

**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: October 19, 2023

Agenda Item: **Variance – 825 Ashe Street (RE# 00022300-000000)** – A request for variances on maximum building coverage and side and rear setbacks for an addition to an existing single-family home 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 minimum setback requirements to allow for renovations to an existing residential structure located within the Historic High Density Residential (HHDR) zoning district. The HHDR Zoning District requires minimum setback of the following: front established at 10-feet; side established at 5-feet; and rear established at 20-feet. The variance proposes minimum setbacks be acceptable at the following: front at 3’-11”;

Applicant: Michael D Kindinger and Sarah A Kindinger

Property Owner: Michael D Kindinger and Sarah A Kindinger

Location 825 Ashe Street, Key West, Florida
(RE # 00022300-000000)



Figure 1 Aerial Map of the Subject Property

Background:

The subject property, with a total lot size of 2,530.0 sq. ft., is in the Historic High-Density Residential (HHDR) Zoning District. The parcel includes one primary structure with noncomplying setbacks, building coverage, impervious surface area, and open space. The 1,998 sq. ft. single-family residence was constructed in 1928, prior to the existence of the current Land Development Regulations. An accessory structure exists to the northwest corner of the property.

The proposed renovation includes demolition of an existing detached accessory structure to allow for a rear addition to the primary structure. The rear addition would reduce the noncomplying north side setback from 1'10" to 1'-0" and reduce the noncomplying rear setback from 5'-3" to 5'-0". However, the proposed renovation would improve the noncomplying open space (13.1% to 19.7%), impervious surface area (69.2% to 64.5%), and south side setback (2'-2" to 7'-2"). No changes are proposed to the front setback (4'-4"). Given recent design modifications the applicant no longer requires a building coverage variance.

According to the property card, the property last transferred ownership in August 2009.



Figure 1 Subject Site: Historic Structure, circa 1965 (Source: Monroe County Library)

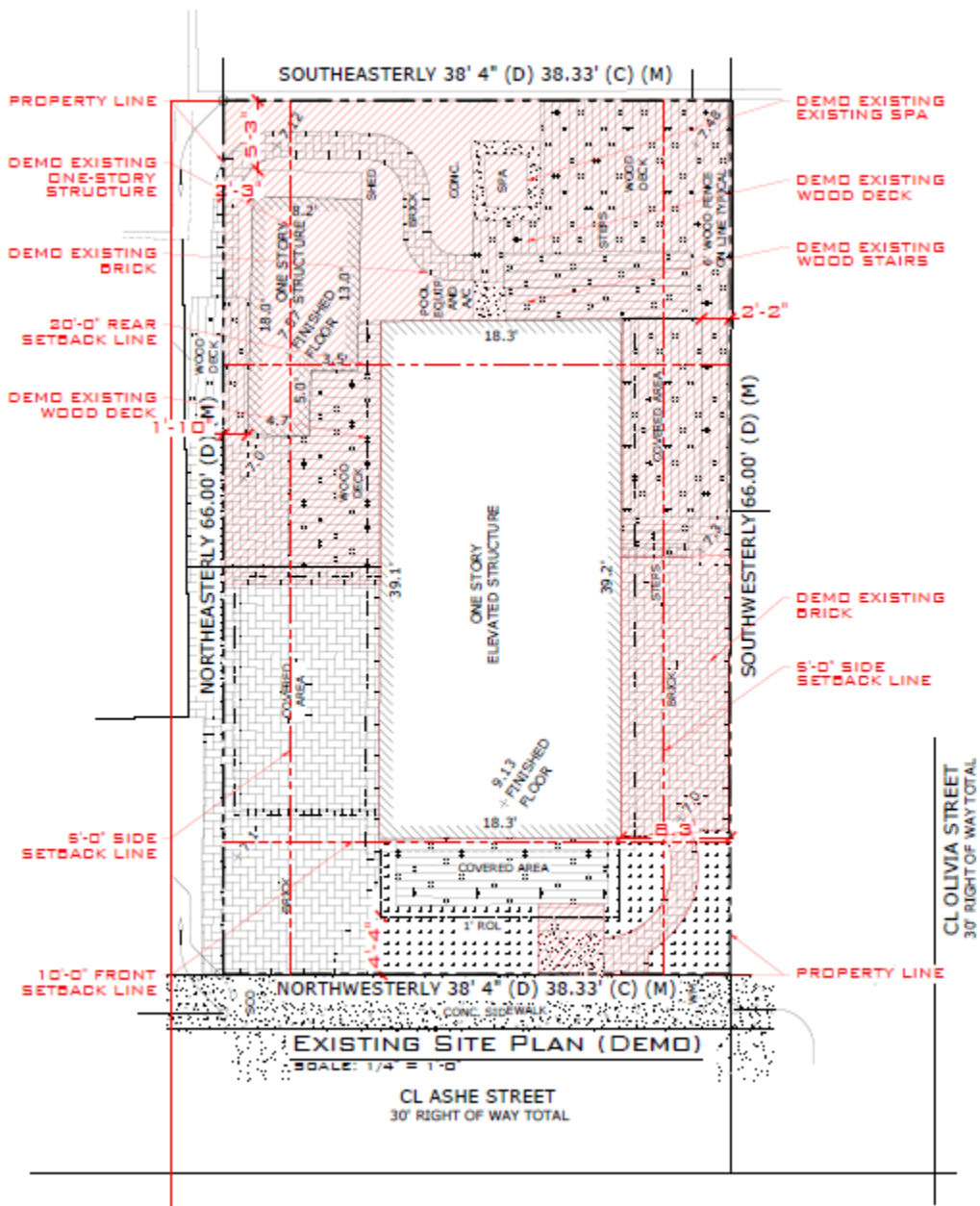


Figure 2: Existing Site Plan

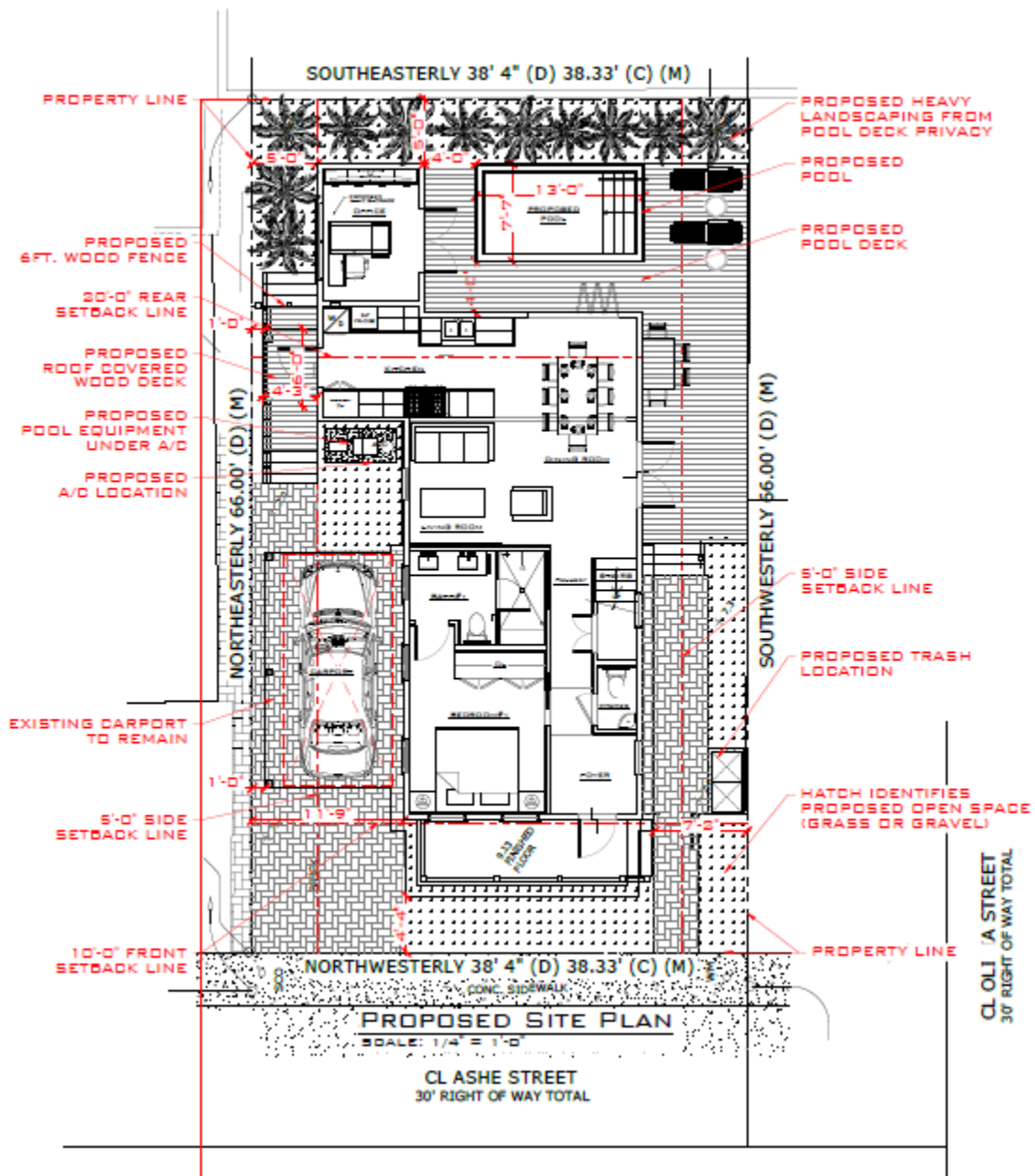


Figure 3 Proposed Site Plan



Figure 4 Existing Front and Rear Elevation



Figure 5 Proposed Front and Rear Elevation



Figure 6 Existing North Elevation



Figure 7 Proposed North Elevation



Figure 8 Existing South Elevation



Figure 9 Proposed South Elevation

The site data table below provides the current and proposed site data for the property. The proposed variance is for the building coverage and setback requirements.

Site Data Table:				
	Code Required	Existing	Proposed	Variance Request
Front Setback	10-feet	4'-4"	4'-4"	No
Side Setback (north)	5-feet	1'-10"	1'-0"	Yes
Side Setback (south)	5-feet	2'-2"	7'-2"	No
Rear Setback	20-feet	5'-3"	5'-0"	Yes
Building Coverage	50%	48.5%	46.5%	No
Impervious Surface	60%	69.2%	64.5%	No
Open Space	35%	13.1%	19.7%	No
Parking	1	1	1	No

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

- Setbacks:** A variance for site setbacks (north side and rear) is required as a result of the proposed single-family residence renovation. The lot is 39 feet wide.
Side (north): 5' required; 1'-0" proposed (decrease from 1'-10" existing)
Rear: 20' required; 5'-0" proposed (decrease from 5'-3" existing)

The application was sent to the Development Review Committee (DRC) members for comment on September 22, 2023. The following responded with comments.

- HARC:
 - Applicant shall obtain a Certificate of Appropriateness from the Historic Architectural Review Commission.
- Utilities:
 - Please request the applicant to provide a stormwater management plan for the rear yard, where the rear yard dimensions are 38 feet x 16.5 feet; approximately 627 square feet. Allowing 50% credit for constructing a swale, 26 cubic feet of retention volume will be required.
 - Proposed redevelopment in the rear yard will consist of structure, decking and spa removal, and include construction of a new structure, decking and pool. This work will cause significant ground disturbance and require the rear yard to be graded. Stormwater retention swale(s) may be constructed in the rear yard, during the final regrading of the rear yard. Swale(s) may be over excavated in the rear yard and prepared for heavy landscape plantings.
 - There is an exception to swale construction for existing landscape to protect tree roots and palms. Plans do not indicate existing palms and tree will be protected.
 - Also, please condition the applicant to install gutter with downspout directed back onto the property on the reconstructed covered porch (right side / southwesterly side).

3. Fire: As proposed the building shall be fully sprinkled per code.
4. Urban Forestry:
 - No comment regarding the variance itself but prior to any submittal of building permits, the property owner should verify the locations of all regulated palms and trees on the property in relation to the proposed work. A site inspection did document the presence of regulated palms and a frangipani tree. Tree protection will be required. Permits may be required to remove any palms or the frangipani tree.

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 applicant provides that the residential structure is limited by the current layout of the lot, which does not allow practical/beneficial use of the property. Further analysis confers that the structure is noncompliant with respect to setbacks and building coverage established within the zoning district. The property's total lot area of 2,530 sq. ft. does not meet the minimum 4,000 sq. ft. lot requirement under the current HHDR zoning district regulations. Although this legal nonconforming lot presents challenges for redevelopment, small residential lots are very common in the historic district and there are not 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.

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 requested variances would allow for renovations to include a new rear addition to the structure. Historic preservation staff supports the proposed addition not being attached to the historic sawtooth roof structure of the primary building. The request is pursuant to the owner's proposed designs. The design improves several site standard nonconformities but slightly increases side and rear encroachments.

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 the existing historic dwelling unit. The granting of the variance allows

reasonable efforts to renovate the structure while being sensitive to the surrounding historic fabric.

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.*

The applicant provides that the literal interpretation of the provisions of the LDRs limit the beneficial use of the property's basic amenities commonly enjoyed by other properties in this zoning district. However, staff does not find this to be a hardship.

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 proposed renovation improves the existing nonconformities for impervious surface, open space, and one of the side setbacks. However, the applicant is proposing to intensify the nonconforming rear setback and other side setback. No adjacent neighbors have expressed a concern with the renovations.

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 granting of the requested variances will not be injurious to the area involved or otherwise detrimental to the public interest of welfare unless there is concern from immediate neighbors regarding privacy. At this time, staff has not been advised of any neighbor opposition to the proposed increased encroachment. The applicant has provided letters in support of the proposed variances from all surrounding property owners sharing a property line.

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.

The standards established by Section 90-395 of the City Code **have not been fully met** by the applicant for the requested variances on building coverage, front, side, and rear setbacks.

RECOMMENDATION:

The Planning Department recommends that the request for variances to the maximum building coverage and minimum setbacks be **DENIED**. If the Planning Board elects to approve the variance, staff recommends the following conditions:

1. The proposed construction shall be consistent with the plans prepared by Artibus Design, dated September 28, 2023.
2. Applicant shall obtain a Certificate of Appropriateness from the Historic Architectural Review Commission.
3. Applicant to provide a stormwater management plan for the rear yard, where the rear yard dimensions are 38 feet x 16.5 feet; approximately 627 square feet. Allowing 50% credit for constructing a swale, 26 cubic feet of retention volume will be required.
4. Applicant to install gutter with downspout directed back onto the property on the reconstructed covered porch (right side / southwesterly side).
5. The building shall be fully sprinkled per code.