



THE CITY OF KEY WEST

PLANNING BOARD

Staff Report

To: Chairman and Planning Board Members

Through: Taylor Brown, Planning Director

From: Ben Gagnon, Planner II

Meeting Date: May 21, 2026

Application: **After-the-Fact Variance – 1224 2nd Street (RE# 00031000-000100)**
An after-the-fact request for a variance from the minimum side yard setback, minimum street side setback, minimum rear yard setback, and minimum front yard setback requirements to allow two elevated decks and the replacement of two front porch roofs at an existing multifamily residential property located in the Medium Density Residential (MDR) zoning district, pursuant to Sections 90-395 and 122-270 of the Code of Ordinances of the City of Key West, Florida.

Request: The variance request is triggered by an unpermitted addition of two large 2nd level porches with exterior staircases.

Applicant: Max Heller

Property Owner: Max Heller

Zoning: Medium Density Residential (MDR)



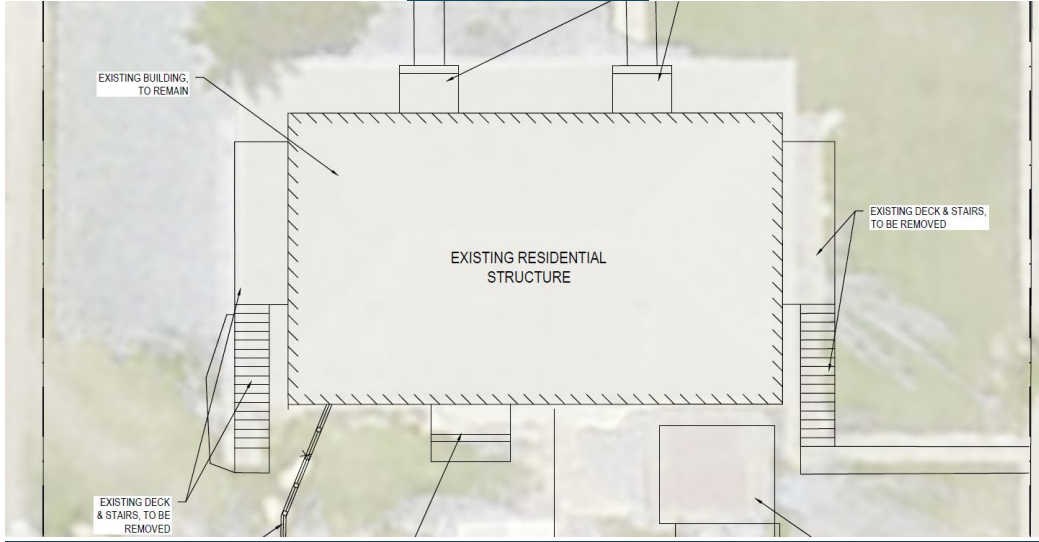
Background & Request

The subject property is a residential four-plex on a 7,000 square-foot parcel located at 1224 2nd Street. The applicant has constructed two raised 2nd story porches with exterior staircases to access the upper level units.

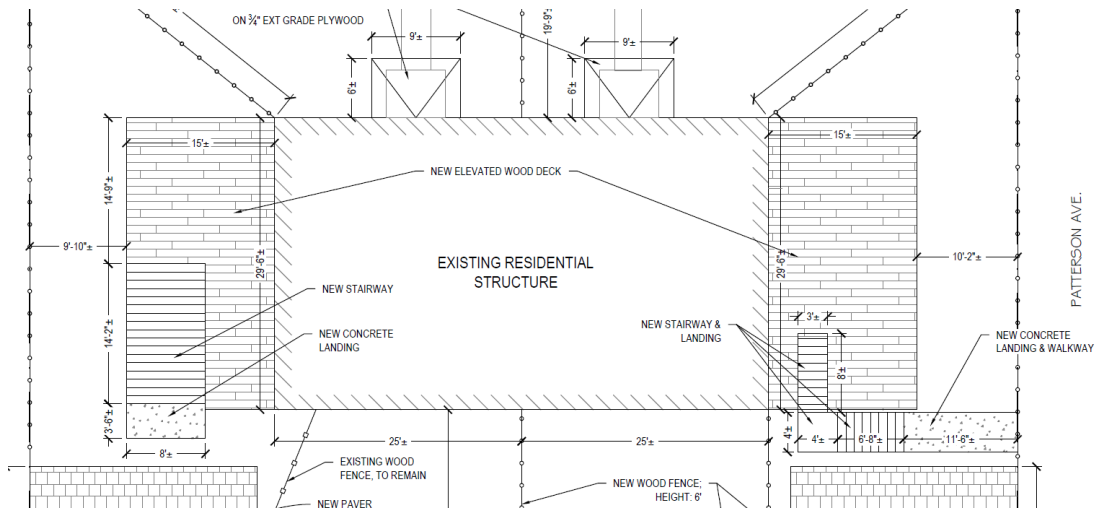
SITE DATA

Zoned	Permitted	Existing	Proposed	Variance?
Lot Size	Minimum of 43,560 sq ft (1 acre)	7,000 sq. ft.	-	
Building Coverage	40% MAX	1,958 (28%)	2,474 (35%)	No
Impervious Surface	60% MAX	1,938 (28%)	2,416 (35%)	No
Open Space	35% MIN	72%	65%	No
SETBACKS				
Front Setback	30'	13' 9"	13' 9"	<u>YES</u>
South Side Setback	25'	10' 2"	10' 2"	<u>YES</u>
North Side Setback	25'	9' 10"	9' 10"	<u>YES</u>
Rear Setback	25'	20' 9"	20' 9"	<u>YES</u>

Existing Site Plan



Proposed Site Plan



Current Site Photograph (Google Street view Nov 2025)



Process:

Planning Board Meeting:	May 21 st , 2026
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.*

The lot is just 16% of the required minimum lot size of 1 full acre in the Medium Density Residential Zoning District. On a 70' by 100' lot with the setbacks of the MDR zoning district, the buildable area one would have to comply with setbacks is just 750 square feet.

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 conditions are the result of unpermitted construction undertaken by the applicant. Variances are not intended to remedy conditions created by such actions.

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 build into the setbacks which is not permitted for other properties in the same 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 are subject to the same zoning requirements.

However, the setback requirements and minimum lot requirements of the MDR zoning district constrict the applicant to a buildable area that is not achievable for a four unit structure.

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 reasonable use of the land, building, or structure. The structure currently functions as a dwelling.

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 variance is not likely to be injurious to the area involved or 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 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.*

While not a strict variance criterion it is important to note for the report that as of May 1st, staff have received no letters of objection and no letters of support for this item from surrounding neighbors.

Recommendation:

The after-the-fact request for a variance from the minimum side yard setback, minimum street side setback, minimum rear yard setback, and minimum front yard setback requirements to allow two elevated decks and the replacement of two front porch roofs at an existing multifamily residential property does not meet all seven of 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 signed and sealed plans on November 18th, 2023 by Stephen Lee Markey.