

**BOARD OF ADJUSTMENT
CITY OF MIAMI BEACH, FLORIDA**

MEETING DATE: June 4, 2021

PROPERTY: 23 Star Island Drive

FOLIO: 02-4204-001-0200

FILE NO. ZBA21-0126

IN RE: An application has been filed requesting variances associated with the construction of new single-family home, including variances to exceed the maximum allowable building height and the maximum allowable height exceptions, variances to reduce the minimum required setbacks, and a variance to exceed the maximum allowable height of a perimeter wall.

LEGAL DESCRIPTION: LOTS 23 AND THE NORTHERLY HALF OF LOT 24, PLAT OF STAR ISLAND IN BISCAYNE BAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, AT PAGE 52 AS AFFECTED BY CORRECTED PLAT STAR ISLAND IN BISCAYNE BAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 31, PAGE 60 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

FINAL ORDER

The applicant, Florida Property Holdco, LLC., has submitted an application with the Planning Department for the following variances:

1. A variance to exceed by 3'-0", the maximum building height of 28'-0" for a flat roof single-family home, to allow a portion of the single-family home to have a maximum height of 31'-0".
- **Approved by the Board**
2. A variance to exceed by 3'-0", the maximum permitted height of an elevator bulkhead located above the main roofline of 10'-0", to allow an elevator bulkhead at 13'-0" above the main roof line of a two-story single-family home.
- **Approved by the Board**
3. A variance to exceed by 5'-2", the maximum projection of an exterior unenclosed private balcony in into the required rear yard of 6'-0", to allow private unenclosed balcony to project into the required rear yard a distance of 11'-2".
- **Denied by the Board**
4. A variance to exceed by 3'-0", the maximum height of 7'-0" for a perimeter wall when located 4'-0" from the front property line, to construct a 10'-0" tall perimeter wall at a 4'-0" setback from the front property line.
- **Denied by the Board**
5. A variance to reduce by 15'-6", the minimum interior side yard setback of 20'-6", to allow a Florida Power and Light (FPL) transformer to be located within 5'-0" on the

northwestern interior side yard setback.

- **Approved by the Board**

6. A variance to reduce by 10'-0" the minimum required setback of 10'-0" from the exterior outer walls below a roof deck, to allow a roof deck with a 0'-0" setback front the exterior outer walls of the floor below.

- **Approved by the Board**

The City of Miami Beach Board of Adjustment 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:

- A. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the Planning Department Staff Report, the project as submitted satisfies the requirements of Section 118-353(d) of the Miami Beach Code, only as it relates to variances #1, #2, #5 and #6. Accordingly, the Board of Adjustment has determined the following:

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.

- B. The Board hereby **Approves** the requested variances #1, #2, #5 and #6 and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. The final building plans shall be consistent with plans submitted to the Board of Adjustment, "23 Star Island", by Choeff Levy Fischman Architecture & Design, dated February 8, 2021.
2. The roof curb shall be eliminated from the elevator bulkhead. The elevator bulkhead

- shall not exceed 13'-0" above the roof line.
3. 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. Additional landscaping shall be located along the southern property line to screen the proposed roof deck, in a manner to be reviewed and approved by staff.
 4. The projection of the second-floor balcony at the rear of the property shall be reduced to comply with the City's Land Development Regulations.
 5. The height of the perimeter wall at the front of the property shall be reduced to comply with the City's Land Development Regulations.
 6. 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.
 7. 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.
 8. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
 9. 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.
 10. The conditions of approval herein are binding on the applicant, the property's owners and all successors in interest and assigns.
 11. 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.
 12. 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, except to the extent of the variance(s) granted herein.

13. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

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.

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 staff recommendations, as modified by the Board of Adjustment, that the application for Variance(s) Approval is GRANTED for the above-referenced project, subject to those certain conditions specified in Paragraph B hereof, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans submitted to the Board of Adjustment with modifications in accordance with the conditions set forth in this Order, as applicable, with staff review and approval.

No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance as set forth in this Order have been met. The issuance of this Order does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval.

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 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 Variance Approval was granted, the subject Approval will expire and become null and void, unless the applicant makes 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. At the hearing on any such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. If the Full Building Permit should expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), and not reinstated by the Building Official or designee, the Variance Approval will expire and become null and void.

Dated this _____ day of _____, 2021.

BOARD OF ADJUSTMENT
CITY OF MIAMI BEACH, FLORIDA

BY: _____
Steven Williams
Chief of Planning Services
For the Chair

Filed with the Clerk of the Board of Adjustment on _____ ()