



**THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report**

**To:** Chairman and Planning Board Members

**Through:** Patrick Wright, Planning Director

**From:** Vanessa Sellers, Planner I

**Meeting Date:** September 18, 2018

**Agenda Item:** **Variance - 1515-1525 Bertha Street & 1512 Dennis Street (RE# 00063400-000100 & RE# 00063400-000000)** - A request for variances to maximum allowable impervious surface and minimum street-side and rear-yard setback requirements in order to construct a 3-story structure on property located within the Commercial Limited (CL) zoning district pursuant to the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

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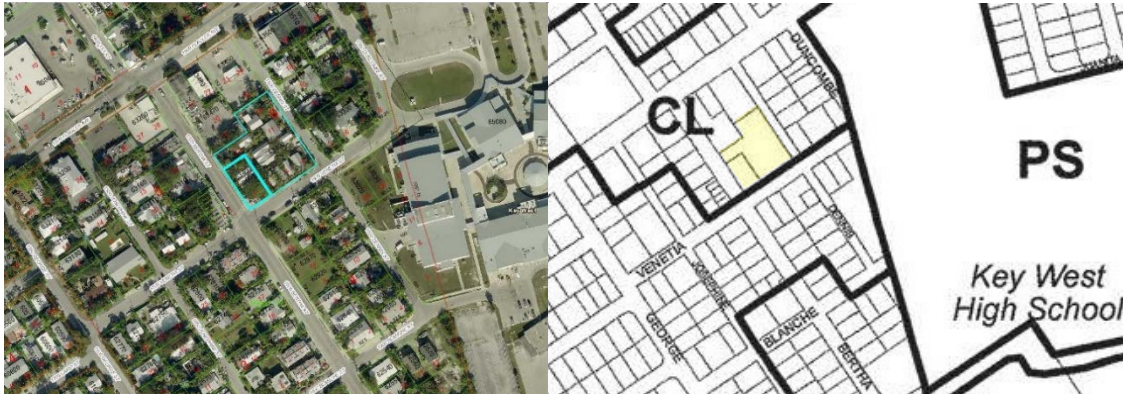
**Request:** The applicant is seeking variances in order to construct a 3-story structure containing 47 individual living units and an administration facility. The proposed impervious surface is 70.11 percent, and the maximum allowed is 60 percent. The proposed street-side setback on Bertha Street is 10', and the required street-side setback is 20' minimum. The proposed street-side setback on Dennis Street is 17'-6", and the required street-side setback is 20' minimum. The proposed rear setback is 15' and the required rear setback is 25' minimum.

**Applicant:** Trepanier & Associates, Inc. c/o Lori Thompson

**Property Owner:** A.H. of Monroe County, Inc. & AHI Real Estate Properties, Inc.

**Location:** 1515-1525 Bertha Street & 1512 Dennis Street, Key West

**Zoning:** Commercial Limited (CL)



**Background:**

The properties at 1515-1525 Bertha Street and 1512 Dennis Street are located one-half block from Flagler Avenue and are two lots of record. They are located within the CL zoning district, and do not contribute to the Key West Historic District. The properties currently contain eleven (11) residential structures, with a total of sixteen (16) dwelling units.

The applicant is proposing to construct a 26,385-square-foot 3-story structure to replace the existing structures. Although the submitted plans comply with the maximum allowable floor area ratio and the maximum allowable building coverage, the project as proposed will require variances to the maximum allowable impervious surface and the minimum street-side and rear-yard setback requirements of the CL zoning district.

The following table summarizes the requested variances:

<b>Relevant Commercial Limited (CL) Zoning District Dimensional Requirements: Code Section 122-386</b>				
<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Maximum height	40'	Less than 40'	40'	No
Minimum lot size	10,000 SF	$\frac{6,971 + 26,050}{33,021}$ SF Total	No Change	No
Maximum density	16 dwelling units per acre	N/A	N/A	No
Maximum floor area ratio	0.8	0.24	0.8	No
Maximum building coverage	40%	29.5% (9,744 SF)	36.46% (12,042 SF)	No
Maximum impervious surface	60%	56.2% (18,585 SF)	70.11% (23,151 SF)	<b>Yes (10.11%)</b>
Minimum open space (commercial)	20%	40%	30% (9,915 SF)	No
Minimum front setback (Venetia St.)	25'	11'-11"	25'	No
Minimum street-side setback (Bertha St.)	20'	8'-9"	10'	<b>Yes (10')</b>
Minimum street-side setback (Dennis St.)	20'	10'-5"	17'-6"	<b>Yes (2'-6")</b>
Minimum rear setback	25'	9'-7"	15'	<b>Yes (10')</b>

**Process:**

**Planning Board Meeting:** September 18, 2018  
**Local Appeal Period:** 10 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 proposed design and use may benefit the community better than the current design and use by accommodating a greater number of people than the properties now serve. In addition, due to the nature of the use, the properties need to be fully accessible while other properties in the CL district may not require such modifications. However, given that this is an entirely new design that includes an approximately 1,900-square-foot courtyard not required by code, it is difficult for staff to find good and sufficient cause that the plans cannot be designed in compliance with the maximum allowable impervious surface and the minimum rear and street-side-yard setback requirements of the CL 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 applicant is proposing to construct a new, 3-story structure, with an approximately 1,900-square-foot courtyard. The optional courtyard causes the building to move into the street-side and rear-yard setbacks. Therefore, the conditions are generated from the specific actions initiated by the applicant.

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. Therefore, increasing the maximum allowable impervious surface and decreasing the minimum street-side, and rear yard setbacks in order to construct a 3-story structure with a landscaped center courtyard would confer special privileges upon the applicant.

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.***

Although the proposed design may serve the needs of AIDS Help, Incorporated and the community better than the current layout, the applicant chose a design that does not comply with the maximum allowable impervious surface and the minimum required street-side and rear-yard setbacks of the zoning district. Literal interpretation of the LDRs would not deprive the applicant of rights commonly enjoyed by other properties in the CL zoning district under the terms of this ordinance and would not work unnecessary and undue hardship on the applicant.

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 variances requested are not the minimum required that will make possible the reasonable use of the land, building, and 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 non-compliance with all 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 or utility service 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 not been fully met by the applicant for the variances 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.

**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:**

The proposed development shall be consistent with the plans dated September 4, 2018 by MHK Architecture & Planning. No approval granted for any other work or improvements shown on the plans other than the proposed construction.

