

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



To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Vanessa Sellers, Planner II

Meeting Date: May 16, 2019

Agenda Item: **Variance – 818 Olivia Street (RE # 00019980-000000)** - A request for variances to the minimum front yard setback requirement and the minimum open space for residential use requirement in order to relocate an existing residential structure at property located within the Historic High Density Residential (HHDR) zoning district pursuant to the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

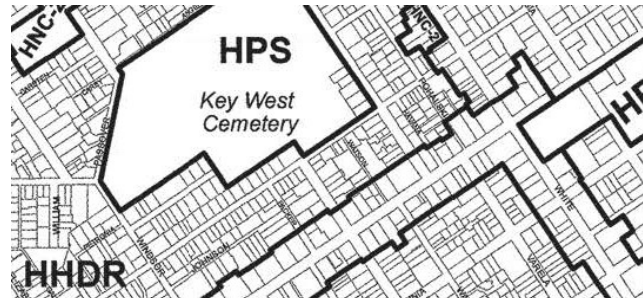
Request: The applicant is seeking variances in order to relocate the existing principle structure nine feet closer to the front boundary line. The existing front yard setback is fifteen feet and one inch, and the proposed front yard setback is six feet. The minimum front yard setback requirement is ten feet. The proposed project will also reduce the nonconforming open space ratio from 31.6 percent to 26.1 percent. The minimum open space requirement for residential use is 35 percent.

Applicant: A2O Architecture, LLC

Property Owner: William Buntain

Location: 818 Olivia Street, Key West

Zoning: Historic High Density Residential (HHDR)



Background:

The property at 818 Olivia Street is located between Windsor Lane and Packer Street and it is one lot of record. The existing nonconforming structure is located within the rear yard setback and the nonconforming parcel contains equipment, a cistern, and two sheds within the side setbacks. The property is located within the Key West Historic District and contains a contributing structure.

The applicant is proposing to elevate the primary structure one foot and move it northwest +/- 9' and northeast +/- 8". A new frame sawtooth rear addition is proposed for the rear of the structure. The applicant is also proposing to relocate the shed that is within the south side setback and remove the shed from the north side setback. However, the plans submitted will require variances to the minimum front yard setback requirement and the minimum open space ratio requirement.

The following table summarizes the requested variances:

Relevant HHDR Zoning District Dimensional Requirements: Code Section 122 - 630				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Maximum height	30'	18'-8"	19'-8"	No
Minimum lot size	4,000 SF	3,244.27 SF	No change	No
Maximum density	22 dwelling units per acre	1 unit	No change	No
Maximum floor area ratio	N/A	N/A	N/A	No
Maximum building coverage	50% (1,622.13)	41% (1,331.45 SF)	47.2% (1,531.62 SF)	No
Maximum impervious surface	60% (1,946.56)	57.1% (1,853.8 SF)	59.9% (1,943.2 SF)	No
Minimum open space (residential)	35% (1,135.6)	31.6% (1,024.6 SF)	26.1% (846.6 SF)	YES
Minimum front setback	10'	15'-1"	6'-0"	YES
Minimum side setback	5' or 10% of lot width (4.05') to a maximum of 15' whichever is greater	6'-9.75" 3'-1"	5' 5'	No
Minimum street-side setback	5'	N/A	N/A	No
Minimum rear setback	20'	16'-6.25"	18'-4.5"	No (improves upon)

Process:

Planning Board Meeting: May 16, 2019
Local Appeal Period: 10 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 buildings do not have any special conditions or circumstances involved that any other property located within the HHDR zoning district possess. The lot is nonconforming to minimum lot size and open space, and the structure is noncomplying to minimum side and rear yard setbacks. 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 primary structure is within the rear setback and is nonconforming. Although the applicant is proposing to improve the nonconformity, the project will in turn create a new nonconformity by relocating the structure within the front setback. 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.***

Section 122-32 (g) of the Land Development Regulations discourages the creation of new nonconformities. Therefore, the relocation of the structure into the front 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 the proposed relocation and elevation of the structure will correct an existing nonconformity and provide additional protection from a 500-year floodplain, the applicant currently has use of the structure in the current location without the variance approval. In addition, the location of the structure does not deprive the applicant of rights commonly enjoyed by other properties in the 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 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 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 the request, staff would like to require the following conditions:

General Conditions:

1. The proposed development shall be consistent with the plans dated April 15, 2019 by Aileen A. Osborn, R.A. No approval granted for any other work or improvements shown on the plans other than the proposed relocation of the existing structure into the required front yard.
2. An existing nonconforming shed in the required side yard setback shall be removed.
3. A second existing nonconforming shed in the opposite side yard setback shall be relocated in compliance with section 122-1181.
4. An existing concrete cistern and pavement in the side yard setback shall be removed.

Conditions required to be completed prior to issuance of a building permit:

5. A Certificate of Appropriateness shall be obtained for the proposed development.
6. A tree permit shall be obtained from the Urban Forestry Manager for the relocation of an existing protected palm tree on site.