



**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:** January 18, 2018

**Agenda Item:** **Variance – 217 Eanes Lane (RE # 00017980-000000; AK # 1018449) –**  
A request for variances to side and rear-yard setbacks in order to construct an in-ground swimming pool and 2-bedroom/1-bath accessory structure in the rear yard of the property located within the Historic Residential Commercial Core-3 (HRCC-3) zoning district pursuant to Sections 90-395 and 122-750 (6) b. and c. of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

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**Request:** The applicant is seeking variances in order to construct an inground swimming pool and 2-bedroom/1-bath accessory structure. The proposed side setback is 3 feet, and the required side setback is 5 feet. The proposed rear setback is 4 feet and the required rear setback is 5 feet (for accessory structures - Sec. 122-1181).

**Applicant:** Michael Skoglund

**Property Owner:** Zursec501, LLC / Title MGRs Scott Zurbrigen, Sr. and Sean Seckel, Sr.

**Location:** 217 Eanes Lane

**Zoning:** Historic Residential Commercial Core – 3 Duval Street Oceanside (HRCC-3) Zoning District



### **Background:**

The property at 217 Eanes Lane is located north of Truman Avenue and west of Duval Street and is one lot of record. The existing noncomplying principle residential structure is located within the right-yard setback. There are two existing accessory structures. Accessory structure #1 is located within the rear-yard setback. Accessory structure #2 is located within the right-yard setback and encroaches upon the neighboring property by 2.1 feet. The property is located within the Key West Historic District, and it is considered a contributing structure.

The applicant is proposing to remove the two rear-yard accessory structures and install a pool and a new, 2-bedroom/1-bath accessory structure. The plans submitted would require variances to right-side setbacks and rear-yard setbacks.

This variance request previously came before the board on December 21, 2017. After public comments were introduced by Ms. Ursula Elliot, the property owner of the adjacent property at 222 Eanes Lane, the board voted unanimously to postpone the action item to allow time for the applicants and Ms. Elliot to meet and discuss the proposed development.

The following table summarizes the requested variances:

<b>Relevant HRCC-3 Zoning District Dimensional Requirements: Code Section 122-750</b>				
<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Maximum height	35'	N/A	15'	No
Minimum lot size	4,000 SF	3,654 SF	No Change	No
Maximum density	22 dwelling units per acre	N/A	N/A	No
Maximum floor area ratio	1.0	N/A	N/A	No
Maximum building coverage	50%	34% (1,268 SF)	40% (1,450 SF)	No
Maximum impervious surface	60%	34% (1,260 SF)	52% (1,903 sf)	No
Minimum open space (residential)	35%	65.5% (2,394 SF)	49.9% (1,751 SF)	No
Minimum front setback	5'	5'	No Change	No
Minimum right-side setback	5'	- 2.1' (Structure in neighbor's yard)	3'	<b>Yes 2'</b>
Minimum left-side setback	5'	10'	5.42'	No
Minimum rear setback	15' (5' - Accessory Structures)	4'	4'	<b>Yes 1'</b>

**Process:**

<b>Planning Board Meeting:</b>	<b>December 21, 2017</b>
<b>Planning Board Meeting:</b>	<b>January 18, 2018</b>
<b>Local Appeal Period:</b>	<b>10 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 any special conditions or circumstances involved that any other property located within the HRCC-3 Zoning District possesses. The lot size is noncomplying at 3,654 square feet since the minimum lot size for the district is 4,000 square feet, however, other lots in the area are similarly nonconforming.

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 within the right-side setback, the accessory structure #1 within the rear set back, and the accessory structure #2 located within the right-side setback are existing nonconformities. However, the construction of a pool and 2-bedroom accessory structure within the right-side and rear setbacks is a condition created by the applicant. 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 right and rear-yard 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 the removal of the two rear-yard accessory structures will bring the property closer to compliance with the Dimensional Requirements of the HRCC-3 Zoning District in regard to the right-yard setback, and will correct the rear-yard setback, the replacement 2-bedroom accessory structure will be built back into the rear and right-yard setbacks. In addition, a lack of a pool 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 HRCC-3 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 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 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 2017 by Michael Skoglund, Registered Architect. No approval granted for any other work or improvements shown on the plans other than the proposed construction of a 459-square-foot 2-bedroom / 1-bath accessory structure and a 320-square-foot swimming pool.

**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.

