



THE CITY OF KEY WEST
PLANNING BOARD
Staff Report

To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Mario Duron, AICP, Corradino

Meeting Date: April 21st, 2022

Agenda Item: **Variance --- 1202 Royal Street (RE# 00029450-000000)**- A request for a variance to exceed the allowable maximum building coverage, to exceed the allowable maximum impervious surface ratio, to exceed the maximum rear yard coverage for accessory structures, and a request for a variance from the side and rear setback requirements, for a property located within the Historic Medium Density Residential (HMDR) Zoning District pursuant to Section 90-395, Section 122-28(b), Section 122-600, and Section 122-1181 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is proposing to reconfigure an accessory structure in the rear of the property to construct a pool and gazebo. The applicant is requesting variances from the Land Development Regulations for properties zoned HMDR, to exceed the allowable maximum building coverage by 9%, exceed the allowable maximum impervious surface ratio by 4%, exceed the maximum rear yard coverage for accessory structure by 62%, and proposing a 4 FT. 11 IN. rear setback and 1 FT. 9 IN. north side setback.

Applicant: Amy VanderMeer

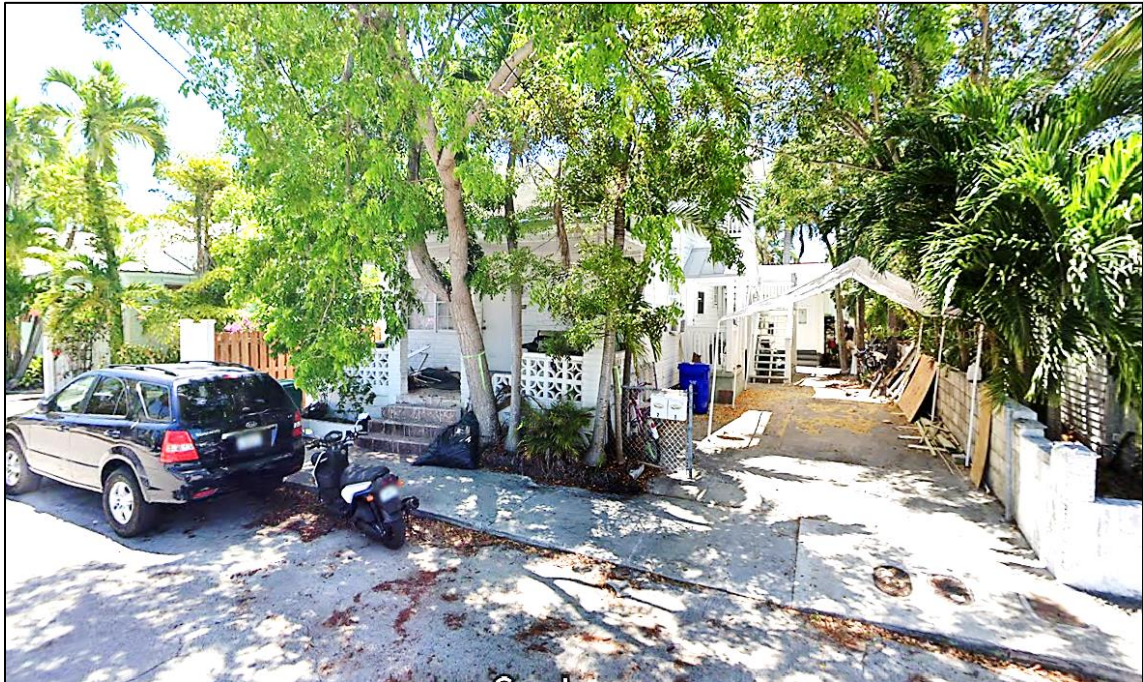
Property Owner: Gail J. Piotrkowski 2002 Inter Vivos Trust

Location: 1202 Royal Street (RE# 00029450-000000)

Zoning: Historic Medium Density Residential (HMDR)



1. Subject property limits denoted by red line.



2. View of subject property from Royal Street facing south.

Background/Request:

The subject property is located near the corner of Royal Street and Catherine Street, within the Historic Medium Density Residential (HMDR) zoning district.

The property is improved with two (2) structures-- a two-story frame house in the front of the property and a one-story structure in the rear. City records show there are 3 residential units recognized for the property. In 2021 the property owner submitted a request to the City's Historic Architectural Review Committee (HARC) to renovate the principal two-story structure in the front of the property. The scope of work included remodeling the interior space of the structure to convert from a duplex to a single-family home. The request was approved by HARC under COA #2021-0057.

Today, the applicant is requesting variances from the City's Land Development Regulations (LDRs) to alter the rear accessory structure on the property and install a pool and gazebo. The applicant intends to demolish approximately 2 SF from the rear structure to accommodate the proposed gazebo and pool. The applicant proposes to reconfigure the interior of the rear structure and it will remain habitable space.

In order to effectuate the proposal, the applicant is requesting the following variances:

- from Sections 122-600(4)(a) & (b) to exceed the maximum building coverage by 9%, or +387 SF. and to exceed the maximum impervious surface ratio by 4%, or +148.7 SF.
- from Sections 122-600(6) (b) & (c) to permit a 1 FT. 9 IN. side setback and 4 FT. 2 IN. rear setback for the altered structure; and
- from Sec. 122-1181 to cover approximately 92% of the required rear yard, when the maximum allowed by code is 30%.

The variances are being requested in accordance with Section 122-28(b) of the City's LDRs. The Code section requires a variance approval to reconstruct a noncomplying accessory structure to a principal building with a dwelling unit.

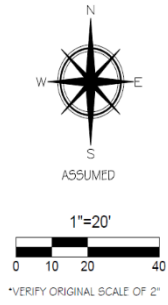
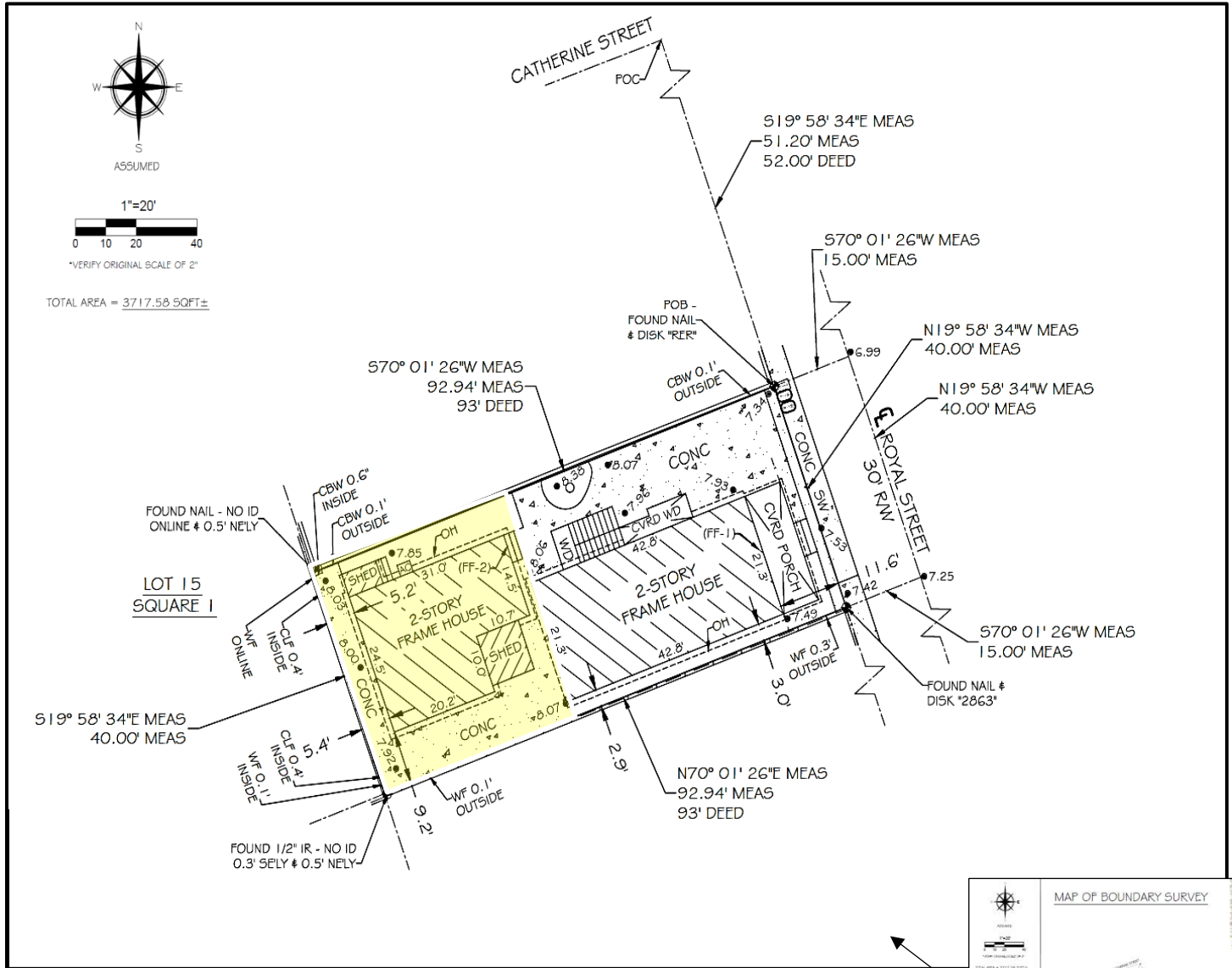
The applicant cited the property's existing conditions as a constraint for the redevelopment. The lot does not conform to the minimum site area. The existing structures do not comply with the required setbacks, and the lot exceeds the maximum building coverage and impervious surface area allowances. The proposed renovation will improve the noncomplying lot coverage ratios. The setback requests result from the alteration of the rear structure.

While the item did not have a formal meeting before the Development Review Committee, DRC staff members reviewed the request and provided comments. Comments received are summarized below:

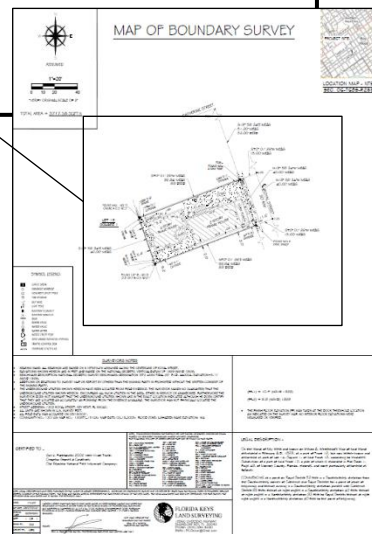
- Karen DeMaria, Urban Forestry Manger: No comment regarding the actual variance, but note project requires a tree protection plan to be included in the file when building permits are submitted for review. A permit is required from the Tree Commission to remove/relocate any existing trees on the property.
- Lt. Timothy Anson, Lieutenant Inspector: All side setbacks shall remain free and clear for life safety accessibility. Side setbacks must be maintained at 5 FT. No pool equipment shall be placed within the side setbacks.

Survey:

Below is a survey of the subject property. The property is developed with two frame structures and a shed. The site's existing building coverage is 2119 SF or 57% of the total lot area. The area of interest for the proposed scope of work is highlighted.

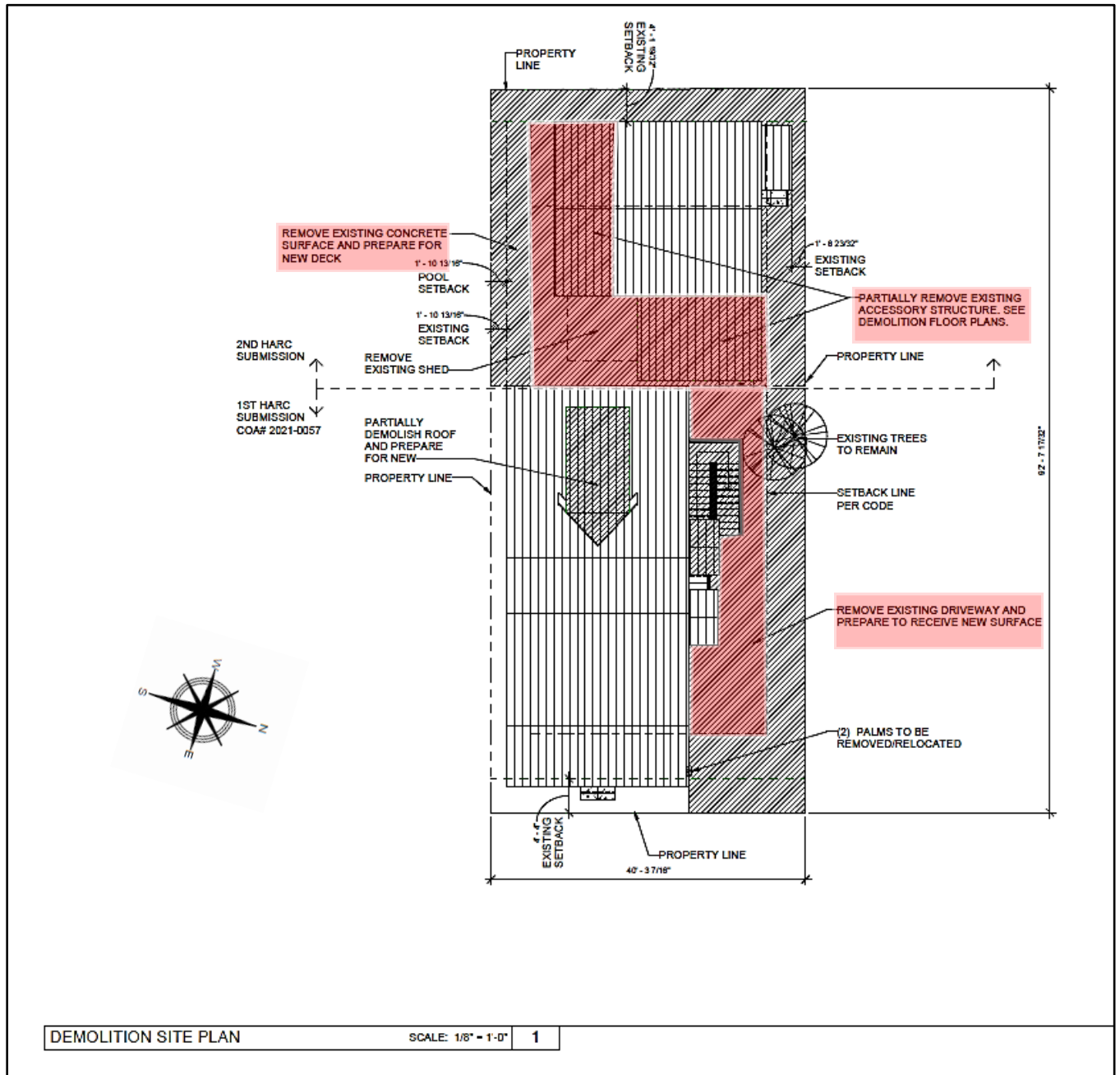


TOTAL AREA = 3717.58 SQFT±



Demolition Plan

The accessory structure in the rear of the property is approximately 693 SF. The applicant is proposing to alter the structure by demolishing 231 SF. The interior of the space is proposed to remain equipped as habitable space. An existing shed, driveway, and concrete surface will also be demolished. The total building area to be demolished from the site is 311 SF.

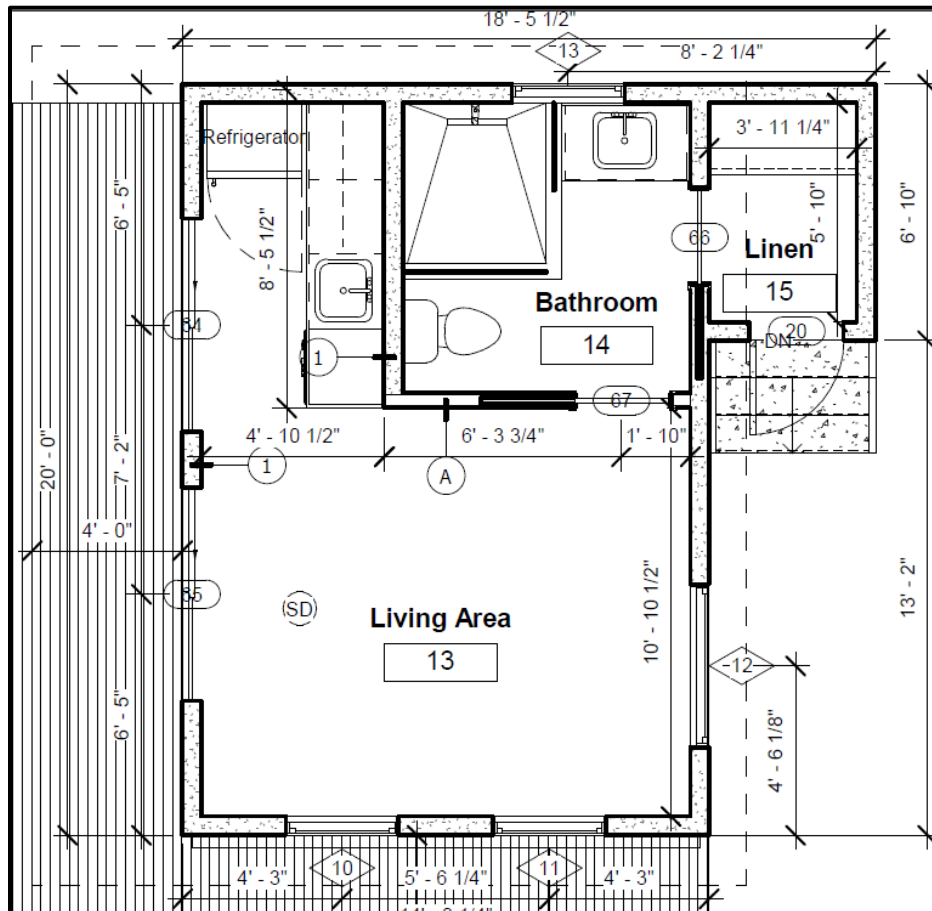


Proposed Site Plan:

Below is the proposed site plan and lot coverage analysis. The applicant originally submitted a request where the proposed pool and gazebo aligned with the side (south) setback of the principal home. However, the City's Fire Department advised that a 5-foot setback is required. The applicant submitted a revised plan showing the proposed pool and gazebo are set back from adjacent side and rear property lines by 5 feet, in compliance with the code requirements in Section 122-1181. While the new accessory structures will comply with setback requirements, a variance is needed from Section 122-1181 because the existing and proposed accessory structures exceed 30% of the rear yard coverage by approximately 62%, or 92% total.

The total building lot coverage is being reduced by approximately 316 SF however, it will continue to exceed the permitted building coverage by 317 SF or 9%. The site's impervious surface ratio is also being reduced. The lot is currently 100% impervious, but with the proposed changes (altered accessory structure, removal of shed and concrete from the site, and installation of wood deck), the impervious surface will improve by 36%. However, with the improvements, the lot will still exceed the maximum surface ratio by 4% or 148 SF.

Included is the proposed interior floor plan for the altered accessory structure in the rear. The applicant requires setback variances because the altered structure will have noncomplying setbacks. The rear and north side setback are existing and are not being modified by the proposed alteration as shown below.



Site Data Table

1202 ROYAL STREET				
	CODE REQUIRED	EXISTING	PROPOSED	COMMENTS
ZONING	HMDR			n/a
FLOOD ZONE	AE 6			n/a
MINIMUM LOT SIZE	4,000 SF.	3718 SF.	n/a	Legal nonconforming
HEIGHT	30 FT.	20 FT.	20 FT.	Complies
DENSITY (16 DU/ACRE)	1.36	3	3	1 of the 3 units is unusable
FRONT SETBACK	10 FT.	7.5 FT.	n/a	Legal noncomplying
SOUTH SIDE SETBACK	5 FT.	1 FT. 11 IN. (PRINCIPAL STRUCUTRE)	5 FT. (POOL AND GAZEBO)	Complies
NORTH SIDE SETBACK	5 FT.	1 FT. 9 IN.	1 FT. 9 IN.	Variance Request -3 FT. 3 IN.
REAR SETBACK	15 FT.	4 FT. 2 IN.	4 FT. 2 IN.	Variance Request -10 FT. 8 IN.
MAXIMUM BUILDING COVERAGE	40% -- 1487 SF.	57% -- 2120 SF.	49% -- 1804 SF.	Variance Request 9%, or +317 SF.
MAXIMUM IMPERVIOUS SURFACE	60% -- 2231 SF.	100% -- 3718 SF.	64% -- 2379 SF.	Variance Request 4%, or +148 SF.
MAXIMUM ACCESSORY COVERAGE	30%	99%	92%	Variance Request +62%

The applicant is requesting variances from the following sections of the City of Key West Land Development Regulations:

- **Sec. 122-600(4)** – Maximum lot coverage:
 - (a): Maximum building coverage; 40 percent
 - (b): Maximum impervious surface ratio; 60 percent.
- **Sec. 122-600(6)** – Minimum setbacks:
 - (b): Side: 5 feet
 - (c): Rear: 15 feet
- **Sec. 122-1181** – Permitted and restricted uses

The variances for the rear and side setbacks are being requested in accordance with Section 122-28(b) of the City's LDRs. The Code section requires a variance approval to reconstruct a noncomplying accessory structure. The accessory structure is being modified; however, no changes are proposed for the structure's existing noncomplying rear and side setbacks.

In addition to altering the accessory structure, the applicant is proposing to modify the site's lot coverage ratios, including building coverage, impervious surface, and rear yard coverage for accessory structures. The total building lot coverage is being reduced by approximately 316 SF however, it will continue to exceed the permitted building coverage by 317 SF or 9%. The site's impervious surface is currently 100%, but with the proposed changes to the site, the impervious surface will improve by 36%. However, with the improvements, the lot will still exceed the maximum surface ratio by 4% or 148 SF.

Process:

Development Review Committee:	N/A
Planning Board:	April 21, 2022
HARC:	TBD
Local Appeal Period:	10 days
DEO Review:	Up to 45 days

Staff Analysis- Evaluation:

The criteria for evaluating a variance are listed in Sections 90-391 through 397 of the City of Key West Land Development Regulations (LDRs). 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 parcel located at 1202 Royal Street does not conform to the minimum lot size required by Code. Per the LDRS, the minimum lot size for properties in the HMDR zoning district is 4000 SF, while the subject property has a lot size of 3717.6 SF. The site's noncompliance is exacerbated by the structures on the property which exceed the building coverage allowances and do not comply with the minimum setback requirements. These conditions are typical for many lots in the historic district and do not present a special circumstance. In August 2021, the current owner purchased the property. While the proposed redevelopment of the site may reduce the property's noncompliance with the LDRs, the applicant is requesting relief from the code.

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 site's impervious surface area, building coverage, rear yard coverage, and required setbacks do not

comply with the current zoning regulations. The current property owner purchased the home in 2021 with the existing conditions. The new owner intends to alter and reduce their noncompliance

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.*

The Land Development Regulations set maximum building coverage, impervious surface ratios, and setbacks to ensure life safety, general welfare, health standards, and aesthetics. The proposed demolition of portions of the rear structure results in the need for the rear and site setback variance requests. The proposed accessory structures (a pool and gazebo) will comply with the development standards. The proposed redevelopment seeks to improve the site's building coverage and impervious surface ratio; however, the site will still exceed the Code allowances by approximately 9% and 4% respectively. No special privileges are being conferred.

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 the other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.*

The parcel is substandard and does not meet the minimum lot size required, which creates limitations for the property owner. The existing noncompliant structures were in existence prior to the purchase by the current property owner. Staff notes that the proposed pool and gazebo will comply with required setbacks.

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.*

There are multiple existing non-complying conditions (building coverage and impervious surface, rear yard coverage, and setbacks) on this property. The variances requested are not the minimum required that will make possible the reasonable use of the land, however it is the minimum to retain the existing rear structure for habitable space and to provide accessory structures for the property owner's reasonable use of the land. The alteration to the rear structure provides space for the proposed pool and cabana installations. These accessory structures, as shown on plans, comply with the City's land regulations.

PARTIALLY 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 variances are in harmony with the intent of the land development but may be detrimental to neighboring properties. Staff is recommending a condition of approval as it relates to stormwater management on the site. Considering the setbacks of the altered accessory structure are minimal and noncomplying, it is prudent the applicant supplements the structure's roof with rain gutters that discharge onto a landscaped area within the property's boundaries.

NOT IN COMPLIANCE

7. *Existing nonconforming uses of other property shall not be considered as 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 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 the City Code have been met by the applicant for a variance.

The standards established by the City Code have not been fully met by the applicant for the variances requested.

That the applicant has demonstrated "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 variances requested as of the date of this report.

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 increase or has the effect of the 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 which is permitted by the comprehensive plan or Land Development Regulations.

RECOMMENDATION:

Based on the existing conditions, the Planning Department recommends to the Planning Board **DENIAL** of the proposed variances given all review criteria have not been met.

If the Planning Board chooses to approve the variances, the Planning Department recommends the following conditions:

1. The proposed construction shall be consistent with the signed and sealed plans prepared by K2M Architects and dated March 25, 2022.
2. The property owner shall install rain-gutters along the eaves of the roof for the reconstructed accessory structure. The property owner shall ensure the downspout is directed to discharge back onto the property, preferably onto a landscaped swale area.