MIAMIBEACH

PLANNING DEPARTMENT
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: June 02, 2020

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB20-0526
1030 West 47th Street

An application has been filed requesting Design Review Approval for the construction of a new one-story single-family residence to replace a pre-1942 architecturally significant one-story home, as well as relief of some or all of the construction limitations of Section 142-108(i)(6) of the Land Development Regulations of the City Code for a pre-1942 architecturally significant one-story home that was demolished without the required permits or approvals.

RECOMMENDATION:
Approval with conditions

LEGAL DESCRIPTION:
Lot 9 of Block 15, of "Nautilus Addition Subdivision", According to the Plat Thereof, as recorded in Plat Book 8 at Page 130 of the Public Records of Miami-Dade County, Florida.

BACKGROUND:
On December 04, 2018, the Design Review Board reviewed and approved an application for new one-story additions and substantial exterior alterations, including variances to reduce the interior side and sum of the side setbacks, to an existing one-story pre-1942 architecturally significant residence, pursuant to DRB18-0331. The proposed exterior modifications, additions and renovations would have permanently altered the architectural significance of the 1940 structure thereby transforming it into a non-architecturally significant pre-1942 residence.

The applicant obtained a Building Permit for the construction of the additions and revisions approved pursuant to DRB18-0331. However, in early 2020 the contractor, without the authorization of the property owner and with no permit, demolished the entire home.

SITE DATA:

Zoning:	RS-4
Future Land Use:	RS
Lot Size:	7,500 SF
Lot Coverage:	
Prior:	1,830 SF / 24.4%
Proposed:	2,874SF / 38%
Maximum:	3,750 SF/50% (1 story)
Unit Size:	
Prior:	1,830 SF / 24.4%
Proposed:	2,730 SF / 36%
Maximum:	3,750 SF / 50%

DEMOLISHED STRUCTURE:

Year Constructed:	1940
Contractor:	David Ellis

SURROUNDING PROPERTIES:

East: One-story 1937 residence
North: One-story 1950 residence
South: One-story 1940 residence
West: One-story 1951 residence

Height:
Proposed: 18'-0"
Maximum: 18'-0"
Grade: 3.095' NGVD
Flood: +8.00' NGVD
Prior Floor Elevation: 6.25' NGVD
Proposed Finished Floor Elevation: +9.00' NGVD (BFE +1fb)

THE PROJECT:
The applicant has submitted plans entitled "Nadler Residence", as prepared by **cube² (architecture + design)** signed, sealed and dated April 06, 2020.

The applicant is proposing to construct a new one-story residence on a vacant site. The proposed design is reflective of the original design approved for the modifications, additions and renovations of the architecturally significant 1940 structure in 2018 with the exception of building the structure in compliance of all setback requirements. The original approval included the retention of both side walls with nonconforming setbacks.

In light of the unpermitted demolition of the pre-1942 home on the site, the applicant is also seeking relief pursuant to Section 142-108(i)(6) of the Land Development Regulations:

> *In the event the owner of a single-family home constructed prior to 1942, which has been demolished without required permits or approvals, can establish good cause, the design review board may relieve the property owner of some or all of the limitations on new construction herein. The requirement of good cause shall be satisfied where the unauthorized demolition was solely the result of intentional or negligent acts of a duly licensed contractor or other third parties, and the owner had no role in and knowledge of the unauthorized demolition.*

The applicant has informed staff that the contractor for the previous home acted in an unauthorized manner, and that the they had no role or knowledge in the unpermiited and unauthorized demolition.

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:

- (16) Swimming pools. Accessory swimming pools, open and enclosed, or covered by a screen enclosure, or a screen enclosure not covering a swimming pool, may only occupy a required rear or side yard, subject to the following:
    - a. Rear yard setback. 1. A six-foot minimum setback is required from the rear property line to swimming pool deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure associated or not associated with a swimming pool.
    - b. Side yard, interior setback. 1. A seven-and-one-half-foot minimum setback shall be required from the side property line to a swimming pool deck, or platform, the exterior face of an infinity edge pool catch basin, or screen enclosures associated or not associated with a swimming pool.

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 be found satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
   Satisfied

2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
   Satisfied

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.
   Satisfied

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.
   Satisfied

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.
   Satisfied

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).
Satisfied

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

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

15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable

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

Satisfied

17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Not Applicable

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

19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.
Not Satisfied

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. Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.
Satisfied

5. Whether 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, including a study of land elevation and elevation of surrounding properties were considered.
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.
Satisfied

7. Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.

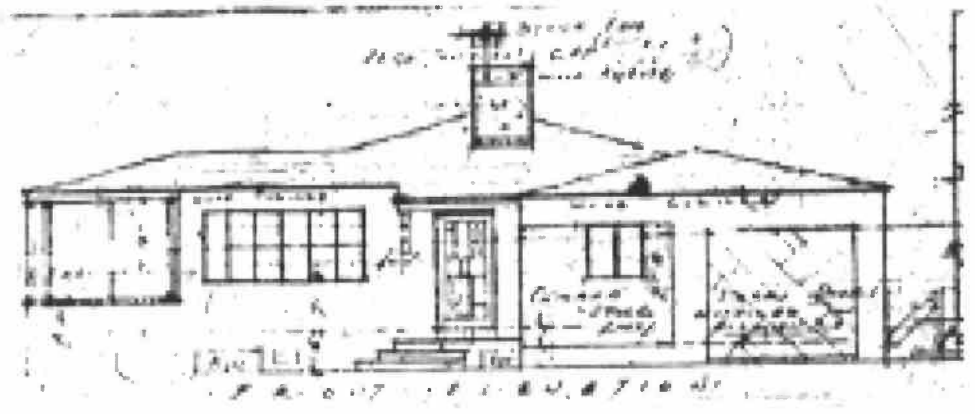
Satisfied

8. Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.
   Not Applicable

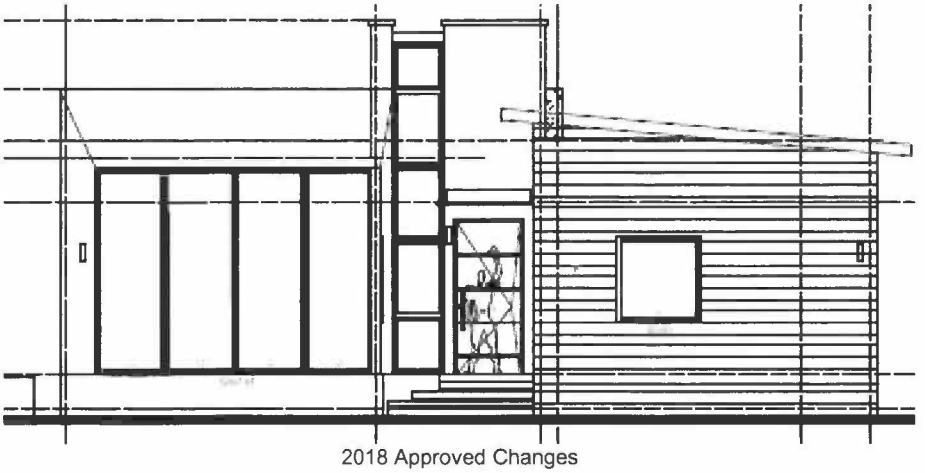
9. When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.
   Satisfied

10. Where feasible and appropriate, water retention systems shall be provided.
    Not Satisfied; as part of the civil engineering design to be provided at time of permit.

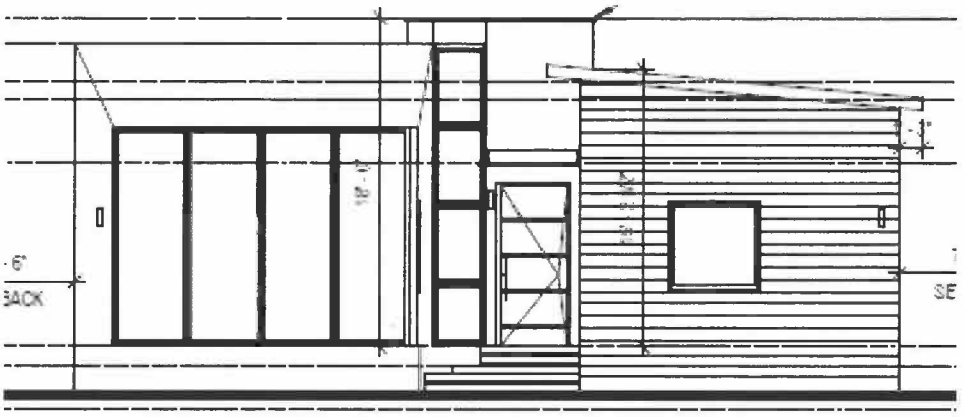
ANALYSIS:
DESIGN REVIEW
The applicant is proposing to construct a new one-story residence on a vacant site that previously contained an existing one-story architecturally significant pre-1942 residence.



1941 Original Façade



2018 Approved Changes



2020 Proposal

As noted in the illustrations above, the proposed design today is reflective of the original design approved for the modifications, additions and renovations of the architecturally significant 1940 structure in 2018 with the exception of building the structure in compliance of all setback requirements. The original approval included the retention of both side walls with nonconforming setbacks. As previousy mentioned, the applicant is also seeking relief pursuant to Section 142-108(i)(6) of the Land Development Regulations.

In 2018, a substantial amount of the residence was previously proposed to be demolished in order to construct the new one-story additions at various locations on the site and the style will be "modernized". Because the magnitude of that construction exceeded the level that can be approved administratively for a pre-1942 home, the DRB reviewed and approved the project. It was always the intent of the owners to modernize their residence to meet their needs.

Typically, total demolition of pre-1942 residences is followed by new construction of two-story homes seeking maximum lot coverage and unit size. In this particular instance the applicant is proposing a modest 2,730SF one-story residence with a lot coverage of 18%. All interactions with Planning staff reflected their desire to follow the correct course of action for approval of their project. Staff is supportive of the applicant's request for relief pursuant to Section 142-108(i)(6) of the Land Development Regulations to not reconstruct the original 1940 construction. Further, staff has no concerns with the approval of the proposed design.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the following:

1. The Design Review Board relieve the property owner of all of the limitations on new construction, pursuant to Section 142-108(i)(6) of the Land Development Regulations.

2. **Approval** of the design subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, and Sea Level Rise criteria, as applicable.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: June 02, 2020

FILE NO: DRB20-0526

PROPERTY/FOLIO: **1030 West 47th Street** 02-3222-014-1530

LEGAL: Lot 9 of Block 15, of "Nautilus Addition Subdivision", According to the Plat Thereof, as recorded in Plat Book 8 at Page 130 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 one-story single-family residence to replace a pre-1942 architecturally significant one-story home, as well as relief of some or all of the construction limitations of Section 142-108(i)(6) of the Land Development Regulations of the City Code for a pre-1942 architecturally significant one-story home that was demolished without the required permits or approvals.

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 consistent with Design Review Criteria in Section 118-251 of the Miami Beach Code.

C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1 and 10 in Section 133-50(a) of the Miami Beach Code.

D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:

1. The Design Review Board relieves the property owner of all of the limitations on new construction, pursuant to Section 142-108(i)(6) of the Land Development Regulations.

2. A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department, in a manner to be reviewed and approved by staff.

3. Revised elevation, site plan, and floor plan drawings for the proposed new home at 1030 West 47th Street shall be submitted, at a minimum, such drawings shall incorporate the following:

    a. Any fence or gate at the front of the property shall be designed in a manner consistent with the architecture of the new structure, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

    b. The final design details of the exterior materials and finishes shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

    c. The stone cladding proposed along the façades of the residence shall consist of a natural keystone or other natural stone, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

    d. The final design details including color sample of the proposed "porcelain tile" cladding proposed along the façades of the residence shall be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

    e. The proposed pool and associated deck located in the rear of the property shall comply with all rear and interior side setback requiremetns.

    f. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.

    g. 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.

4. A revised landscape plan, and corresponding site plan, 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 plan 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. 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.

d. 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.

e. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.

f. 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.

g. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.

h. 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.

j. 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.

k. 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 wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.

l. 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. No variance(s) were filed as part of this application.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

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

A. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

B. During construction work, the applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site, and with an 8'-0" high fence with a wind resistant green mesh material along the front property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.

C. If applicable, a Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.

D. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.

E. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

F. 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.

G. 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.

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

I. Nothing in this order authorizes a violation of 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 "Nadler Residence", as prepared by **cube^2 (architecture + design)** signed, sealed and dated April 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.

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

Dated this _____ day of _____, 20_____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

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

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

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

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

Approved As To Form:

City Attorney's Office: _____ ( )

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