

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: January 5, 2021

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB20-0600
48 East Rivo Alto Drive

DRB20-0600, 48 East Rivo Alto Drive. An application has been filed requesting Design Review Approval for the construction of a new two-story residence including one or more waivers and one or more variances for setbacks to an existing pool, to replace an architecturally significant pre-1942 two-story residence.

RECOMMENDATION:

Approval of the design.

Approval of the variance.

LEGAL DESCRIPTION:

The east ½ half of Lot 3, less the west 10 feet thereof, and all of Lot 4, in Block 5 of "Rivo Alto", an island in Biscaye Bay, according to the Plat thereof, as recorded in Plat Book 7, at Page 74, of the Public Records of Miami-Dade County, Florida;

Also: the north 85 feet of the west 10 feet of the east 30 feet of Lot 3, in Block 5, of "Rivo Alto", an island in Biscaye Bay, and according to the Plat thereof, as recorded in Plat Book 7, at Page 74, of the Public Records of Miami-Dade County, Florida;

Also: A strip of land 7 feet wide and 60 feet along, the said length running east and west, directly adjacent on the south line of Lot 4, in Block 5, of "Rivo Alto", an island in Biscaye Bay, and more particularly describes as the east 60 feet of the north 7 feet, of Lot 5, Block 5, of "Rivo Alto", an island in Biscaye Bay, and according to the Plat thereof, as recorded in Plat Book 7, at Page 74, of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-4
Future Land Use: RS
Lot Size: 11,135 SF
Lot Coverage:
Proposed: 2,769 SF / 24.86%
Maximum: 3,340.5 SF / 30%
Unit size:
Proposed: 5,150 SF / 46.25%
Maximum: 5,568 SF / 50%
Height:
Proposed: 24'-0" flat roof from BFE +1'
Maximum: 24'-0" flat roof

Grade: **+4.90' NGVD**
Base Flood Elevation: +10.00' NGVD
Difference: +5.10' NGVD
Adjusted Grade: +7.45' NGVD
First Floor Elevation: +11' NGVD (BFE+1)
Interior Side Yard Elevations Min: 6.56'
Max: 7.45'
Street Side Yard Elevations Min: 6.56' Max: 8.125'
Read Yard Elevations Min: 6.56' Max: 7.45'

EXISTING PROPERTY:

Year: 1925

Architect: Walter C. DeGarmo
First Floor Elevation: 7.20' NGVD
Vacant: No
Demolition: Total

SURROUNDING PROPERTIES:

North: Two-story 2016 residence
South: Two-story 1947 residence
West: One-story 1993 residence
East: Two-story 1935 residence |
One-story 1964 Residence

THE PROJECT:

The applicant has submitted plans entitled "Rivo Alto Residence ", as designed by **Praxis Architecture Design**, signed, sealed, and dated 11/09/2020.

The applicant is requesting Design Review Approval for the construction of a new two-story residence to replace an existing two-story pre-1942 architecturally significant residence.

The applicant is requesting the following design waiver(s):

1. A two-story side elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d).

The applicant is requesting the following variance:

1. A variance to reduce by 1'-4" the required front setback of 20'-0" for a pool in order to retain an existing pool at 18'-8" from the front property line facing 1st Rivo Alto Terrace.
 - Variance requested from:

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

(b) Allowable encroachments within required yards.

(16) 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:

The applicant is proposing the demolition of the existing pre 1942 single-family home to construct a new two-story single family home including the retention of the existing pool located at the northwest portion of the property. The pool was constructed in 2004 under building permit B0304058. Based on the survey provided the pool walls were constructed at 18'-8" from the front property line, instead of the required 20'-0" setback indicated on the approved building permit plans. As the property will be improved with a new two-story single-family home, all structures on the site are required to fully comply with current zoning requirements. In order to retain the pool at the reduced front setback, a variance is being requested.

Staff finds that the existing location of the pool, due to a construction error, satisfies the practical difficulties criteria for approval of the variance and considering that the pool has been constructed not long ago, it is reasonable to retain it in the existing location. The existing setback of 18'-8" would not result on a negative impact on the surrounding properties if properly screened from view from the street with landscape or fence with a minimum height of 5'-0". As such, staff recommends approval of the variance request.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board of Adjustment finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- 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.
- The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code, in addition to the requested variances:

1. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the

required side yard:

- a. **The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line.**
- b. The square footage of the additional open space shall not be less than one percent of the lot area.
- c. The elevation (height) of the open space provided shall not exceed the maximum permitted elevation height of the required side yard, and
- d. At least 50 percent of the required interior open space area shall be sodded or landscaped with pervious open space.

The intent of this regulation shall be to break up long expanses of uninterrupted two-story volume at or near the required side yard setback line and exception from the minimum requirements of this provision may be granted only through design review board approval in accordance with the applicable design review criteria.

2. All fences/wall proposed along the property lines must be measured from grade elevation. All fences proposed exceed maximum height and shall be reduced fence to comply with the Code at the time of the building permit.

The above noted comments 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 DESIGN REVIEW CRITERIA:

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Not Satisfied; the applicant is requesting one design waiver and a variance from the Board.
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Not Satisfied; the applicant is requesting one design waiver and a variance from the Board.
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.

Not Satisfied; the applicant is requesting one design waiver and a variance from the Board.

4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.

Satisfied.

5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.

Not Satisfied; the applicant is requesting one design waiver and a variance from the Board.

6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.

Not Satisfied; the applicant is requesting one design waiver and a variance from the Board.

7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.

Satisfied

8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.

Satisfied

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

Not Satisfied

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.

Satisfied

11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Not Satisfied; the applicant is requesting one design waiver and a variance from the Board.
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
Satisfied
14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Not Applicable
18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.
Not Applicable

19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

Not Satisfied; see below

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 Satisfied
A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.
- (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) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.
Satisfied
- (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.
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 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 (3) additional feet in height.
Satisfied
- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.
Satisfied
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, 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 of 54 of the City Code.

Satisfied

- (10) In all new projects, water retention systems shall be provided.

Not Satisfied

- (11) Cool pavement materials or porous pavement materials shall be utilized.

Not Satisfied

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

Satisfied

STAFF ANALYSIS:

Design Review

The applicant is proposing a new two-story residence on a corner dry lot to replace an existing pre-1942 architecturally significant two-story residence. The proposal includes a request for one design waiver. The design floor elevation of the new residence is proposed at base flood elevation (10') plus minimum free board +1' or +11.00' NGVD.

This site is located on the corner of 1st Rivo Alto Terrace and East Rivo Alto Drive and contains an irregular, saw-shaped interior property line. The proposed residence, as well as the existing residence, feature the main façade facing East Rivo Alto Drive. Based upon the 1928 platting of this subdivision the front of this corner site is on 1st Rivo Alto Terrace.

The residence has been designed in a contemporary architectural language and includes expansive roof overhangs and eyebrows that shade undulating wall planes of stucco and concrete stone veneer. Vertical louver elements adorn the second story on its main façade, wrapping at the corners to engage the secondary façades and fully distinguishing the mass and program of interior spaces.

The applicant is requesting a design waiver of the open space requirement for two-story elevations that exceed 60'-0" in length. This request is due in large part to the residence's formal entrance being sited on East Rivo Alto Drive, which for zoning purposes is determined as the side facing a street. This elevation is 81'-6" in length and provides movement along the elevation.

This request is directly tied to the t-shape of the home, where an expansive lawn court at the rear and front of the home has pushed the programming to the perimeter of the developable lot. The south interior side elevation is expansive and features an open space along its southeastern most section, yet the elevation continues towards the rear of the site spanning 107'-6" in length with a ground floor running the entirety of that span and a second floor that is broken up with an open terrace that is 8' deep and 16'-0" wide. Overall, the elevation incorporates movement and massing breakup. However, staff finds that further refinement of

the south elevation would mitigate the impact of the extensive length. Provided that the architect further refines the elevation with window openings and planar movement and restricts the provided second floor open space to only plant maintenance, staff is supportive of this waiver since the proposed design does meet the intent of the code.

VARIANCE REVIEW

The applicant is requesting a variance to retain a pool, constructed in 2004 under building permit B0304058. The pool walls were not constructed consistent with the required front setback indicated on the permit plans and a variance is requested to retain the pool in the existing location. Staff finds that the variance request associated with a mistake in the construction of the pool qualifies as a practical difficulty for approval of the variance. The existing setback of the pool should not have any negative impact on the surrounding neighborhood with the addition of a barrier to limit visibility from the street. In summary, staff recommends approval of the variance.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends **approval** of the design and of variance requests, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise criteria and Practical Difficulty and Hardship criteria.