

MIAMI BEACH

PLANNING DEPARTMENT
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: September 10, 2021

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB21-0675
4-6 Star Island Drive

An application has been filed requesting Design Review Approval for the construction of a new two-story single-family home with an understory area, including one or more waivers and variances from the understory requirements, from the setback requirements, from the maximum height for an elevator bulkhead and from the maximum height allowed for fences, to replace the two (2) existing residences comprised of multiple structures.

RECOMMENDATION:

Approval of the design with conditions.
Approval of variances #1, #2, and #3.
Denial of variances #4, #5, #6, #7, and #8.

LEGAL DESCRIPTION:

Lot 4, of "CORRECTED PLAT OF STAR ISLAND", according to Plat thereof, recorded in Plat Book 31, at Page 60, Public Records of Miami-Dade County, Florida; and
Lot 5, of "CORRECTED PLAT OF STAR ISLAND", according to Plat thereof, recorded in Plat Book 31, at Page 60, Public Records of Miami-Dade County, Florida; and
Lot 6, of "CORRECTED PLAT OF STAR ISLAND", according to Plat thereof, recorded in Plat Book 31, at Page 60, Public Records of Miami-Dade County, Florida.

BACKGROUND:

This application was initially scheduled for July 6, 2021. The July 6, 2021 meeting was cancelled due to the lack of a quorum, and the item was moved to the August 3, 2021 meeting. At the August 3, 2021 meeting the application was continued to a date certain of September 10, 2021, due to the lack of a quorum for variance applications.

SITE DATA:

Zoning:	RS-1	31'-0" sloped roof
Future Land Use:	RS	Maximum: 28'-0" flat roof
Lot Size:	120,000 SF	31'-0" sloped roof
Lot Coverage:		Grade: +4.85' NGVD
Proposed:	29,578 SF / 24.6%	Base Flood Elevation: +10.00' NGVD
Maximum:	36,000 SF / 30%	Difference: 5.15' NGVD
Unit size:		Adjusted Grade: +7.425' NGVD
Proposed:	58,083 SF / 48.4%	First Floor Elevation: +15' NGVD (BFE+5' FB)
Maximum:	60,000 SF / 50%	Side Yard Elevations Min: 6.56' Max: 7.425'
Height:		Read Yard Elevations Min: 6.56' Max: 15'

Proposed: 28'-0" flat roof

EXISTING PROPERTY:

Year: 1947/2015 | 2016
Architect: Carlos B. Schoepl | Domo
Architecture
Vacant: No
Demolition: Total

SURROUNDING PROPERTIES:

East: Star Island Park
North: Three-story 1971 residence
South: Two-story 2015 residence
West: Biscayne Bay

THE PROJECT:

The applicant has submitted plans entitled "4, 5 & 6 Star Island Drive Residence" as designed by **Scott Mitchell Studio** and **Studio Mc+G Architecture**, signed and sealed May 10, 2021. The applicant is proposing to construct a new, contemporary two-story residence on two unitified lots on the western side of Star Island.

The residence is proposed above allowable 'understory' spaces instead of infilling with berms and tiered site work:

1. Understory area shall be subject to the review and approval of the Design Review Board in accordance with Section 142-105(b)(4)(d).

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

1. A two-story side elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d). South Elevation - +/- 64'-4".
2. Elevator bulkheads shall be located as close to center of the roof as possible and be visually recessive in accordance with Section 142-105(b)(7)(f).

The applicant is requesting the following variance(s):

1. A variance to exceed by 3'-0" the maximum height allowed of 10'-0" feet above the roofline in order to construct an elevator bulkhead up to 13'-0" above the roofline.
2. A variance to eliminate the requirement to provide 50% open walls on all sides for enclosed understory areas.
3. A variance to eliminate the requirement to provide an understory edge of 5'-0" from each side of the underneath of the slab of the first habitable floor above.
4. A variance to exceed by 6'-0" the maximum driveway width of 18'-0" to provide a driveway width of 24'-0".
5. A variance to reduce by 23'-2" the minimum required interior side setback of 30'-6" in order to construct a new single family home and retain a non-conforming side setback of 7'-4" on the north side.

6. A variance to reduce by 23'-2" the minimum required sum of the side setbacks of 75'-0" in order to construct a new single family home providing a sum of the side setbacks of 51'-10".
7. A variance to exceed by 0.43' the maximum allowed height of 7'-0" for a fence in order to construct a fence along the north interior side yard up to 7.43' (14.85' NGVD) above adjusted grade elevation of 7.42' NGVD.
8. A variance to exceed by 0.43' the maximum allowed height of 7'-0" for a fence in order to construct a fence along the south interior side yard up to 7.43' (14.85' NGVD) above adjusted grade elevation of 7.42' NGVD.

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):

1. Subject to the review and approval of the Design Review Board the following may apply to the understory area(s): Understory area(s) shall be used only for open air activities, parking, building access, mechanical equipment, non-enclosed restrooms and storage.
2. Elevators bulkheads shall be located as close to the center of the roof as possible and be visually recessive such that they do not become vertical extensions of exterior building elevations.
3. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard:
 - a. The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line.
 - b. The square footage of the additional open space shall not be less than one percent of the lot area.
 - c. The elevation (height) of the open space provided shall not exceed the maximum permitted elevation height of the required side yard, and
 - d. At least 50 percent of the required interior open space area shall be sodded or landscaped with pervious open space.

The intent of this regulation shall be to break up long expanses of uninterrupted two-story volume at or near the required side yard setback line and exception from the minimum requirements of this provision may be granted only through design review board approval in accordance with the applicable design review criteria.

4. 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.
5. Sec 142-106(b)(7). Details of the existing fence on the south side shall be provided. Maximum height of fence in the rear yard is 5'-0" from grade. Maximum height of the fence in the side yard is 7'-0" from adjusted grade.
 6. Section 142-105(b)(8). Maximum height of planters in the front yard is 7'-0" from grade elevation.
 7. Sec 142-106(a)(3). Revise open space in the rear yard to include deck at the rear as impervious surface. Only 44" width walkway can be open space.
 8. Section 142-105(b)(4). Revise unit size calculations. Elevator in the understory shall count in the unit size.
 9. Section 142-105(b)(5). Revise lot coverage calculations. Enclosed area of 2nd floor (study) above entry counts in lot coverage. Portion of bedroom at second floor on the south side counts in lot coverage. Portion of 2nd floor balcony at rear over pool area exceeds 5'-0" from walls below and shall count in lot coverage. Balcony at rear/north side—only area exceeding 5'-0" from 2nd floor walls count in lot coverage. Covered area/bbq on north side--- only area exceeding 5'-0" from 2nd floor walls counts in lot coverage.

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.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, **only as it relates to variances #1, #2, #3** 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 indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code **only as it relates to variances #1, #2, and #3.**

- 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.

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.
Satisfied; however, the applicant is requesting understory review, one or more design waivers, and variances from the Board.
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Not satisfied; the applicant is requesting understory review, one or more design waivers and variances from the Board.
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not satisfied; the applicant is requesting understory review, one or more design waivers, and variances from the Board.
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
Satisfied
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and

other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.

Not satisfied; the applicant is requesting understory review, one or more design waivers, and variances from the Board.

6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.

Not satisfied; the applicant is requesting understory review, one or more design waivers, and variances from the Board.

7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.

Satisfied; however, the applicant is requesting understory review, one or more design waivers, and variances from the Board.

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 understory review, one or more design waivers, and variances from the Board.

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

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

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

1. A recycling or salvage plan for partial or total demolition shall be provided.
Not Satisfied
A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.

2. Windows that are proposed to be replaced shall be hurricane proof impact windows.
Satisfied
3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Satisfied
4. Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.
Satisfied
5. The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.
Satisfied
6. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.
Satisfied
7. In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.
Satisfied
8. Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.
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; additional information will be required at the time of building permit in order to demonstrate compliance.
11. Cool pavement materials or porous pavement materials shall be utilized.
Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.
- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

Satisfied: additional information will be required at the time of building permit in order to demonstrate compliance.

STAFF ANALYSIS:

The applicant is proposing to construct a new two-story residential complex on the western side of Star Island that will replace two existing residences among three lots that are comprised of multiple structures. The applicant is requesting review of the understory and two design waivers from the Board, in addition to several variances.

The proposed projects features an understory with the first fully-enclosed, habitable floor of the residence designed at an elevation of 16'-0" NGVD, 6'-0" above the minimum building standard requirement of +11'-0" NGVD (BFE +1' Fb). The design intention is to create a larger, non-air-conditioned space below the main slab that serves as a usable outdoor recreational amenity and program feature for the owner. Since the current understory ordinance was adopted in July of 2018, there has been a discernible increase in elevated homes that are being configured with finished first floor elevations at or above the maximum measurable freeboard. This is due to several factors including sea level concerns, flooding and mitigation, the raising of City roads, and a renewed interest in elevated living with open-plan structures. In this design, the project architect is proposing transition spaces to access the main level of the home, along with storage. The City code allows open air activities, parking and storage within the understory in exchange for increased permeable front yards with decreased hardscape, a landscaped "edge" below the building to allow for water capture, and pervious and semi-pervious for ground/flooring material.

The first design waiver pertains to the location of the elevator bulkhead. Specifically, the code requires that bulkheads be centrally located within the roof so as to not become vertical extensions of exterior building elevations. The subject elevator is located along the front elevation of the main façade, with its bulkhead continuing above the roof. With a glass façade, the elevator bulkhead does read as a vertical extension along the front elevation and as such does not meet Code requirements. However, the wall plane that the elevator and bulkhead are located is setback nearly 50 feet from the foremost wall of the front façade; when coupled with the main two-story building's setback of nearly 180' from the front property line, the impact of the bulkhead is significantly reduced. As such, staff is supportive of this design waiver.

The applicant is also requesting a waiver of the open space requirement for a two-story elevation that exceed 60'-0" in length along the south side elevation. The two-story portion of this interior elevation exceeds what is allowed by the code by 4'-4"; it is 64'-4" long. The subject interior elevation minimally exceeds the required threshold and is further setback with an outdoor terrace. As proposed, the elevation does not adhere strictly the code, but it does have undulating wall planes at an increased setback ranging from 4' to 6' that, while not fully allowing green space open to sky, provide movement, breaking up the continuous two-story high massing. As such, staff is supportive of the waiver.

The residence has been designed in a modern style. The site design features the main two-story residence set back within the nearly three-acre site and two, smaller structures at the front flanking the main entrance. The southmost building is a new two-story structure dedicated to maintenance and the other is a renovated two-story building that will serve as a guest house. The residential buildings are finished in board form concrete and contrasted with expansive floor to ceiling glazing, The buildings feature vertical elements that contrast

with the horizontality of the material grain, as well as the massing of the residence. Overall, staff finds the design to be elegant and recommends approval with the noted conditions.

VARIANCE ANALYSIS

As part of this application, the following variances have been requested:

1. A variance to exceed by 3'-0" the maximum height allowed of 10'-0" feet above the roofline in order to construct an elevator bulkhead up to 13'-0" above the roofline.

- Variance 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:

(7) Height exceptions. The height regulation exceptions contained in section 142-1161 shall not apply to the RS-1, RS-2, RS-3 and RS-4 zoning districts. The following exceptions shall apply, and unless otherwise specified in terms of height and location, shall not exceed 10'-0" above the roofline of the structure.

f. Elevator bulkheads shall be located as close to the center of the roof as possible and be visually recessive such that they do not become vertical extensions of exterior building elevations.

The project includes two elevators to service a 58,000 SF house. The elevator located at the north side extends 13'-0" above the main roof allowed where the maximum height permitted is 10'-0". The bulkhead is located approximately 240'-0" feet from the front property line and is visually recessive within the perimeter of the roof. The additional 3'-0" in height requested is based on the size and type of elevator associated with the project which is more in line with a commercially sized elevator bulkhead, but it is not atypical for a residential property of this size on a 120,000 SF lot. Staff is supportive of this requested height increase, as it is unique to larger residential properties containing multiple lots and based on the significantly large lot compared to most single-family properties. In addition, since the building height for the flat roof proposed is 27'-0", instead of the maximum 28'-0" allowed, staff has no objections to this request as the increase in height is not detrimental to the surrounding properties, and is substantially separated by more than 100'-0" from the side property. Staff finds that the expansive residence and the size of the lot creates the practical difficulties for the variance requested.

2. A variance to eliminate the requirement to provide 50% open walls on all sides for enclosed understory areas.
3. A variance to eliminate the requirement to provide an understory edge of 5'-0" from each side of the underneath of the slab of the first habitable floor above.
4. A variance to exceed by 6'-0" the maximum driveway width of 18'-0" to provide a driveway width of 24'-0".

- 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:

(4) Unit size requirements.

d. Non-airconditioned understory space located below minimum flood elevation, plus freeboard. Notwithstanding the above, for those properties located in the RS-1, RS-2, RS-3, RS-4 single-family residential districts, where the first habitable floor has been elevated above existing grade in order to meet minimum flood elevation requirements, including freeboard, the following shall apply to the understory area(s). For purposes of this subsection, 'understory' means the air-conditioned and/or non-air-conditioned space(s) located below the first elevated habitable floor.

- 1. Understory area(s) shall be used only for open air activities, parking, building access, mechanical equipment, non-enclosed restrooms and storage. Such areas shall be designed and maintained to be free of obstructions, and shall not be enclosed and/or air-conditioned at any time, with the exception of limited access areas to the first habitable floor. However, understory area(s) below the lowest habitable floor can utilize non-supporting breakaway walls, open-wood lattice work, louvers or similar architectural treatments, provided they are open a minimum of 50 percent on each side.*
- 6. The maximum width of all driveways at the property line shall not exceed 15 percent of the lot width, and in no instance shall be less than nine feet in width and greater than 18 feet in width.*
- 10. Understory edge. All allowable decking, gravel, pavers, non-supporting breakaway walls, open-wood lattice work, louvers or similar architectural treatments located in the understory area shall be set back a minimum of five feet from each side of the underneath of the slab of the first habitable floor above, with the exception of driveways and walkways leading to the property, and access walkways and/or steps or ramps for the front and side area. The front and side understory edge shall be designed to accommodate on-site water capture from adjacent surfaces and expanded landscaping opportunities from the side yards.*

The project includes an understory level with garage, access stairs, elevator and larger rooms for storage and mechanical equipment. The storage and mechanical rooms are not 50% open on all sides for which variance #2 is requested. Staff is supportive of this variance request, as the enclosed rooms are surrounded by two swimming pools and a koi pond and are not free-standing walls. Based on the large size of the property and the large size of the pool, staff finds that the variance request satisfies the practical difficulties criteria for approval.

Variance #3 is related to the requirement to provide additional 5'-0" from the edge of the first-floor slab for the understory structure in order to facilitate on-site water drainage and to extend the landscape areas from the side yards. The understory proposed is substantially contained between the pools and koi pond above and extends beyond the edge of the floor above. Because most of the understory walls are not free-standing, but supporting walls for the pools and koi pond, staff is supportive of this variance. Staff would also recommend that a detailed

plan with the most effective drainage and capture of run-off water on site be provided and approved by Public Works department. In addition, staff would recommend that the interior north side yard, part of a variance request be increased to comply with the required side yard setback to add more landscape areas on the property.

Variance #4 pertains to the width of the driveways. When an understory is proposed, the Code limits the maximum width of all driveways to 18'-0". For most single-family properties only one driveway is proposed. However, this property is composed of three, 100-foot wide lots and two driveways are proposed. The principal driveway is 24'-0" in width and a secondary driveway is 18'-0" in width. The main driveway of 24'-0" is not compatible with the character of single-family districts and even exceeds the width of 22'-0" required for commercial uses. Based on the size of the property and the length of the front property line, staff finds that 18'-0" in width for both driveways is reasonable for a property with 300' of linear frontage. Staff finds that in this case, the variance request does not satisfy the practical difficulties criteria and recommends denial of the variance.

5. A variance to reduce by 23'-2" the minimum required interior side setback of 30'-6" in order to construct a new single family home and retain a non-conforming side setback of 7'-4" on the north side.
6. A variance to reduce by 23'-2" the minimum required sum of the side setbacks of 75'-0" in order to construct a new single family home providing a sum of the side setbacks of 51'-10".

- 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:

(2) 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.

The project is proposing the demolition of the existing structures on site, except for a detached two-story building on the north side, which was constructed under building permit B1302267, and has a non-conforming side setback of 7'-4", where the approved building permit plans indicated a 10'-0' side setback. Based on the overall size of the property (120,000 SF) and the significant amount of demolition, the retention of the non-conforming setback, which will be completely modified with a new design including additions, is not associated with practical difficulties or hardship and does not satisfy the criteria for approval. In addition, new portions of the pool on the required north side yard of 30'-6" have been elevated to exceed the maximum yard elevation of 7.42' NGVD that would be allowed if the project complies with the required side setback. This variance request is also associated with variance #6, as it results in the reduction of the sum of the side setbacks required. Staff would recommend compliance with the required side setback of 30'-6" to increase the landscape area on the property,

facilitate drainage and mitigate the impact of variance #3 for the required understory edge. In summary, staff recommends denial of the variances #5 and #6.

7. A variance to exceed by 0.43' the maximum allowed height of 7'-0" for a fence in order to construct a fence along the north interior side yard up to 7.43' (14.85' NGVD) above adjusted grade elevation of 7.42' NGVD.
8. A variance to exceed by 0.43' the maximum allowed height of 7'-0" for a fence in order to construct a fence along the south interior side yard up to 7.43' (14.85' NGVD) above adjusted grade elevation of 7.42' NGVD.

- Variance requested from:

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

(b) Allowable encroachments within required yards.

(7) Fences, walls, and gates. Regulations pertaining to materials and heights for fences, walls and gates are as follows:

b. Within the required rear or side yard, fences, walls and gates shall not exceed seven feet, as measured from grade, except when such yard abuts a public right-of-way, waterway, or golf course, the maximum height shall not exceed five feet. In the event that a property has approval to be improved at adjusted grade, the overall height of fences, walls and gates may be measured from adjusted grade, provided that the portion of such fences, walls or gates above four feet in height consists of open pickets with a minimum spacing of three inches, unless otherwise approved by the design review board or historic preservation board, as applicable.

These two variances are associated with fences and gates located on the north and south side yards parallel to the front of the property and perpendicular to the side property lines. Although a detailed grading plan has not been provided, based on the few yard elevations noted on plans, it appears that the project complies with the minimum and maximum yard elevations required. This condition allows fences located within a side yard to be measured from adjusted grade instead of grade elevation, thus allowing for taller fences provided the top portion contains open pickets. In this particular instance, the applicant is not providing the open pickets at the top. However, the Board could waive this requirement and approve the design of the fences as proposed. Staff would note that there is an existing wall to be retained along the south property line and no fence is proposed along the north side of the property. Details of the side fence shall be provided to ensure that it complies with the maximum height in the side and rear yards. Staff finds that the variances requested do not satisfy the practical difficulties criteria and that the 7'-0" height measured from adjusted grade is a reasonable fence height in the location proposed. As such, staff recommends denial of variances # 7 and #8.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved** with conditions, including variances #1, #2, and #3, and that variances #4, #5, #6, #7, and #8, be **denied** subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review, Sea Level Rise criteria and Hardship and Practical Difficulties criteria, as applicable.