

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: June 04, 2019

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: DRB19-0368  
**5441 Alton Road**

**DRB19-0368, 5441 Alton Road.** An application has been filed requesting Design Review Approval for the construction of substantial one and two-story additions to an existing two-story pre-1942 architecturally significant residence, including one or more waivers, and variances to reduce both sides and sum of the side setbacks and to reduce the required rear setback to a pool and pool deck.

### **RECOMMENDATION:**

Approval with conditions

Approval of variances #1, #2, and #3 with modifications

Denial of variances #4 and #5

### **LEGAL DESCRIPTION:**

Lot 5 of Block 13 of Lagorce Golf Subdivision, according to the plat filed for record and recorded in Plat Book 14 at Page 43 of the Public Records of Miami-Dade County, Florida.

### **HISTORY:**

This item was continued from the May 07, 2019 Design Review Board meeting due to lack of quorum.

### **SITE DATA:**

Zoning: RS-4

Future Land Use: RS

Lot Size: 7,702 SF

Lot Coverage:

Existing: 1,693 SF / 21.9%

Proposed: 2,270 SF / 29.4%

Maximum: 2,310.6 SF / 30%

Unit size:

Existing: 2,328.7 SF / 30%

Proposed: 3,826 SF / 49.6%

Maximum: 3,851 SF / 50%

2<sup>nd</sup> Floor to 1<sup>st</sup>: 2735/2362 | **86.3%\***

**\*WAIVER REQUIRED**

Height:

Proposed: ~23'-0" sloped roof

Maximum: 27'-0" sloped roof

Grade: +4.43' NGVD

Base Flood Elevation: +8.0' NGVD

Difference: 3.57'

Adjusted Grade: +6.215' NGVD

30" (+2.5') Above Grade: +8.71' NGVD

First Floor Elevation: +7.66' NGVD

**(Below BFE+1FB)**

### **EXISTING STRUCTURE:**

Year: 1941

Architect: Unknown

Vacant: No

Demolition: Substantial

**SURROUNDING PROPERTIES:**

East: La Gorce Golf Course  
North: Two-story 1941 residence

South: One-story 1936 residence  
West: Two-story 1951 residence

**THE PROJECT:**

The applicant has submitted plans entitled "Alton Road Residence", as prepared by **Gallager/AP**, dated 03/11/2019.

The applicant is proposing to construct one and two-story additions and overall exterior improvements to an existing two-story architecturally significant pre-1942 residence including variances to reduce the side and sum of the side setbacks. The proposed exterior modifications, additions and renovations will permanently alter the architectural significance of the 1941 structure thereby transforming it into a non-architecturally significant pre-1942 residence.

The applicant is requesting the following design waiver(s):

1. The second floor's physical volume exceeds 70% of the first floor in accordance with Section 142-105(b)(4)(c).

The applicant is requesting the following variance(s):

1. A variance to reduce by 4'-2" the minimum required interior side setback of 10'-0" in order to construct two-story additions to the existing residence up to 5'-10" from the north (side) property line.
2. A variance to reduce by 4'-10" the minimum required interior side setback of 10'-0" in order to construct two-story additions up to 5'-2" from the south (side) property line.
3. A variance to reduce by 9'-0" the minimum required sum of the side yards of 20'-0" in order to construct two-story additions to a residence and provide a sum of the side yards of 11'-0".

- Variances requested from:

**Sec. 142-106. Setback requirements for a single-family detached dwelling.**

*The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:*

**(2)Side yards:**

- a. The sum of the required side yards shall be at least 25 percent of the lot width.*
- c. Interior sides. For lots greater than 60 feet in width any one interior side yard shall have a minimum of ten percent of the lot width or ten feet, whichever is greater. For lots 60 feet in width or less, any one interior side yard shall have a minimum of seven and one-half feet.*

The applicant is proposing substantial demolition and alterations to an existing two-story residence and the construction of one and two-story additions to the structure. When the improvements to an existing structure do not exceed 50% of the value determination as per the building official, the Code allows one-story additions to follow the non-conforming side setbacks of existing structures with a minimum side setback of 5'-0". Additionally, second level additions are allowed over existing one story structures when built prior to September 6, 2006. In this case, since the proposal exceeds these thresholds (the additions are two-

story in height), setback variances are being requested on the north and south sides of the proposal towards the front and rear of the site. In addition, a variance is also being requested due to the reduction of the existing north side setback from 6'-0" to 5'-10" at the front addition.

The property is an irregularly shaped lot with 60'-0" along the front property line that tapers to 63.2'-0" in width along the rear property line. The lot width of a single family property is measured at the required front (20'-0") setback. On a 60-foot rectangular lot, the minimum required side setbacks are 7'-6" on both sides. However, in this case, because the lot increases in width toward the rear, the lot width at the 20'-0" front setback is larger than 60'-0" and requires minimum side setbacks of 10'-0" on both sides. This anomaly that is related to the shape of the lot creates challenges when applying the required setbacks to the site. Further, staff finds that the shape of the lot creates practical difficulties to construct additions to the home, as it would require larger setbacks than the typical 7'-6" setbacks for a rectangular 60-foot wide lot.

The project proposes the demolition of the front and rear façade but large portions of the existing side walls of the home be retained. The proposed areas of new construction are approaching 50% of the length of the entire façade on each side. With the front and rear façade additions, the remainder of the existing home will be consumed by the massing of the new additions to the home, leaving no significant architectural element of the existing home remaining.

Although, the setbacks related to the lot width of the property are larger than the setbacks for a standard rectangular 60-foot wide lot, as previously noted, staff is unable to fully support the variances to reduce the required side setbacks at the second floor level to match the setbacks of the existing portions of the home retained. Staff would note that the value of the improvements has not yet been evaluated by the building official. In case that the improvements proposed exceed 50% of the value of the existing home, any retained portion of the existing home would have to comply with the required setbacks of 10'-0". The scope of the requested variances, and the application as a whole, is based on the project staying below the 50% threshold of the building value. If the total costs of improvement are 50% or more of the building value, the building must comply with all underlying zoning regulations. In such a scenario, additional variances for the walls being retained would need to be requested, or new walls constructed in compliance with the current setback, as well as elevating the finished first floor to base flood elevation plus minimum freeboard.

Staff recommends modifications to the proposed setbacks of the second story portions of the residence to be at a minimum of 7'-6" on both sides. This is the setback standard that would be required for a rectangular shaped 60-foot wide lot. In addition, staff recommends that the ground floor addition at the north side not reduce the existing non-conforming side and sum of the side setbacks at the front corner. With these suggested amendments, staff is supportive of the modified variance requests #1, #2, #3, conditioned to the value of the improvements not exceeding 50 percent of the building's value.

4. A variance to reduce 1'-3" from the required setback of 7'-6" from the water's edge of a pool to the rear property line in order to construct a new pool at 6'-3" from the rear property line.

5. A variance to reduce 0'-9" from the required setback of 6'-0" from the pool deck to the rear property line in order to construct a new pool deck at 5'-3" from the rear property line.

- Variances requested from:

**Sec. 142-1133. Swimming pools.**

*This section applies to swimming pools in all districts, except where specified. Accessory swimming pools, open and enclosed, or covered by a screen enclosure, or screen enclosure not covering a swimming pool, may only occupy a required rear or side yard, provided:*

*(1) Rear yard setback. A six-foot minimum setback from rear property line to swimming pool deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure associated or not associated with a swimming pool, provided, however, that swimming pool decks may extend to the property line and be connected to a dock and its related decking when abutting upon any bay or canal. There shall be a minimum seven and one-half-foot setback from the rear property line to the water's edge of the swimming pool or to the waterline of the catch basin of an infinity edge pool*

The project proposes a rear yard of 31'-0" where 20'-0" is required. A new pool and pool deck is proposed within this area. Setback variances for the location of the pool and pool deck are requested. As practical difficulties or hardship are not demonstrated in the letter of intent, based on the conditions of the lot and available area in the rear, staff cannot recommend in favor of these variances.

**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, with the exception of variances #4 and #5, as noted above, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code with the exception of variances #4 and #5, as noted above:

- 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.
  - 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 133, article II, as applicable.

**COMPLIANCE WITH ZONING CODE:**

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code:

1. Section 142-105(b). Maximum lot coverage for a two-story home is 30% of the lot area. Lot coverage calculations shall be revised to include portion of the second floor over the garage area adjacent to the garage stair.
2. Section 142-105(b). Unit size calculations shall be revised to remove portion of the double height space at the second floor unit size. Only the footprint of the stair shall be counted.
3. Section 142-105(b)(4)c. For two story homes with an overall lot coverage of 25% or greater, the physical volume of the second floor shall not exceed 70% of the first floor of the main home, exclusive of any enclosed required parking area and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria. **The applicant is requesting a 2<sup>nd</sup> Floor Volume to 1<sup>st</sup> of 86.3% with a 30% lot coverage that will require a waiver from the DRB.**

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 DESIGN REVIEW CRITERIA:**

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.  
**Satisfied**
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.  
**Not Satisfied; the applicant is requesting five variances and one design waiver from the Board.**
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.  
**Not Satisfied; the applicant is requesting five variances and one design waiver from the Board.**
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.  
**Satisfied**
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.  
**Not Satisfied; the applicant is requesting five variances and one design waiver from the Board.**
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.  
**Not Satisfied; the applicant is requesting five variances and one design waiver from the Board.**
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.  
**Satisfied**
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.

**Satisfied**

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

**Not Satisfied**

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.

**Satisfied**

11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.

**Satisfied**

12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

**Satisfied**

13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.

**Satisfied**

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

**Satisfied**

15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

**Not Applicable**

16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.

**Satisfied**

17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

**Not Applicable**

18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.

**Not Applicable**

19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

**Not Satisfied; see below**

**COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(a) of the Land Development 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 Satisfied**

**A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.**

- (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 126 of the City Code.

**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.

**Not Satisfied**

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

**Not Satisfied**

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

**Not Satisfied**

**STAFF ANALYSIS:**

**DESIGN REVIEW**

The applicant is proposing to construct one- and two-story additions and overall exterior improvements to an existing two-story architecturally significant pre-1942 residence including variances to reduce the side and sum of the side setbacks. The proposed exterior modifications, additions and renovations will permanently alter the architectural significance of the 1941 structure thereby transforming it into a non-architecturally significant pre-1942 residence.

A substantial amount of the residence will be demolished in order to construct new one- and two-story additions at various locations on the site and the split level style of the 1941 residence will be “modernized” and “leveled out”. The existing house is a tri-level home, with some portions of the residence’s first floor currently at the elevation height of grade. It must be noted that the proposal features the new floor designed to be flush with a higher portion of the home’s first level, at +7.66’ NGVD which is below BFE+1FB. If the proposed improvements exceed 50% of the value of the existing home, then all of the nonconformances of the structure, including the habitable first floor being below minimum elevation standard, will need to be brought into compliance.

The design waiver pertains to the second floor to first floor ratio of the home. Since the proposed home has a lot coverage of nearly 30%, any second floor massing is restricted to 70% of the first floor, unless a waiver is sought by the DRB. The applicant is requesting a 2nd Floor Volume to 1st of 86.3% with a 30% lot coverage that will require a waiver from the DRB. This extra area is predominantly due to a stacked double height family room located in the rear of the property facing the golf course. Staff does not believe that this effort would have any impact on the street view of the residence. Further, the design floor elevation is at the minimum height permitted of BFE + freeboard, the rectilinear massing is not exacerbated by the zoning allowances.

While staff is supportive of the increased second floor ratio waiver, should the residence be redesigned to accommodate the proposed site plan modifications to accommodate an

increase side setbacks or finished with a higher floor height or freeboard elevation, staff recommends a return to the Board to reassess the design waiver. Staff recommends that the design of the replacement home be approved as proposed, including the requested waiver.

### **VARIANCE ANALYSIS**

As identified under the 'Project' description of the analysis, the variances being requested pertain primarily to reconstruction of nonconforming portions of an existing single-family residence; as such, staff is supportive of an approval for a modified request to variances #1, #2 and #3 with modifications. Specifically it is recommended that the setback for the new construction along the side setbacks be increased to 7'-6" on each side for the new second floor portions of the home. Additionally, this approval, if granted, is predicated on the home improvements not exceeding 50% of the value of the structure at the time of the building permit. As it pertains to variances #4 and #5, staff cannot recommend favorably based on the information provided and the conditions of the rear yard, as noted in the project portion of this report.

### **RECOMMENDATION:**

In view of the foregoing analysis, staff recommends that the variance requests #4 and #5 be **denied**, and that the variance requests #1, #2, and #3, as recommended for modification herein, and the design, including the three waivers, be **approved** subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise, and Practical Difficulty and Hardship criteria, as applicable.

TRM/JGM/IV

**DESIGN REVIEW BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: June 04, 2019

FILE NO: DRB19-0368

PROPERTY: **5441 Alton Road**

APPLICANT: David O. Sullivan and Luis M. Tejjiz

LEGAL: Lot 5 of Block 13 of Lagorce Golf Subdivision, according to the plat filed for record and recorded in Plat Book 14 at Page 43, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of substantial one and two-story additions to an existing two-story pre-1942 architecturally significant residence, including one or more waivers, and variances to reduce both sides and sum of the side setbacks and to reduce the required rear setback to a pool and pool deck.

**ORDER**

The City of Miami Beach Design Review Board 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:

**I. Design Review**

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 1, 2, 3, 5, 6, 9, 12, and 19 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1 and 10 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
  1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 5441 Alton Road shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. The 70% limitation for the second floor volume **shall** be waived as proposed.
  - b. The final design details of the exterior materials and finishes shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board
  - c. 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.
  - d. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding plans shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plans shall comply with Chapter 26-Landscape Requirements of the Miami Beach Code and shall incorporate the following:
- a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
  - b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
  - c. Prior to any site demolition work, a tree protection fence following the City standard shall be installed for trees scheduled to remain subject to the review and approval of the City Urban Forester.
  - d. Any necessary root and tree branch pruning with a diameter at breast height (DBH) of 2" or greater shall be approved by the City Urban Forester prior to any tree work.
  - e. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a

Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.

- f. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
- g. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- h. 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 the Public Works Department.
- i. Any proposed new street trees shall be of a planting species consistent or similar with existing street trees in the immediate area or consistent with any master street tree plan for the area, subject to the review and approval of the City Urban Forester.
- j. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- k. 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.
- l. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- m. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
- n. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right-of-way shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.

- o. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

**In accordance with Section 118-262, the applicant, or the city manager on behalf of the City Administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.**

## **II. Variance(s)**

- A. The applicant filed an application with the Planning Department for the following variance(s) which were either approved by the Board with modifications, or denied:

The following variances were **approved** by the Board:

1. A variance to reduce by 4'-2" 2'-6" the minimum required interior side setback of 10'-0" in order to construct second ~~two~~-story additions to the existing residence up to 5'-10" 7'-6" from the north (side) property line.
2. A variance to reduce by 4'-10" 2'-6" the minimum required interior side setback of 10'-0" in order to construct second ~~two~~-story additions up to 5'-2" 7'-6" from the south (side) property line.
3. A variance to reduce by 9'-0" 5'-0" the minimum required sum of the side yards of 20'-0" in order to construct two-story additions to a residence and provide a sum of the side yards of 44'-0" 15'-0".

The following variances were **denied** by the Board:

4. A variance to reduce 1'-3" from the required setback of 7'-6" from the water's edge of a pool to the rear property line in order to construct a new pool at 6'-3" from the rear property line.
  5. A variance to reduce 0'-9" from the required setback of 6'-0" from the pool deck to the rear property line in order to construct a new pool deck at 5'-3" from the rear property line.
- B. The The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts, with the exception of variances #4 and #5, as noted above, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code with the exception of variances #4 and #5, as noted above:

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.

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 133, article II, as applicable.

C. The Board hereby **Approves** variance(s) #1, #2 and #3, as noted above and **Denies** variances #4 and #5, and 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. The proposed pool and associated pool deck shall be redesigned to comply with all underlying zoning regulations.

**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.**

**III. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.**

- A. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
- B. During construction work, the applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site, and with an 8'-0" high fence with a wind resistant green mesh material along the front property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- C. If applicable, a Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- D. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- E. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- F. 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.
- G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- H. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- I. 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.



- J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- K. 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.

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 the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled " Alton Road Residence", as prepared by **Gallager/AP**, dated March 11, 2019, and as approved by the Design Review Board, as determined by staff.

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 of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval 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 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 approval was granted, the application will expire and become null and void, unless the applicant makes an 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. 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 118 of the City Code, 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 118 of the City Code, for revocation or modification of the application.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

DESIGN REVIEW BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
JAMES G. MURPHY  
CHIEF OF URBAN DESIGN  
FOR THE CHAIR

STATE OF FLORIDA            )  
  )SS  
COUNTY OF MIAMI-DADE    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: \_\_\_\_\_

Approved As To Form:  
City Attorney's Office: \_\_\_\_\_ (                    ) )

Filed with the Clerk of the Design Review Board on \_\_\_\_\_ (                    ) )