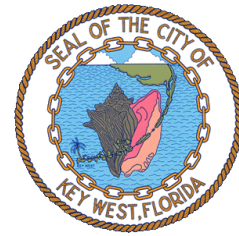


**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**



To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Angela Budde, Planner I

Meeting Date: August 15, 2019

Agenda Item: **Variance -1326 Grinnell Street (RE# 00039600-000000)** – A request for variances to the minimum rear setback and maximum building coverage requirements in order to construct an addition on the principal structure and remove existing brick patios and one low wood decking for a property located within the Historic Medium Density Residential (HMDR) Zoning District pursuant to Sections 90-395, 122-600 (4)(a) and (6)(c) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida

Request: The applicant is proposing site modifications to the minimum rear setback and the maximum building coverage requirements in order to construct an addition on the principal structure located in the rear of the property. The site modification proposes to remove the existing brick patios and one low wood decking.

Applicant: Seth Neal, R.A. of T.S. Neal Architects, Inc.

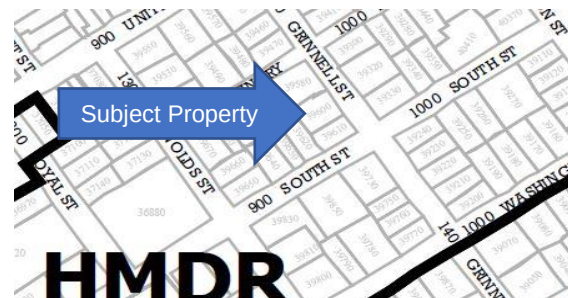
Property Owner: Gary and Joann Loer, Marshall and Nancy White

Location: 1326 Grinnell Street (Re# 00039600-000000)

Zoning: Historic Medium Density Residential (HMDR) Zoning District

Background:

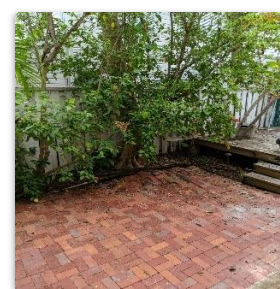
The existing property is a one-story home located at 1326 Grinnell Street between South and Seminary Streets. The single-family residence is one lot of record within the Historic Medium Density Residential (HMDR) Zoning District and the structure is recognized as non-contributing in the Key West Historic District.



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?
Flood Zone	X			
Maximum height	30 Feet	19 Feet 6 Inches	No change	No
Minimum lot size	4,000 Square Feet	5,116 Square Feet	No change	No
Maximum floor area ratio	1.0			
Maximum building coverage	40%	41.2% (2,108 Square Feet)	44% (2,255 Square Feet)	Yes
Maximum impervious surface	60%	68.7%	67%	No
Minimum open space	35%	23.3%	25.7%	No
Minimum front setback	10 Feet	5 Feet 8 Inches	No change	No
Minimum right-side setback	5 Feet	2 Feet 7 Inches	No change	No
Minimum left-side setback	5 Feet	25 Feet 6 Inches	No change	No
Minimum rear setback	15 Feet	17 Feet 11 Inches	9 Feet	Yes

Table



Process:

Planning Board Meeting: August 15, 2019
HARC: TBD
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 existing structure is legally non-conforming to front and right-side yard setbacks, as well as maximum building coverage, maximum impervious surface ratio and minimum open space requirements. The applicant is proposing minimal improvements to the impervious surface ratio and open space requirement. However, legally nonconforming site characteristics are not uncommon in the City, therefore, they do not generate the existence of special conditions or circumstances that any other property located within the HMDR Zoning District possesses.

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 nonconforming building coverage is not a condition created by the applicant, nor does it result from the action or negligence of the applicant. However, the site modifications will increase the maximum building coverage by 147 square feet and create a new non-conformity to the minimum rear setback by 6-feet. Therefore, the conditions are generated from specific actions initiated by the applicant due to the nature of the design.

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 (d) of the Land Development Regulations discourages the creation of new nonconformities. Therefore, construction of an addition onto the primary structure within the rear 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.***

The applicant currently has existing use of the site without the variance approval. Therefore, hardship conditions do not exist. Denial of the requested variances would not deprive the Applicant of rights commonly enjoyed by other properties in the HMDR 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 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.***

It does not appear that granting of the variance will be injurious to the area involved or otherwise detrimental to the public interest or welfare.

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, structure, 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 standard established by Section 90-395 of the City Code have not 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**.

However, if the Planning Board approved this request, staff would like to require the following conditions:

General Conditions:

1. The proposed development shall be consistent with the plans dated, May 20, 2019 by Timothy Seth Neal, Registered Architect. No approval granted for any other work or improvements shown on the plans other than the proposed construction of an addition on the principal structure located in the rear setback of the property to accommodate a bathroom along with the proposal to remove the existing brick patio pavers and one low wood decking.
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 Urban Forestry Manager. Contact the Urban Forestry Manager regarding the removal issues on the property.

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

4. The owner shall obtain a Certificate of Appropriateness for proposed site modifications.