

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



To:

Chairman and Planning Board Members

Through:

Katie Halloran, Planning Director

From:

Stephanie de la Rosa, Stantec

Meeting Date:

March 27, 2025

Agenda Item:

Variance – 620 Dey Street (RE# 00000880-000000) – A request for a variance to the required setback for accessory structures, from a 5' setback from any lot line requirement, to a rear setback of 2' - 1" and a side setback of 1'3" and a request for a variance to the required open space percentage, from 35% to 20.9%, for an existing residential building located within the Historic Medium Density Residential Zoning District (HMDR) pursuant to Sec. 122-1181, Sec. 108-346. and Sec. 90-395 of the Code of Ordinances of the City of Key West, Florida

Request:

An after-the-fact variance request for minimum required rear and side yard accessory structure setbacks, and minimum open space requirements.

Spottswood, Spottswood, Spottswood & Sterling, PLLC.

Applicant:

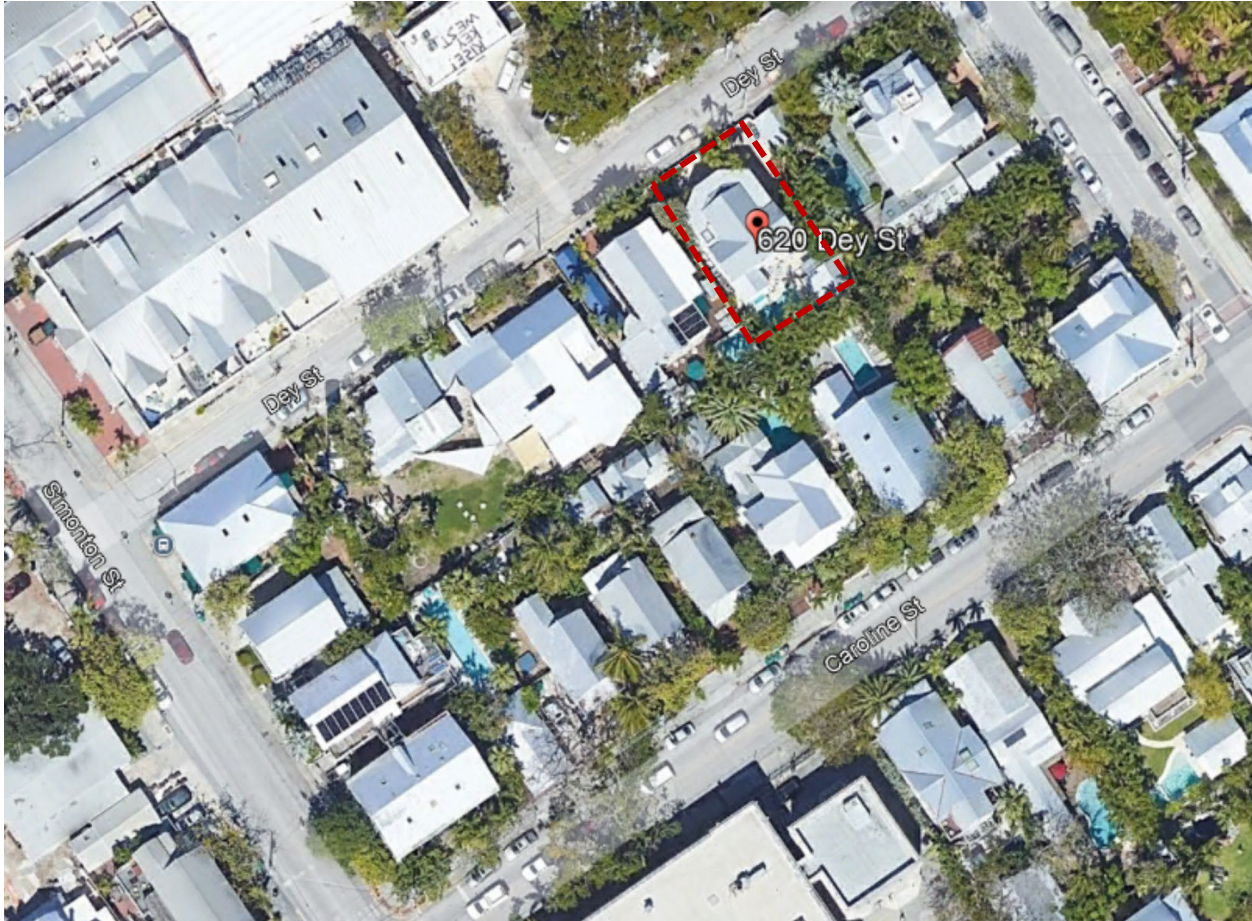
Kurt & Linda Gehring

Property Owner:

620 Dey St, Key West, Florida

Location:

(RE# 00000880-000000)



Aerial Map of the Subject Property

Background

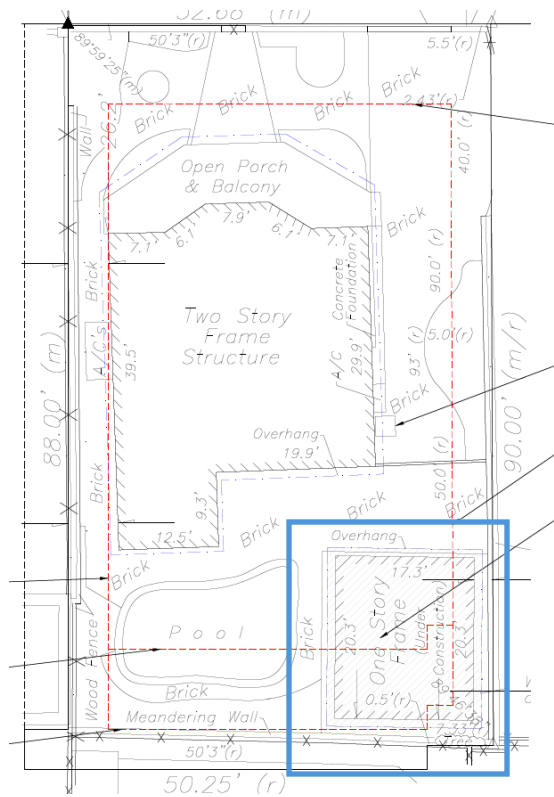
The subject property consists of a 4,625 sq. ft. in the Historic Medium Density Residential (HMDR) Zoning District. The parcel includes a single-family residence and an accessory structure with nonconforming setbacks. The accessory structure suffered mold damage, and the property owner began mold remediation, ultimately reconstructing the structure without the required building permits.

Request

This after-the-fact request for a variance to minimum open space, and the required rear and side-yard 5' setback for accessory structures. The new structure has been reconstructed with a side setback of 1'-3" and a rear setback of 2'- 1". The open space nonconformity is improved from 20% to 20.9%. A variance is required because the structure was reconstructed.



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Existing Elevations



Site Data Table:				
	Code Required	Previous	Proposed	Variance Required
Max. Density	16 du/ac; 1 unit	1 unit	1 unit	No
Max. Height	30'	Unknown	22'-1"	No
Side accessory structure Setback A(west side)	5'	31'-3"	32'-4"	No
Side yard setback Accessory Structure	5'	0'-10 "	1'-3"	Yes
Rear yard setback Accessory Structure	5'	2'-9"	2'-1"	Yes
Building Coverage	40%	39.5%	39.4 %	No
Impervious Surface	60%	56.9 %	56.1 %	No
Open Space	35%	20%	20.9 %	Yes

The application was sent to the Development Review Committee (DRC) members for comments on January 22, 2025. The following responded with comments:

Historic Preservation Division:

- This project will need HARC Commission review as this is not maintenance but rather an after the fact new construction. The scale of the accessory structure is large in comparison to other one-story portions of the principal building.

Utilities:

- A gutter should be installed along the east eave of the accessory structure to prevent roof runoff onto the adjacent parcel. Gutter downspout must be directed back onto the property into landscape area.
- Neither the accessory structure nor the main structure shall be allowed to be rented, occupied, or utilized separate from the other. Recommends a deed restriction recorded with the county attached to the property.

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.*

There are no conditions that are peculiar to the land, structure, or building involved that are 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.*

There are no special conditions or circumstances; however, the need for the variance is a result of the applicant's reconstruction of the structure.

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.*

Other lands, buildings and structure in the same zoning district are required to maintain five-foot setbacks and meet minimum open space requirements when reconstructing accessory structures.

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.*

Literal interpretation of the LDRs would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district, as other properties in the same zoning district are required to comply with five-foot setbacks and meet minimum open space requirements when reconstructing accessory structures.

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.*

A variance is not required in order for the applicant to make reasonable use of the property, as it is a residential lot that already contains a principal residential 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.*

The current structure is likely to have the same impact as the previous structure. However, the intent of the LDRs is for nonconforming accessory structures to come into compliance over time as they are reconstructed.

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.*

No other nonconforming uses of the other properties have been considered in staff's analysis. This variance request is based on bringing back construction that was already part of this property.

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.
 - As of March 13, 2025, no objections have been received.

RECOMMENDATION:

Based on the criteria of Section 90-395, the Planning Department recommends that the request for a variance to minimum open space and minimum side and rear yard accessory structure setbacks be **denied**.

Should the Planning Board approve this variance request, staff recommends the following conditions:

1. The proposed construction shall be consistent with the plans prepared by Lakewood Engineering, Inc. dated February 26th, 2025.
2. Building plans shall be subject to the review and approval by the Historic Architectural Review Commission (HARC) prior to the issuance of an After-the-Fact building permit and/or Certificate of Occupancy.
3. The applicant shall install a gutter along the east eave of the accessory structure to prevent roof runoff onto the adjacent parcel. The downspout must be directed back onto the property into landscaped area.
4. The accessory structure shall not be rented, bartered, or leased separately from the principal structure.