

**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 Analyst

Meeting Date: August 17, 2017

Agenda Item: **Variance – 207 Petronia Street (RE # 00013740-000000)** – A request for variances to the minimum rear setback and maximum building coverage requirements in order to construct a walk in cooler and reconstruct the exterior staircase on property located within the Historic Medium Density Residential (HMDR) Zoning District pursuant to Sections 90-395, 122-600(4) A and 122-600 (6) C., of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is seeking a rear setback and maximum building coverage variance in order to construct a walk in cooler and reconstruct the exterior staircase.

Applicant: Meridian Engineering LLC, c/o Rick Milelli

Property Owner: Happy Lion LLC, c/o Jason Dugan

Location: 207 Petronia Street (RE # 00013740-000000)

Zoning: Historic Medium Density Residential (HMDR) zoning district



Background/Request:

The existing two story structure is a mixed use building. The first floor is occupied by Santiago's Bodega, a tapas-style restaurant. The second floor consists of three residential units. The property is located within the HMDR zoning district on the corner of Petronia and Emma Street.

The applicant is proposing the following: to construct a walk in cooler on the side of the building below the existing deck, to remove the existing exterior wood staircase and relocate it. The location of the walk in cooler requires a variance to the rear setback as the existing structure encroaches into the rear setback by 9 feet and 5 ½ inches. The existing building coverage on the property is non-conforming. The required maximum allowed building coverage in the HMDR zoning district is 40%, 1,936.8. The property currently has 50%, 2,455 square feet. The proposed exterior staircase configuration will raise the building coverage ratio to 54%, 2,612 square feet.

| Relevant HMDR Zoning District Dimensional Requirements: Code Section 122-600 | | | | |
|---|--|--------------------------------------|--------------------------------------|--|
| Dimensional Requirement | Required/ Allowed | Existing | Proposed | Change / Variance Required? |
| Minimum lot size | 4,000 sq. ft. | 4,842 sq. ft. | 4,842 sq. ft. | In compliance |
| Maximum building coverage | 40% (1,936.8 sq. ft.) | 50% (2,455 sq. ft.) | 54% (2,612 sq. ft.) | Variance Required -675.2 sq. ft. |
| Maximum impervious surface | 60% (2,905.2 sq. ft.) | 64.6% (3,130 sq. ft.) | 64.6% (3,130 sq. ft.) | No change Nonconforming In compliance |
| Minimum open space | 27.49% (1,331.55) | 32.4% (1,570 sq. ft.) | 32.4% (1,560 sq. ft.) | In compliance |
| Minimum front setback | 10 feet | 10 feet 1 inch | 10 feet 1 inch | No change Nonconforming In compliance |
| Minimum street side setback | 7.5 feet | 21 feet 1 inch | 9 feet 1 inch | In compliance |
| Minimum side setback | 5 feet | 0 | 0 | No change Nonconforming In compliance |
| Minimum rear setback | 15 feet | 5 feet 7 ½ inches | 5 feet 7 ½ inches | Variance Required -10 feet 4 1/2 inches |

Process:**Planning Board Meeting:**

August 17, 2017

HARC:

TBD

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 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 land, structures, and building involved are located on property within the HMDR Zoning District, and were developed prior to the adoption of the current land development regulations (LDRs). However, other structures within the HMDR Zoning District were developed prior to the adoption of the current LDRs. The lot meets the minimum lot size requirement. Therefore, there are no special conditions or circumstances that exist peculiar to the land, structures, or buildings involved.

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 conditions are created by the applicant. This variance request is a result of the actions of the applicant proposing to construct a walk in cooler in an area that is encroaching within the rear setbacks and reconfiguring an exterior staircase where the building coverage will increase.

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.***

Sections 122-600(4) a, and 122-600 (6) c of the Land Development Regulations identifies the dimensional requirements for the minimum rear setbacks and maximum building coverage requirements for the Historic Medium Density zoning district.

Granting a variance to the minimum rear setback and maximum building coverage requirements would confer special privileges upon the applicant 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.***

Literal interpretation of Sections 122-600(4) a, and 122-600 (6) c would not deprive the applicant of rights commonly enjoyed by other properties in the same district, nor would it work unnecessary and undue hardship on the applicant. Other properties in the HMDR Zoning District have to meet the minimum rear setback and maximum building coverage requirements. Although hardship conditions do not exist, the approval of the variance would allow the property to maintain a walk in cooler for the commercial establishment and reconfigure the exterior staircase for the residential units on the second floor.

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. 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 being in compliance with all of 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 variance 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 comment for the variance request 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**.