

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: March 03, 2020

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB19-0498
98 La Gorce Circle

DRB19-0498, 98 La Gorce Circle. An application has been filed requesting Design Review Approval for the construction of a new two-story single-family residence to replace an existing two-story residence, including one or more waivers and a variance to exceed the maximum building height allowed for a one-story accessory building.

RECOMMENDATION:

Approval of the design with conditions

Approval of the variance

LEGAL DESCRIPTION:

South half of Lot 2 and Lot 3 of Block 5 of La Gorce Island according to Plat thereof as recorded in Plat Book 44, Page 58 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-2
Future Land Use: RS
Lot Size: 31,765 SF
Lot Coverage:
Proposed: 9,424 SF / 29.7%
Maximum: 9,530 SF / 30%
Unit size:
Proposed: 14,772 SF / 46.5%
Maximum: 15,883 SF / 50%
2nd Floor to 1st: 6963/6616 | 95%*

Difference: 3.79'

Adjusted Grade: +6.105' NGVD

30" (+2.5') Above Grade: +6.71' NGVD

First Floor Elevation: +11.00' NGVD (BFE+3fb)

EXISTING PROPERTY:

Year: 1950
Architect: Carlos Schoeppl
First Floor Elevation: 8.73' NGVD
Vacant: No
Demolition: Total

Height:

Proposed: 28'-0" from BFE+3'

Maximum: 28'-0" flat roof

Grade: +4.21' NGVD

Flood: +8.00' NGVD

SURROUNDING PROPERTIES:

East: Biscayne Bay
North: Three-story 2004 residence
South: Two-story 1954 residence
West: One-story 1941 residence

THE PROJECT:

The applicant has submitted plans entitled "Harari Residence", as prepared by **Choeff Levy Fischman P.A.** dated January 06, 2020.

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): 95%
2. A two-story side elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d).

The applicant is requesting the following variance(s):

1. A variance to exceed by 3'-0" the maximum height allowed of 12'-0" as measured from base flood elevation plus one (+9.0' NGVD) in order to construct a one-story accessory structure up to 15'-0" in height as measured from 9.0' NGVD.

Staff is seeing more residences utilizing "higher" freeboard structures for the finished first floor of the main homes. However, rear accessory structures are measured differently, regardless of where the finished first floor is in relation to freeboard. In fact, these structures are the only structures measured from base flood elevation plus minimum freeboard (1'), which could be up to 4' lower than the maximum permissible freeboard height of the main home. Staff would also note that for one-story accessory buildings, a setback of 7'-6" from the interior side property line is required.

The subject structure is located with an interior side setback of 19'-4", which exceeds by 3'-0" the minimum 16'-0" setback required for the principal structure. Further, the cabana is setback 17'-1" from the rear property line, complying with the requirements for a two-story structure, which is half of the required 34'-2" rear yard. A two-story accessory structure can be up to 20'-0" in height from base flood plus freeboard in the exact same footprint of the proposed one-story structure.

The LDR's do not address one-story volumetric structures; as such they must meet the setback requirements for a two-story structure. In this instance a height variance is being requested. Staff would also note that the outdoor covered pavilion complies with the setback requirements of two-story structures and is under the height limitation for two-story structures by 5'-0" measured from 9.0' NGVD (BFE+1'). Because the proposed structure will have a much less impact on the adjacent properties than a two-story structure within the same footprint, staff finds that the variance requested satisfies the practical difficulties criteria for approval. As such staff recommends approval of the variance.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that 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 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. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, 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 one percent of the lot area. The open space provided along a side elevation in accordance with this subsection, whether required or not, shall not be included in the lot coverage calculation provided that the combined depth of the open space, as measured from the required side setback line(s), is less than 30 percent of the maximum developable building width of the property, as measured from the interior setback lines, and the total open space provided does not exceed five percent of the lot area. Any portions of the interior side yard open space in excess of five percent of the lot area shall be included in the total lot coverage calculation. The elevation (height) of the open space provided shall not exceed the maximum permitted elevation height of the required side yard, and at least 75 percent of the required interior open space area shall be sodded or

landscaped previous open space. 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 the minimum requirements of this provision may be granted only through design review board approval in accordance with the applicable design review criteria.

2. 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 2nd Floor Volume to 1st of 95% with a nearly 30% lot coverage, which will require a waiver from the DRB.**
3. URBAN HEAT ISLAND ORDINANCE Sec. 142- 1132. g) Driveways. (4) Driveways and parking areas that are open to the sky within any required yard shall be composed of porous pavement or shall have a high albedo surface consisting of a durable material or sealant, as defined in section 114- 1 of this Code. (5) Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in section 114- 1 of this Code, shall be prohibited.
4. The maximum height variance request permitted is 3'-0". Plans indicate the height of the cabana at 15'-4".
5. **A-2.0** Driveways and parking spaces parallel to the front property line shall have a minimum setback of five feet from the front property line.
6. **A-2.2 and A-3.1** a minimum distance separation of 5'-0" open to the sky distance separation from accessory structure to main structure must be maintained.
7. **A-2.3** reduce enclosed vestibule to area adjacent to elevator door only.
8. Revise unit size calculations and diagrams to extend the area counted in the front courtyard to the edge of the floor above at the first floor. Only the walls part of the covered terrace is the base line to discount 10'-0", not the walls above. The northern portion of the balcony at the second floor (rear) that is not cantilever is considered a terrace and can be discounted 10'-0" from the walls. Only 2'-8" along counts in unit size.
9. Revise open space in the rear yard. The paved area of pool bar between the pool and jacuzzi and pool deck shown on renderings cannot be counted as open space. Clarify shading and calculations in the diagram. This area is not clear in floor plans and landscape plans.

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 two waivers and one variance.
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 two waivers and one variance.
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 two waivers and one variance.
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 two waivers and one variance.
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 two waivers and one variance.
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 two waivers and one variance.
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.
Not Satisfied; the applicant is requesting two waivers and one variance.
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 two waivers and one variance.

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 the eastern side of La Gorce Island. The design floor elevation of the new residence is proposed at base flood elevation (8') plus 3' of free board, or 11' NGVD. The applicant is requesting two design waivers and one variance from the Board.

The architect is proposing a contemporary two-story residence that features recurring chamfered aluminum framing elements that are finished in white oak wood, with two one-story wings that stretch towards the street. A large courtyard has been configured within the C-shaped siteplan with a large second floor volume that encloses the courtyard with an elevated volume. The central front courtyard measures approximately 2,000SF in lot area and has been included towards the project's lot coverage calculation. The deep courtyard greatly contributes to the reduction of the mass of the building when viewed from La Gorce Circle. The rear elevation features a predominantly glass two-story façade with more of the chamfered framing elements, accentuated by deep balconies and roof overhangs. The overall design of the home is subdued and simplified.

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 30%, any second floor massing is restricted to 70% of the first floor, unless a waiver is approved by the DRB. As proposed, the home has a second floor to first floor ratio of 95%. The cantilevered second floor covers approximately 1,500 SF of the 2,000SF courtyard. The 500SF open to the sky courtyard, if subtracted from the overall lot coverage amount, would lower the proposed lot coverage from 30% to 28%.

Ironically, this cantilevered enclosed second floor volume mass increases the second floor to first floor ratio percentage, yet architecturally produces a design with a split front massing. Additionally, the architect has provided both side elevations (north and south) with a lot of architectural movement in the overall massing, second floor setbacks, and residential elements in an effort to further break up the massing. The south elevation lacks fenestration on the second level and the introduction of some windows could further break up its long, white expanse of stucco façade. As such, staff is supportive of this requested waiver with additional refinement to the south side elevation at the second level.

The applicant is also requesting a waiver of the open space requirement for two-story elevations that exceed 60'-0" in length (north side). As mentioned above, the proposed home has been carefully designed to contain a lot of movement along the side elevations as the rectilinear form providing exterior "void" outdoor areas on the pie shaped parcel. The plan features many outdoor areas that never create a sheer vertical wall abutting the neighboring two-and three-story residences. The Code requires that the additional open space be regular in shape, open to the sky from grade, and at least eight feet in depth, as measured perpendicular from the minimum required side setback line, but fails to contemplate pie shaped designs. The residence features a second floor that is less than the one-story portion of the residence along this side of the site, yet does not meet the full specifications of the open space requirement, specifically, additional open space open to the sky from grade, two stories in height. Yet, the abutting property to the north contains a contemporary three-story residence approved and constructed under previous development regulations for single family homes. This existing home contains elements that are no longer permitted, including lot coverage of 35%, uninterrupted side façade lengths, and three enclosed floors, pursuant to building permit B0304615. As designed, the proposed open space does not meet the Code's requirements but does endeavor the intent of the regulation by breaking up long expanses of uninterrupted two-story volumes. Staff is supportive of the side open space waiver along the north side.

Overall, staff is supportive of the proposal including both of the design waivers, subject to the modification to the south side elevation as described in the analysis above, and variance, and recommends approval.

VARIANCE REVIEW

As identified under the 'Project' description of the staff report, staff finds that there are practical difficulties that justify the requested variance. As such, staff recommends approval of the variances.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the requested variance 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, as applicable.

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

MEETING DATE: March 03, 2020

FILE NO: DRB19-0498

PROPERTY: **98 La Gorce Circle**

APPLICANT: 98 La Gorce Aqua LLC

LEGAL: South half of Lot 2 and Lot 3 of Block 5 of La Gorce Island according to Plat thereof as recorded in Plat Book 44, Page 58 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 two-story residence, including one or more waivers and a variance to exceed the maximum building height allowed for a one-story accessory building.

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 98 La Gorce Circle shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The proposed north side open space requirements **shall be** waived as proposed.

- b. The required 70% limitation for the second floor volume **shall be** waived as proposed and shall not be increased at time of permitting, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- c. URBAN HEAT ISLAND ORDINANCE Sec. 142- 1132. g) Driveways. (4) Driveways and parking areas that are open to the sky within any required yard shall be composed of porous pavement or shall have a high albedo surface consisting of a durable material or sealant, as defined in section 114- 1 of this Code. (5) Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in section 114- 1 of this Code, shall be prohibited.
- d. The architect shall refine the south elevation and add fenestration on the second level to further break up the long, white expanse of stucco façade, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- e. Driveways and parking spaces parallel to the front property line shall have a minimum setback of five feet from the front property line.
- f. The architect shall provide a minimum distance separation of 5'-0" open to the sky distance separation from accessory structure to main structure must be maintained.
- g. The architect shall reduce the enclosed rooftop vestibule to area adjacent to elevator door only.
- h. The architect shall revise unit size calculations and diagrams to extend the area counted in the front courtyard to the edge of the floor above at the first floor. Only the walls part of the covered terrace is the base line to discount 10'-0", not the walls above. The northern portion of the balcony at the second floor (rear) that is not cantilever is considered a terrace and can be discounted 10'-0" from the walls. Only 2'-8" along counts in unit size.
- i. The architect shall revise the open space in the rear yard. The paved area of pool bar between the pool and jacuzzi and pool deck shown on renderings cannot be counted as open space. Clarify shading and calculations in the diagram. This area is not clear in floor plans and landscape plans.
- j. The final design details and color selection of the "aluminum decorative screen/ white oak finish" proposed at 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.
- k. 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.

1. 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 variance was approved by the Board:

1. A variance to exceed by 3'-0" the maximum height allowed of 12'-0" feet from base flood elevation plus one in order to construct a one-story accessory structure up to 15'-0" as measured from flood elevation plus one, 9' NGVD.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts 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 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** the variance request #1 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 maximum height of the rear accessory structure / cabana shall be 15'-0" when measured from BFE + 1'.

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 "Harari Residence", as prepared by **Choeff Levy Fischman P.A.** dated January 06, 2020, 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.

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