

**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: July 19, 2018

Agenda Item: **Variance – 1403 Tropical Avenue - (RE# 00041720-000000)** – A request for variances to the maximum allowed building coverage, impervious surface, and the minimum allowed open space requirements in order to construct an extension to the front porch and the roof for property located within the Single Family (SF) Zoning District pursuant to Sections 90-395, 122-238 (4)(a), 122-238 (4)(b)(1), 108-346 (b) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is seeking variances in order to expand the front yard porch.

Applicant: Don Travis Froedge

Property Owner: Don Travis Froedge

Location: 1403 Tropical Avenue - (RE# 00041720-000000)

Zoning: Single Family (SF) Zoning District



Background/Request:

The property at 1403 Tropical Avenue is located on the corner of Tropical Street and South Street. The property consists of a two story elevated residential framed structure within a 4,675 square foot parcel.

The plans submitted would require variances to the maximum allowed building coverage, maximum impervious surface, and the minimum open space allowed.

The following table summarizes the requested variances.

Relevant SF Zoning District Dimensional Requirements: Code Section 122-238				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Lot Size	6,000 Square Feet	4,675 Square Feet	4,675 Square Feet	Existing Non-conformity In compliance
Maximum Height	25 feet plus an additional five feet for non-habitable purposes if the structure has a pitched roof	25 Feet 8 Inches	25 Feet 8 Inches	In compliance
Maximum building coverage	35% (1,636.24 Square Feet)	42.08% (1,967.41 Square Feet)	45.08% (2,107.74 Square Feet)	Variance Required 471.5 Square Feet
Maximum impervious surface	50% (2,337.50 Square Feet)	77.13 % (3,605.87 Square Feet)	77.25 % (3,611.29 Square Feet)	Variance Required 1,273.79 Square Feet
Minimum open space	35% (1,636.24 Square Feet)	22.86 % (1,068.92 Square Feet)	22.99 % (1,075.11 Square Feet)	Variance Required 561.13 Square Feet
Minimum front setback	20 Feet	9 Feet 5 Inches (Carport overhang)	9 Feet 5 Inches (Carport overhang)	Existing Non-conformity In compliance
Minimum side setback	5 Feet	4 Feet 8 Inches (Roof overhang)	4 Feet 8 Inches (Roof overhang)	Existing Non-conformity In compliance
Minimum street side setback	10 Feet	2 Feet 4 Inches (Carport overhang) 9 Feet 3 Inches (House overhang)	2 Feet 4 Inches (Carport overhang) 9 Feet 3 Inches (House overhang)	Existing Non-conformity In compliance
Minimum rear setback	25 Feet	25 Feet 7 Inches	25 Feet 7 Inches	In compliance

Process:

Planning Board Meeting:

July 19, 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 SF zoning district. The required minimum lot size in the SF zoning district is 6,000 square feet. The 1403 Tropical Avenue property has a lot size of 4,675 square feet. The lot was developed prior to the adoption of the current Land Development Regulations (LDRs).

However, many other land, structures and buildings within the SF Zoning District were also developed prior to the adoption of the current LDRs. 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 front porch addition. The property is currently non-conforming with the maximum building coverage, impervious surface, and the minimum open space requirements. The proposed front yard porch addition will further increase these non-conformities. The applicant could remove some portion of building coverage and impervious surface from somewhere else on the property so as not to need the variance request.

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, and the minimum open space requirements in the Single Family 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 SF Zoning District. The property owner currently has a covered front porch. They would like to have a larger one.

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 comments 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**.

However, if the Planning Board approves this request, staff would like to require the following conditions:

General Conditions:

1. The proposed development shall be consistent with the plans dated, May 28, 2018 by Serge Mashtakov, P.E. No approval granted for any other work or improvements shown

on the plans other than the proposed construction of the expanded front yard porch and roof.