

MIAMI BEACH

PLANNING DEPARTMENT
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: September 01, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB20-0559
2138 Bay Avenue

An application has been filed requesting Design Review Approval for the construction of a new two-story residence including one or more waivers and one or more variances from the accessory structure requirements to replace an existing architecturally significant pre-1942 two-story residence.

RECOMMENDATION:

Approval with conditions

Approval of the variance

LEGAL DESCRIPTION:

Lot 21 of Block 4A Sunset Islands No. 4, according to Plat thereof as recorded in Plat Book 40, Page 8 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-3
Future Land Use: RS
Lot Size: 23,670 SF
Lot Coverage:
Existing: 3,920 SF / 16.5%
Proposed: 7,004 SF / 29.6%
Maximum: 7,101 SF / 30%

Unit size:
Existing: 4,995 SF / 21%
Proposed: 11,605 SF / 49%
Maximum: 11,835 SF / 50%
2nd Floor to 1st: 5784/5483 | 95%*
*DRB WAIVER

Height:
Proposed: 31'-0" sloped roof from BFE+2'*
28'-0" sloped roof from BFE+2'*
*DRB WAIVER
Maximum: 27'-0" sloped roof

24'-0" flat roof
CMB Grade: 4.92' NGVD
Base Flood Elevation: +8.00' NGVD
Difference: +3.08' NGVD
Adjusted Grade: +6.46' NGVD
First Floor Elevation: +10' NGVD (BFE+2fb)
Side Yard Elevations Min: 6.56' Max: 7.42'
Rear Yard Elevations Min: 6.56' Max: 10'

EXISTING PROPERTY:

Year: 1937
Architects: Gordon Mayer & Frank Andrews
First Floor Elevation: 5.89' | 4.96' NGVD

SURROUNDING PROPERTIES:

North: Vacant (pending DRB)
South: One-story 1954 residence
West: Biscayne Bay
East: One-story 1938 residence

THE PROJECT:

The applicant has submitted plans entitled "Schmeichel Residence Design Review Board Final Submittal", as prepared by **J.W. Jarosz Architect PA**, signed and sealed July 07, 2020 and modified in the plans entitled "Supplemental Set 7.17.20".

The applicant is proposing to construct a new two-story residence on an waterfront parcel on the western side of Sunset Island No. 4.

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

1. A two-story side elevation more than 60'-0" in length in accordance with Section 142-106(2)(d).
2. The height of the proposed pitched roof structure is 31'-0" and the proposed flat roof structure is 28'-0" in accordance with Section 142-105(b); 31'-0" and 28'-0" as measured from BFE +2, or 10' NGVD.

The applicant is requesting the following variance(s):

1. A variance to exceed by 170% (366 SF) the maximum permitted 50% (108 SF) of the first floor area (216 SF) for a second story in order to construct the second floor of an accessory building with 220% (474 SF) of the first floor area located in the rear yard.

- Variance requested from:

Sec. 142-1132. Allowable encroachments within required yards.

(a) Accessory buildings.

(2) In single-family districts the following regulations shall apply to accessory buildings within a required rear yard:

c. Two-story structures. The second floor of an accessory building shall not exceed 50 percent of the first floor area

The main residence is designed with a finished first floor elevation of 10' NGVD with the rear terrace area at 9' NGVD. The rear yard is designed mostly at the minimum yard elevation of 6.56' NGVD. There is a two-story office study structure located in the northwest portion of the rear yard that contains a ground level covered terrace area at 8' NGVD. The first level of the office structure contains 216 SF of enclosed area mostly as storage, bathroom, wet bar area. There is an exterior stair that leads to the main office level at the second floor, which contains 473 SF of area. The Code requires that two-story accessory structures be limited to 20'-0" height from BFE +1, occupy no more than 30% of rear yard, have a side setback of 10'-0" and rear setback of 18'-7" (half of the required setback) and that the overall size not exceed ten percent of the size of the main home on the subject site. The proposal complies with all of these regulations.

However, the Code also restricts the second floor area for two-story accessory buildings to not exceed 50 percent of the first floor area. The rear accessory cabana is designed as a predominantly outdoor covered space, highlighted by an expansive covered area with a built-in outdoor kitchen that faces inward and towards the south of the site. A slanted plate roof that is supported by two columns near the pool and anchored in the ground through the enclosed cabana bath is situated to the north of the rear yard. The outline of the covered area measures 20'-6" wide by 30'-6". It is important to note that the additional excess of the covered terrace area square footage was added to the overall unit size calculation of the property. The code requirement limiting second floors to no more than 50% of the first floor is intended for two-story enclosed accessory structures with two distinct levels of habitation.



The regulation was intended to limit the overall mass of accessory structures when viewed from the adjacent properties with shared rear property lines or waterways. The Land Development Regulations do not contemplate open air structures when the ground floor contains an open covered area with little to no “mass”. The elevated office space’s structure will not create an imposing element to the abutting property to the north, nor will it appear as an oversized two-story rear accessory structure when viewed from the waterway since, by design, it is not an enclosed two-story structure but rather an elevated covered pavilion with a second floor minimal profile building elements. Given the practical difficulties associated with expanding the first floor space, staff is supportive of variance #1.

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):

- A1.09 (3) Mechanical equipment (pool, AC, generator) must be located at minimum BFE +1 (9' NGVD), confirm with building department; as such any equipment located 5'-0" or so to property line must comply with the elevation restrictions in Sec. 142-106(b)(5)
- Section 142-105(b)(1) *Lot area, lot width, lot coverage, unit size, and building height requirements*. The lot area, lot width, lot coverage, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows: **RS-3 May be increased up to 28 feet for flat roofs and 31 feet for sloped roofs when approved by the DRB or HPB, in accordance with the applicable design review or appropriateness criteria. The applicant is requesting 31'-0" sloped roof and 28'-0" flat roof from BFE+2, or 10' NGVD.**
- 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:
 - a. **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.**
 - b. 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.
 - c. The elevation (height) of the open space provided shall not exceed the maximum permitted elevation height of the required side yard, and
 - d. At least 75 percent of the required interior open space area shall be sodded or

landscaped with pervious 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.

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 two design 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 two design 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 two design 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 two design 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 two design 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 two design 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
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 two design 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.

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.

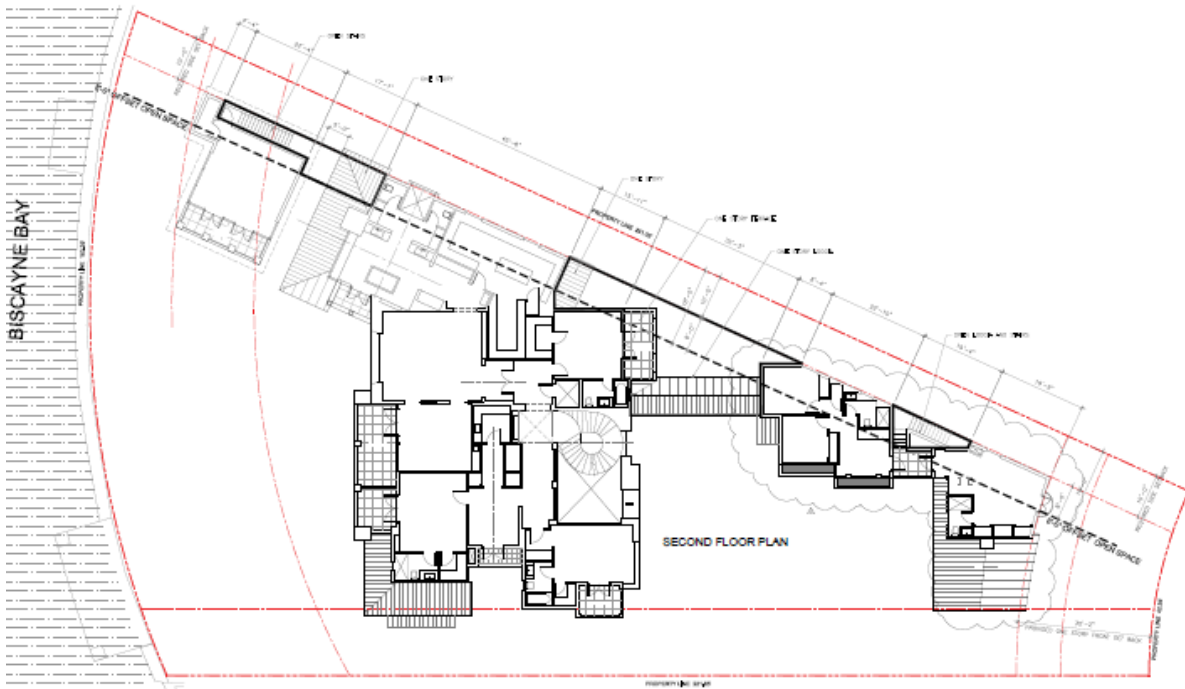
Satisfied

ANALYSIS:
DESIGN REVIEW

The applicant is proposing to construct a new two-story residence on a waterfront parcel on the western side of Sunset Island No. 4 that will replace an existing pre-1942 architecturally significant residence. The proposal includes a request for two design waivers (height and side open space) and one variance for the rear accessory structure. The design floor elevation of the proposed new residence is proposed at base flood elevation (8') plus 1' of free board, or 9' NGVD.

The applicant is requesting a waiver of the open space requirement for two-story elevations that exceed 60'-0" in length (north). The house has been carefully designed to exhibit movement along the side elevation. The overall design concept is layered with a series of structures that are connected by a series of covered breezeways, loggias and outdoor

walkways that aligned the northern side of the site as rectilinear forms and occasionally conform to the pie-shaped parcel. The design plans feature a serrated layout that does not create a sheer vertical wall abutting the neighboring two-story residences. The Code requires that the additional open space be regular in shape, open to the sky from grade, and at least eight feet in depth; as measured perpendicular from the minimum required side setback line it fails to contemplate pie shaped designs. Since the main residence is comprised of a series of three connected one and two story elements, the entirety of the north elevation must be considered “an uninterrupted two story elevation” that does not fully comport with all of the subsections of the open space requirement.



The plan features a front two-story garage measuring 28'-11" long along the setback line with a height of 17'-7" to the midpoint of the sloped roof, connected by an open two-level covered loggia to another two-story garage of same height. A one-story open covered breezeway connects this element to the main two story residence.

As proposed, the resulting open space satisfies most of the criteria of the regulation and is consistent with the intent of the ordinance since the designated open space successfully breaks up the massing of the two-story elevation.



Staff is supportive of the design waiver along the side elevation and maintains the approval will not have an adverse impact on the neighboring properties.

The second design waiver pertains to the height of the home. As proposed, the design features many volumes with multiple hip roofs adorned with terra cotta colored barrel tiles. The estate features a series of structures architecturally designed in the Mediterranean Revival style of architecture. The structures are detailed with arched openings at the ground level and include multiple colonnades, decorative and eclectic Spanish chimneys other common elaborations that are characteristic of the style. The compound is surrounded by gardens and an open courtyard that provides a large vehicular car court with ivy-clad walls. Ample outdoor covered walkways and exterior terraces are featured on all elevations.

Most of the proposed home is compliant with the height limitation along the sides for sloped roof structures; however, one central portion of the proposal features a pitched rooftop element that is proposed at 31'-0". Within this same area a flat roof is proposed at 28'-0". Given that the home is zoned RS-3, the height of sloped and flat roofs can be increased by 4'-0", or up to 31'-0" and 28'-0" respectively when approved by the Design Review Board. The subject site (23,670 SF) contains an area that is nearly 240% more than the lot area required for RS-3 lots (10,000 SF) and 5000 SF more than the minimum lot area size of RS-2 lots, which is 18,000SF. While typically staff would default to the minimum lot area for primary analysis of the request, it is evident that the design proposal contemplates the request and offsets the roofs heights to minimize impact and visibility. The front, sides and rear of the home have varying heights well within the underlying height limitation.



The sole portion seeking the full 4'-0" height waiver is centrally located from the site and setback approximately 120'-0" from the front property line. Staff maintains that the approval will have a minimal impact on the surrounding properties and is supportive of the full 4'-0" height increase waiver for the central pitched and flat roof area and other roof heights as depicted in sheet A2.03 of the submitted architectural plans.

VARIANCE REVIEW

As identified under the 'Project' description of the staff report, due to the distinct nature of the open air rear accessory covered cabana, staff finds that there are practical difficulties that justify the variance requested. As such, staff recommends approval of the variance.

RECOMMENDATION:

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