


# MIAMI BEACH

## PLANNING DEPARTMENT

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### BOARD OF ADJUSTMENT STAFF REPORT

FROM: Thomas R. Mooney, AICP   
Planning Director

DATE: November 4, 2016 Meeting

RE: File No. ZBA16-0019  
**1340 Bay Drive – Single Family Residence**

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The applicants, David and Cindy Eisenberg are requesting variances to reduce the required front, sides and sum of the side yard setbacks, and to exceed the maximum length of a wall associated with a partial 2-story portion of the home, in order for the home to be considered as a single story home for zoning purposes.

#### **STAFF RECOMMENDATION:**

**Denial** of variance #1.

**Approval** of variances #2, #3, and #4 with conditions.

#### **HISTORY:**

The application was originally scheduled for the October 7, 2016 meeting. Due to Hurricane Matthew the meeting was cancelled and the application was moved to the November 4, 2016 agenda.

#### **LEGAL DESCRIPTION:**

See attached Exhibit "A".

#### **SITE DATA:**

Zoning -	RS-4
Future Zoning-	RS
Lot Size -	15,051 SF
Lot Coverage	
Proposed	5,584 SF / 37.1%*
Maximum-	7,525.5 SF / 50%
Unit size	
Proposed-	5,327 SF / 35.4%*
Maximum-	7,525.5 SF / 50%
Height-	
Proposed-	~12'-0" – flat roof, one story ~22'-0" – flat roof, two-story portion
Maximum-	18'-0" – flat roof, one story 24'-0" – flat roof, two-story portion

#### **EXISTING STRUCTURE:**

Year Constructed:	1950
Architect:	S. H. Zachar
Vacant Lot:	No
Demolition:	Full

**\* As represented by the applicant**

**THE PROJECT:**

The applicant has submitted documents and plans entitled: "Eisenberg Residence" as prepared by Strang Architecture, dated August 25, 2016.

The applicant is requesting variances to reduce the required front, sides and sum of the side yard setbacks, and to exceed the maximum length of a wall associated with a partial 2-story portion of the home, in order for the home to be considered as a single story home for zoning purposes.

The applicant is requesting the following variance(s):

1. A variance to reduce by 1'-11" the minimum front setback of 20'-0" in order to construct a new one-story single family home at 18'-1" 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".*

The design features a u-shape layout with variable front setbacks that ranges from 43' on the west side and 18'-1" at the east side, for which a variance is required. The design choice to accommodate 4 parking spaces at the front, a perpendicular garage entrance, a recessed main entry and a rear setback of more than 43', trigger the variance request. By shifting the house 1'-11" toward the back, this variance would not be required. This modification would allow a rear setback of more than 41' where 25'-6" is required, and provide enough space for a pool and deck. It would also allow additional landscape area to be provided at the front. As proposed, it appears that the project does not comply with the required 50% open space in the front yard. Staff finds that there are no practical difficulties or hardship associated with this variance and the project could easily be redesigned to comply with the front setback requirements. Staff 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 single family home at 7'-6" from a side property line.~~

3. A variance to reduce by 7'-10" the minimum required sum of the side setbacks of 22'-10" in order to construct a new single family home with a sum of the side setbacks of 15'-0".

- 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.

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 91'-3" in width at the front setback of 20 feet, a minimum 10'-0" setback is required on both of the interior sides. The sum of both side yard setbacks combined is required to be 25% of the lot width or 22'-10". Based on the 91'-3" lot width of the property, one of the side yards is required to be 12'-10" to comply with the sum of the side yard setback requirements. Staff would note that the new side setback requirements do not affect significantly this particular property from the previous regulations. A 9'-2" minimum side setback was required previously, whereas the required is now 10 feet. Also, the sum of the side yard setback requirements did not change with the new amendments. Therefore, with the previous regulations, the side yards would have to be a minimum of 9'-2" and 13'-8".

Because the proposed home is predominately a single story structure, and is well below the maximum allowed unit size (35.4% is proposed, and 50% is the maximum), staff does not object to these two requested variances. The lower height and lower unit size are mitigating factors for the requested variances. Further, staff is recommending conditions limiting the overall size and height of the home, in order to ensure that it is not expanded beyond the plans presented.

4. A variance to exceed by 10'-2" the maximum length of 25'-0" for a wall associated with a partial 2-story portion of the home, in order for the home to be considered as a single story home for zoning purposes with a wall length of 35'-2".
  - Variance requested from:

**Sec. 142-105. Development regulations and area requirements.**

*(b) The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows*

*(5) Lot coverage (building footprint).*

*b. One-story structures. One-story structures may exceed the maximum lot coverage noted in subsection 142-105(b)(1) above, through staff level review and shall be subject to the setback regulations outlined in section 142-106, but in no instance shall the building footprint exceed 50 percent of the lot area. For purposes of this section, a one-story structure shall not exceed 18 feet in height for flat roof structures and 21 feet for sloped roof structures (measured to the mid-point of the slope) as measured from the minimum flood elevation. However, for five percent of the lot coverage, the height may be increased up to 24 feet for a single flat roof structure or 27 feet for a single sloped roof structure (measured to the mid-point of the slope). The length of any wall associated with this higher height shall not exceed 25 feet*

The project as a one story home is allowed to have up to 50% lot coverage and no more than 18' in height for a flat roof. The building height can also be increased up to 24' for up to 5% of the lot coverage, provided that a wall associated with the height increase does not exceed 25' in any length in order to be considered as a one-story home for zoning purposes. The applicant is proposing a lot coverage of 37.1% with a large open area at the rear, a second story portion that does not exceed the maximum 5% lot coverage, and is below the maximum height allowed, but the walls exceed 25 feet in length, which requires a variance. Staff has no objections to this variance based on the low massing of the proposed home with a much lower lot coverage and unit size than allowed. The granting of this variance would not cause a negative impact on the adjacent properties.

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that staff has concluded partially 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 partially 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 inconsistent with the following sections of the City Code, in addition to the requested variances:

1. Section 142-106 (1) d. Open space calculations shall be within the required 20 feet front yard, not within the proposed 18'-1" front yard.

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 site is an interior waterfront property containing a one-story single family home constructed in 1950. The lot is 15,051 s.f with a width of 92' at the front property line and a width of 85' at the rear property line. Because of the irregular shape of the lot, the lot width at the 20' setback is 91'-3". The applicant is requesting several variances associated with the construction of a new single family home that will replace the existing structure.

Variance #1 for the reduction of the front setback be easily eliminated by providing a more balanced setback of the entire front façade or simply reducing the rear setback and increasing the front setback. Staff recommends that this variance as presented not be approved.

Variances #2 and #3 are associated with interior side yard setbacks. The applicant is proposing a larger rear setback for a larger pool and deck area and a less than 20 foot front setback for the garage. Because the proposed home is predominately a single story structure, and is well below the maximum allowed unit size (35.4% is proposed, and 50% is the maximum), staff does not object to variances #2 and #3. The lower height and lower unit size are mitigating factors for the requested variances. Further, staff is recommending conditions limiting the overall size and height of the home, in order to ensure that it is not expanded beyond the plans presented.

Finally, variance #4 is based primarily on the applicant's design choice, and not on practical difficulties or an undue hardship. However, as the overall lot coverage and unit size are well below the maximum allowed, the additional wall length is a minor variance that although exceeds 25 feet, is still under the 5% maximum allowed. As proposed, the higher portion of the home would have less of a negative impact on the neighborhood than a larger two-story home. The additional increase of the second story portion would not be detrimental to the adjacent properties. Staff does not object to this variance.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends denial of variance requests #1, and approval of variances #2, #3, and #4 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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