

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



**To:** Chairman and Planning Board Members

**Through:** Roy Bishop, Planning Director

**From:** Melissa Paul-Leto, Planner I

**Meeting Date:** November 21, 2019

**Agenda Item:** **Variance – 916 White Street - (RE# 00021740-000000)** – A request for a variance to the minimum side setback requirement in order to replace the rear roof that is encroaching into the side setback. The property is located within the Historic Medium Density Residential (HMDR) zoning district pursuant to Sections 90-395, and 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 proposing to replace the rear side of the roof with an additional pitched roof.

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

**Property Owner:** Rhonda Hixon and Charles Hixon

**Location:** 916 White Street - (RE# 00021740-000000)

**Zoning:** Historic Medium Density Residential (HMDR) zoning district

**Subject Property: 916 White Street**



**Background/Request:**

The subject parcel is one lot of record and is located within the HMDR zoning district. The lot includes a one-story framed structure. The current roof is an amalgamation of additions made haphazardly over the years since 1962. There is a shed roof attached to the original structure, and a flat roof at the southwest corner with a gable on the northwest side.

The applicant is proposing to replace the rear roof with a saw-tooth roof. The proposed design adds an additional pitch to the existing roof. The existing single family home is encroaching onto the east side setback by four (4) feet. The minimum side yard setback in the HMDR zoning district is five (5) feet. The proposed additional pitch in the rear roof design triggers a variance to the side yard setback requirement.

<b>Relevant HMDR Zoning District Dimensional Requirements: Code Section 122-600</b>				
<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Minimum Height	30 feet	16 feet 3 inches	16 feet 3 inches	In compliance
Minimum lot size	4,000 square feet	2,325 square feet	2,325 square feet	Existing non-conformity In compliance
Maximum building coverage	40% (930 square feet)	44.98% (1,046 square feet)	44.90% (1,044 square feet)	Improving non-conformity In compliance
Maximum impervious surface	60% (1,395 square feet)	62.32% (1,449 square feet)	62.10% (1,144 square feet)	Improving non-conformity In compliance
Minimum open space	35% (814 square feet)	38.79% (902 square feet)	53.76% (1,250 square feet)	In compliance
Minimum front setback (street)	10 feet	5 feet	5 feet	Existing non-conformity
<b>Minimum side setback (east)</b>	<b>5 feet</b>	<b>1 foot (existing)</b>	<b>1 foot (to remain)</b>	<b>Variance required -4 feet</b>
Minimum side setback (west)	5 feet	5 feet	5 feet	In compliance
Minimum rear setback	15 feet	15 feet	15 feet	In compliance

**Process:****Planning Board Meeting:**

November 21, 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 choice to raise the three-dimensional envelope by proposing a pitched roof to the rear of the structure that has a one (1) foot side setback. 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. The applicant is proposing to replace the existing roof with an additional pitched roof to the rear of the structure. This proposal triggers a variance to the side setback requirement as the existing single-family structure is encroaching into the east side setback by four (4) feet leaving only one (1) foot to remain. The proposed design of the roof raises the three-dimensional envelope of the existing non-conformity.

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 minimum allowed side setback variance to redesign the roof at a higher pitch 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 property owner may choose the same roof design the house currently has as a roof replacement 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, 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.***

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 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, July 15, 2019 by Burt Bender & Associates, Architects. No approval granted for any other work or improvements shown on the plans other than for the replacement of the roof.