

MIAMI BEACH

PLANNING DEPARTMENT
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: May 3, 2022

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB22-0794
5980 North Bay Rd

An application has been filed requesting Design Review Approval for modifications to an existing architecturally significant pre-1942 residence and the construction of a new pool and cabana in the rear yard that includes variances from the minimum open space required within the rear yard, the required rear yard setback for an accessory structure, the required side setback for a roof deck and from the required side yard setback.

RECOMMENDATION

Approval of the design

Approval of the variances

LEGAL DESCRIPTION:

Lot 21 & Beg at SW Cor Lot 20 N 47.1 FT NW 281.92 FT S 60 FT S ELY 281.92 FT, of La Gorce Golf Subdivision, according to the Plot thereof, as recorded in Plot Book 14, at Page 43, of the Public Records of Miami—Dade County, Florida

SITE DATA:

Zoning: RS-2
Future Land Use: RS
Lot Size: 42,720 SF
Lot Coverage:
Existing: 8,992 SF / 21%
Proposed: 8,950 SF / 21%
Maximum: 12,816 SF / 30%
Unit size:
Existing: 11,939 SF / 27.9%
Proposed: 12,062 SF / 28.2%
Maximum: 21,360 SF / 50%
Height:
Proposed: 24'-9" flat roof
Existing: ~25' sloped roof
Maximum: 28'-0" flat roof / 31'-0" sloped roof

EXISTING PROPERTY:

Year: 1940 / 2015
Architect: Weed & Reeder (original)
Vacant: No
Demolition: Partial

SURROUNDING PROPERTIES:

East: Two-story 1937 home
North: Biscayne Bay
South: Two-story 1946 home
West: Two-story 1941 home

THE PROJECT:

The applicant has submitted plans entitled "5980 N Bay Road Renovations", as designed by **CFZ Design**, signed, sealed, and dated March 7, 2022.

The applicant is requesting the following variance(s):

1. A variance from **Section 142-106(a)(3)** to allow forty-nine percent (49%) of the rear yard as open space, when seventy (70%) is required.
2. A variance from **Section 142-106(b)(1)(d)(1)** to allow a rear setback of 15'-3" for an accessory structure, when 22' – 11" is required.
3. A variance from **Section 142-105(b)(6)** to allow a roof deck along a side exterior wall with no setback, when a 10' setback is required.
4. A variance of from **Section 142-106(a)2.c.** to allow a second floor addition to follow the existing non-conforming side setback of 13'-3" when 14'-5" (10% of the lot width is required.)

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.

Additionally, staff has concluded that the plans and documents submitted with the application comply with the following hardship criteria, 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 consistent with the City Code, with the exception of the requested variances:

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.
Satisfied
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.
Satisfied.
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.
Satisfied.
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.
Satisfied
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.
Satisfied

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).
Satisfied
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.
Not Applicable
14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Not Applicable

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.
Not Applicable
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 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.

Satisfied

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

Not applicable

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

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 to modify an existing 2-story home that was originally constructed in 1940, and underwent major renovations in 2015, including the expansion of the second floor. The 2015 renovation included extensive exterior modifications to the exterior elevations of the home.

The subject parcel is nearly 1 acre in size, and well under the maximum lot coverage and unit size allowed. The main home is well setback from North Bay Road, with the majority of the home located in the rear half of the lot. The front of the site consists of a tennis court, pavilion, and single story garage structure. The lot is exceptionally deep at over 280 feet, with an existing non-conforming rear setback of approximately 36'-6" at its closest point, where the required rear setback is 45'-10" (15% of the lot depth).

The proposed renovations include the demolition and reconstruction of the entire rear yard, including demolition of the existing pool and pool deck, and the construction of a new pool, pool deck and single story cabana structure, along with new landscaping. The applicant is

also proposing to construct a new two-tiered roof deck on the existing home at the northwest corner of the site. The existing sloped roofs in these areas will be removed to accommodate the new roof decks, including the construction of a new enclosed stair between the first floor and new second floor roof deck. The additional upper roof deck will be located approximately 33'-10" from the north side property line. A spiral stair will access the upper roof deck from the lower roof terrace. Glass railings are proposed for the new roof decks and terrace, along with replacement of existing metal picket railing with glass railing on the waterfront elevation. As the design of the exterior elevations was already substantially modified from its original form in 2015, staff does not have any design concerns with the applicants proposal.

VARIANCE REVIEW

The applicant is requesting the following variance(s):

1. A variance from **Section 142-106(a)(3)** to allow forty-nine percent (49%) of the rear yard as open space, when seventy (70%) is required.

The existing rear yard is substantially paved, with the pool deck and small portions of the home that project into the required rear yard occupying 65% of the required rear yard. The existing landscaped area occupies only 20% of the required rear yard. The applicant's proposal will almost double the amount of landscaping to 38.2% of the rear yard. It should also be noted that while the applicant is requesting a variance for open space in the rear yard, the home is well below the maximum lot coverage and unit size for the site. The retention of the existing home, as well as the decrease in the level of non-conforming hardscape in the rear yard creates practical difficulties that warrant the granting of the requested variance.

2. A variance from **Section 142-106(b)(1)(d)(1)** to allow a rear setback of 15'-3" for an accessory structure, when 22' – 11" is required.

Due to the great depth of the waterfront lot, the required rear setback for accessory structures is increased compared to a typical lot (50% of the required rear setback). The location of the existing house, which is located on the rear half of the site, and already encroaches into the required rear setback does create a practical difficulty for complying with this increased required rear setback. A mitigating factor in the request is also the limited height proposed for the cabana. The code allows a height of 12' from BFE +1' for a single story accessory structure, and only 7'-6" is proposed, as the structure is located at a lower elevation of 6'-8" NGVD. For these reasons, staff is supportive of the requested variance.

3. A variance from **Section 142-105(b)(6)** to allow a roof deck along a side exterior wall with no setback, when a 10' setback is required.

For a roof deck, the city code requires a 10 foot side setback from perimeter of the floor below. The purpose of this requirement is to address privacy concerns from neighbors. The applicant is proposing a new roof deck near the northwest corner of the existing home. Although the proposed roof deck is set back over 30 feet from the north side yard property line, it aligns with the floor below (zero setback). The existing conditions of the site and home create the practical difficulties that warrant the granting of this request. The large setback of the roof deck should also mitigate any privacy concerns

4. A variance of from **Section 142-106(a)2.c.** to allow a second floor addition to follow the existing non-conforming side setback of 13'-3" when 14'-5" (10% of the lot width is required).

Based on a lot width of 144'-8", the minimum required side setback is 14'-5" (10% of the lot width). The existing home had non-conforming side setbacks of as little as 4'-7" on the south side and 10'-3" on the north side. Due to the shape of the site and the layout of the home, the side setbacks vary along the north sideyard. The applicant proposing to add a partial second story at the northwest side of the house, with a minimum footprint just large enough to contain an enclosed stairwell to the new roof terrace above the first floor, following the existing side setback in this location of 13'-3". The existing conditions of the site and home create the practical difficulties that warrant the granting of this variance. The degree of variance is also minimal, and should not have any negative impact on neighboring properties.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends **approval** of the design and 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.