


MIAMI BEACH

PLANNING DEPARTMENT

BOARD OF ADJUSTMENT STAFF REPORT

FROM: Thomas R. Mooney, AICP 
Planning Director

DATE: September 8, 2017 Meeting

RE: File No. ZBA17-0040
1736 West 28 Street – Single Family Residence

The applicant, Sunset Aqua 1736, LLC c/o Anthony Tamer is requesting a variance to exceed the maximum allowable projection into the waterway for the construction of a new dock, boatlift and mooring piles for the single family property.

STAFF RECOMMENDATION:

Approval of the variance with conditions.

LEGAL DESCRIPTION:

Lots 3, 4 and 5, Block 1-H, of "3rd Revised Plat of Sunset Islands Subdivision", According to the Plat Thereof, as recorded in Plat Book 34 at Page 73 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning -	RS-2
Future Zoning-	RS
Lot Size -	70,886 SF
Existing U. size-	~9,601 SF / 13.5%
Height	two-story structure

EXISTING STRUCTURE:

Year Constructed:	1936
Architect:	Treanor & Fatio
Vacant Lot:	None
Demolition:	None

THE PROJECT:

The applicant has submitted documents and plans entitled "1736 W 28th Street Dock & Boat Lift Project" as prepared by Dynamic Engineering Solutions, Inc., and John H. Omslaer, P.E., signed and sealed July 26, 2017.

The applicant is proposing the construction of a new dock, boatlift and mooring piles including a variance to exceed the maximum allowed projection into the waterway.

The applicant is requesting the following variance(s):

1. A variance to exceed by 26'-9" the maximum allowed 37'-1" projection into the waterway of 247'-6" in width in order to permit the construction of a boat lift, dock and

mooring piles with a total projection of 63'-10" from the wet face of the seawall into the waterway.

- Variance requested from:

Sec. 66-113. Limitation on projection of structures; public hearing.

Boat slips, docks, wharves, dolphin poles, mooring piles or structures of any kind shall not be constructed or erected that extend into any canal or waterway in the city more than ten percent of the width of such canal or waterway at a specific location measured from the seawall or property as shown by recorded plat line if no seawall exists; but if a canal or waterway is more than 100 feet in width, the structure may extend into such canal or waterway a distance not greater than 15 percent of the width of such canal or waterway at that specific location, but not to exceed a distance greater than 40 feet.

The maximum projection for structures into the waterway is based upon the width of the canal adjacent to the property. The waterway abutting the site has a width of 247'-6" at the location of the proposed structures, which allows a maximum projection of 37'-1" into the waterway for any marine structure including the dockage of a boat. Pursuant to the requirements of the Miami-Dade County Regulatory and Economic Resources ("RER") Department, the mooring of a 80 foot long vessel with a 6 foot draft, as proposed in the specific location shall be at a minimum of 35 feet from the seawall in order to reach the minimum necessary water depth of 4 feet, as noted in the letter submitted by DERM, dated June 20 and the Miami-Dade Code of Ordinances Section 24-48.3. See excerpt of this section of the Code below:

(3) In addition to the applicable evaluation factors found in Section 24-48.3(1)(a) through (i) above, boat slips created by the construction or placement of fixed or floating docks, piers, piles and other structures requiring a permit under this article and located in tidal waters within the geographical boundaries of Miami-Dade County, Florida shall have a minimum water depth of four feet N.O.A.A. mean low water datum. It shall be unlawful to moor or store vessels at fixed and floating docks, piers, piles and any structure requiring a permit under this article in tidal waters within the geographical boundaries of Miami-Dade County in areas with less than four feet of depth N.O.A.A. mean low water datum except for those existing structures which were constructed or placed in accordance with all of the requirements of the Code of Miami-Dade County, Florida prior to October 11, 1985.

In addition in the letter dated July 26, 2017 submitted by Ocean Consulting, it is noted that the attached County's Biological Assessment reflects shallow water depths and marine resources near the seawall; specifically seagrass coverage of 75%-80% nearshore on the curved west side of the seawall.

The new structures, including a dock, boatlift, and mooring piles have been preliminarily stamped and approved by RER and, based upon the existing width of the canal and the water depth requirement that places the structure further away from the seawall, staff has concluded that these conditions create practical difficulties that meet the criteria for the granting of the variance as requested.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board of Adjustment finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, 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.

COMPLIANCE WITH ZONING CODE:

The application, as submitted, appears to be consistent with the applicable requirements of the City Code, with the exception of the variance(s) requests herein. This 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.

STAFF ANALYSIS:

The waterfront site, located at the southwest side of the Sunset Island No. 1, contains a two-story single family home originally constructed in 1936. The applicant is proposing the replacement of an existing dock with a new L-shaped dock, a boatlift, mooring piles and the retention of an adjacent boat lift. The new structures, including the docked vessel, exceed the maximum projection allowed into the waterway and a variance is required.

The Code restricts the projection of marine structures into the waterway with a width less than 1000' to a maximum of 15% of the width of the canal and not greater than 40'. Although

the property has a seawall line of approximately 460 linear feet, which has more flexibility to place the proposed structures, it has been determined that the proposed location and configuration is the most appropriate to minimize any negative impact on the existing marine resources, based on the existing conditions of the waterway adjacent to the site and the RER- Natural Resources Division and the Miami Dade County Code of Ordinances requirements. As previously noted in this report, the mooring of a boat is prohibited within the first 35' from the seawall. Because this requirement, the mooring of any type of boat would exceed the maximum projection allowed by the Code and a variance will be required.

There are other docks installed along the canal, but none with a similar projection. Staff was unable to find permits or approval for other similar marine structures exceeding the maximum projection within the surrounding properties. As the requested variance is triggered by the existing conditions of the waterway, and minimum water depth requirements, staff has no objections to the approval of the variance.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends **approval** of the variance(s) as requested, subject to the conditions enumerated in the attached Draft Order which address the inconsistencies with the aforementioned Practical Difficulty and Hardship criteria, as applicable.

TRM:MAB:IV

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