



CFN 2014R0866410  
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HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

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

**PROPERTY:** 5500 La Gorce Drive

**FILE NO.** 3740

**IN RE:** The application for the following variances: a variance to waive the minimum required street side setback and a variance to waive the minimum required rear setback, in order to build additions to the front and rear of the existing single family home.

**LEGAL**

**DESCRIPTION:** Lot 1, Block 13 of the "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.

**MEETING DATE:** October 3, 2014

**ORDER**

The applicants, Nicholas Gelpi and Esther Gelpi, filed an application with the Planning Department for the following variances in order to build additions to the front and rear of the existing single family home:

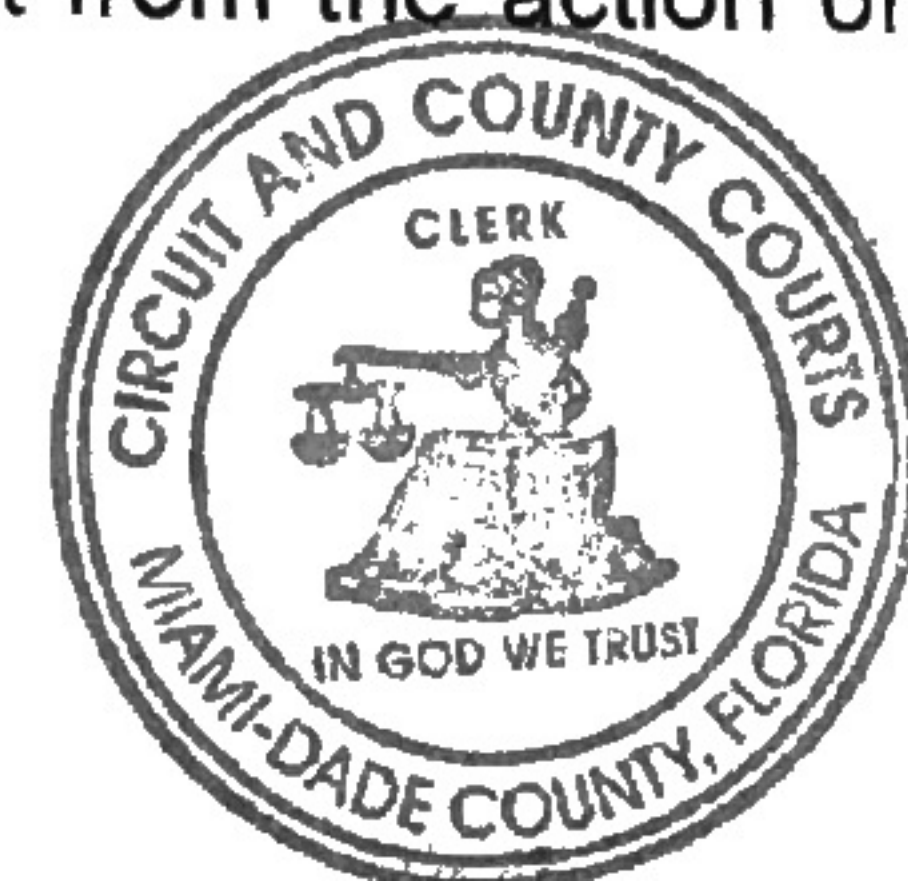
1. A variance to waive 9'-5" of the minimum required street side setback of 15'-0" in order to construct a one story addition to the front of the single family home at 5'-7" from the south property line facing 55<sup>th</sup> Street.
2. A variance to waive 1'-7" of the minimum required rear setback of 20'-0" in order to construct a one story addition at the rear of the single family home following the existing building line at 18'-5" from the west property line facing the golf course.

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 118-353(d) of the Miami Beach Code. Accordingly, the Board of Adjustment has determined the following:

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.

B. The Board imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

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. Revised lot coverage calculations and shaded diagram shall be submitted to include the garage area in the total lot coverage.
3. A revised landscape plan, and corresponding site plan, shall be submitted to and approved staff, prior to the issuance of a building permit. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated. At a minimum, such plan shall incorporate the following:
  - a. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by staff.
  - b. A right-of-way permit to retain the existing gate and hedges located within the public right-of-way shall be required, subject to review and approval of the Public Works Department.
  - c. 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.



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4. 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.
5. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
6. The applicant shall comply with all conditions imposed by the Public Works Department.
7. The conditions on this Order are binding on the applicant, the property's owners and all successors in interest and assigns.
8. 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.
9. 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.
10. 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.

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 (Condition Nos. 1-10, inclusive) hereof, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Board of Adjustment, as determined by staff, entitled "Gelpi Residence", as prepared by STA Architectural Group and Todd Tragash, P.A, dated August 4, 2014, modified in accordance with the conditions set forth in this Order and staff review and approval.

No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance as set forth in this Order have been met. 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 adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.





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 Chapter 118 of the City Code; the granting of any such extension of time shall be at the discretion of the Board. At the hearing on any such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. If the Full Building Permit should expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), and not reinstated by the Building Official or designee, the Variance Approval will expire and become null and void.

Dated this 9<sup>th</sup> day of December, 2014.

BOARD OF ADJUSTMENT  
CITY OF MIAMI BEACH, FLORIDA

BY: Michael Belush  
Michael Belush, AICP  
Planning and Zoning Manager  
For the Chair

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of December, 2014, by Michael Belush, Planning and Zoning Manager of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]



TERESA MARIA  
MY COMMISSION # FF 042188  
EXPIRES: December 2, 2017  
Bonded Thru Budget Notary Services

Notary:

Print Name: Teresa Maria

Notary Public, State of Florida

My Commission Expires: 12-2-17

Commission Number: FF 042138

Approved As To Form:  
City Attorney's Office [Signature] 12/8/14

Filed with the Clerk of the Board of Adjustment on 12/12/14 (JS)

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STATE OF FLORIDA, COUNTY OF DADE  
HEREBY CERTIFY that this is a true copy of the  
original filed in this office on 12/12/14 day of December, A D 20 14

I NESS my hand and Official Seal.  
HARVEY RUVIN, CLERK, of Circuit and County Courts  
by [Signature] D.C.  
LORETTA MARSHALL #2009068

