

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: September 6, 2016

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB0416-0023
3100 Pine Tree Drive

The applicants, Conrad and Meagan Jones, are requesting Design Review Approval for the construction of a new pool deck, including a variance to reduce the minimum required side facing a street setback.

RECOMMENDATION:

Approval with conditions

LEGAL DESCRIPTION:

Lot 1 of Block 44 of the Orchard Subdivision No.1, according to Plat thereof as recorded in Plat Book 6, Page 11 of the Public Records of Miami-Dade County, Florida.

HISTORY:

On July 5, 2016 the Design Review approved the construction of a new two-story addition to an existing pre-1942 architecturally significant two-story home including a variance to reduce the minimum required rear setback.

SITE DATA:

Zoning: RS-2
Future Land Use: RS
Lot Size: 20,000 SF
Lot Coverage:
Existing: 4,311 SF / 21.6%
DRB Approved: 5,115 SF / 25.6%
Maximum: 8,000 SF / 40%
Unit size:
Existing: 5,373 SF / 26.9%
DRB Approved: 7,446 SF / 37.2%
Maximum: 12,000 SF / 60%
2nd Floor Volume to 1st: 45.6%
Height:
DRB Approved: 19'-0" flat roof
Maximum: 28'-0" flat roof

Grade: +6.16' NGVD
Flood: +8.00' NGVD
Difference: 0.92' NGVD
Adjusted Grade: +7.08' NGVD
Finish Floor Elevation: +8.00' NGVD

EXISTING STRUCTURE:

Year Constructed: 1940
Architect: Henry Hohauser
Vacant: No
Demolition Proposed: Partial

Surrounding Properties:

East: Two-story 1936 residence
North: One-story 1951 residence
South: Two-story 2003 residence
West: One-story 1956 residence

THE PROJECT:

The applicants have submitted plans entitled "3100 PINE TREE DRIVE ADDITION AND RENOVATION" as prepared by **DN'A Design & Architecture** dated, signed and sealed July 13, 2016.

The applicants are proposing to construct a new pool deck as part of the renovations to the existing two-story architecturally significant home.

The applicants are requesting the following variance:

1. A variance to reduce by 5'-0" the minimum required side setback of 10'-0" from the pool deck to the street side property line, in order to construct a pool deck at 5'-0" from the side property line facing 31st Street.

- Variance requested from:

Sec. 142-1133. Swimming pools.

This section applies to swimming pools in all districts, except where specified. Accessory swimming pools, open and enclosed, or covered by a screen enclosure, or screen enclosure not covering a swimming pool, may only occupy a required rear or side yard, provided:

(3) Side yard facing a street. For a side yard facing a street:

a. Single-family district. In a single-family district a 10'-0" setback from the property line to the swimming pool, deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure.

In 1999, the property underwent major additions and improvements to the structure, including the construction of a pool, under Building Permit #B9904400. The pool is setback approximately 11'-10" from the street side property line, which complies with the current regulations. A concrete pool deck was subsequently added under Building Permit #B001942. The permit for the pool deck was not reviewed, approved or inspected by the Planning Department, but was by the Building Department. Unfortunately, it is not clear from the approved plans found in City Records exactly what the setback of the pool deck was. As existing conditions, the pool deck is located at approximately 6'-10" from the street side property line where the Code requires 10'-0" is required. The applicant is requesting a variance to replace the pool deck with a new deck set back even closer to the street side property line, at 5'-0".

The pool located within the courtyard of the architecturally significant home is well integrated into the layout of the existing u-shape structure. The replacement of the pool deck also includes the removal of portion of the existing deck, which will increase the overall landscape area within the side yard. The project complies with the 50% landscaped open space required on the street side yard. Staff finds that the renovation and retention of the existing architecturally significant structure, including the existing pool location, and the need to provide a reasonable paved area around the pool create the practical difficulties that result in the variance requested.

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 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 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.

Not Satisfied; the proposed pool deck requires a variance to be approved by the Board.

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 pool deck requires a variance to be approved by 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 pool deck requires a variance to be approved by 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.

Not Satisfied; the proposed pool deck requires a variance to be approved by the Board.

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.

Not Applicable

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 pool deck requires a variance to be approved by 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.
Not Applicable
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).
Not Applicable
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.
Not Applicable
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:
VARIANCE REVIEW

The proposed project for the construction of an attached two-story addition to the existing pre-1942 two-story single family home including a variance from the required rear setback

was approved by the Board on July 5, 2016. Staff noted at that time, that the pool deck did not appear to comply with the required setback adjacent to the street side. Since then, the applicants have submitted another application for modifications to the previous approval to request a variance from the required setback for the pool deck. As previously identified under the 'Project' section of the recommendation, staff would note that the existing pool and associated decking were constructed with approved building permits in 1999. It is the applicants' intent to replace the existing pool deck and improve the courtyard area with the addition of landscape and a fire pit. The applicants also state that the granting of this variance would provide a wide enough path to walk around the pool, which is a strong factor in considering that the owners have young children and safety is, of course, a primary concern.

Staff finds that the proposed improvements preserve the architecture, integrity and character of the home, including its U-shaped courtyard layout configuration. As such, staff has no objection to the applicants' request and recommends approval of the variance as proposed.

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, as applicable.

TRM/JGM/IV

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: September 6, 2016

FILE NO: DRB0416-0023

APPLICANT: Conrad and Meagan Jones

PROPERTY: **3100 Pine Tree Drive**

LEGAL: Lot 1 of Block 44 of the Orchard Subdivision No.1, according to Plat thereof as recorded in Plat Book 6, Page 11 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for modifications to a previously issued Design Review Approval for the construction of a new two-story addition to an existing pre-1942 architecturally significant two-story home including a variance to reduce the minimum required rear setback. Specifically, the applicant is requesting a new variance to reduce the required setback for a new pool deck facing a street.

S U P P L E M E N T A L O R D E R

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 Approval

- 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 2, 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. All of the original conditions of approval by this Board shall remain in full force and effect under the prior Final Order dated July 5, 2016, except as modified herein.
 - 2. Revised elevation, site plan and floor plan drawings shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:

- a. The final details of all exterior surface finishes and materials, including samples, 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.
- b. 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.
- c. 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.

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 5'-0" the minimum required side setback of 10'-0" from the pool deck to the street side property line, in order to construct a pool deck at 5'-0" from the side property line facing 31st Street.
- B. 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 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.

C. The Board hereby grants the requested variance(s) 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. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- B. The Supplemental Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- C. 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.
- D. The Supplemental 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.
- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.

F. 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** is GRANTED 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, entitled "3100 PINE TREE DRIVE ADDITION AND RENOVATION" as prepared by **DN'A Design & Architecture** dated, signed and sealed July 13, 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_____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

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