

# MIAMI BEACH

## PLANNING DEPARTMENT Staff Report & Recommendation

## Board of Adjustment

TO: Chairperson and Board Members

DATE: October 11, 2024

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **ZBA24-0164 - 5451 Alton Road.**  
**Folio: 02-3215-003-1690**

An application has been filed requesting variances for the required front, interior side, and sum of the side yard setbacks, and to exceed the maximum unit size and lot coverage, in order to construct a two-story addition to an existing single-story home.

### **RECOMMENDATION:**

Approval with conditions.

### **HISTORY:**

August 7, 1998: The Board of Adjustment approved a variance to waive the minimum required front setback in order to construct a garage at the existing single-family home. (File No. 2651).

### **LEGAL DESCRIPTION:**

Lot 2, Block 13 of La Gorce Golf Subdivision, According to the Plat Thereof as recored in Plat Book 14, Page 43, of the Public Records of Miami-Dade County, Florida.

### **SITE DATA:**

Zoning: RS-4  
Lot Size: 7,702 SF  
Unit Size  
Existing: 2,487 SF/32.2%  
Proposed: **3,913 SF/50.8%**  
Max: 3,850 SF/50%

### Height

Existing: 17 feet/1-story  
Proposed: 25'-7" feet/2-stories  
Max: 27 feet/2-stories

Year: 1948

### Lot Coverage

Existing: 2,847 SF/37.3%  
Proposed: 2,959 SF/**38.5%**  
Max: 2,310 SF/30%

### **SURROUNDING PROPERTIES:**

East: 2-story Home, 1932  
North: 2-story Home, 1931  
South: 2-story Home, 1932  
West: La Gorce Golf course

### **THE PROJECT:**

The applicant has submitted plans entitled "The Buttacavoli Residence", as prepared by **Elizabeth Camargo**, dated 8/4/2024.

The applicant is proposing a renovation on the first floor and to construct a new second floor addition to an existing single-story home. The first floor will be raised and reconfigured, and

the existing garage is proposed to be converted into an office, mechanical equipment area, and golf cart storage. The existing kitchen will be converted into a 487 square foot garage. Additionally, the first floor will be raised from an elevation of 6.76 feet NGVD to 10 feet NGVD, significantly improving the resilience of the home.

The proposed second floor will be setback 40 feet from the first-floor façade in compliance with 2<sup>nd</sup> floor setback regulations. The second floor contain three bedrooms and three bathrooms, as well as a balcony overlooking the rear yard.

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 38.4% or 2,959 SF.
2. A variance from the minimum required side yard setback of 7'-6" and sum of side yards of 25% of the lot width for lots 65 feet in width or less, in order to construct the new 2-story addition with a side setback of approximately 5.22', consistent with the home's existing side setback.
3. A variance from the maximum unit size of 50%, in order to construct an addition with a unit size of 51.8% or 3,851 SF.
4. A variance from the minimum front setback of 20' in order to maintain a previously approved variance of 3' to allow for a front setback of 17' on the southern portion of the property.

#### **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.  
**Satisfied**
- (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.

**Satisfied**

- (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 a renovation on the first floor and to construct a new second floor addition to an existing single-story home. The home is on an interior lot located on Alton Road and fronts the La Gorce golf course. The lot is slightly irregular, having a width of 60 feet at the front lot line and 63.23' at the rear lot line. The home currently experiences significant flooding from the golf course, which the applicant is looking to remedy as part of the renovation.

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 38.4% or 2,959 SF.

- 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 2,847 SF / 37.3% and 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 proposed additional lot coverage of 112 square feet is relatively small and will increase the total lot coverage of the home to 2,959 square feet (38.4%). Even if the additional lot coverage were not proposed, the second-floor addition would result in an increase in lot coverage for a 2-story home. Given that the home is existing, reducing the lot coverage to the required 30% represents a practical difficulty. As such, staff is supportive of the variance.

2. A variance from the minimum required side yard setback of 7'-6" and sum of side yards of 25% of the lot width for lots 65 feet in width or less, in order to construct the new 2-story addition with a side setback of approximately 5.22', 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 and the sum of the required side yards shall be at least 25% of the lot width**

The existing lot is 60 feet in width and the existing home has a legally non-conforming side setbacks on the north and south sides. The proposal is for the second-floor additions to follow the existing setbacks from the side interior property lines. Because the addition will be placed partially on top of the existing home, the non-conforming setbacks on the north and south sides would be extended in height. While the City Code allows the linear extension of a non-conforming side setback for a single-story addition for up to 20 feet, this exception does not apply to a vertical extension for an addition. Given the practical difficulties with setting the addition back to meet the required setbacks, including the structural challenges, the proposal to retain and continued use of an existing home, staff is supportive of the variance.

3. A variance from the maximum unit size of 50%, in order to construct an addition with a unit size of 51.8% or 3,851 SF.

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

Maximum Unit Size (% of Lot Area): **50%**

The existing single-story home has a unit size of 2,487 square feet (32.3%) and the applicant is proposing a 1,863 square foot second floor addition, while reducing the unit size of the ground floor to 2,124 square feet. The new unit size with the proposed addition is 3,987 square feet (51.8%), which is 136 square feet over the current maximum unit size of 3,851 square feet (50%).

The second-floor addition will be built on top of the existing walls of the current single-story home. Given the limited options available for building the second-floor addition due to the existing walls and layout of the existing home, reducing the unit size presents a practical difficulty to the applicant. Considering the minimal increase proposed, and the practical

difficulties associated with constructing the second floor addition, staff is supportive of the variance.

4. A variance from the minimum front setback of 20' in order to maintain a previously approved variance of 3' to allow for a front setback of 17' on the southern portion of the property.

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

Front Setback: **20 feet -1 Story Structure** - provided that any future addition of a two-story attached structure shall be setback a minimum of 40 feet. **30 feet – 2 Story Structures.**

On August 7, 1998, the Board of Adjustment approved a variance (File No. 2651) to reduce by 3' the minimum required front yard setback of 20' in order to construct the current garage with a setback of 17'. The existing garage is proposed to be relocated to the area of the home currently occupied by the kitchen on the north side of the home. The area where the current garage is located will be repurposed to create an office, an open-air mechanical room, and a small golf cart garage. Only the golf cart garage would encroach into the required yard, and the mechanical area is intended to screen equipment to minimize visual and noise impacts on neighboring properties. The volume of this area will not be modified and the applicant is requesting that the previously approved variance be reapproved as part of this application. Staff has no objection to the requested variance.

Based upon the existing site conditions, including existing setbacks, existing lot coverage, and unit size, 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:** October 11, 2024

**FILE NO.** ZBA24-0164

**PROPERTY:** 5451 Alton Road.

**FOLIO:** 02-3215-003-1690

**APPLICANTS:** Frank, Mayra, and Michael Buttacavoli

**LEGAL**

**DESCRIPTION:** Lot 2, Block 13 of La Gorce Golf Subdivision, According to the Plat Thereof as recored in Plat Book 14, Page 43, of the Public Records of Miami-Dade County, Florida.

**IN RE:** An application has been filed requesting variances for the required front, interior side, and sum of the side yard setbacks, and to exceed the maximum unit size and lot coverage, in order to construct a two-story addition to an existing single-story 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 38.4% or 2,959 SF.
2. A variance from the minimum required side yard setback of 7'-6" and sum of side yards of 25% of the lot width for lots 65 feet in width or less, in order to construct the new 2-story addition with a side setback of approximately 5.22', consistent with the home's existing side setback.
3. A variance from the maximum unit size of 50%, in order to construct an addition with a unit size of 51.8% or 3,851 SF.
4. A variance from the minimum front setback of 20' in order to maintain a previously approved variance of 3' to allow for a front setback of 17' on the southern portion of the property.

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 \_\_\_\_\_.

Filed with the Clerk of the  
Board of Adjustment on \_\_\_\_\_ ( )