

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: October 25th, 2022

Agenda Item: **Variance** – 1214 16th Terrace (RE# 00057370-000000) – A request for a variance to the minimum allowed rear setback in order to construct a new bathroom on property located within the Single-Family (SF) zoning district pursuant to Sections 90-395 and 122-238 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is requesting a variance in order to construct a new bathroom within the rear setback.

Applicant/
Property Owner: Haydee Stewart

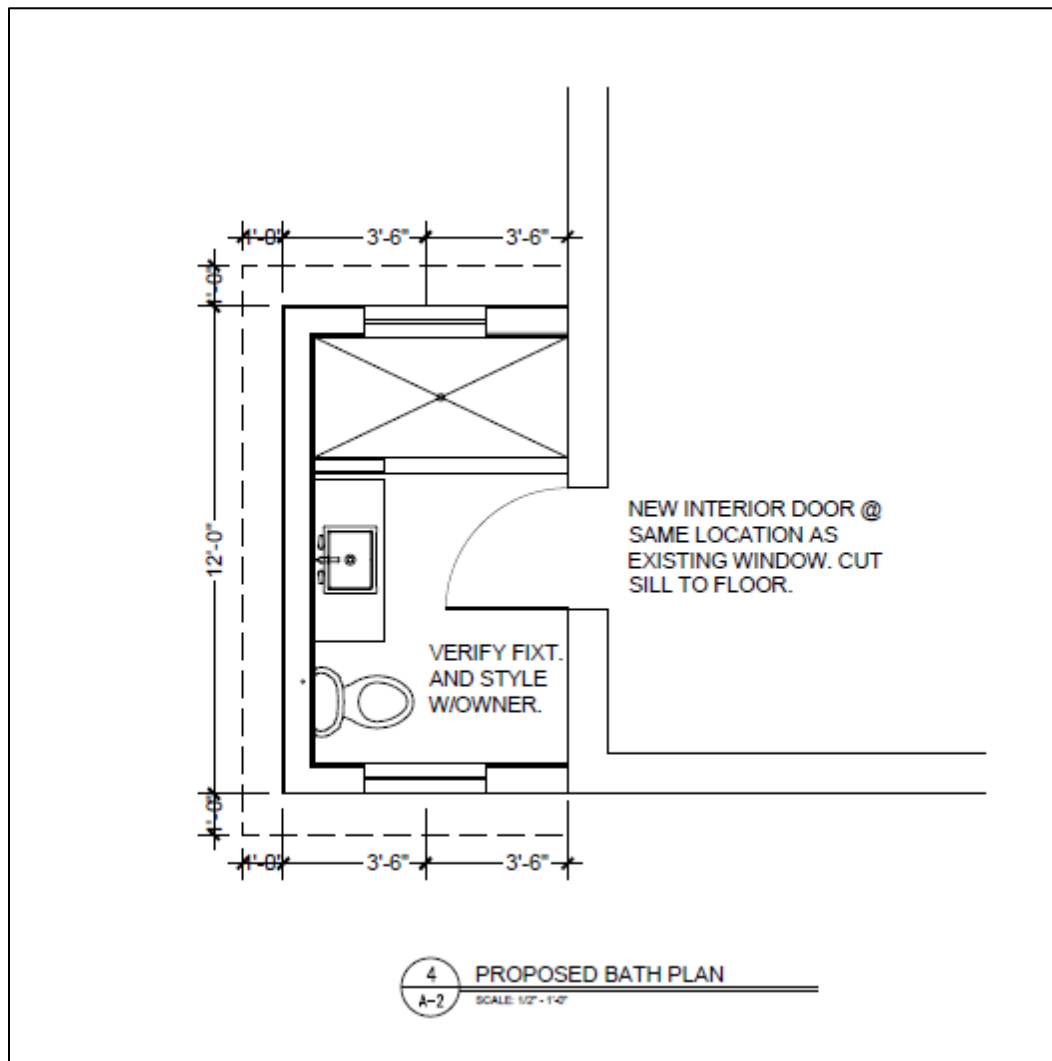
Location: 1214 16th Terrace (RE# 00057370-000000)

Zoning District: Single-Family (SF)



Background/Request:

The subject property, 1214 16th Terrace, is a 5,700 square foot parcel near the corner of 16th Terrace and Donald Avenue, located within the Single-Family (SF) zoning district. The existing home is a two bedroom and one bathroom unit according to the Monroe County Property Appraiser. The property owner has requested a variance to the minimum required rear setback in order to construct an additional bathroom onto the existing house. The proposed bathroom would contribute 86.4 square feet of additional floor area which complies with SF requirements. The bathroom would be 12' long and 7'-2" wide. The proposed plans depict that 4'-9 1/2" of the new bathroom would encroach into the rear setback. The property adjacent to the rear of the parcel is vacant land owned by a Homeowner's Association, and the vacant land immediately behind the subject parcel is classified as Single-Family (SF) zoning district.



Proposed bathroom plan submitted by applicant

Proposed Development:

The site data table below details the current and proposed site data for the property. One variance is required for the proposed development.

Site Data Table				
	Code Required	Existing	Proposed	Variance Request
Zoning District	SF			
Flood Zone	AE8			
Lot Size	6,000 sq. ft.	5,700 sq. ft.		
Height	30' maximum	N/A	Unchanged	
Front Setback	30'	25'-6"	Unchanged	
Right Side Setback	5'	6'-4"	Unchanged	
Left Side Setback	5'	6'-4"	Unchanged	
Rear Setback	25'	27'-42"	20'-2.5"	4'-9.5"
Building Coverage	35% (1,995 sq. ft.)	30% (1,724sq. ft.)	32% (1,808 sq. ft.)	N/A
Impervious Surface	50% (2,850 sq. ft.)	44% (2,532 sq. ft.)	45% (2,584 sq. ft.)	N/A
Open Space	35% (1,995 sq. ft.)	56% (3,168 sq. ft.)	55% (3,116 sq. ft.)	N/A

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

- Sec. 122-238 (6) a. (3.) – Minimum rear setbacks

Process:

Planning Board Meeting:	Oct. 25 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.*

The subject property is smaller than the required minimum lot size in the Single-Family (SF) zoning district; the minimum lot size for parcels within the SF zoning district is 6,000 square-feet, this parcel is 5,700 square feet. However, many properties in this and other Key West neighborhoods include legal non-conforming smaller lots. It should be noted that the rear of the subject parcel is contiguous to vacant land and the requested variance is minimal.

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 existing rear setback conforms with the required 25' rear setback for properties within the Single-Family zoning district. The applicant has proposed to construct a bathroom that encroaches 4'-9.5" into the required rear setback. Conditions are 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.*

Section 122-32 of the Land Development Regulations discourages new nonconformities from being created. The granting of the requested variance would confer special privileges upon the applicant. However, the variance process is available to any property owner that may seek similar relief from strict interpretation of the LDRs.

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 subject parcel does not meet the minimum required width for parcels within the Single-Family (SF) zoning district, similar to other parcels in the subdivision. Strict compliance with the required rear setback would not pose a hardship onto the applicant, as the applicant could construct the proposed bathroom within the required setbacks. Literal interpretation of the provisions of the Land Development Regulations would not deprive the applicant of rights commonly enjoyed by other surrounding properties under the terms of this ordinance.

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 requested variance is not the minimum variance to make possible the reasonable use of the land, building, or structure. It is reasonable that the applicant could amend the proposed plans to fit the proposed addition within the allowed buildable area required by the Land Development Regulations.

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. Though setbacks are necessary to achieve the general intent of the LDR's, the rear of this specific property is contiguous to vacant land. The requested variance would not be injurious to public welfare.

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 not received any public comment for the variance request as of the date of this report.

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 rear setback does not comply with all the criteria established within the Land Development Regulations as provided by Section 90-395. 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 07/26/2022 by Sandbar Design Studio.