



**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:** December 21, 2017

**Agenda Item:** **Variance – 730 Windsor Lane (RE # 00019260-000000; AK # 1019941)**  
– A request for a variance to rear-yard setback requirements to allow for the construction of a 95-square-foot second-level bedroom addition to an existing 1 ½ story wood frame structure located within the Historic High Density Residential (HHDR) zoning district pursuant to Sections 90-395 and 122-630 (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 variance in order to construct a 95-square-foot second-level bedroom addition to an existing 1 ½ story wood frame structure within the rear setback. The construction will increase the three-dimensional envelope of the building and therefore requires a variance.

**Applicant:** A2O Architecture, LLC

**Property Owner:** Troy and Mindy Smith

**Location:** 730 Windsor Lane

**Zoning:** Historic High Density Residential (HHDR) Zoning District



### **Background and Request:**

The property at 730 Windsor Lane is located between Galveston Lane and William Street and is one lot of record. The existing noncomplying residential structure is located within the front, left, and rear setbacks. The property is located within the Key West Historic District, and it is considered a contributing structure.

The applicant is proposing to construct a 95-square-foot second-level bedroom addition to the existing 1 ½ frame structure. The plans submitted would require a variance to rear-yard setback requirements.

The following table summarizes the requested variance:

<b>Relevant HHDR Zoning District Dimensional Requirements: Code Section 122-630</b>				
<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Maximum height	30'	22.75'	No Change	No
Minimum lot size	4,000 SF	1,443.28 SF*	No Change	No
Maximum density	22 dwelling units per acre	1 du	No Change	No
Maximum floor area ratio (commercial only)	1.00	N/A	No Change	No
Maximum building coverage	50%	66.6% (961.9 SF)	No Change	No
Maximum impervious surface	60%	73.5% (1,061.6 SF)	No Change	No
Minimum open space (residential)	35%	26.4% (381.7 SF)	No Change	No
Minimum front setback	10'	7.65'	No Change	No
Minimum right-side setback	5'	5.5'	No Change	No
Minimum left-side setback	5'	1.04'	No Change	No
Minimum rear setback	20'	7.46'	7.46'	<b>Yes</b> (Expansion of existing nonconformity)

\*per Monroe County Property Appraiser

### **Process:**

<b>Planning Board Meeting:</b>	<b>December 21, 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 HHDR Zoning District possesses. The lot size is noncomplying at 1,443.3 square feet since the minimum lot size for the district is 4,000 square feet, 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 structure within the rear setback is an existing nonconformity. However, the construction of a 95-square-foot second-story addition will expand upon the current rear-yard 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, expanding upon the rear setback 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 95-square-foot addition to the existing narrow rear-bedroom would make the space more practical and functional, the applicant currently has use of the bedroom without the variance approval. Also, a lack of an addition to the room 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 HHDR 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 variance 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 nonconforming and noncomplying 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 not received any public comment for 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 November 6, 2017 by Aileen A. Osborn, R.A. of A20 Architecture, LLC. No approval granted for any other work or improvements shown on the plans other than the proposed construction of a 95-square-foot rear bedroom addition.

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

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

