

MIAMI BEACH

PLANNING DEPARTMENT Staff Report & Recommendation

Board of Adjustment

TO: Chairperson and Board Members

DATE: February 2, 2024

FROM: Thomas R. Mooney, AICP
Planning Director

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for TRM

SUBJECT: **ZBA23-0157**
460 South Shore Drive
Folio: 02-3203-007-0920

An application has been filed requesting a variance from the minimum seawall height requirements, in order to repair an existing seawall along the property, which contains an existing single-story home, to be retained.

RECOMMENDATION:

Approval with conditions.

LEGAL DESCRIPTION:

Lot 12, Block 52, of Normandy Golf Course Sub., according to the Plat Thereof, as Recorded in Plat Book 44, Page 62, of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-3
Future Land Use: RS
Lot Size: ~11,050 SF

Year: 1950
Architect: August Swarz

SURROUNDING PROPERTIES:

East: One-story 1950 Home
North: One-story 1950 Home
South: Canal
West: One-story 1950 Home

THE PROJECT:

The applicant has submitted plans entitled "Residential Rock Wall Repair, 460 S Shore Dr.", as prepared by **Andres Perez**, dated 8/28/2023.

The applicant is proposing repair an existing seawall along the waterfront, and retain the existing seawall cap.

The applicant is requesting the following variances:

1. A variance from the minimum seawall height requirement of 5.56' NGVD (4.0' NAVD), in order to repair an existing seawall and retain the existing seawall cap height of 3.56' NGVD (2.0' NAVD).

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 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.
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.
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.
Not Applicable

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

Not Applicable

ANALYSIS:

The subject property includes a single-story residence, originally constructed in 1950. The existing seawall cap is located at an elevation of 3.56' NGVD (2.0' NAVD). A violation was issued to the subject property on October 10, 2020 (BVB20000687), due to the poor condition of the seawall allowing water intrusion under the seawall and into the property and affecting a neighboring property. The violation was issued to the current homeowner who had recently purchased the property when the violation was issued.

The applicant is proposing to repair just the face of the existing seawall and keep the existing seawall cap at the current elevation; however, the City Code requires a minimum elevation of 5.56' NGVD (4.0' NAVD) when the repairs are considered less than substantial. Less than substantial is a value that is \$300 per linear feet or less. Based upon the contract submitted by the applicant, the proposed cost is \$8900 or \$137 per linear foot, with a total length of 65 feet. Further the City Code also requires that the seawall be designed and constructed to accommodate a minimum elevation of 5.7' NAVD for the future.

The applicant is requesting the following variances:

1. A variance from the minimum seawall height requirement of 5.56' NGVD (4.0' NAVD), in order to repair an existing seawall and retain the existing seawall cap height of 3.56' NGVD (2.0' NAVD).
 - Variance requested from:

Sec. 54-62. Minimum elevations and materials for new or substantially rehabilitated coastal infrastructure within tidally-influence areas.

- (a) *All new seawalls or existing seawalls that require substantial repairs; shall have a minimum elevation of 5.7 feet NAVD88 (7.26'NGVD). All existing seawalls that require repairs, but the repairs are considered less than substantial and existing seawalls that fall below an elevation that incurs flooding to adjacent property and/or public right-of-way shall have a minimum elevation of 4.0 feet NAVD88 if designed and constructed to accommodate a minimum elevation of 5.7 feet NAVD88.*

For the repair of an existing seawall that is considered non-substantial, the minimum elevation required is 5.56' NGVD with the structure designed to accommodate a future raising to a minimum elevation of 7.26' NGVD. This provision requires that when the seawall is repaired for any even minor work, that this minimum standard be provided.

While not objecting to the subject variance in order to address the immediate need to stop water intrusion through the seawall, staff does have concerns with the extremely low level of

the existing seawall cap. Even with the granting of the subject variance and the repair of the seawall, should the property flood from the seawall in the future, which in turn causes flooding on neighboring properties, a new violation would then be issued. In that case the homeowner will have no choice but to install a new seawall that complies with the minimum elevation requirements. Should the Board grant the requested variance, staff has included a condition in the draft final order that clearly states that the subject variance is only for the height of the seawall in so far as it does not result in flooding to adjacent property. As with other properties that have received seawall related variances, the approval would require that any substantial improvements to the existing home and/or redevelopment of the upland property would require that the sea wall be raised to 5.7' NAVD (7.26' NGVD).

In summary staff finds that there are practical difficulties in addressing the immediate needs of repairing the existing seawall in order to stop ongoing water intrusion onto the subject site and neighboring properties. As the subject variance does not allow for flooding onto neighboring properties now or in the future, negative impacts to neighboring properties are not anticipated,

RECOMMENDATION:

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