

MIAMI BEACH

PLANNING DEPARTMENT

BOARD OF ADJUSTMENT STAFF REPORT

FROM: Thomas R. Mooney, AICP 
Planning Director

DATE: February 05, 2016 Meeting

RE: BOA File No. 3796
5642 La Gorce Drive – Single Family Residence

The applicants, Neil M. & Elizabeth S. Rosen, are requesting variances to reduce the minimum required rear setback and to reduce the minimum open space required in the rear yard, in order to construct a two story addition in the rear yard of the existing two-story single family home.

STAFF RECOMMENDATION:

Approval of the variances with additional conditions.

LEGAL DESCRIPTION:

Lots 5 and 6, Block 14, of "Beachview Subdivision", According to the Plat Thereof, as recorded in Plat Book 9 at Page 158 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning -	RS-4
Future Zoning-	RS
Lot Size -	15,175 SF
Lot Coverage	
Existing	3,796 SF / 25%
Proposed-	5,199.72 SF / 34.2%
Maximum-	6,070 SF / 40%
Unit size	
Existing	5,902.5 SF / 38.8%
Proposed-	7,423.16 SF / 48.9%
Maximum	9,105 SF / 60%
Height-	
Existing-	2 stories
Proposed-	2 stories

EXISTING STRUCTURE:

Year Constructed:	1927
Architect:	C. Leroy Kinports
Vacant Lot:	No
Demolition:	Partial

THE PROJECT:

The applicant has submitted plans entitled "Rosen Residence", as prepared by Beilinson Gomez Architects, P.A, signed and sealed January 15, 2016.

The applicant is requesting variances for the construction of a two-story addition and a one story cabana building within the rear yard of the property.

The applicant is requesting the following variance(s):

1. A variance to reduce by 14'-8" the minimum required rear setback of 20'-0" in order to construct a cabana structure and a two-story addition to the existing building at 5'-4" from the rear property line, facing the Golf Course.

- 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 original home was constructed on the northwest portion of the property, including a one-story detached garage and cabana structure as shown on the original construction plans submitted. Subsequent renovations included a second story and open stairs to the garage and a two story addition to the main building. The building on the north west side contains a two car garage at the ground level and a maid's room on the second floor to be retained. This structure is less than 5 feet from the main house at the most adjacent corner and has non-conforming rear and side setbacks. The applicant is proposing the connection of the two buildings.

The improvements to the property include the partial demolition of the house and garage building, a new two story addition on the west side of the house, reconfiguration of the interior space, new windows and doors, and a two-story structure that connects the garage building with the main structure. Because the new rear additions do not comply with the required 20 feet of setback a variance is requested.

The new two-story addition and cabana are 5'-4" from the rear property line where less than 5 feet exists. The rear of the property is adjacent to the La Gorce Golf Course; therefore the new buildings along the rear would not have a significant impact on the adjacent property. The garage structure and cabana original setbacks are similar to the rear setbacks proposed. The 5 feet of rear setback is common for single family homes constructed around the time that this home was constructed. The variance requested would allow the expansion of the home while maintaining its architectural significance. Staff finds that the existing site conditions and location of the structures create the practical difficulties that justify this variance.

2. A variance to reduce by 35.9% the required open space of 70% within the required rear yard in order to construct a two-story addition and a cabana building with a total open space of 34.1%.

- 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. At least 70 percent of the required rear yard shall be sodded or landscaped pervious open space; the water portion of a swimming pool may count toward this requirement.

The impervious surface including buildings and pool deck located within the rear yard exceed the maximum allowed by the Code. The new building additions and pool deck area do not comply with the required landscape or open space requirement. However, a significant amount of landscaping exists at the front and southeast side of the property where, technically, a building addition is permitted. This existing landscaping and pervious space compensates for the lack of open space in the rear yard. For this reason, staff is supportive of the variance request, conditioned upon the removal of the concrete slabs in the rear yard and relocation or removal of the air conditioning concrete pad on the north side yard. The proposed increase in building area will not substantially alter the architectural integrity of the original home. Staff finds that the location of the existing structures creates practical difficulties, resulting in the requested variance.

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. Air conditioning unit located within the north side shall be relocated to comply with the required side setback.
2. Concrete pads located within the 5 feet easement at the rear shall be removed.

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.

VARIANCE REVIEW:

The subject site is an interior double lot adjacent to the La Gorce Golf Course. The existing two-story residence was constructed in 1926 within the northwest side of the property, including a detached one-story two-car garage structure with non-conforming side and rear setbacks. A cabana structure with a rear setback of 5 feet is also part of the original site development. The two-story main structure is setback more than 40 feet from the south side property line and complies with the other required setbacks. The applicant is proposing the retention of the main house, pool, garage, and driveway on the side of the property and the expansion of the overall size of the residence with two-story additions and a new cabana. The addition, attached to the garage and cabana structures, is situated within the rear yard, and requires two variances in order to minimize the alteration of the main residence.

The available open space on site allows for a building addition on the southeast side that would likely not require variances. However, this proposal would have a more negative impact on the historic character of the main house and also on the neighboring property to the south. Staff would note that the lot coverage and unit size proposed are below the maximum permitted for architecturally significant single family homes that are renovated and preserved.

Staff finds that the variances requested are 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 variances requested. For these reasons, staff recommends approval of the variances as proposed.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends **approval** of the variance(s) 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 applicant shall execute and record a 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. During construction of the new additions, the applicant will ensure that all construction materials, including dumpsters and portable toilets, shall be located behind a 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.
4. Any future addition of buildings or structures within the required rear yard shall require the applicant to return to the Board for review and approval of the proposed work.
5. A revised landscape plan, 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. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
 - b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
 - c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and **watering plan also prepared** by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
 - d. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction

- materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
- e. Any existing plant material within the public right-of-way may be required to be removed, at the discretion of the Public Works Department.
 - f. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
 - g. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
6. 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.
 7. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
 8. The applicant shall comply with all conditions imposed by the Public Works Department.
 9. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.
 10. 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.
 11. The conditions of approval herein are binding on the applicant, the property's owners and all successors in interest and assigns.
 12. The final 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.
 13. 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(s) granted herein.
 14. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.