

**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 16<sup>th</sup>, 2020

Application: Variance- 1218 Duval Street (RE# 00028950-000000) – A request for a variance to remove two (2) off-street parking spaces and install twenty-four (24) bicycle parking spaces per code on a parcel located within the Historic Residential Commercial Core (HRCC-3) zoning district pursuant to Section 90-395, Section 108-572 (2), 108-572 (9), 108-575, and Section 108-643 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

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Request: The applicant is requesting a variance to eliminate all required off-street parking spaces at 1218 Duval and install twenty-four (24) bicycle parking spaces. Code Section 108-572 and Section 108-575 require four (4) standard off-street parking spaces for the multi-family units, the proposed 490 square foot increase in consumption area would raise the restaurant parking requirement to twenty-six (26) standard off-street parking spaces. A total of thirty (30) off-street parking spaces will be needed per code on this property. The applicant proposes to remove the two (2) current off-street parking spaces on the property.

Applicant: Owen Trepanier & Associates, Inc.

Property Owner: 1218 Duval KW, LLC

Location: 1218 Duval Street (RE# 00028950-000000)



**Background:**

The subject property is located at 1218 Duval Street. The mixed-use parcel has two separate structures on the property, one (1) two story non-historic accessory rear structure with two (2) dwelling units and a historical contributing principal structure with two (2) dwelling units on the second floor and a restaurant with 697 square feet of consumption area on the ground floor. The applicant proposes to increase their total consumption area by 490 square feet for a total of 1,187 square feet. The principal structure was constructed from masonry vernacular in the 1930's. The structure is a potential contributor to the National Register of Historic Places. Section 108-572 outlines required parking; each dwelling unit in the Historic District of Key West requires one (1) off-street parking space and every 45 square feet of consumption area requires one (1) off-street parking space. The parcel currently has 697 square feet of consumption area which equates to fifteen (15) off-street parking spaces required. The proposed expansion of consumption area by 490 square feet for a total of 1,187 square feet would raise the required parking needed from fifteen (15) to twenty-six (26) off-street parking spaces. The mixed-use parcel would require a total of thirty (30) off-street parking spaces all together. The parcel currently has two (2) off-street parking spaces.

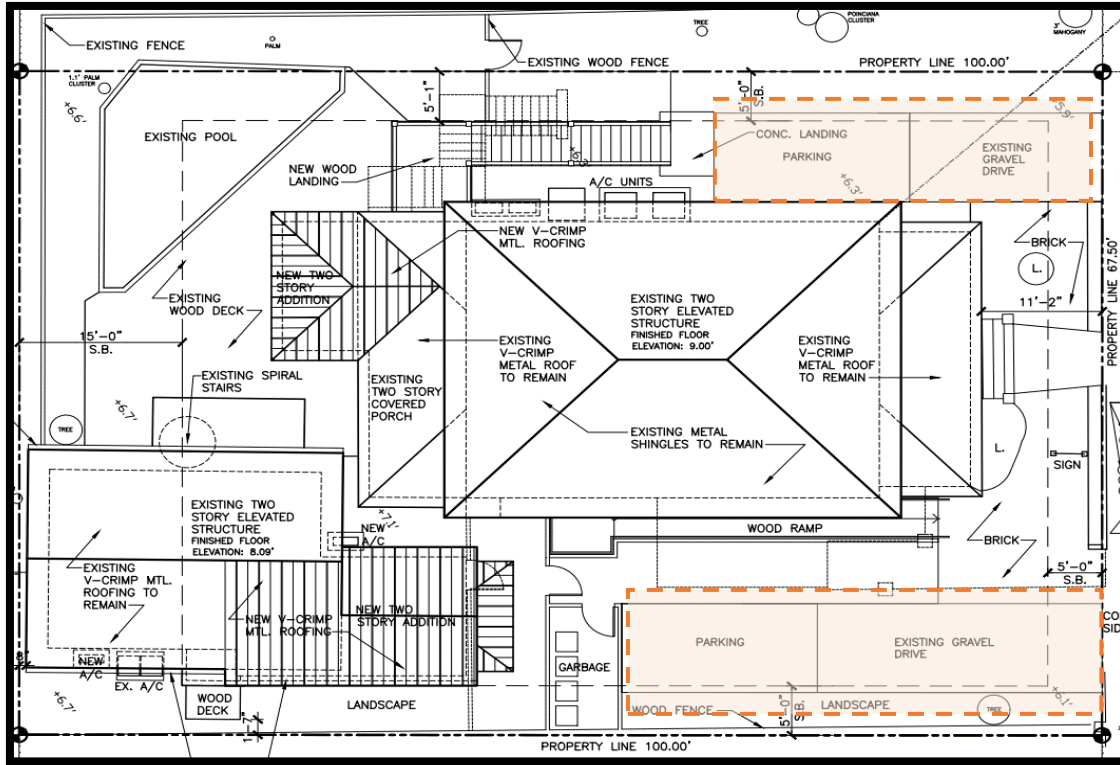
Two previous variance Resolutions have been passed for the subject property, Resolution 89-128, and Resolution 92-297. Resolution 89-128 allowed the property owner to construct a duplex within 2-feet of the rear property line. Resolution 92-297 was a variance that allowed a density of 25.8 units per acre, which allowed a total of four (4) dwelling units on the property. The main structure on the property converted from an office use with two (2) dwelling units on the second floor to a restaurant use with two (2) dwelling units on the second floor in 1998.

Section 108-573 provides special provisions for properties located in the historic commercial pedestrian-oriented area. Section 108-573 states that no additional off-street parking shall be required if a commercial structure converts from one type of commercial use to another type of commercial use, so long as no additional or expanded floor area is created. When the main structure converted from an office to a restaurant use, the floor area was expanded by creating outdoor consumption area under the roofed porch. Due to the additional floor area, normal off-street parking requirements went into effect for the property. The property has not received a parking variance regarding the increase in consumption area.

Currently the property has a non-complying amount of off-street parking spaces, the parcel currently has two (2) off-street parking spaces in total, one (1) space on either side of the main structure. Per code, the applicant is required to have one (1) off-street parking space per dwelling unit for a total of four (4) off-street spaces. The applicant is also required to have fifteen (15) off-street parking spaces for the restaurant use. The applicant is applying to remove the two (2) off-street parking spaces and further increase the non-compliance of the parking situation on the property. Section 122-32 of the City Code states that a nonconformity cannot be increased, nor any new nonconformity created. It is reasonable that the applicant maintains the driveway/parking spaces currently on the property and create bicycle parking elsewhere on the property.

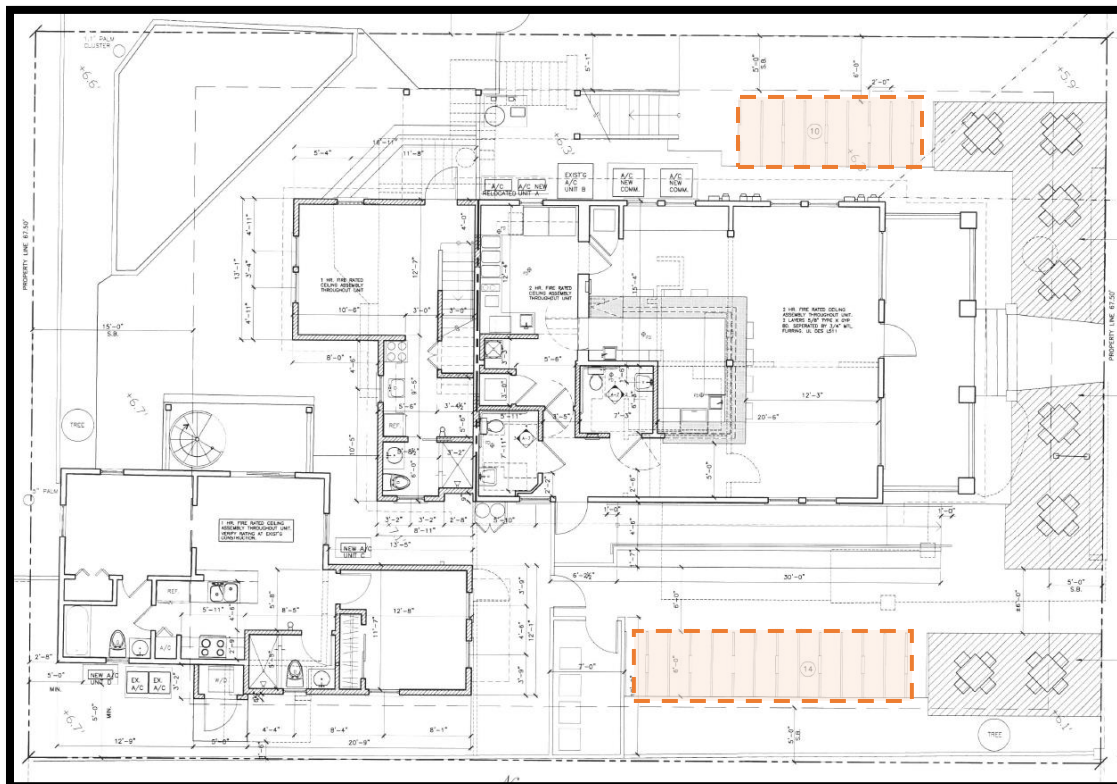
Site Data Table				
	Code Required	Existing	Proposed	Variance Requested
Zoning	HRCC-3			
Flood Zone	AE – 7			
Size of Site	4,000 sqft	6,707 sqft		
Height	35 - feet	30 - feet	n/a	n/a
Front Setback	5 - feet	5 - feet	n/a	n/a
Side Setback	5 - feet	0 - feet	n/a	Legal nonconforming
Side Setback	5 - feet	1.5 - feet	n/a	Legal nonconforming
Rear Setback	15 - feet	0.6 - feet	n/a	Legal nonconforming
Building Coverage	50% -- 3,354 sqft	45% -- 3,018 sqft	n/a	n/a
Impervious Surface	60% -- 4,024 sqft	73% -- 4,896 sqft	71% -- 4,762 sqft	Legal nonconforming
Parking	1/unit, 1/45 sqft of consumption area Total of 30 spaces	2	0	30 spaces
Accessible Parking	2 space	0	0	2 space
Bicycle Parking	25%	0	24 Spaces	n/a
Open Space	35% for residential 20% per commercial	27% for residential 12% per commercial	29% for residential 14% per commercial	Legal nonconforming
Consumption Area	n/a	697 sqft	1,187 sqft	n/a

**Existing Site Plan, 1218 Duval Street, 2020**



**Proposed Site Plan, 1218 Duval Street, 2020**

The site plan shows the elimination of two (2) off street parking spaces and the installation of twenty-four (24) bicycle parking spaces.





1218 Duval Street, 2019



1218 Duval Street, 2019



**Staff Analysis - Evaluation:**

The criteria for evaluating a variance are listed in Section 90-395 of the City Code. The applicant has applied to reduce their off-street parking from two (2) parking spaces to zero (0) off-street parking spaces. Any reduction of off-street parking spaces at the property will increase the property's non-compliance with 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.*

Resolution 89-128 and Resolution 92-297 increased the number of dwelling units allowed on the property. The increase of dwelling units also increased the amount of off-street parking spaces required, one (1) off-street parking space per dwelling unit. The lot currently has two (2) off-street parking spaces and is non-complying to City Code. The restaurant on the property also increases parking requirements, one (1) off-street parking space per 45 sqft of consumption area. The applicant's proposed increase in consumption area increases the amount of off-street parking required and further increases the applicant's noncompliance. The structure is located in the HRCC-3 zoning district and is a part of the Historic Commercial Pedestrian-Orientated area. Many structures along this corridor face the same challenges, the section of code pertaining to the historic pedestrian oriented area, Section 108-573, states that preexisting parking shall not be used as a site for additional floor area.

**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 applicant proposes to increase their consumption area which also increases the number of required off-street parking spaces. Furthermore, the Resolution 89-128 and Resolution 92-297 increased the dwelling units on the property which increased the amount of off-street parking spaces required. The increase in both consumption area and dwelling units has made the parking on the lot non-complying with City Code, and reduction of the two off-street parking spaces currently on the lot would result in expanding the noncompliance of the lot.

**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.*

While parking variances are available to owners of other lands, buildings and structures in the HRCC-3 zoning district, the applicant's requests for a parking variance to twenty-six (26) required off-street parking spaces would be unique to this property in this 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.*

Most properties on the 1200 block of Duval and surrounding blocks do not have off-street parking and property owners and consumers must find on-street parking. On-street parking on Duval Street is sparse, removing parking from the property would increase the demand for parking by both residents and consumers. In its current configuration, the property cannot house twenty-six off-street parking spaces to be in full compliance, but it is reasonable the applicant maintain the two off-street parking spaces currently on the property and place the bicycle parking elsewhere on the property.

**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 leave the two off-street parking spaces as is and place bike racks in another location on the property. In addition, the applicant may still increase their overall consumption area by maintain the four sidewalk adjacent tables in front of the structure.

**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.*

Duval Street is congested and lacks sufficient on-street parking. The amount of on-street parking is limited and is shared between resident spaces and non-resident spaces. The removal of two off-street parking spaces on Duval Street as well as the potential increase in car trips that the proposed increase in consumption area would garner, would leave less on-street spaces for residents and visitors of Duval Street to use. The intent of the HRCC-3 zoning district states that land uses such as sidewalk bars and lounges which may produce excessive noise incompatible with surrounding activities should be restricted.

**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**

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 City of Key West has received several public comments in opposition to this this application. The City has not received notice that the applicant has addressed the property owners who have objected to the variance.

**Recommendation:**

The code requires the parcel at 1218 Duval Street to have nineteen (19) off-street parking spaces. The applicant is applying to increase their consumption area by 497 sqft which would increase their parking requirements from nineteen (19) off-street spaces to twenty-six (26) off-street spaces. The applicant proposes to eliminate the two (2) off-street parking space currently on the property and install twenty-four (24) off-street bicycle parking spaces. The Planning Department of the City of Key West believes that it is a reasonable request for the applicant to maintain the current off-street parking spaces on the property and develop bike parking elsewhere on the property. Furthermore, the HRCC-3 zoning district states that sidewalk bars and lounges should be restricted due to excessive noise, the applicant is proposing to increase their consumption area to abut the length of the sidewalk abutting the property.

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 so chooses to approve the variance, the Planning Department asks that it be approved with the following conditions:

1. Landscaping is planted to separate the bicycle parking from the consumption area, per Section 108-607 of the Land Development Regulations of Key West.
2. All off-street bicycle parking meet both HARC guidelines and the standards dictated in Section 108-643 of the Land Development Regulations of Key West.
3. The applicant fill-in the curb cuts for both driveways so that new on-street parking may be striped
4. All consumption areas meet the Florida Building Code guidelines of 15 sqft per chair.