

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



To: Chairman and Planning Board Members
Through: Patrick Wright, Planning Director
From: Melissa Paul-Leto, Planner Analyst
Meeting Date: November 16, 2017
Agenda Item: **Variance - 2615 Harris Avenue (RE# 00048430-000000)** - A request for a variance to the minimum front setback requirements in order to install a modular single family residence on property located within the Single Family (SF) Zoning District of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida pursuant to Sections 90-395, and 122-238(6) a.1, of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is installing a new modular single family residence onto a vacant lot. The placement of the modular home encroaches into the front setback of the property.
Applicant: Rick Milelli, Merdian Engineering LLC
Owner: Freddy Varela
Location: 2615 Harris Avenue (RE# 00048430-000000)
Zoning: Single Family (SF) Zoning District



Background and Request:

The property consisted of a one story wood frame house within the 5,500 square feet of parcel. On August 7, 2017 the house was demolished. The lot is currently vacant. The applicant is proposing to install a new modular three bedroom, two bathroom single family residence. The proposed modular home’s depth encroaches 5 feet 11 inches into the required front yard setback.

Relevant SF Zoning District Dimensional Requirements: Code Section 122-238				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Flood Zone	AE 7			
Minimum lot size	6,000 SF	5,500 sq. ft.	5,500 sq. ft.	In compliance
Maximum height	25 feet + 5 feet non-habitable	N/A	22 feet 11 inches	In compliance
Minimum front setback	20 feet	N/A	14 feet 1 inch	(Variance Requested 5 feet 11 inches)
Minimum side setback	5 feet	N/A	5 feet	In compliance
Minimum rear setback	25 feet	N/A	25 feet	In compliance
F.A.R.	1.0	N/A	.29	In compliance
Maximum building coverage	35% (1,925 sf)	N/A	33.9% (1,868 sf)	In compliance
Maximum impervious surface	50% (2,750 sf)	N/A	40% (2,229 sf)	In compliance
Minimum Open Space	35% minimum (1.925sf)	N/A	59% (3,271 sf)	In compliance

Process:

Planning Board Meeting:

November 16, 2017

Planning Board Meeting:

October 19, 2017

(Postponed by Planning Board)

Local Appeal Period:

30 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.*

The land, structures and buildings involved are located on the property within the SF zoning district. The required minimum lot size in the SF zoning district is 6,000 square feet. The 2615 Harris Avenue property has a lot size of 5,500 square feet. The lot was developed prior to the adoption of the current Land Development Regulations (LDRs).

However, many other land, structures and buildings within the SF Zoning District were also developed prior to the adoption of the current LDRs. Therefore, there are no special conditions or circumstances that exist that are peculiar to the land, structures or buildings involved.

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 property owner has chosen a modular home design with a depth dimension that encroaches into the required front yard. The conditions are created 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.***

The proposed variance request for the front setback encroachment is due to the modular home's depth dimension. The property owner has chosen this particular modular home design. There are alternative modular home designs where the width and depth dimensions would not encroach into any of the setbacks on the 5,500 square foot lot. Therefore, granting the variance request would confer special privileges upon the applicant denied by the land development regulations to other lands, buildings or structures 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.***

Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the SF Zoning District. The property owner may choose from a variety of three bedroom and two bathroom modular home design options that are within a smaller footprint which would not require the need for a variance request. Therefore, hardship conditions do not exist.

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, or structure. However, it is 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.*

Due to not being in compliance with all of the standards for considering variances, the granting of the requested variances would be injurious to the area involved and otherwise detrimental to the public interest.

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 variance 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.

Pursuant to Code Section 90-392, in granting such application the Planning Board must make specific affirmative findings respecting each of the matters specified in Code Section 90-394.

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 increases or has the effect of 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 permitted by the comprehensive plan or these LDRs.

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**.