



**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 – 1411 Truman Avenue (RE # 00024311-000000; AK # 9085872)** – A request for a variance to side-yard setback requirements, rear-yard setback requirements, and maximum building coverage to allow for the construction of a roof over an existing concrete patio located within the Historic Medium Density Residential (HMDR) zoning district pursuant to Sections 90-395 and 122-600 (4) a. and (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 a variance in order to construct a roof over an existing concrete patio within the side-yard and rear-yard setbacks and above the allowable building coverage.

Applicant: Rick Milelli

Property Owner: Three Palms Condominium

Location: 1411 Truman Avenue

Zoning: Historic Medium Density Residential (HMDR) Zoning District



Background:

The property at 1411 Truman Avenue is located between Florida Street and Pearl Street and is one lot of record. The existing noncomplying residential structure is located within the left, right, and rear-yard 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 roof addition over an existing concrete patio. The plans submitted would require a variance to right side-yard setbacks, rear-yard setbacks, and building coverage allowance.

The following table summarizes the requested variance:

Relevant HMDR Zoning District Dimensional Requirements: Code Section 122 - 600				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Maximum height	30'	N/A	14.63'	No
Minimum lot size	4,000 SF	2,805.71 SF	No Change	No
Maximum density	16 dwelling units per acre	No Change	No Change	No
Maximum floor area ratio	N/A	N/A	N/A	No
Maximum building coverage	40%	51.04% (1,432 SF)	54.71% (1,535 SF)	Yes
Maximum impervious surface	60%	69.85% (1,960 SF)	No Change	No
Minimum Open Space (residential)	35%	30.1% (845 SF)	No Change	No
Minimum front setback	10'	13.41'	No Change	No
Minimum right-side setback	5'	3.08'	3.6'	Yes Expansion of existing nonconformity
Minimum left-side setback	5'	.73-.75-.9'	No Change	No
Minimum rear setback	15'	9.92'	9.42'	Yes Expansion of existing nonconformity

Process:**Planning Board Meeting:****December 21, 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 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, 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 residential structure within the left, right, and rear-yard setbacks is noncomplying. However, the construction of a roof over the existing concrete patio within the right and rear-yard setbacks will expand upon the noncomplying patio. 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 and right 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 roof provides protection from sun and rain, the applicant currently has use of the existing rear patio without the variances 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 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 the non-compliance with all 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 December 20, 2017 by Richard J. Milelli, PE of Meridian Engineering, LLC. No approval granted for any other work or improvements shown on the plans other than the proposed construction of a roof 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.

