

**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 I

Meeting Date: January 17, 2019

Agenda Item: **Variance – 3 Lopez Lane - (RE# 00005690-000100)** – A request for a variance to the maximum allowed building coverage requirement to construct a covered porch in the rear yard. The property is located within the Historic Medium Density Residential (HMDR) zoning district pursuant to Sections 90-395, and 122-600(4)(a) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

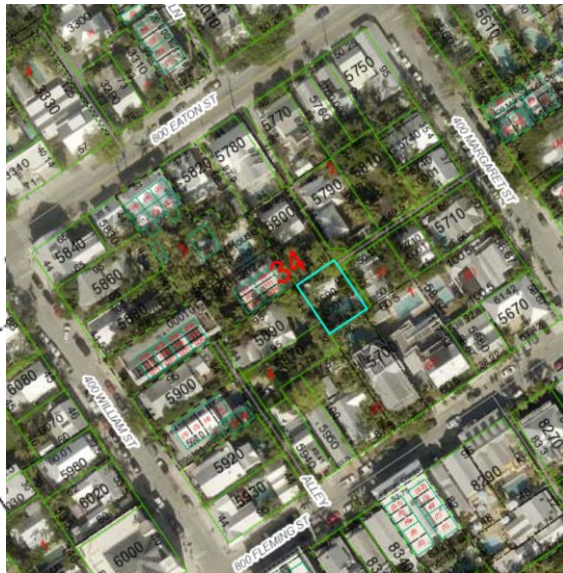
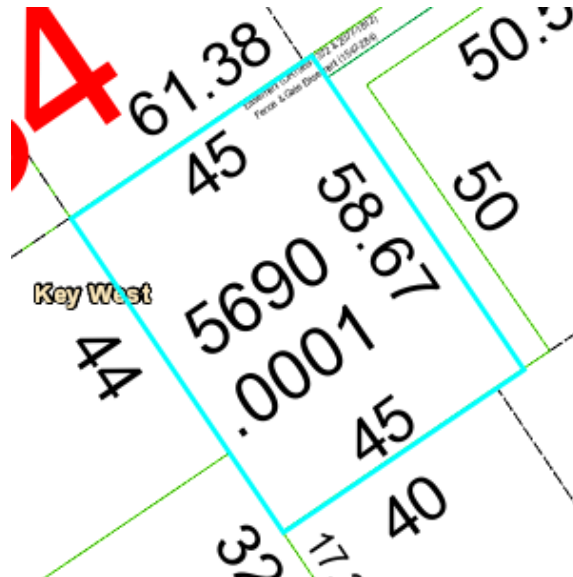
Request: The applicant is seeking a variance for the maximum allowed building coverage requirement to construct a one story covered porch in the rear yard with an attached exterior staircase to a second-floor sundeck.

Applicant: William Rowan

Property Owner: Mark & Brooks Phillips

Location: 3 Lopez Lane - (RE# 00005690-000100)

Zoning: Historic Medium Density Residential (HMDR) zoning district



Background/Request:

The subject parcel is one lot of record and is located within the HMDR zoning district at the end of Lopez Lane off Margaret Street. The lot includes three one story elevated structures as well as one tree house and a small storage shed. The three structures are connected by a wood deck which houses a pool and jacuzzi. The principle structure is considered an altered contributing resource and was built circa 1933.

The applicant is proposing to construct a one story covered porch to the side of the principle structure. The design includes an exterior staircase to the rear of the covered area that gives access to the proposed second-floor sun deck. The covered porch and exterior staircase triggers a variance to the maximum building coverage requirement. The applicant is proposing to remove the existing tree house to the rear of the property as well as a small shed located to the side of the property.

Relevant HMDR Zoning District Dimensional Requirements: Code Section 122-600				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Minimum Height	30 feet	18 feet 5 inches	18 feet 5 inches	In compliance
Minimum lot size	4,000 sq. ft.	2,655 sq. ft.	2,655 sq. ft.	Existing non-conformity In compliance
Maximum building coverage	40% (1,062 sq. Ft.)	37% (988 sq. Ft.)	42% (1,113 sq. Ft.)	Variance Required (2%) = 51 sq. Ft.
Maximum impervious surface	60% (1,593 sq. Ft.)	50% (1,326 sq. Ft.)	51% (1,361 sq. Ft.)	In compliance
Minimum open space	35% (929 sq. Ft.)	19% (500 sq. Ft.)	27% (735 sq. Ft.)	Improving non-conformity In compliance
Minimum front setback	10 feet	3.5 feet	3.5 feet	Existing non-conformity In compliance
Minimum side setback	5 feet	2.75 feet	2.75 feet	Existing non-conformity In compliance
Minimum side setback	5 feet	3.58 feet	3.58 feet	Existing non-conformity In compliance
Minimum rear setback	15 feet	N/A	15 feet	In compliance

Process:**Planning Board Meeting:**

January 17, 2019

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 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 existing conditions and size of the parcel pre-dates the dimensional requirements of the current LDR's, and therefore is legally non-conforming to some dimensional requirements in the HMDR zoning district. The proposed covered porch is 144 square feet. If the applicant had chosen a covered porch within 93 square feet or less than there would be no need for a variance request. Therefore, there are no special conditions or circumstances that exist that are peculiar to the land, structures or buildings involved.

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 proposed conditions are created by the applicant. This variance request is a result of the actions of the applicant proposing to construct a covered porch in the rear yard which triggers the property's building coverage requirement to go over the amount permissible in the HMDR zoning district.

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.***

Granting the maximum allowed building coverage variance for the covered porch will confer special privileges to the applicant that is denied by the Land Development Regulations to other lands, buildings or structures in the same zoning district.

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 currently has a covered porch in the front yard. They could construct a retractable awning in the rear yard which would not have triggered the building coverage 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, it is 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 following all 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 proposed development shall be consistent with the plans dated, November 30, 2018 by William Rowan, P.A. No approval granted for any other work or improvements shown on the plans other than for the covered porch with an exterior staircase to a second-floor sundeck.