

**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**



To: Chairman and Planning Board Members

Through Patrick Wright, Planning Director

From: Vanessa Sellers, Planner I

Meeting Date: October 19, 2017

Agenda Item: **Variance – 311 Margaret Street (RE # 00002810-000100; AK # 1002909) - A request for variances to side and rear yard setbacks and maximum building coverage in order to install a roof over the work area and the delivery dock on property located within the Historic Residential Commercial Core-2 Key West Bight (HRCC-2) zoning district pursuant to Sections 90-395, 122-720 (4) a., and 122-720 (6) b. and c. of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Request: The applicant is seeking variances in order to install a 290-square foot roof over an existing side rear work area and delivery dock. Building Coverage is being increased from 59% to 63%. The proposed side set back is 0' from the 7.5' requirement, and the proposed rear yard setback is 1'6" from the 15' requirement.

Applicant: William B. Horn Architect, PA

Property Owner: Dale Lockwood

Location: 311 Margaret Street

Zoning: Historic Residential Commercial Core – 2 Key West Bight (HRCC-2)
Zoning District



Background:

The property at 311 Margaret Street is located between James Street and Caroline Street and is one lot of record. The existing nonconforming commercial structure is located within the right and rear yard setback. The property is located within the Key West Historic District, but it is not considered a contributing structure.

The applicant and property owner applied for a Certificate of Appropriateness on December 17, 2003 for a new covered roof over the existing loading dock. The application was staff approved and the permit was issued. Ultimately, unforeseen circumstances occurred and the work never took place and the permit expired.

The applicant is again proposing to install a 290-square foot roof addition to the existing concrete loading dock/work area. The submitted application cites a need to provide shelter from direct sunlight and rain. This area was previously partially shaded by a Schefflera tree that belonged to the adjacent property at 908 Caroline Street. Per City records, the property owner of 311 Margaret Street requested that the tree be removed in September of 2014 because it was impacting his property.

Relevant HRCC-2 Zoning District Dimensional Requirements: Code Section 122-720				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Maximum height	35'	27'	27'	In compliance
Minimum lot size	5,000 SF	8,200 SF	8,200 SF	In compliance
Maximum density	0	0	0	Not Applicable
Maximum floor area ratio	0.5	.62	.62	No change
Maximum building coverage	50%	59% (4,870 sf)	63% (5,160 sf)	Variance Required +4%
Maximum impervious surface	60%	100% (8,200 sf)	100% (8,200 sf)	No change
Minimum Open Space (nonresidential)	20%	0% (0 sf)	0% (0 sf)	No change
Minimum front setback	10 feet	20' 2"	20' 2"	No change
Minimum right side setback	7.5 feet	1' 2"	1' 2"	No change
Minimum left side setback	7.5 feet	18' 5"	0' 0"	Variance Required
Minimum rear setback	15 feet	1' 6"	1' 6"	Variance Required

Process:

Planning Board Meeting: September 14, 2017
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 minimum side yard and rear yard setbacks in the HRCC-2 zoning district makes the ability to construct a roof over the existing loading dock impossible without the need for variances. Also, due to the footprint of the existing commercial structure, relocating the loading area to another spot on the property in order to comply with setback requirements is not a possibility. Given the commercial use of the parcel and the inability to relocate the loading dock, special conditions and circumstances do exist which are peculiar to the land, structure, and building involved and which are not applicable to other land, structures, or buildings in the HRCC-2 zoning district.

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 service and loading dock was constructed before the property owner purchased the property. However, the request to construct a roof over the work area within the setbacks is generated from specific actions initiated 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.*

Sec. 122-27 of the Land Development Regulations discourages the expansion of site nonconformities. Therefore, increasing the building coverage and expanding the existing loading dock located within the rear and side setbacks would confer special privileges upon the applicant.

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.*

Although a roof provides protection from sun and rain, the applicant currently has use of the existing work area without the variance approval. Therefore, hardship conditions do

not exist. Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the HRCC-2 Zoning District.

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 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 non-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 variances 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 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 not 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 received 1 public comment in favor of 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 Conditions:

1. The proposed development shall be consistent with the plans dated February 14, 2017 by William P. Horn, Architect PA. No approval granted for any other work or improvements shown on the plans other than the proposed 290-square foot roof over the side rear loading dock.

Condition required to be completed prior to issuance of a building permit:

2. A Certificate of Appropriateness shall be obtained for the proposed development.

