

THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report



**To:** Chairman and Planning Board Members

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

**From:** Melissa Paul-Leto, Planner I

**Meeting Date:** January 21, 2021

**Agenda Item:** **Variance – 1108 Petronia Street – (RE# 00022380-000000)** - A request for variances to the minimum side yard setback requirement, maximum building coverage, and maximum impervious surface in order to expand the roof over the second floor balcony on property located within the Historic High Density Residential (HHDR) zoning district pursuant to Sections 90-395, 122-630 (6) b., 122-630 (4) a., and 122-630 (4) b. of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

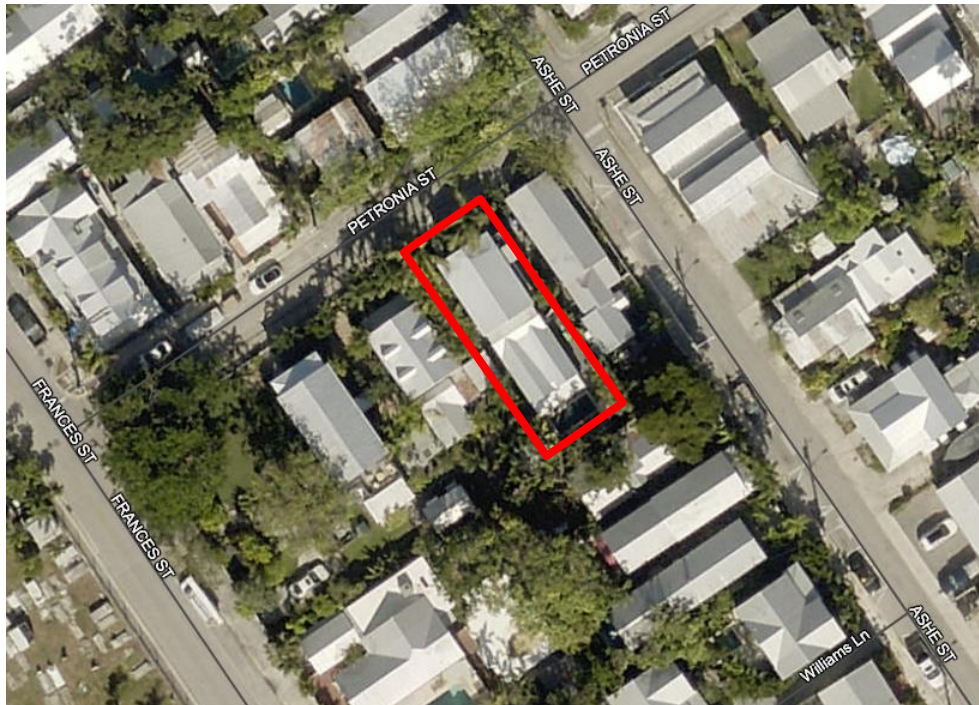
**Request:** The applicant is proposing to construct a roof over the existing second floor balcony.

**Applicant:** Gary Burchfield

**Property Owner:** Patricia Gray

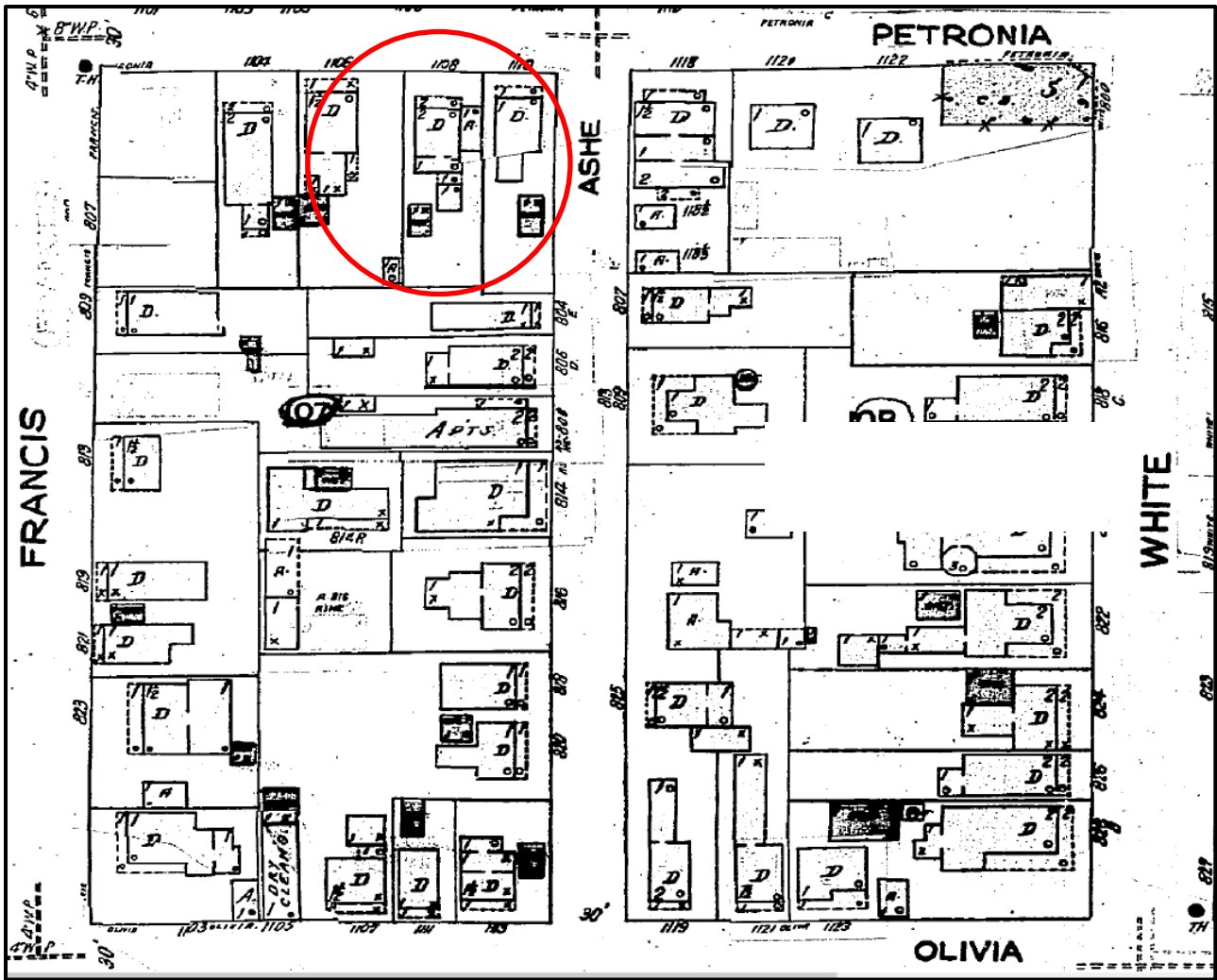
**Location:** 1108 Petronia Street – (RE# 00022380-000000)

**Zoning:** Historic High Density Residential (HHDR) zoning district

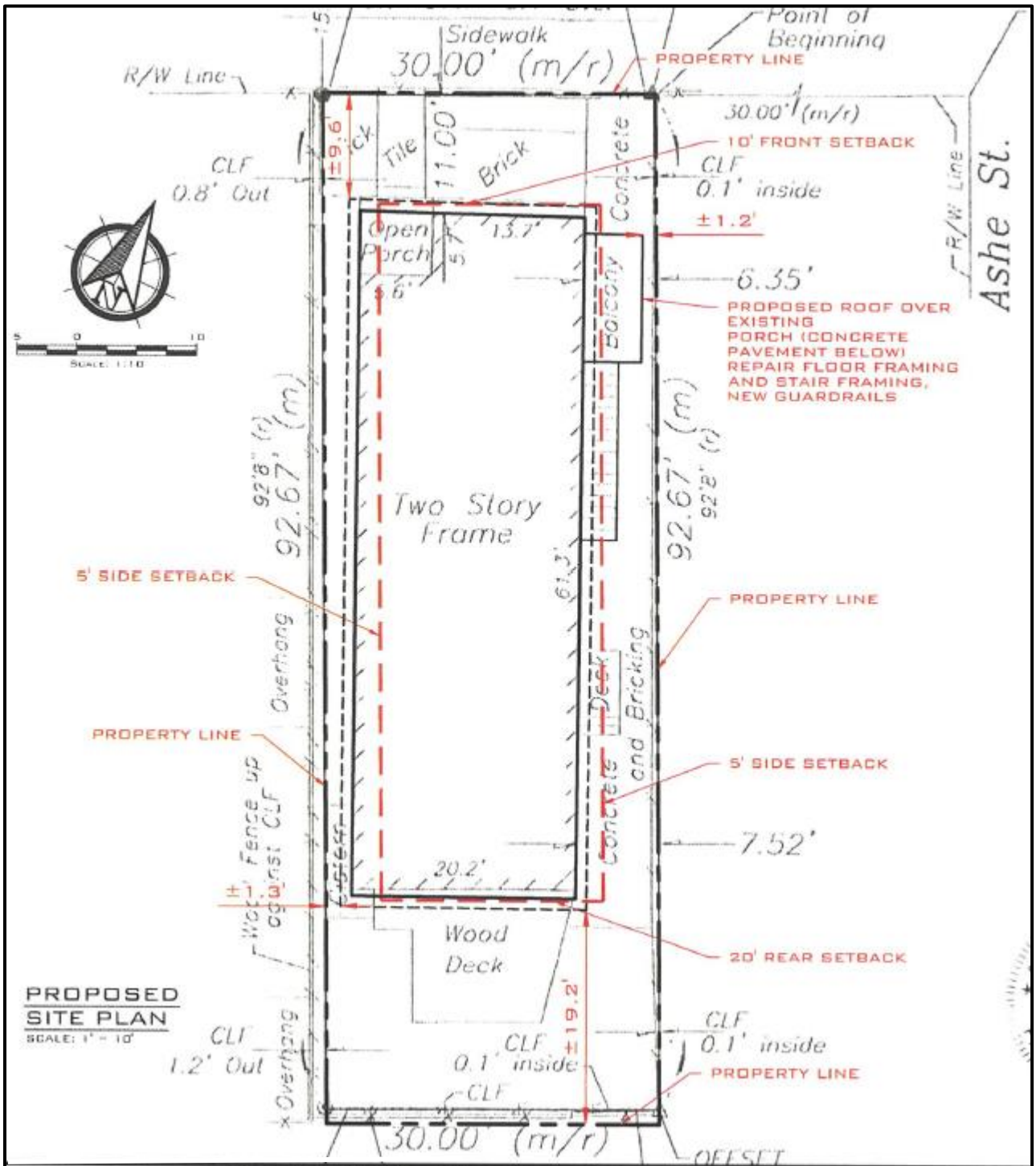


**Background/Request:**

The subject property is located between Ashe and Frances Streets, facing Petronia Street. The parcel size is 2,780 square feet and is one lot of record. The two-story framed structure is historic, and contributing, built circa 1938. It is a residential dwelling unit. There is an existing staircase leading to the second floor on the northwest side of the structure. The property owner is requesting to demolish and reconstruct the second-floor balcony and staircase to include a roof over the second-floor balcony. The proposed design raises the three-dimensional envelope of the two-story structure as it is encroaching 3 feet 10 inches within the required minimum five (5) foot side setback.



Sanborn Map - 1948



Proposed Site Plan



*1108 Petronia Street - Front View*



*Subject Staircase and Second Floor Balcony*

The applicant is proposing to demolish the exterior staircase, second-floor balcony with an awning attached. The proposed design is to construct a new exterior staircase in the same footprint including a second-floor balcony with a roof over the balcony. Based on the plans submitted, the proposed design would require variances to the following dimensional requirements:

- The required minimum side setback in the (HHDR) zoning district is 5 feet or 10 percent of lot width to a maximum of 15 feet, whichever is greater. The lot is thirty (30) feet wide. Ten percent of 30 is 3. The minimum side setback would be 5 feet for this parcel. The existing side setback is 1.2 feet. The applicant is proposing 1.2 feet with a roof over the balcony. This increases the three-dimensional envelope and results in increasing the minimum side setback non-conformity.
- The maximum building coverage is 50 percent, or 1,390 square feet. Existing building coverage on site is 53.83 percent, or 1,620.74 square feet. The applicant is proposing 53.83 percent, or 1,620.74 square feet.
- The required maximum impervious surface is 60 percent, or 1,668 square feet. Existing building coverage on site is 74.67 percent, or 2,075.826 square feet. The applicant is proposing 74.67 percent, or 2,075.826 square feet.



EXISTING LEFT ELEVATION  
SCALE: 1/4" = 1'-0"



PROPOSED LEFT ELEVATION  
SCALE: 1/4" = 1'-0"

**Relevant HHDR Zoning District Dimensional Requirements: Code Section 122-630**

<b>Dimensional Requirement</b>	<b>Required/Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Flood Zone	X			
Maximum Height	30 feet	No change	No change	In compliance
Minimum Lot Size	4,000 SF	2,780 SF	2,780 SF	Existing non-conformity
<b>Maximum Building Coverage</b>	<b>50 % 1,390 SF</b>	<b>58.3 % 1,620.74 SF</b>	<b>58.3 % 1,620.74 SF</b>	<b>Variance Required (8.3%) = 230 SF</b>
<b>Maximum Impervious Surface Ratio</b>	<b>60 % 1,668 SF</b>	<b>74.67 % 2,075.826 SF</b>	<b>74.67 % 2,075.82 SF</b>	<b>Variance Required (14.67 %) = 407.82 SF</b>
Minimum Open Space	35 % 972.99 SF	19.63 % 545.714 SF	19.63 % 545.714 SF	In compliance
Minimum Front Yard Setback	10 feet	9.6 feet	9.6 feet	Existing non-conformity
<b>Minimum N.W. Side Yard Setback</b>	<b>5 feet or 10 percent of lot width to a maximum of 15 feet, whichever is greater. The property has a 30-foot lot width. Five (5) feet is the required side setback for the property.</b>	<b>1.2 feet</b>	<b>1.2 feet</b>	<b>Variance Required -3.10 feet</b>
Minimum Side Yard Setback	5 feet or 10 percent of lot width to a maximum of 15 feet, whichever is greater.	1.3 feet	1.3 feet	Existing non-conformity
Minimum Rear Yard Setback	20 feet	19.2 feet	19.2 feet	Existing non-conformity

**Process:**

**Planning Board Meeting:**

January 21, 2021

**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 existing dimensions and size of the parcel pre-dates the dimensional requirements of the current LDR's, and therefore is legally non-conforming in the HHDR zoning district. However, the applicant could dismiss the proposed roof over the second-floor balcony. Therefore, there are no special conditions or circumstances.

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 exterior staircase and balcony are deteriorating and need replacement. This variance request is a result of the actions of the applicant proposing to expand the three-dimensional envelope in an area that is encroaching within the side yard setback.

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. Therefore, allowing a roof to be constructed in an area that is already encroaching into the side setback, would confer special privileges upon the applicant.

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 HHDR zoning district. The reconstruction of the exterior staircase and balcony is needed for structural and egress purposes. However, the property owner may choose to not have a roof over the balcony. 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.

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 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 Planning Department has received no public comments for the variance requests 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 design shall be consistent with the plans dated, June 4, 2020 by Serge Mashtakov, P.E., Artibus Design.