

**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** – 709 Whitmarsh Lane (RE# 00015540-000000) – A request for variances on impervious surface, open space, building coverage, side setbacks, and rear setbacks for renovation of a nonconforming structure for property located within the Historic High Density Residential (HHDR) Zoning District pursuant to Sections 90-395 and 122-630 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, impervious surface area, minimum open space, and setbacks to an existing residential structure(s) located within a historic district to allow for renovation/rear addition. The HHDR Zoning District permits a building coverage maximum of 50%; the variance request is 54.7%. The HHDR Zoning District requires minimum setbacks, with front required at 10’; sides established at 9’; rear established at 20’. The variance proposes minimum setbacks of: front at 3’-11”; side at 3’-0.5”/side at 4’-0.5”; and rear at 5’-1.5”.

Applicant: Richard McChesney / Spottswood Law Firm

Property Owner: Reel Developers III, LLC

Location: 709 Whitmarsh Lane, Key West, Florida
(RE # 00015540-000000)



Aerial Map of the Subject Property

**Solid line depicts the unit boundaries*

*** Dashed line depicts the property boundaries*

Background:

The subject property, with a total lot size of 4,986 sq. ft., is in the Historic High-Density Residential (HHDR) Zoning District. The parcel includes two existing structures (a single-family residence and a multi-family apartment) with nonconforming setbacks, building coverage, impervious surface area, and open space. The 1,680 sq. ft. single-family residence was constructed circa 1920 and the 2,494 sq. ft. multi-family apartment circa 1950, both prior to the existence of the current Land Development Regulations. According to the property card, this property last transferred ownership in April 2019. The City recognizes six (6) dwelling units on the property.

The applicant wishes to renovate the single-family residence to remove a front addition and include a rear addition and proposes improvements to the nonconforming setbacks, building coverage, open space, and impervious surface area. However, the proposed renovation would not meet the current zoning district's rear setback requirements and a variance is therefore required. The HHDR zoning regulations currently permits a maximum of 50% building coverage. The combined structures on the lot currently total 57% building coverage, and the requested variance proposes a reduced building coverage of 54.7%. Renovations include the removal of the addition to the front of the structure, thus improving the front setback encroachment, improving side setbacks, impervious surface and building coverage.

The proposed renovation is to the single-family residence only. No changes are proposed to the multi-family apartment.



House at 709 Whitmarsh circa 1965 (source Monroe County Public Library)



Apartment building at 709 Whitmarsh circa 1965 with house in background (source Monroe County Public Library)

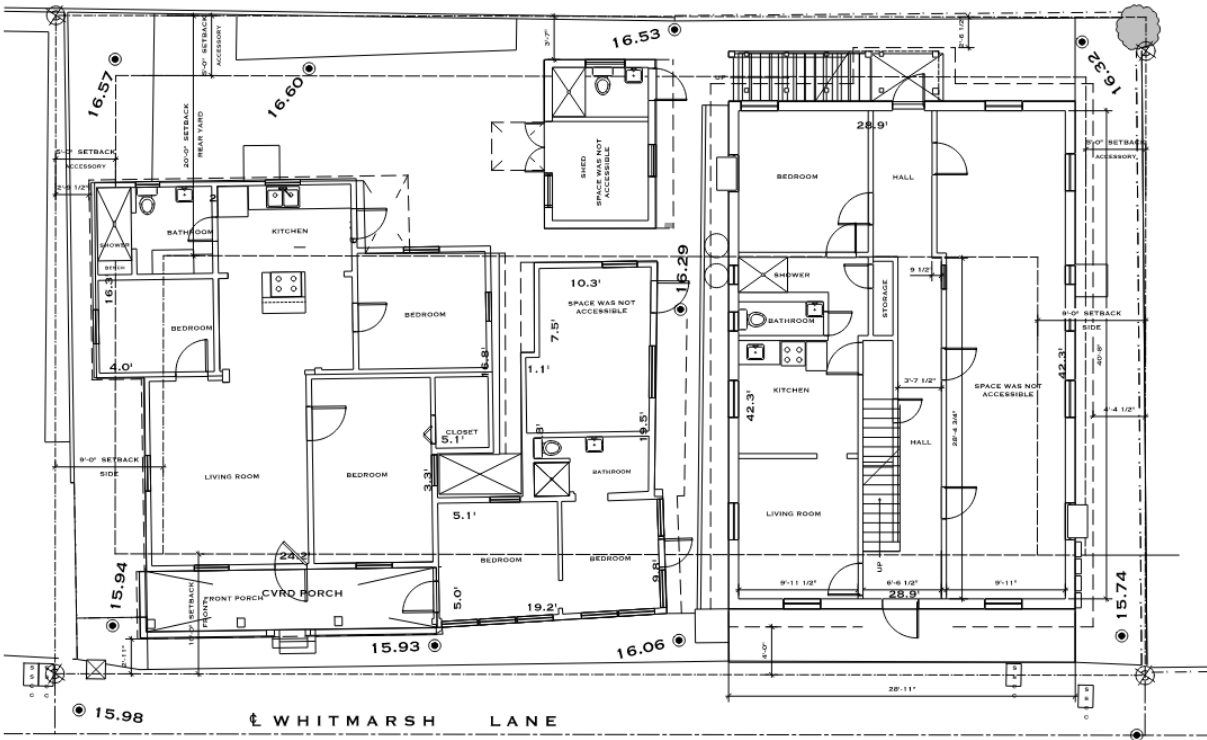


Figure 1: Existing Site Plan

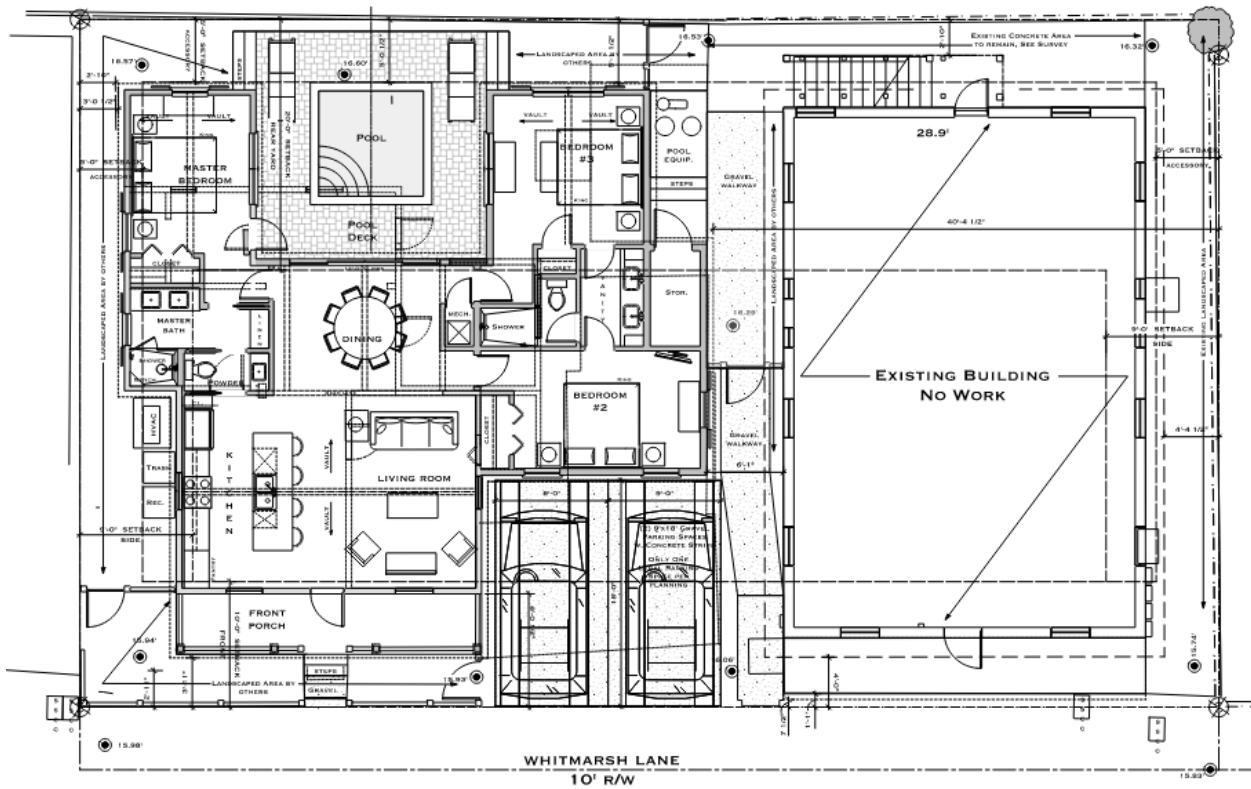


Figure 2: Proposed Site Plan

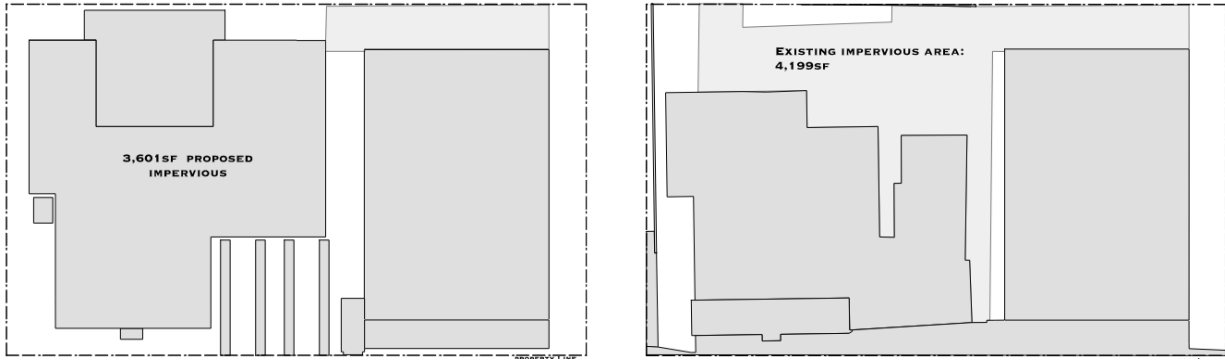


Figure 3: Proposed and Existing Impervious Surface Area

The site data table below provides the current and proposed site data for the property. The proposed variance is for the rear setback. Other dimensional standards are improving, therefore given Section 122-32(a), no variances to those respective standards are required.

Site Data Table:				
	Code Required	Existing	Proposed	Variance Required
Front Setback	10-feet	2'-11"	3'-11"	No
Side Setback (SF residence)	9-feet (10 percent of lot width)	2'-9.5"	3'-0.5"	No
Side Setback (MF apt.)	9-feet (10 percent of lot width)	4'-4.5"	4'-4.5"	No change
Rear Setback	20-feet	House: 14'-11" Shed: 3'-7"	House: 5'-1.5"	Yes
Building Coverage	50%	57%	54.7%	No
Impervious Surface	60%	84.2%	72%	No
Open Space	35%	15.7%	27%	No
Parking¹	N/A	0	2	No
Maximum Height	30-feet	19' (Apt) 16.6' (House)	No Change	No

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

Setbacks: A variance for the rear setback is required as a result of the proposed single-family residence renovation.

Rear: 20' required; 5'-1.5" proposed (existing house setback: 14'-11" shed setback: 2'-6.5")

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

With respect to density, it appears that the single-family house is being converted from two to one dwelling unit. If that is the case, staff recommends that the additional dwelling unit be surrendered back to the City of Key West to allow for the unit to be reallocated elsewhere.

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

1. Utilities
 - Please recommend the applicant install gutters with downspouts directed back onto the property, along the northwest building eave.
 - Please advise the applicant that trash and recycle storage containers (toters) must be removed from the right-of-way, i.e., not stored outside of the fence, after pickup, by 8:00 p.m., pursuant to Section 58-31(f).
2. Engineering
 - The two driveways as shown do not appear to provide adequate turning radius for access. If this parking area is only actually for one vehicle then please revise.

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 existing special conditions which are peculiar to the land and structure involved, which are not applicable to other land, structures, or buildings in the same zoning district. The existence of two principal structures on a single parcel and the orientation of the lot where the width is greater than the depth, which creates an oblong parcel, is uncommon. The existing layout of the historic structures (single family contributing home built in circa 1920 and multifamily two story structure circa 1960) are considered noncomplying, as the setbacks (front, rear, side, side), building coverage, open space, and impervious surface do not meet the standards established within the zoning district. These structures existed prior to the adoption of the current Land Development Regulations. In renovating the contributing historic single family structure, efforts are being made to remove non-historic features, improve dimensional standards and provide on-site parking.

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 existing special conditions not created by the applicant: two principal structures on this single parcel and the orientation of the lot where the width is greater than the depth result in difficulty to renovate. Historic preservation staff support the proposed renovations in that non-historic elements are being removed, and other architectural improvements are being added, such as appropriately scaled front porch columns. Structure 1 is a single-family residence; Structure 2 is a multi-family structure. The applicant is not the original owner of the home and did not create the layout of the two principal structures.

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, this property is constrained by its size, shape and the configuration of existing historic dwelling units. The granting of the variance allows reasonable efforts to reconfigure Structure 1, remove an addition to return the structure to a more representative design for its' historic time-period, as well as being sensitive to the surrounding historic fabric.

PARTIAL 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 principal structures, and the orientation of the lot– this property does not meet the current LDR requirements for setbacks, building coverage, open space, and impervious surface. These noncomplying elements coupled with the orientation, size, and shape of the parcel severely limit the improvements of the property to bring it into full compliance with the current Land Development Regulations.

PARTIAL 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 proposed renovation improves the existing nonconformities for building coverage, impervious surface, front setback, and side setback. The applicant noted the removal of the shed with an existing 3'-7" rear setback. However, the proposed rear setback for the single-family home is less than the rear setback of the adjacent multi-family building on the same lot. When considering principal structure setbacks only, the proposed rear setback of the single-family home is not an improvement of the nonconformity.

PARTIAL 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.*

There may be concern from rear neighbors given the rear encroachment and new pool deck area close to the rear property line.

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.

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. At this time, staff has not been advised as to the applicant's efforts to coordinate with neighbors.

The standards established by Section 90-395 of the City Code **have been partially met** by the applicant.

RECOMMENDATION:

The Planning Department recommends **denial**; if the Planning Boards elects to approve the variance staff recommends the following conditions/revisions.

1. The proposed construction shall be consistent with the plans prepared by T.S. Neal Architects, Inc. dated August 2, 2023.
2. New rear setback for house shall, at a minimum, match the rear setback of the adjacent multi-family building's rear wall.
3. Applicant shall install gutters with downspouts directed back onto the property, along the northwest building eave.
4. Trash and recycle storage containers (toters) must be removed from the right-of-way, i.e., not stored outside of the fence, after pickup, by 8:00 p.m., pursuant to Section 58-31(f).
5. Driveway must provide adequate turning radius for access.
6. If there is an additional unutilized dwelling unit associated with 709 Whitmarsh Lane, given the conversion of a duplex to a single family home, the City of Key West requests that the owner surrender this unit back to the City for reallocation.