

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: September 03, 2019

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB19-0397
5245 North Bay Road

DRB19-0397, 5245 North Bay Road. An application has been filed requesting Design Review Approval for the construction of a new two-story single-family residence including one or more waivers and variances to reduce both required side yard and sum of the side yard setbacks and to exceed the maximum elevation for allowable encroachments in required yards, to replace an existing one-story residence.

RECOMMENDATION:

Approval with conditions

Approval of the variances #1-3

Denial of variances #4

LEGAL DESCRIPTION:

Lot 2 of Block 17 of "LaGorce Golf Subdivision", according to Plat thereof as recorded in Plat Book 14 Page 43 of the Public Records of Miami-Dade County, Florida.

HISTORY:

This item was continued from the July 02, 2019 Design Review Board meeting due to lack of quorum.

SITE DATA:

Zoning: RS-4
Future Land Use: RS
Lot Size: 7,737 SF
Lot Coverage:
Proposed: 2,200 SF / **28.4%**
Maximum: 2,321.1 SF / 30%
Unit size:
Proposed: 3,866 SF / **49.9%**
Maximum: 3,868.5 SF / **50%**
2nd Floor to 1st: 1996/1643 | **82.3%**

***WAIVER REQUIRED**

Height:
Proposed: 18'-0" 1-story flat roof
24'-0" 2-story flat roof
Maximum: 24'-0" flat roof

Grade: +4.23' NGVD
Base Flood Elevation: +8.00' NGVD
Difference: 3.77'

Adjusted Grade: +6.11' NGVD
30" (+2.5') Above Grade: +6.73' NGVD
First Floor Elevation: +13' NGVD
(BFE+5'FB)
Min. Yard Elevation (side): 6.56' NGVD
Max. Yard Elevation (side): 7.76' NGVD
Min. Yard Elevation (rear): 6.56' NGVD
Max. Yard Elevation (rear): 6.73' NGVD

EXISTING STRUCTURE:

Year: 1951
Architect: G. H. Mathes
Vacant: Yes
Demolition: Total

SURROUNDING PROPERTIES:

East: One-story 1964 residence
North: Two-story 1950 residence
South: Two-story 1938 residence

West: Two-story 1929 residence

THE PROJECT:

The applicant has submitted plans entitled "Bay Road Residence", as prepared by **Beilinson_Gomez Architects PA**, dated 05/06/2019.

The applicant proposes to construct a new two-story residence on an interior lot.

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 2'-6" of the minimum required 10'-0" interior side (south) setback in order to construct the new single family residence at 7'-6" from the property line.
2. A variance to reduce by 2'-6" of the minimum required 10'-0" interior side (north) setback in order to construct the new single family residence at 7'-6" from the property line.

- Variance 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:

c. Interior sides. For lots greater than 60'-0" in width any one interior side yard shall have a minimum of 10% of the lot width or 10'-0", whichever is greater. For lots 60'-0" in width or less, any one interior side yard shall have a minimum of 7'-6".

3. A variance to reduce by 5'-0" of the minimum required sum of the side yards of 20'-0" in order to provide a sum of the side yards of 15'-0".

- Variance 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:

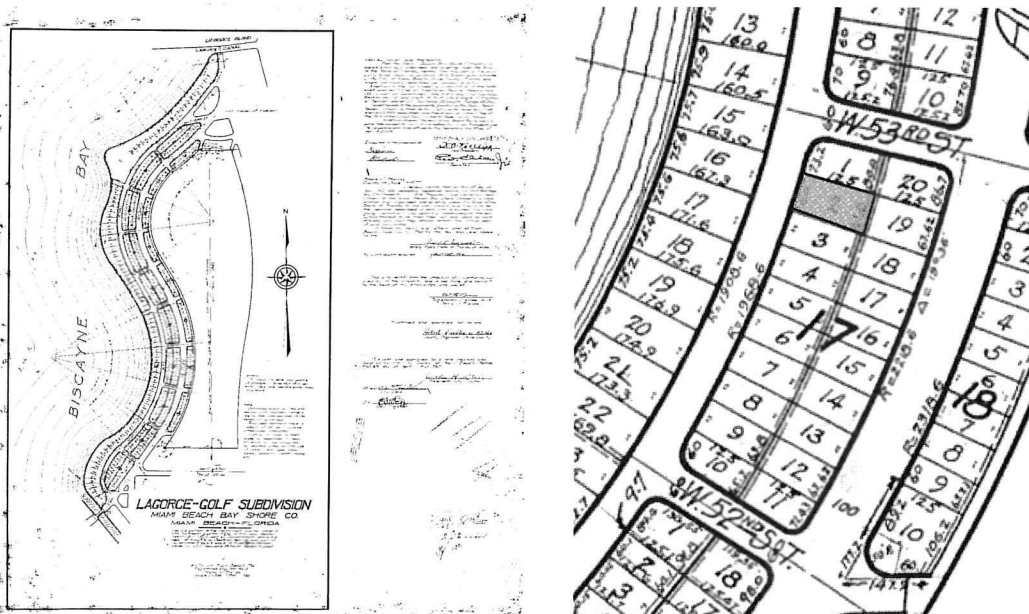
(2) Side yards:

a. The sum of the required side yards shall be at least 25% of the lot width.

The property is an irregular shaped lot with a curved front property line of 60'-0" and a curved rear property line measuring 63.8'. Based on the parcel's geometry, is considered as 'a lot greater than 60'-0" in width' because the lot width is measured at the required 20'-0" front setback, which in this case results in a lot width larger than 60'-0". Therefore, both interior side yards have a minimum setback requirement of 10'-0". The applicant is proposing setbacks of 7'-6" on both side yards, as if the property were a rectangular lot with

60'-0" in width. Staff would note that the surrounding interior properties along the east side of North Bay Road and the abutting properties fronting Alton Road also have similar trapezoid shape with approximately 60' at the front and slightly wider toward the rear and located in the RS-4 zoning district. The properties on the opposite side of North Bay Road are subject to the same regulations of 10'-0" minimum side setbacks, yet those are larger; waterfront sites zoned RS-2.

The subject property is an interior lot on a block within the Plat of LaGorce Golf Subdivision, which was historically platted on April 9, 1926 as a series of eighteen serpentine interior blocks and a stretch of Bayfront parcels west of the La Gorce Golf Club and extending from Surprise Waterway to La Gorce Canal.



Portion of the 1926 Plat of LaGorce Golf Subdivision (subject property Lot 2 Block 17)

The recent changes to Section 142-106 pertaining to side setback requirements require that lots with over 60'-0" in width have an increased setback of a minimum of 10'-0" along both side yards. Lots with 60'-0" or less of frontage have a minimum of 7'-6" required side setback.

This would require the subject property, with less than 4" (or 60'-3 13/16") of additional frontage, to offset the building envelope an additional 5'-0" (2'-6" for each side). Staff finds that practical difficulties exist for the variances requested based on the irregular shape on the lot, as originally platted. The granting of these variances should not have an adverse impact on the adjacent properties. For these reasons, staff recommends approval of the variances.

4. A variance to exceed by 0.62' the maximum height of 8.61' NGVD for allowable encroachments in a side yard in order to construct a projecting cantilevered deck at 9.23' NGVD.

- Variance requested from:

Sec. 142-1132. - Allowable encroachments within required yards.

(o) Projections.

(6) Porches, platforms and terraces up to 30 inches above the grade elevation of the lot, as defined in chapter 114.

The applicant is proposing an elevated outdoor terrace configured parallel to the south side yard with a small portion that extends into the required yard at the deck elevation of 9.23' NGVD where the Code limits the height for allowable encroachments in the side yard to be 8.61' NGVD. Staff is not supportive of the extension of the deck into the side yard, as there is no hardship or practical difficulty associated with this design condition. There is already ample unenclosed area proposed around the house and underneath the first floor which would reasonable provide outdoor enjoyment. In summary, staff recommends denial of variance #4.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application with the exception of variance #4 that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents with the application with the exception of variance #4 comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- 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, in addition to the requested variance(s):

1. The maximum height of the mechanical roof at the rear is 18'-0" (29.83' NGVD) from first floor of 11.23' NGVD. Plans show inconsistencies in regard to these elevations.
2. Front setback of 30'-0" is not consistently indicated on plans, specifically on page A-302.

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.
Not Satisfied; the proposed project requires four variances and one waiver from the Board.
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 proposed project requires four variances and one 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 proposed project requires four variances and one 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.
Not Satisfied; the proposed project requires four variances and one waiver from the Board.

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 proposed project requires four variances and one 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 proposed project requires four variances and one 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; a lighting plan has not been submitted.
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).

Not Satisfied; the proposed project requires four variances and one waiver from the Board.

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 a new two-story residence that will replace an existing post-1942 one-story residence built in 1951. The proposed residence is elevated at BFE + maximum freeboard (13' NGVD). The proposal seeks one design waiver, for second floor volume limitation, as part of the application, as well as four variances.

The new two-story residence is designed in a contemporary architectural style in a 'traditional' elevated manner. The large amounts of "fill" for the site do not allow for a truly resilient design. In this regard, the recently adopted "incentive ordinance" may prove to be a beneficial zoning tool for this design that is currently floating somewhere between the new and old methodology of contemplating the location of single-family residences and their relationship with the ground plane.

All of the elevations are predominately finished in stucco with contrasting aluminum glass window and door systems and vertical terra cotta louvers and horizontal accoya wood finishes. The otherwise rectilinear elevations are broken up by recessed planes and scoring that provide richness and movement along the facades.

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 architect has designed the south side of the house as an outdoor elevated living space, and the enclosed massing of the building along this side exceeds the minimum setback requirement requested herein. Staff is supportive of the design including the requested waiver.

VARIANCE ANALYSIS:

As previously mentioned under 'Project' section of the report, the subject property is an interior rectilinear lot on the block that adjusts and tapers to the slight bend of the roadway and therefore gains in its frontage to slightly over 60'-0" in width. The applicant has strived to refine the design to eliminate previously requested setback variances and second floor volume waivers. Staff finds that the request for variance #1 through #3 meet the criteria for practical difficulties as noted in the variance description part of this report but fails to satisfy the hardship criteria for the granting of variance #4. Therefore staff recommends approval of the variance requests #1, #2, and #3, and denial of variance #4.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends that the requested variance #4 be **denied**, the variance requests #1-#3 be **approved**, and the design 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.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: September 03, 2019

FILE NO: DRB19-0397

PROPERTY: **5245 North Bay Road**

APPLICANT: Ron Schreiber

LEGAL: Lot 2 of Block 17 of "LaGorce Golf Subdivison", according to Plat thereof as recorded in Plat Book 14 Page 43 of the Public Records of Miami-Dade County, Florida.

IN RE: The application has been filed requesting Design Review Approval for the construction of a new two-story single-family residence including one or more waivers and variances to reduce both required side yard and sum of the side yard setbacks and to exceed the maximum elevation for allowable encroachments in required yards, to replace an existing one-story residence.

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, 4, 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, 10, 11 and 12 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 5245 North Bay 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. All yards shall meet the minimum yard elevation required, except for areas that are allowed lowered elevations, per Sec. 142-105(b)(8) *Exterior Building and Lot Standards*
 - c. The proposed planter at the front of the residence on the second floor is not an allowable encroachment and must comply with the required 30'-0" front setback.
 - d. The architect shall revise sheet A-102 Pool Bathroom/ WC at deck level, so that the elevation is at the same elevation of the first habitable floor of the house – as overall height is measured from the lowest habitable space – stairs will be needed in the design to allow for change in elevation from pool deck to bathroom.
 - e. The final design details and color selection of the terra cotta vertical louvers 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.
 - f. The final design details and color selection of the coral stone cladding proposed finish 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.
 - g. 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.
 - h. Any fence or gate at the front of the property shall be designed in a manner consistent with the architecture of the new structure, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. The heights of fences shall be measured from Grade.
 - i. 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.
 - j. 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 existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.

- j. 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.
- k. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- l. 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.
- m. 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.
- n. 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):

The following variance(s) was approved by the Board:

- 1. A variance to reduce by 2'-6" of the minimum required 10'-0" interior side (south) setback in order to construct the new single family residence at 7'-6" from the property line.
- 2. A variance to reduce by 2'-6" of the minimum required 10'-0" interior side (north) setback in order to construct the new single family residence at 7'-6" from the property line.
- 3. A variance to reduce by 5'-0" of the minimum required sum of the side yards of

20'-0" in order to provide a sum of the side yards of 15'-0.

The following variance was **denied** by the Board:

4. A variance to exceed by 0.62' the maximum height of 8.61' NGVD for allowable encroachments in a side yard in order to construct a projecting cantilevered deck at 9.23' NGVD.
- B. The applicant has submitted plans and documents with the application that the Board has concluded satisfy Article 1, Section 2 of the Related Special Acts only as it relates to variance(s) II.A.1 and II.A.2 and II.A.3 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 the Board has concluded comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code only as it relates to variance(s) II.A.1 and II.A.2 and II.A.3 as noted:

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 requests #1, #2, and #3 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 deck in the side yard shall be eliminated or redesigned to a maximum height not to exceed 8.58' NGVD.

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 "Bay Road Residence", as prepared by **Beilinson_Gomez Architects PA.** dated 05/06/2019, 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

Filed with the Clerk of the Design Review Board on _____ (