

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: May 3, 2016

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: Design Review File No. 23255  
**2801 Flamingo Drive – Single Family Home**

The applicant, John Glenn Kendall, is requesting Design Review Approval for the construction of two-story additions and exterior modifications to an existing one-story single family home, including a variance to reduce the required interior side setback for a two-story addition.

#### **RECOMMENDATION:**

Approval with conditions

#### **LEGAL DESCRIPTION:**

Lot 1, Block 2, of Flamingo Terrace Subdivision, according to Plat thereof, recorded in Plat Book 10, at Page 3, Public Records of Miami-Dade County, Florida.

#### **SITE DATA:**

Zoning:	RS-2
Future Land Use:	RS
Lot Size:	25,850 SF
Lot Coverage:	
Existing:	±3,862 SF / 15%
Proposed:	5,439 SF / <b>21%</b>
Maximum:	7,755 SF / 30%
Unit size:	
Existing:	±3,102 SF / 12%
Proposed:	6,862 SF / <b>26.36%</b>
Maximum:	12,925 SF / 50%

**2<sup>nd</sup> Floor Volume to 1<sup>st</sup>: 43%\***

**\*No Waiver | lot coverage < 25%**

#### Height:

Proposed: 23'-7" sloped roof

Maximum: 31'-0" sloped roof

Grade: +6.12' NGVD

Flood: +8.00' NGVD

Difference: 1.88'

Adjusted Grade: +7.06' NGVD

First Floor Elevation: +9.51' NGVD

#### **EXISTING STRUCTURE:**

Year Constructed: 1946

Architect: Unknown

Vacant: No

Demolition Proposed: Partial

#### **Surrounding Properties:**

East: Indian Creek Canal

North: Two-Story 1935 residence

South: VACANT (DRB File No. 22918)

West: One-story 1951 residence

#### **THE PROJECT:**

The applicant has submitted plans entitled "Kendall Residence-Additions and Renovations" as prepared by **A & I Associates** dated, signed and sealed March 11, 2016.

The applicant is proposing to construct ground floor and second floor additions to an existing one-story home constructed in 1946. The addition includes a minor expansion of the ground floor garage which triggers the following design waiver and variance.

The applicants are requesting the following design waiver(s):

1. A two-story side elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d).

The applicants are requesting the following variance(s):

1. A variance to reduce by 22'-2" the minimum interior side setback of 30'-10" in order to construct a new second floor at 8'-8" from the south property line.

**Sec. 142-106. Setback requirements for a single-family detached dwelling.**

*The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:*

*(2)Side yards: c. Interior sides. Any one interior side yard shall have a minimum of 10% of the lot width or 7'-6", whichever is greater.*

The subject parcel is a uniquely shaped triangular lot located just south of the pedestrian bridge that crosses Indian Creek Canal. The shape of the parcel results in an elongated front property line measuring 448.2' in length along the property line and 308.17' at the 20' setback line. This results in a minimum required interior side setback of 30'-10", which is an uncharacteristically large setback requirement for a single family home on a lot of this size.

The applicant is proposing several additions to the existing 1946 structure. The home was substantially redesigned in 1998 under building permit B9802969 that included the construction of a one-story garage in the front of the property. The homeowner is proposing two ground floor additions and a second floor addition which comply, for the most part, with setbacks, lot coverage and unit size regulations except for a small portion of the second floor. Since, the applicant is proposing to expand the garage 3'-4" along the south property line—which is allowed by Code, the second floor addition cannot both continue the nonconforming ground floor setback and occupy the second floor of the new ground floor construction. The expansion must meet the minimum interior side setback of 30'-10", as such, a variance in order to continue the non-conforming side setback for the new addition is being requested. Staff is supportive of this variance since the shape of the site, as well as the existing setbacks of the home, create a hardship for the applicant.

**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 with the application comply with the following hardship criteria, 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:**

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code, in addition to the requested variance(s):

1. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60'-0", whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard. The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line. The square footage of the additional open space shall not be less than 1% of the lot area. The intent of this regulation shall be to break up long expanses of uninterrupted two-story volume at or near the required side yard setback line and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria.
2. Roof overhangs are allowable projections into a required yard for a distance not to exceed 25% of the required yard. In this instance, the overhangs cannot exceed 1'-9" into the south setback.

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.

**CONSISTENCY WITH COMPREHENSIVE PLAN:**

A preliminary review of the project indicates that the proposed **residential use** appears to be **consistent** with the Future Land Use Map of the 2025 Comprehensive Plan.

**COMPLIANCE WITH DESIGN REVIEW CRITERIA:**

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.  
**Satisfied**
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.  
**Satisfied**
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.  
**Not Satisfied; the proposed additions require a design waiver and a variance to be granted from the Board.**
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.  
**Satisfied**
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.  
**Not Satisfied; the proposed additions require a design waiver and a variance to be granted from the Board.**
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.  
**Satisfied**
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection,

relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.

**Satisfied**

8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.

**Satisfied**

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

**Satisfied**

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.

**Satisfied**

11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.

**Satisfied**

12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

**Not Satisfied; the proposed additions require a design waiver and a variance to be granted from the Board.**

13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.

**Satisfied**

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

**Not Applicable**

15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).  
**Satisfied**
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.  
**Satisfied**
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.  
**Not Applicable**

**STAFF ANALYSIS:**

The subject property is a triangular parcel located to the west of Indian Creek Canal. The existing structure was originally constructed in 1946 but in 1998 a major renovation and addition to the original structure eliminated all of the original architectural features. The proposed plan includes the removal of some of those outdated design characteristics and while the proposal complies with most of the single family home regulations, the second floor addition is triggering a design waiver and a variance.

The applicant is requesting a waiver of the open space requirement for two-story elevations that exceed 60'-0" in length. The proposed two-story south elevation measures 68'-8" in length. This elevation faces a new single family home that was approved on November 6, 2012 under DRB File No. 22918 with an uninterrupted two-story elevation that measures 61'-0" in length. While the proposed elevation does not comply with the minimum requirements to break up the two-story massing, the elevation has been designed with adequate movement and architectural interest. Through the use of solids and voids, the architect has managed to minimize the scale of the home. As such, staff is supportive of the requested waiver.

**VARIANCE REVIEW**

As explained in the 'Project' section of the report, the shape of the parcel results in an elongated front property line which consequently leads to an excessive interior setback requirement. While ground floor additions can follow a linear extension on the ground floor of a conforming side setback and a second floor additions may occur above the existing footprint, new two-story additions cannot do both. The second floor addition over the ground floor addition of the garage requires a variance. Staff is supportive of this variance since it's a minor portion of the second floor, and the excessive lot width and existing home create practical difficulties for the construction of the additions.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the application be **approved**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria and Practical Difficulty and Hardship criteria.

**DESIGN REVIEW BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: May 3, 2016

FILE NO: 23255

PROPERTY: **2801 Flamingo Drive**

APPLICANT: John Glenn Kendall

LEGAL: Lot 1, Block 2, of Flamingo Terrace Subdivision, according to Plat thereof, recorded in Plat Book 10, at Page 3, Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of two-story additions and exterior modifications to an existing one-story single family home, including a variance to reduce the required interior side setback for a two-story addition.

**ORDER**

The City of Miami Beach Design Review Board 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:

**I. Design Review**

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 3, 5, and 12 in Section 118-251 of the Miami Beach Code.
- C. The project would be consistent with the criteria and requirements of Section 118-251 if the following conditions are met:
  - 1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 2801 Flamingo Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
    - a. The side open space requirement shall be waived as proposed.
    - b. The roof overhangs shall be reduced in length in order to comply with the maximum permitted projection into the required yards.



- c. Hardwired speakers shall not be permitted on the roof deck.
  - d. All roof top lighting shall be located below the parapet level, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - e. The final Design details of the exterior materials and finishes shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - f. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
  - g. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, and corresponding site plan, shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
- a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
  - b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
  - c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.



- d. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
- e. In the required yards the walkways shall be reduced to 44" in width except for landing where a 5'-0" turning radius is required, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- f. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- g. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- h. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- i. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- j. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
- k. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right of way shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- l. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

**In accordance with Section 118-262, the applicant, or the city manager on behalf of the city administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City**

**Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.**

**II. Variance(s)**

A. The applicant filed an application with the Planning Department for the following variance(s):

1. A variance to reduce by 22'-2" the minimum interior side setback of 30'-10" in order to construct a new second floor at 8'-8" from the south property line.

B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to Variance(s) II.A.1A, II.A.1B, and II.A.2, as noted above, allowing the granting of a variance if the Board 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, as it relates to Variance(s) II.A.1A, II.A.1B, and II.A.2, as noted above:

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.

- C. The Board hereby **Approves** the Variance requests as noted in II.A.3 and II.A.4 and grants the requested variance(s) as noted in II.A.1A, II.A.1B, and II.A.2, and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:
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.

**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.**

**III. General Terms and Conditions applying to both 'I. Design Review Approval and II. Variances' noted above.**

- A. During Construction of the new home, the Applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles existing and entering the site and with an 8'-0" high fence with a wind resistant green mesh material along the front of the property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The Applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- B. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- C. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- D. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- E. 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.
- F. 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.

- G. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- H. Nothing in this order authorizes a violation of City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

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 the staff recommendations, which were amended and adopted by the Board, that the Application for Design Review approval and Variances II.A.1A, II.A.1B and II.A.2 as noted above, is GRANTED and that the Application for Variances II.A.3 and II.A.4 as noted above, is DENIED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, "Kendall Residence-Additions and Renovations" as prepared by **A & I Associates** dated, signed and sealed March 11, 2016, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, 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 118 of the City Code, 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 118 of the City Code, for revocation or modification of the application.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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