

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



To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Melissa Paul-Leto, Planner Analyst

Meeting Date: June 21, 2018

Agenda Item: **Variance – 620 Angela Street (RE # 00018110-000000)** – A request for variances to the minimum side setback requirements in order to construct a unit. The property is located within the Historic Medium Density Residential (HMDR) Zoning District pursuant to Sections 90-395, 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 side setback variances in order to re-construct a residential unit.

Applicant: Chris Liddle, Project Architect

Property Owner: Robert Fernandez

Location: 620 Angela Street (RE # 00018110-000000)

Zoning: Historic Medium Density Residential (HMDR) zoning district



Background/Request:

The property at 620 Angela Street is located between Simonton and Elizabeth Street, and is one lot of record. The property owner owns both 620 & 622 Angela Street. Both properties are open and accessible to one another. The City of Key West recognizes four non-transient units for the 620 Angela Street property. The principle residential structure that faces Angela Street, the accessory unit directly behind the principle structure that was demolished and is the subject of this variance request, and a second accessory structure with two non-transient units located behind the demolished accessory unit to the rear of the property. The subject accessory unit was demolished due to damage from Hurricane Irma.

The applicant is proposing to construct the two-story accessory unit and reposition it from where it was previously on the property. The proposed structure includes three bedrooms and three bathrooms. The plans submitted would require variances to minimum required North-side yard, and South-side yard setbacks.

At the April Planning Board meeting an adjacent property owner from 702 Elizabeth Street submitted a letter of objection, and spoke at the April 19th planning board meeting regarding their objections of the design of the residential unit. The planning board postponed the item until May 17th planning board meeting in order for both property owners to have time to mitigate their concerns. The adjacent property owner has officially withdrawn the letter of objection.

The following table summarizes the requested variances.

Relevant HMDR Zoning District Dimensional Requirements: Code Section 122-600				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Maximum Height	30 feet	23 feet 6 inches	23 feet 6 inches	In compliance
Minimum lot size	4,000 Square feet	5,293 Square feet	5,293 Square feet	In compliance
Maximum building coverage	40% (2,117.2 Square feet)	66.8% (3,536 Square feet)	54.2% (3,403 Square feet)	Improving In compliance
Maximum impervious surface	60% (3,175.8 Square feet)	69.14 % (3,660 Square feet)	64.29 % (3,160 Square feet)	In compliance
Minimum open space	35% (1852.55 Square feet)	33.15 % (1,755 Square feet)	36.9 % (1,955 Square feet)	In compliance
Minimum front setback	10 feet	80.67 feet	64 feet 10 inches	In compliance
Minimum North side setback	5 feet	2.13 feet	3 feet 10 inches	Variance Required -1 feet – 2 inches
Minimum South side setback	5 feet	4.87 feet	2 feet 4 inches	Variance Required -2 feet – 8 inches
Minimum rear setback	15 feet	42 feet	39 feet	In compliance

Process:

Planning Board Meeting:	June 21, 2018
Planning Board Meeting:	May 17, 2018 (postponed)
Planning Board Meeting:	April 19, 2018
HARC:	TBD
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 exceeds conformity at 5,293 square feet whereas the minimum lot size for the district is 4,000 square feet.

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 applicant is allowed to build back the accessory unit that was demolished due to damage from Hurricane Irma as long as it is built back in the same footprint and three dimensional envelope. The proposed new accessory structure has been repositioned on the property from where it was previously. The choice to not build back in the same footprint and three dimensional envelope and include eaves that extend into the required side setbacks is created 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.*

Section 122-27 of the Land Development Regulations discourages the expansion of site nonconformities. The property owner is allowed to build back the accessory unit in the same footprint and same three-dimensional envelope without the need of variances. The property owner has chosen to reposition the structure, and extend the eaves on the proposed accessory structure. The eaves will encroach into both of the five foot minimum side setbacks. Therefore, allowing the extended eaves to encroach into the required five foot minimum 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.***

Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the HMDR Zoning District. The applicant can choose to build back the unit in the same footprint and three dimensional envelope without the need for a variance. Therefore, hardship conditions do not exist.

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 Variance request is 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 not being in 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 variance will trigger any public facility 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 been fully met by the applicant for the variance 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.

Pursuant to Code Section 90-392, in granting such application the Planning Board must make specific affirmative findings respecting each of the matters specified in Code Section 90-394.

The planning board shall not grant a variance to permit a use not permitted by right or as a conditional use in the zoning district involved or any use expressly or by implication prohibited by the terms of the ordinance in the zoning district.

No use not permitted by right or as a conditional use in the zoning district involved or any use expressly or by implication prohibited by the terms of the ordinance in the zoning district would be permitted.

No nonconforming use of neighboring lands, structures, or buildings in the same zoning district and no permitted use of lands, structures, or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

No such grounds were considered.

No variance shall be granted that increases or has the effect of increasing density or intensity of a use beyond that permitted by the comprehensive plan or these LDRs.

No density or intensity of a use would be increased beyond that permitted by the comprehensive plan or these LDRs.

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**.

If Planning Board chooses to approve the request for variances then staff suggests the following condition:

1. The individual rooms shall not be held out for rent, barter or lease separately from the principle dwelling as to not establish a lock out unit per Section 86-9 of the Land Development Regulations.