

THE CITY OF KEY WEST
PLANNING BOARD
Staff Report



To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Melissa Paul-Leto, Planner I

Meeting Date: July 15, 2021

Agenda Item: **Variance – 1617 White Street (RE# 00059580-000200)** – A request for variances to the maximum building coverage and the maximum impervious surface ratio in order to demolish an existing shed and construct an accessory guest cottage on property located within the Single Family (SF) zoning district pursuant to Sections 90-395, 122-238(4) a., and 122-238(4)b.1., of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is proposing to complete construction of an accessory structure.

Applicant: Van D. Fisher, Esquire/VDF Law, PLCC

Property Owner: Steel City Motors LLC

Location: 1617 White Street (RE# 00059580-000200)

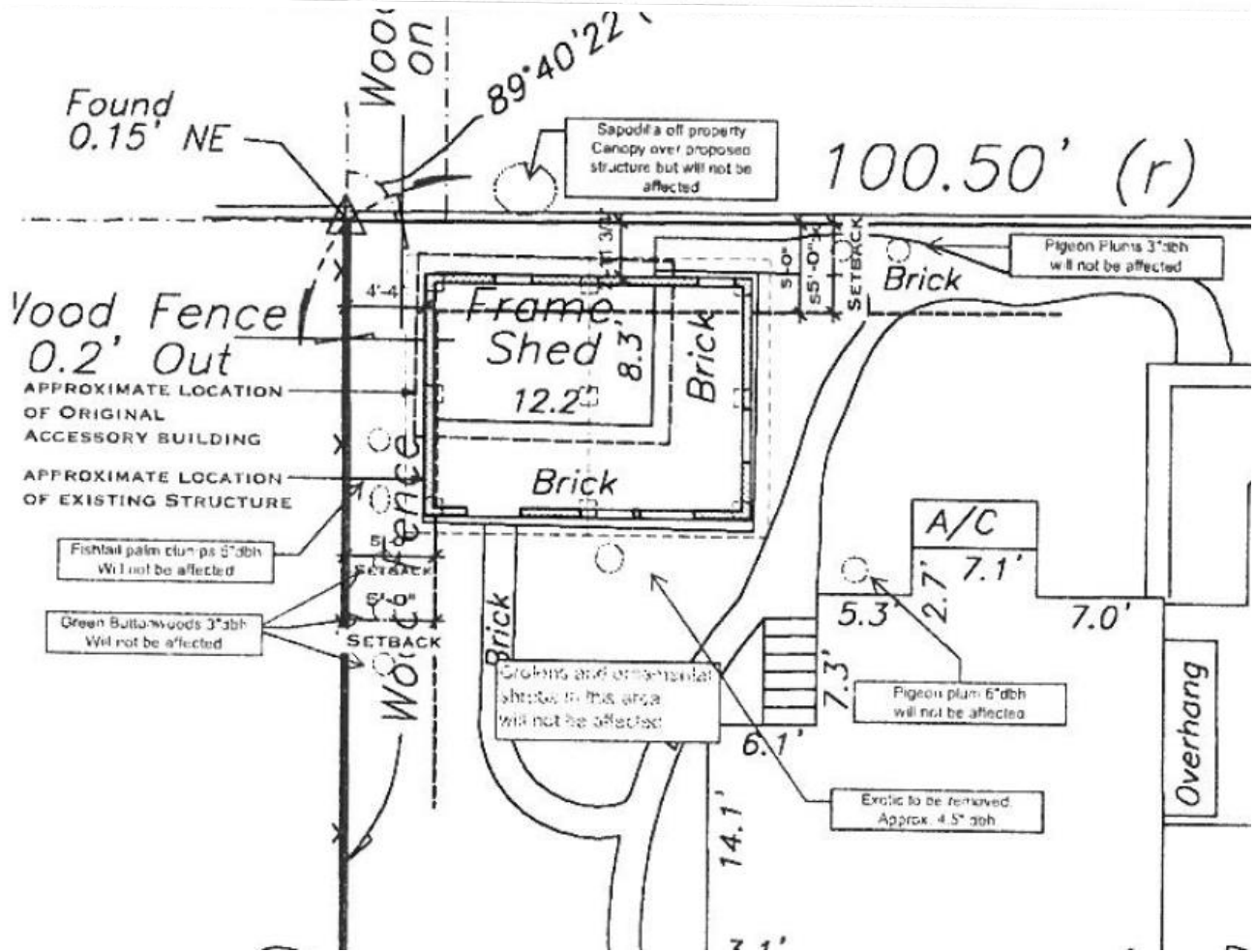
Zoning: Single Family (SF) zoning district



Background/Request:

The subject property is located near the corner of Laird Street and White Street, facing White Street. The parcel size is 12,440 square feet and is one lot of record. The lot includes the following: a two-story framed house with attached open porches, three sheds, a pool, pool equipment, two separate ac equipment locations, a brick driveway, and a carport.

The property owner received a code violation on November 5, 2020 for unpermitted construction on the existing shed. Construction has paused so the applicant may apply for variances. The rear and side setbacks to the shed are existing non-conformities. However, the property owner expanded the shed's footprint into the brick areas depicted on the plan without building permits or planning approval. The total square footage of the shed currently is 265 square feet, prior to renovations, the shed was 101.26 square feet.

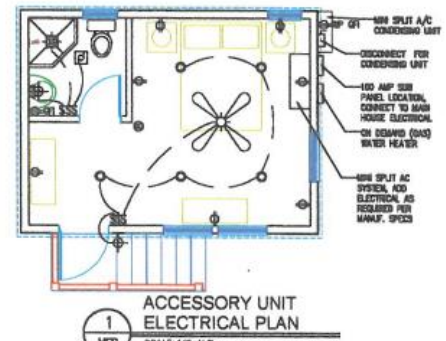
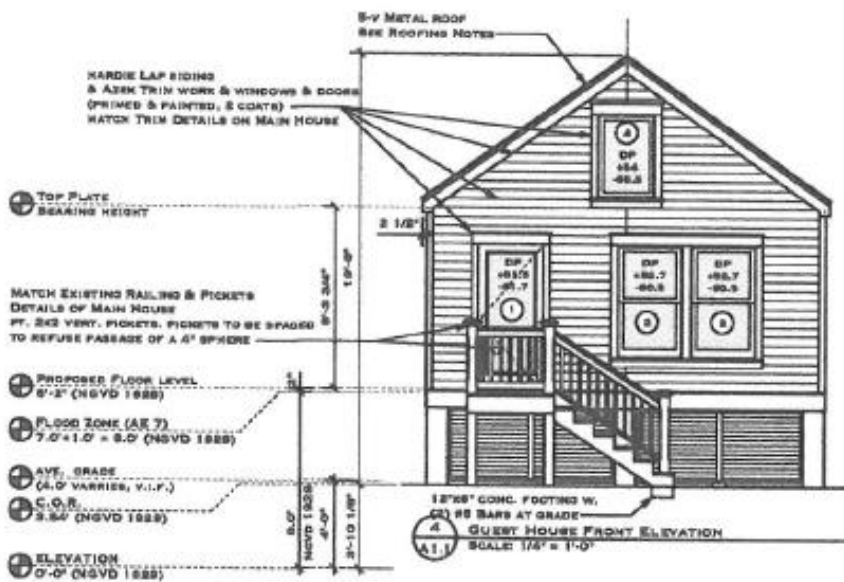


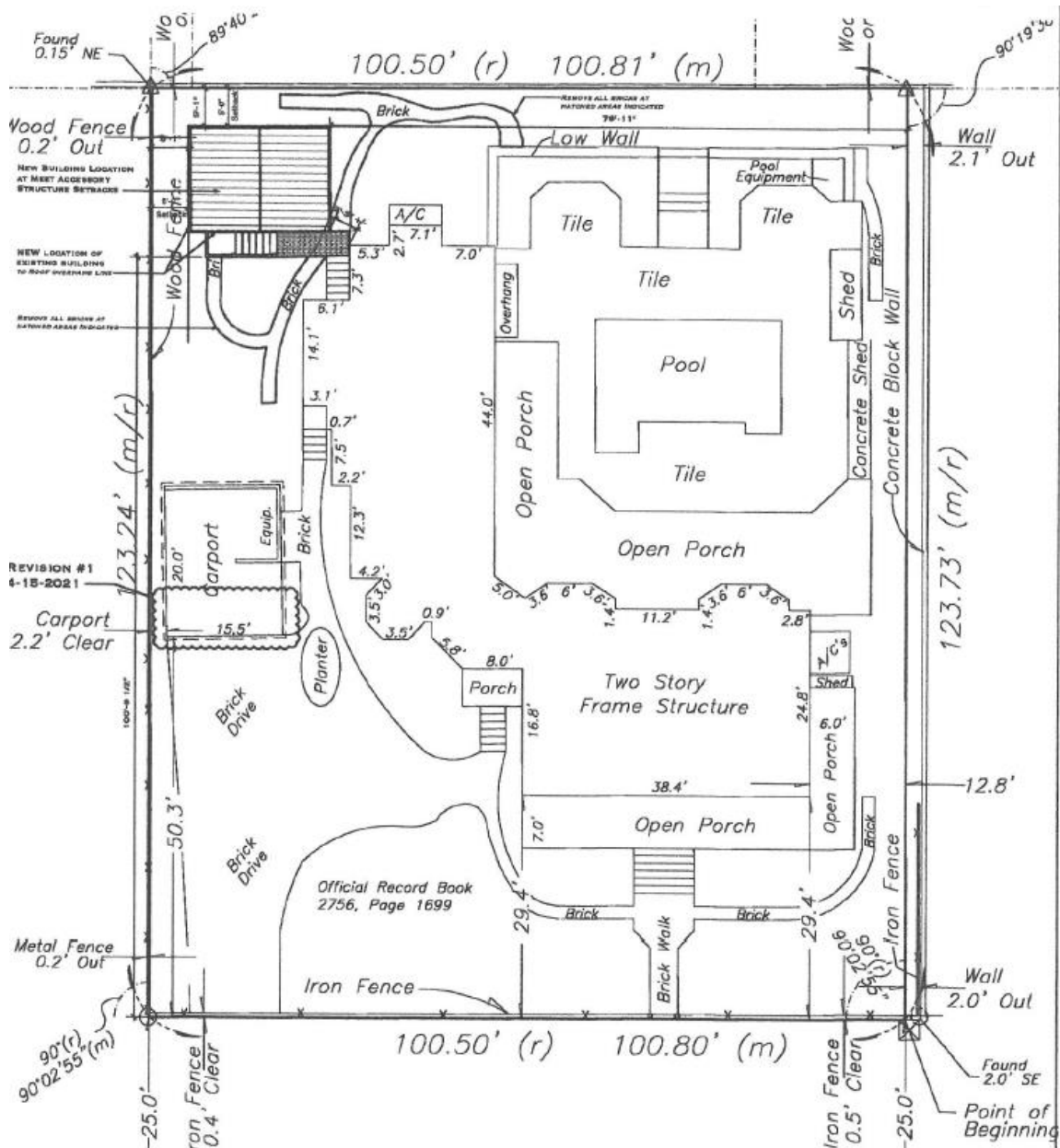
Existing site plan – close-up of existing shed with expanded footprint



Site visit June 22, 2021 - photo of the subject accessory structure

The proposed plan and application indicate the property owner will be converting the shed into a habitable accessory structure. The structure will be relocated to conform with all accessory structure setbacks and will be elevated to meet FEMA requirements.





1617 White Street – Proposed site Plan

The applicant is proposing to complete construction on a 265 square foot accessory structure, relocate the structure and elevate it closer to the two-story principal structure at 1617 White Street. Based on the plans submitted, the proposed design would require variances to the following dimensional requirements:

- The required maximum building coverage in the (SF) zoning district is 35%, or 4,354 square feet. The existing building coverage is 34.5%, or 4,299 square feet. The applicant is proposing 35.6%, or 4,439 square feet.
- The required maximum impervious surface ratio in the (SF) zoning district is 50%, or 6,220 square feet. The existing impervious surface ratio is 61.9%, or 7,709 square feet. The applicant is proposing 61.7%, or 7,668 square feet.

Relevant SF Zoning District Dimensional Requirements: Code Section 122-238

Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Flood Zone	AE-7			
Maximum Height	25 feet plus an additional 5 feet for no habitable purposes if the structure has a pitched roof.	N/A	19 feet 8 inches (accessory structure)	In compliance
Minimum Lot Size	6,000 SF	12,440 SF	12,440 SF	In compliance
Maximum Building Coverage	35 % 4,354 SF	34.5 % 4,299 SF	35.6 % 4,439SF	Variance Required +85 SF
Maximum Impervious Surface Ratio	50 % 6,220 SF	61.9 % 7,709 SF	61.7 % 7,668 SF	Variance Required +1,448 SF
Minimum Open Space	35 % 4,354 SF	38 % 4,731 SF	38.8 % 4,757 SF	In compliance
Minimum Front Yard Setback	30 feet or the average depth of front yards on developed lots within 100 feet each side, but not less than 20 feet	N/A	100 feet 9 ½ inches (accessory structure)	In compliance
Minimum N.E. Side Yard Setback	5 feet	4 feet 4 inches (accessory structure)	5 feet 1 inch (accessory structure)	In compliance
Minimum S.W. Side Yard Setback	5 feet	N/A	76 feet 11 inches (accessory structure)	In compliance
Minimum Rear Yard Setback	5 feet (accessory structure)	2 feet 11 ¾ inches (accessory structure)	5 feet 1 inch (accessory structure)	In compliance

Process:

Planning Board Meeting: July 15, 2021
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 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 existing dimensions and size of the parcel as well as the structures pre-date the dimensional requirements of the current Land Development Regulations, and therefore were legally non-conforming in the SF zoning district. However, the minimum parcel size in the SF zoning district is 6,000 square feet whereas, the subject property has a lot size of 12,440 square feet. Therefore, there are no special conditions or circumstances.

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 variance request is a result of the actions of the applicant enlarging an existing shed without building permits, proposing to convert it to a habitable accessory structure, proposing to relocate it to comply with the accessory structure minimum setbacks and proposing to elevate it to conform with FEMA requirements.

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 property currently is nonconforming with the minimum side yard setback, minimum rear yard setback, and maximum impervious surface. The proposed design for the accessory structure would conform with the minimum side and rear yard setbacks. However, the maximum building coverage is increasing, and impervious surface is still non-conforming. A habitable accessory structure is not a requirement in the SF 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 SF zoning district. The applicant is proposing to further increase the maximum building coverage and is still non-conforming with the maximum impervious surface in order to have a enlarged accessory structure. 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.

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 following all the standards for considering variances, the granting of the requested variances may 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 variances 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 no public comments for the variance requests 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 design shall be consistent with the plans dated, February 3, 2021 by T.S. Neal, Architect Inc.