

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



To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Daniel Sobczak, Planner I

Meeting Date: July 16th, 2020

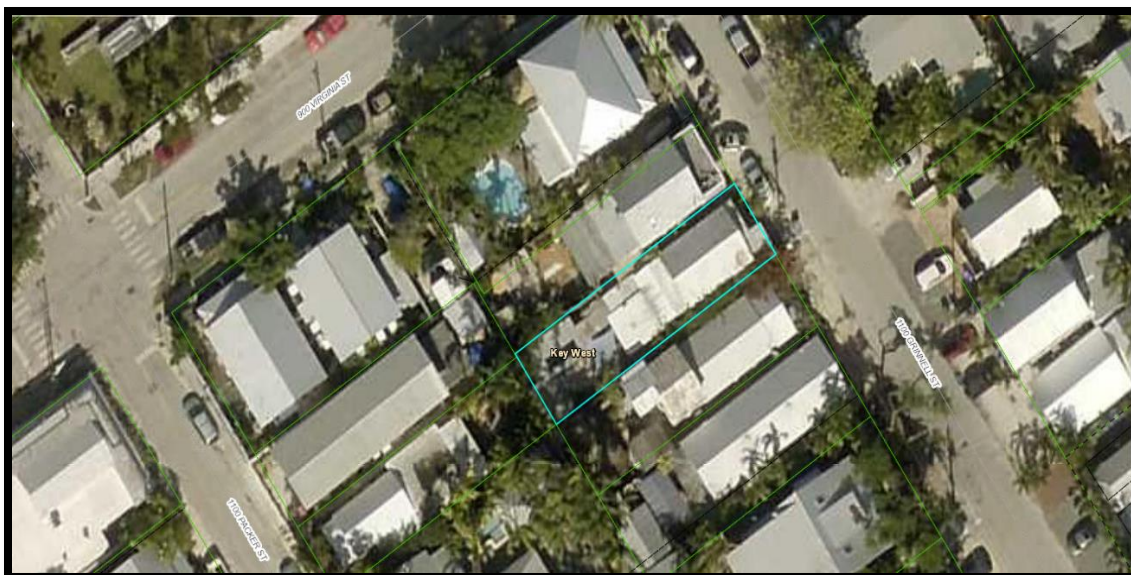
Application: Variance – 1106 Grinnell Street (RE # 00031510-000000) – A request for a variance to side setbacks, rear setbacks, an increase in maximum allowed impervious surface ratio and an increase in maximum allowed building coverage in the Historic Medium Density Residential (HMDR) zoning district in order to rebuild a non-conforming rear structure pursuant to sections 90-395, 122-600 (6)b, 122-600 (6)c, 108-346 (b) and 122-1181 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is requesting a variance to encroach into the rear setback and both side setbacks, as well as an increase in building coverage and impervious surface ratio above the HMDR zoning district requirement. The applicant is proposing to rebuild a non-historic rear accessory structure, as well as demolish the rear non-historic portion of the historic principal structure and add a new rear addition in its current footprint. Legal non-complying structures are allowed to be rebuilt in their current footprints per Section 122-28. The reconstruction of the rear accessory structure in its current footprint shall require a variance to be rebuilt per Section 122-28.

Applicant: Meridian Engineering LLC

Property Owner: Thomas Fortin

Location: 1106 Grinnell Street (RE # 00031510-000000)



Background:

The subject parcel is located at 1106 Grinnell Street. The main structure is a historically significant frame structure that is contributing to the Key West Historic District. The main structure was constructed in 1920. The historic structure is connected to a non-historic addition built in 1974. The non-historic addition was not built in accordance to the zoning regulations in place in 1974. A rear accessory structure was also constructed in 1974 and was also constructed not in accordance to the zoning regulations in place in 1974. The lot is currently too narrow to meet LDR requirements for HMDR lots, the minimum requirement is 40' wide and 90' long, the subject parcel is 26' wide and 94' long and is considered a legal non-conforming lot.

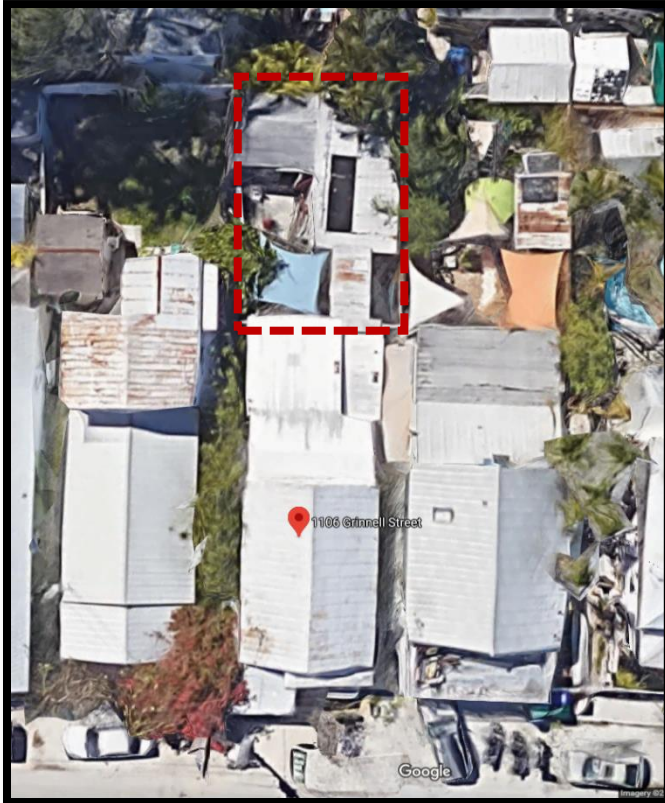
The historic Monroe County Property Record Card shows that the rear accessory structures were constructed in 1974. At the time of construction, the property was located in the R-2 (Residential) zoning district which used requirements from the 1969 City Zoning Ordinance. The minimum requirements in the R-2 zoning district were more stringent than the present code requirements; 20' front setback, 5' side setback, and 20' rear setback. Both the rear addition and the accessory structures in the rear were non-complying to city code in both setbacks and lot coverage when they were constructed in 1974. The Planning Department has not been able to locate permits for the structures when they were initially constructed and have not been supplied with these permits by the applicant. The Planning Department cannot locate or was not supplied with a certificate of occupancy for either the rear addition to the principal structure nor the rear accessory structure.

Site Data Table				
	Code Required	Existing	Proposed	Variance Request
Zoning	HMDR			
Flood Zone	X			
Size of Site	3,600 sqft	2,451 sqft		
Height	n/a	n/a	n/a	n/a
Front Setback	10'	0"	n/a	n/a
Left Side Setback	5'	3.75'	3.75'	1.25'
Right Side Setback	5'	0"	0"	5'
Rear Setback	15'	23.17"	3'	12'
Building Coverage	40% -- 980.4, sqft	71% -- 1,739 sqft	69.2% -- 1,696 sqft	715.6 sqft
Impervious Surface	60% -- 1,470 sqft	92% -- 2,250 sqft	73% -- 1,788 sqft	663 sqft
Parking	n/a	n/a	n/a	n/a
Accessible Parking	n/a	n/a	n/a	n/a
Bicycle Parking	n/a	0	n/a	n/a
Open Space	35% -- 858	8.2% -- 201 sqft	27% -- 663 sqft	8% -- 195 sqft
Consumption Area	n/a	45 Seats	n/a	n/a

Section 90-356 of the Land Development Regulations state that no structure shall be altered without a building permit. This variance stems from an active code case, CC 2019-01503. The applicant performed construction work in the rear of the property without the benefit of a permit; the construction work consisted of raising the roof on the rear structure and connecting it to the main structure. It was noted by a City of Key West Code Officer as not being attached/installed correctly. The code case and two building permit applications submitted by the homeowner are currently pending. The homeowner applied for

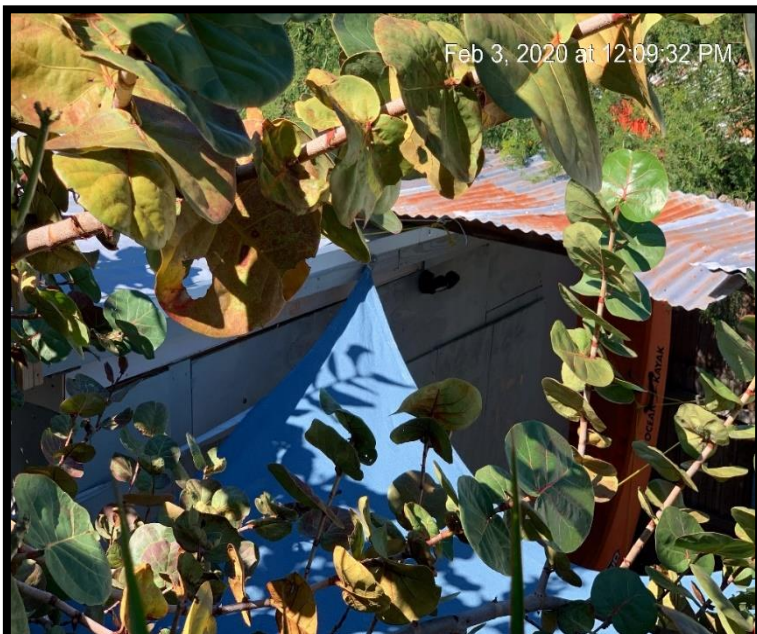
roofing and exterior renovation permits that have been in corrections since December due to the inability to perform a site-visit. A site-visit was requested by both the Planning Department and the Building Department. With the illegal roof construction, it is unclear if the rear structure(s) are habitable or deemed safe for occupancy.

Subject Parcel



1106 Grinnell, Google Images, 2020

The satellite picture shows the main structure in the front of the property and the subject structures in the red dashed box. Inside the box at the rear of the property are several non-complying buildings. With new illegal and improper construction work, and the inability to perform a site visit, it is unclear if these structures are habitable. Furthermore, the city was unable to obtain a floorplan of the structures from the applicant after repeated attempts. Without a floor plan, the City and the Planning Board cannot be sure what the reconstruction is for, if it includes bedrooms, bathrooms, kitchens, etc.



1106 Grinnell, Code Officer Patton, 2020

Documented picture taken by City of Key West Code Officer Patton for the unpermitted roof construction.

Staff Analysis - Evaluation:

The applicant is applying for the reconstruction of a non-complying accessory structure in the rear yard, according to Section 122-28; all non-complying accessory structures shall require a variance to allow reconstruction. Any reconstruction of a legal non-complying principle structure does not require a variance by the Planning Board.

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 subject lot has a legal non-conforming size, the HMDR code includes dimensional regulations of 40' by 90', the lot is 26' by 94'. The lots to either side of the subject parcel are also non-conforming. The lot to the north is 22' by 94' and the lot to the south is 26' by 94'. The accessory structure does not conform to city code and did not conform to zoning restrictions when they were constructed.

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 current owner purchased the property in 2017. There are no variances or notes for the property that show that past owners applied for or were granted variances or other administrative leniencies that would have granted the non-complying structures. The current owner constructed a roof segment without a permit on the accessory structures thereby expanding their noncompliance, as documented in Code Case 2019-01503.

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 state that all non-complying accessory structures shall require a variance to be rebuilt. The current non-complying structures will be rebuilt in their existing non-complying footprint. The rear structure currently is on the property line or is over the property line in some areas. In granting a variance to rebuild a non-conforming structure that has been non-complying since it was built and has expanded its noncompliance without a permit would confer special privileges to the homeowner.

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 parcel at 1106 Grinnell is narrower than the Code requirements for the HMDR zoning district. Although the lot is narrower than required, other configurations for the lot are plausible that would lessen the variances for building coverage and impervious surface ratio. Literal interpretation of the provisions of the Land Development Regulations would not deprive the applicant of rights commonly enjoyed by other surrounding properties 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 variance requested is not the minimum required that will make possible the reasonable use of the land, building and/or structure. It is reasonable that the applicant could reconstruct the non-complying accessory structure in such a way that most of the building could be within the allowable building envelope, not reconstructed on a neighboring parcel, and/or reconstructed to have smaller footprint that does not drastically increase impervious surface and building coverage.

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.*

Rooftop runoff from accessory structures should be contained on the subject property. It is unlikely that the accessory structure will be able to contain all rain runoff on their own property as the accessory structure is over the property line into the neighbor's yard. A five-foot setback for all accessory structures has been established in part in order to ensure that each homeowner to mitigate all rainwater runoff on their own property. Excess rainwater runoff from a neighboring property could cause harmful effects on the neighboring property.

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 received multiple comments in opposition of the proposed variance from both abutting property owners and surrounding property owners in the neighborhood. The applicant has not submitted any evidence to suggest they have made an effort to contact surrounding property owners or neighbors.

Recommendation:

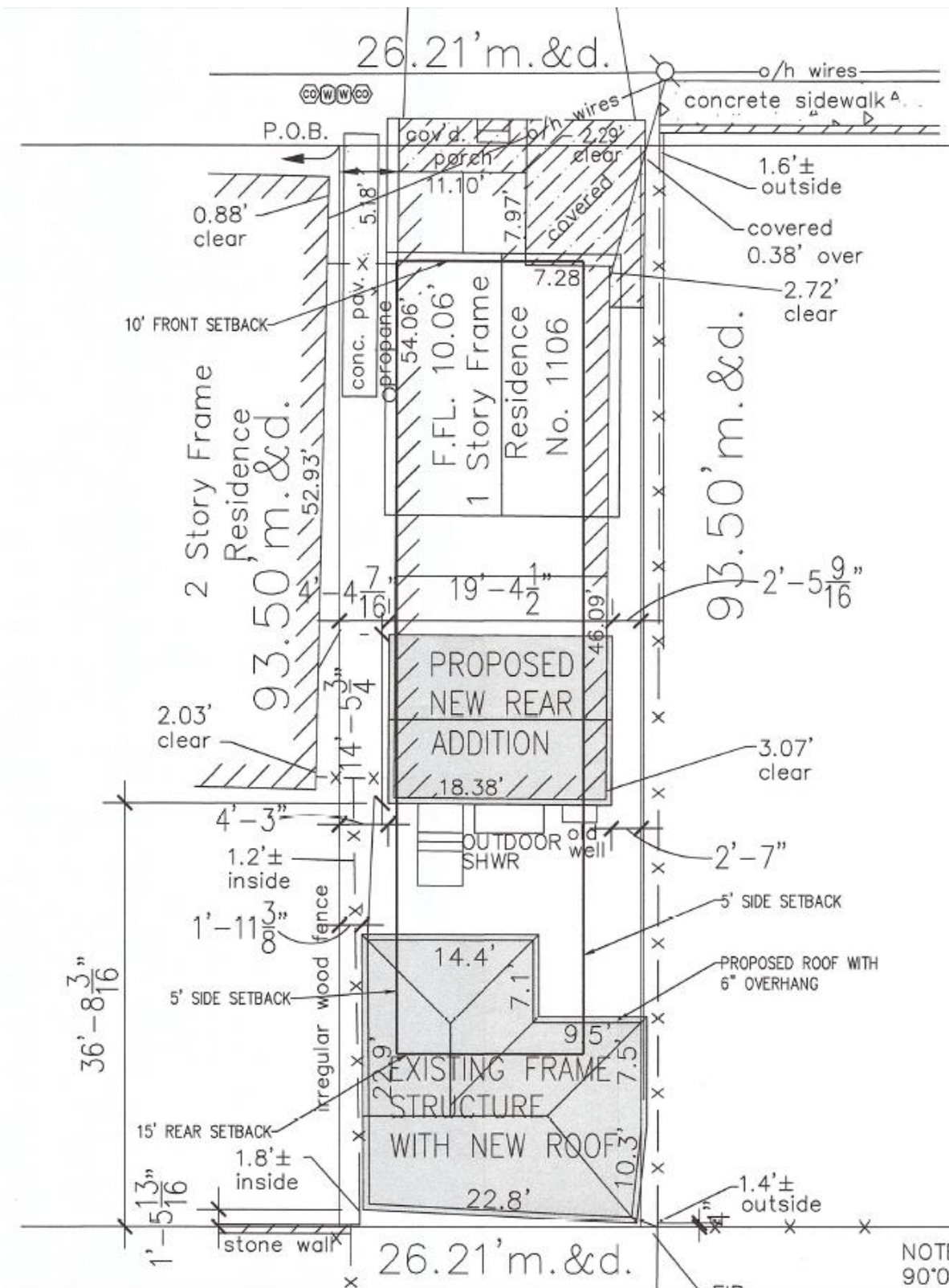
Pursuant to Section 122-750 of the Code, the current parcel is non-complying in building coverage, open space, and impervious surface ratio. Section 122-28 allows legal non-complying accessory structures to be rebuilt with a variance. Unlike legal non-complying dwelling units that can be rebuilt without a variance, the Planning Board is tasked to reevaluate non-complying accessory structures. This allows the Planning Board to assess if the structures are appropriate and meet all criteria for a variance. The proposed accessory structure currently increases the impervious surface and building coverage beyond the maximum allotted in the Land Development Regulations. The structure also decreases the property’s open space below the required minimum of the Land Development Regulations for this zoning district. An increase in impervious surface and building coverage and a decrease in open space greatly inhibits the parcel to be able to mitigate rainwater runoff and may send this runoff into neighboring parcels or into the City’s stormwater system. There are no records of building permits being approved for the principal structure addition or the accessory structure, nor are there any historical records of these structures being granted variances for their non-complying dimensions. Furthermore, without a floorplan for the structures it is unclear what the Planning Board and the Planning Department will be approving with an affirmative vote.

Based on a review of the application according to the stringent evaluation criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for a variance be **DENIED**. If the Planning Board chooses to approve these variance request, Staff suggests incorporating the following conditions of approval:

1. The applicant supply floor plans prior to any building permit approval.
2. A restrictive covenant by signed stating the rear structures are not to be used as dwelling unit or transient accommodations.
3. All rainwater runoff from accessory structures be captured on the property.

4. A swale or another mitigative technique be implemented on the property to mitigate for the increase in impervious space, building coverage, and lessening of open space, Section 108-346.
5. Proposed building plans must be concurrent with plans submitted by Meridian Engineering on 7/8/2020. Any alteration will need approval from the Planning Department or the Planning Board.

Proposed Site Plan, Meridian Engineering LLC, 2020



Existing Site Plan, Meridian Engineering LLC, 2020

