

**THE FIRST ITEM IS
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 I

Meeting Date: November 15, 2018

Agenda Item: **Variance – 420 Grinnell Street – (RE# 00005420-000000)** – A request for variances to the minimum side setback, maximum allowed building coverage, maximum allowed impervious surface, and to allow for an accessory structure to be erected in the required front yard on property located within the Historic Medium Density Residential (HMDR) Zoning District pursuant to Sections 90-395, 122-600(6)(b), and 122-600(4)(a), 122-600(4)(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 seeking variances to the minimum side setback, maximum allowed building coverage, maximum allowed impervious surface requirements as well as allowing an accessory structure to be erected in the required front yard to construct an accessory structure.

Applicant: Anthony D. Sarno, P.A.

Property Owner: Randall & Brandy Shapiro

Location: 420 Grinnell Street – (RE# 00005420-000000)

Zoning: Historic Medium Density Residential (HMDR) zoning district



Background/Request:

The property at 420 Grinnell Street is located within the HMDR zoning district between Eaton and Fleming Street. One lot of parcel consisting of a two-story wood framed single family residence and, a one-story wood framed accessory structure in the required front yard.

The applicant is proposing to construct an addition to the rear of the existing one-story accessory structure. There are no building permits for the 190 square foot existing accessory structure. The proposed addition will extend the non-conforming side setback encroachment by four feet 2 inches. The property is currently non-conforming with the maximum building coverage and impervious surface. The accessory structure addition has triggered variance requests to the minimum side setback, maximum building coverage, maximum impervious surface requirement, and to allow an accessory structure to be erected in the required front yard.

| Relevant HMDR Zoning District Dimensional Requirements: Code Section 122-600 | | | | |
|---|--------------------------------|----------------------------------|----------------------------------|--|
| Dimensional Requirement | Required/ Allowed | Existing | Proposed | Change / Variance Required? |
| Minimum Height (accessory structure) | 30 Feet | 14 Feet 2 Inches | 14 Feet 2 Inches | In compliance |
| Minimum lot size | 4,000 Square Feet | 3,800 Square Feet | 3,800 Square Feet | In compliance |
| Maximum building coverage | 40% (1,520 Square Feet) | 51.1% (1,943 Square Feet) | 52.4% (1,993 Square Feet) | Variance Required (12.4%) 472 Square Feet |
| Maximum impervious surface | 60% (2,280 Square Feet) | 60.7% (2,307 Square Feet) | 62% (2,358 Square Feet) | Variance Required (2%) 78 Square Feet |
| Minimum open space | 35% (1,330 Square Feet) | 23.6% (898 Square Feet) | 24% (913 Square Feet) | Improvement In compliance |
| Minimum front setback (accessory structure) | 10 feet | 4 Feet 8 Inches | 4 Feet 8 Inches | Non-conforming In compliance |
| Minimum side setback (accessory structure) | 5 feet | 4 Feet | 4 Feet | Variance Required - 1 Foot |
| Minimum side setback (accessory structure) | 5 feet | 52 Feet 1 Inch | 52 Feet 1 Inch | In compliance |
| Minimum rear setback (accessory structure) | 15 feet | 33 Feet 3 Inches | 29 Feet 9 Inches | In compliance |

Process:

Planning Board Meeting:

November 15, 2018

HARC:

TBD

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 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 HMDR zoning district. The required minimum lot size in the HMDR zoning district is 4,000 square feet. The 420 Grinnell Street property has a lot size of 3,800 square feet, slightly smaller than the minimum size required. The lot was developed prior to the adoption of the current Land Development Regulations (LDRs).

Other land, structures and buildings within the HMDR zoning district were also developed prior to the adoption of the current LDR's. 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 plans submitted by the applicant are for an addition to an existing accessory structure located in the required front yard. The existing accessory structure is currently non-conforming with the side setback and the addition will increase the side setback non-conformity. The parcel is currently non-conforming with the maximum building coverage, maximum impervious surface requirements. The proposed addition to the accessory structure will further increase the side setback encroachment, maximum building and maximum impervious surface coverage requirements.

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 discourages the expansion of site nonconformities. The property is currently non-conforming with the maximum building coverage, impervious surface, side setback requirements in the Historic Medium Density Residential zoning district. The plans submitted require special privileges to go beyond the property owner's current non-conformities and increase them further.

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 HMDR Zoning District. The applicant currently has an accessory structure that houses a bathroom and bedroom. The variance request is to construct an addition to create a large master bedroom inside the accessory structure. 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 request is not the minimum required that will make possible the reasonable use of the land, building, or structure. However, they are 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 following all 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 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 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**.

If Planning Board chooses to approve the request for variances, then staff suggests the following condition:

1. The proposed development shall be consistent with the plans dated, September 27, 2018 by Anthony D. Sarno, P.A. No approval granted for any other work or improvements shown on the plans other than the addition of the accessory structure.