

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



**To:** Chairman and Planning Board Members

**Through:** Katie P. Halloran, Planning Director

**From:** Jordan Mannix-Lachner, Planner II

**Meeting Date:** November 21, 2024

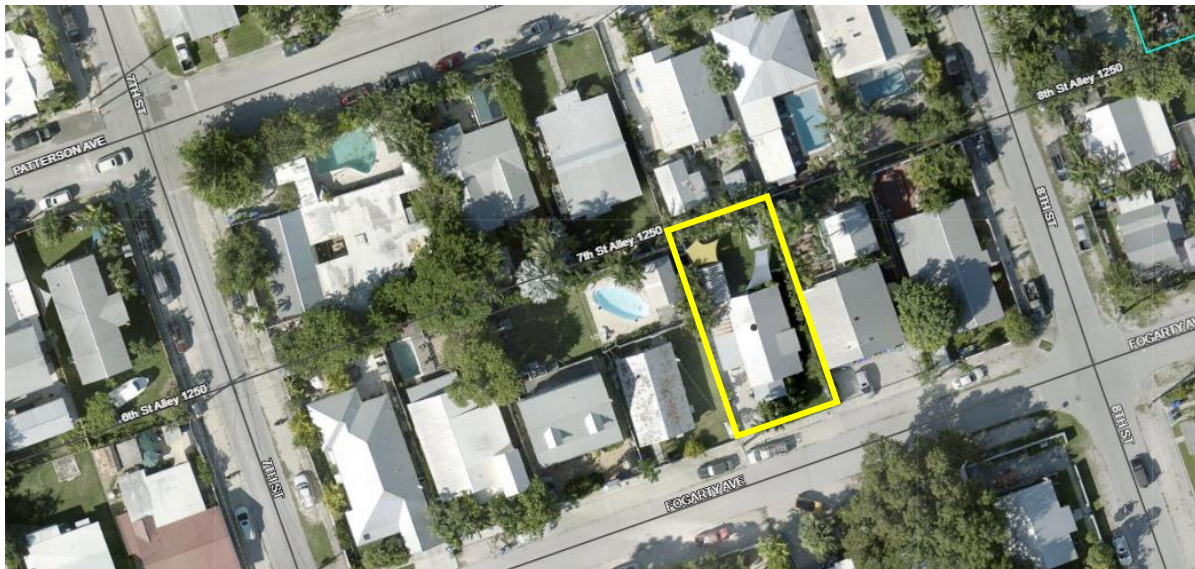
**Application:** **Variance – 2509 Fogarty Ave (RE# 00050550-000000)** – A request for a variance to maximum building coverage and the maximum size of a rear yard accessory structure in order to build an approximately 600 square-foot, 23-foot high detached habitable structure with a wet bar, bathroom, bedroom and storage at property located in the Single-Family zoning district, pursuant to Sections 90-395, 122-238, 122-1181 of the Land Development Regulations of the City of Key West, Florida.

**Request:** A request for a variance to maximum building coverage and the maximum size of a rear yard accessory structure in order to build detached habitable space on a single-family property.

**Applicant:** Carlos Rojas, Architect

**Property Owner:** Vasil Jolev & Maja Stamenovska

**Zoning:** Single-Family zoning district



## Background & Request

The subject property is a 5,000 square foot lot of record located at 2509 Fogarty Avenue in the Single-Family zoning district. The site contains a single-family home with 1,188 square-feet (sq. ft.) of finished floor area and approximately 400 sq. ft. of outdoor porch and patio space. The rear yard includes a pergola and an approximately 100 sq. ft. shed. The shed, along with portions of a covered patio area, would be demolished.

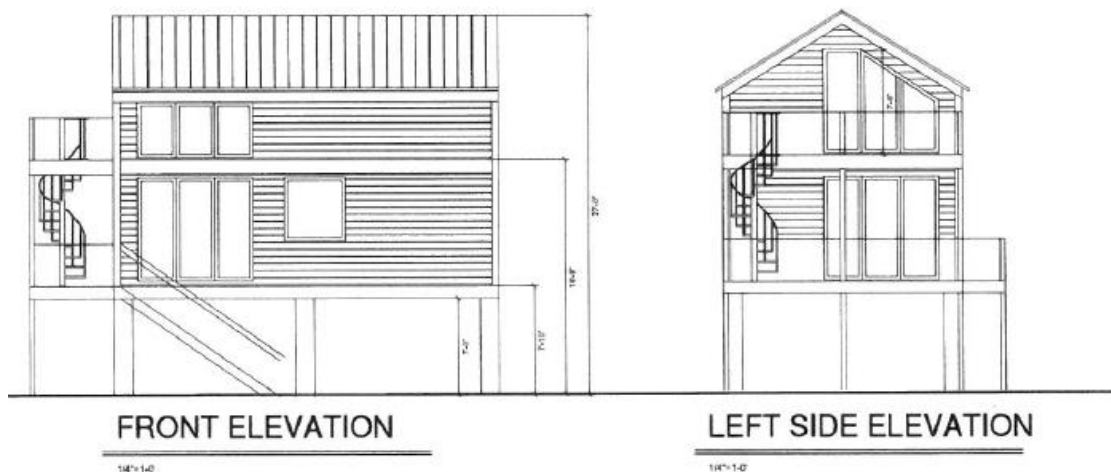
The property owners propose to construct a two-story elevated accessory structure in a 606 sq. ft. footprint. The first floor would contain a bedroom, living area, bathroom, and wet bar. The second floor would accommodate storage. The proposed finished floor elevation and total height is 7'10" and 27', respectively. Both floors will also contain a 100-square foot balcony. The applicant also proposes a 400 sq. ft. swale for stormwater retention.

The applicant states that the purpose of the request is to accommodate medical needs of the property owners' daughter who was born prematurely in 2023, leading to respiratory illness and compromised lung development. The applicant states that air quality tests of the principal dwelling have indicated levels of mold/mildew that further compromises their daughter's lung development and aggravates her respiratory illness. The property owner proposes to build a new, elevated structure to provide a mold and mildew-free nursery.

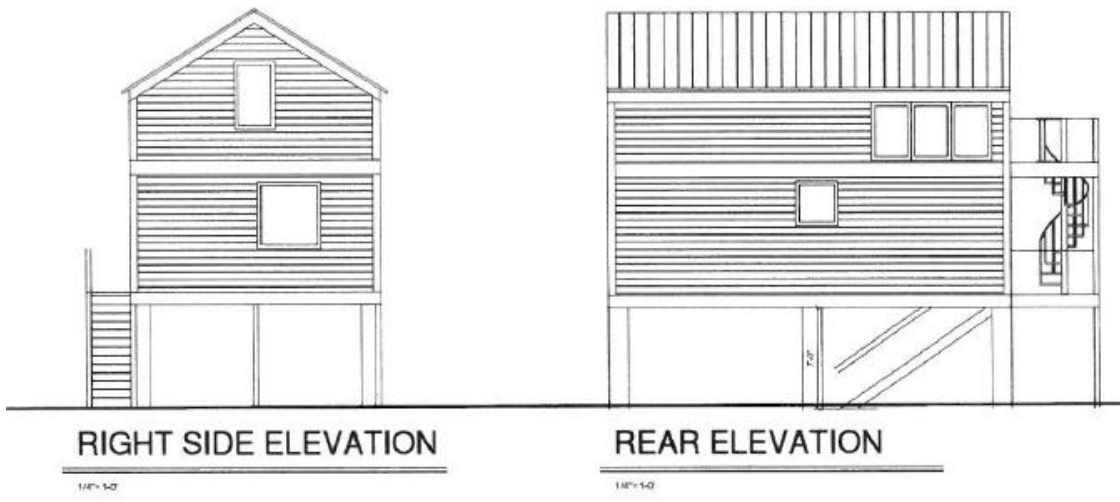
The applicant requests a variance to maximum building coverage and to the maximum size of an accessory structure, which per Code shall be no more than 30% of the required rear yard. The proposed building coverage is 330 SF (or 6.4%) above the maximum permitted. The accessory structure would be 300 SF (or 202%) greater than the maximum permitted size.

	Max. Permitted	Existing	Proposed
<b>Building Coverage</b>	35% (1,750 SF)	35.2% (1,759 SF)	41.6% (2,080 SF)
<b>Accessory Structure (% of req'd rear yard)</b>	30% (300 SF)	N/A	60.6% (606 SF)

## ELEVATIONS

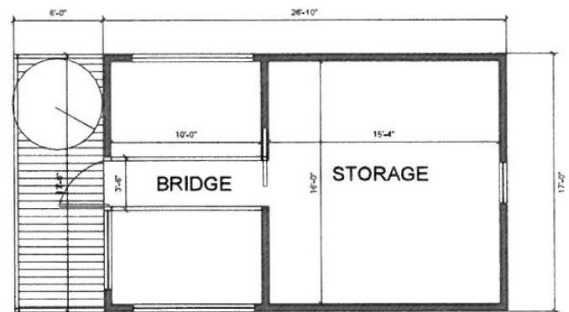
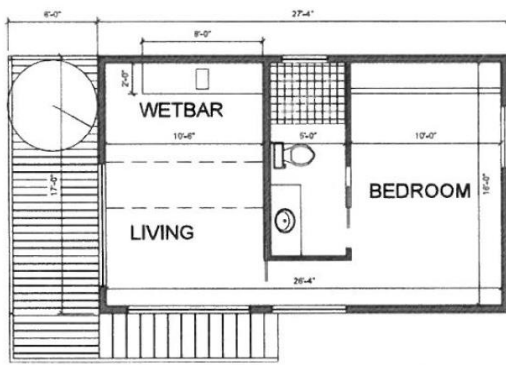


# ELEVATIONS

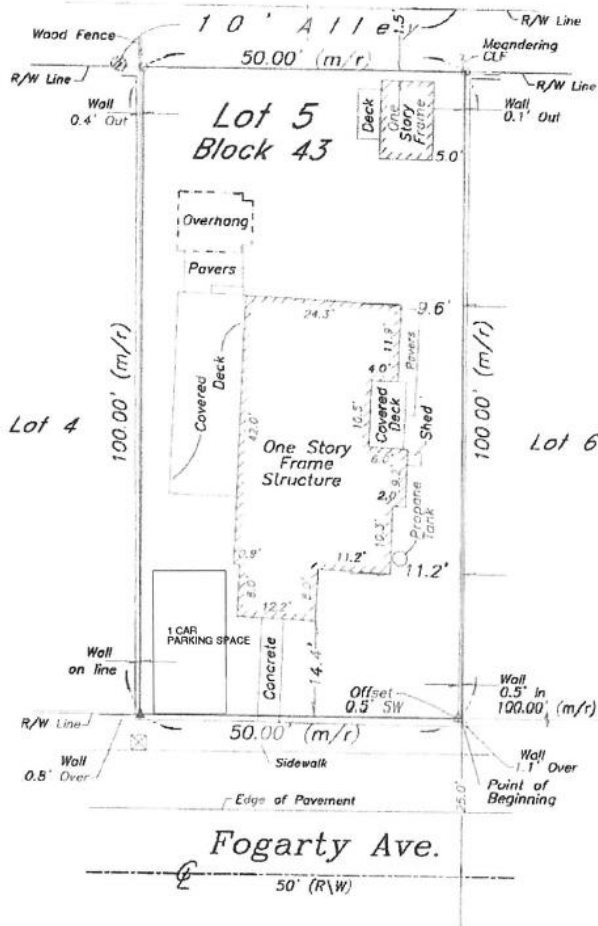


## FIRST FLOOR PLAN

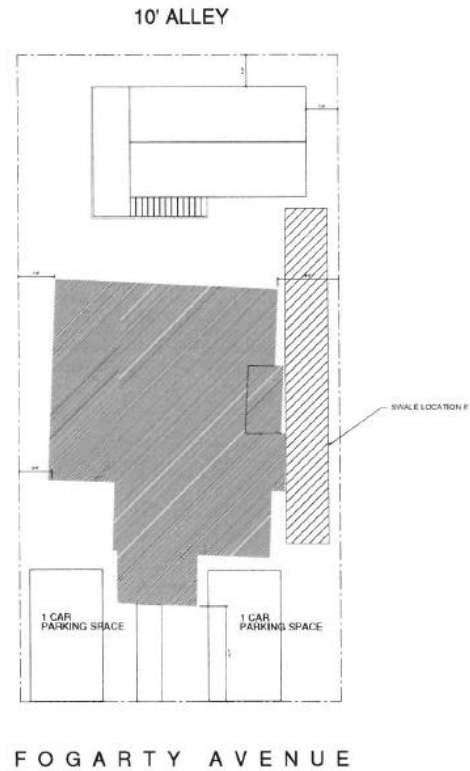
## SECOND FLOOR PLAN



**EXISTING SITE PLAN**



**PROPOSED SITE PLAN**



**SITE DATA**

	<b>Permitted</b>	<b>Existing</b>	<b>Proposed</b>
<b>Lot Size</b>	6,000 sq. ft.	5,000 sq. ft.	5,000 sq. ft.
<b>Building Coverage</b>	35% (1,750 sq. ft.)	35.2% (1,759 sq. ft.)	41.6% (2,080 sq. ft.)
<b>Impervious Surface</b>	50% (2,500 sq. ft.)	36.3% (1,815 sq. ft.)	42.7% (2,136 sq. ft.)
<b>Open Space</b>	30% (1,500 sq. ft.)	63%	57.3%
<b>Building Height</b>	25'*	12' (Principal Structure)	27' (Accessory Structure)
<b>Accessory Structure Setbacks</b>			
<b>Accessory Structure Setbacks</b>	East Side	5'	5'
	West Side	5'	11'8"
	Rear	5'	5'

\*Plus 5' for nonhabitable space for structures with a pitched roof. The principal structure height will remain the same. The accessory structure will be 27' as measured from the crown of road.

**Process:**

Planning Board Meeting:	October 17, 2024
Local Appeal Period:	10 Days
Planning renders to DOC for review:	Up to 45 days

**Staff Evaluation:**

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.*

There are no special circumstances which exist that 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.

**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.*

There are no special conditions or circumstances that exist.

**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.*

Granting the variance would confer on the applicant the ability to develop in excess of the dimensional regulations for the Single-Family zoning district.

**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.*

Literal interpretation of the provisions of the land development regulations would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district. All properties in the zoning district may erect accessory structures in accordance with dimensional regulations. The applicant would be able to construct a habitable accessory structure without a variance.

**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 variance that will make possible the reasonable use of the land, building or structure. The applicant could build a detached habitable space without a variance by removing 300 SF of the covered deck and reducing the size of the accessory structure to a 300 SF footprint.

**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.*

Single-family zoning district regulations are established to preserve open space and protect the quality and character of existing single-family neighborhoods. Variances to lot coverage would not be in harmony with those general goals. The size, height, and elevated balconies on the proposed structure may result in adverse impacts to neighbors in terms of privacy and access to light.

**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 nonconforming uses of other properties are not the basis of 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:**

1. *That the standards established by Section 90-395 of the City Code have been met by the applicant for a variance.*

Staff has found that the standards established by Section 90-395 of the City Code have not been met by the applicant.

2. *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.*

At this time staff is not aware of any objections expressed by neighbors.

**Recommendation:**

The variance request to the maximum permitted building coverage and maximum size of an accessory structures does not meet all the criteria stated in Section 90-395. Therefore, the Planning Department recommends that the request for a variance be denied.

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

**General Conditions:**

1. The proposed work shall be consistent with the attached plans signed and sealed on July 24, 2024 by Carlos Rojas. Construction of the swale depicted in the plans shall be completed prior to issuance of a Certificate of Occupancy. Runoff from the proposed structure shall be directed to the swale.
2. The property owner shall not rent, barter or lease the accessory structure separately from the principal dwelling unit.