

MIAMI BEACH

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: DRB20-0507
10 West Star Island Drive

An application has been filed requesting Design Review Approval for the construction of a new two-story residence including one or more waivers and a variance to exceed the maximum allowed floor to ceiling clearance for an understory level, on a vacant site that was part of a previously approved division of land application.

RECOMMENDATION:

Approval of the design with conditions
Continuance of the variance

LEGAL DESCRIPTION:

Lot 10 of STAR ISLAND, CORRECTED PLAT OF STAR ISLAND according to Plat thereof, recorded in Plat Book 31, at Page 60, 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 June 25, 2019, for a lot split of a 120,000 SF lot into three (3) 40,000 SF lots located at 10, 11, and 12 Star Island Drive, pursuant to PB18-0222. Condition B(1)h of this lot split approval was a prohibition on variances from the DRB. A modification of the lot split approval to allow for the applicant to seek variances was scheduled for the May 19, 2020 (PB20-0346) Planning Board, but was continued due to the Covid-19 situation.

SITE DATA:

Zoning: RS-1
Future Land Use: RS
Lot Size: 40,000 SF
Lot Coverage:
 Proposed: 11,496 SF / 28.7 %
 Maximum: 12,000 SF / 30%
Unit size:
 Proposed: 19,902 SF / 49.8%
 Maximum: 20,000 SF / 50 %
 2nd Floor to 1st: 9736|10253 105%*
 ***DRB WAIVER**
Height:
Proposed: 28'-0" from BFE +5'
Maximum: 28'-0" flat roof
Grade: +4.85' NGVD

Base Flood Elevation: +10.00' NGVD
Difference: 5.15' NGVD
Adjusted Grade: +7.425' NGVD
30" (+2.5') Above Grade: +7.35' NGVD
First Floor Elevation: +15' NGVD (BFE+5' FB)
Side Yard Elevations Min: 6.56' Max: 7.425'
Read Yard Elevations Min: 6.56' Max: 15'

SURROUNDING PROPERTIES:

East: Star Island Park
North: Vacant*Lot split PB18-0222,(06-02-19)
South: Two-story 1993 residence
West: Biscayne Bay

THE PROJECT:

The applicant has submitted plans entitled "Star X", as prepared by **Choeff Levy Fischman Architecture + Design** signed and sealed April 06, 2020.

The applicant is proposing to construct a new, contemporary two-story residence on a vacant parcel of land on the western side of Star Island

The applicant is requesting the following design waiver(s):

1. The second floor's physical volume exceeds 70% of the first floor in accordance with Section 142-105(b)(4)(c): 105%.
2. A two-story side elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d). Both side elevations, north and south—78'-0" uninterrupted.

The applicant is requesting the following variance(s):

1. A variance to exceed by 3'-0" the maximum floor to ceiling clearance of 7'-6" allowed under the main structure in order to construct a new two-story single family home including area under the main structure with a height clearance up to 10'-6", as measured from the lowest level slab provided.
- Variance requested from:

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

(4) Unit size requirements.

d. Non-air conditioned space located below minimum flood elevation, plus freeboard. Notwithstanding the above, for those properties located in the RS-1, RS-2, RS-3, RS-4 single-family residential districts, where the first habitable floor is located six feet or more above existing grade in order to meet minimum flood elevation requirements, including freeboard, the following shall apply:

1. The height of the area under the main structure may have a maximum floor to ceiling clearance of seven feet six inches from the lowest level slab provided.

2. Up to, but not exceeding, 600 square feet of segregated parking garage area may be permitted under the main structure.

3. The area under the first habitable floor of the main structure shall consist of non-air conditioned space. Such area shall not be subdivided into different rooms, with the exception of the parking garage area, and required stairs and/or elevators.

4. The parking garage area and the non-air-conditioned floor space located directly below the first habitable floor, shall not count in the unit size calculations.

The first fully-enclosed, habitable floor of the principal residence is designed at an elevation of 15'-0" NGVD, 4'-0" above the minimum building standard requirement of +11'-0" NGVD (BFE +FB). CMB Grade at this location is 4.25' NGVD, leaving a spatial difference of 11.75'

between the two datums. Currently, single-family districts (RS zoned properties) have a maximum height limit measured in feet from base flood elevation plus allowable freeboard (maximum of BFE plus five feet). Additionally, the RS districts have a story limit of two habitable floors above base flood elevation plus allowable freeboard.

Now that single family home height measurement has increased, there have been increasing instances where one- and two -story homes are being located above allowable 'non air-conditioned space'. Under the current Code, in order to effectively use the areas below the first habitable floor and not require site planning that relies on excessive fill and tiered landscaped site plans, this non air-conditioned space is limited to a maximum interior height of 7'-6", and is not counted towards the overall unit size of the residence. This understory clearance elevation may be increased in height (without the need for a variance) through Design Review Board approval and provided additional zoning regulations are adhered to limit and regulate the understory area. The design intention is to create a larger, non-air-conditioned space below the main slab that serves as a usable outdoor recreational amenity and program feature for the residents.

Single family lots on Star Island are unique to the RS-1 zoning district in that the lots are historically platted with 400'-0" of lot depth and lot widths ranging from 100' in width or greater, resulting in singular parcels that measure nearly an acre in area. The applicant does not wish to design the entire understory area on the 40,000 SF lot compliant with all of the additional regulations for the understory area with clearances above 7'-6", particularly as they pertain to elevation grade heights. While mindful of the city's resilient efforts and the applicant's own desire to ensure the home to be as resilient as possible, in order to address sea level rise on site stormwater management and the future raising of roads, the design features a partial understory located only under the center portion of the property. The understory will be hidden from view from the right-of-way and adjacent properties and will act as a garage as well as, and more importantly, assisting with the required stormwater management facility for the home.

The approval of the additional height for the understory area will have no discernible effect on the overall height of the building; as the building height is measured from the BFE +5' NGVD. Staff is supportive of the variance application in this instance, due to the existing difference between grade and the design floor elevation of the first level. All of this is predicated on the Building Departments Flood and Engineering Division approving the proposed elevations within and along the ground floor garage area. The use of the understory is for non-habitable purposes and the intent is to facilitate solely non-habitable use of the area, which area may be subject to flooding. The requested variance meets the intent of the code as the understory is being provided as a result of the elevated home and is part of the design response to address stormwater management and resiliency.

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, in addition to the requested variance(s):

- 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. **Both side elevations, north and south—78'-0" uninterrupted.**

- 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 105% with a 30% lot coverage, which will require a waiver from the DRB.**
- 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.
- Division of Land PB18-0222, approved June 25, 2019. Pursuant to PB18-0222, Conditions B1h: Variances shall be prohibited for any construction on each of the lots. Must return to Planning Board to remove condition (see 4c below). Item is returning to planning board to allow for applying for variances: PB20-0346 scheduled for May 19, 2020. Item must be heard at Planning Board prior to DRB action.
- NOTE PB18-0222, Conditions B1i: Prior to the issuance of a Building Permit the existing Docks shall be removed or modified to comply with setbacks and projection requirements for each lot, per Section 66-113 and 142-1132 of the City Code.

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 one variance and three waivers from the Board.

2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Not Satisfied; the applicant is requesting one variance and three waivers from the Board.
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; the applicant is requesting one variance and three waivers from the Board.
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
Not Satisfied; the applicant is requesting one variance and three waivers from the Board.
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.
Not Satisfied; the applicant is requesting one variance and three waivers from the Board.
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Not Satisfied; the applicant is requesting one variance and three waivers from the Board.
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Satisfied
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Not Satisfied; 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 applicant is requesting one variance and three waivers from the Board.
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
Satisfied
14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Not Applicable

18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.
Not Applicable
19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.
Not Satisfied; see below

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

1. A recycling or salvage plan for partial or total demolition shall be provided.
Not Satisfied
A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.
2. Windows that are proposed to be replaced shall be hurricane proof impact windows.
Satisfied
3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Satisfied
4. Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.
Satisfied
5. The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.
Satisfied
6. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.
Satisfied
7. In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.
Satisfied

8. Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.

Not Applicable

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

Not Applicable

10. In all new projects, water retention systems shall be provided.

Not Satisfied

11. Cool pavement materials or porous pavement materials shall be utilized.

Not Satisfied

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

Not Satisfied

STAFF ANALYSIS:

The subject parcel is the southern portion of a property that was part of an application for a division of land that was approved by the Planning Board on June 25, 2019 (PB18-0222). A modification (PB20-0346) to the lot split was scheduled to be heard by the Planning Board on the May 19, 2020, in order to request an amendment to the conditions of approval in the Planning Board Order and allow the Design Review Board to consider a variance request. However, the May 19, 2020 Planning Board meeting was postponed to June 23, 2020.

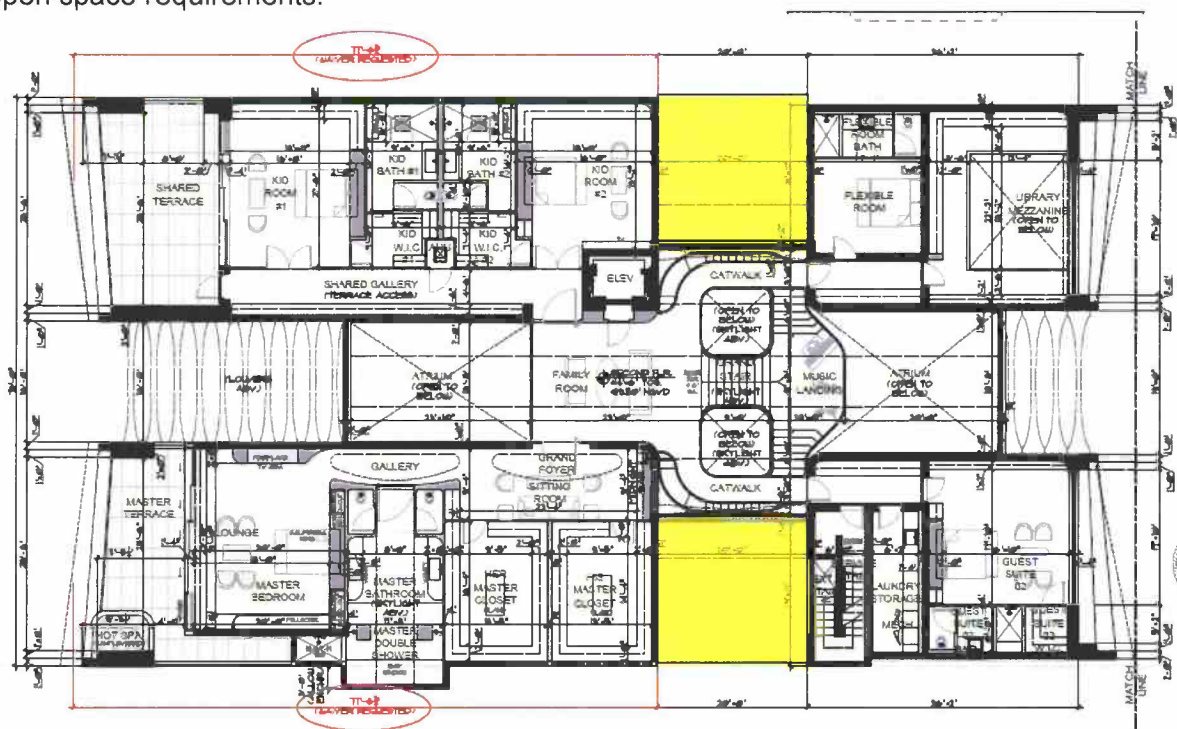
The applicant is proposing to construct a new two-story residence on the western side of Star Island on a vacant parcel of land. The design floor elevation of the new residence is proposed at base flood elevation (10) plus five (5) feet of free board, or +15.00' NGVD. The applicant is requesting three design waivers and one variance from the Board.

The applicant is proposing a design consisting of a series of three sequenced independent and detached structures that expand in mass, detail and programmatic function as one traverses into the site. The three parts of the site plan consist of two (2) low front buildings, two (2) middle buildings and a main house significantly setback from the front property line. All three structures have been detailed with a spinal lighting and decorative roofing system that carries throughout the design. In addition to the varying heights of the structures, each building features articulated elements and materials on all facades that help breakup the massing. Portions of the front of the property have been designed with an allowable understory under the elevated first floor. A significant portion of the home will be raised over fill to assist with the stormwater management towards the rear of the expansive site.

The applicant is also requesting a waiver of the open space requirement for two-story elevations that exceed 60'-0" in length along both side elevations: north and south. The house has been meticulously designed in a symmetrical configuration and contains a lot of movement along the side elevations while still maintaining the dominant sculptural quality. The design plans feature minimal side windows as it relies on the articulated skeletal-like decorative roofing and sky lighting systems that extend along the massing like a spine,

providing filtered and dynamic light and shadow throughout the interior of the two-story residence.

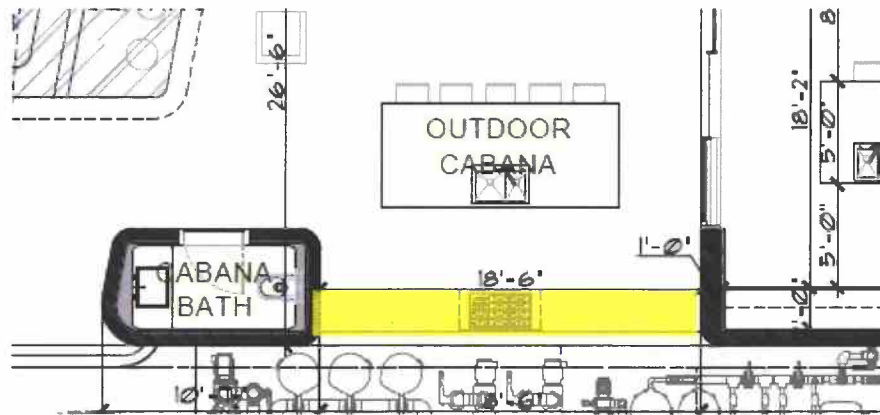
The second design waiver relates to both side open space requirements for two-story elevations that exceed 60'-0" in length. The proposed home features a pinched midsection within the volume of the principal structure that provides two symmetrical, large side recesses. These two notched open spaces along both north and south interior sides have been designed as garden areas, primarily programmed to blend indoor and outdoor programmed space and to break up the home's two-story massing. The outdoor garden areas are designed as a 20'-0" wide by 18'-0" deep recess at the ground level that is 8'-0" lower than the first finished floor of the residence with an elevation of 7.5' NGVD where max elevation is 7.425'. As such these garden recesses comply with all of the regulations of the open space requirements.



However, the pinched design separates the main residence into two segments—the front portion that measures 36'-2" in length and the rear waterfront portion that measures approximately 78'-0" in length. Therefore, an additional open space is required along both sides.

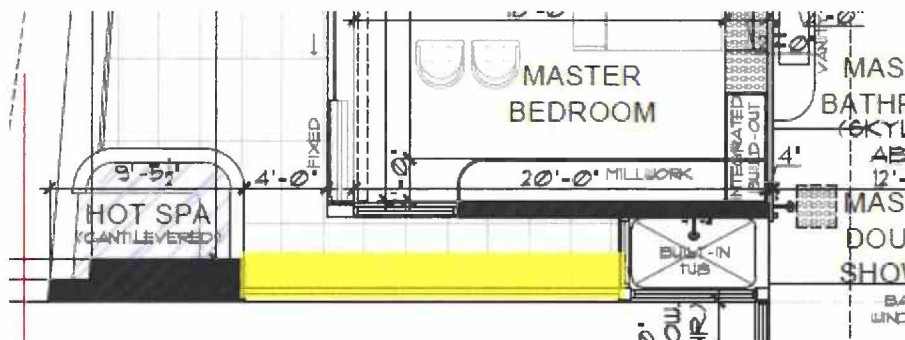
Staff is supportive of the design waiver along the north side elevation as it will not have an adverse impact on the abutting property. This abutting parcel that was part of the approved lot split application is currently an unimproved vacant parcel that will eventually come before the Design Review Board for review of any new construction.

The southern massing of the house, as opposed to the northern portion, has been designed with more "porous" attributes at both levels to offset the massing of the house on the abutting property but still maintain the house's formal symmetry. At the ground level, there is an open outdoor kitchen area measuring 18'-6" wide and approximately 9'-0" high.



Detail of first level floor plan, south area at rear of residence.

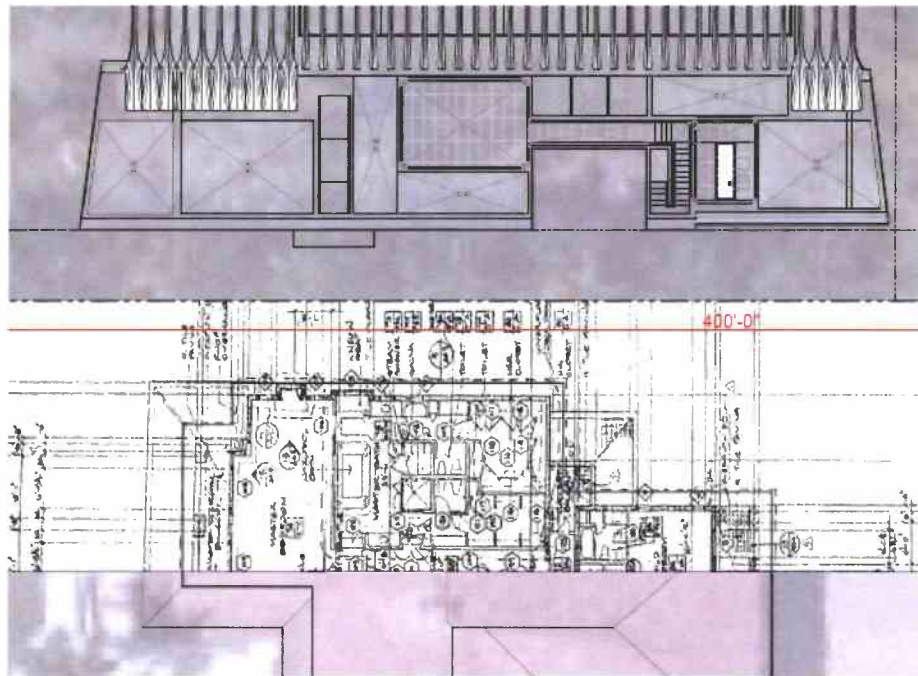
At the second level, there is an open outdoor terrace primarily offering views to the water that wraps around this side elevation measuring 18'-6" wide and approximately 10'-0" high including the glass railing.



Detail of second level floor plan, south area at rear of residence.

While the home's two-story side elevations exceed 60 feet in length, with a proposed length of 77'-7", there are two expansive 20'-0" wide side "notches" designed to provide some relief to adjacent neighbors from the building's massing. The quantity, size, and elevation height and quality of the open spaces provided at both sides is fully compliant with the open space requirements. Further, the notches have been configured at intervals along both elevations that break up the 43'-7" and 77'-7" volumes of the front and rear portions respectively. Should the architect have chosen to have a rigid symmetry of the house and shift the notch westerly towards the water (rear) to divide the elevations in equal halves—there would not be a need for either waiver.

Finally, when reviewing the proposed open space and the two-story elevation in relation to the neighboring property to the south, built in 1993, the approval of the waiver would not likely have a negative consequence on the neighbor. The north side second floor elevation length is 98'-4" based on the original building permit plans. Additionally, it seems there is a 30" roof overhang consistent outside of the second floor exterior walls, which brings the overall roof dimension at the north side to 103'-4" (shown at the second and roof plan). This length nearly aligns with the proposed elevation in this application.



Detail of second level floor plan of neighboring property (B9000417) in comparison with proposed roof plan,

As designed, the proposed open space does not meet the Code's requirements but does effectively break up long expanses of uninterrupted two-story volumes. Staff is supportive of the side open space waiver along both sides (north and south).

The final design waiver pertains to the second floor to first floor ratio. The Code requires that when the lot coverage of a proposed residence exceeds 25%, the volume of second floor enclosed massing is restricted to 70% in relation to the first floor, unless a waiver is granted by the Design Review Board. As proposed, the home has a second floor to first floor ratio of 105%. When reviewing the second-floor volume rule, staff believes that the request is commensurate with the design that features a unique assemblage of a trinity of structures on the site. These three sets of buildings gradually increase in height within the 400'-0" long waterfront site, which effectively reduces the massing of the home. Additionally, the architect has respected the street scale through an increased setback of approximately 180'-0" for the exterior wall of the second floor, with the configuration of the buildings designed to keep low heights near the front of the property to minimize any impacts from the street view. The intent of the second-floor area volume requirement is to reduce the scale and massing of 2-story homes in single-family zoning district. The design proposed herein effectively addresses the intent of the Code in the unique shape of the design. Staff is supportive of the waiver of the second floor volume.

Overall, staff commends the team on a striking design concept and recommends approval of the design inclusive of all waivers and the variance.

VARIANCE REVIEW

As identified under the 'Project' description of the analysis, staff is supportive of the understory clearance height variance. However, before the board can consider the variance request, the Planning Board must first amend the lot split order. The earliest that the Planning Board can consider this request is June 23, 2020; as such, the variance portion of

the application will need to be continued.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application for design approval be **approved**, and the variance request be **continued** to the July 07, 2020 meeting, 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: June 02, 2020

FILE NO: DRB20-0507

PROPERTY/FOLIO: **10 West Star Island Drive** 02-4204-001-0100

LEGAL: Lot 10 of STAR ISLAND, CORRECTED PLAT OF STAR ISLAND according to Plat thereof, recorded in Plat Book 31, at Page 60, 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 residence including one or more waivers and a variance to exceed the maximum allowed floor to ceiling clearance for an understory level, on a vacant site that was part of a previously approved division of land application.

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 10 West Star Island Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. 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.

- b. The proposed (north and south) interior side open space requirements **shall be** waived as proposed.
- c. The architect shall eliminate or redesign the encroaching bay window/bathroom element on the southern portion of the second level. Design must be fundamentally a window (ie glass side elevation and mostly glass on longside of window and cannot extend floor slab or ceiling slab), sheet A-125, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- d. All mechanical equipment (AC, pool and otherwise) located within a required side yard, shall be compliant with Sec. 142-106(b)(5) or be relocated to comply with the setback requirements of the principal structure.
- e. The mechanical equipment in the north side yard and pool equipment in the south side yard shall be screened from view from the abutting property.
- f. Staff recommends raising the garage slab elevation (under house) to minimum elevation of future crown of road (5.25' NGVD) for a more resilient design and corresponding side yards (6.56'), 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 IPE baguette wood screen slats 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 finish selection of the limestone 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 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.
- j. 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.
- k. 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. 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. Any new street trees shall be of a consistent canopy tree species as similar to the neighboring trees along the street.
 - g. The applicant shall install street trees adjacent to the subject property consistent with the City's Street Tree Master Plan or similar to existing species along the street, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the

Board, and root barriers shall be installed along the sidewalk in conjunction with structural soils.

- h. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- i. 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.
- j. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- k. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventers and all other related devices and fixtures. The location of backflow preventers, 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.
- l. 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.
- m. 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 variances were approved by the Board:

- 1. A variance to exceed by 3'-0" the maximum floor to ceiling clearance of 7'-6" allowed under the main structure in order to construct a new two-story single

family home including area under the main structure with a height clearance up to 10'-6", as measured from the lowest level slab provided.

- B. The The applicant has submitted plans and documents with the application that staff has concluded 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** variance(s) #1 as noted above 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.

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

- A. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
- B. During construction work, the applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site, and with an 8'-0" high fence with a wind resistant green mesh material along the front property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- C. If applicable, a Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- D. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- E. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- F. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- H. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- I. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

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

K. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "Star X", as prepared by **Choeff Levy Fischman Architecture + Design** signed and sealed 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

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