



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

**To:** Chairman and Planning Board Members

**Through:** Patrick Wright, Planning Director

**From:** Angela Budde, Planner I *Ang*

**Meeting Date:** August 15, 2019

**Agenda Item:** **Variance – 2325 Harris Avenue (RE # 00048880-000000)** – A request for a variance to the minimum front yard setback requirement in order to replace a portion of the existing roof with a new roof, open roof arbor and decorative gable on a property located within the Single Family Residential (SF) zoning district pursuant to Sections 90-395 and 122-238 (6)(a)(1) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

**Request:** The applicant is proposing site modifications in order to construct a new roof pitch and height change, an open roof arbor over the existing front porch, and a decorative front gable to the existing nonconforming front yard setback that extends the nonconformity vertically for a single-family residence.

**Applicant:** Trepanier & Associates, Inc.

**Property Owner:** James and Janice Phillips

**Location:** 2325 Harris Avenue

**Zoning:** Single Family Residential (SF) Zoning District



**Background:**

The property at 2325 Harris Avenue is located between Fogarty and Seidenberg Avenues and is one lot of record. The existing noncomplying residential structure is located within the front yard setback. The property is not located within the Key West Historic District. However, according to the Monroe County Property Appraisers historic green card, the structure was built circa 1900.

The applicant is proposing to construct a new roof pitch and height change over the existing front concrete patio. The plans submitted would require a variance to minimum front setback as the nonconformity is expanding upwards and changing the 3d envelope of the primary structure.



House, fence and garage



Roof, fence and porch of house



Fence and porch of house

The following table summarizes the requested variance:

<b>Relevant SF Zoning District Dimensional Requirements: Code Section 122 - 238</b>				
<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Flood Zone	AE7			
Maximum height	25 Feet + 5 Feet for non-habitable space	18 Feet 5 inches	28 Feet, 5 Inches (3 Feet, 8 Inches are non-habitable space for decorative gable)	No
Minimum lot size	6,000 Square Feet	6,412 Square Feet	No change	No
Maximum floor area ratio	N/A			
Maximum building coverage	35%	44.37%	39.83%	No
Maximum impervious surface	50%	56.79%	54.71%	No
Minimum Open Space (residential)	35%	40.06%	40.45 %	No
Minimum front setback	30' or the average depth of front yards on developed lots within 100' each side, but not less than 20'	8 Feet	Expands upon vertically	Yes
Minimum right-side setback	5 Feet	4 inches	No change	No

Minimum left-side setback	5 Feet	6 Feet 2 Inches	No change	No
Minimum rear setback	25' or 20' when abutting an alley	22 Feet 8 Inches	29 Feet 2 Inches	No

**Process:**

Planning Board Meeting: August 15, 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 SF zoning district possess. The primary structure is noncomplying to the minimum front and right-side yard setback requirements, and the parcel is noncomplying to maximum allowable impervious surface ratio. However, the original house was constructed circa 1900's with the existing front setback maintained since then. Legally nonconforming site characteristics are not uncommon in the City and therefore do not generate the existence of special conditions or circumstances.

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 front-yard setback is noncomplying. The construction of a new roof over the existing concrete patio within the front-yard setback will expand upon vertically the noncomplying setback upwards. Thus, the condition is 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 122-27 of the Land Development Regulations discourages the expansion of site nonconformities. Therefore, expanding upon vertically the front setback with a proposed decorative gable to conceal the existing rooflines 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 the outdoor elements such as sun, rain and airborne pollutants, the applicant currently has use of the existing front patio and roof without the variance 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 SF 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 variance requested 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.***

The granting of the requested variance would not be injurious to the area involved and otherwise detrimental to the public interest.

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 April 17, 2019 by Serge Mashtakov, PE. No approval granted for any other work or improvements shown on the plans other than the proposed new roof pitch and height change, an open roof arbor and decorative gable expanding upwards.
2. No impacts are authorized to occur to any regulated trees or palms including their roots and canopy branches during demolition or construction.
3. Trees near and within the project area will be protected during construction. Trees located within the work area that may need to be removed would require approval from the City of Key West’s Urban Forestry Manager.