

THE CITY OF KEY WEST
PLANNING BOARD
Staff Report



To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Zoe Porter, Planner I

Meeting Date: September 15th, 2022

Agenda Item: **Variance** – 703 Windsor Lane (RE# 00018700-000200) - A request for variances to the minimum front, side, and rear setbacks, maximum impervious surface ratio, minimum open space, maximum building coverage, and minimum required off-street parking requirements in order to demolish an existing single-family home and reconstruct a new single-family home on a parcel located within the Historic High Density Residential (HHDR) zoning district pursuant to Sections 90-395, 122-630 (4)a., 122-630 (4)b, 122-630 (6)a., 122-630 (6)b., 122-630 (6)c., 108-346 (b), and 108-572 (1) of the Land Development Regulations of the City of Key West, Florida.

Request: The applicant is requesting a variance in order to demolish an existing noncomplying single-family home and reconstruct a new noncomplying single-family home.

Applicant: Trepanier and Associates, Inc.

Property Owner: Jennifer Trapani and Evelyn Burkart

Location: 703 Windsor Lane (RE#00018700-000200)

Zoning District: Historic High Density Residential (HHDR)



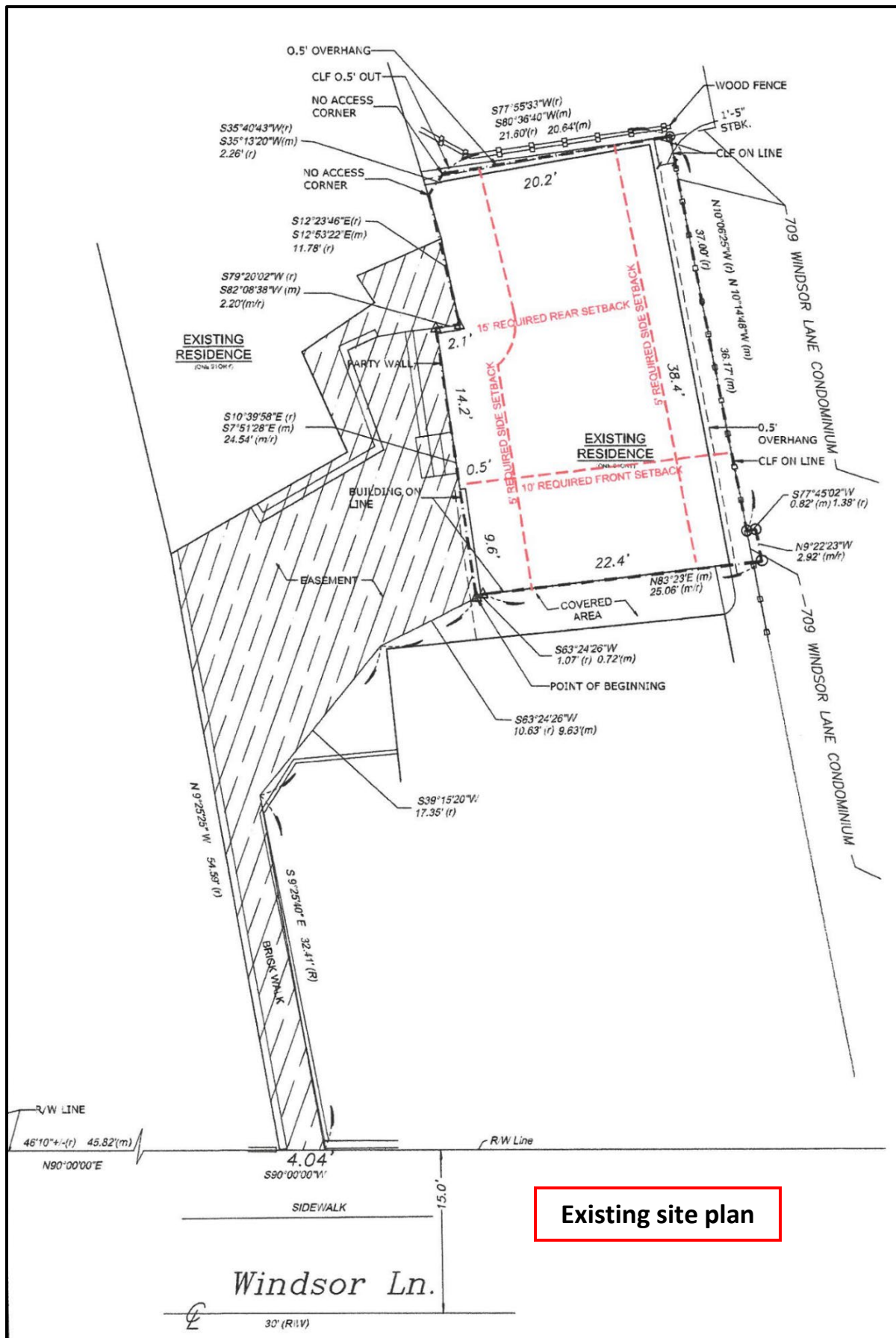
Background/Request:

The subject property, 703 Windsor Lane, is a 937 square-foot landlocked illegal parcel located near the corner of Elizabeth Street and Windsor Lane. The property at 703 Windsor Lane and the adjacent property 627 Elizabeth Street were originally one parcel, but 703 Windsor Lane was subdivided into its own parcel in the early 2000's without going through the proper subdivision procedures listed in the City of Key West Land Development Regulations. The property is located within the Historic High Density Residential (HHDR) zoning district. The property owner purchased the home in November 2021, but the unit is currently unoccupied due to the pending involuntary demolition of the existing structure. The existing single-family home was constructed in 1948 and is not a historic contributing structure. The existing structure's left side is connected to the dwelling unit at 627 Elizabeth Street, which is owned by the same property owner. The right side of the existing structure is connected to a separately owned dwelling unit located at 705 Windsor Lane. The subject parcel is only accessible through a four-foot-wide access easement that is part of 627 Elizabeth Street's parcel. A demolition permit was approved on July 19th, 2022, following the City of Key West Chief Building Official declaring the structure unsafe and beyond repair. *The project was originally set for the August 18th Planning Board meeting but was postponed at the applicant's request due to an adjacent property owner's objection. The applicant and property owner's representatives have since agreed upon specific aesthetic conditions to be met; such conditions will not be included in Planning Staff's recommended conditions as they require HARC approval. The neighbor has since provided support for the project, contingent on the conditions being met.*

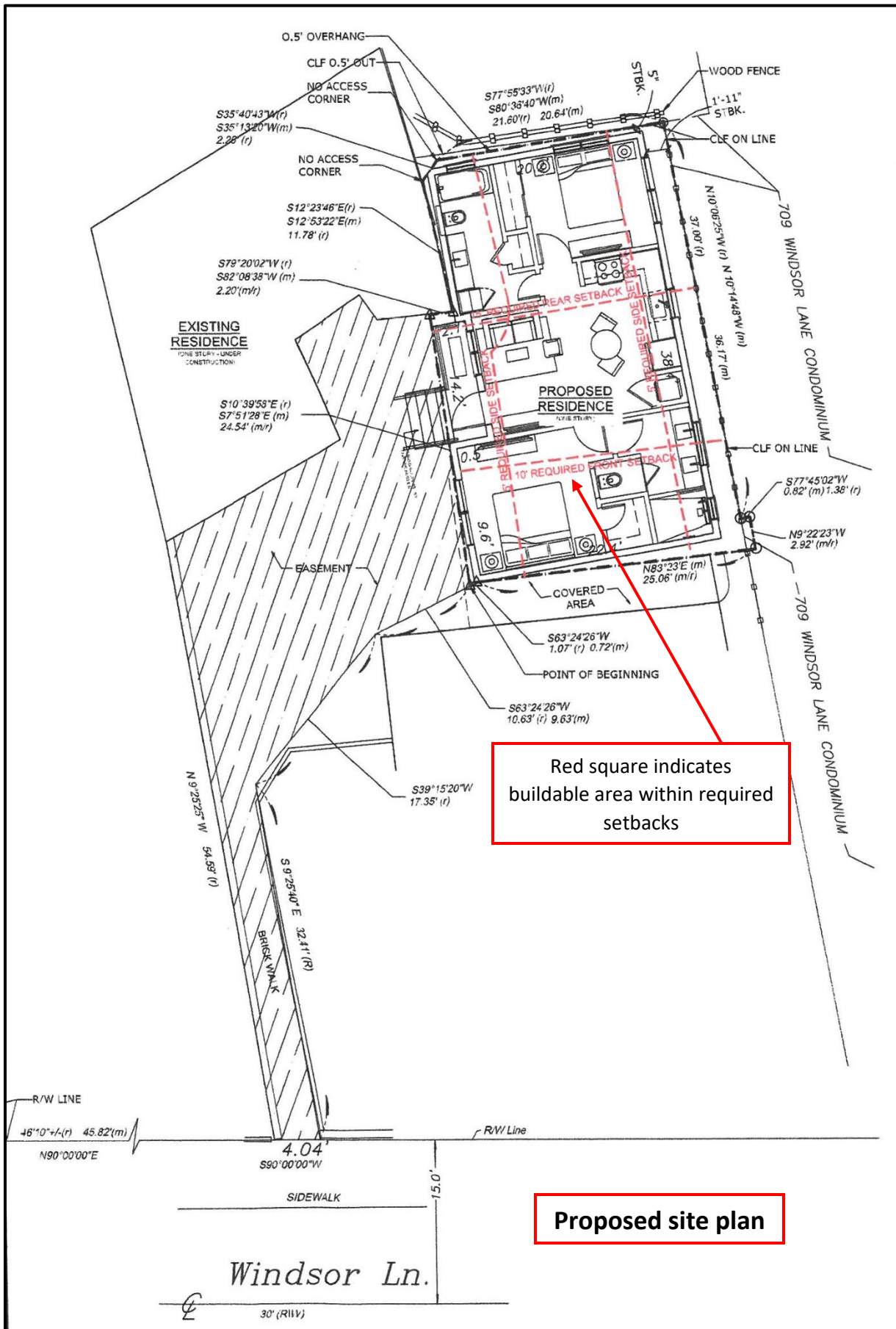
The applicant has requested a variance in order to reconstruct a new 783 square-foot single-family dwelling unit following demolition of the existing home. Section 122-28 (b) of the Land Development Regulations permits involuntarily destroyed residential dwelling units to be replaced at their previously existing three-dimensional building envelope without obtaining a variance. The requested variance is necessary due to change in the existing structure's footprint. The proposed site plan allows for improvements on the property's impervious surface ratio, building coverage, open space, right-side setback, and elevation.

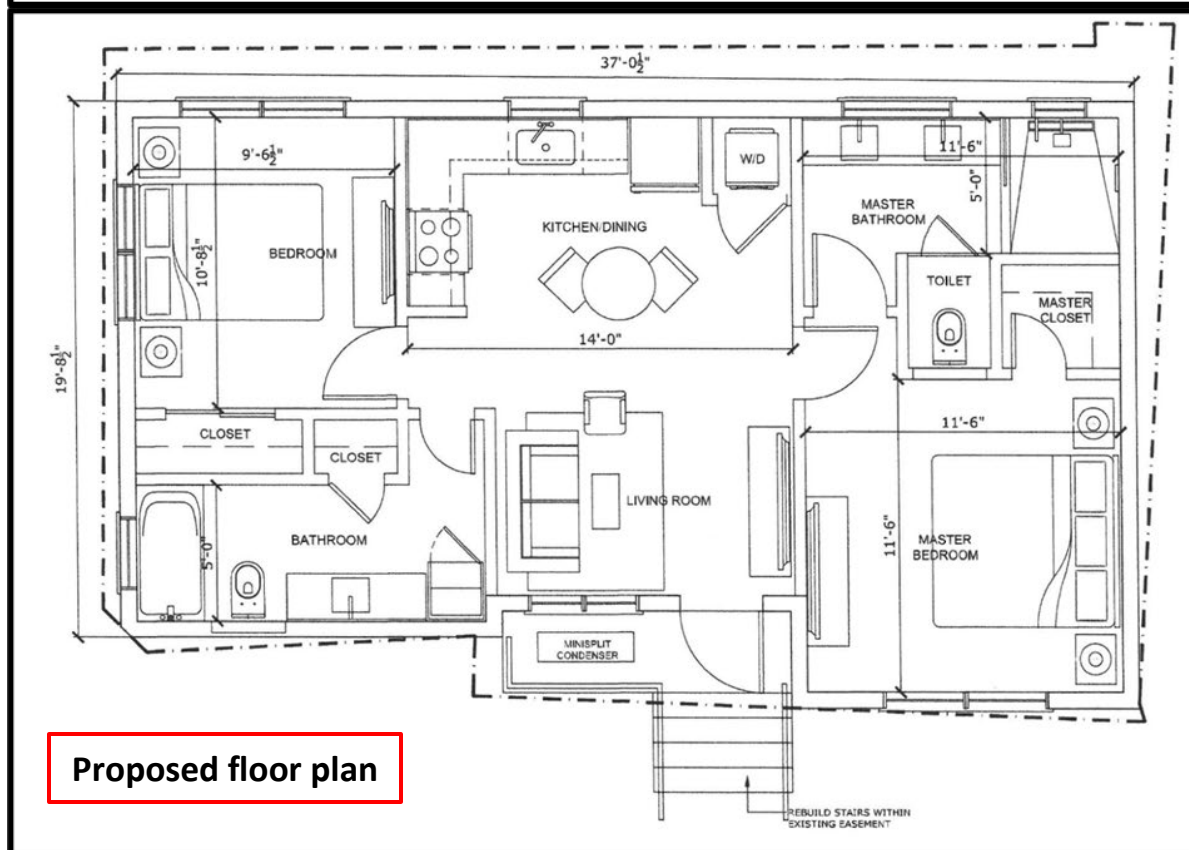
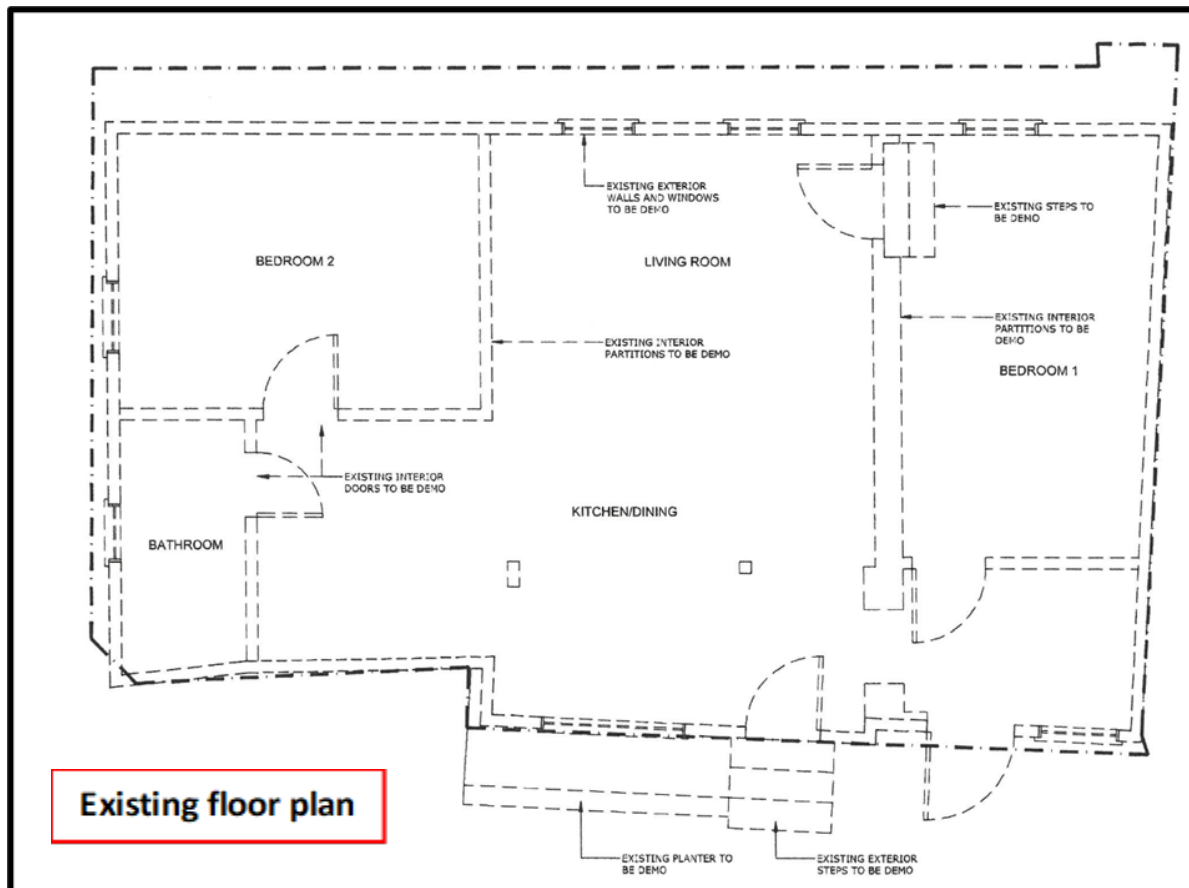


Photo courtesy of Northstar Engineering

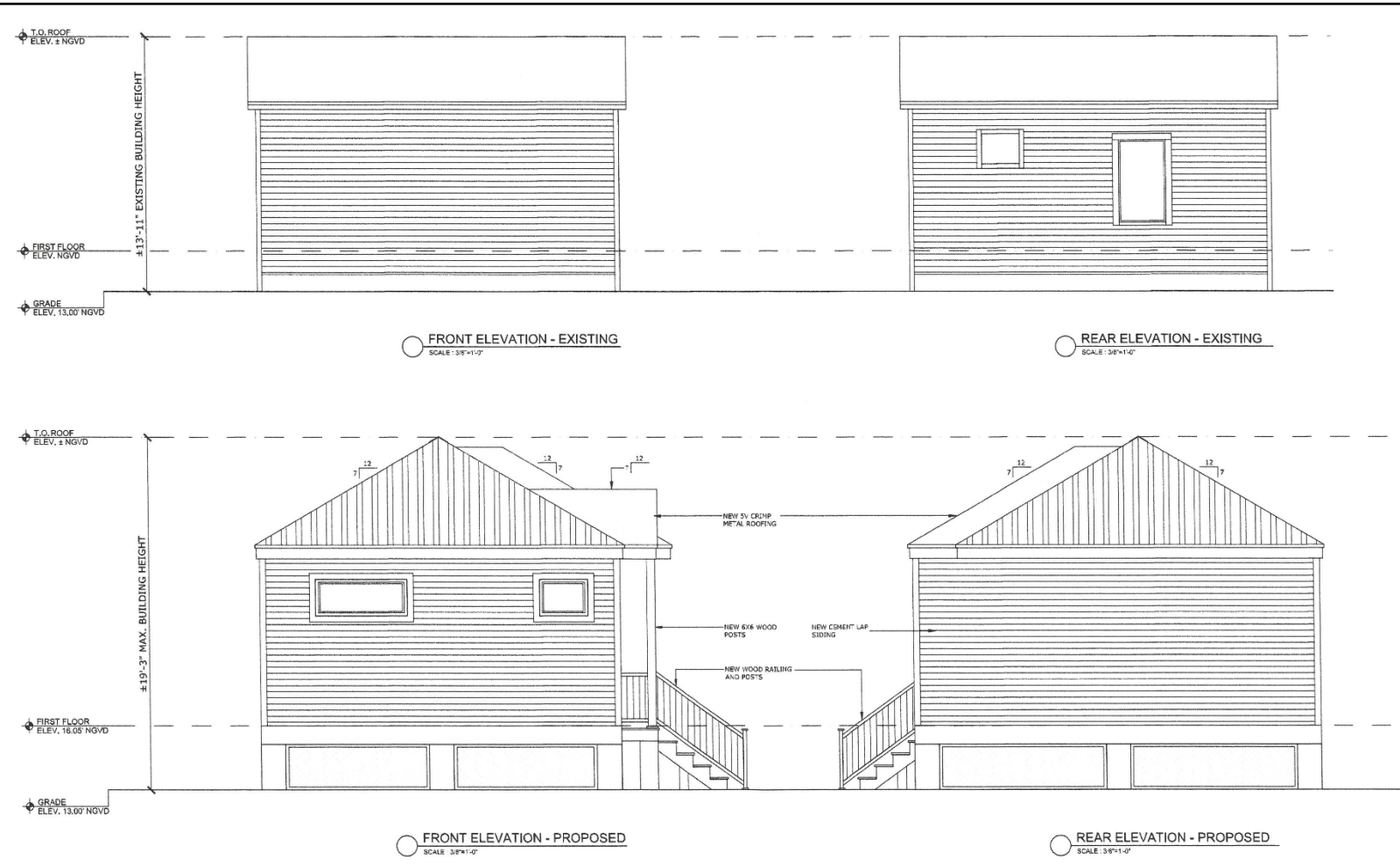


Existing site plan





Existing and proposed front/rear elevation:



Existing and proposed right-side elevation:



Existing and proposed left-side elevation:



Proposed Development:

The site data table below details the current and proposed site data for the property. Eight variances are required for the proposed development.

	Site Data Table				
	Code Required	Existing	Proposed	Proposed Following Unity of Title	Variance Request
Zoning District	HHDR				
Flood Zone	X				
Lot Size	4,000 sq. ft.	937 sq. ft.		4,930 sq. ft.	Noncomplying
Height	30' maximum	13'-11"	19'-3"		In compliance
Front Setback	10'	0'-0"	0'-0"	No change	10'
Right Side Setback	5'	1'-5"	1'-11"	0'-0"	4'-1"
Left Side Setback	5'	0'-0"	0'-0"	0'-0"	5'
Rear Setback	20'	0'-0"	0'-0"	1'-11"	20'
Building Coverage	50% (450 sq. ft.)	93.1% (838 sq. ft.)	87% (783 sq. ft.)	60.8% (3,000 sq. ft.)	37% (333 sq. ft.)
Impervious Surface	60% (540 sq. ft.)	93.1% (838 sq. ft.)	87% (783 sq. ft.)	73.7% (3,631 sq. ft.)	27% (243 sq. ft.)
Open Space	35% (315 sq. ft.)	6.9% (62 sq. ft.)	13% (177 sq. ft.)	16.5% (812 sq. ft.)	22% (138 sq. ft.)
Auto Parking	1 parking space	0 parking spaces	0 parking spaces	0 parking spaces	1 parking space

The applicant is requesting variances pursuant to the following sections of the City of Key West Land Development Regulations:

- Sec. 122-630 (6) a. – Minimum front setbacks
- Sec. 122-630 (6) b. – Minimum side setbacks
- Sec. 122-630 (6) c. – Minimum rear setbacks
- Sec. 122-630 (4) a. – Maximum building coverage
- Sec. 122-630 (4) b. – Maximum impervious surface ratio
- Sec. 108-572 (1) – Minimum number of parking spaces
- Sec. 108-346 (b) – Minimum open space ratio

Process:

Planning Board Meeting:	Sept. 15 th , 2022
Local Appeal Period:	10 Days
Planning renders to DEO for review:	Up to 45 days

Staff Analysis - Evaluation:

The criteria for evaluating a variance are listed in Section 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.*

Staff cannot find evidence indicating the subject plot of land was created legally; as a result, the size, orientation, and location of the parcel is not in compliance with the City's Land Development Regulations, particularly for minor subdivisions of land. The request for a variance is due to the property owner proposing to reconstruct a single-family home on the noncomplying parcel. Special conditions or circumstances do not exist due to the applicant not following the City's established procedures for a minor subdivision or lot split, which if followed may have prevented the variance request.

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 variance request is necessary due to the applicant's proposal to reconstruct a single-family home on a parcel that was created without review or approval from the City of Key West. The lot does not comply with the minimum dimensional requirements in the Land Development Regulations. The conditions are a result 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 of the requested variance would confer special privileges upon the applicant. The variance is necessary due to the size of the lot, which was created without approval from the City. Parcels of this size are denied by the Land Development Regulations to other lands in the HHDR 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 requested variance is necessary due to the size of the subject parcel, which is 937 square-feet, 76.5% under the minimum lot size for the HHDR zoning district. However, the size of the parcel is correlated to the owner splitting properties without City review or approval. 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 requested is not the minimum to make possible the reasonable use of the land, however it is the minimum for a reasonably sized single-family home on the non-conforming site. The City recommends that the property owner unify this parcel with their adjacent property.

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.*

The general intent of the Land Development Regulations (LDR's) is to promote public health, safety, and general welfare. The dimensional requirements for the HHDR zoning district were not considered when this parcel was formed, resulting in a nonconforming lot that could be unsafe to public welfare. As a result, any structure built on the nonconforming lot could be injurious (life/fire safety) due to the lack of dimensional requirements; if the proposed plans are approved, staff strongly recommends adhering to all Fire Department conditions.

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 variance 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(a) of the City Code have been met by the applicant for a variance.

The standards established by Section 90-395(a) of the City Code have not been met.

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 two letters of objection and two letters of support from noticed neighbors. One letter of support is contingent on specific conditions agreed upon between the property owners, the Planning Department does not have the authority to require the applicant to abide by such conditions.

The applicant has demonstrated a good neighbor policy by reaching out or attempting to contact noticed property owners who have objected.

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, side, and rear setbacks, minimum open space, maximum impervious surface ratio, maximum building coverage, and minimum parking requirements does not comply with the criteria established within the Land Development Regulations. 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 06/17/2022 by Artibus Design.
2. Per utilities: install gutters and downspouts along all the edges of the roof. Direct downspouts back onto the property in a way that does not flood adjacent properties.
3. Per utilities: provide a site plan that shows where trash and recycle material containers will be stored.
4. Per utilities: provide a utility plan that shows proposed sanitary sewer lateral and water service line.
5. Per Fire Department: the proposed residence shall have a fire sprinkler system installed.
6. Per Fire Department: the access easement shall be cleaned up prior to issuance of any building permits to ensure easy access to the property in case of an emergency.

7. The applicant shall obtain a Unity of Title for the properties addressed 703 Windsor Lane (RE #00018700-000200) and 627 Elizabeth Street (RE #00011920-000000) and provide proof of recording with the Monroe County Clerk of the Courts prior to the issuance of utility permits.