

THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report



To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Daniel Sobczak, Planner I

Meeting Date: November 19<sup>th</sup>, 2020

Application: **Variance** – 1211 Knowles Lane (RE# 00033760-000000) – A request for a variance to convert a historic cistern into an accessory in-ground swimming pool structure in the minimum side setback and the minimum rear setback of the Historic Medium Density Residential (HMDR) zoning district pursuant to Sections 90-395, 122-600 (6) b., 122-600 (6) c.

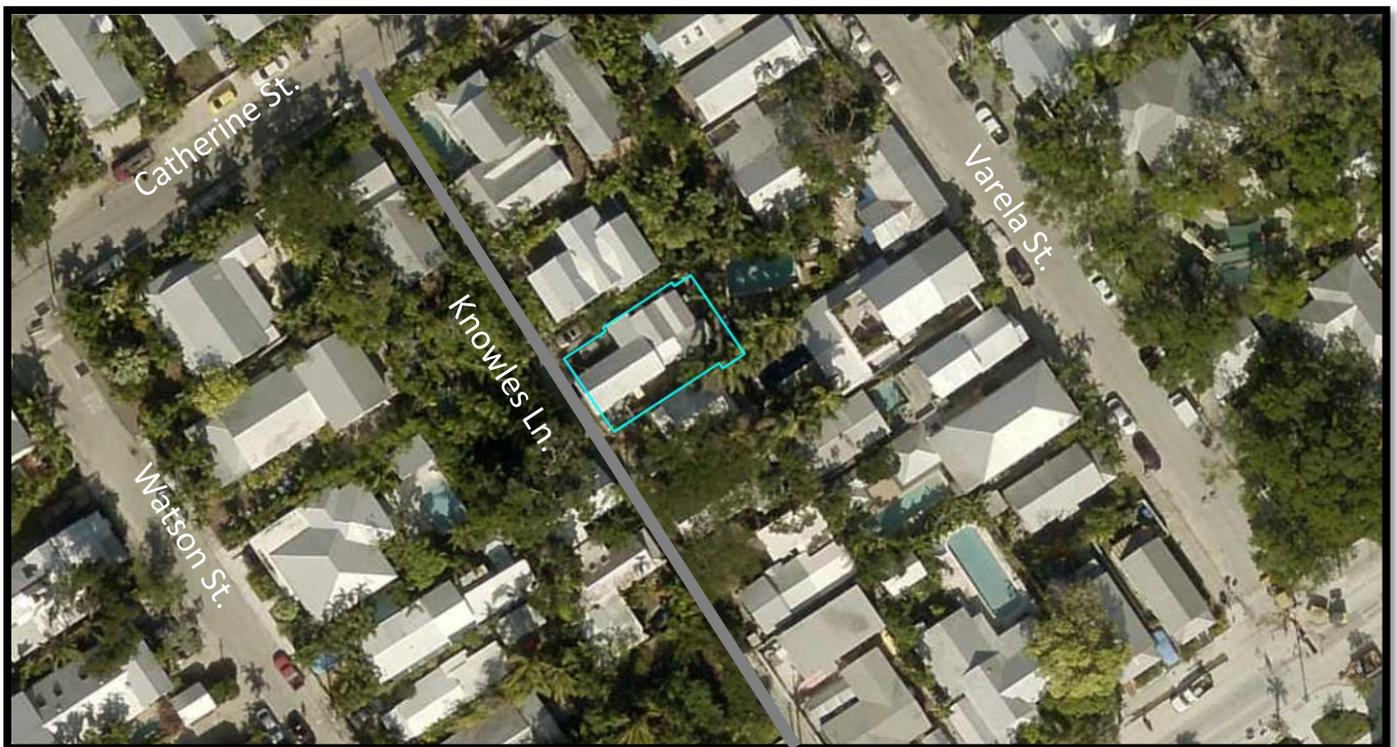
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Request: The applicant is requesting a variance to minimum required side and minimum required rear setbacks in order to convert a historic cistern into an accessory in-ground swimming pool.

Applicant: Larry Hansen

Property Owner: Larry Hansen

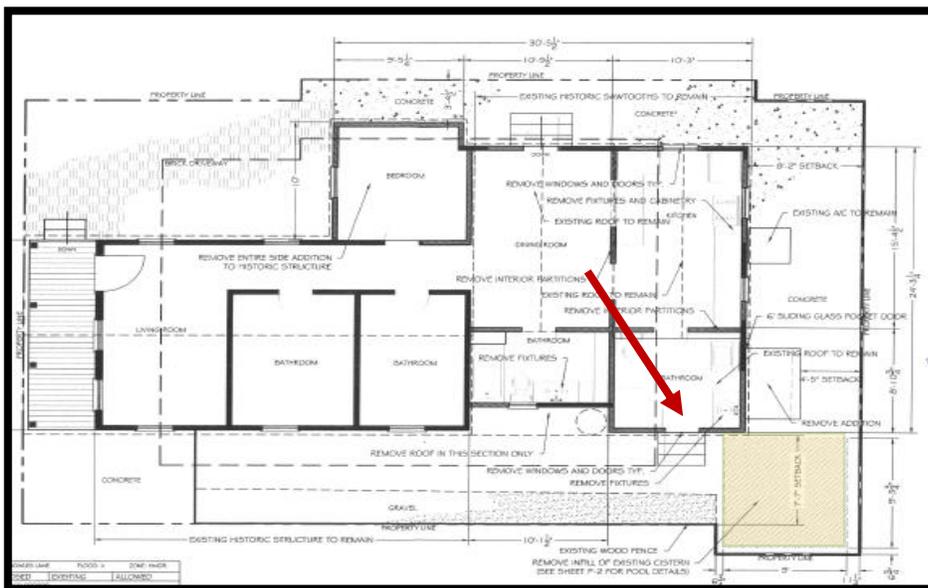
Location: 1211 Knowles Lane (RE# 00033760-000000)



**Background:**

The subject parcel is located at 1211 Knowles Lane in the Historic Medium Density Residential zoning district. The parcel is located within the Key West Historic District; the principal structure is a contributing structure. According to the Historic Architectural Review Commission, the historic structure is of frame vernacular and was constructed in 1899. The current homeowner purchased the parcel in 2019. The homeowner applied for a permit to convert the cistern into an in-ground swimming pool but was directed to apply for a variance due to the scope of work including construction in the code required setback. The homeowner’s other permits for exterior and interior renovations are currently in corrections. Code Section 122-28 (b) states that a variance is required for the replacement or reconstruction of a noncomplying accessory structure.

Site Data Table				
	Code Required	Existing	Proposed	Variance Required
Zoning	HMDR			
Flood Zone	X			
Size of Site	5,000 sqft	2,276 sqft		
Height	30'	17.5'	17.5'	n/a
Front Setback	10	0	0	Existing nonconformity
Side Setback	5'	3' 5"	0'	5'
Rear Setback	15'	4' 5"	0'	5'
Building Coverage	50% -- 1,138 sqft	52% --1,190 sqft	52% -- 1,180 sqft	Yes, existing nonconformity
Impervious Surface	60% -- 1,365 sqft	95% -- 2,170 sqft	76% -- 1,726 sqft	Yes, substantially lowered existing nonconformity
Open Space	35% -- 797 sqft	5% --106 sqft	6% -- 132 sqft	Yes, existing nonconformity

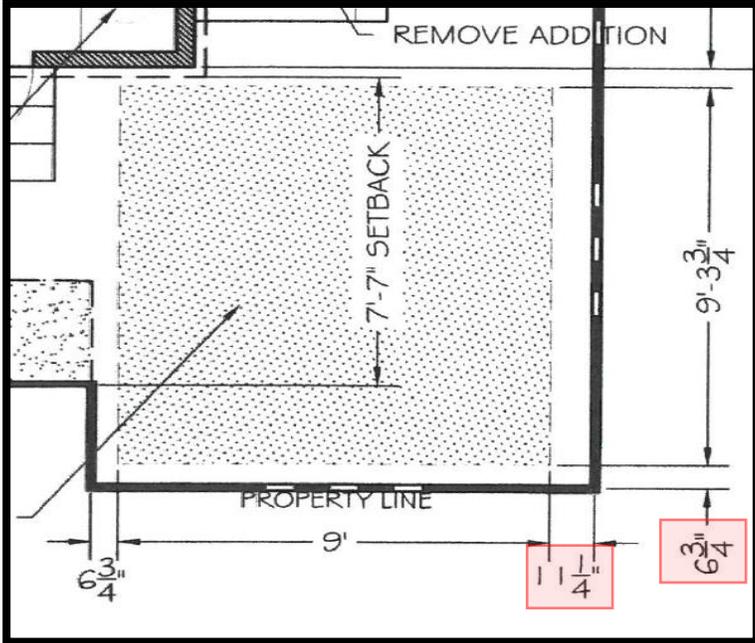


**Existing Site Plan, 1211 Knowles Ln., 2020**

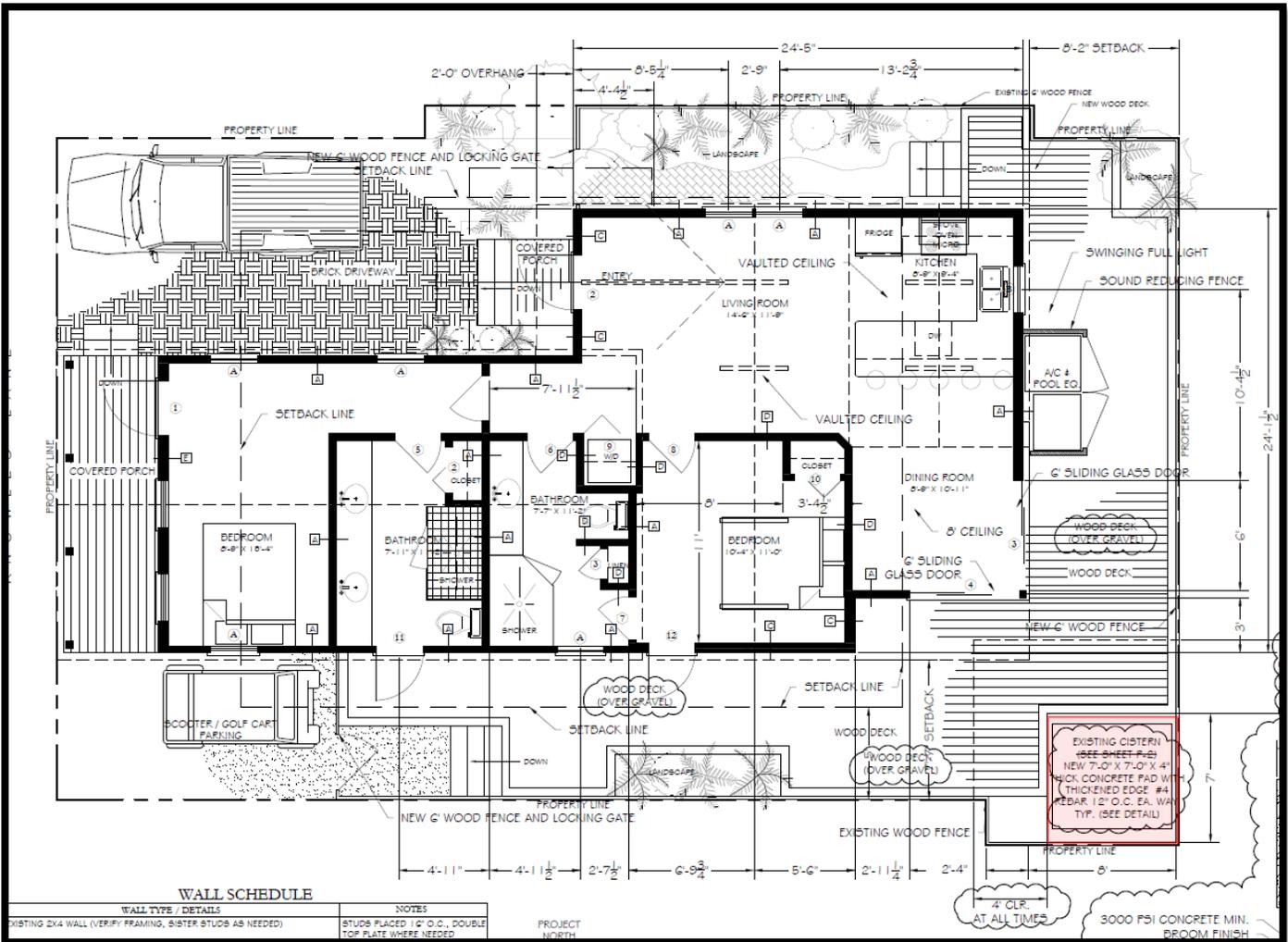
The applicant has submitted the existing site plan which shows the non-complying structure and site.

**Existing Cistern Site Plan,  
1211 Knowles Ln., 2020**

The applicant proposes to remove the existing cistern and place a 7-foot by 7-foot above ground spa in the rear corner of the lot. The proposed above ground spa will touch both the rear and side property lines. The applicant will also remove 444 sq.ft. of impervious surface of the lot to bring the property closer to compliance with maximum impervious surface requirements. The applicant has worked with the Fire Marshal's office to find a proposed layout that would comply with their rules and regulations.



**Site Plan, 1211 Knowles Ln., 2020**



**WALL SCHEDULE**

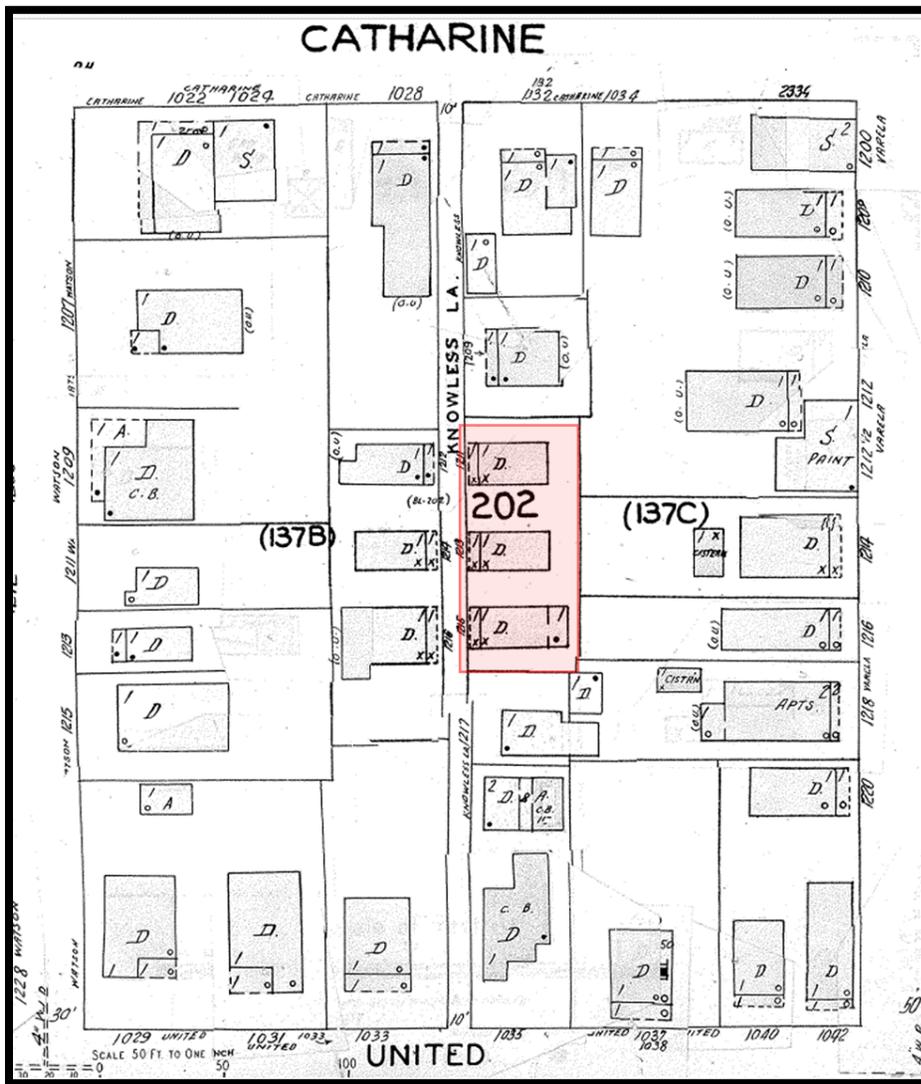
WALL TYPE / DETAILS	NOTES
EXISTING 2X4 WALL (VERIFY FRAMING, SISTER STUDS AS NEEDED)	STUDS PLACED 1/2" O.C., DOUBLE TOP PLATE WHERE NEEDED

PROJECT NORTH

3000 PSI CONCRETE MIN. ROOM FINISH

**Staff Analysis - Evaluation:**

The applicant is applying to remove an existing historic cistern and place an above ground spa in the rear corner of the property. City Code Section 122-28 states, "All noncomplying accessory structures to the principal building or structure (e.g., a shed, pool, fence, etc., but not including a condominium clubhouse) shall also require a variance in order to be enlarged, reconstructed or replaced, either voluntarily or involuntarily." The addition of an above ground spa will increase the intensity of the current nonconforming structure. The applicant has proposed to remove 444 sq.ft. of impervious surface to bring the property closer to compliance. Furthermore, the applicant has worked with the Fire Marshal's office to find a solution for the applicant by reducing the size of the original spa proposed, placing the spa on property lines, and ensuring a pathway of at least 4-feet is clear from the front to the rear of the property at all times. The Fire Marshal's office has no life/safety objections due to the revised plans.



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 subject parcel located at 1211 Knowles is a historic legal non-complying lot with a lot width of 36-feet and a lot depth of 50-feet. Surrounding properties vary in size and shape, some parcels surrounding 1211 Knowles are of similar lot depth and lot width. The lot is entirely built out and is over 95% impervious surface. The applicant has proposed reducing their overall impervious surface from 95% to 76%, a total reduction of 444 sq.ft.

**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 current owner purchased the property in 2019. There are no variances or notes on file for the property that show that past owners applied for or were granted variances or other administrative leniencies that would have granted the non-complying structures currently on the property. The current owner would like to remove the historic cistern and expand the nonconforming structure by installing an above ground spa.

**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.*

The Land Development Regulations restrict accessory structures from being closer than five feet from any property line in order to maintain safety and access. The subject property is currently noncomplying in impervious surface, building coverage, and open space. While the owner has proposed a total reduction of impervious surface by 19%, the granting of this variance and installation of the above ground spa would increase the property's noncompliance and would confer special privileges to the homeowner.

**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.*

Literal interpretations of the LDRs would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district. The historic district and the HMDR zoning district include copious parcels that do not meet minimum lot dimensions. The applicant's lot is similar to others in the district in that it does not conform to either required lot width or required lot

depth. The applicant is also non-conforming in open space, impervious surface, and building coverage. Due to constraints from the lot that are similar to constraints on other lots in the district, a Code compliant above-ground spa is not feasible on the lot; the Planning Department does not find a hardship. The applicant has updated their original application after working with the Planning Department to reduce the impervious surface and reduce the size of the above ground spa.

**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 and/or structure. It is reasonable that the pool could be shifted laterally so that only a rear setback variance would be needed.

**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 purpose of required yards in the land development regulations is to provide open space around and between structures for health, safety, and aesthetic purpose. Diminishing the required side and rear yard could set a precedent for the block and surrounding neighbors. The proposed pool would be abutting the rear and side property lines. The surrounding property owners have six-foot-high fences surrounding the rear and side property lines of the applicant's property.

**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.*

The applicant has written a letter detailing their desire for a variance, in this letter the applicant states that there are several surrounding lots with pools, and that while these should not be used as a precedent, his property should be consistent with adjoining properties. It does not appear that these pools are situated within both the minimum required side and rear setbacks. Furthermore, the City Code states that neighboring non-compliant structures shall not be considered with respect to this variance.

**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 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.*

No objections to the variance have been received.

**Recommendation:**

Pursuant to Section 122-1181, no accessory structure shall be constructed in the required side yard. The applicant is proposing to construct an accessory structure in both the required rear yard and the required side yard. The parcel currently exceeds the maximum impervious surface area; however, the applicant has proposed to reduce the overall impervious surface by 19% or about 444 square feet for a total of 76% impervious surface area on the parcel. The addition of the proposed above ground spa would further the noncompliance of the property. The proposed accessory structure would be abutting both the rear and side property lines. This proposed variance was reviewed by the Fire Marshal of Key West and after working with the applicant to reduce the size of the pool and create a 4-foot access lane on the property, the Fire Marshal has no objections to the proposed project.

Based on a review of the application according to the stringent evaluation criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for a variance be **DENIED**. If the Planning Board votes to approve, the Planning Department recommends the following conditions:

1. Vegetation be planted and maintained to screen and buffer the structure.
2. Building plans must comply with plans submitted by William Rowan on 10-24-2020 except for changes to decrease impervious surface and construct a swale or other mitigative technique on the property.