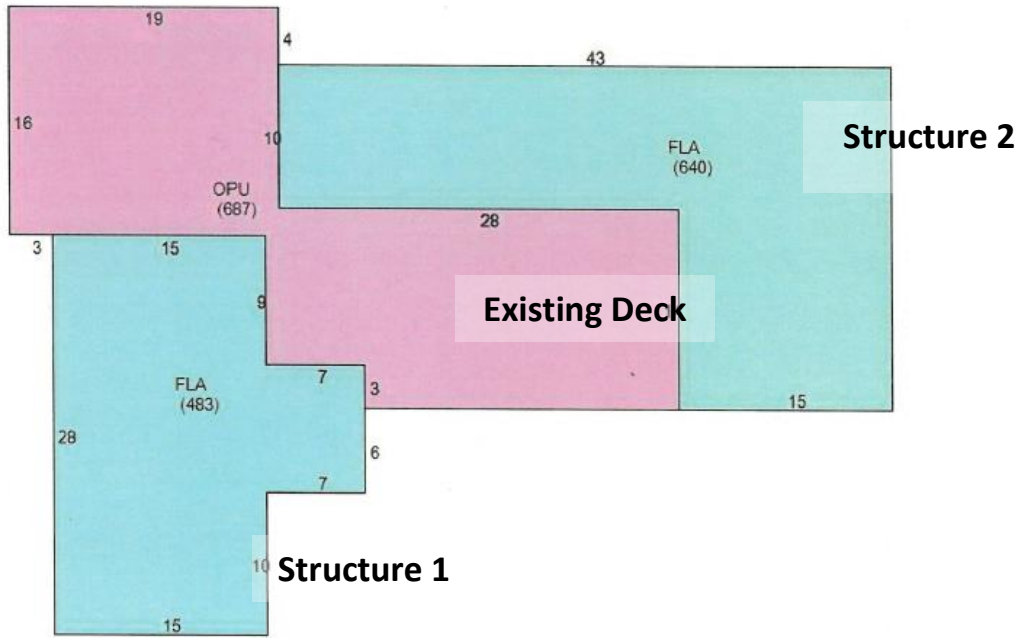


Figure 1 Existing Structure Configuration

The applicant is proposing a 5' x 7' bathroom addition to Structure 1, as it currently has no bathroom. The proposed site plan shows no change to the existing noncomplying setbacks. In order to accommodate the 35 sq. ft. addition, the applicant is requesting a variance to the maximum building coverage and minimum open space. The HMDR zoning district currently permits a maximum of 40% building coverage and minimum 35% open space. The site currently contains two structures, which measure at 40.2% of the building coverage (exceeding the maximum permitted and considered a legal noncomplying structure). The variance requests a maximum building coverage of 41.5% be permitted to accommodate the addition, increasing the building coverage from 496 sq. ft. to 531 sq. ft.

In addition, the applicant is requesting a variance to the minimum open space/greenspace required per the HMDR Zoning District. The zoning currently requires a minimum of 35% open space/greenspace on site. The site currently contains 29.4% open space/greenspace on site (lacking the minimum required and considered a legal noncomplying dimensional standard). The variance requests a minimum open space/greenspace of 28.3% be permitted to accommodate the addition to Structure 1.

The site data table below provides the current and proposed site data for the property.

Site Data Table:				
	Code Required	Existing	Proposed	Variance Request
<b>Front Setback</b>	10-feet	5'-6"	No Change	No
<b>Side Setback</b>	5-feet	1'-6"	No Change	No
<b>Side Setback</b>	5-feet	2'-9"	No Change	
<b>Street Side Setback</b>	-	-	-	No
<b>Rear Setback</b>	15-feet	2'-1"	No Change	No

<b>Building Coverage</b>	40%	40.2%	41.5%	Yes
<b>Impervious Surface</b>	60%	43.6%	44.7%	No
<b>Open Space</b>	35%	29.4%	28.3%	Yes
<b>Parking<sup>1</sup></b>	N/A	0	0	No
<b>Maximum Height</b>	30-feet	15'	No Change	No

Based on the plans submitted, the proposed design would require a variance to the following requirement:

- **Maximum Building Coverage:** A variance for maximum building coverage is required as a result of the proposed addition to a legal noncomplying structure, from 40% maximum to 41.5% proposed building coverage.
- **Open Space Minimum:** A variance for minimum open space/greenspace is required as a result of the proposed addition given the noncomplying dimensional standard, from 35% minimum to 28.3% proposed open space/greenspace.

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<sup>1</sup> Site is legally nonconforming with no existing off-street parking. A parking variance is not required due to no new units being proposed.

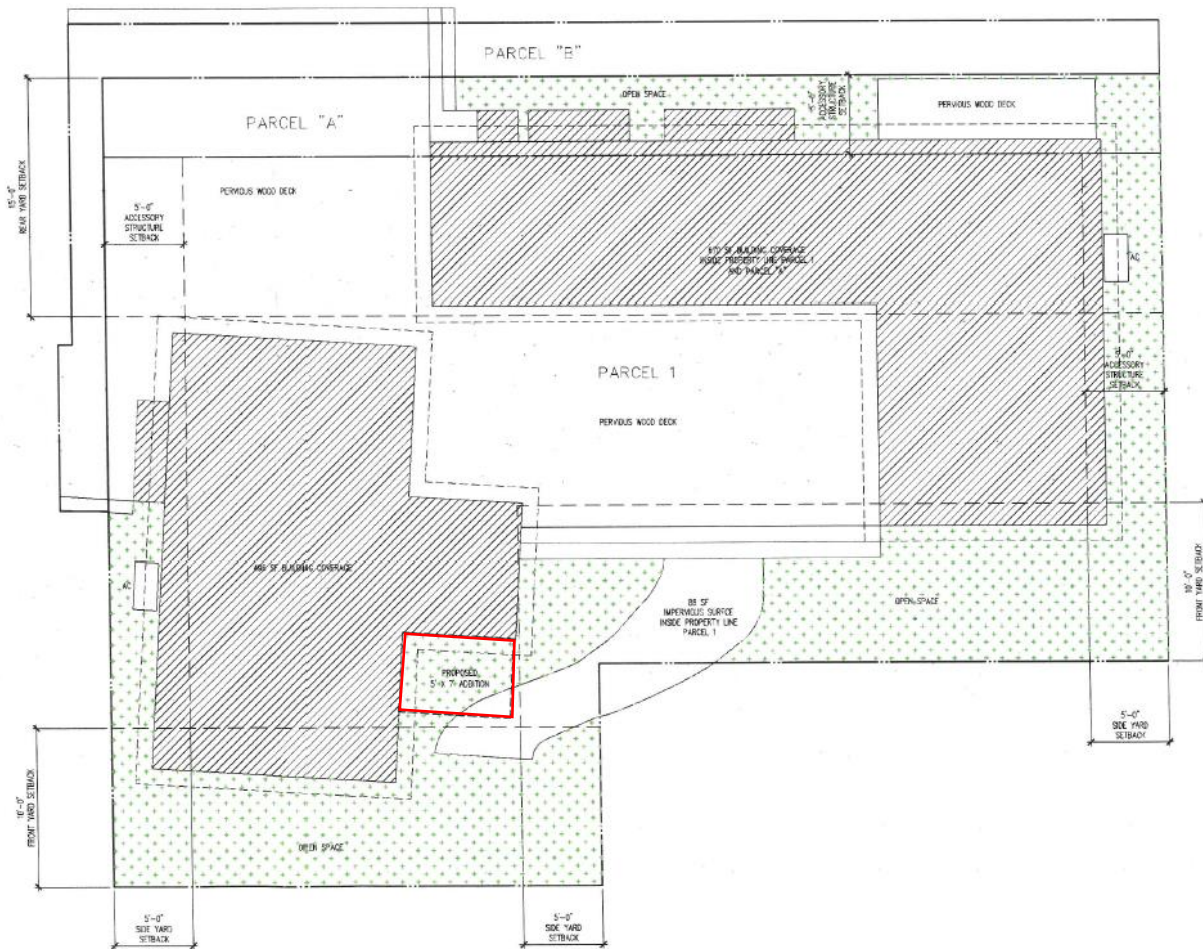


Figure 2: Existing Site Plan with Proposed Addition

The application was sent to the Development Review Committee (DRC) members for comment on July 10, 2023. One DRC member responded with comments.

1. Urban Forestry: “There is no indication as to whether any regulated trees or palms are located in the proposed location of the expansion to create the new bathroom. The last time I was on the property there might have been a regulated palm in that area. Please put a condition on the variance that the work in the proposed expansion area must be reviewed for the presence of any regulated trees or palms by the Tree Commission and that permits might be required for their removal/transplanting.”

The applicant indicates that all neighbors have been notified of the proposed addition and has provided correspondence from one unit owner that responded: “I am fine with the addition.”

**Staff Analysis - 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.*

This site houses two separate structures that function as one recognized dwelling unit; utilizing two structures to create one dwelling unit is atypical (although not prohibited within the zoning district). The existing layout of the structures are noncompliant with respect to setbacks, building coverage, and open space established within the zoning district. There are no applicable 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 provides that the current owner is not the original owner of the home and did not create the layout of the two structures, nor are they responsible for Structure 1 not including a bathroom.

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 variance requested will confer upon the applicant special privileges denied by the Land Development Regulations to other lands, buildings, or structures in the same zoning district. However, the applicant provides that the proposed variance is intended to meet the sanitary needs of the occupants.

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.*

Due to the unique configuration of the two structures, the occupant of the one bedroom in Structure 1 must walk outside in order to enter the bathroom facilities in Structure 2, which is an inconvenience. However, staff does not find this to be a hardship.

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 requested is the minimum variance required for the addition of a 5'-7' bathroom to Structure 1 – this size is likely the smallest area possible to create a bathroom facility. The proposed variance is an increase of 1.3% building coverage. Additionally, the applicant provides that these figures do not take into account the open space as provided

by the common areas of the homeowners' association. Although the applicant had awareness of the configuration of the two structures and the property was recently purchased, during inclement weather or overnight it may be unreasonable to exit Structure 1 to access bathroom facilities.

#### 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 granting of the requested variances will not be injurious to the area involved or otherwise detrimental to the public interest of welfare. The applicant provides that the proposed renovation will also be HARC approved (Historic Architectural Review Commission). The parcel is part of the Hutchinson Lane Compound Homeowners' Association and the declaration associated with Compound requires that the Association approve exterior additions.

#### 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.*

Planning staff did not consider other nonconforming uses of the other properties in the development of this analysis.

#### IN COMPLIANCE

### **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.

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 standards established by Section 90-395 of the City Code **have not been fully met** by the applicant for the variance request on the maximum building coverage and minimum open space/greenspace.

### **RECOMMENDATION:**

The Planning Department recommends that the request for variances to the maximum building coverage and minimum open space be **denied**. If the Planning Board elects to approve the variance, staff recommends the following conditions:

1. The proposed construction shall be consistent with the plans prepared by M. Stratton Architecture, and dated May 26, 2023.
2. The work in the proposed expansion area must be reviewed for the presence of any regulated trees or palms by the Tree Commission and that permits might be required for their removal/transplanting.
3. The two combined structures shall remain as a single dwelling unit in accordance with the HMDR maximum allowable density.