

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Board of Adjustment

TO: Chairperson and Members
Planning Board

DATE: December 10, 2021

FROM: Thomas R. Mooney, AICP
Planning Director *MB FOR TRM*

SUBJECT: **ZBA20-0123**
5860 La Gorce Dr.

An application has been filed requesting variances from the required street side setback, ~~and from the required sum of the side yards setback~~, for the construction of single-story additions, including ~~mechanical equipment~~ and a carport, to an existing single-story single-family home.

RECOMMENDATION

Approval of the requested variances.

ZONING/SITE DATA

Folio:	02-3211-0114-0930
Legal Description:	Lot 1, Block 9, Beach View Addition, according to the Plat thereof, as recorded in Plat Book 16, Page 10, of the Public Records of Miami-Dade County, Florida.
Zoning:	RS-4, Single-Family Residential Zoning District
Future Land Use Designation:	RS, Single-Family Residential
Lot Size:	8,656 square feet
Lot Coverage:	
Existing:	3,068 SF / 35.5%
Proposed:	3,629 SF / 41.9%
Maximum:	4,328 SF / 50% (For one story structures constructed prior to 1965)
Unit size:	
Existing:	3,068 SF / 35.5%
Proposed:	3,406 SF / 39.3%
Maximum:	4,328 SF / 50%
Height:	
Year Constructed:	1943
Surrounding Uses:	North: Single-Family West: La Gorce Golf Course South: Single-Family East: Single-Family

THE PROJECT

The applicant has submitted plans entitled "Appel Residence" as prepared by **Ruben Travieso**, dated 12-14-2020. The applicant is proposing to renovate the existing one-story single family home, including the construction of new single story additions at the front of the home and along

the street side. Part of the rear of the existing home will also be converted from enclosed living space into an open terrace facing the golf course.

The applicant is requesting the following variances:

1. A variance to reduce by 9'-0" the minimum required street side setback of 15'-0" in order to construct a single story addition to the existing home, following the existing setback of 6'-0".

- 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.*

- a. *The sum of the required side yards shall be at least 25 percent of the lot width.*
- b. *Side, facing a street.*

1. *Each required side yard facing a street shall be no less than ten percent of the lot width or 15 feet, whichever is greater.*

2. A variance to reduce by 18" the minimum required street side setback of 18" in order to retain a canvas and pipe carport with a Zero (0') foot setback from the street side property line.

- Variance requested from:

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

(b) *Allowable encroachments within required yards.*

- (4) *Carports and solar carports.* Only one carport or solar carport shall be erected within a required yard of a single-family home, subject to the following requirements, as may be applicable:

- a. *Carports shall be subject to the following requirements:*
 1. *Carports shall be constructed of canvas and pipe for the express purpose of shading automobiles.*
 2. *Setbacks. Minimum setbacks for carports shall be as follows:*
 - i. *Front yard: 18 inches from the property line, provided the carport is attached to or immediately adjacent to the main building.*
 - ii. *Interior side yard: Four feet from the property line.*
 - iii. *Side yard facing the street: 18 inches from the property line, provided the carport is attached to or immediately adjacent to the main building.*

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.

This will be required at time of building permit.

- (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-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 existing single story home was constructed in 1943 with a front setback of approximately 35 feet, a non-conforming interior side setback of approximately five (5') feet, a non-conforming street side setback of five (5') feet to six (6') feet, and a rear setback of approximately 26 feet. Five (5') foot setbacks for side yards are typical for homes constructed in the 1950's and earlier in Miami Beach.

The applicant is proposing to renovate the existing home, and construct two (2) new attached single story additions within the front yard, which comply with the minimum required front yard setback of 20'-0". A portion of the home at the rear of the site will be demolished, increasing the rear setback from approximately 26 feet to 29 feet, and a large portion of enclosed area at the rear of the home will be modified to become a covered terrace facing the golf course.

In addition to the above modifications, and as indicated in the Project Description section of this report, the applicant is requesting a variance to follow the existing street side setback of six (6') feet in order to infill a small existing courtyard with enclosed living area, which is approximately 140 square feet in size. The required setback for new construction is 15 feet. While the City Code allows the continuance of a non-conforming interior side setback of at least five (5') feet under certain circumstances, there is no such allowance for new construction with a street side yard.

The applicant has presented practical difficulties involved in retrofitting the existing home in order to provide functional living areas. Additionally, the requested variance is limited to an area of less than 140 square feet and should have no negative impact on the surrounding neighborhood. As such, staff is supportive of the variance requested.

The second variance is associated with the retention of an existing, non-conforming canvas and pipe carport within the side yard facing a street. Carports that are attached to the main home are required to be located on private property with a minimum setback of 18" from the front or street side property line. The existing home in the portion of the property where the carport has been constructed has a setback of only five (5') feet, and the majority of the carport is located within the public right-of-way adjacent to the sideyard facing the street.

The applicant is requesting a zero setback to the property line in order to retain the existing carport. However, it is important to note that even if the Board approves the requested variance, the carport will require the review and approval of the Public Works Department, as well as a revocable permit from the City Commission, as most of the carport has been constructed on public property.

This corner property is relatively unique, in that it is located on a street end facing a golf course, with no property located between the subject site and the golf course. With this condition, there is no public sidewalk located between the street side property line and the street, so the construction of the carport would not be impacting any pedestrian flow or access to the sidewalk. Due to these conditions, as well as the fact that a code compliant carport on the front of the property would have more of an impact on the neighboring properties, staff is not opposed to the requested variance. However, even if the requested variance is granted, the carport will have to be removed if the revocable permit is denied.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the **variances be approved as requested** with the conditions enumerated in the draft final order.