


# MIAMI BEACH

## PLANNING DEPARTMENT

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### BOARD OF ADJUSTMENT STAFF REPORT

FROM: Thomas R. Mooney, AICP   
Planning Director

DATE: May 3, 2019 Meeting

RE: File No. ZBA18-0086  
**1746 Cleveland Road – Single-Family Home (Garage Addition)**

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The applicant, Keith Ferguson, is requesting a variance from the required front setback for the construction of a new 1-story garage addition to an existing 1-story single-family home.

**STAFF RECOMMENDATION:**

**Approval** of the requested variance with conditions.

**LEGAL DESCRIPTION:**

Lot 15, Block 5 of Biscayne Pint Subdivision, according to the plat thereof, as recorded in plat book 14, Page 35, of the public records of Miami-Dade County, Florida.

**SITE DATA:**

Folio Number –	02-3203-001-0790
Zoning –	RS-4 (Single-Family Residential)
Future Land Use Designation –	RS (Single-Family Residential)
Lot Size –	9,000 S.F. / ~0.21 Acres *
Existing Use –	Single-family Residence
Proposed Use –	Single-family Residence
Proposed Lot Coverage –	3,703 S.F. / 41%
Proposed Unit Size –	3,282.5 S.F. / 36.5%
Year Constructed –	1952

*\*As per survey submitted by applicant.*

**THE PROJECT:**

The applicant has submitted the following plans:

- Boundary Survey, by Nova Surveyors, Inc., dated October 19, 2018.
- Tree Survey, by Nova Surveyors, Inc., dated January 9, 2019
- Plans, signed by Moises Rivera, dated February 4, 2019.

The applicant is proposing to construct a garage addition to an existing one-story residence on an interior (waterfront) lot.

The applicant is requesting the following variance(s):

1. A variance to reduce by 6'-10" the minimum required front setback of 20'-0" for the construction of a one-story garage addition located at 13'-2" from the front property line facing Cleveland Road.

- Variance requested from:

**Sec. 142-106. Setback requirements for a single-family detached dwelling.**

*The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:*

- (1) Front yards: The minimum front yard setback requirement for these districts shall be 20'-0".*

The existing one-story single family home has larger than required front and rear setbacks and non-conforming side setbacks of approximately 5'-0". The existing lot coverage and unit size are well below the maximum allowed for a one-story structure. The home is being renovated in order to upgrade it to more modern living standards. As part of the renovation, the applicant is proposing a one car garage addition on the west side of the home, which currently has a front setback of approximately 33.9'. In order to construct the garage, as proposed, the front walls of the addition must encroach into the required front yard by 6'-10".

Staff has no objection to the applicant's request, as the east side of the home will be setback approximately 25', which exceeds the minimum 20' required, and the rear setback is approximately 54'-0" where 22'-6" is the minimum required. Staff finds that the location of the existing structure on the site, with larger than required setbacks at the front and rear, create practical difficulties that justify the granting of the requested variance.

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

Based on the plans and documents submitted with the application, staff has concluded that the requested variance satisfies Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

Additionally, staff has concluded that the plans and documents with the application indicate the following, as they relate to the hardship criteria requirements of Section 118-353(d), Miami Beach City Code:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

***Satisfied***

2. That the special conditions and circumstances do not result from the action of the applicant;

***Satisfied***

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

***Satisfied***

4. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

***Satisfied***

5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

***Satisfied***

6. That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

***Satisfied***

7. That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

***Satisfied.***

#### **COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.

**Not Applicable**

- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.

**Satisfied**

- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

**Satisfied**

- (4) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.

**Not Satisfied**

- (5) Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact, including a study of land elevation and elevation of surrounding properties were considered.

**Satisfied**

- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.

**Satisfied**

- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.

**Satisfied**

- (8) Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.

**Satisfied**

- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

**Not Applicable**

- (10) Where feasible and appropriate, water retention systems shall be provided.

**Satisfied**

**COMPLIANCE WITH ZONING CODE:**

The application, as submitted, appears to be consistent with the applicable requirements of the City Code, with the exception of the variance(s) requests herein. This shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

**STAFF ANALYSIS:**

The subject site is an interior waterfront lot. The property contains a one-story residence constructed in 1952. The original home was constructed with 5'-0" setbacks on the sides (currently non-conforming) and larger front and rear setbacks. As the site presently has a lot coverage and unit size of 35%, the applicant is proposing renovations to retain the single-story home including a new one-story garage addition at the front, for which the variance is requested. The application is also proposing the reconfiguration of the driveway and pool deck to comply with the City's Land Development Regulations.

Staff is supportive of the requested variance as the physical location of the home and its existing large setbacks dictate the areas available for the proposed addition and result in the practical difficulties that trigger the requested variance. Staff finds that the variance requested is the minimum necessary to improve the property while retaining the existing structure. The proposed garage is designed so that it is compatible with the architecture of the existing home.

A standard parking space is 18' in length. The approval of the variance and construction of the proposed garage will create a 13'-2" section of driveway between the garage and

sidewalk. This section of driveway will not accommodate a typical vehicle, without obstructing the sidewalk. The proposed reconfigured driveway will accommodate two parking spaces, in addition to the garage space. Staff recommends approval of the variances, with the conditions that (i) a minimum of two full size parking spaces are provided on private property, and (ii) in no instance shall the sidewalk or public right-of-way be obstructed by vehicles.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends **approval** of the requested variance, subject to the conditions enumerated in the attached Draft Order.

TRM:RAM:SMW

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## ZONING/SITE MAP



**BOARD OF ADJUSTMENT  
CITY OF MIAMI BEACH, FLORIDA**

**PROPERTY:** 1746 Cleveland Road

**FILE NO.** ZBA18-0086

**IN RE:** An application requesting a front yard setback variance for the construction of a new 1-story garage addition to an existing 1-story single-family home.

**LEGAL DESCRIPTION:** Lot 15, Block 5 of Biscayne Pint Subdivision, according to the plat thereof, as recorded in plat book 14, Page 35, of the public records of Miami-Dade County, Florida

**FOLIO NO.** 02-3203-001-0790

**MEETING DATE:** May 3, 2019

**ORDER**

The applicant, Keith Ferguson, filed an application with the Planning Department for the following variance(s):

1. A variance to reduce by 6'-10" the minimum required front setback of 20'-0" for the construction of a one-story garage addition located at 13'-2" from the front property line facing Cleveland Road.

**– Approved by the Board**

The City of Miami Beach Board of Adjustment makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

- A. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the Planning Department Staff Report, the project as submitted satisfies the requirements of Section 118-353(d) of the Miami Beach Code. Accordingly, the Board of Adjustment has determined the following:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

B. The Board hereby **Approves** the requested variance and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. The final building plans shall be consistent with plans submitted to the Board of Adjustment, signed by Moises Rivera, dated February 4, 2019. Substantial modifications to the plans, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
2. A minimum of two full sized parking spaces, 18'-0" x 8'-6", shall be provided on site.
3. The City sidewalk shall remain clear and unobstructed at all times.
4. A revised landscape plan shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plans shall comply with Chapter 26-Landscape Requirements of the Miami Beach Code and shall incorporate the weather resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants).
5. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
6. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
7. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy or Certificate of Completion. A Temporary Certificate of Occupancy, Partial Certificate of Occupancy, or Temporary Certificate of Completion, as applicable, may also be conditionally granted Planning Departmental approval.
8. The conditions of approval herein are binding on the applicant, the property's owners and all successors in interest and assigns.



9. The final order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
10. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code, except to the extent of the variance(s) granted herein.
11. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

**The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.**

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including staff recommendations, as modified by the Board of Adjustment, that the application for Variance(s) Approval is GRANTED for the above-referenced project, subject to those certain conditions specified in Paragraph B hereof, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans submitted to the Board of Adjustment with modifications in accordance with the conditions set forth in this Order, as applicable, with staff review and approval.

No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance as set forth in this Order have been met. The issuance of this Order does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original Variance Approval was granted, the subject Approval will expire and become null and void, unless the applicant makes application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code; the granting of any such extension of time shall be at the discretion of the Board. At the hearing on any such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. If the Full Building Permit should expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), and not reinstated by the Building Official or designee, the Variance Approval will expire and become null and void.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

BOARD OF ADJUSTMENT  
CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
Rogelio Madan, AICP  
Chief of Community Planning & Sustainability  
For the Chair

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by Rogelio Madan, Chief of Community Planning and Sustainability of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]

Notary:  
Print Name:  
Notary Public, State of Florida  
My Commission Expires:  
Commission Number:

Approved As To Form:  
City Attorney's Office ( )

Filed with the Clerk of the Board of Adjustment on \_\_\_\_\_ ( )