

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Board of Adjustment

TO: Chairperson and Members
Planning Board

DATE: September 11, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **ZBA19-0101**
2034 Alton Road – Pool

An application has been filed requesting variance(s), to reduce required setbacks, associated with the construction of a pool within the rear yard of an existing single-family home.

RECOMMENDATION

Approval of modified variance 1 and 2.

Approval of variances 3, 4, and 5 as requested.

ZONING/SITE DATA

Address: 2034 Alton Road

Folio: 02-3227-008-1460

Legal Description: Lot 6, Block 16, of Amended Plat of Sunset Lake Subdivision, according to the plat thereof, as recorded in Plat Book 8, Page 52, of the Public Records of Miami-Dade County, Florida.

Zoning: RS-4, Single-Family Residential

Future Land Use Designation: RS, Single-Family Residential

Lot Size: 7,305 SF

Building Use: Single-Family Residence

Year Constructed: 1951

Surrounding Uses: North: Single-Family Residence
West: Single-Family Residence
South: Multi-Family Residence
East: Miami Beach Golf Course
(See Zoning/Site map at the end of the report)

THE PROJECT

The applicants, Gustavo Carvajal & Helena Perez, have submitted the following plans and documents:

- Letter of intent, dated March 19, 2020
- Plans, entitled Carvajal Residence, by Essig Pools Inc., dated July 31, 2019.

The applicants are requesting variances associated with the construction of a pool and pool deck within the rear yard of an existing single-family home.

The applicant is requesting the following variances:

1. **A variance to reduce by 2'-6", the minimum rear yard setback for a swimming pool deck of 6'-0", to allow the construction of a pool deck (coping) with a rear yard setback of 3'-6".**

- Variance requested from:

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

(b) Allowable encroachments within required yards.

(15) Swimming pools. Accessory swimming pools, open and enclosed, or covered by a screen enclosure, or a screen enclosure not covering a swimming pool, may only occupy a required rear or side yard, subject to the following:

a. Rear yard setback.

1. A six-foot minimum setback is required from the rear property line to swimming pool deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure associated or not associated with a swimming pool.

The existing single-story home has a 20' rear yard setback. The location of the home on the property provides for a small rear yard, making it difficult to construct a typical pool. As such, the applicant is requesting a variance to construct the pool coping with a setback of 3'-6". A pool deck is not proposed between the pool and rear property line.

There is a concern that the requested setback will not provide enough room for landscape screening, to mitigate the requested variance. As such, staff is recommending that the requested variance be modified to increase the setback of the pool coping by 1'-0", providing an overall rear yard setback for the pool coping of 4'-6". This will provide a more appropriate area for landscaping to survive and for the maintenance of the required 18" wide walk space.

2. **A variance to reduce by 3'-6", the minimum required rear yard setback for the water's edge of a pool of 7'-6", to allow the construction of a pool with a rear yard setback of 4'-0".**

- Variance requested from:

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

(b) Allowable encroachments within required yards.

(15) Swimming pools. Accessory swimming pools, open and enclosed, or covered by a screen enclosure, or a screen enclosure not covering a swimming pool, may only occupy a required rear or side yard, subject to the following:

a. Rear yard setback.

3. There shall be a minimum seven-and-one-half-foot setback from the rear property line to the water's edge of the swimming pool or to the waterline of the catch basin of an infinity edge pool.

Similarly, to variance No. 1, the applicant is requesting a reduced rear yard setback for the pool water's edge because of the limited rear yard. The applicant is requesting a variance to construct the pool with a rear yard setback measured from the rear property line to the water's edge of 4'-0".

This variance is directly related to Variance No. 1. As such, staff is again recommending that this setback be increased by 1'-0", for an overall rear yard setback of 5' for the water's edge.

3. A variance to reduce by 3'-9", the minimum required interior side yard setback for a pool deck of 7'-6", to allow the construction of a pool deck with an (N.E.) interior side yard setback of 3'-9".

- Variance requested from:

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

(b) Allowable encroachments within required yards.

(15) Swimming pools. Accessory swimming pools, open and enclosed, or covered by a screen enclosure, or a screen enclosure not covering a swimming pool, may only occupy a required rear or side yard, subject to the following:

b. Side yard, interior setback.

1. A seven-and-one-half-foot minimum setback shall be required from the side property line to a swimming pool deck, or platform, the exterior face of an infinity edge pool catch basin, or screen enclosures associated or not associated with a swimming pool.

On the northeast side of the property, in the rear yard, the applicant is requesting a variance for the proposed pool deck. The requested variance will allow the pool deck to connect and with an existing patio area located within the interior side yard. The variance will provide for improved functionality of the pool and pool deck.

4. A variance to reduce by 1'-2", the minimum required interior side yard setback for a pool deck of 7'-6", to allow the construction of a pool deck with an (S.W.) interior side yard setback of 6'-10".

- Variance requested from:

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

(b) Allowable encroachments within required yards.

(15) Swimming pools. Accessory swimming pools, open and enclosed, or covered by a screen enclosure, or a screen enclosure not covering a swimming pool, may only occupy a required rear or side yard, subject to the following:

b. Side yard, interior setback.

1. A seven-and-one-half-foot minimum setback shall be required from the side property line to a swimming pool deck, or platform, the exterior face of an infinity edge pool catch basin, or screen enclosures associated or not

associated with a swimming pool.

On the southwest side of the property, in the rear yard, the applicant is requesting a variance for the proposed pool deck. The requested variance will allow the pool deck to follow the existing building line and act as a landing for an existing french door on the southwest portion of the home. The variance will address access to the pool and pool deck.

5. A variance to reduce by 3'-0", the minimum required interior side yard setback for the water's edge of a pool of 9'-0", to allow the construction of a pool with an (N.E.) interior side yard setback of 6'-0".

- Variance requested from:

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

(b) Allowable encroachments within required yards.

(15) Swimming pools. Accessory swimming pools, open and enclosed, or covered by a screen enclosure, or a screen enclosure not covering a swimming pool, may only occupy a required rear or side yard, subject to the following:

b. Side yard, interior setback.

2. A nine-foot minimum setback shall be required from the side property line to the water's edge of the swimming pool or to the waterline of the catch basin of an infinity edge pool.

Similarly, to variance No. 1 and 2, the applicant is requesting a reduced interior side yard setback for the pools water's edge because of the limited rear yard. The applicant is requesting a variance to construct the pool with an interior side yard setback measured from the northeast property line to the water's edge of 6'-0".

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.

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 ZONING CODE:

The application, as submitted, appears to be consistent with the applicable requirements of the City Code, with the exception of the variances requested 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.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development Regulations establishes the following criteria for sea level rise and resiliency that must be considered as part of the review process for development 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.
Partially Satisfied. A plan shall be provided at time of building permit.
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Not Applicable.
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Not Applicable.
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native, or Florida-friendly plants) shall be provided, in accordance with chapter 126 of the city Code.
Not Applicable.
- (5) The project applicant shall consider the 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. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.
Not applicable.

- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-way and adjacent land, and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three additional feet in height.
Not applicable.
- (7) As applicable to all new construction, all critical mechanical and electrical systems shall be located above base flood elevation. All redevelopment projects shall, whenever practicable and economically reasonable, include the relocation of all critical mechanical and electrical systems to a location above base flood elevation.
Satisfied.
- (8) Existing buildings shall, wherever reasonably feasible and economically appropriate, be elevated up to base flood elevation, plus City of Miami Beach Freeboard.
Not applicable.
- (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 54 of the city Code.
Not applicable.
- (10) As applicable to all new construction, stormwater retention systems shall be provided.
Not applicable.
- (11) Cool pavement materials or porous pavement materials shall be utilized.
Not applicable.
- (12) The design of each project shall minimize the potential for heat island effects on-site.
Not applicable.

ANALYSIS

The subject site is non-waterfront, rectangular in shape and contains a one-story residence constructed in 1951. When the home was originally constructed, the rear yard setback was over 30', and provided ample space for the construction of a pool that would comply with the zoning regulations. However, in 1993, before the applicants purchased the home, a single-story rear addition was constructed. The rear addition reduced the rear yard to the minimum setback of 20'. Due to the limited rear yard area, there are practical difficulties associated with constructing a swimming pool, and variances have been requested.

Over the years, similar pool variances have been granted, particularly for RS-4 zoned lots. Staff is supportive of the requested variances as proposed, except for variance No. 1 and variance No. 2. Since the requested variances will allow the pool to be located closer to the rear property line, staff is recommending that landscape screening be installed. The Land Development Regulations also require a minimum 18" walking path around the entire pool. It will be difficult to maintain the walking area and landscape screening in a 3'-6" area. As such, staff is recommending that variance No. 1 and variance No. 2 be decreased by 1'-0", increasing the requested setback of the pool and pool deck by 1'-0" from the rear property line.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Board of Adjustment **approve Variance No.1 and Variance No. 2 with the recommended modifications and approve Variance 3 through 5 as requested**, subject to the conditions enumerated in the attached draft order.

ZONING/SITE MAP

