

MIAMI BEACH

PLANNING DEPARTMENT
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: February 2, 2021

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB20-0614
6342-6360 North Bay Road

An application has been filed requesting Design Review Approval for the construction of additions to an existing two-story residence and a new tennis court requiring one or more variances from the setback requirements for the main structure and tennis court lighting in order to replace a two-story architecturally significant pre-1942 residence.

RECOMMENDATION:

Approval with conditions.

Approval of variance #1

Denial of the variances #2 and #3.

LEGAL DESCRIPTION:

Lot 7, and the southerly half of Lot 6, Block 1, of La Gorce-Golf Subdivision, Lot 8 and the NE 25 feet of Lot 9, Block 1, of La Gorce-Golf Subdivision according to the Plat thereof, as recorded in Plat Book 14, Page 43, of the Public Records of Miami-Dade County, Florida;

SITE DATA:

Zoning: RS-2
Future Land Use: RS
Lot Size: 52,316 SF
Lot Coverage:
Proposed: 10,542 SF / 20.1%*
Maximum: 15,694.8 SF / 30%
Unit size:
Proposed: 14,010 SF / 26.7%*
Maximum: 26,158 SF / 50%
Height:
Existing: ~25'-8"
Proposed: Same

*As noted on plans

STRUCTURE TO RETAIN:

Year Constructed: 2018

STRUCTURE TO BE DEMOLISHED:

Year Constructed: 1935
Architect: Carlos Schoeppl & Arnold Southwell

SURROUNDING PROPERTIES:

Northeast: 1951 one-story residence
Northwest: Biscayne Bay
Southwest: 1937 2-story residence
Southeast: 1937 one-story residence |
1938 two-story residence

THE PROJECT:

The applicant has submitted plans entitled "6342-6360 North Bay Road" as designed by **CFZ Design**, dated 12-07-2020.

The applicant is requesting Design Review Approval for the construction of additions to an existing two-story residence, and for a new tennis court with lighting that will replace a two-story architecturally significant pre-1942 residence.

The applicant is requesting the following variance(s):

1. A variance to reduce by 7'-4" the minimum required interior side setback of 22'-7" for a two-story structure in order to construct one-story additions to the existing home at 15'-3" from the northeast interior side property line.
2. A variance to reduce by 33'-3" the minimum required interior side setback of 41'-3" for a two-story structure in order to install lightpoles with approximately 18'-0" in height for a tennis court at 8'-0" from the southwest interior side property line.
3. A variance to reduce by 33'-3" the minimum required sum of the side setbacks of 56'-6" for a two-story structure in order to install lightpoles with approximately 18'-0" in height for a tennis court and provide a sum of the side setbacks of 23'-3".

- Variances 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:*

(1) Side yards:

a. The sum of the required side yards shall be at least 25 percent of the lot width.

c. Interior sides.

1. For lots greater than 65 feet in width each interior side yard shall have a minimum of ten percent of the lot width or ten feet, whichever is greater.

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

(b) *Allowable encroachments within required yards:*

(10) Lightpoles. The following regulations shall apply to lightpoles:

a. Lightpoles shall have a maximum height of ten feet. Lightpoles shall be located seven and one-half feet from any property line except that, when such property line abuts a public right-of-way or waterway, there shall be no required setback.

(17) The following regulations shall apply to fences, lightpoles or other accessory structures associated with court games:

c. Accessory lighting fixtures, when customarily associated with the use of court games, shall be erected so as to direct light only on the premises on which they are located. The maximum height of light fixtures shall not exceed ten feet when located in a required yard; otherwise, the maximum height shall not exceed 20 feet. Light is permitted to be cast on any public right-of-way.

The subject site features two individual properties that are unified containing a two-story single-family home constructed in 2018 on the north and a pre-1942 home to be demolished on the south side. As part of the improvements as one property, additions to the existing home to increase the garage area and a storage room are proposed as well as several outdoor amenities and structures including a covered terrace, trellis, a basketball court, a tennis court and playground. The applicant is also requesting three (3) variances for the new structures.

As the new site configuration is increased in area, the applicable setbacks must also change. The lot width of the property is now based on the addition of the two lots and the minimum side and sum of the side setbacks required are larger than the required for each individual lot. The lot width resulting from the joined properties is 225'-10" which requires a minimum side setback of 22'-7" and 33'-11" on the other side to comply with a sum of the side yards required of 25% the length of the lot width. These setbacks are significantly larger than the typical lots in the RS-2 district where the minimum lot width is 75'-0" and the minimum side setback is 10'-0". Specifically, in this area along the waterway most of the adjacent properties appear to have lot widths that range from 75' to 120', based on the County's Property Appraiser information. The required side setbacks for these lots would be much less than the side and sum of the side setbacks required for the subject property. The existing home with an interior side setback of 15'-3" on the northeast side has become non-conforming with respect to the setback required and the additions must comply with the new setbacks.

Staff would note that the Code allows similar additions that continue a non-conforming side yard for improvements below 50% of the value of the home and for houses constructed before September 6, 2006. The existing structure was built in 2018 and does not qualify for this benefit. However, staff believes that practical difficulties related to the size of the property and the retention of the home exist for the proposed garage and storage additions on the northeast side that satisfy the criteria for approval. The setback of 15'-3" would not have a negative impact on the adjacent properties, as this is a setback much larger than the required for most of the properties in the district and for properties in this area. As such, staff would recommend approval of the variance #1.

Variance #2 is related to the construction of light poles associated with a tennis court on the west side. The tennis court, including play surface, fence and light poles are allowed at 7'-6" from an interior side property line. At this setback, light poles have a maximum height of 10'-0". However, the applicant is proposing light poles with 18'-0" in height that are required to comply with the main building setbacks. Because there is an existing setback of 15'-3" on the existing home, the other side where the tennis court is proposed must be 41'-3" in order to comply with the sum of the side setbacks required. Variance #2 is related to the request for variance #3 for the required sum of the side setbacks.

The tennis court is not a necessary amenity for single family homes and the proposed increase in height of the light poles is not required in order to use the tennis court. The taller light poles with a higher source of light also may negatively impact the adjacent neighboring property. Although the required setback is very unusual and appears to be excessive, the light poles for the tennis court can also be allowed at a 7'-6" setback at 10'-0" in height without a variance. As such, staff does not recommend approval of variance requests #2 and #3 due to a lack of hardship or practical difficulties.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts, only as related to variance #1.

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

Miami Beach City Code, only as related to variance #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;
- 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 variance(s):

- Section 142-105(b)(1). Unit size calculations shall be revised to include roof area. Profile of the stairs going to the roof counts in unit size.
- URBAN HEAT ISLAND ORDINANCE Sec. 142- 1132. g) Driveways. (4) Driveways and parking areas that are open to the sky within any required yard shall be composed of porous pavement or shall have a high albedo surface consisting of a durable material or sealant, as defined in section 114- 1 of this Code. (5) Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in section 114- 1 of this Code, shall be prohibited.

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 variances.
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 variances.
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 variances.
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.
Not Satisfied; the applicant is requesting variances.
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 variances.
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 variances.
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; a lighting plan has not been submitted.

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 variances.

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.

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. 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.

Not Satisfied

ANALYSIS:

DESIGN REVIEW

The subject property is comprised of two waterfront properties that are united. The applicant is proposing ground floor additions to the existing two-story residence that was constructed in 2018, and a new tennis court with associated lighting and basketball court on the southern portion of the property, requiring the demolition of an existing pre-1942 residence.

The additions include new storage along the northern interior side of the existing residence, and the enclosure of spaces on the ground floor between the garage and guesthouse and the garage and main home. The applicant is also expanding the pool deck southward and wrapping it around the southeastern elevation to allow for a covered cabana structure that will overlook the new tennis court and garden. As a result of the newly unified property, the driveway has been modified to a semi-circular shape that incorporates the two existing curb cuts. Furthermore, the design includes significant landscape within the front yard that buffers the tennis courts, as well as softens the overall residence. As proposed, the building additions minimally impact the unified site since they increase the unit size of the existing 2018 home by 555 square feet and reserve the southwestern lot for yard and active outdoor spaces.

Overall, the applicant has proposed a modest intervention that is hidden within the large site and is sensitive to the neighborhood's overall context. Staff recommends the approval of the design.

VARIANCE REVIEW

The project site consists of multiple lots as a result of a unified property. The applicant is proposing the demolition of the pre-1942 home on the west side and the retention of the two-story home on the east side constructed in 2018. As part of the improvements, new additions to the existing home for a larger garage and a storage room are proposed, as well as new covered terrace, trellis, deck, basketball court, tennis court and playground as part of the outdoor amenities. The applicant is requesting three (3) variances for the proposed structures.

Due to the increase of the lot width of the property, the required side setbacks for new construction are larger. Staff does not object to variance #1 for the one-story additions that follow the existing building walls, as the existing setback is larger than the setback required for most adjacent properties and an adverse impact on the surrounding properties is not expected.

A new tennis court is proposed on the west side of the lot and the applicant is requesting two additional variances from the side and sum of the side setbacks required for the lightpoles, as they are not consistent with the maximum height of 10'-0" allowed to be located at a minimum of 7'-6" from a side property line. The lightpoles are proposed at 18'-0" in height, and therefore cannot be located within the required yard, as noted previously. The tennis court with taller lightpoles is the applicant's choice and although the required setbacks are unusually larger, a tennis court with 10' high lightpoles are allowed without a variance. Staff is not supportive of variances #2 and #3 and recommends that the lightpoles comply with the maximum height allowed of 10'-0".

In summary, staff recommends approval of variance #1 and denial of variances #2 and #3.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved** as it pertains to variance request #1 and that variance requests #2 and #3 be **denied**. However, should the Board find that the variance(s) requested satisfy 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, staff recommends that any approval be subject to the conditions enumerated in the attached Draft Order which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria and Practical Difficulty and Hardship criteria, as applicable.