

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: May 4, 2021

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB20-0614
6342-6360 North Bay Road

An application has been filed requesting Design Review Approval for the construction of additions to an existing two-story residence and a new tennis court requiring one or more variances from the setback requirements for the main structure and tennis court lighting in order to replace a two-story architecturally significant pre-1942 residence.

RECOMMENDATION:

Approval with conditions.

Approval of variance #1

Denial of the variances #2 and #3.

LEGAL DESCRIPTION:

Lot 7, and the southerly half of Lot 6, Block 1, of La Gorce-Golf Subdivision, Lot 8 and the NE 25 feet of Lot 9, Block 1, of La Gorce-Golf Subdivision according to the Plat thereof, as recorded in Plat Book 14, Page 43, of the Public Records of Miami-Dade County, Florida.

BACKGROUND:

At the February 2, 2021 Design Review Board meeting, the item was continued to the February 16, 2021 meeting with no action taken due to a lack of quorum. The February 16, 2021 DRB meeting was cancelled due to the lack of in-person quorum.

On March 2, 2021, this item was reviewed and continued by the Board to a date certain of May 4, 2021 in order to address the concerns of the Board.

SITE DATA:

Zoning:	RS-2
Future Land Use:	RS
Lot Size:	52,316 SF
Lot Coverage:	
Proposed:	10,542 SF / 20.1%*
Maximum:	15,694.8 SF / 30%
Unit size:	
Proposed:	14,010 SF / 26.7%*
Maximum:	26,158 SF / 50%
Height:	
Existing:	~25'-8"
Proposed:	Same

*As noted on plans

STRUCTURE TO RETAIN:

Year Constructed: 2018

STRUCTURE TO BE DEMOLISHED:

Year Constructed:	1935
Architect:	Carlos Schoeppel & Arnold Southwell

SURROUNDING PROPERTIES:

Northeast:	1951 one-story residence
Northwest:	Biscayne Bay
Southwest:	1937 2-story residence
Southeast:	1937 one-story residence 1938 two-story residence

THE PROJECT:

The applicant has submitted plans entitled "6342-6360 North Bay Road" as designed by **CFZ Design**, dated 03-16-2021.

The applicant is requesting Design Review Approval for the construction of additions to an existing two-story residence, and for a new tennis court with lighting that will replace a two-story architecturally significant pre-1942 residence.

The applicant is requesting the following variance(s):

1. A variance to reduce by 7'-4" the minimum required interior side setback of 22'-7" for a two-story structure in order to construct one-story additions to the existing home at 15'-3" from the northeast interior side property line.
 2. A variance to reduce by 31'-3" the minimum required interior side setback of 41'-3" for a two-story structure in order to install lightpoles with approximately 18'-0" in height for a tennis court at 10'-0" from the southwest interior side property line.
 3. A variance to reduce by 31'-3" the minimum required sum of the side setbacks of 56'-6" for a two-story structure in order to install lightpoles with approximately 18'-0" in height for a tennis court and provide a sum of the side setbacks of 25'-3".
- Variances 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:*

(1) Side yards:

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

c. Interior sides.

1. For lots greater than 65 feet in width each interior side yard shall have a minimum of ten percent of the lot width or ten feet, whichever is greater.

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

(b) *Allowable encroachments within required yards:*

(10) Lightpoles. The following regulations shall apply to lightpoles:

a. Lightpoles shall have a maximum height of ten feet. Lightpoles shall be located seven and one-half feet from any property line except that, when such property line abuts a public right-of-way or waterway, there shall be no required setback.

(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 subject site features two individual properties that are unified containing a two-story single-family home constructed in 2018 on the north and a pre-1942 home to be demolished

on the south side. As part of the improvements as one property, additions to the existing home to increase the garage area and a storage room are proposed, as well as several outdoor amenities and structures including a covered terrace, trellis, a basketball court, a tennis court and playground. The applicant is also requesting three (3) variances for the new structures.

As the new site configuration is increased in area, the applicable setbacks must also change. The lot width of the property is now based on the combined two lots and the minimum side and sum of the side setbacks required are larger than that required for each individual lot. The lot width resulting from the combined properties is 225'-10", which requires minimum side setback of 22'-7" and 33'-11" to comply with the sum of the side yards requirement of 25% of the lot width. These setbacks are significantly larger than the typical lots in the RS-2 district where the minimum lot width is 75'-0" and the minimum side setback is 10'-0". Specifically, in this area along the waterway most of the adjacent properties appear to have lot widths that range from 75' to 120', based on the County's Property Appraiser information. The required side setbacks for these lots would be much less than the side and sum of the side setbacks required for the subject property. The existing home with an interior side setback of 15'-3" on the northeast side has become non-conforming with respect to the setback required and the additions must comply with the new setbacks.

Staff would note that the Code allows similar additions that continue a non-conforming side yard for improvements below 50% of the value of the home and for houses constructed before September 6, 2006. The existing structure was built in 2018 and does not qualify for this benefit. However, staff believes that practical difficulties related to the size of the property and the retention of the home exist for the proposed garage and storage additions on the northeast side that satisfy the criteria for approval. The setback of 15'-3" would not have a negative impact on the adjacent properties, as this is a setback much larger than the required for most of the properties in the district and for properties in this area. As such, staff would recommend approval of the variance #1.

Variance #2 is related to the construction of light poles associated with a tennis court on the west side. The tennis court, including play surface, fence and light poles are allowed at 7'-6" from an interior side property line. At this setback, light poles have a maximum height of 10'-0". However, the applicant is proposing 18'-0" tall light poles, which are required to comply with the main building setbacks, as they exceed 10'-0" in height. Because there is an existing setback of 15'-3" on the existing home, the other side where the tennis court is proposed must be set back 41'-3" in order to comply with the required sum of the side yard setbacks.

The applicant modified the original proposed setback for the light poles from 8'-0" to 10'-0", but this still does not meet the minimum Code requirements. The proposed setback also triggers the request for variance #3 for the required sum of the side setbacks as it increases the non-conformity on the property. The increase in height of the light poles are not required in order to use the tennis court and could become a nuisance in the future. Also, the taller light poles with a higher source of light could negatively impact the adjacent neighboring property. Although the required setback is significant, the light poles for the tennis court are permitted at a minimum 7'-6" setback, as long as the height of light poles do not exceed 10 feet. As such, staff does not recommend approval of the variances #2 and #3 due to a lack of hardship and practical difficulties.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts, only as related to variance #1.

Additionally, staff has concluded that the plans and documents with the application comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, only as related to variance #1:

- 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):

- Section 142-105(b)(1). Unit size calculations shall be revised to include roof area. Profile of the stairs going to the roof counts in unit size.

- URBAN HEAT ISLAND ORDINANCE Sec. 142- 1132. g) Driveways. (4) Driveways and parking areas that are open to the sky within any required yard shall be composed of porous pavement or shall have a high albedo surface consisting of a durable material or sealant, as defined in section 114- 1 of this Code. (5) Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in section 114- 1 of this Code, shall be prohibited.
- Photometric plans shall be provided showing light intensity including the interior side yard adjacent to the tennis court.

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 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 requesting 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 requesting 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 requesting 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 requesting 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 requesting 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.

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 variances.

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.

Satisfied

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 subject property is comprised of two waterfront properties that have been unified. The applicant is proposing ground floor additions to the existing two-story residence that was constructed in 2018, and a new tennis court with associated lighting and basketball court on

the southern portion of the property, requiring the demolition of an existing pre-1942 residence.

The additions include new storage along the northern interior side of the existing residence, and the enclosure of spaces on the ground floor between the garage and guesthouse and the garage and main home. The applicant is also expanding the pool deck southward and wrapping it around the southeastern elevation to allow for a covered cabana structure that will overlook the new tennis court and garden. As a result of the newly unified property, the driveway has been modified to a semi-circular shape that incorporates the two existing curb cuts.

This application was presented at the March 2, 2021 meeting, and the Board expressed concerns with the extent of hardscape proposed. The applicant has revised the design to address the Board's concerns and included the following modifications:

- A pedestrian entrance from the street;
- A reduction in the size of the basketball court;
- Rotated tennis court;
- Increase setback to lightpoles;
- Additional green space between the proposed basketball court and tennis court;
- Reduced driveway width from 24' to 12' that allows increased planting with trees, and ground cover within the required front yard, as well as between the driveway and the new courts area;
- Astroturf on the pergola roof;
- Additional planting throughout site;
- Additional Street trees.

The proposed design has increased the landscape throughout the site in order to offset the impacts of the proposed hardscape court games.

As proposed, staff finds that the revised design addresses the Board's concerns with the reduction in hardscape and expansion of landscaping. However, staff would recommend that the applicant explore a natural green roof at the cabana in lieu of astro turf. Overall, staff supports the revised design as it has reduced the amount of proposed hardscape and has increased the extent of landscape throughout the site with a more varied planting schedule of canopy trees, palms, ground cover and shrubs.

VARIANCE REVIEW

The applicant is requesting three (3) variances for the proposed structures. Due to the increase of the lot width of the property, the required side setbacks for new construction are larger. Staff does not object to variance #1 due to the width of the site and that the one-story additions follow the existing building walls, as the existing setback is larger than the setback required for most adjacent properties. Additionally, the proposed additions should not have an adverse impact on the surrounding properties.

The applicant is also requesting 2 variances associated with a proposed tennis court on the west side of the property. These variances relate to the minimum interior side and sum of the

side setbacks required for the lightpoles. The proposed light poles exceed the maximum height of 10'-0" that is allowed for light poles to be located at a minimum setback of 7'-6" from a side property line. The lightpoles are proposed at a height of 18'-0" and therefore cannot be located within the required yard, as noted previously. The tennis court with taller lightpoles is the applicant's choice and although the required setbacks are larger, a tennis court with 10' high lightpoles are permitted. As such, staff is not supportive of variances #2 and #3 and recommends that the lightpoles comply with the maximum height allowed of 10'-0".

In summary, staff recommends approval of variance #1 and denial of variances #2 and #3.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved**, including variance request #1, and that variance requests #2 and #3 be **denied**. However, should the Board find that the variance(s) requested 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, staff recommends that any approval be subject to the conditions enumerated in the attached Draft Order which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria and Practical Difficulty and Hardship criteria, as applicable.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: May 4, 2021

PROPERTY/FOLIO: **6342-6360 North Bay Road**

6342 North Bay Road 02-3215-003-0090

6360 North Bay Road 02-3215-003-0080

FILE NO: DRB20-0614

IN RE: An application has been filed requesting Design Review Approval for the construction of additions to an existing two-story residence and a new tennis court requiring one or more variances from the setback requirements for the main structure and tennis court lighting in order to replace a two-story architecturally significant pre-1942 residence.

LEGAL: Lot 7, and the southerly half of Lot 6, Block 1, of La Gorce-Golf Subdivision, Lot 8 and the NE 25 feet of Lot 9, Block 1, of La Gorce-Golf Subdivision according to the Plat thereof, as recorded in Plat Book 14, Page 43, of the Public Records of Miami-Dade County, Florida.

APPLICANT: North Bay Palms, LLC

ORDER

The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 1, 2, 3, 4, 5, 6, 9, 12 and 19 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1, 10, 11 and 12 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
 1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 6342-6360 North Bay Road shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. The unit size calculations shall be revised to include the profile of the stairs leading to roof area.
 - b. URBAN HEAT ISLAND ORDINANCE Sec. 142- 1132. g) Driveways. (4) Driveways and parking areas that are open to the sky within any required yard shall be composed of porous pavement or shall have a high albedo surface consisting of a durable material or sealant, as defined in section 114- 1 of this Code. (5) Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in section 114- 1 of this Code, shall be prohibited.
 - c. The proposed tennis court light poles **shall not** be approved as proposed.
 - d. The architect shall explore the incorporation of a natural green roof on the proposed cabana's roof, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - e. 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.
 - f. The final design details and color selection of the cabana 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.
 - g. 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.
 - h. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding plans shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plans shall comply with Chapter 26-Landscape Requirements of the Miami Beach Code and shall incorporate the following:
- a. The proposed diversity of tree species shall be increased, per Section 126- 6.(b)(9).
 - b. 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.
- c. 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.
 - d. Prior to any site demolition work, a tree protection fence following the City standard shall be installed for trees scheduled to remain subject to the review and approval of the City Urban Forester.
 - e. Any necessary root and tree branch pruning with a diameter at breast height (DBH) of 2" or greater shall be approved by the City Urban Forester prior to any tree work.
 - f. 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.
 - g. 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.
 - h. 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.
 - i. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP
 - j. Any proposed new street trees shall be of a planting species consistent or similar with existing street trees in the immediate area or consistent with any master street tree plan for the area, subject to the review and approval of the City Urban Forester.
 - k. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
 - l. 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.

- m. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- n. 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.
- o. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right-of-way shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- p. 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, withdrawn, or denied:

The following variance was **approved** by the Board:

- 1. A variance to reduce by 7'-4" the minimum required interior side setback of 22'-7" for a two-story structure in order to construct one-story additions to the existing home at 15'-3" from the northeast interior side property line.

The following variance(s) were **denied** by the Board:

- 2. A variance to reduce by 31'-3" the minimum required interior side setback of 41'-3" for a two-story structure in order to install lightpoles with approximately 18'-0" in height for a tennis court at 10'-0" from the southwest interior side property line.
- 3. A variance to reduce by 31'-3" the minimum required sum of the side setbacks of 56'-6" for a two-story structure in order to install lightpoles with

approximately 18'-0" in height for a tennis court and provide a sum of the side setbacks of 25'-3".

- B. The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts, only as related to variances #1.

Additionally, staff has concluded that the plans and documents with the application comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, only as related to variances #1:

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 requests #1 and **Denies** variance requests #2 and #3 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. Where one or more parcels are unified for a single development, the property owner shall execute and record an unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- B. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
- C. During construction work, the applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site, and with an 8'-0" high fence with a wind resistant green mesh material along the front property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- D. If applicable, a Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- E. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- F. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- G. 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.
- H. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- I. 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.

- J. 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.
- K. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- L. 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 "6342-6360 North Bay Road" as designed by **CFZ Design**, dated 03-16-2021, 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_____.

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

Notary:
Print Name
Notary Public, State of Florida
My Commission Expires:
Commission Number:

Approved As To Form:
City Attorney's Office: _____ ()

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