

# 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: **ZBA20-0116**  
**802 West Di Lido Drive – Dock**

An application has been filed requesting variance(s), to reduce the required interior side yard setback, associated with the construction of a dock.

#### **RECOMMENDATION**

**Denial** of the requested variance.

#### **ZONING/SITE DATA**

Address:	802 West Di Lido Drive
Folio:	02-3232-011-0480
Legal Description:	Lot 21, Block 3, of "Di Lido Island", according to the plat thereof as recorded in Plat Book 8 at Page 36, of the Public Records of Miami-Dade County, Florida and an eight foot strip of land contiguous to the westerly boundary line of Lot 21, Block 3 of Dilido Island Subdivision, as recorded in Plat Book 8, Page 36, lying between the westerly extension of the northerly boundary line and the southerly boundary line of said Lot 21, Block 3, together with all common law and statutory riparian rights, including water privileges adjacent to and belonging thereto.
Zoning:	RS-3, Single-Family Residential
Future Land Use Designation:	RS, Single-Family Residential
Lot Size:	10,770 SF
Building Use:	Single-Family Residence
Year Constructed:	2019
Surrounding Uses:	North: Single-Family Residence West: Biscayne Bay

South: Single-Family Residence  
East: Single-Family Residence  
(See Zoning/Site map at the end of the report)

## **THE PROJECT**

The applicant, ILR, LLC., has submitted the following plans and documents:

- Letter of intent, dated June 15, 2020
- Plans, entitled 802 W. Dilido Drive Waterfront Improvement Project, by Alfredo Gonzalez P.E., dated July 6, 2020

The applicant is requesting an interior side yard setback variance to allow the construction of a T-shaped dock and boat lift. The property currently has a dock which complies with the minimum required interior side yard setbacks.

The applicant is requesting the following variance:

**A variance to reduce by 7'-6", the minimum seaward side yard setback for a marine structure of 7'-6", to allow the construction of a dock and boat lift with a northern seaward side yard setback of 0'-0".**

- Variance requested from:

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

(b) Allowable encroachments within required yards.

(11) Marine structures. Seaward side yard setbacks for boat slips, decks, wharves, dolphin poles, mooring piles, davits, or structures of any kind shall not be less than seven and one-half (7 ½) feet. This requirement pertains to the enlargement of existing structures as well as to the construction of new structures. It is further provided that any boat, ship, or vessel of any kind shall not be docked or moored so that its projection extends into the required seaward side yard setback, and the mooring of any type of vessel or watercraft shall be prohibited along either side of the walkway leading from the seawall to a boat dock. Land-side decks may extend to the deck associated with the marine structure. Lighting associated with, but not limited to, the deck, or marine structure shall be installed in such a manner to minimize glare and reflection on adjacent properties and not to impede navigation. The maximum projection of a marine structure shall be determined by the county department of environmental resource management. If a dock or any kind of marine structure/equipment, whether or not it is attached to a dock, projects more than 40 feet into the waterway or extends beyond the maximum projection permitted under section 66-113, the review and approval of the applicable state and county authorities shall be required.

The subject property contains a single-family home, constructed in 2019, and a dock. The existing dock meets the code required seaward side yard setbacks, with setbacks of 10'+ on the north and south side. The proposed dock would be T-shaped, accommodating three (3) vessels. On the north side, a boat lift is proposed on the southern property line for a large 47' vessel. On the south side, the dock would have a seaward side yard setback of 7'6".

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

Based on the plans and documents submitted with the application, staff has concluded that the applicant has NOT substantiated 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, the plans and documents submitted with the application do NOT satisfy the hardship criteria requirements of Section 118-353(d), Miami Beach City Code, as more specifically noted hereto:

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.  
**Not Satisfied**
2. That the special conditions and circumstances do not result from the action of the applicant.  
**Not 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.  
**Not 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.  
**Not Satisfied**
5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.  
**Not 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, except for the variance 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.

**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.

**Not Applicable.**

- (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 applicant and the adjacent property owner to the south have submitted concurrent variance applications. The subject application is requesting a variance to eliminate the northern seaward side yard setback, while the adjacent property is requesting to eliminate the southern seaward side yard setback (ZBA20-0113). The variances would allow for the construction of a two mirrored, T-shaped docks with central finger piers, with a boatlift on the southern side of the finger pier. The boatlift would have a 0'-0" setback on the property line shared between the two applicants.

While staff recognizes that the neighbor most effected by the requested variance is supportive of the application, and is requesting the same variance, the applicant has not substantiated compliance with the practical difficulty or hardship criteria. A similar dock and boatlift layout can be achieved by reducing the overall width of the proposed dock by 7'-6". As such, staff cannot support this application and requested variance.

### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the Board of Adjustment **deny** the requested variance.

## ZONING/SITE MAP

