

MIAMI BEACH

PLANNING DEPARTMENT
Staff Report & Recommendation

Board of Adjustment

TO: Chairperson and Board Members

DATE: September 6, 2024

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **ZBA24-0160 - 5500 La Gorce Drive.**
Folio: 02-3214-003-1520

An application has been filed requesting variances to exceed the maximum allowable lot coverage for a two-story home, extend a non-conforming side setback, and exceed the minimum front setback for a second story, in order to construct a second-story addition to an existing single-story single-family home.

RECOMMENDATION:

Approval with conditions.

HISTORY:

October 3, 2014: The Board of Adjustment approved a variance to waive the minimum required street side setback and a variance to waive the minimum required rear set back, in order to build additions to the front and rear of the existing single-family home.

LEGAL DESCRIPTION:

Lot 1, Block 13, Beach View Subdivision, According to the Plat Thereof as recored in Plat Book 9, Page 158, of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning:	RS-4
Lot Size:	7,406 SF
Unit Size	
Existing:	2,624SF/35.4%
Proposed:	3,670 SF/49.5%
Max:	3,703 SF/50%
Lot Coverage	
Existing:	3,023 SF/40.8.%
Proposed:	3,171 SF/ 42.9%
Max:	2,221 SF/30%

Height Proposed	~23 feet/2-stories
Max Height:	24 feet/Flat roof

Year:	1962
Architect:	Theo. Gottfried

SURROUNDING PROPERTIES:

East:	One-story Home.
North:	2-story Home, 1939
South:	2-story Home, 2021
West:	La Gorce Golf course

THE PROJECT:

The applicant has submitted plans entitled "5500 La Gorce Dr. Gelpi Residence", as prepared by **Nicholas R Gelpi**, dated 07/11/2024.

The applicant is proposing to build an addition with a renovation on the first floor and construct

a new second floor addition to an existing single-story home. The first-floor addition will utilize the area of the existing covered porch/breezeway on the north side of the house between the garage and a secondary entrance to an existing bathroom. This addition will contain a new entry, staircase, bath, and office. The second floor of the addition will continue above the existing garage and covered porch. This space will allow for a new master bedroom, with a bath, and a walk-in closet.

The applicant is requesting the following variances:

1. A variance from the maximum lot coverage of 30% for a 2-story home, in order to construct a new addition with an overall lot coverage of 42.9%.
2. A variance from the minimum required side yard setback of 7'-6", in order to construct the new addition with a side setback of 5'-0", consistent with the home's existing side setback.
3. A variance from the minimum front setback for a second story of 40'-0" in order to construct the new addition with a second story front setback of 24' - 9 ³/₄'' .

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 submitted with the application comply with the following hardship criteria, as they relate to the requirements of Section 2.8.3 of the Land Development Regulations:

1. 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;
2. The special conditions and circumstances do not result from the action of the applicant;
3. Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;
4. Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;
5. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

6. The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare;
7. 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; and
8. The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

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 SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 7.1.2.4(a)(i) of the Land Development Regulations establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.
Not Applicable
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Satisfied
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Satisfied
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 4 of the Land Development Regulations.
Satisfied – To be reviewed at time of building permit.
- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.
Satisfied
- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide

sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.

Not Applicable

- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.

Satisfied

- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.

Not Applicable

- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

Not Applicable

- (10) In all new projects, water retention systems shall be provided.

Not Applicable

- (11) Cool pavement materials or porous pavement materials shall be utilized.

Satisfied – To be reviewed at time of building permit.

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

Satisfied – To be reviewed at time of building permit.

ANALYSIS:

As described above, the applicant is proposing to build an addition with a renovation on the first floor and construct a new second floor addition to an existing single-story home. The first-floor addition will utilize the area of the existing covered porch/breezeway on the north side of the house between the garage and a secondary entrance to an existing bathroom. The second floor of the addition will continue above the existing garage and covered porch towards the front of the home.

The applicant is requesting the following variances:

1. A variance from the maximum lot coverage of 30% for a 2-story home, in order to construct a new addition with an overall lot coverage of 42.9%.

- Variance requested from Section 7.2.2.3(b)(1):

Maximum Lot Coverage for a 2-story Home (% of lot area): **30%**

The existing single-story home has a lot coverage of 3,023 SF/40.8%. The maximum lot coverage for a single-story home is 40%. However, because the applicant is proposing to add

a second-floor addition to part of the home, the maximum lot coverage is reduced to 30%. The subject addition, at 1,046 SF is relatively small, and will increase the total unit size of the home to 3,670 SF, which is still below the maximum permitted of 3,703 SF / 50%. Furthermore, the proposed height for the two-story portion is 23 feet, which is below the maximum height limit of 24 feet for two-story homes with a flat roof. As such, staff is supportive of the variance.

2. A variance from the minimum required side yard setback of 7'-6", in order to construct the new addition with a side setback of 5'-0", consistent with the home's existing side setback.

- Variance requested from Section 7.2.2.3(b)(1):

Side, Interior Setback Lots 65 feet in width or less: **7.5 feet**

The existing lot is 60 feet in width. The existing home has legally non-conforming side setback of ~5'-0" on the north, 6'-8" on the south west side and 5'-8 3/8" on the south east side. The proposal is for the additions to follow the existing setback of approximately 5'-0" from the side interior property line. Because the addition will be placed partially on top of the existing home, the non-conforming setback on the north side will essentially be extended in height. While the city Code does allow the extension on a non-conforming side setback for a single-story addition for up to 20 feet, this exception does not apply to a 2-story addition. Given that this would allow for the continuing use of an existing home, staff is supportive of the variance.

3. A variance from the minimum required front setback for a second story of 40'-0" in order to construct the new addition with a front setback of 24'-9 3/4"

The existing home has a non-conforming one-story front setback of 19'-0 3/4"; where 20'-0" is required. As proposed, the second story addition will be setback 5'-0" from the first floor approximately 24' - 9 3/4" from the front property line where 40'-0" is required for two story attached addition. Setting back the second-story addition to the rear of the property presents a practical difficulty, given the existing layout of the home, due to the location of living areas that could not support the structure.

Based upon the existing site conditions, including existing setbacks and existing lot coverage, staff finds that practical difficulties exist for the construction of an addition on the subject site. The requested variances are minor in nature and should not result in any negative impacts on the surrounding neighborhood. For the reasons noted above, staff is supportive of the requested variances.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved, including the requested variances**, subject to the conditions enumerated in the attached Draft Order, which address any inconsistencies with the aforementioned Practical Difficulty and Hardship Criteria and Sea Level Rise criteria.

**BOARD OF ADJUSTMENT
CITY OF MIAMI BEACH, FLORIDA**

MEETING DATE: September 06, 2024

FILE NO. ZBA24-0160

PROPERTY: 5500 La Gorce Drive.

FOLIO: 02-3214-003-1520

APPLICANTS: Nicholas Gelpi

LEGAL

DESCRIPTION: Lot 1, Block 13, Beach View Subdivision, According to the Plat Thereof as recorded in Plat Book 9, Page 158, of the Public Records of Miami-Dade County, Florida.

IN RE: An application has been filed requesting variances to exceed the maximum allowable lot coverage for a two-story home, extend a non-conforming side setback, and exceed the minimum front setback for a second story, in order to construct a second-story addition to an existing single-story single-family home.

FINAL ORDER

The applicant filed an application with the Planning Department for the following variances:

1. A variance from the maximum lot coverage of 30% for a 2-story home, in order to construct a new addition with an overall lot coverage of 42.9%.
2. A variance from the minimum required side yard setback of 7'-6", in order to construct the new addition with a side setback of 5'-0".
3. A variance from the minimum front setback for a second story of 40'-0" in order to construct the new addition with a second story front setback of 24'- 9 3/4"

The City of Miami Beach Board of Adjustment 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:

- A. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the Planning Department Staff Report, the project as submitted satisfies the requirements of Section 2.8.3 of the Land Development Regulations. Accordingly, the Board of Adjustment has determined the following:
 - i. 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;

- ii. The special conditions and circumstances do not result from the action of the applicant;
 - iii. Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;
 - iv. Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;
 - v. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
 - vi. The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare;
 - vii. 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; and
 - viii. The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.
- B. The Board hereby **Approves** the requested variances and imposes the following conditions based on its authority in Section 2.8.4 of the Land Development Regulations:
- 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. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for planning permit and shall be located immediately after the front cover page of the permit plans.
 - 3. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
 - 4. The conditions of approval herein are binding on the applicant, the property's owners and all successors in interest and assigns.
 - 5. 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.

6. 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.
7. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit, Certificate of Use or Miami Beach Business Tax Receipt.

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.

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 staff recommendations, as modified by the Board of Adjustment, that the application for variance approval is GRANTED for the above-referenced project, subject to those certain conditions specified in Paragraph B hereof, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans submitted to the Board of Adjustment in accordance with the conditions set forth in this Order, as applicable, with staff review and approval.

The issuance of this Order does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original Variance Approval was granted, the subject Approval will expire and become null and void, unless the applicant makes application to the Board for an extension of time, in accordance with the requirements and procedures of Section 2.2.4.6 of the Land Development Regulations; 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 2 of the Land Development Regulations, 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 2 of the Land Development Regulations, for revocation or modification of the application.

Dated _____.

