

**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:** January 17, 2020

**Agenda Item:** **Variance – After-the-Fact Variance – 1414 Albury Street – (RE# 00024290-000000)** – A request for after-the-fact variances to the maximum building coverage, the minimum rear yard setback and minimum side yard setback requirements to allow for a guest room/ pool house addition and a proposed covered walkway on property located within the Historic Medium Density Residential (HMDR) zoning district pursuant to Sections 90-395, 122-600 (4) (a), 122-600 (6) (c), 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 seeking a variance to construct an after-the-fact guest room / pool house addition and a proposed walkway that connects the after-the-fact guest room /pool house addition to the rear of the principle structure.

**Applicant:** A2O Architecture, LLC

**Property Owner:** Sunseekers Re, LLC

**Location:** 1414 Albury Street – (RE# 00024290-000000)

**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 corner of Pearl and Albury Street. The lot includes a one- and two-story framed single-family structure as well as an after-the-fact one story framed structure located in the rear yard adjacent to a pool. On September 18, 2019, the after-the-fact one story framed structure was cited a code violation for building without the proper permits per case # CC2019-01420.

The applicant is proposing to complete construction on the one story after the fact addition for a guest room/ pool house and connect the addition to the principle structure through a proposed flat covered roof. The covered walkway and addition triggers variances to the maximum building coverage requirement, the minimum rear yard setback and minimum side yard setback requirements.

<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	N/A (addition)	10 feet 11 inches	In compliance
Minimum lot size	4,000 square feet	4,229 square feet	4,229 square feet	In compliance
<b>Maximum building coverage</b>	<b>40% (1,691.88 square feet)</b>	<b>39.21% (1,658.53 square feet)</b>	<b>43.85% (1,854.66 square feet)</b>	<b>Variance Required (3.85% =162.78 square feet)</b>
Maximum impervious surface	60% (2,537.82 square feet)	56.45% (2,387.86 square feet)	59.3% (2,509.13 square feet)	In compliance
Minimum open space	35% (1,480.4 square feet)	39.83% (1,684.52 square feet)	37.38% (1,581 square feet)	In compliance
Minimum front setback	10 feet	3 feet 10 ¾ inches	3 feet 10 ¾ inches	Existing non-conformity In compliance
Minimum street side setback	7 feet 6 inches	5 feet 6 3/8 inches	5 feet 6 3/8 inches	Existing non-conformity In compliance
<b>Minimum side setback (addition)</b>	<b>5 feet</b>	<b>2 feet 7 inches</b>	<b>2 feet 7 inches</b>	<b>Variance Required -2 feet 3 inches</b>
<b>Minimum rear setback (addition)</b>	<b>15 feet</b>	<b>5 feet 10 inches</b>	<b>5 feet 10 inches</b>	<b>Variance Required -9 feet 2 inches</b>

**Process:**

**Planning Board Meeting:**

January 16, 2020

**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 of the one- and two-story single-family structure 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. However, the property owner constructed an after-the-fact addition at the rear of the property. The addition encroaches into the minimum required side and rear yard setbacks. Prior to the addition, the property was already non-conforming with the maximum building coverage. The construction of the addition and the proposed design of the covered walkway further increases this non-conformity. 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 an after-the-fact addition and a covered walkway which triggers the property's maximum building coverage, minimum side yard, and minimum rear yard setback requirements 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, minimum side yard setback, and minimum rear yard setback variances for the covered walkway and addition 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. A guestroom/ pool house is not a requirement in the HMDR zoning district. 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, December 19, 2019 by Aileen Osborn, P.A. for A2O Architecture No approval granted for any other work or improvements shown on the plans other than for the after-the-fact guest room/ pool house addition and covered walkway.
2. The guest room/ pool house addition shall require an internal sprinkler installation.
3. A gutter and downspout should be installed along the drip edge side of the roof, to direct stormwater back onto the property and into the landscape area.