

MIAMI BEACH
PLANNING DEPARTMENT
Staff Report & Recommendation

Board of Adjustment

TO: Chairperson and Members
Planning Board

DATE: October 2, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **ZBA20-0118**
2301 Sunset Drive – Driveway

An application has been filed requesting variance(s), to reduce the required setbacks and open space for the construction of a driveway within the street facing side yard of an existing single-family home.

RECOMMENDATION

Approval of variances, as requested.

ZONING/SITE DATA

Address:	2301 Sunset Drive
Folio:	02-3228-001-1290
Legal Description:	Lot 1, Block 3A, of "Sunset Islands No. 3", according to the plat thereof, as recorded in Plat Book 40, Page 8, of the Public Records of Miami-Dade County, Florida.
Zoning:	RS-3, Single-Family Residential
Future Land Use Designation:	RS, Single-Family Residential
Lot Size:	9,134 SF
Building Use:	Single-Family Residence
Year Constructed:	1947
Surrounding Uses:	North: Single-Family Residence West: Single-Family Residence South: Single-Family Residence East: Single-Family Residence

THE PROJECT

The applicants, Dana M. Kaufman & Cheryl J. Kaufman, have submitted the following plans and documents:

- Letter of intent, dated August 10, 2020
- Plans, entitled Kauffman Residence Driveway Alteration, by N25 Architecture Co., dated August 10, 2020.
- Survey, by Florida Building Land Surveying Corporation, dated July 14, 2020.

The applicants are requesting variances associated with the renovation of an existing driveway located within the street facing side yard of an existing single-family.

The applicant is requesting the following variances:

1. **A variance to reduce by 2'-10"**, the minimum side yard setback for a driveway of **4'-0"**, to allow the construction of a driveway with a street facing side yard setback of **1'-2"**.

- Variance requested from:

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

(b) Allowable encroachments within required yards.

(6) Driveways. Driveways and parking spaces leading into a property are subject to the following requirements:

a. Driveways shall have a minimum setback of four (4) feet from each side property line.

2. **A variance to reduce by 3'-11"**, the minimum required separation of pavement from the building of **5'-0"**, to allow the construction of a driveway, not leading to a garage, with a separation from the building of **1'-1"**.

- Variance requested from:

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

(a) 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:

(2) Side yards:

b. Side, facing a street.

2. At least 50 percent of the required side yard area facing a street shall be sodded or landscaped pervious open space. With the exception of driveways and paths leading to the building, paving may not extend any closer than five feet to the front of the building.

3. **A variance to reduce by 1% (17 square feet)**, the minimum required landscaped pervious open space within the street facing side yard of **50% (808 square feet)**, to allow the construction driveway within the street facing side yard with an landscaped pervious open space area of **40% (791 square feet)**.

- Variance requested from:

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

(a) 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:

(2) Side yards:

b. Side, facing a street.

2. At least 50 percent of the required side yard area facing a street shall be sodded or landscaped pervious open space. With the exception of driveways and paths leading to the building, paving may not extend any closer than five feet to the front of the building.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

Based on the plans and documents submitted with the application, and the reasons set forth in the analysis, 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.
To be addressed during permitting.
- (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.

Satisfied.

(12) The design of each project shall minimize the potential for heat island effects on-site.

Satisfied.

ANALYSIS

The subject site is a non-waterfront, irregularly shaped lot containing a one-story residence originally constructed in 1947. The existing home has several legal-nonconforming setbacks. The applicants previously appeared before the Board in 2001 and were granted variances for the construction of a pool and paved play area. The play area has since been removed and replaced with landscaping.

The property currently has a legal-nonconforming semicircular driveway facing West 23rd Street. The applicant is proposing the demolition and reconstruction of the existing driveway. The configuration of the proposed replacement driveway reduces the degree of conforming associated with the existing driveway, as portions of parked vehicles would be relocated from the City right-of-way onto private property. However, the limited area available to construct a driveway, as well as the configuration of the site and location of the existing home, create practical difficulties resulting in the request for variances.

The requested variances will allow the existing semicircular driveway to be converted to a T-shaped driveway with two (2) parking spaces parallel to the street (West 23rd Street) and the entrance of the home. The subject home contains a 2-car garage, and the property meets the current code requirement for two onsite parking spaces. However, due to the configuration of the existing driveways, all other existing parking spaces are partially in the right-of-way. The proposed reconstructed driveway will allow for all portions of the driveway and vehicle parking areas to be fully onsite.

The shape of the lot combined with the existing home's layout and placement on the site make the placement of a driveway difficult. The applicant's intention to install pervious pavers will significantly mitigate the requested pervious open space variance by allowing stormwater to be retained onsite. Based on the foregoing analysis, staff is supportive of the requested variances.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Board of Adjustment **approve the requested variances**, subject to the conditions enumerated in the attached draft order.

ZONING/SITE MAP

