

PLANNING DEPARTMENT

BOARD OF ADJUSTMENT STAFF REPORT

FROM: Thomas R. Mooney, AICP
Planning Director

DATE: July 08, 2016 Meeting

RE: File No. ZBA0416-0006 f/k/a 3808
5633 North Bay Road – Single Family Residence

The applicants, Esther and Daniel Rubin, are requesting a variance to reduce the minimum required rear setback in order to construct additions to the existing two-story single family home.

STAFF RECOMMENDATION:

Approval of the variance with conditions.

HISTORY:

On May 9, 2016, the Board continued the application to a date certain of July 8, 2016.

LEGAL DESCRIPTION:

The south ½ of Lot 2, and all of Lots 3 and 4, Block 10, of "Lagorce Golf Subdivision", According to the Plat Thereof, as recorded in Plat Book 14 at Page 43 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning -	RS-4
Future Zoning-	RS
Lot Size -	18,750 SF
Lot Coverage	
Existing-	2,444 SF / 13%*
Proposed	2,777 SF / 15%*
Maximum-	7,500 SF / 40%
Unit size	
Existing-	4,594 SF / 24.5%*
Proposed-	5,443 SF / 29%*
Maximum-	11,250 SF / 60%
Height-	
Existing-	two-story - sloped roof
Proposed-	same

EXISTING STRUCTURE:

Year Constructed:	1928
Architect:	Unknown
Vacant Lot:	No
Demolition:	Partial

* As represented by the applicant.

THE PROJECT:

The applicant has submitted plans entitled “Esther and Daniel Rubin Residence”, as prepared by Max Wolfe Architect, signed and sealed June 15, 2016.

The applicant is requesting a variance from the required rear setback for the construction of one story additions to the existing two-story single family home.

The applicant is requesting the following variance:

1. A variance to reduce by 12'-10" the minimum required rear setback of 20'-0" in order to construct a one-story addition and an open loggia within the rear yard of the property at 7'-2" from the rear property line.

- Variance requested from:

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:

(3) Rear: The rear setback requirement shall be 15 percent of the lot depth, 20 feet minimum, 50 feet maximum.

The applicant is proposing two additions to the existing structure, one storage/utility room between the existing cabana and the two-story garage; and a new loggia attached to the garage on the east side. The additions are set back 7'-2" from the rear property line. Because the existing house was constructed encroaching into the required rear yard, these additions are treated as part of the main structure for zoning analysis and absent approval of the requested variances, would need to be setback a minimum of 20 feet from the rear property line. As detached structures, the one-story additions could be setback 7'-6" from the rear property line. The main house is set back substantially from the front property line and is well below the maximum lot coverage and unit size permitted for an architecturally significant home. The additions proposed are located in a manner to cause the least modification to the main house. The variance requested would allow the expansion of the home while maintaining its architectural significance. The new floor area would have a minimum impact on the abutting property to the rear. Staff has concluded that the existing site conditions and location of the structures create the practical difficulties that justify this variance.

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, 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. **In this case, the requested variance is necessary in order to satisfy the Certificate of Appropriateness criteria and not to adversely impact the existing significant structure.**

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 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.

STAFF ANALYSIS:

The subject site is an interior multi-lot property containing a two-story residence constructed in 1928. The original home was placed on the center lot with a front setback ranging from 25 to 41 feet. Records from a significant addition to the house in 1937 included the loggia and carport on the eastern side of the property. The rear garage and driveway were existing in the construction plans. A shed structure was constructed later in 1941, which might be the existing cabana building at the rear. After that, it appears that there are no records of other structural additions to the main site, except for a pool built in 1995, however permit plans for its construction were not found. As existing, the house structure is extended up to 5 feet from the property line. The applicant is proposing a one story storage room and an open loggia attached to the existing garage. Modifications to the exterior and interior of the house are also proposed as part of the improvements to the property. The driveway pavement will also be reduced to mitigate the amount of impervious surface within the rear yard.

At the May 9, 2016 meeting, the Board continued the application to a date certain of July 8 in

order to address neighbor's concerns regarding visibility of the second story addition. The applicant has modified the plans and submitted revised plans that shows a 3 dimensional view of the proposed addition as seen from the adjacent neighboring property. The revised plans also indicate the location of the property of the objecting neighbor. The applicant also is willing to continue the existing 20-foot height hedge along the rear of the property to fully screen the addition from the neighbor's view, as noted in the hardship letter submitted.

Staff finds that the proposed addition is not detrimental to the adjacent properties, inclusive of the objecting neighbor's property located at 5666 Alton Road, as it shares only a small portion of the rear of the property and the increase in height is minimal. Based on the plans submitted and the applicant's proposal for a landscape barrier, staff recommends approval of the variance requested. Further, staff finds that the variance requested is the minimum necessary to upgrade the property to more current living standards and minimize the alteration to the architecturally significant single family home. The physical location of the existing buildings and structures create the practical difficulties that result in the variance requested.

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.