

**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:** August 15, 2019

**Agenda Item:** **Variances – 521 Thomas Street (RE# 00010110-000000)** - A request for variance approval for minimum required front yard setback, maximum allowed building coverage, an accessory structure located within the required front yard, and an accessory use located within an adjacent parcel in order to construct a two-story structure chiller plant to be located within the Historic Public and Semipublic Services (HPS) Zoning District pursuant to Sections 90-395, 122-960 (6) (a), 122-960 (4) (a), 122-1181, and 86-9 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

**Request:** The construction of the proposed two-story accessory structure will house the chillers that will support the Courthouse Complex. The proposed design requires the following variances: the minimum required front yard setback, the maximum allowed building coverage, the two-story structure is considered an accessory structure to the Courthouse and will be located within the required front yard, the proposed structure is located within an adjacent parcel to the Courthouse.

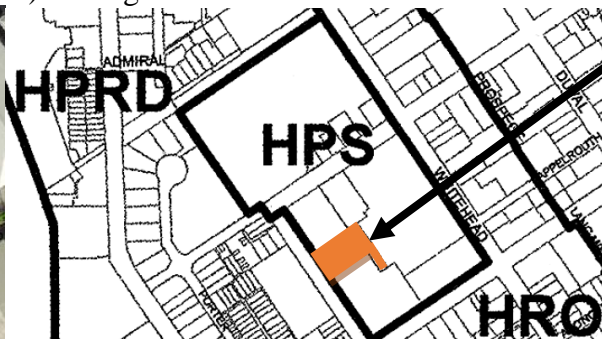
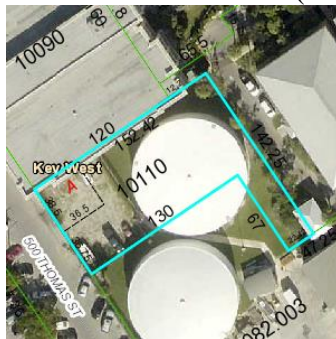
**Applicant:** Trepanier & Associates, Inc.

**Owner:** Florida Keys Aqueduct Commission

**Location:** 521 Thomas Street (RE# 00010110-000000)

**Zoning:** Historic Public and Semipublic Services (HPS) Zoning District

521 Thomas Street  
(Subject Property)



**Background:**

The parcel for 521 Thomas Street is one lot of record. The lot consists of one large water tank to the rear of the property, and a small vacant area facing Thomas Street. The subject property is located adjacent to the Freeman Justice Center, 302 Fleming Street. Currently, the existing chillers are located on the rooftop housed within a structure on top of the 312 Fleming Street building which is part of the Courthouse Complex. The applicant is proposing to demolish the 312 Fleming Street building including the existing chillers. The proposed plans are to construct a two-story building dedicated to the new chillers. The new structure will be located within the vacant area of land adjacent to the Courthouse facing Thomas Street.

The following table summarizes the requested variances.

<b>Relevant HPS Zoning District Dimensional Requirements: Code Section 122-960</b>				
<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Minimum lot size	5,000 SF	12,972 SF	12,972 SF	Conforming
Maximum floor area ratio	1.0	.35 (4,646 SF)	.54 (7006 SF)	Conforming
Maximum height	25 feet	30 feet (Water Tank)	27 feet 7 inches (New Building)	Board of Adjustment TBD
<b>Maximum building coverage</b>	<b>40% (5,188 SF)</b>	<b>35.8% (4,646 SF)</b>	<b>45.6% (5,920 SF)</b>	<b>Variance Required (-732 SF)</b>
Maximum impervious surface	50% (6,486 SF)	67.4% (8,743 SF)	66.9% (8,681 SF)	Conforming
Minimum Open Space	20% (2,594 SF)	31.7% (4,120 SF)	32.2% (4,184 SF)	Conforming
<b>Landscape</b>	<b>20% (2,594 SF)</b>	<b>31.7% (4,120 SF)</b>	<b>32.2% (4,184 SF)</b>	<b>Waiver Request</b>
<b>Minimum front setback</b>	<b>20 feet</b>	<b>20 feet</b>	<b>5 feet</b>	<b>Variance Required (-15 feet)</b>
Minimum North side setback (greater of 5 feet or 10 percent of lot width to a maximum of 15 feet)	7.5 feet	7.5 feet	7.5 feet (New Building)	Conforming
Minimum South side setback (greater of 5 feet or 10 percent of lot width to a maximum of 15 feet)	7.5 feet	0 feet (Water Tank)	7.5 feet (New Building)	Conforming
Minimum rear setback (20 feet)	20 feet	5.9 feet (Water Tank)	No Change	Conforming

**Process:**

**Development Review Committee Meeting:**

June 27, 2019

**Planning Board Meeting:**

August 15, 2019

**HARC:**

TBD

**BOARD OF ADJUSTMENT:**

TBD

**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 proposed location of the two-story structure will be located on a vacant portion of an adjacent parcel that is not owned by the applicant. The adjacent lot consists of a Florida Keys Aqueduct Commission water tank to the rear of the property and a small piece of vacant land facing Thomas Street to the front. Due to the Courthouse Complex not having adequate space for the proposed chillers; Monroe County and the Florida Keys Aqueduct Commission have arranged an Interlocal Agreement to utilize the nearest available portion of vacant property to service the Courthouse Complex. The subject property is limited in size for a structure to adequately house a chiller system. Therefore, existence of special conditions or circumstances do exist.

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.***

Currently, the location of the existing chillers is located on top of the 312 Fleming building which is part of the Courthouse Complex. The applicant states there are plans to demolish the 312 Fleming structure and rebuild for County purposes in the future. Regardless of the situation, the placement of the proposed chiller structure is a result from the action of 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.***

Granting the variances for the minimum required front yard setback, maximum allowed building coverage, maximum allowed height, an accessory structure located within the required front yard, and an accessory use located within an adjacent will confer special privileges to the applicant that is 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.*

The size requirements for the chiller system and efficiently housing it within a structure located on the portion of vacant land available makes it impossible to construct without the variance requests. Therefore, hardship conditions exist.

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 variances requested are 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):**

Based on comments received at the DRC, 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 not received any public comments for the variance request as of the date of this report.

**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**.

However, if the Planning Board approves this request, staff would like to require the following conditions:

**General Condition:**

1. The proposed development shall be consistent with the plans dated July 31, 2019 by Bender and Associates, Architects and T.Y. LIN International, Engineers.
2. A non-habitable height variance must be approved by the Board of Adjustment.
3. The owner shall obtain a Certificate of Appropriateness for the proposed construction.