

MIAMI BEACH

PLANNING DEPARTMENT

BOARD OF ADJUSTMENT STAFF REPORT

FROM: Thomas R. Mooney, AICP 
Planning Director

DATE: September 11, 2015 Meeting

RE: BOA File No. 3792
42 La Gorce Circle – Single Family Home

The applicant, Mike Ashley, is requesting a variance to reduce the minimum required interior side setback for light poles that are approximately 20'-0" in height, in order to install lighting fixtures for an associated tennis court on a single family home property.

LEGAL DESCRIPTION:

See attached "Exhibit A".

STAFF RECOMMENDATION:

Approval of the variance with additional conditions.

SITE DATA:

Zoning -	RS-1
Future Zoning-	RS
Lot Size -	69,326 SF
Lot Coverage-	16,012 SF / 23%
Unit Size-	28,703 SF / 41%

EXISTING STRUCTURES:

Year Constructed:	1998
Architect:	Unknown
Vacant Lot:	No
Demolition:	Partial

THE PROJECT:

The applicant has submitted plans entitled "42 La Gorce Addition and Renovation", as prepared by Kobi Karp, P. A., signed and sealed July 28, 2015.

The applicant is requesting a variance from the required side setback for lighting associated with a tennis court on a single family property.

The applicant is requesting the following variance:

1. A variance to reduce 63'-0" from the minimum required side setback of 70'-8" for light poles which are approximately 20'-0" in height, in order to install lighting fixtures for an associated tennis court on a single family home property at 7'-8" from the northern side property line.

- Variance requested from:

Sec. 142-1134. Tennis courts and similar court games.

The following regulations shall apply for fences, light poles or other accessory structures associated with court games in all districts.

(3) Accessory lighting fixtures, when customarily associated with the use of court games, shall be erected so as to direct light only on the premises on which they are located. The maximum height of light fixtures shall not exceed ten feet when located in a required yard; otherwise, the maximum height shall not exceed 20 feet. Light is permitted to be cast on any public right-of-way.

The site is currently under construction with approved building permits. The project includes four detached structures, a pool and a tennis court. The tennis court side setback ranges from 7'-6" to 11'-4" toward the rear. It complies with the required front and side setbacks and light poles can be located at 7'-6" from the side property line with a maximum height of 10 feet. The applicant seeks to install 20-foot high light poles for the tennis court within the side setback as recommended by a tennis court specialist and noted in the submitted hardship letter.

Because the proposed lightpoles exceed 10 feet in height, the Code requires that the side setback be increased to meet the setback for the main structure. In this case, the required northern side setback is 70'-8" based on the 311'-10" lot width of the property which is composed of 3 ½ lots. This unusually large side setback of 70'-8" is uncommon for single family properties. Complying with this excessive side setback would impose an unnecessary hardship on the applicant and would result in the relocation of the tennis court surface to comply with more than 70 feet of setback from the side property line in order to install the 20-foot high lightpoles.

Staff has no objections to the applicant's request considering that the size of the property results in increased setbacks that are not consistent with the single family neighborhoods and that the granting of this variance would not have an adverse impact on the adjacent properties with the appropriate operating conditions.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

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 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 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 variance(s):

1. The proposed tennis court lighting appears to project onto the adjacent property on the northern side.

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 project site, currently under construction consists of multiple lots. Four detached structures are proposed including a pool and a tennis court. The project was approved under building permit B1500644. The applicant is requesting a setback variance for the installation of lightpoles that are approximately 20 feet in high on the northern side of the property in association with a tennis court.

Staff has taken into consideration the size of the property that requires larger than usual side setbacks in reference to other single family properties. The required side setbacks based on the lot width of the site would impose limitations for the construction on both sides of the property. Although the applicant is requesting a reduction of the minimum side setback for the tennis court lighting, the proposed main buildings exceed the minimum sum of the side setbacks of 78 feet, with a sum of the side setbacks of 80'-7". Furthermore, similar setback variance including 20-foot high lightpoles were previously granted by the Board of Adjustment in 2014, under BOA File 3701 for a property with a similar size located at 4700 North Bay Road. Based on the size of the subject property and the unusual required setbacks, staff is supportive of the variance request.

Staff would note that the lighting photometrics for the tennis court provided show lighting spillage onto the adjacent northern property. The proposed lighting would have to be modified with a different type of lighting or additional shielding may be required in order to contain all lighting on site and to ensure that the actual light source is not visible from La Gorce Circle or the surrounding properties.

In summary, staff recommends that the variance application be approved.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends **approval** of the variance as requested, subject to the following conditions:

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.
2. Where one or more parcels are unified for a single development, the property owner shall execute and record an unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
3. The subject variance shall be for a standard tennis court. In the event that the tennis court is proposed to be changed to a different court game, the applicant shall return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board. The Board reserves the right to modify the Variance approval at this time in a non-substantive manner and/or, to impose additional conditions.
4. The tennis court shall not be used after 9:00 pm, seven days a week. Additionally, all lighting fixtures associated with the tennis court shall be turned off by 9:00 pm, seven days a week.
5. A revised landscape plan and hardscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, 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. Tennis court lighting shall be properly shielded so that the actual light source is not visible from La Gorce Circle or the surrounding properties, in a manner to be approved by staff.
6. During construction on site, 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 exiting and entering the site, and with an 8'-0" high fence with a wind resistant green mesh material along the front 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.

7. 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.
8. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
9. The applicant shall comply with all conditions imposed by the Public Works Department.
10. The conditions on this Order are binding on the applicant, the property's owners and all successors in interest and assigns.
11. This 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.
12. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code, except to the extent of the variance granted herein.
13. This Order shall be recorded, at the expense of the applicant, in the Public Records of Miami-Dade County; the original or a certified copy shall be provided to the Planning Department prior to the issuance of a Building Permit.

Exhibit A

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF MIAMI-DADE, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

Parcel 1:

Lot 21, Block 1, of LA GORCE ISLAND, according to the Plat thereof, as recorded in Plat Book 34, at Page 83, of the Public Records of Miami-Dade County, Florida.

Parcel 2:

Lots 22, 23 and the Southwesterly half of Lot 24, Block 1, of LA GORCE ISLAND, according to the Plat thereof, as recorded in Plat Book 34, at Page 83, of the Public Records of Miami-Dade County, Florida. The said Southwesterly half of aforesaid Lot 24 being particularly described as follows:*

For line beginning commence on the point on waterfront boundary line of said Block 1 where the boundary line between said Lots 23 and 24 intersects said water front boundary line of said Block 1; thence run in a Northeasterly direction along the water front boundary line of said Lot 24 for a distance of 50 feet, more or less, to a point, said point being half way between the said Point of Beginning and the point on the said water front boundary line of said Block 1 where the boundary line between Lots 24 and 25 of said Block 1 intersects said water front boundary line; thence run in a Southeasterly direction along a straight line to a point on the boundary line between said Lot 24 and La Gorce Circle, said point being 42.5 feet Northeasterly from the point where the boundary line between said Lots 23 and 24 intersects the boundary line between said Block 1 and said La Gorce Circle and being half way between the last described point and the point where the boundary line between said Lots 24 and 25 intersects said boundary line between said Block 1 and said La Gorce Circle; thence run in a Southwesterly direction along said boundary line between said Lot 24 and La Gorce Circle to the point where the boundary line between said Lots 23 and 24 intersects the boundary line between said Block 1 and said La Gorce Circle; thence in a Northwesterly direction along the Boundary line between said Lots 23 and 24 for a distance of 200.7 feet, more or less, to the Point of Beginning.