

**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:** October 19, 2017

**Agenda Item:** **Variance – 718 Windsor Lane (RE# 00019000-000000)** – A request for a variance to the rear yard setback requirements in order to construct the one story addition in the rear yard on property located within the Historic High Density Residential (HHDR) Zoning District pursuant to Sections 90-395, and 122-630(6) (c) 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 rear setback requirement in order to construct a one story rear addition with a pitched roof design.

**Applicant:** Seth Neal, Pike Architects

**Property Owner:** Kevin McGinty

**Location:** 718 Windsor Lane (RE# 00019000-000000)

**Zoning:** Historic High Density Residential (HHDR)



**Background:**

The subject property is located on the 700 block of Windsor Lane near the corner of Galveston Lane within the HHDR Zoning District. The property currently consists of a contributing one story single family residence with a rear one story addition.

The applicant is proposing the following: to move the front porch inward 2 inches improving the front setback, moving the porch on the west side 5 inches improving the side setback, moving the front porch on the east side 2 inches, removing east side one story addition, removing trellis structure, removing concrete walk, outdoor carpet and deck in the rear yard, and demolishing the rear one story addition. The rear addition will be constructed back into a one story structure with a raised pitched roof design. A deck and pool will be constructed in the rear yard.

The applicant is requesting a rear yard setback variance for the one story addition.

<b>Relevant HHDR Zoning District Dimensional Requirements: Code Section 122-630</b>				
<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Maximum height one story rear addition structure	30 feet	10 feet 8 inches	16 feet 8 inches	In compliance
Minimum lot size	4,000 SF	2,707 square feet	2,707 square feet	No Change
Maximum building coverage	50% 1,353 sf	1,298 square feet	46.3% 1,255 square feet	In compliance
Maximum impervious surface	60% 1,624 square feet	60% 1,624 square feet	50.7% 1,374 square feet	In compliance
Minimum Open Space	35% 948 sf	27.5% 745 square feet	35.8% 970 square feet	Improvement
Minimum front setback	10 feet	9 feet	9 feet 2 inches	Improvement
Minimum side setback	5 feet	2 feet	7 feet 9 inches	Improvement
Minimum side setback	5 feet	3 feet 6 inches	3 feet 6 inches	Existing non-conformity
<b>Minimum rear setback (One story addition structure)</b>	<b>20 feet</b>	<b>9 feet 10 inches</b>	<b>15 feet 5 inches</b>	<b>Variance required -4 feet 7 inches</b>

**Process:**

**Planning Board Meeting:**

October 19, 2017

**Planning Board Meeting:**

June 15, 2017 (postponed by applicant)

**Planning Board Meeting:**

May 18, 2017 (postponed by applicant)

**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 existing conditions of the property are non-conforming to lot size, impervious surface, minimum open space, front, sides and rear yard setback requirements. The proposed plans indicate the properties impervious surface ratio and minimum open space requirements will be in compliance with the HHDR zoning district's dimensional requirements. Front, side and rear yard setback requirements for the rear addition will all improve. However the one story addition will still encroach into the rear yard. The addition is expanding in width as well as its three dimensional envelope with the proposed pitched roof. However, special conditions or circumstances do not exist.

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 choosing a design that encroaches onto the properties rear yard setback for the construction of a one story addition as well as raise the three dimensional footprint. These conditions are created 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 nonconforming structures. The rear addition can be designed without encroaching into the rear yard setback and raising the three dimensional footprint. Therefore, allowing the rear addition in its proposed placement 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.*

Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the HHDR Zoning District. The applicant can construct a smaller rear addition without the need for 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, it is 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 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 requested 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 variance be **denied**.