

# MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: Chairperson and Members  
Design Review Board

DATE: May 05, 2020

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **DRB20-0518**  
**5840 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 a variance to exceed the maximum lot coverage allowed, on a vacant lot.

**RECOMMENDATION:**

Approval with conditions

Denial of variance request.

**LEGAL DESCRIPTION:**

Lots 28 and 29, and the south 2/3 of lot 27, in Block 1A, of LA GORCE GOLF SUBDIVISION; according to the Plat thereof, as recorded in Plat Book 14, Page 43, of the Public Records of Miami-Dade County, Florida.

**BACKGROUND:**

The subject parcel is the southern portion of a property that was part of an application for a division of land that was heard and approved by the Planning Board on July 24, 2018 (PB18-0206) and on November 27, 2018 (PB18-0234), resulting in two lots. The applicant abandoned the previous lot split approval and on February 25, 2020 a new application (PB19-0333) was heard and approved by the Planning Board for a lot split with new platted boundaries from the prior approvals. The subject parcel is the area of lots 28 and 29, and the south 2/3 of lot 27, with the remaining 1/3 of lot 27 aggregated to the neighboring property to the north currently improved with a new two-story residence built in 2019.

**SITE DATA**

Zoning:	RS-2
Future Land Use:	RS
Lot Size:	27,636 SF
Lot Coverage:	
Proposed:	9,833 SF / 35.5%
Maximum:	8,290.8 SF / 30%
Unit size:	
Proposed:	13,816 SF / 49.9%
Maximum:	13,818 SF / 50%
<b>2<sup>nd</sup> Floor to 1<sup>st</sup>:</b>	<b>6,658   7,158 / 93%*</b>
<b>*DRB WAIVER</b>	

Height:

Proposed:	29'-0" mid-point sloped roof
Maximum:	28'-0" flat roof
	31'-0" mid-point sloped roof

Grade: **+3.38' NGVD**

Base Flood Elevation:	+8.00' NGVD
Difference:	+4.62' NGVD
Adjusted Grade:	+5.69' NGVD
First Floor Elevation:	+9' NGVD (BFE+1fb + 2')
Side Yard Elevations Min:	6.56' Max: 6.56'
Read Yard Elevations Min:	6.56' Max: 9'

**EXISTING PROPERTY:**

Year: N/A  
Architect: N/A  
Vacant: Yes  
Demolition: Total

**SURROUNDING PROPERTIES:**

North: Two-story 2019 residence  
South: Vacant  
West: Biscayne Bay  
East: One-story 1939 residence

**THE PROJECT:**

The applicant has submitted plans entitled "5840 North Bay Road Residence", as prepared by **CMA Design Studio, Inc.** and dated 03.09.20.

The applicant is proposing to construct a new two-story single-family residence, including one or more waivers and a variance to exceed the maximum lot coverage allowed on a vacant lot.

The applicant is requesting the following waiver(s):

1. The second floor's physical volume exceeds 70% of the first floor in accordance with Section 142-105(b)(4)(c): 87.42%
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 5.5% (1,542.2 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% (9,833 SF)
  - Variance 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-2 zoned waterfront parcel on North Bay Road containing 27,636 SF of area, which exceeds the minimum lot area required for the RS-2 district by nearly 10,000 SF. This existing condition allows significant flexibility in design in reference to other properties in the same district with minimum lot areas of 18,000 sf. The home has been designed with a front two-story building with two garages and living area at the second floor and a detached u-shaped two-story structure that contains the main home.

The applicant requests a variance to exceed the maximum 30% lot coverage allowed for a two-story home. The City Code includes several exceptions to areas that do not count in the lot coverage when designed with the limitations specified in the Code. In this case, several

areas are not designed in a manner consistently with the exceptions, therefore, these areas must be counted as part of the lot coverage.

One of the exceptions include 500 SF of garage area when there is not an enclosed floor above. The project proposes more than 500 SF of garage and the remaining area must count in lot coverage. The parking could have been designed more open, to minimize the area that could contribute to lot coverage. The enclosed area above the garage, with approximately 1,260 SF, is open at the ground level but also counts in lot coverage, as if the living area was located at the first floor. This is simply adding more mass and living area to the property, which could have been reduced to not exceed the maximum lot coverage.

The u-shape terrace at the rear, enclosed on three sides by a structure, is also counted in lot coverage. The rear terrace accounts for approximately 1,957 SF. The project exceeds the maximum lot coverage by 1,542.2 SF. This area also could have been reduced to not exceed the requirements. It has been common in other projects with more reduced lot area to have open courtyards counted in lot coverage due to the physical limitations of the land, either the lot width or the lot area. In this case, there is significant lot area. Staff finds that there is no practical difficulties or hardship that contribute to the need for the variance requested. Staff would recommend denial of the variance or that at a minimum the project be redesigned in a manner that the lot coverage increase would not be due to the garage area increase, living area increase and that the excess due to the courtyard not exceed more than 3% of the lot coverage allowed. As such, staff would recommend denial of the lot coverage variance request.

#### **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, in addition to the requested variance(s):

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 93% with a nearly 30% 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 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.

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. All required yards shall comply with minimum elevation of 6.56' NGVD. Maximum yard elevations will be determined after clarification of grade elevation in survey.

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 waterway.  
**Satisfied**
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.  
**Not Satisfied; the proposed project seeks two design waivers and one variance 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 seeks two design waivers and one variance from the Board.**
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.  
**Satisfied**
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as

adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.

**Not Satisfied; the proposed project seeks two design waivers and one variance 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 seeks two design waivers and one variance 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 seeks two design waivers and one variance 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.  
**Not 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.  
**Satisfied**
- (12) The project design shall minimize the potential for a project causing a heat island effect on site.  
**Satisfied**

## **ANALYSIS:**

### **Design Review**

The applicant is proposing to construct a new two-story residence on a vacant waterfront parcel on North Bay Road. The proposed design seeks two design waivers and one variance as part of this application. The first floor elevation of the new residence is proposed at base flood elevation (8' NGVD) plus a minimum freeboard of one foot (+9' NGVD).

The proposed residence has been designed in a Bali Tropical Vernacular style that incorporates the use of many exterior terraces, balconies and open courts for amplified outdoor living. The design features a two-story bar building at the front of the site that is programmed on the ground floor with two garages flanking a covered courtyard and on the second-floor houses amenity spaces such as a gym and relaxation room that are bookended by covered terraces. The main two-story residence is setback an additional 30 feet from the bar building and exhibits a u-shape in plan to allow for an open lawn at the rear of the site, overlooking the pool and Biscayne Bay. The design of the residential complex combines modern elements with traditional design elements such as deep planters, vertical accent elements, louvers, balconies, hipped roofs with concrete shaker roof tiles, wide overhangs, and cumaru siding wood finishes. Landscaping plays a prominent role in both the site design decisions as well as architectural solutions. Deep planters are integrated into the residence to surround and pronounce the second level that are enhanced by a lush ground plane of vegetation and water features.

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 93%. The design is comprised of several outdoor areas that due to being enclosed by three walls count towards lot coverage. These areas cover approximately 1,802 SF and include the rear lawn court, which is open to the sky, the adjacent covered terraces and the landscaped niches flanking the front entrance. If these areas were to be subtracted from the overall lot coverage amount, it would lower the proposed lot coverage from 35.5% to 29%. Additionally, when reviewing the second-floor volume rule, staff believes that the request is commensurate with the design that features the two-story main residence separated by a large open courtyard from the front two-story garage/amenity building, which respects the street scale with a compressed second-story that is setback at each end with a terrace and a lowered height of 27' to its roof's midpoint where 31' is allowed. As such, staff is supportive of this requested waiver given the design that features extensive open spaces integrated within and around the building volumes.

The applicant is also requesting a waiver of the open space requirement for two-story elevations that exceed 60'-0" in length for both mirrored north and south elevations of the main building structure. This request is directly tied to the u-shape of the home, where an expansive lawn court at the rear of the home has pushed the programming to the perimeter of the developable lot. These interior side elevations span 68'-8" in length and are composed with a ground floor that runs the entirety of that span and a second floor that is broken up with a covered terrace that is 10' deep and 23'-8" wide, resulting in a 45'-0" second story elevation span. Staff finds that the extent of planar movement and massing

breakup, coupled with architectural detailing along these elevations mitigates the impact of the extra length. Staff is supportive of this waiver request and finds that the proposed design meets the intent of the code.

Overall, the applicant has proposed a noteworthy architectural design with rich finishes and complex elements that is sensitive to the neighborhood's overall context. Staff recommends the approval of the design, including the two design waivers.

**VARIANCE ANALYSIS:**

As noted in the 'Project' section of this report, as presently configured staff is not supportive of the requested variance as the applicant has not demonstrated that any practical difficulties or specific hardship exist to warrant the granting of the variance request.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the requested variance be **denied**, and the design inclusive of the waivers be **approved**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise, and Practical Difficulty and Hardship criteria, as applicable.

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

MEETING DATE: May 05, 2020

PROPERTY/FOLIO: **5840 North Bay Road** 02-3215-003-0240 / 02-3215-003-0245

FILE NO: DRB20-0518

IN RE: 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 a variance to exceed the maximum lot coverage allowed, on a vacant lot.

LEGAL: Lots 28 and 29, and the south 2/3 of lot 27, in Block 1A, of LA GORCE GOLF SUBDIVISION; according to the Plat thereof, as recorded in Plat Book 14, Page 43, of the Public Records of Miami-Dade County, Florida.

**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, and 11 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 5840 North Bay Road 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. All required yards shall comply with minimum elevation of 6.56' NGVD. Maximum yard elevation will be determined after clarification of grade elevation in survey.
- d. The lot depth is measured at the center between the front and rear pl. Zoning Data Sheet at time of permit shall provide the dimensioned lengths and widths.
- e. Unit Size calculations and diagrams. The unit size in the covered terrace at the rear includes the area exceeding 10'-0" from all surrounding walls and extends to the edge of the planter and roof above. As such, only a center a portion of the terrace shall count in unit size; architect to apply the same criteria for the second-floor unit size at the rear terrace
- f. 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.
- g. The final design details and color selection of the concrete shake roof tile 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. The final design details and color selection of the "cumaru brise soleil system" 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.
- i. The final design details and color selection of the "cumaru wood screen" 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.
- j. The final design details and color selection of the "cumaru siding" 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. The final design details and color selection of the "cumaru siding" 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.
- l. The final design details and color selection of the "cumaru wood screen" 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.

- m. 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.
  - n. 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. The architect shall revise the proposed landscaping along the proposed north side yard and raised garden plane and install tropical palms with evergreen brazilian beauty leaf trees or similar species in order to provide total screening to block views from the new two-story residence and rooftop elements into the adjacent properties to the north, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - b. The architect shall include butterfly friendly plantings, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - c. 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.
  - d. 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.
  - e. 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.
  - f. 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.
  - g. 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.

- h. 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.
- i. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- j. 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.
- k. 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.
- l. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- m. 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.
- n. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- o. 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.
- p. 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.

- q. 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% (1,542.2 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% (9,833 SF).
- B. The applicants have 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 applicants have submitted plans and documents with the application that 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** variance request 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.

**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 "5840 North Bay Road Residence", as designed by **CMA Design Studio, Inc.**, signed, sealed, and dated 03/09/20, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

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

DESIGN REVIEW BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

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

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

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

\_\_\_\_\_

