

**THE FIRST ITEM IS
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: September 18, 2018

Agenda Item: **Variance – 1116 Packer Street- (RE# 00031440-000100)** – A request for variances to the maximum allowed building coverage allowed and the minimum side setback requirements in order to construct a covered porch in the rear yard on property located within the Historic Medium Density Residential (HMDR) Zoning District pursuant to Sections 90-395, 122-600(4)(a), and 122-600(6) (b), of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is seeking variances to the maximum allowed building coverage and minimum side setback requirement in order to construct a covered porch in the rear yard.

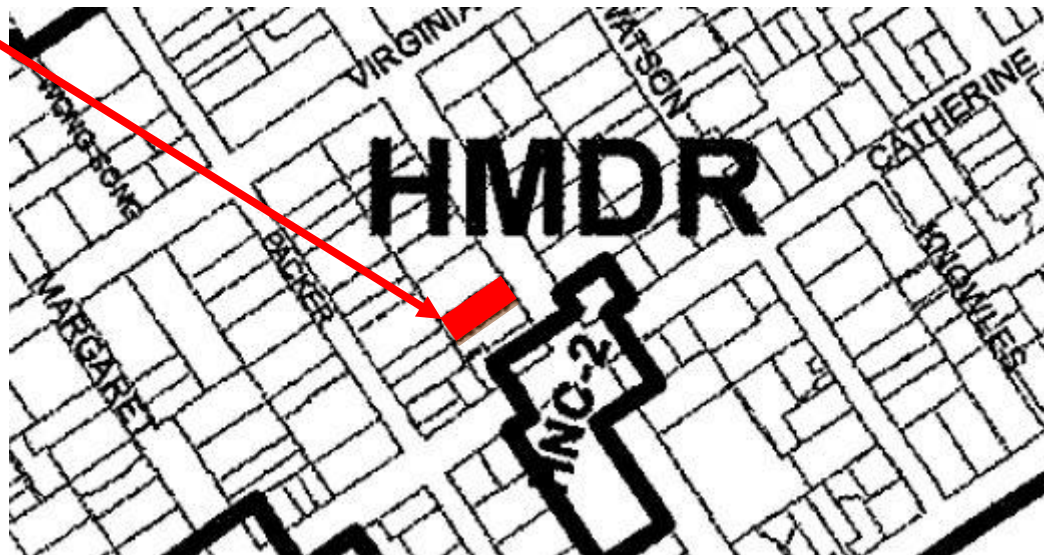
Applicant: T. Seth Neal, P.A.

Property Owner: Frances Belzer-Reid

Location: 1116 Packer Street- (RE# 00031440-000100)

Zoning: Historic Medium Density Residential (HMDR) zoning district

1116 Packer Street
(Subject property)



Background/Request:

The existing one and half story residential wood framed structure, main house built circa 1889 and it is a contributing resource. The parcel is located within the HMDR zoning district.

The applicant is proposing to construct a covered porch to the rear of the structure. The principle structure is non-conforming with east side setback. The proposed covered porch will extend that east side encroachment by nine feet. The property is currently non-conforming with the maximum building coverage and impervious surface. The front porch addition has triggered this variance request to the maximum building coverage allowed, and to the minimum side setback requirement.

Relevant HMDR Zoning District Dimensional Requirements: Code Section 122-600				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Minimum Height (Porch addition)	30 feet	9 feet 10 inches	9 feet 10 inches	In compliance
Minimum lot size	4,000 sq. Ft.	2,953 sq. ft.	2,953 sq. ft.	In compliance
Maximum building coverage	40% (1,181 sq. ft.)	45.6% (1,347 sq. ft.)	50% (1,482 sq. ft.)	Variance Required (10%) 301 sq. ft.
Maximum impervious surface	60% (1,772 sq. ft.)	68.4% (2,020 sq. ft.)	66.9% (1,977 sq. ft.)	Improvement In compliance
Minimum open space	35% (1,034 sq. ft.)	31% (934 sq. ft.)	33% (977 sq. ft.)	Improvement In compliance
Minimum front setback	10 feet	6 feet, 2 inches	6 feet, 2 inches	Existing Non-conformity
Minimum East side setback	5 feet	2 feet, 10 1/2 inches	3 feet, 2 1/2 inches	Variance Required - 1 foot 7 1/2 Inches
Minimum West side setback	5 feet	1 feet, 3 inches	1 feet, 3 inches	Existing Non-conformity
Minimum rear setback	15 feet	39.325 feet	30.325 feet	In compliance

Process:

Planning Board Meeting:

September 18, 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 HMDR zoning district. The required minimum lot size in the HMDR zoning district is 4,000 square feet. The 1116 Packer Street property has a lot size of 2,953 square feet, much smaller than the minimum size required. The lot was developed prior to the adoption of the current Land Development Regulations (LDRs).

However, many other land, structures and buildings within the HMDR zoning district were also developed prior to the adoption of the current LDR's. 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 plans submitted by the applicant are for a rear yard porch. The property is currently non-conforming with the maximum building coverage, impervious surface, front and both side setback requirements. The proposed rear yard covered porch will further increase the maximum building coverage 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.***

Section 122-27 of the Land Development Regulations discourages the expansion of site nonconformities. The property is currently non-conforming with the maximum building coverage, impervious surface, front and both side setback requirements in the Historic Medium Density Residential zoning district. The plans submitted require special privileges to go beyond the property owner's current non-conformities and increase them further.

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 HMDR Zoning District. The applicant could choose a smaller footprint of a covered porch and replace other building coverage so as not to need a Variance. 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 not received any 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, September 12, 2018 by Timothy Seth Neal, P.A. No approval granted for any other work or improvements shown on the plans for the rear covered porch.