

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: November 05, 2019

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: DRB19-0426  
**199 North Coconut Lane**

**DRB19-0426, 199 North Coconut Lane.** An application has been filed requesting Design Review Approval for the construction of a new two-story single-family residence to replace an existing one-story architecturally significant pre-1942 residence including one or more waivers and variances to exceed the maximum allowed lot coverage and unit size and to reduce the required front setback.

#### **RECOMMENDATION:**

Denial of variance requests #1-#3

Continue to a future date.

#### **LEGAL DESCRIPTION:**

Lot 31 and 20 foot wide strip contiguous to same in Bay adjacent to Block 2A of the Riviera first and second additions as amended of Palm Island, according to Plat thereof as recorded in Plat Book 32, Page 37 of the Public Records of Miami-Dade County, Florida.

#### **HISTORY:**

This item was continued at the October 02, 2019 Design Review Board meeting at the request of the applicant

#### **SITE DATA:**

Zoning: RS-4  
Future Land Use: RS  
Lot Size: 7,650 SF (50x153)  
Lot Coverage:  
Existing: 1,950 / 25.4%  
Proposed: **2,722 SF / 35.5%\***  
Maximum: 2,295 SF / 30%

#### **\*VARIANCE REQ'D**

Unit size:  
Existing: 1,950 / 25.4%  
Proposed: 4,143 SF / **54.1%\***  
Maximum: 3,825 SF / 50%

#### **\*VARIANCE REQ'D**

2<sup>nd</sup> Floor Volume to 1<sup>st</sup>: **82%\***

#### **\*DRB WAIVER**

Height:  
Permitted: 24'-0" flat roof

Proposed: 24'-0" flat roof  
Grade: +4.66' NGVD  
Future Grade: +5.25' NGVD  
Flood: +9.00' NGVD  
Difference: 4.34'  
Adjusted Grade: +6.89' NGVD  
30" (+2.5') Above Grade: +7.16' NGVD  
First Floor Elevation: +10.00' NGVD  
Side Yard Elevations Min: 6.56' Max: 7.16'  
Rear Yard Elevations Min: 6.56' Max: 10'

#### **EXISTING PROPERTY:**

Year: 1940  
Architect: C E Haley  
First Floor Elevation: 6.44' NGVD  
Vacant: No  
Demolition: Full

**SURROUNDING PROPERTIES:**

East: Two-story 1954 residence  
North: Biscayne Bay

South: North Coconut Lane street

West: One-story 1939 residence

**THE PROJECT:**

The applicant has submitted plans entitled "Mandel D'Amico Residence" as designed by **blue a design company** signed, sealed, and dated August 05, 2019 .

The applicant is proposing to construct a new two-story residence on an waterfront parcel on the northern side of Palm Island.

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). 82% proposed.
2. A two-story side elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d). The spiral stair counts as part of the second floor on the west side for this requirement.

The applicant is requesting the following variance(s):

1. A variance to exceed by 5.5% (427 SF) the maximum allowed lot coverage of 30% (2,295 SF) for a two-story single family home property in order to construct a new two-story residence with a lot coverage of 35.5% (2,722 SF).
2. A variance to exceed by 4.1% (318 SF) the maximum allowed unit size of 50% (3,825 SF) for a two-story home in order to increase the unit size to 54.1% (4,143 SF) for the construction of a two-story addition.

- Variances requested from:

**Sec. 142-105. - Development regulations and area requirements.**

*(b)The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:*

*(1) Lot area, lot width, lot coverage, unit size, and building height requirements. The lot area, lot width, lot coverage, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:*

*Zoning District: RS-1, Maximum Lot Coverage for a 2-story Home (% of lot area): 30%.*

*Maximum Unit Size (% of lot area): 50%.*

The subject property is an RS-4 zoned waterfront parcel on Palm Island. Like the other properties platted along the northwest portion of the island, the parcels are generally narrow and long, compared with most single-family properties. The lot width is 50'-0" and lot depth is 153'-0" with a lot area of 7,650 sf, which exceeds by 1,650 sf the minimum 6,000 sf of area required for the RS-4 district. The applicant is requesting variances to exceed the maximum lot coverage and unit size allowed. Based on the lot area and the fact that this is proposed for a brand-new residence, staff has concluded that there are no practical difficulties or hardship related to the variances requested. Staff is also very concerned with

the applicant's requests, as it could set a precedent for the proliferation of larger homes on smaller RS-4 zoned sites. Staff does not support the variances for lot coverage and unit size and strongly recommends denial of variances #1 and #2.

3. A variance to reduce by 6'-0" the minimum required front setback of 30'-0" for a two-story single-family home in order to construct an attached decorative wall at 24'-0" from the front (south) 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:*

*(1) Front yards: The minimum front yard setback requirement for these districts shall be 20'0.*

*(b) Two-story structures shall be setback a minimum of an additional 10'-0" from the required front yard setback line.*

Under the City Code, one-story, detached structures have a minimum front setback requirement of 20'-0", but any portion of a two-story home must be setback an additional 10'-0". In this design, the second floor enclosed space is setback 30'-0" from the front property line, but one of the design features of the home, a prominent wall, that may support the framing structure and pergola at the front encroaches into the setback. The Code allows for certain "architectural features" and "porches" as allowable encroachments. However, in this instance the protruding accent wall is notably part of the home, as well as a centrally designed structural element. As such, it is considered part of the attached two-story portion of the main residence proposed at 24'-0". Staff would note that, the required rear setback for this 153'-0" long parcel is 23'-0", yet the architect has configured the residence towards the front of the parcel and provided a 45'-4" rear setback which is nearly double the required amount. Reducing the rear setback from 45'-4" to 39'-4" would eliminate this variance request. Staff finds that there are no practical difficulties or hardships associated with this variance, since this is a design driven element and there is plenty of area in the rear yard. Staff finds that the variance request is triggered by the specific design of the home, and therefore, it does not satisfy the criteria for approval. For this reason, staff recommends **denial** of the variance #3.

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that **do not** satisfy Article 1, Section 2 of the Related Special Acts, 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 **do not** indicate the following, 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:

1. 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 82% with a 35% lot coverage which will require a waiver from the DRB.**
2. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60'-0", whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard. The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line. The square footage of the additional open space shall not be less than 1% of the lot area. The intent of this regulation shall be to break up long expanses of uninterrupted two-story volume at or near the required side yard setback line and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria.

3. Based on the dimensions indicated in site plan, the open space required at the front 20'-0" shall be revised, as it appears that the project does not comply with the minimum 50% landscape required.

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 applicant is requesting three variances and two design waivers 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 applicant is requesting three variances and two design waivers 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 three variances and two design waivers 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 applicant is requesting three variances and two design waivers 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 applicant is requesting three variances and two design waivers 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 three variances and two design waivers 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).  
**Not Satisfied; the applicant is requesting three variances and two design waivers 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 on a waterfront parcel on Palm Island that will replace an existing architecturally significant pre-1942 one-story



residence. The rectilinear home has been designed above the maximum zoning thresholds for lot coverage and unit size allowances. Additional requests for two design waivers and a reduced front setback from the Board is also part of this application. The design floor elevation of the new residence is proposed at base flood elevation (8) plus minimum free board (+1). Staff has been forthright with the applicant since the initial pre-application meetings, stating that staff would not be supportive of the requests and would not recommend approval of the application, as proposed.

The proposed home is designed in a contemporary rectilinear architectural style, incorporating material accents of wood finish and stones horizontal bands of windows, and glass railings. However, as proposed, the two front-loaded street facing garages dominate the site. While the red accent wall attempts to architecturally distract from the suburban form, the garage architecture is heightened by the parcel's terminus at the end of North Coconut Lane. Palm Island is nontraditional in its residential zoning, as  $\frac{3}{4}$  of the island is zoned RS-1 and about  $\frac{1}{4}$  of the parcels are zoned RS-4. The most recent new construction in the immediate area, located at 199 Palm Avenue, southeast of the subject property, was approved in November of 2013 by the DRB, pursuant to DRB File No.23002, under the prior zoning regulations. Because that design exceeded the administrative threshold limit for unit size, lot coverage, and height, review and approval of the Board was required. Due to the parcel limitations, staff did not support the requested increases.

The first design waiver pertains to the second floor to first floor ratio of the home. Since the proposed home has a lot coverage of above 35.5%, any second floor massing is restricted to 70% of the first floor, unless a waiver is sought by the DRB. As designed the second floor of the proposed home is nearly coterminous with the ground floor, containing approximately 100% of the volume of the first floor. With a lot coverage of 35.5%, and a basic rectilinear design on a small parcel of land, the second floor massing results in a design that overwhelms the site. Staff recommends the second floor be limited to 70% of the first floor and **does not** support the waiver.

The applicant is also requesting a waiver of the open space requirement for two-story elevations that exceed 60'-0" in length (west). The rectilinear house has been carefully programmed with little to no relaxation of the side elevations, and without any movement or changes in plane. The second floor rests in alignment above the ground floor and extends 60'-0" in length in order to avoid the required open space for uninterrupted two-story elevations. However, a proposed stairwell exceeds the allowable threshold. As designed, the proposed open space does not meet requirements of the Code but does address the intent of the regulation by limiting the solid elevation to the required limitation of uninterrupted two-story volumes. Staff is supportive of the side open space waiver along the side (west).

In summary, staff recommends that the architect further refine the design of the residence and reduce some architectural components in order to become more sensitive to the neighborhood's overall context, a more balanced massing on the site, and still retain the residential architecture that distinguishes itself from neighboring structures. Staff recommends that the design of the replacement home be continued with the design direction provided herein, and/or directions from the Board. Staff also recommends a design that results in the withdrawal of all variance requests and second floor ratio waiver

request and a redesign of the front loaded garage-driven façade to a more central location within the plan in order to foster a more contextual relationship with the newer residential construction currently within the immediate area.

**VARIANCE ANALYSIS:**

As identified under the 'Project' section of the recommendation, the proposed home can be redesigned to comply with all lot coverage and unit size limitations and pushed back to comply with the setback requirements. Therefore, staff has concluded variance requests #1-#3 do not satisfy the Practical Difficulty and Hardship Criteria and recommends that the proposed new residence be redesigned to eliminate all variances.

Considering the concerns raised herein, staff recommends that the design of the replacement home be further studied and substantially redesigned and that the application be continued to a future meeting date.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the application be **continued to the January 07, 2020 DRB meeting**, to address the inconsistencies with the aforementioned Design Review criteria, Sea Level rise, and Practical Difficulty and Hardship criteria, as applicable. In the event the Board approve the project, staff would recommend compliance with 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.

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

MEETING DATE: November 05, 2019

FILE NO: DRB19-0426

PROPERTY: **199 North Coconut Lane**

APPLICANT: Mandel D'Amico

LEGAL: Lot 31 and 20 foot wide strip contiguous to same in Bay adjacent to Block 2A of the Riviera first and second additions as amended of Palm Island, according to Plat thereof as recorded in Plat Book 32, Page 37 of the Public Records of Miami-Dade County, Florida.

IN RE: An application has been filed requesting Design Review Approval for the construction of a new two-story single-family residence to replace an existing one-story architecturally significant pre-1942 residence including one or more waivers and variances to exceed the maximum allowed lot coverage and unit size and to reduce the required front setback

**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 199 North Coconut Lane shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. The required 70% limitation for the second floor volume **shall not be** waived as proposed and shall be restricted to 70% of the first floor volume, or the residence shall be reduced in footprint to contain less than 25% overall lot coverage.
  - b. The maximum height of the two-story structure shall be 24'-0" when measured from BFE + 5'-0" freeboard.
  - c. The proposed (north and south) side open space requirements **shall be** waived as proposed.
  - d. The required front yard open space shall be 50% landscaped/pervious material.
  - e. The heights of fences shall be measured from Grade.
  - f. The final design details and color selection of the "resysta wood siding" proposed at both portions of the façades 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 and color selection of the "stacked ledgerstone" proposed at both portions of the façades 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. 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.
  - i. The "red textured stucco" proposed at the front façade shall be replaced with a high quality material, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - 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 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.

- I. 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 variance was **denied** by the Board:

- 1. A variance to exceed by 5.5% (427 SF) the maximum allowed lot coverage of 30% (2,295 SF) for a two-story single family home property in order to construct a new two-story residence with a lot coverage of 35.5% (2,722 SF).
- 2. A variance to exceed by 4.1% (318 SF) the maximum allowed unit size of 50% (3,825 SF) for a two-story home in order to increase the unit size to 54.1% (4,143 SF) for the construction of a two-story addition.
- 3. A variance to reduce by 6'-0" the minimum required front setback of 30'-0" for a two-story single-family home in order to construct an attached decorative wall at 24'-0" from the front (south) property line

- B. The The applicant has submitted plans and documents with the application that **DO NOT** satisfy Article 1, Section 2 of the Related Special Acts, 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 **DO NOT** indicate the following, 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.

- C. The Board hereby **Denies** the Variance request(s), 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 residence shall be reduced in size to contain an overall lot coverage no greater than 30%.

3. The proposed residence shall be reduced in size to contain an overall unit size no greater than 50%.
4. The proposed two-story residence shall comply with the required front setback of 30'-0".

**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. Where one or more parcels are unified for a single development, the property owner shall execute and record an unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- B. 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.
- C. 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.
- D. 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.
- E. 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.
- F. 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.
- G. 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.



- H. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- I. 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.
- J. 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.
- K. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- L. 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 "Mandel D'Amico Residence" as designed by **blue a design company** signed, sealed, and dated August 05, 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

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