

**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:** November 16, 2017

**Agenda Item:** **Variance – 815 Whitehead Street (RE # 00017080-000100; AK #1017515)** - A request for variances to side-yard setback requirements, maximum impervious surface area, and maximum building coverage area to allow for the installation of a 96-square-foot swimming pool, a 130-square-foot pool cabana, and a roof addition over an existing 243-square-foot rear porch on property located within the Historic Medium Density Residential (HMDR) zoning district pursuant to Sections 90-395, 122-600 (4) a. and b., and 122-600 (6) b. 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 96-square-foot swimming pool, a 130-square-foot pool cabana, and a 5V crimp roof over an existing 243-square-foot rear porch. Building coverage is being increased from 36% to 49%. Impervious surface is being increased from 56% to 63.6%. The proposed left-side set back is 1'8" from the 5' requirement, and the right-side setback is 2'1" from the 5' requirement.

**Applicant:** Rick J. Milelli

**Property Owner:** David Amendt

**Location:** 815 Whitehead Street

**Zoning:** Historic Medium Density Residential (HMDR) Zoning District



### **Background and Request:**

The property at 815 Whitehead Street is located between Olivia Street and Petronia Street and is one lot of record. The existing noncomplying residential structure is located within the right and left-yard setbacks. The property is located within the Key West Historic District, and it is considered a contributing structure.

The applicant is proposing to install a pool, a pool cabana, and a roof over the existing rear porch. The plans submitted would require variances to right-side setbacks, left-side setbacks, maximum building coverage area, and maximum impervious surface area.

The following table summarizes the requested variances:

<b>Relevant HMDR Zoning District Dimensional Requirements: Code Section 122-600</b>				
<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Maximum height	30'	No change	12'4"	No Variance Required
Minimum lot size	4,000 SF	2,670 SF	No change	Not Applicable
Maximum density	0	0	0	Not Applicable
Maximum building coverage	40%	36% (970 SF)	49% (1,304 SF)	<b>Variance Required</b>
Maximum impervious surface	60%	56% (1,490 SF)	63.6% (1,700 SF)	<b>Variance Required</b>
Minimum Open Space (residential)	35%	49% (1,304 SF)	35.3% (945 SF)	No Variance Required
Minimum front setback	10 feet	No change	No change	No change
Minimum right-side setback	5 feet	2'1"	2'1"	<b>Variance Required</b>
Minimum left-side setback	5 feet	1'8"	1'8"	<b>Variance Required</b>
Minimum rear setback	15 feet / 5 feet	42'	5' to Accessory Structure	No Variance Required

### **Process:**

<b>Planning Board Meeting:</b>	<b>November 16, 2017</b>
<b>Local Appeal Period:</b>	<b>30 days</b>
<b>DEO Review Period:</b>	<b>up to 45 days</b>

### **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, structure, and building involved do not have special conditions or circumstances involved that any other property located within the HMDR Zoning District possesses. The lot size is noncomplying at 2,670 SF since the minimum lot size for the district is 4,000 SF, however, other lots in the area are similarly noncomplying.

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 house and rear porch within the side setbacks were constructed before the property owner purchased the property. However, the construction of a pool, pool cabana, and rear porch roof will exceed the building coverage and impervious surface maximums and expand upon the current side-setback encroachments. Therefore, the conditions are 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, impervious surface, and expanding upon the 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 rear porch without the variance approval. In addition, a lack of a pool and pool cabana does not deprive the applicant of rights commonly enjoyed by other properties in this same zoning district. 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 HMDR 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 four (4) public comments in support of the variance request as of the date of this report. There have been zero comments opposing the variance request.

### **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 July 26, 2017 by Richard J. Milelli. No approval granted for any other work or improvements shown on the plans other than the proposed installation of a 96-square-foot swimming pool, a 130-square-foot pool cabana, and a roof addition over an existing 243-square-foot rear porch.

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

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

