

THE CITY OF KEY WEST
PLANNING BOARD
Staff Report



To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Jordan Mannix-Lachner, Planner I

Meeting Date: April 18, 2024

Application: **Variance – 1221 Laird Street (RE# 00059310-000000)** – A request for a variances to the front setback and accessory structure rear yard coverage requirements to reconstruct an involuntarily destroyed dwelling in an expanded three-dimensional building envelope, and an involuntarily destroyed accessory structure for property located in the Single-Family zoning district, pursuant to Sections 90-395, 122-238, and 122-28 of the Land Development Regulations of the City of Key West, Florida.

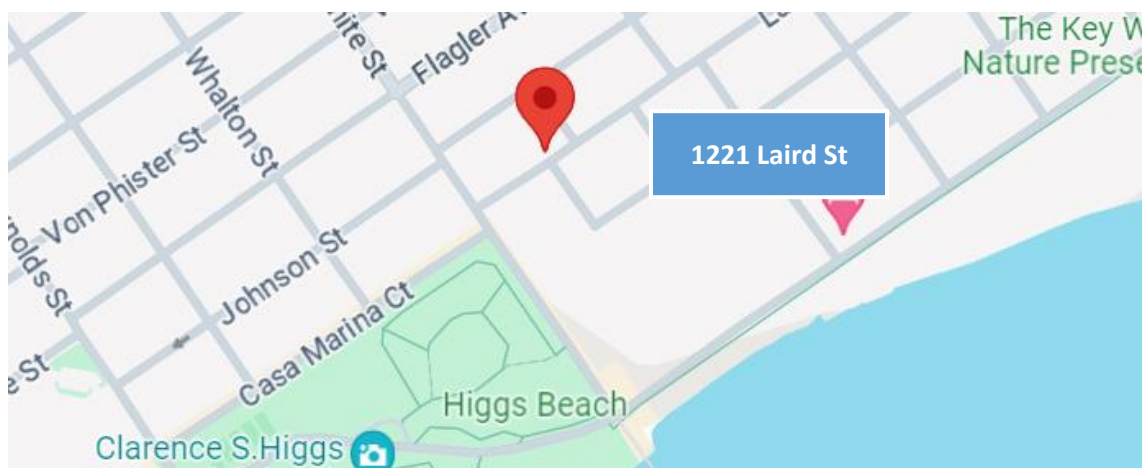
Request: A request for front setback and accessory structure rear yard coverage requirements to reconstruct an involuntarily destroyed dwelling in an expanded three-dimensional building envelope, and an involuntarily destroyed accessory structure.

Applicant: Carolyn & Doug Helliesen

Property Owner: Carolyn & Doug Helliesen

Location: 1221 Laird Street (RE# 00059310-000000)

Zoning: Single-Family Zoning District



Background:

The subject property is an 8,800 square-foot parcel consisting of two combined platted lots on the southwest corner of Laird Street and Georgia Street in the Single-Family zoning district.

The property previously contained a residential structure with two recognized dwelling units as well as an 850 square-foot accessory structure. Both structures were destroyed by a fire on June 29, 2022. The applicant is seeking a variance to reconstruct both structures.

The applicant is seeking a variance to the required front yard setback to reconstruct the principal residential structure. While Section 122-28 allows a noncomplying dwelling to be reconstructed in its existing three-dimensional footprint, the applicant is proposing an expanded three-dimensional building envelope with additional floor area on the second floor. The proposed front setback of 15’7” is an improvement on the previously existing 15’4” setback, however it still does not comply with the 20’ setback requirement and thus requires a variance.

The applicant is also seeking a variance to reconstruct an 850-square-foot accessory structure. Per Section 122-1181 an accessory structure shall not cover more than 30 percent of any required rear yard. At 850 square feet, the previously existing and proposed accessory structures constitute 34% of the required rear yard. Therefore, the applicant is seeking a variance to the 30% maximum rear yard requirement.

Site Data Table

Note: The property is currently vacant. The “Existing” column of the site data table reflects the site data that existed prior to the involuntary destruction of the property.

| Site Data Table: | | | | |
|--------------------------------|---------------|----------|----------|------------------|
| | Code Required | Existing | Proposed | Variance Request |
| Zoning | HMDR | | | |
| Flood Zone | AE (EL7) | | | |
| Minimum Lot Size/ Size of Site | 4,000 SF | 8,800 SF | | |
| Front Setback | 20’ | 15’3” | 15’7” | Yes |
| Side Setback | 5’ | 13’9” | 14’8” | No |
| Street Side Setback | 10’ | 14’7” | 11’6” | No |
| Rear Setback | 25’ | 33’3” | 34’7” | No |

| | | | | |
|--------------------------|---------------------------|-------------------|-------------------|------------------|
| Building Coverage* | 40% | 4,203 SF 43.5% | 2,892 SF 32.9% | No |
| Impervious Surface | 50% | 51.3% | 50% | No |
| Open Space | 35% | 52.2% | 55% | No (Improvement) |
| Accessory Structure Size | 30% of rear yard (750 SF) | 34.3% (857 SF) | 34% (848 SF) | Yes |
| Parking | 1 | 1 | 1 | No |

*The "Existing" calculations are based on the last available set of plans, which were calculated in accordance with Code requirements at that time (circa 2018). Since that time, the method for computing building coverage and impervious surface has changed. Thus, while the building coverage calculation has appeared to decrease significantly, the footprint of the proposed structures remain roughly equivalent to the previous structures.

Process:

Planning Board Meeting: April 18, 2024
 Local Appeal Period: 10 Days
 Planning renders to DEO for review: Up to 45 days

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.*

The property was destroyed by a fire which is a circumstance that is peculiar to the land and structures involved; had the structures not been involuntarily destroyed, the proposed site plan would have been permitted without a variance.

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 conditions were not created by the applicant as the property was involuntarily destroyed.

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 Code allows a noncomplying structure to be continued, to be reconstructed or replaced, or to be repaired or maintained under certain conditions, but not to encourage their expansion. In

addition, the Code allows existing nonconforming structures to be altered so long as the alteration decreases respective noncompliance. The proposed site plan would be permitted had the property not been involuntarily destroyed in a fire. Thus, granting of the variance would not confer special privileges, but rather would be in harmony with the general intent of the land development regulations, considering the special circumstances and hardship faced by the property owner.

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.*

The property was destroyed by fire. Other properties in the zoning district enjoy the right to maintain noncomplying structures. They also maintain the right to expand the three-dimensional envelope of existing nonconforming structures, provided the expansion does not increase nonconforming aspects of the structure.

If the property had not been completely destroyed by fire, the proposed site plan would have been permitted without a variance. In other words, a literal application of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district, i.e. the right to make improvements to nonconforming sites without the need for a variance.

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 not the minimum variance 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.*

Granting of the variance is not expected to be detrimental to the public interest or welfare, or injurious to the area involved. It would be in harmony with the general intent of the LDRs to permit improvements to noncomplying structures without requiring a variance, as noncomplying aspects of the site are being reduced in several cases. However, it is also the intent of the LDRs that noncomplying dwellings be replaced in their existing three-dimensional building envelope or in compliance with the LDRs, and otherwise shall require a variance.

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 nonconforming uses of other properties is not proposed as a basis for approval.

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 or utility service capacity issues.

The Planning Board shall make factual findings regarding the following:

1. *That the standards established by Section 90-395 of the City Code have been met by the applicant for a variance.*

Six of the seven standards established by Section 90-395 of the City Code have been met by the applicant for the front yard setback and accessory structure variance request; one has not.

2. *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.*

No objections have been received at this time.

Recommendation:

In contemplating the need for variances in cases where structures have been destroyed, Section 122-28 provides that “the planning board, in evaluating petitions for variance, shall balance the need to protect life and property with the need to preserve the economic base of the community.” The project proposes to protect life and property by reconstructing a destroyed property above base flood elevation with a handicap accessible design that allows for the maintenance of two legal non-transient dwelling units, in a manner that decreases noncompliance compared to site’s previous condition and allows for the continuance of a lawful home occupation.

Considering this balance the criteria of Section 90-395, the Planning Department recommends that the subject variance request for 1221 Laird Street be **approved**, with the following conditions:

General Conditions:

1. The proposed design shall be substantially in conformance with the plans by Robert Barnes & Associates dated March 28, 2024 for the property located at 1221 Laird Street.