

## PLANNING DEPARTMENT

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### BOARD OF ADJUSTMENT STAFF REPORT

FROM: Thomas R. Mooney, AICP  
Planning Director

DATE: September 9, 2016 Meeting

RE: File No. ZBA16-0018  
**4260 Pine Tree Drive – Single Family Residence**

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The applicant, Lakeview Drive, LP is requesting variances from the minimum required front and interior side setbacks for the construction of a new two-story single family residence on a vacant site.

**STAFF RECOMMENDATION:**

**Denial** of all variances.

**LEGAL DESCRIPTION:**

Lot 6, less the southerly 30 feet thereof, and Lot 7, less the northerly 25 feet, Block 2, of "Orchard Subdivision No. 4", According to the Plat Thereof, as recorded in Plat Book 25 at Page 30 of the Public Records of Miami-Dade County, Florida.

**SITE DATA:**

Zoning -	RS-4
Future Zoning-	RS
Lot Size -	11,850 SF
Lot Coverage	
Proposed	3,414 SF / 28.8%*
Maximum-	3,555 SF / 30%
Unit size	
Proposed-	4,782 SF / 40.3%*
Maximum-	4,892 SF / 50%
Height-	
Proposed-	22'-11" – sloped roof
Maximum-	27'-0" – sloped roof

**EXISTING STRUCTURE:**

Vacant Lot: Yes

**\* As represented by the applicant**

**THE PROJECT:**

The applicant has submitted documents and plans entitled "New Single Family Residence for: Zwebner" as prepared by VDG, Virtual Design Group, signed and sealed July 26, 2016.

The applicant is requesting variances from the minimum required front and interior side setbacks for the construction of a new two-story single family residence on a vacant site.

The applicant is requesting the following variance(s):

1. A variance to reduce by 10'-0" the minimum front setback of 30'-0" in order to construct a new two-story single family home at 20'-0" from the front 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:*

*(1) Front yards: The minimum front yard setback requirement for these districts shall be 20'-0".*

*b. Two-story structures shall be set back a minimum of an additional 10'-0" from the required front yard setback line.*

The design features a one-story, two (2) car garage, attached to the principal two-story structure. Due to a recent Code amendment to the single family regulations, effective January 13, 2016, the garage is required to be setback an additional 10'-0" if attached to the two-story structure, as is the case with the proposed home. The garage would have to be detached from the main home in order to be allowed with a front setback of 20 feet. The new regulation responds to an initiative to increase the landscape area within the front of single family residences and at the same time incorporate permeable solutions to increase the retention of storm water on site as well as mitigate the allowable increase in height of the new homes on the neighborhood. In this case, the new home has incorporated the freeboard (1 foot) to the home, taking advantage of the permitted height increase. The design of the home and the proposed garage location is a self-imposed condition that requires a variance.

The property is a vacant site with a lot width of 75 feet and a lot area of 11,850 s.f. The adjacent properties along Pine Tree Dr. are similar in size with lot widths ranging from 65 feet to 75 feet. The applicant has stated that they were already in the process of designing a home for the site, and were unaware of the potential changes to the City Code.

Unfortunately a building permit for the proposed new home was not submitted until April 6, 2016. The changes to the single family regulations to the front and side setbacks, to which the applicant is now requesting variances, became effective on January 13, 2016. The Ordinance included an exceptions clause which states "This ordinance shall not apply to anyone who filed a completed application package for Historic Preservation Board or Design Review Board approval with the Planning Department on or before January 13, 2016; or anyone who obtained a Building Permit Process number from the Building Department on or before January 13, 2016." Any new construction on the neighboring properties are also subject to the same zoning regulations. By shifting the home towards the rear of the site, the home could comply with the required front and rear setbacks. Staff finds that the variance request does not satisfy the hardship or practical difficulties criteria and recommends that this variance be **denied**.

2. A variance to reduce by 2'-6" the minimum interior side setback of 10'-0" in order to construct a new two-story single family home at 7'-6" from the south property line.
  3. A variance to reduce by 1'-4" the minimum required sum of the side setbacks of 20'-0" in order to construct a new two-story single family home with a sum of the side setbacks of 18'-8".
- Variances 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:*

**(2)Side yards:**

**c. Interior sides. For lots greater than 60 feet in width any one interior side yard shall have a minimum of ten percent of the lot width or ten feet, whichever is greater. For lots 60 feet in width or less, any one interior side yard shall have a minimum of seven and one-half feet.**

These two (2) variances are related to the same zoning regulation. The City recently adopted Ordinance No. 2016-3987 which among other things, increased the minimum side setbacks from 7'-6" to 10'-0" for lots wider than 60'-0". The intent of this change is to increase landscape on single family residences and at the same time facilitate the retention of stormwater on site. As the subject site is 75' in width, both side setbacks are required to be 10'-0". Therefore, the sum of the side setbacks shall be 20 feet. The north side setback is proposed at 11'-3". The majority of the properties within the block are 65' and 75' in width, subject to the same regulations. The granting of this variance would confer a benefit to the applicant that is denied to other similar adjacent properties. In order to comply with the required setbacks, the width of the home would have to be reduced by only 1'-3". As the home could be easily modified to comply with the setback regulations with negligible impact to the design, staff finds that the application for these variances does not meet the practical difficulties and recommends **denial** of the variances #2 and #3.

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that staff has concluded **DO NOT** 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 **DO NOT** 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:**

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 property is an interior lot that previously contained a single family home originally constructed in 1951 and demolished in 2015. The proposed new home is a two-story structure with a one-story garage and accessory building. Recent changes in the single family regulations require that two-story structures be setback 10 additional feet from the minimum front yard setback of 20 feet.

The design features a “connected” one-story garage to the main two-story structure that is required to set back 30 feet from the front property line. As the lot width of the property is larger than 60 feet, a minimum 10 foot setback is also required on both side yards. The applicant is requesting variances from these front and side setback regulations.

Staff finds that the variances requested are design-driven and self-imposed. The adjacent properties along the street and across the street have similar setback requirements, as they have similar lot widths. The granting of these variances would benefit the applicant, aside from other property owners. Staff finds that this application does not meet the practical difficulties or hardship criteria for the granting of the variances. The site is a vacant parcel, which would allow the accommodation of the applicant’s proposal with only minor modifications required to comply with the zoning regulations and provide a reasonable use of the land. Staff recommends that the Board **deny** all variances requested.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends **denial** of the variance requests #1, #2 and #3. However, should the Board find that the variance(s) requested 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, staff recommends that the project be 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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