

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Board of Adjustment

TO: Chairperson and Board Members

DATE: June 6, 2025

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **ZBA25-0161 – 3741 Royal Palm Avenue.**
Folio: 02-3227-017-0880

An application has been filed requesting variances of the maximum unit size and lot coverage to allow for the enclosure of an outdoor terrace for an approved two-story home that is under construction.

RECOMMENDATION:

Approval with conditions.

LEGAL DESCRIPTION:

Lot 22 and North ½ Lot 23, Block 51, of "ORCHARD SUBDIVISION" 2 & 3", According to the Plat Thereof as recored in Plat Book 8, Page 116, of the Public Records of Miami-Dade County, Florida.

HISTORY

On July 21, 2021, the applicant was issued a building permit for the construction of a new two-story single-family home with a swimming pool (Building Permit No. BR2004631). The home is currently under construction.

SITE DATA:

Zoning:	RS-4	Height	
Lot Size:	11,250 SF	Approved:	24 feet/2-stories
Unit Size		Proposed:	24' feet/2-stories
Approved:	5,432.28 SF/48.29%	Max:	24' feet/2-stories
Proposed:	6,089.54 SF/54.13%	Year:	Under Construction
Max:	5,625 SF/50.0%		
Lot Coverage			
Approved:	3,365.79 SF/29.91%		
Proposed:	4,023.05 SF/35.76%		
Max:	3,375.0 SF/30%		

SURROUNDING PROPERTIES:

East: 2-story home, 2022
North: 2-story home, 1935
South: 2-story home, 1933
West: Two 1-story homes, 1940

THE PROJECT:

The applicant has submitted plans entitled "ANIMOV RESIDENCE", as prepared by **V3 Architectural Group, Inc.**, dated 4/6/2025.

The applicant is currently constructing a new two-story single-family home with a pool, which is expected to be completed later this year. The home is designed in the neoclassical revival style, and was approved with a covered outdoor terrace that partially wraps to the north side of the home.

The applicant is seeking the following variances to be able to enclose the outdoor terrace:

1. A variance from the maximum unit size of 50%, to enclose an outdoor terrace, allowing for a unit size of 54.13% or 6,090 SF.
2. A variance from the maximum lot coverage of 30%, to enclose an outdoor terrace, allowing for a lot coverage of 35.76% or 4,023.1 SF.

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 and practical difficulty 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
- (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.
Satisfied
- (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.

Satisfied

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

Satisfied

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

Satisfied

ANALYSIS:

The applicant is proposing to enclose the approved covered terrace with windows and turn it into an indoor space. Enclosing the terrace would result in the home exceeding the allowable lot coverage and unit size.

The applicant is requesting the following variances:

1. A variance from the maximum unit size of 50%, to enclose an outdoor terrace, allowing for a unit size of 54.13% or 6,090 SF.

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

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

The approved home has a unit size of 5,432.28 square feet (48.29%) and the applicant is proposing to increase the unit size by 464.54 square feet over the maximum allowable unit size of 5,625.00 square feet (50%). The proposed increase is relatively small, resulting in a unit size of 6,089.54 square feet (54.13%). The proposed increase does not result in an increase to the massing of the home, as the area that will be enclosed is already approved. As the enclosure is in the rear yard and consists of an approved covered area, the proposed variance will not alter the character of the neighborhood.

The applicant has identified a need to allow for a multi-generational family to occupy the home as a practical difficulty which necessitates the variance. Additionally, the applicant has identified hardships, including noise from the 40th Street Overlay for religious institutions that applies to the northern portion of the subject block and from the 41st Street commercial corridor as reasons that require shielding residential activities from ambient noise.

In order to prevent an increase in the massing of the home in the future as a result of the proposed variance, staff has included a condition in the attached draft order to prohibit the applicant from building a covered terrace attached to the rear façade of the home. With this condition, staff is not opposed to the granting of the variance.

2. A variance from the maximum lot coverage of 30%, to enclose an outdoor terrace, allowing for a lot coverage of 35.76% or 4,023.1 SF.

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

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

The approved home has a lot coverage 3,365 square feet (29.91%) and the proposed additional lot coverage is 648.05 square feet above the maximum allowable lot coverage of 3,375 square feet (30.00%). This increase is relatively small and will increase the total lot coverage of the home to 4,023 square feet (35.76%). The additional lot coverage does not result in an increase in the massing of the home nor an increase in its footprint, as the additional lot coverage will be used to enclose an approved covered terrace. As a result of the foregoing and the reasons described for variance no. 1, staff is not opposed to the granting of this variance.

Based upon the existing site conditions, including existing setbacks, existing lot coverage, and unit size, staff finds that practical difficulties exist for the enclosure of the outdoor terrace on the subject site. The requested variances are minor in nature and should not result in any negative impacts on the surrounding neighborhood. Additionally, staff has incorporated conditions to ensure that the massing of the home is not increased further. 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: June 6, 2025

FILE NO. ZBA25-0161

PROPERTY: 3741 Royal Palm Avenue

FOLIO: 02-3227-017-0880

APPLICANTS: Frank, Mayra, and Michael Buttacavoli

LEGAL

DESCRIPTION: Lot 22 and North ½ Lot 23, Block 51, of "ORCHARD SUBDIVISION" 2 & 3", According to the Plat Thereof as recored in Plat Book 8, Page 116, of the Public Records of Miami-Dade County, Florida.

IN RE: An application has been filed requesting variances of the maximum unit size and lot coverage to allow for the enclosure of an outdoor terrace for an approved two-story home that is under construction.

FINAL ORDER

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

1. A variance from the maximum unit size of 50%, in order to enclose an outdoor terrace, allowing for a unit size of 54.13% or 6,090 SF.
2. A variance from the maximum lot coverage of 30%, in order to enclose an outdoor terrace, allowing for a lot coverage of 35.76% or 4,023.1 SF.

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. The construction of covered terraces attached to the rear façade of the home shall **not** be permitted.
 - 2. 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.
 - 3. 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.
 - 4. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
 - 5. The conditions of approval herein are binding on the applicant, the property's owners and all successors in interest and assigns.
 - 6. 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.
 - 7. 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.

8. 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 _____.

BOARD OF ADJUSTMENT
CITY OF MIAMI BEACH, FLORIDA

BY: _____

Filed with the Clerk of the
Board of Adjustment on _____ ()