

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: December 7, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB20-0583
31 Star Island Drive

An application has been filed requesting Design Review Approval for the construction of a new two-story single-family residence and an existing tennis court requiring one or more variances from the minimum yard elevation, the required setbacks for a tennis court fence and play surface and from the required side setback for lighting associated with the tennis court in order to retain an existing tennis court located in the front of the property on a vacant site that previously contained a two-story architecturally significant pre-1942 residence.

RECOMMENDATION:

Approval with conditions.

Denial of the variances.

LEGAL DESCRIPTION:

Lot 31 and the northerly ½ of Lot 32, of STAR ISLAND, according to Plat thereof, recorded in Plat Book 5, at Page 52, Public Records of Miami-Dade County, Florida, and CORRECTED PLAT OF STAR ISLAND recorded in Plat Book 31, at Page 60, Public Records of Miami-Dade County, Florida.

HISTORY:

On December 1, 2015 the Design Review Board reviewed and approved an application for a new two-story single-family residence to replace an existing pre-1942 architecturally significant two-story residence, pursuant to DRB File No. 23191. The approved project included variances from the required front and side setbacks for a tennis court fence and play surface in order to retain an existing nonconforming tennis court (fences and lighting). Although a building permit was approved and a demolition for the prior structure approved, the project was abandoned.

SITE DATA:

Zoning:	RS-1
Future Land Use:	RS
Lot Size:	60,000 SF
Lot Coverage:	
Proposed:	1,872.8 SF / 3.12%
Maximum:	18,000 SF / 30%
Unit size:	
Proposed:	3,765.5 SF / 6.3%
Maximum:	30,000 SF / 50%

Adjusted Grade:	+7.37' NGVD
Finished Floor Elevation:	11.00' NGVD (BFE +1 FB)
Side Yard Elevations	Min: 6.56' Max: 6.56'
Read Yard Elevations	Min: 6.56' Max: 11'

Height:	
Proposed:	28'-0" flat roof
Maximum:	28'-0" flat roof

Grade: +4.74' NGVD
Flood: +10.00' NGVD
Difference: 5.26'

PRIOR STRUCTURE:

Year Constructed:	1920
Architect:	DeGarmo & Vermey

SURROUNDING PROPERTIES:

East: Biscayne Bay
North: Two-story 2013 residence

South: Two-story 1937 residence
West: Star Island Park

THE PROJECT:

The applicant has submitted plans entitled "31 Star Island" as designed by **DOMO Architecture + Design**, signed and sealed 10/12/20.

The applicant is proposing new one and two-story residential structures and the retention of a non-conforming tennis court located at the front of the property, including multiple variance requests.

The applicants are requesting the following variance(s):

1. A variance to reduce by 15'-6" the minimum required front setback of 20'-0" in order to retain the existing tennis court play surface in the front yard of a single family property at 4'-6" from the front property line facing East Star Island Drive.
2. A variance to reduce by 3'-0" the minimum required interior side setback of 7'-6" in order to retain the existing tennis court play surface in the side yard of a single family property at 4'-6" from the south property line.

- Variances requested from:

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

(b) Allowable encroachments within required yards:

(17) The following regulations shall apply to fences, lightpoles or other accessory structures associated with court games:

f. Any play surface, whether paved or unpaved, when associated with such court games, shall have the following minimum required yards: Front—20 feet; interior side—Seven and one-half feet; any side facing on a street—15 feet; rear—Seven and one-half feet.

- Supplemental Section:

Sec. 118-395. - Repair and/or rehabilitation of nonconforming buildings and uses.

(2) Nonconforming buildings which are repaired or rehabilitated by more than 50 percent of the value of the building as determined by the building official, shall be subject to the following conditions:

c. The entire building and any new construction shall comply with the current development regulations in the zoning district in which the property is located.

The applicant proposes the retention of the existing tennis court located in the front yard and side yard of the property. Although variances were obtained originally in 1989 for the tennis court to be located at 5'-0" from the front property line, and then in 2015, the site is being substantially improved by more than 50% of the existing building value and therefore all

elements retained and any new construction must adhere with the current development regulations as per section 118-395 of the City Code.

As shown on the proposed plans there is enough open space on the entire site to relocate the tennis court in a way that complies with the required front and side setbacks. Staff recommends denial of this variance request due to a lack of hardship.

3. A variance to reduce by 15'-3" the minimum required front setback of 20'-0" in order to retain a tennis court fence in the front yard of a single family property at 4'-9" from the front property line facing East Star Island Drive.

- Variance requested from:

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

(b) Allowable encroachments within required yards:

(17) The following regulations shall apply to fences, lightpoles or other accessory structures associated with court games:

a. In a required front yard the maximum height of fences shall be ten feet and the fences shall be set back at least 20 feet from the front property line.

This variance request is associated with variance #1 for the play surface at 4'-6" from the property line. The proposed fence is located at 4'-9" from the front property line and might negatively impact the planting and maintenance of landscape inside the property along the front. The existing high hedge located at the front in the public right of way is proposed to be retained. Staff is not supportive of this proposal as it does not satisfy the criteria for the granting of a variance and recommends that the tennis court be relocated, including the fence to comply with the front setback.

4. A variance to reduce by 2'-9" the minimum required interior side setback of 7'-6" in order to retain a tennis court fence in the side yard of a single family property at 4'-9" from the south property line.

- Variance requested from:

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

(b) Allowable encroachments within required yards:

(17) The following regulations shall apply to fences, lightpoles or other accessory structures associated with court games:

b. In a required side and required rear yard, the maximum height of fences shall be ten feet and the fences shall be set back at least seven-and-one-half feet from the interior side or rear property line. When the fence faces a street, the maximum height shall be ten feet and the fence shall be set back at least 15 feet from the property line. For oceanfront properties, the rear lot line shall be the old city bulkhead line.

The tennis court play surface and side fence are retained. The location of the fence is associated with the location of the play surface on variance #2 and does not comply with the required 7'-6" side setback. As the site is substantially open, the retention of the tennis court

in its location and the associated variance request lacks practical difficulties and a hardship. Staff again would recommend relocation of the tennis court and fence to comply with all setbacks.

5. A variance to reduce by 17'-9" the minimum required interior side setback of 22'-6" for light poles which are approximately 20'-0" in height, in order to install lighting fixtures for an associated tennis court on a single family home property at 4'-9" from the south property line.

- Variance requested from:

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

(b) Allowable encroachments within required yards:

(17) The following regulations shall apply to fences, lightpoles or other accessory structures associated with court games:

c. Accessory lighting fixtures, when customarily associated with the use of court games, shall be erected so as to direct light only on the premises on which they are located. The maximum height of light fixtures shall not exceed ten feet when located in a required yard; otherwise, the maximum height shall not exceed 20 feet. Light is permitted to be cast on any public right-of-way.

The existing light poles do not comply with the required setback due to the proximity of the play surface and fence of the tennis court. The City Code permits 10'-0" high light poles associated with a tennis court located at least 7'-6" from a side property line. However, because the lighting is approximately 20'-0" in height, the setbacks required for the main house apply. In order to comply with the required sum of the side yard setback of 25% of the lot width, the required side setback for the house on the south side is 22'-6". The light poles would have to be located at 22'-6" from the side property line and the tennis court placed closer to the center of the property. Staff recommends denial of this variance due to the available area in the site that allows compliance with the required setbacks.

6. A variance to reduce by 17'-9" the minimum required sum of the side setbacks of 37'-6" in order to construct new single family structures and retain tennis court lightpoles providing a sum of the side setbacks of 19'-9".

- Variance requested from:

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

(a) 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:

(2)Side yards:

a. The sum of the required side yards shall be at least 25 percent of the lot width.

The applicants are proposing to retain the existing tennis court with lightpoles that are required to comply with the main building setbacks, as they are 20'-0" in height. The new house is sited at the minimum side setback of 15'-0" on the north side and the lightpoles are located at 4'-9" from the south property line resulting in a sum of the side setbacks totaling 19'-9" where 37'-6" would be required. The proposed retention of the tennis court has resulted in a variance

request from the sum of the side setbacks for the main structure because the new building is located at the minimum side yard setback of 15'-0" and it does not compensate for the difference to comply with the required sum of the side yard setbacks. This variance is also design related. As such, staff does not recommend approval of the variance.

7. A variance to reduce by 0.56' the minimum elevation of 6.56' NGVD within the required front yard in order to retain a tennis court and provide a front yard elevation up to 6.0' NGVD.
 8. A variance to reduce by 0.36' the minimum elevation of 6.56' NGVD within the required interior south side yard in order to retain a tennis court and provide a side yard elevation up to 6.20' NGVD.
 9. A variance to reduce by 1.98' the minimum elevation of 6.56' NGVD within the required rear yard to provide a rear yard elevation up to 4.58' NGVD.
- Variances requested from:

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

(b) The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(8) Exterior building and lot standards.

b Minimum yard elevation requirements.

1. The minimum elevation of a required yard shall be no less than five feet NAVD (6.56 feet NGVD), with the exception of driveways, walkways, transition areas, green infrastructure (e.g., vegetated swales, permeable pavement, rain gardens, and rainwater/stormwater capture and infiltration devices), and areas where existing landscaping is to be preserved, which may have a lower elevation. When in conflict with the maximum elevation requirements as outlined in paragraph c., below, the minimum elevation requirements shall still apply

The existing tennis court surface encroaching into the front and south side yards does not comply with the minimum required yard elevation of 6.56' NGVD. The 50'-0" rear yard of the property is also proposed with a substantially lower elevation. As the property is developed with a new single-family structure, compliance with the minimum yard elevations is required in order to comply with the sea level rise and resiliency criteria of the Code. Staff finds that these variance requests are related to the applicant's choice to retain the non-conforming tennis court on the property without raising the yards to the minimum required. The site is proposed with a significant open space area that could accommodate the relocation of the tennis court and compliance with the minimum yard elevations. Staff recommends denial of this variance due to a lack of practical difficulties.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded **DO NOT** satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents with the application **DO NOT** comply with the following hardship criteria, 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):

- The existing two-story wood structure shall be removed.
- Chain link fences are not allowed within the rear yard.
- The tennis court fence shall be substantially screened from the street. Landscape shall be provided and maintained inside the property. The continuous height hedge at the front of the property shall be removed.
- Lighting shall not cast onto a neighboring property. Applicant shall provide at permitting a photometric lighting plan for proposed new light fixtures.

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 proposing to retain a non-conforming tennis court that requires several variances.
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 proposing to retain a non-conforming tennis court that requires several variances.
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 proposing to retain a non-conforming tennis court that requires several variances.
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 proposing to retain a non-conforming tennis court that requires several variances.
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 proposing to retain a non-conforming tennis court that requires several variances.
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 proposing to retain a non-conforming tennis court that requires several variances.

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. The proposed retention of nonconforming tennis lighting may negatively impact the abutting property to the south and when viewed from the right-of-way.
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Satisfied
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Satisfied
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
Not Satisfied

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Not Applicable
18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.
Not Applicable
19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.
Not Satisfied; see below.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

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

1. A recycling or salvage plan for partial or total demolition shall be provided.
Satisfied
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

ANALYSIS:
DESIGN REVIEW

The applicant is proposing to construct a new contemporary two-story single family residence and tennis pavilion on a vacant waterfront lot that previously contained a pre-1942 architecturally significant home. The proposed residence is well under the maximum zoning thresholds for lot coverage and unit size and no waivers from the Board are being sought. Since the previous home on the site was architecturally significant, review and approval for the replacement structure by the DRB is required. Multiple variances are being requested for the retention of non-conforming structures currently on-site. The first floor elevation of the new

residence is proposed at base flood elevation (10' NGVD) plus a minimum freeboard of one foot (+11' NGVD).

The proposed residence has been sited towards the rear of the site near an existing non-conforming tennis court, rendering most of the site as open space. The two-story residence contains two guest suites, a dining room and kitchen on the first floor and a large entertainment area on the second floor. The architectural language of the structure is contemporary with predominately glazed walls that are accented with wood-like metal screens and planes of solid stone cladding. The wall planes are framed by and set within white, stucco bands that outline the geometric volumes of the home. The applicant is also proposing a cubic tennis pavilion that similarly detailed with white stucco and stone.

Overall, the applicant has proposed a modest, elegant residence of good proportions that is hidden within the large site and is sensitive to the neighborhood's overall context. Staff recommends the approval of the design.

VARIANCE REVIEW

The site has been previously reviewed by the Board of Adjustment in 1989 to retain the existing non-conforming tennis court with associated variances. In 2015, a new project was approved by the Design Review Board for a two-story single family home that also proposed the retention of the tennis court with similar variances. This project never came to fruition and the approval expired. The subject application includes the retention of the tennis court and variances previously approved.

Since the previous approval in 2015, the City has implemented new requirements for resiliency on existing and new projects. This has resulted in additional variance requests to retain the tennis court and rear yard below the minimum required yard elevations. As noted in the project section of this report, staff is not supportive of the variances requested. In this regard, the site is significant in size and contains a substantial amount of open space that can easily accommodate a new tennis court and related structures in a manner that would comply with the current requirements of the City Code. The retention of the non-conforming tennis court and yard elevations is the applicant's choice, and not related to practical difficulties or hardship.

Since the site is being substantially improved by more than 50% of the existing building value, all elements (even existing) must comply with the current development regulations as per section 118-395 of the City Code. Additionally, in order to sufficiently screen the tennis court fence from the street and neighbor, there may be inadequate room to properly install and maintain the necessary vegetation to mitigate the recreational court on private property. Currently, a 20'-0" high ficus hedge is planted within the public right-of-way, which is aesthetically discouraged and not permitted.

The variances requested do not comply with the sea level rise and resiliency review criteria in chapter 133 of the City Code. A tennis court is not a main component of a single family residence. It is an accessory feature, non-essential to the main use proposed, which is already a reasonable use of the property. In summary, staff recommends denial of all variances.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved** as it pertains to the design of the proposed structure and all of the variance requests be **denied**; and the design 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 criteria, and Practical Difficulty and Hardship criteria, as applicable.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: December 07, 2020

PROPERTY: **31 Star Island Drive 02-4204-001-0260**

FILE NO.: DRB20-0583

IN RE: An application has been filed requesting Design Review Approval for the construction of a new two-story single-family residence and an existing tennis court requiring one or more variances from the minimum yard elevation, the required setbacks for a tennis court fence and play surface and from the required side setback for lighting associated with the tennis court in order to retain an existing tennis court located in the front of the property on a vacant site that previously contained a two-story architecturally significant pre-1942 residence.

LEGAL: Lot 31 and the northerly ½ of Lot 32, of Star Island, according to the Plat thereof as recorded in Plat Book 5, Page 52, of the Public Records of Miami-Dade County, Florida and Corrected Plat of Star Island recorded in Plat Book 31, at Page 60, Public Records of Miami-Dade County, Florida.

APPLICANT: Wendy Holman

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, 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 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 two-story residence at 31 Star Island Drive shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. 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.
 - b. The applicant shall verify by a Professional Surveyor and Mapper licensed in the State of Florida the elevation of the sea wall.
 - c. Prior to the issuance of a building permit, the applicant shall verify with the Public Work Department that the proposed new construction requires the seawall to have a minimum elevation of 5.70 feet NAVD (7.26 feet NGVD).
 - d. 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.
 - e. 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 site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
 - a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
 - b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
 - c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.

- d. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
- e. Tennis court lighting shall be properly shielded so that the actual light source is not visible from Star Island Drive or the surrounding properties, in a manner to be approved by staff
- f. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- g. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- h. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- i. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- j. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
- k. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right of wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- l. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the city administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.

II. Variance(s)

- A. 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 **denied** by the Board:

1. A variance to reduce by 15'-6" the minimum required front setback of 20'-0" in order to retain the existing tennis court play surface in the front yard of a single family property at 4'-6" from the front property line facing East Star Island Drive.
 2. A variance to reduce by 3'-0" the minimum required interior side setback of 7'-6" in order to retain the existing tennis court play surface in the side yard of a single family property at 4'-6" from the south property line.
 3. A variance to reduce by 15'-3" the minimum required front setback of 20'-0" in order to retain a tennis court fence in the front yard of a single family property at 4'-9" from the front property line facing East Star Island Drive.
 4. A variance to reduce by 2'-9" the minimum required interior side setback of 7'-6" in order to retain a tennis court fence in the side yard of a single family property at 4'-9" from the south property line.
 5. A variance to reduce by 17'-9" the minimum required interior side setback of 22'-6" for light poles which are approximately 20'-0" in height, in order to install lighting fixtures for an associated tennis court on a single family home property at 4'-9" from the south property line.
 6. A variance to reduce by 17'-9" the minimum required sum of the side setbacks of 37'-6" in order to construct new single family structures and retain tennis court lightpoles providing a sum of the side setbacks of 19'-9".
 7. A variance to reduce by 0.56' the minimum elevation of 6.56' NGVD within the required front yard in order to retain a tennis court and provide a front yard elevation up to 6.0' NGVD.
 8. A variance to reduce by 0.36' the minimum elevation of 6.56' NGVD within the required interior south side yard in order to retain a tennis court and provide a side yard elevation up to 6.20' NGVD.
 9. A variance to reduce by 1.98' the minimum elevation of 6.56' NGVD within the required rear yard to provide a rear yard elevation up to 4.58' NGVD.
- B. The applicant has submitted plans and documents with the application that DO NOT satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also DO NOT indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

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

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

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

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

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

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

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

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

C. The Board hereby **Denies** the variance requests, 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.
2. The tennis court shall comply with the setback requirements.
3. The existing tree house on the south side shall be removed.

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. During Construction of the new home, 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 existing and entering the site and with an 8'-0" high fence with a wind resistant green mesh material along the front of the 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.
- B. The applicant shall provide proof of a building permit for the detached wood structure or obtain all necessary building permits for this structure within 18 months from the hearing date.
- C. In the event that the tennis court is changed to a different court game, as determined by the Planning Director or designee, the applicant shall return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board. The Board reserves the right to modify the Variance approval at this time in a non-substantive manner, to impose additional conditions.
- D. The tennis court shall not be used after 9:00 pm, seven days a week. Additionally, all lighting fixtures associated with the tennis court shall be turned off by 9:00 pm, seven days a week, as proffered by the applicant.
- E. 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.
- F. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- 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 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 "31 Star Island", as designed by **Domo Architecture + Design**, signed, sealed, and dated 10/12/20, 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

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