

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



To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Melissa Paul-Leto, Planner I

Meeting Date: May 20, 2021

Agenda Item: **Variance – 1518 Von Phister Street – (RE# 00042620-000000)** - A request to the impervious surface ratio, maximum building coverage, minimum street side setback, and a request for a variance in order to have an accessory structure located within the required front yard in order to construct a side deck, a pool and pool equipment on property located within the Single Family (SF) zoning district pursuant to sections 90-395, 122-238 (4) a., 122-238(4)b., 122-238 (6) 4., and 122-1181 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

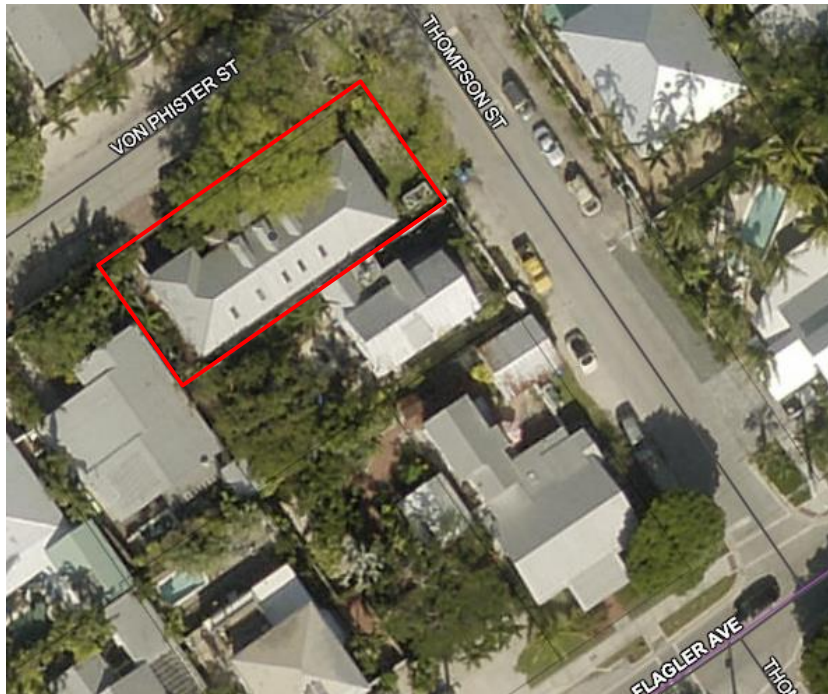
Request: The applicant is proposing to install a pool, pool equipment and a deck.

Applicant: Robert L. Delaune, P.A.

Property Owner: CCPKW LLC

Location: 1518 Von Phister Street – (RE# 00042620-000000)

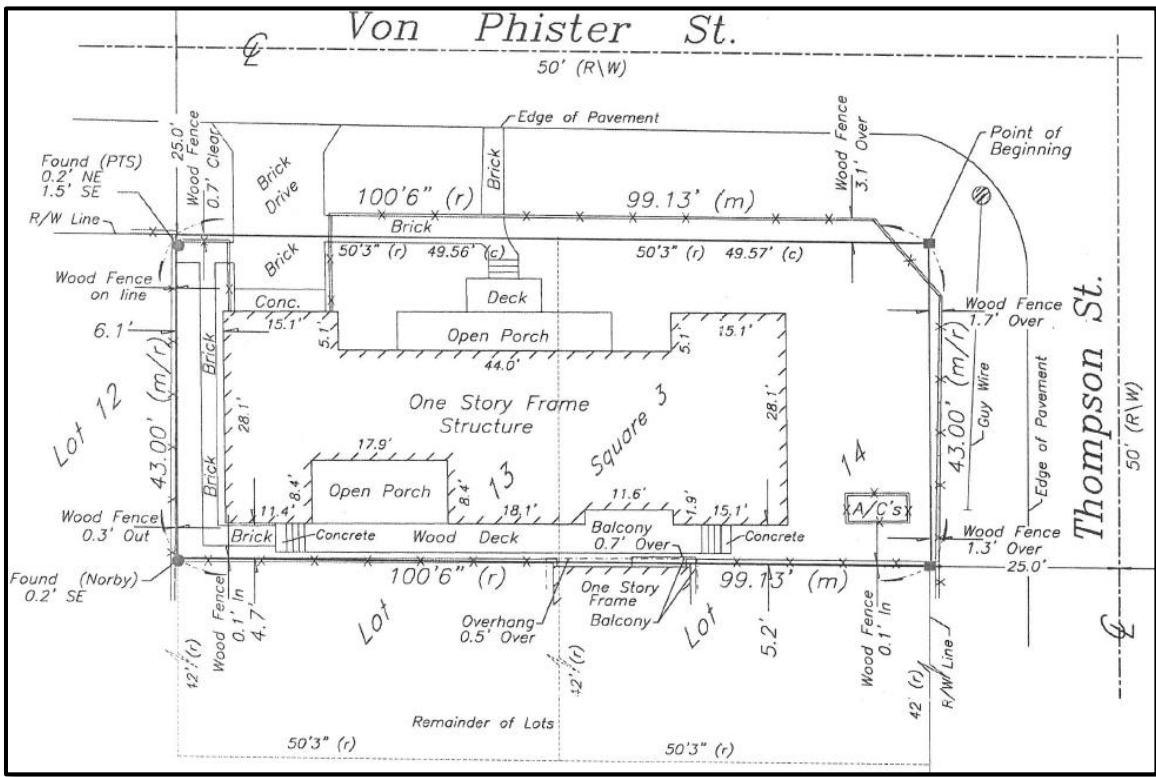
Zoning: Single Family (SF) zoning district



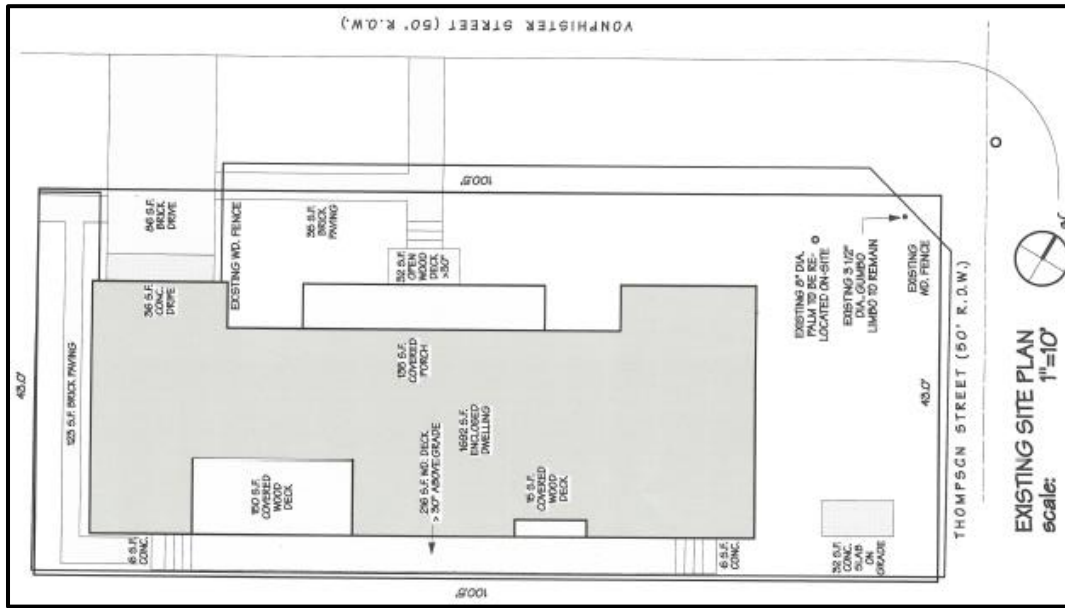
Background/Request:

The subject property is located on the corner of Von Phister Street and Thompson Street. The parcel size is 4,321 square feet and is one lot of record. The one-story framed structure was built in 2005. Based on the proposed plans, a pool and deck will be installed at the street side yard of the property and the pool equipment will be in the front of the yard.

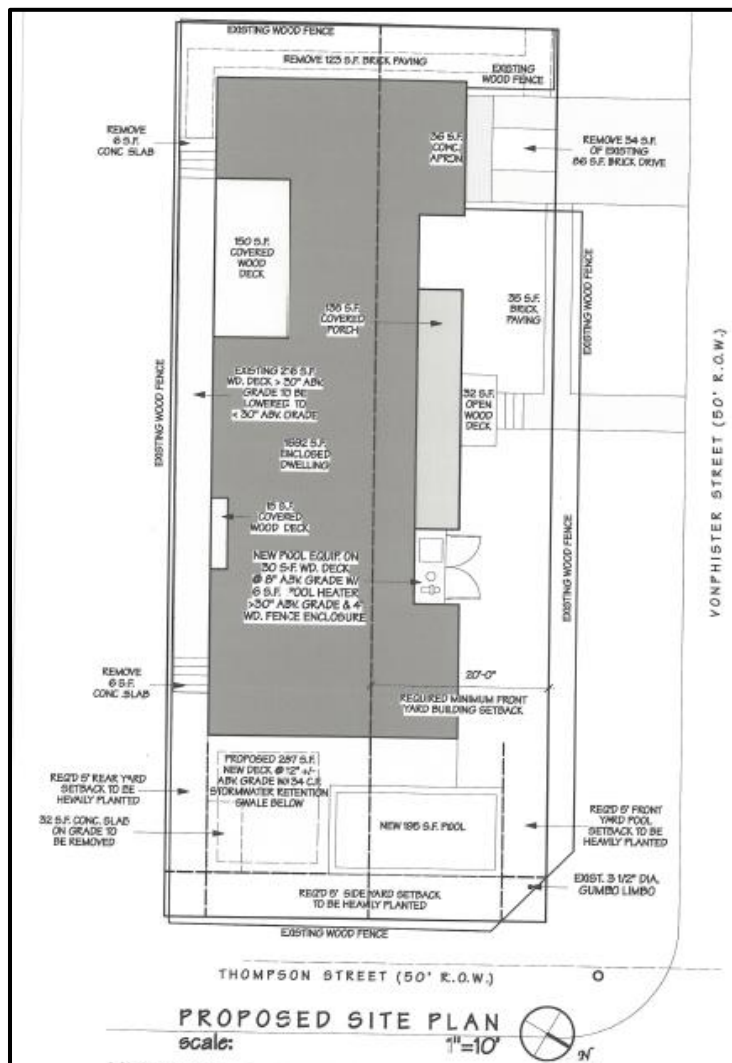
- Per Resolution # 04-166, the Board of Adjustment on April 7, 2004 approved the following variances: The minimum front setback from 30 feet to 9 feet, the minimum rear yard setback from 25 feet to the 4 feet and maximum building coverage requirements from 35 percent to 46 percent. The resolution was to allow the construction of a single-story wood frame residence including a front porch and an attached garage.



1518 Von Phister Street – Boundary Survey



1518 Von Phister Street – Existing Site Plan



1518 Von Phister Street - Proposed Site Plan

Based on the plans submitted, the proposed design would require variances to the following dimensional requirements:

- The required maximum building coverage in the Single-Family (SF) zoning district is 35 percent, or 1,512 square feet. The existing building coverage on the site is 46 percent, or 1,987.66 square feet. The applicant is proposing 46.1 percent, or 1,992 square feet.
- The required maximum impervious surface ratio in the Single-Family (SF) zoning district is 50%, or 2,161 square feet. The existing impervious surface ratio is 59.3%, or 2,564 square feet. The applicant is proposing 59.3%, or 2,564 square feet.
- The minimum street side yard setback in the Single-Family (SF) zoning district is 10 feet. The existing street side setback is 20 feet 3 inches from the one-story framed structure. The applicant is proposing 5 feet to construct a pool and deck in the street side yard.
- No accessory uses or structure shall be erected in any required front or side yard, and the accessory uses, or structure shall not cover more than 30 percent of any required rear yard. There are no accessory structures existing in the required front yard. The applicant is proposing to install pool equipment 11 feet into the required front yard.

Relevant SF Zoning District Dimensional Requirements: Code Section 122-238				
Dimensional Requirement	Required/Allowed	Existing	Proposed	Change / Variance Required?
Flood Zone	AE-7			
Maximum Height	25 feet plus an additional five feet for non-habitable purposes if the structure has a pitched roof	N/A	N/A	In compliance
Minimum lot size	6,000 SF	4,321 SF	4,321 SF	Existing non-conformity
Maximum building coverage	35 % 1,512 SF	46 % 1,987.66 SF	46.1 % 1,992 SF	Variance Required +480 SF
Maximum impervious surface ratio	50 % 2,161 SF	59.3 % 2,564 SF	59.3 % 2,564 SF	Variance Required +403 SF
Minimum open space	35 % 1,512 SF	40.7 % 1,757 SF	39 % 1,688 SF	In compliance

Minimum front yard setback	20 feet	9 feet 7 inches one-story framed structure	9 feet 7 inches one-story framed structure	Existing non-conformity
Minimum side yard setback	5 feet	6 feet 1 inch	6 feet 1 inch	In compliance
Minimum street side yard setback	10 feet	20 feet 3 inches One-story framed structure	5 feet Pool & deck	Variance Required -5 feet
Minimum rear yard setback	25 feet	N/A	N/A	Existing non-conformity
Accessory structure located in the required front yard	N/A	N/A	11 feet Pool equipment	Variance Required -14 feet

Process:

Planning Board Meeting: May 20, 2021
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 dimensions and size of the parcel pre-dates the dimensional requirements of the current LDR's, and therefore is legally non-conforming in the SF zoning district. The property has a lot size of 4,321 square feet. The existing one-story framed structure is also nonconforming to the minimum front, rear, side setbacks, maximum building coverage, and maximum impervious surface ratio in the Single-Family district's dimensional requirements. The applicant is proposing to remove portions of impervious surface so that the pool and pool equipment do not increase the non-conformity. However, a variance is required for the proposed design. Therefore, there are no 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.***

This variance request is a result of the actions of the applicant proposing to construct a pool, a

deck and install pool equipment.

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, allowing the installation of pool equipment which add more building coverage to the property, would confer special privileges upon the applicant. In addition, all property owners located within the SF zoning district have a maximum building coverage of 35% and a maximum impervious surface ratio of 50% no matter what size their lot may be. The variance request to go over the maximum building coverage, maximum impervious surface ratio, minimum street side yard setback, and locating pool equipment in the required front yard, 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.***

Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the SF zoning district. The property owner may choose to not have a pool and a deck as the property has many existing nonconformities. 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.

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:

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 comments 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 design shall be consistent with the plans dated, March 18, 2021 by Robert L. Delaune, P.A.

2. Per Urban Forrester: A tree protection plan shall be submitted with the building permit application.
3. The property owner shall screen the pool equipment.