

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
TRM

for TRM

SUBJECT: **ZBA23-0159**
5768 Pine Tree Dr.
Folio: 02-3214-003-0500

An application has been filed requesting variances from the minimum required side setback requirements for a pool and pool deck, in order to construct a new pool and pool deck on a property containing an existing 2-story home.

RECOMMENDATION:

Approval

LEGAL DESCRIPTION:

Lot 7, Block 2, Beach View Subdivision, according to the Plat Thereof, as Recorded in Plat Book 9, Page 158, of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-3
Lot Size: 7,750 SF
Unit Size:
Existing: ~4,437 SF/57.34%*
Max: 3,875 SF/50%

Year: 1925
Architect: T.M. Sawyer

SURROUNDING PROPERTIES:

East: 2-story 2023 Home
North: 2-story 1954 Home
South: 2-story 1928 Home
West: Vacant site

*per County records

THE PROJECT:

The applicant has submitted plans entitled "Addition at 5768 Pine Tree Drive", as prepared by **Martinez Architect, Inc.** dated 7/25/2022.

The applicant is proposing to replace the existing pool and pool deck with a new configuration.

The applicant is requesting the following variances:

1. A variance from the minimum required side yard setback of 7'-6" to the edge of a pool deck in order to construct a new pool deck with a side setback of 3'-10".

2. A variance from the minimum required side yard setback of 9'-0" to the water's edge of a pool in order to construct a new pool with a side yard setback of 5'-0" to the water's edge.

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 an existing 2-story home, along with a 2-story accessory guest house in the rear yard, originally constructed in 1925. There is currently a pool deck and small pool located in-between these structures. A new pool and pool deck is proposed in a new configuration between the main home and guest house.

The applicant is requesting the following variances:

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2. A variance from the minimum required side yard setback of 9'-0" to the water's edge of a pool in order to construct a new pool with a side yard setback of 5'-0" to the water's edge.
 - Variances requested from Section 7.2.2.3(b)(12)(p):

Side Interior Setback: **7.5 feet** to the swimming pool deck or platform.
 9 feet to the water's edge of the swimming pool.

Due to the location of the existing main home and the 2-story accessory guest house, the central courtyard created by these structures is the most suitable location for a pool on the property. The existing exterior stairs to the 2-story guest house projecting into this courtyard further constrain and limit the area for a pool. Factoring these limitations, the applicant is requesting to locate the pool and pool deck closer to the north property line than would otherwise be required. There are provisions in the code to locate a pool and pool deck with a minimum side yard setback of 5'-0", for properties that are formally classified as architecturally significant. This home would qualify for those reduced setbacks, however the applicant is requesting a further reduction in the side yard setback in order to locate a raised waterwall with a setback of 3'-11". As proposed, the top of the wall is 1'-4" above the adjacent grade and the width of the pool is 11 feet on the north and south sections, widening to 13'-6" in the center. The overall length proposed for the pool is 30 feet, running north to south.

Based upon the existing site conditions, including existing setbacks and existing configuration of the main home and guest home, staff finds that practical difficulties exist for the construction of a modest pool on the subject site. The requested variance is 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.

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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.