



THE CITY OF KEY WEST PLANNING
BOARD
Staff Report

To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Kimberly Barua, AICP, The Corradino Group

Meeting Date: June 16, 2022

Agenda Item: **Variance- 411 Louisa Street (RE#00029190-000000)** - A request for a variance to exceed the allowed front, side and rear setbacks, maximum impervious surface ratio and open space coverage for a property located within the Historic High Density Residential (HHDR) zoning district pursuant to Sections 90-395, Section 122-630 (4), Section 122-630(6) and Section 108-346 (b) of the City of Key West Land Development Regulations.

Request: The applicant is adding a second story addition and remodeling the house.

**Property Owners/
Applicant:** Robert A. Jensen

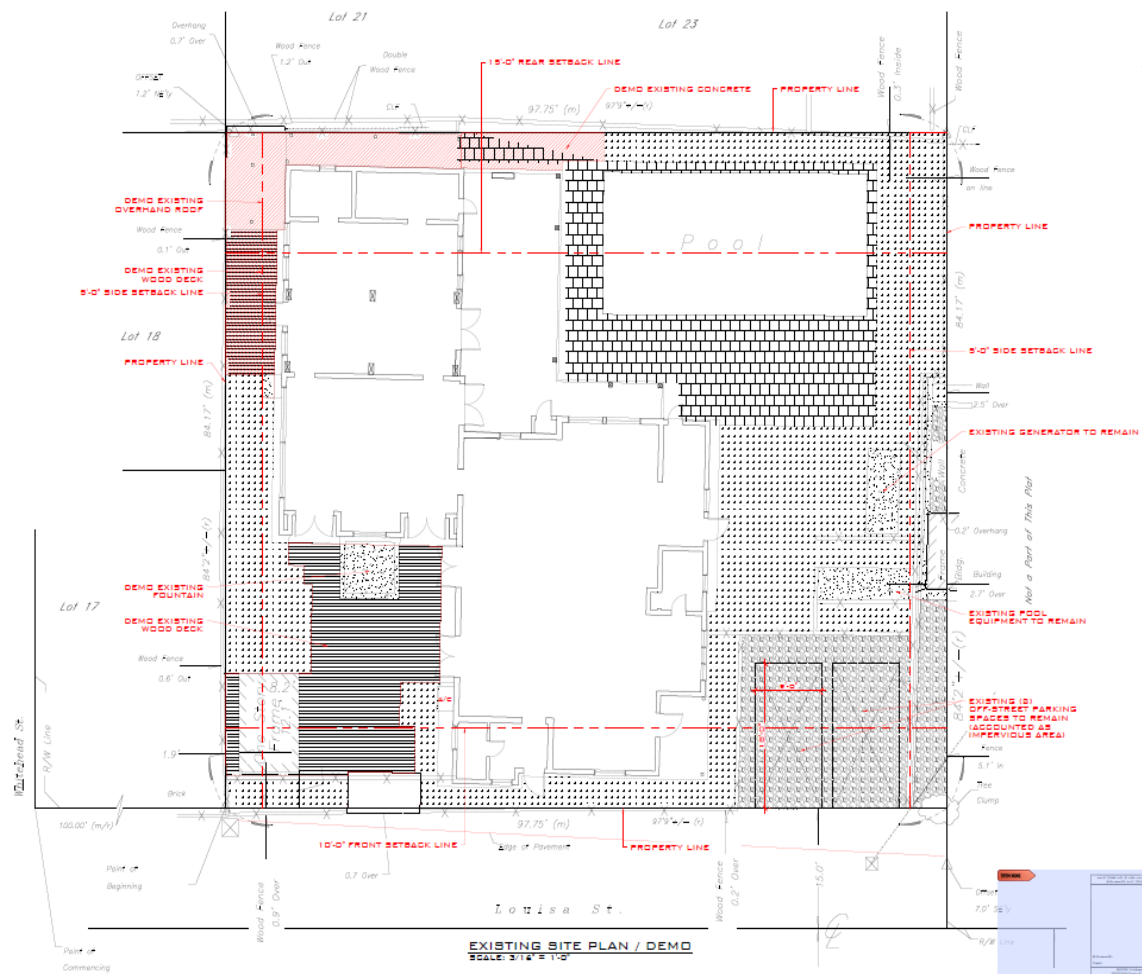
Location: 411 Louisa Street (RE# 00029190-000000)

Zoning: Historic High Density Residential (HHDR)



Background/Request: The subject parcel is one lot of record and is located within the Historic High Density Residential (HHDR) zoning district facing Louisa Street. The applicant is adding a second story addition to the house. The proposed vertical addition above existing habitable space provides for a 3-foot setback to the rear property line from the roof overhang. In the remodel, multiple areas of exterior concrete will be demolished, as well as a wood deck and a water fountain resulting in improvements to impervious surface and open space. Although the remodel is resulting in variance applications for side and rear setbacks, both are improvements over the current setbacks.

Current Site Plan, Submitted by Applicant



Site Data Table

	Required/Allowed	Existing	Proposed	Variance Requested
Zoning		HHDR		
Flood Zone	NA			
Size of Site		8,227 sq ft		
Impervious Surface	60% 4,936 sq ft	65% 5,369 sq ft	64% 5,314 sq ft	Variance Requested 378 sq ft or 4% (Improvement)
Building Coverage	50% 4,113 sq ft	44% 3,628 sq ft	42% 3,464 sq ft	None
Open Space Requirement	35% 2,879 sq ft	25% 2,056 sq ft	30% 2,493 sq ft	Variance Requested 386 sq ft or 5% (Improvement)
Front Setback	10'	2'6"	2'6"	7'4" Variance Requested
Left Side Setback	5'	0' for overhang 4' for building	4' (HVAC and outdoor shower)	1' Variance Requested
Right Side Setback	5'	30'9"	30'9"	None
Rear Setback	20'	0' for overhang 4' for building	4'	16' Variance Requested

The applicant is requesting a variance pursuant to Section 122-630 (4)b, Section 122-630(6) and Section 108-346 (b) of the City of Key West Land Development Regulations:

For the proposed residence and pool:

The applicant is requesting 64% impervious surface. The code requires no more than 60%.

The applicant is requesting 30% open space. The code requires no less than 35%.

The applicant is requesting 2.6" front setback. The code requires 10'.

The applicant is requesting 4' left side setback. The code requires 5'.

The applicant is requesting 4' rear setback. The code requires 20'.

Process:

Planning Board Meeting: June 16, 2022

HARC: TBD

Local Appeal Period: 10 days

DEO Review Period: up to 45 days

Staff Analysis- Evaluation:

The criteria for evaluating a variance are listed in Sections 90-395 of the City of Key West Land Development Regulations. 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 building and accessory structure were built and altered within existing front, rear, and side setbacks. The requested variance is mostly related to vertical increases of noncompliant features with less encroachment of rear and side setbacks.

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 original buildings were constructed in 1943 or earlier. The applicant purchased the home in 2021. The property was already not in compliance with respect to the open space requirement, impervious surface ratio and front, side and rear setbacks. The proposal of the addition to the home is 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 Land Development Regulations set open space minimums, impervious surface ratios and setbacks to ensure life safety, general welfare, health standards, and aesthetics. The variance requested may confer special privileges.

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 the other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.*

The current property does not comply with existing zoning code requirements. The owner has proposed an addition and it will encroach somewhat into setbacks, but not further than the existing structure. No hardships 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 variance that will make possible the reasonable use of the land, building, or structure. However, the proposed vertical addition above existing habitable space provides for a 3-foot setback to the rear property line from the roof overhang which currently has a 0-foot setback. Other aspects are improving from the current situation, such as open space requirement and impervious surface ratio.

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.*

The granting of the variance does not appear to be injurious to the area involved or detrimental to the public interest in that the City has not received any letters of objection and most features would be an improvement relative to existing conditions. However, it is unclear if the proposed addition would be in compliance with applicable historic district guidelines. The project must receive approval from HARC.

IN COMPLIANCE

7. *Existing nonconforming uses of other property shall not be considered as 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 the City Code have been met by the applicant for a variance.

The standards established by the City Code have not been fully met by the applicant for the variance requested.

That the applicant has demonstrated “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 (7) seven public comments for the variance request as of the date of this report. All four were positive and in support of the variance.

- | | |
|-------------------------|----------------|
| - 408 Louisa St. | J.W. Dyer |
| - 410 Louisa St. | Charles Hewett |
| - 412 Louisa St. | Julie Roy |
| - 410 Catherine St. | Jane Gardner |
| - 1201 Whitehead Street | Bert Whitt |
| - 1203 Whitehead Street | Bert Whitt |
| - 1207 Whitehead Street | Dennis Beaver |

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 or 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 increase or has the effect of the 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:

The Variance request for exceeding the allowed front setback, left side yard setback, rear yard setback, maximum impervious surface ratio and open space coverage at a proposed residence does not comply with the evaluation criteria, although the proposed construction would be a modest improvement with respect to open space, impervious surface and building coverage. Given the applicant’s proposed project does not meet with all review criteria, the Planning Department recommends **DENIAL**.

If the Planning Board chooses to approve the variance, the Planning Department recommends the following conditions:

1. The proposed construction shall be consistent with the plans, signed, sealed, and dated 3/11/22 by Serge Mashtakov.

2. HARC review and approval is required for project design.