

MIAMI SHORES PLANNING AND ZONING BOARD

Planning and Zoning Department Staff Report

Hearing Date	February 27, 2014	Meeting Time	7:00 P.M.
File Number	PZ-1-14-201475	Folio Number	11-2232-028-0090
Owner	Veronique Sfara, 1080 NE 105th Street, Miami Shores FL 33138		
Applicant	Jose Calvo, South Marine Const., 601 NE 36 th St #2010, Miami FL 33137		
Agent	None		
Property Address	1080 NE 105th Street		
Legal Description	MIAMI SHORES ESTATES PB 47-58 LOT 9 BLK 1 LOT SIZE 75.000 X 150 COC 24270-2538 05 2005 5 OR 26918-3542 0509 30		
Property Sq. Ft.	11,250	Building Sq. Ft.	4,541
		Flood Zone	AE8
Zoning	R20	Future Land Use Designation	Single Family
Existing Use	One-family dwelling/ Vacation rental	Comprehensive Plan Consistency	Yes
Existing Structure	2-story; 5 bed/4.5 bath	Year Built	2013
Subject	Pursuant to Articles IV, V and VI of Appendix A Zoning, Sec. 400 Schedule of Regulations, Sec. 534 and Sec. 600. Site plan review and approval required. Waterfront development. Dock. Wood deck on plot and past seawall.		
Action Required	Approve, Approve with Conditions, or Deny the Application	Other Required Approvals	Village Building Permits DERM, Corps of Engineers
Staff Report	David A. Dacquisto, Director, Planning and Zoning	Report Date	February 5, 2014 March 11, 2014

New Staff Report March 11, 2014

Background

The village recently learned that this residence was being used for vacation rentals offering rooms for rent as well as the entire house. The residence is advertised as accommodating up to 14 persons.

This application was tabled at the February 27, 2014 board hearing.

The applicant has submitted a new dock plan for review. Please note no usable scale was provided on the plans and some measurements are incorrect.

The yard is 75 ft. wide

The new dock design has two components.

A wood deck is proposed approximately 11 ft. from the easterly plot line to run westerly approximately 31 ft. along the landward side of the seawall. The deck extends approximately 7 ft. into the yard. The deck extends an additional 2 ft. past the property line that is located 2 ft. from the landward side of the seawall. Only 7 ft. of the deck's width is on the applicant's property.

A wood dock is proposed approximately 11 ft. from the easterly plot line to run westerly approximately 31 ft. along the bay side of the seawall and approximately 4 ft. into the bay.

A boat lift is located south of the dock and runs an additional 12 ft. into the canal for a total projection of 16 ft. into the canal. The Miami Shores Village Code of Ordinances does not regulate projections into the canal. Projections into the canal are regulated currently by DERM.

The canal is approximately 73 ft. wide at this point and the 16 ft. dock and boat lift take up approximately 22% of the width of the canal.

Analysis

The proposed deck is located on the landward side of the seawall and extends for 31 ft. along it.

Accessory structures on water front plots require a rear yard setback of 15 ft. measured from the property line or landward side of the seawall whichever comes first. The normal setback on a landlocked plot is 5 feet. The proposed deck meets neither requirement.

The property line for this plot is landward of the seawall. The deck extends 7 ft. into the plot and stretches an additional 2 ft. past the property line to the landward side of the seawall for a total width of 9 feet..

The board previously granted approval for wood decks that met the side yard setback requirement on the 75 ft. wide plot and that ran 55 ft. along the seawall between the required side yard setbacks. The previously approved deck did not meet rear yard setback requirements.

The board has also approved decks/patio connections to docks as a reasonable accommodation to access docks. The deck may be reduced from 31 ft. in length along the seawall and still provide reasonable accommodation and access to the dock. A 16 ft. long deck along the landward side of the seawall would prove more than adequate to provide access to the dock.

The plan submitted does not include lights or reflectors. The planning board generally requires one or both.

The property is in the AE8 special flood hazard area. Approval by this board for compliance with the zoning code and harmony does not guarantee that the project may be build. The applicant must work with the building official to ensure that the construction meets the requirements of the Florida Building Code for construction in the AE8 special flood hazard area.

The site plan has **not** received preliminary approval from the Department of Regulatory and Economic Resources, Environmental Resources Management. Final approval will be required from the Department of Regulatory and Economic Resources, Environmental Resources Management and the Corps of Engineers.

The proposal is **not** consistent with the technical provisions of the Zoning Code.

Recommendation

In order to be approved, the applicant must provide sufficient evidence for the board to find that the proposal is consistent with the zoning code or; the board must find that the deck is a reasonable accommodation to access the dock:

In acting on a site plan, the Planning Board must make a finding that the proposed improvements are harmonious with the community, as required in Articles IV, V and VI of Appendix A Zoning of the Code

of Ordinances, and, in that regard, may add further conditions or delete or modify staff recommended conditions, deny the application, or continue the item for future consideration.

Should the board find that the applicant merits approval, staff recommends that the following conditions apply:

- 1) Approval is granted for a 120 sq. ft., 16 ft. long by 9 ft. wide deck landward of the seawall, a 31 ft. long by 4 ft. wide wood dock in the canal and a 15 ft. long by 12 ft. wide boat lift adjacent the deck.

Or, the board may grant the applicants request:

- 1) Approval is granted for a 210 sq. ft., 31 ft. long by 9 ft. wide deck landward of the seawall, a 31 ft. long by 4 ft. wide wood dock in the canal and a 15 ft. long by 12 ft. wide boat lift adjacent the deck.
- 2) Before commencing work, the applicant to provide an architect or engineer's report to certify to the building official that the site provides storm drainage that detains the first one inch in natural or filtered structural facilities prior to the final inspection by the Building Official. The applicant is responsible for any site modifications that are or may become necessary to provide storm drainage that detains the first one inch in natural or filtered structural facilities and shall make site modifications as necessary to prevent runoff into neighboring properties.
- 3) Applicant to secure final approval from the Department of Regulatory and Economic Resources, Environmental Resources Management and the Army Corps of Engineers, before a building permit will be issued.
- 4) Applicant to comply with all requirements of FEMA, the NFIP and the Florida Building Code for construction in the AE8 special flood hazard area.
- 5) Applicant to obtain a building permit before commencing work.
- 6) Applicant to meet all applicable code provisions at the time of permitting.
- 7) Applicant to add not less than (2) lights to the dock on each end of the dock and the greatest extension into the canal and not less than (2) reflectors at the midpoint of the dock extension into the canal and, (1) lights and (1) reflector on each of the outside poles of the board lift.
- 8) This zoning permit will lapse and become invalid unless the work for which it was approved is started within one (1) year of the signing of the development order by the board chair, or if the work authorized by it is suspended or abandoned for a period of at least one (1) year.

Background

The village recently learned that this residence was being used for vacation rentals offering rooms for rent as well as the entire house. The residence is advertised as accommodating up to 14 persons.

The applicant is proposing to construct a new U shaped boat dock. The proposed dock extends approximately 16 ft. into the canal and is 30.5 ft. in width.

The proposed dock is to be constructed parallel to the shore.

The applicant proposes to tie the dock into a proposed wood deck on the plot.

A 10 ft. setback is required for structures measured from the side plot line. The proposed deck is located approximately 11 ft. from the easterly property line.

Accessory structures require a rear yard setback of 15 ft. measured from the property line or landward side of the seawall whichever comes first. The property line for this plot is landward of the seawall. The deck extends 7.3 ft. into the plot and stretches an additional 4.3 ft. past the property line. Approximately 2.5 ft. of the proposed deck stretches over and past the seawall into the canal.

The board previously granted approval for wood decks that met the side yard setback requirement on the 75 ft. wide plot and that ran 55 ft. along the seawall between the required setbacks.

The previously approved decks extended to the seawall and did not meet rear yard setbacks for development on a waterfront plot. The decks that were approved did not extend over and past the seawall into the canal.

The applicant has **not** provided evidence of preliminary Department of Regulatory and Economic Resources, Environmental Resources Management approval (noted as DERM approval on the plans).

Analysis

The board may consider the use of the property in deciding what improvements to approve.

The applicant is planning a new deck over and past the seawall into the canal.

Accessory structures on a waterfront property must maintain a rear setback of not less than 15 ft. measured from the property line or the landward side of a seawall, whichever comes first.

The proposed wood deck does not comply with the 15 ft. rear yard setback requirement for accessory structures on a waterfront plot.

The wood deck is not consistent with a deck plan previously approved by the planning board. The previously approved wood deck was located 10 ft. from the side plot line and did not extend over the seawall. The drainage plan for this property was based on the final plans submitted and approved by this board previously. Modifying the landward development on this property will require a new drainage plan for the site.

The wood deck over and over and past the seawall into the canal is an integral part of the current dock design. Changing the wood deck design will require a redesign of the dock and as a result staff does not believe the dock may be approved as is without the wood deck in its current configuration. A partial approval is therefore not recommended.

The plan submitted does not include lights or reflectors. The planning board generally requires one or both.

The property is in the AE8 special flood hazard area. Approval by this board for compliance with the zoning code and harmony does not guarantee that the project may be build. The applicant must work with the building official to ensure that the construction meets the requirements of the Florida Building Code for construction in the AE8 special flood hazard area.

The site plan has **not** received preliminary approval from the Department of Regulatory and Economic Resources, Environmental Resources Management. Final approval will be required from the Department of Regulatory and Economic Resources, Environmental Resources Management and the Corps of Engineers.

The proposal is **not** consistent with the technical provisions of the Zoning Code.

Recommendation

In acting on a site plan, the Planning Board must make a finding that the proposed improvements are harmonious with the community, as required in Articles IV, V and VI of Appendix A Zoning of the Code of Ordinances, and, in that regard, may add further conditions or delete or modify staff recommended conditions, deny the application, or continue the item for future consideration.

Planning and Zoning staff recommends **DENIAL** of the site plan to construct a wood deck over and past the seawall into the canal and a dock extending 16 ft. into the canal and 30.5 ft. in along the seawall, with a finding that it is not consistent with the technical provisions of the Code.

Notwithstanding planning staff's recommendation:

Should the board find that the applicant merits approval, staff recommends that the following conditions apply:

- 9) Approval is granted for a 360 sq. ft., 9 ft. wide, 40 ft. long dock and for a 31 ft. by 12 ft. wood deck over and past the seawall into the canal.
- 10) Before commencing work, the applicant to provide an architect or engineer's report to certify to the building official that the site provides storm drainage that detains the first one inch in natural or filtered structural facilities prior to the final inspection by the Building Official. The applicant is responsible for any site modifications that are or may become necessary to provide storm drainage that detains the first one inch in natural or filtered structural facilities and shall make site modifications as necessary to prevent runoff into neighboring properties.
- 11) Applicant to secure final approval from the Department of Regulatory and Economic Resources, Environmental Resources Management and the Army Corps of Engineers, before a building permit will be issued.
- 12) Applicant to comply with all requirements of FEMA, the NFIP and the Florida Building Code for construction in the AE8 special flood hazard area.
- 13) Applicant to obtain a building permit before commencing work.
- 14) Applicant to meet all applicable code provisions at the time of permitting.
- 15) Applicant to add not less than (2) lights to the dock on each end of the dock and the greatest extension into the canal and not less than (2) reflectors at the midpoint of the dock extension into the canal.
- 16) This zoning permit will lapse and become invalid unless the work for which it was approved is started within one (1) year of the signing of the development order by the board chair, or if the work authorized by it is suspended or abandoned for a period of at least one (1) year.