

# MIAMI BEACH

PLANNING DEPARTMENT  
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: August 04, 2020

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: DRB19-0494  
**5800 Pine Tree Drive**

An application has been filed requesting Design Review Approval for the construction of a second floor addition to an existing two-story pre-1942 architecturally significant single-family residence, including a variance to reduce the required rear setback.

## **RECOMMENDATION:**

Approval with conditions

Approval of the variance

## **LEGAL DESCRIPTION:**

The Lot 8, Block 8, of "Beach View Addition", According to the Plat Thereof, as recorded in Plat Book 16 at Page 10 of the Public Records of Miami-Dade County, Florida.

## **BACKGROUND:**

On May 12, 2020, the owner of 5800 Pine Tree Drive requested a formal determination of architectural significance, in accordance with Section 142-108(a) of the City Code. The residence was found to satisfy all four criteria and therefore was formally determined to be 'architecturally significant' on May 22, 2020, pursuant to DRB20-0512.

## **SITE DATA:**

Zoning:	RS-3
Future Land Use:	RS
Lot Size:	8,625 SF
Lot Coverage:	
Existing:	2,978 SF / 34.5%
Proposed:	no change
Maximum:	3,450 SF / 40%
Unit size:	
Existing:	4,284 SF / 49.7%
Proposed:	4,564 SF / 53%
Maximum:	5,175 SF / 60%
Height:	
Existing:	27' from Grade
Proposed:	match existing (18' BFE+ 1)
Maximum:	24'-0" flat / 27'-0" sloped

Grade:	6.28' NGVD (58 <sup>th</sup> Street)
Base Flood Elevation:	+8.00' NGVD
Difference:	+1.72' NGVD
Adjusted Grade:	+7.14' NGVD
First Floor Elevation:	+8.15' NGVD

## **EXISTING PROPERTY**

Architect:	Unknown
Year:	1928

## **SURROUNDING PROPERTIES:**

North:	Two-story 1930 residence
South:	Two-story 1954/2017 residence
West:	Two-story 1936 residence
East:	Two-story 1926 residence

**THE PROJECT:**

The applicant has submitted plans entitled "Final Submittal", as prepared by **Six Sides Architecture**, signed, sealed and dated June 08, 2020.

The applicant is proposing to construct a second floor addition to an existing two-story architecturally significant pre-1942 residence, including a rear setback variance.

The applicant is requesting the following variance(s):

1. A variance to reduce by 10'-2" the minimum required rear setback of 15'-0" in order to construct a second floor addition above the existing ground floor within the rear yard of the property at 4'-10" from the rear property line.
  - Variance requested from:

**Sec. 142-106. Setback requirements for a single-family detached dwelling.**

*The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:*

*(3) Rear: The rear setback requirement shall be 15% of the lot depth, 20'-0"*

The subject property is a corner lot. The applicant is proposing to construct a small 280 SF second floor addition above a portion of the existing one-story section of the architecturally significant pre-1942 residence. The Code identifies the "front" of the property for corner lots as 'the lot front being the narrowest portion abutting the street unless determined otherwise by the city'. Therefore, the Pine Tree Drive frontage is considered the front of the property and 58<sup>th</sup> Street is considered the side facing street. For zoning purposes, this would lead to the shared west property line between the subject property and 5801 La Gorce Drive as the "rear" property line.

Review of the 1935 City Atlas Platbook indicates that the existing main residence and garage were in existence at the time of the documents publication by Franklin Survey Company. While there are no dimensions as part of the record, it would indicate that the main residence and (then) detached garage were built in the same proximate location as today.

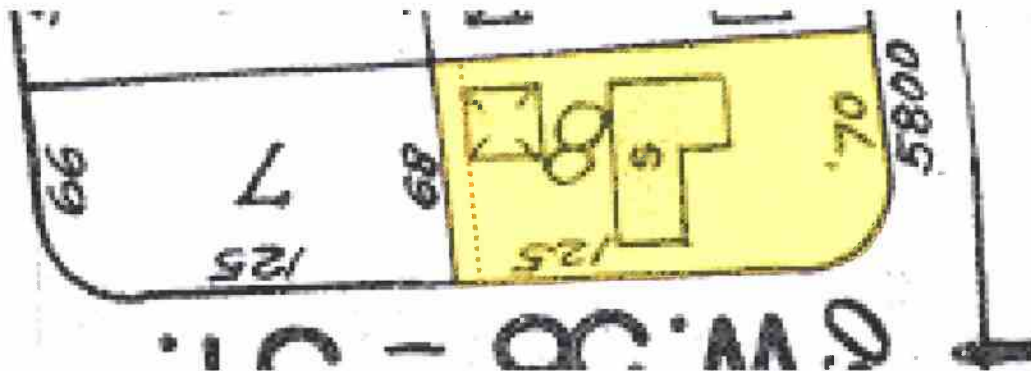


Plate 13 of the 1935 Platbook showing the footprint of the existing structure



- 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:

- **Sec. 142-108. (g)** New construction requirements for properties containing a single-family home constructed prior to 1942. (2) Regulations for additions to architecturally significant homes which are substantially retained and preserved. In addition to the development regulations and area requirements of section 142-105, of the land development regulations of the City Code, the following shall apply in the event an architecturally significant single-family home constructed prior to 1942 is substantially retained and preserved.

The following are the following aspects of the “incentive ordinance” that are utilized in the design herein:

- a. *Lot coverage.* The total lot coverage may be increased to, but shall not exceed 40 percent
- b. *Unit size.* The total unit size may be increased to, but shall not exceed 60 percent
- c. *Two-story ground level additions.* The construction of a ground floor addition of more than one story shall be allowed to follow the existing interior building lines, provided a minimum side setback of five feet is met, and may be approved at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.
- d. *Front setback.* Two-story structures or the second floor may encroach forward to

the 20-foot front setback line,

- e. *Projections.* Habitable additions to, as well as the relocation of, architecturally significant structures, may project into a required rear or side yard for a distance not to exceed 25 percent of the required yard.

- NOTE: existing 5' utility easement running north south within west side yard. All encroachments within this area subject to Public Works Department review and approval (landscaping, walkways, fences)

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.  
**Not Satisfied; the applicant is requesting 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 applicant is requesting 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 applicant is requesting 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.  
**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).  
**Not Satisfied; the applicant is requesting 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.  
**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. 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.

**Satisfied**

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.

**Satisfied**

**ANALYSIS:**

**DESIGN REVIEW**

The applicant is proposing to construct a new second floor addition to an existing two-story architecturally significant pre-1942 residence on a corner lot. On May 22, 2020, the residence was formally determined to be 'architecturally significant', pursuant to DRB20-0512. This determination allows the owner to utilize certain zoning incentives that include increased height, increased lot coverage, increased unit size, and reduced setbacks, among others. The proposed improvements include a variance to reduce required rear setback, above and beyond these incentives.



While the structure is currently at its maximum unit size permitted for a two-story residence and above the lot coverage limitation, one of the primary benefits of the 'incentive ordinance' is the allowable increase in both lot coverage (from 30% to 40%) and unit size (from 50% to 60%). These incentives encourage sensitively designed and architecturally compatible additions to architecturally significant residences that are substantially retained and preserved. The proposal does not increase the existing lot coverage and the increased unit size of the second floor falls within the permissible unit size allowance.

The small addition to the existing second floor portion of the garage structure will extend forward 11'-11" towards the street and reduce the existing outdoor terrace facing the street. The proposal will have little if any impact when viewed from the right of way and may serve to minimize potential negative noise impacts by reducing the unenclosed nonconforming terrace portion of the structure.

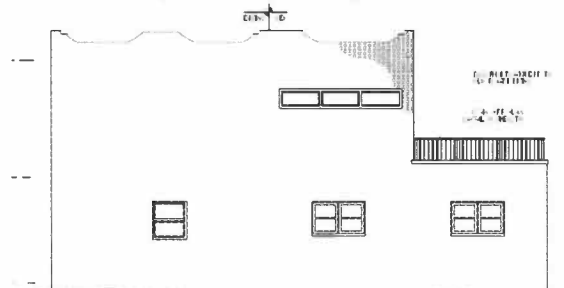


1941 aerial



2020 aerial

Staff would recommend that the architect modify the fenestration in the ribbon windows for the new addition along the east elevation (Sheet A2.0) to be located at a slightly higher elevation in order to facilitate light into the proposed new room and ensure that the new addition will not decrease the privacy of the abutting property to the west.



Sheet A2.0 "WEST" Elevation

Additionally, staff would recommend raising the bottom window sill height to prevent the direct gaze of an average sized person (5'-8") through the window, or frosting the glass. With this minor modification, staff recommends approval of the design.

### **VARIANCE REVIEW**

As previously mentioned, the subject property contains a residence that was formally determined to be 'architecturally significant' on May 22, 2020 and has since recently undergone interior and some exterior renovations that are not part of this subject application. The proposal includes a modest second floor addition above an existing one-story portion of the garage structure. Staff finds that the inherent challenges with retaining, preserving and expanding an architecturally significant home with non-conforming conditions, and specifically in this case, where the home has an unusually small nonconforming rear yard, create the practical difficulties that result in the need for the variances requested. As noted in the project portion of this report, staff is fully supportive of the variances requested as the architecturally significant pre-1942 home is minimally altered, with limited areas of demolition. In summary, staff recommends approval of the variance modification and new variances.

### **RECOMMENDATION:**

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

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

MEETING DATE: August 04, 2020

PROPERTY/FOLIO: **5800 Pine Tree Drive**      **02-3211-014-0870**

FILE NO: DRB19-0494

IN RE: An application has been filed requesting Design Review Approval for a construction of a second floor addition to an existing two-story pre-1942 architecturally significant single-family residence, including a variance to reduce the required rear setback.

LEGAL: The Lot 8, Block 8, of "Beach View Addition", According to the Plat Thereof, as recorded in Plat Book 16 at Page 10 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 2, 3, 5, 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 not applicable with Sea Level Rise Criteria 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 5800 Pine Tree Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
    - a. The architect shall revise the ribbon window location on Sheet A2.0 to be located at a slightly higher elevation in order to facilitate light into the proposed new room but ensure that the new addition will not decrease the privacy of the abutting property to the west, at a minimum raising the bottom

sill window height to prevent the direct gaze of an average sized person (5'-8") through the window, or frosting the glass.

- b. 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.
- c. 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.

**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):
  - 1. A variance to reduce by 10'-2" the minimum required rear setback of 15'-0" in order to construct a second floor addition above the existing ground floor within the rear yard of the property at 4'-10" from the rear property line.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts as noted above allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code as noted above:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

- C. The Board hereby **Approves** the variance request 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. 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.
- B. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- C. 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.
- D. 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.
- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.

F. 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 "Final Submittal", as prepared by **Six Sides Architecture**, signed, sealed and dated 06/08/20, 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

