

MIAMI BEACH

PLANNING DEPARTMENT Staff Report & Recommendation

Board of Adjustment

TO: Chairperson and Board Members

DATE: March 1, 2024

FROM: Thomas R. Mooney, AICP
Planning Director

DS


for TRM

SUBJECT: **ZBA23-0154**
1630 W 21st Street
Folio: 02-3227-010-0430

An application has been filed requesting a variance from the minimum required rear setback for an accessory structure and from the distance separation requirements between the main home and an accessory structure, in order to construct an outdoor kitchen for a new 2-story home.

RECOMMENDATION:

Approval

LEGAL DESCRIPTION:

PORT OF LOTS 16 & 17 DESC BEG 23.22FT SELY OF NE COR OF LOT 17 CONT SELY58.11FT TO NE COR OF LOT 16 S145FT WLY128.65FT ALG S/L OF LOT 16 NELY165FT TO POB, BLK 5, SUNSET LAKE EXTENSION according to the Plat Thereof, as Recorded in Plat Book 40, Page 23, of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning:	RS-3
Lot Size:	14,183 SF
Unit Size:	
Proposed:	6,892 SF/48.6%
Max:	7,091 SF/50%
Lot Coverage:	
Proposed:	3,616 SF/ 25.5%
Max:	4,254 SF / 30%

Year: 2024

SURROUNDING PROPERTIES:

East:	2-story 1990 Home
North:	1-story 1940 Home
South:	Canal
West:	1-story 1957 Home

*per County records

THE PROJECT:

The applicant has submitted plans entitled "A new single family residence for 1630 West 21st Street", as prepared by **The Weber Studio** dated 11/6/2023.

The applicant is in the process of constructing a new single-family home, and is requesting the following variances in order to construct an outdoor kitchen in the rear yard of the waterfront property:

The applicant is requesting the following variances:

1. A variance from the minimum required rear yard setback of 11'- 7 ½ " (1/2 of 23'-4") for a waterfront property, in order to construct a new outdoor kitchen with a rear yard setback of 7'-6".
2. A variance from the minimum required building separation of 5'-0" in order to construct an accessory outdoor kitchen in the required rear yard with zero separation from the main home.

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.

Satisfied – To be reviewed at time of building permit.

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

Satisfied – To be reviewed at time of building permit.

ANALYSIS:

The subject property contains a new 2-story home, currently under construction. The home was approved administratively, with no design waivers or variances. The applicant is now proposing to construct an outdoor kitchen within the required rear yard.

The applicant is requesting the following variances:

1. A variance from the minimum required rear yard setback of 11'- 7 ½ " (1/2 of 23'-4") for a waterfront property, in order to construct a new outdoor kitchen with a rear yard setback of 7'-6".
2. A variance from the minimum required building separation of 5'-0" in order to construct an accessory outdoor kitchen in the required rear yard with zero separation from the main home.
 - Variances requested from Section 7.2.2.3(b)(12)(B):

Rear Setback, 1 Story Structures:

7.5 feet, **One-half of the required setback when facing a waterway**

Building Separation:

Accessory buildings shall be separated from the main home by a minimum of 5 feet, **open to the sky with no overhead connections.**

Accessory structures are allowed to be constructed in a required rear yard with reduced setbacks compared to the main home. Single story structures (up to 12 feet in height, measured from BFE +1') are required to provide an interior side setback of 7'-6" for both waterfront and non-waterfront properties. Non-waterfront homes are required to provide a rear setback of 7'-6" for single story structures, however the required rear setback for a waterfront home is ½ of the required rear setback for the main home. In this case the applicant is proposing an open terrace at the southeast corner along the waterfront, at an elevation of approximately 13' NGVD (BFE+ 5'), which is the maximum elevation allowed for the required

rear yard of a waterfront property. While the terrace complies with the maximum height and setbacks, an outdoor kitchen, even open to the sky as proposed, is required to comply with the same setback requirements as a covered structure such as a cabana.

The outdoor kitchen extends to a typical 36" counter height above the terrace, along with a back wall that is approximately 48" in height above the terrace, to an elevation of ~16'-8" NGVD. This is much lower than the maximum allowed height for a single-story accessory structure, which could go up to an elevation of 21' NGVD. There are no other accessory single or 2-story structures proposed within the required rear yard along the waterfront.

While the proposed uncovered outdoor kitchen is much lower and less impactful than a typical single story covered cabana structure, the city code treats them the same for setback purposes. Additionally, because the outdoor kitchen is connected to the main home, and is partially covered by the projecting balcony of the master bedroom terrace above, the accessory outdoor kitchen does not comply with the required 5 foot separation from the main home, open to the sky with no overhead connections. The variance requests are mitigated by the fact that there are no other accessory structures in the required rear yard, and by a yard elevation along the water that is lower than the maximum allowed for a large section of the required rear yard.

Considering the site conditions and the applicant's proposal, as well as the lower mitigating yard elevation along the waterfront, the requested variances are minor in nature and should not result in any negative impacts on the surrounding neighborhood. For the reasons noted above, staff is supportive of the requested variances and recommends approval.

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 aforementioned Practical Difficulty and Hardship Criteria and Sea Level Rise criteria.