

MIAMI BEACH

PLANNING DEPARTMENT
Staff Report & Recommendation

Board of Adjustment

TO: Chairperson and Members
Planning Board

DATE: July 7, 2023

FROM: Thomas R. Mooney, AICP
Planning Director

^{DS}


For TRM

SUBJECT: **ZBA23-0151**
8527 Crespi Blvd.

An application has been filed requesting after-the-fact variances from the required front yard and side yard setbacks, for the construction of a carport in the front yard of the property.

RECOMMENDATION

Approval.

ZONING/SITE DATA

Folio: 02-3203-011-0730

Legal Description: Lot 2, less southerly 26.52 feet, Block 13, of Biscayne Beach 2nd Addition, according to the Plat thereof, as recorded in Plat Book 46, Page 39 of the Public Records of Miami-Dade County, Florida.

Zoning: TH, Townhome Residential

Future Land Use Designation: TH, Townhome Residential

Lot Size: 2,723 square feet

FAR: (No Change)

Existing: ~1,471 SF* / 0.54 (*according to County records)

Maximum: 1,906 SF / 0.70

Year Constructed: 1948

Surrounding Uses: North: 1-story 1951 home (RS-4)
East: Tatum Waterway
West: 1-story, 1948, Duplex (TH)
South: 1-story, 1948 duplex (shared party wall with the subject application) (TH)

THE PROJECT

The applicant has submitted permit plans entitled, "8527 Crespi Blvd." for the construction of a canvas and pipe carport on the subject property. The carport has a width of 10.5 feet and a length of 17 feet.

The applicant is requesting the following variances:

- **Section 7.2.2.3(a):**

1. A variance from the minimum required front setback of **20 feet** in order to construct a canvas and pipe carport with a front setback of **zero feet (to the overhang)**.
2. A variance from the minimum required interior side setback **7.5 feet** in order to construct a canvas and pipe carport with a side setback of **1.5 feet**.

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 2.8.3 of the Land Development Regulations:

- i. 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;
- ii. The special conditions and circumstances do not result from the action of the applicant;
- iii. Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;
- iv. Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;
- v. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- vi. The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare;
- vii. 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; and
- viii. 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 7, article I, 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

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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 7.1.2.4(a)(i) of the Land Development Regulations 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 Applicable
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 4 of the Land Development Regulations.
Not Applicable
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-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.
Not Applicable
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.
Not Applicable
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.

Not Applicable

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

Not Applicable

11. Cool pavement materials or porous pavement materials shall be utilized.

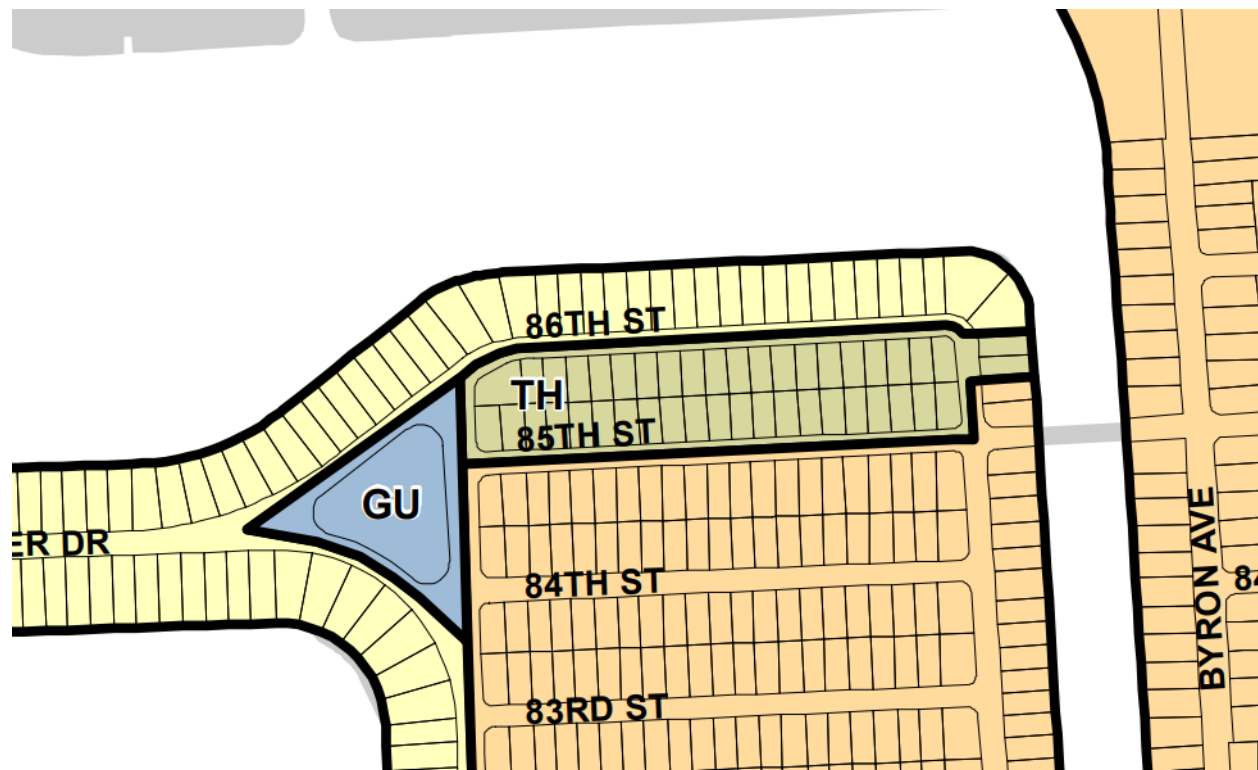
Satisfied

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

Satisfied

ANALYSIS

The subject property is zoned TH, Townhome residential, which is a small zoning district located between 85th and 86th streets and between Crespi Blvd. and Hawthorne Ave, as indicated in the map below.



The zoning district largely consists of one and 2-story duplexes, similar to the subject property. It is bound to the north by a single-family residential district and to the south by an RM-1, low intensity multifamily zoning district. The subject property directly abuts the single-family zoning

district to the north. The applicant is requesting after-the-fact variances in order to retain a carport that was constructed on the northwest corner of the property:

- **Section 7.2.2.3(a):**

1. A variance from the minimum required front setback of **20 feet** in order to construct a canvas and pipe carport with a front setback of **two feet**.
2. A variance from the minimum required interior side setback **7.5 feet** in order to construct a canvas and pipe carport with a side setback of **1.5 feet**.

In the abutting single family zoning district to the north, carports are permissible as an allowable encroachment in the front yard and are reviewed at the administrative level. The required front setback is 18 inches, and the required side setback is four (4') feet, and the maximum size is 20 feet by 20 feet. There is no such provision for carports in the TH zoning district.

The carport, which is the subject of this application, is 10.5 feet wide x 17 feet long, and covers the only existing parking spot for the property. Because the property directly abuts the single-family zoning district along the waterfront to the north of 86th street, the subject carport would not be out of character with the neighborhood. Further, the carport is approximately ½ the size allowed in a single-family district and is substantially screened from the street by a large tree in the front yard. Due to the practical difficulty in providing a covered parking area due to the existing site conditions, as well as the mitigating factors noted, staff is not opposed to the requested variances and recommends approval as requested.

RECOMMENDATION

In view of the foregoing analysis, staff recommends the application be **approved**, including the requested variances, subject to the conditions enumerated in the attached Draft Order, which address any inconsistencies with the Practical Difficulty and Hardship Criteria and Sea Level Rise criteria.

**BOARD OF ADJUSTMENT
CITY OF MIAMI BEACH, FLORIDA**

MEETING DATE: July 7, 2023

PROPERTY: 8527 Crespi Blvd.

FOLIO: 02-3203-011-0730

FILE NO. ZBA23-0151

IN RE: An application for after-the-fact variances from the required front yard and side yard setbacks, for the construction of a carport in the front yard of the property.

LEGAL

DESCRIPTION: Lot 2, less southerly 26.52 feet, Block 13, of Biscayne Beach 2nd Addition, according to the Plat thereof, as recorded in Plat Book 46, Page 39 of the Public Records of Miami-Dade County, Florida.

FINAL ORDER

The applicant, Norman R. Woods, filed an application with the Planning Department for the following variances:

1. **Section 7.2.2.3(a)** A variance from the minimum required front setback of 20 feet in order to construct a canvas and pipe carport with a front setback of zero feet (to the overhang).
2. **Section 7.2.2.3(a)** A variance from the minimum required interior side setback 7.5 feet in order to construct a canvas and pipe carport with a side setback of 1.5 feet.

The City of Miami Beach Board of Adjustment makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

- A. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the Planning Department Staff Report, the project as submitted satisfies the requirements of Section 2.8.3 of the Land Development Regulations. Accordingly, the Board of Adjustment has determined the following:
 - i. 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;
 - ii. The special conditions and circumstances do not result from the action of the applicant;
 - iii. Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;

- iv. Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;
 - v. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
 - vi. The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare;
 - vii. 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; and
 - viii. 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 7, article I, as applicable.
- B. The Board hereby **Approves** the requested variances and imposes the following conditions based on its authority in Section 2.8.4 of the Land Development Regulations:
- 1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
 - 2. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for planning permit and shall be located immediately after the front cover page of the permit plans.
 - 3. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
 - 4. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
 - 5. The conditions of approval herein are binding on the applicant, the property's owners and all successors in interest and assigns.
 - 6. The final order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

7. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code, except to the extent of the variance(s) granted herein.
8. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit, Certificate of Use or Miami Beach Business Tax Receipt.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including staff recommendations, as modified by the Board of Adjustment, that the application for after-the-fact variance approval is GRANTED for the above-referenced project, subject to those certain conditions specified in Paragraph B hereof, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans submitted to the Board of Adjustment in accordance with the conditions set forth in this Order, as applicable, with staff review and approval.

The issuance of this Order does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original Variance Approval was granted, the subject Approval will expire and become null and void, unless the applicant makes application to the Board for an extension of time, in accordance with the requirements and procedures of Section 2.2.4.6 of the Land Development Regulations; the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 2 of the Land Development Regulations, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 2 of the Land Development Regulations, for revocation or modification of the application.

Dated _____.

Filed with the Clerk of the
Board of Adjustment on _____ ()