

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



To: Chairman and Planning Board Members

Through: Roy Bishop, Planning Director

From: Vanessa Sellers, Planner II

Meeting Date: October 17, 2019

Agenda Item: **Variances - 317 Virginia Street (RE # 00025880-000000)** - A request for variances to the minimum rear yard setback requirement, the minimum side yard setback requirement, the maximum allowable impervious surface ratio, the maximum allowable building coverage ratio, and the maximum allowable accessory structure coverage in a required rear yard in order to construct a single-family residence with swimming pool and decking at a property located within the Historic Medium Density Residential (HMDR) zoning district pursuant to the Land Development Regulations of the Code of Ordinances of the City of Key West.

Request: The applicant is seeking variances in order to construct a 2-story single-family residential structure with a swimming pool and decking. The proposed rear yard setback is 7-feet, 9.5-inches and the required rear yard is 15-feet. The proposed side yard setback is 1-foot, 5.5-inches and the required minimum side yard setback is 5-feet. The proposed impervious surface ratio is 63.1-percent and the maximum allowable impervious surface ratio is 60-percent. The proposed building coverage is 56-percent and the maximum allowable building coverage is 40-percent. The proposal includes a generator pedestal and a 120-gallon propane tank in a required rear yard that exceeds the 30-percent maximum allowable coverage of a required rear yard.

Applicant: T. Seth Neal, R.A.
22974 Overseas Hwy., Cudjoe Key, FL 33042

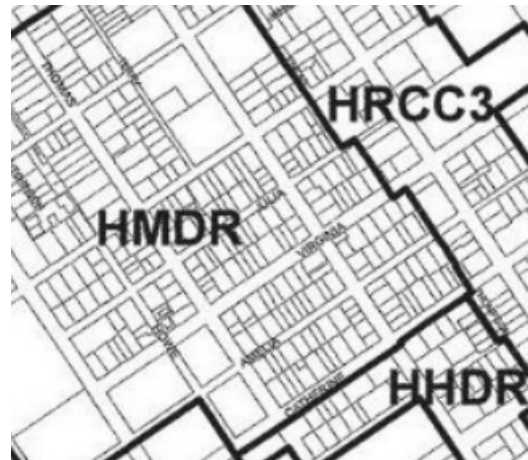
Property Owner: Clifford E Rhoades, Jr.
42 Seaside South Ct., Key West, FL 33040

Location: 317 Virginia Street, Key West

Zoning: Official Zoning Map - Historic Medium Density Residential (HMDR)
Future Land Use Map - Historic Residential



Aerial image of the subject property



Zoning map of the subject property

Background:

The property at 317 Virginia Street is located between Thomas Street and Whitehead Street. The existing noncomplying substandard vacant lot is 25.25-feet wide and 86.92-feet deep, for a total of 2,195-square-feet. The property is located within the Key West Historic District and it is subject to the Historic Architectural Review Commission (HARC) guidelines. A beneficial use building permit allocation was granted by the City of Key West Planning Department on April 21, 2015 to allow the property owner to construct a permanent single-family dwelling on the vacant site.

Currently, the subject property is within Flood Zone AE EL 6-Feet. According to the applicant, the proposed plans previously conformed with the dimensional requirements of the HMDR zoning district. However, the draft flood maps released by FEMA indicate a possible new flood level additional impact of +2-feet (+3-feet*). Although the draft map is not yet in effect, the applicant chooses to elevate the proposed single-family structure, stairs, and decks to meet the anticipated new flood levels. The increased height triggers additional building coverage, impervious surface, and a need for additional steps within the required setbacks.



Current FEMA flood map



Draft FEMA flood map

*The draft FEMA maps don't show an additional difference in elevation due to a change in mapping standards between the old and new proposed flood maps (*datum NGVD29-> NAVD88 = -1.342f*). To account for this change, add +one-foot to any apparent increase. For example: If a parcel was in an AE-8 flood zone and is still shown in an AE-8 zone, then it actually experienced an increase of one-foot. Another example: If a parcel was in an AE-6 flood zone and is proposed to be in an AE-9 zone, the increase appears to be three-feet. However, the actual increase would be four-feet.

The following table summarizes the requested variances:

Relevant HMDR Zoning District Dimensional Requirements: Code Section 122-600				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Variance Required?
Maximum height	30'	(vacant lot)	24'-10"	No
Minimum lot size	4,000 SF	2,195 SF	No change	No
Maximum building coverage	40% (877 SF)	(vacant lot)	56% (1,228.5 SF)	Yes
Maximum impervious surface	60% (1,316 SF)	(vacant lot)	63.1% (1,384.5 SF)	Yes
Minimum open space	35% (768 SF)	(vacant lot)	35.2% (772.5 SF)	No
Minimum setbacks	Front: 10'	(vacant lot)	Front: 10'	No
	Side: 5'		Side: 1'-5 1/2"	Yes
	Rear: 15'		Rear: 7'-9 1/2"	Yes
Accessory structures	< 30% of required rear yard	(vacant lot)	32.7% (124 SF)	Yes

Process:

Planning Board Meeting: **October 17, 2019**
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.*

Although the subject parcel is a substandard and nonconforming size, the property is vacant, and the applicant chose a design that does not comply with several requirements of the HMDR zoning district. In addition, the applicant opted to include an optional generator and propane tank with the plans. Special conditions and circumstances do not exist which are peculiar to the land, structure, or building involved. Several neighboring parcels are similarly nonconforming in size.

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, 2-story primary residential structure, a swimming pool, and a deck. In addition, the applicant is proposing to install a generator and propane tank in a required rear yard. Therefore, the conditions are generated from 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.***

A variance cannot give special privileges that other properties do not have. There are no special circumstances applicable to the property which deprive the applicant of privileges enjoyed by other properties in the vicinity under the HMDR zoning classification.

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 subject parcel is substandard in size and dimensions, it has a standard and common shape with no peculiar characteristics. In addition, the draft flood maps that the applicant is basing the request on are not yet in effect. Literal interpretation of the provisions of the LDRs would not deprive the applicant of rights commonly enjoyed by other properties in the same 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, 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.***

The purpose of the request is to improve a vacant lot with a new, HARC approved, single-family structure that will not be within the flood plain. The granting of the requested variances would not be injurious to the area involved and otherwise detrimental to the public interest.

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 variances 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 the request, staff would like to require the following conditions:

General Conditions:

1. The proposed development shall be consistent with the plans dated May 31, 2019 by T. Seth Neal, R.A.