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VIA ELECTRONIC SUBMITTAL

August 2, 2021

Michael Belush, Chief of Planning and Zoning
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: **DRB21-0718** – Design Review for New Single-Family Home
Located at 8 Farrey Lane, Miami Beach, Florida

Dear Michael:

This law firm Steve and Jessica Rhodes (the "Applicants"), the owners of the above-referenced parcel, located at 8 Farrey Lane and identified by Miami-Dade County Folio No. 02-3233-003-0080. (the "Property"). Please consider this letter the Applicants' letter of intent, associated with the design review approval and associated variance requests for the single-family home on the Property.

Project Valuation. The estimated construction cost valuation for this project is \$1,100,000.00.

Property Description. The Property is located on the north side of Belle Isle in the City of Miami Beach ("City"), which is part of an RM-1, Residential Multifamily Low-Density Zoning District. The Property is approximately 4,590 square feet in size. The existing residential structure on the property was constructed in 1941 and is approximately 2,464 square feet in size.

Prior Approvals. On October 10, 2016, the DRB, through File No. DRB16-0052, approved of an application for design review of a new three-story single-family residence to replace an existing

one-story architecturally significant pre-1942 single-family residence, including the following variances:

- Variance from the minimum required lot size;
- Variance from the required front setback for parking;
- Variance from the maximum elevation permitted for projections and structures in required yards;
- Variance from the required rear setback for a pool; and
- Variance from the maximum area for decks within the required rear yard.

(the "2016 DRB Order").

On March 6, 2018, the DRB approved of a modification to the 2016 DRB Order to include variances from the required interior side yard setback and sum of side yards to permit an elevator shaft to be constructed in the east side yard of the Property (the "2018 DRB Orders"). See, Exhibit A, Composite of Prior Orders.

Development Program. The Applicant has renewed plans to develop a new home on the Property. The Applicant seeks to develop a beautifully designed four-story home that meets the Applicant's needs (the "Proposed Home"). The new home is inspired by the Miami skyline and the tropical atmosphere. The design allows the exterior to become a focal feature of the interior spaces. It is designed to be contextual and to integrate with its surrounding environment. The proposed new home complies with all applicable Miami Beach code requirements for unit size, height, massing, elevation, and lot coverage. However, the confining characteristics of the site necessitate certain variance requests to accommodate required parking, elevated decks and terraces, and an elevator.

Requests. The Applicant seeks the following requests in order to achieve the Project:

- 1) Variance to eliminate all of the required front setback of 20'-0" in order to construct parking spaces up to the front property line, facing Farrey Lane.

- 2) Variance to permit projecting stair and walkway in the west interior side yard and rear yard at an elevation of 10' NGVD where a maximum elevation of 8.56' NGVD is permitted.
- 3) Variance to permit a trellis to project 4'-6" into the required rear yard where a maximum projection of 2' is permitted.
- 4) Variance to permit a side interior setback of 3'-6" for a 38'-7" long portion of the eastern side yard where a side interior setback of 7'-6" is required.

Design Review Approval. The Proposed Home is consistent with the City's Design Review Criteria. The home responds appropriately to challenging confining characteristics of undersized lot, while remaining consistent with the Code with respect to finished floor elevation, open space, unit size, height and lot coverage. The Proposed Home has been designed to be contextual with the neighborhood, while improving resilience in one of the lowest lying areas of the City. Architectural elements and landscaping are utilized to reduce massing and eliminate impacts on neighboring property owners. Accordingly, the design complies with the City's Design Review Criteria.

Satisfaction of Hardship Criteria. The Applicant's requested variances satisfies all hardship criteria as follows:

(1) 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;

The Property is undersized, providing only 4,590 square feet of lot area where a minimum lot size of 5,600 square feet is required. In addition, the Property is located on Belle Isle, one of the lowest elevated areas of the City, with a crown of road elevation of only 3.56' NGVD. These lot characteristics create confining characteristics that are unique to the Property involved and not applicable to other properties in the RM-1 District.

(2) The special conditions and circumstances do not result from the action of the applicant;

The existing lot size and low elevation do not result from any action of the Applicant. The Applicant has owned and resided at the Property since 2011, and has never modified the lot size of the Property or elevation of the existing home.

(3) Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;

Granting the requested variance does not confer any special privilege on the Applicant denied to other lands, buildings, or structures in the same zoning district. The requested variances allow the Applicant to meet the required minimum parking requirement, provide an elevator, as well as provide decks that are flush with the elevation of the home. Building and homes in the RM-1 District are permitted to provide parking spaces on site, elevators, and decking. However, larger lot sizes in more elevated area facilitate these features by allowing space for setbacks and gradual transitions in elevation. Notably, homes in single family districts are permitted parking within the front setback. Thus, granting the variance merely recognizes the single-family residential use and confined characteristics of the Property.

(4) Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;

Literal interpretation of the land development regulations works and unnecessary and undue hardship on the Applicant by failing to acknowledge the confining characteristics created by the undersized lot and low elevation. Properties in the RM-1 District and single-family districts are permitted parking in the front of the proposed building or home in order to satisfy the requirements. Further, decks and terraces are common features in single-family homes.

The Property, however, features a substandard lot of size and low elevations. The combination of these two characteristics makes it necessary to provide parking within the front setback, as well as provide decks at equivalent elevations to the home. In addition, the substandard lot size requires the Applicant to distribute floor area vertically throughout four (4) stories. The proposed elevator facilitates access to the upper floors of the building. However, the small lot size requires that the elevator shaft encroach into a small portion of the interior side yard. Denial of the requested variances would make it virtually impossible to locate ground floor parking on the site, would require substantial and abrupt elevation changes for access to permitted decks in the side and rear yards,

and deny the use of an elevator for a four (4) story structure. Thus, literal interpretation of the Code would work an unnecessary and undue hardship on the Applicant.

(5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

The requested variance is the minimum variance that allows reasonable use of the Property. The requested variance of the front setback permits the Applicant to provide two (2) parking spaces where two (2) spaces are required. Further, the variances from the maximum elevation of required yards permits a minor exceedance of only 1.44' NGVD in an area where the City is planning future road raising projects. Lastly, the interior side yard setback variance request only permits an encroachment into the east side yard for a portion of the 79'-7" long east property line., with the remainder of the side yard providing a compliant setback of 7'-6". Accordingly, the requested variances are minimal and necessary for the reasonable use of the Property.

(6) The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

The granting of the variance will be in harmony with the general intent and purpose of the Code, which encourages resilient designs that are compatible with the surrounding neighborhood. The Proposed Home is appropriately designed for the nonconforming lot and low elevation, and the requested variances are not injurious to the public welfare.

(7) 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 planning and zoning director may require applicants to submit documentation to support this requirement prior to the scheduling of a public hearing or any time prior to the board of adjustment voting on the applicant's request.

The variance request is consistent with the City's Comprehensive Plan and does not reduce the levels of service as set forth in the plan.

Practical Difficulty. The substandard lot size and low elevation of the Property create significant design challenges for the Proposed Home. The proposed design utilizes decks and terraces to improve the relationship between the indoor and outdoor elements of the Property, and maximizes waterfront views. Approving the requested variances recognizes the modern emphasis on resilience in design by facilitating a substantial elevation of a low-lying property. The design challenges created by the Property's lot size and elevation are practical difficulties that justify the minor variance requests.

Sea Level Rise and Resiliency Criteria. The proposed project advances the sea level rise and resiliency criteria in Section 133-50(a) as follows:

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

The Applicant will provide a recycling or salvage plan during permitting.

(2) Windows that are proposed to be replaced shall be hurricane proof impact windows.

The Proposed Home will feature hurricane impact windows.

(3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

The design of the Proposed Home will feature passive cooling systems such as operable windows.

(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.

The Applicants have worked with a landscape architect to provide landscaping that is appropriate for the Property, with plant species that are native, salt-tolerant, and Florida-friendly. The proposed plantings are appropriate for the area and specifically selected to increase flood resilience and improve stormwater drainage on the Property.

(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.

The Proposed Home features no residentially habitable space below base flood elevation and increases the Finished Floor Elevation from 3.7' NGVD applicable to the existing home, to 10' NGVD.

(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 up to three (3) additional feet in height.

The driveways and garage are designed with future roadway elevation projects in mind. In addition, the increased Finished Floor Elevation of the Proposed Home from the existing condition makes the Property more adaptable to future road raising projects.

(7) As applicable to all new construction, all critical mechanical and electrical systems shall be located above base flood elevation. All redevelopment projects shall, whenever practicable and economically reasonable, include the relocation of all critical mechanical and electrical systems to a location above base flood elevation.

Proper precautions will be taken to ensure the critical mechanical and electrical systems are located above base flood elevation.

(8) Existing buildings shall, wherever reasonably feasible and economically appropriate, be elevated up to base flood elevation, plus City of Miami Beach Freeboard.

It is not reasonably feasible to elevate the existing home.

(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.

The design of the Proposed Home does not feature any habitable space below base flood elevation plus Freeboard. The existing home is located below base flood elevation and does not currently contain any wet or dry flood proofing systems, making it vulnerable to damage from storm and tide induced flooding events.

(10) As applicable to all new construction, water retention systems shall be provided.

The Proposed Home will retain all stormwater on-site. Notably, the Proposed Home features permeable pavement in the front yard, which serves to allow natural percolation and reduce stormwater runoff.

(11) Cool pavement material or porous pavement materials shall be utilized.

The Applicants propose a substantial increase in cool and/or porous pavement materials.

(12) The design of each project shall minimize the potential for heat island effects on-site.

The Applicants propose a roof terrace with abundant landscaping and solar panels.

Conclusion. The Proposed Home and associated requests are substantially similar to the previously approved home under the 2016 and 2018 DRB Orders. The Proposed Home is an elegant four-story structure that responds appropriately to substandard site conditions, and substantially improves resilience consistent with the City's long-term goals. The requested variances merely facilitate the design that effectively and efficiently uses the land, complies with the Code in many respects, and meets the Applicant's needs. Overall, granting these requests will enhance the Property and bring value to the surrounding area.

In light of the foregoing, we look forward to your favorable review of the application. If you have any questions or comments in the interim, please give me a call at 305-377-6222.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Larkin", with a stylized, wavy flourish.

Michael Larkin

Attachments

cc:

Nicholas Rodriguez, Esq.

Exhibit A

CFN: 20160591750 BOOK 30265 PAGE 292
DATE:10/13/2016 12:53:59 PM
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: October 10, 2016

FILE NO: DRB16-0052

PROPERTY: 8 Farrey Lane

APPLICANT: Steve Rhodes

LEGAL: Lot 8 of "2nd Section of Belle Isle Villas", according to the plat thereof filed for record and recorded in Plat Book 42 at Page 100 of the Public Records of Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new three-story single-family residence to replace an existing one-story pre-1942 architecturally significant home, including variances from the minimum required lot size, from the front setback for parking, from the maximum elevation allowed for projections and structures in required yards, from the required rear setback for a pool and from the maximum area for decks within the required rear yard.

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. 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 2, 3, 5 and 9 in Section 118-251 of the Miami Beach Code.
- B. The project would be consistent with the criteria and requirements of section 118-251 if the following conditions are met:

- 1. Revised elevation, site plan and floor plan drawings shall be submitted to and reviewed by staff, at a minimum, such drawings shall incorporate the following.
 - a. The final design details of all exterior surface 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. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and shall be screened from view on all sides, in a manner to be approved by staff.
 - c. 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.
 - d. 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. The driveway shall be constructed of an erosion resistant material and the paved area shall be kept to the minimum required for a drive aisle width, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board
 - c. A fully automatic irrigation system with 100% coverage and an automatic rain sensor will be required 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.
 - d. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
 - e. The applicants shall install street trees on all sides of the project consistent with the City's Street Tree Master Plan, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board, and root barriers shall be installed along the sidewalk in conjunction with structural soils.
 - f. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow prevention devices. Backflow prevention devices shall not be permitted within any required yard or any area fronting a street or sidewalk, unless otherwise permitted by the Land Development Regulations. The location of all backflow prevention

devices, and how they are screened 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. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all post-indicator valves (PIV), fire department connections (FDC) and all other related devices and fixtures, which shall be clearly indicated on the site and landscape plans.

- g. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect for 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 (Underlying denotes new language and ~~strikethrough~~ denotes stricken language):
1. A variance to reduce 1,010 SF from the minimum required lot area of 5,600 SF within the RM-1 district in order to construct a new three-story single family residence on a multifamily property with a lot area of 4,590 SF.
 2. A variance to eliminate all of the required front setback of 20'-0" in order to construct parking spaces up to the front property line, facing Farrey Lane.
 3. A variance to exceed by 1.15' the maximum elevation of 8.85' NGVD for allowable structures within required yards in order to construct stairs at 10.0' NGVD and 60% (6'-6") encroachment into both side yards.
 4. A variance to exceed by 1.15' the maximum elevation of 8.85' NGVD for ~~allowable structures within required yards in order to construct a pool and deck at~~ 10.0' NGVD within the rear yard.
 5. A variance to reduce by 3'-3" the minimum required setback of 7'-6" from a pool water's edge to a rear property line in order to construct the pool water's edge at a minimum of 4'-3" from the rear property line.
 6. A variance to exceed by 53.9% (241.6 SF) the maximum of 30% (134.4 SF) deck and pool area allowed within the rear yard in order to construct a pool and deck with 83.9% (376 SF) of area at the required rear yard.

- B. 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 Variance(s) II.A.1, II.A.2, II.A.3, II.A.4, II.A.5 and II.A.6, as noted above, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, only as it relates to Variance(s) II.A.1, II.A.2, II.A.3, II.A.4 II.A.5 and II.A.6 as noted above:

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.

- C. ~~The Board hereby Approves the Variance requests 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. Revised site plan and floor plan drawings shall be submitted to and reviewed by staff, at a minimum, such drawings shall incorporate the following:

- a. The pool deck wood planking shall be constructed with a post and pier method and not a concrete slab to allow rain penetration to the ground.

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 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 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. 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.
- C. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- D. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- E. 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.
- F. 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.
- G. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- H. 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 for Design Review approval and Variances II.A.1, II.A.2, II.A.3, II.A.4, II.A.5, and II.A.6 as noted above, is GRANTED and 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 "8 Farrey Lane Residence", as prepared by **Rene Gonzalez architect** dated, signed and sealed August 12, 2016, 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 12 day of October, 2016.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY 

DEBORAH J. TACKETT

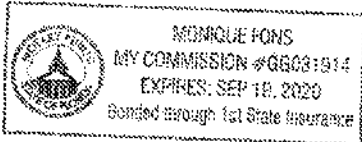
DESIGN AND PRESERVATION MANAGER
FOR THE CHAIR

STATE OF FLORIDA)

)SS

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 12th day of October, 2016 by Deborah J. Tackett, Design and Preservation Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.



[Signature]
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: 9/19/2020

Approved As To Form: [Signature])
City Attorney's Office: [Signature] (10/12/16)

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

[Handwritten mark]

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: March 06, 2018

FILE NO: DRB17-0210 (a.k.a. DRB16-0052)

PROPERTY: **8 Farrey Lane**

APPLICANTS: Steve and Jessica Rhodes

LEGAL: Lot 8 of "2nd Section of Belle Isle Villas", according to the plat thereof filed for record and recorded in Plat Book 42 at Page 100 of the Public Records of Dade County, Florida.

IN RE: The Application for modifications to a previously issued Design Review Approval for the construction of a new three-story single-family residence including new variances to reduce the required side and sum of the side setbacks in order to construct a new elevator within the required east side yard.

MODIFIED 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 2, 3, and 5 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 in Section 133-50(a) of the Miami Beach Code.
- D. The project would remain consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met
 1. All of the original conditions of approval by this Board shall remain in full force and effect under the prior Final Order dated October 06, 2016 for DRB16-0052 except as modified herein.



2. This approval shall supersede all of the original conditions of approval by this Board under the prior Final Order dated February 05, 2018 for DRB17-0210.
3. All of the proposed design changes to the elevations shall be approved including the location and design of the proposed elevator proposed at 3'-6" to the property line.
4. The final design details of all exterior surface 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.

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.

I. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
 1. A variance to reduce by ~~5'-0"~~ 4'-0" the minimum required interior side pedestal setback of 7'-6" in order to build an elevator addition to the existing structure at ~~2'-6"~~ 3'-6" from the side (east) property line.
 2. A variance to reduce by ~~5'-0"~~ 4'-0" the minimum sum of the side pedestal setback of 15'-0" in order to build an elevator addition to the existing structure and provide a sum of the side setbacks of ~~10'-0"~~ 11'-0".
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of the variances if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, as it relates to the variances as noted above:

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.

C. The Board hereby **Approves** the Variance request(s), and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

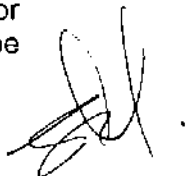
1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
2. The proposed elevator shall be setback a minimum distance of 3'-6" from the side (east) property line.

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.

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.

II. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.

- A. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- B. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- C. 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.
- D. 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.

- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- F. 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 adopted by the Board, that the Application for Design Review approval is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Design Review Board, as determined by staff, entitled "8 Farrey Lane", as prepared by **Rene Gonzalez architect** dated, signed and sealed 12/08/17, and Supplemental sheets labeled A-1.0b, A-2.0a, A-2.1a and A-2.2a dated 03/06/18 and distributed at the 03/06/18 Design Review Board meeting, and as approved by the Design Review Board, modified in accordance with the conditions set forth in this Order and 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 Design Review 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 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 Design Review Approval was granted, the Design Review 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), the Design Review Approval will expire and become null and void.

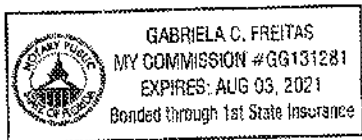
Dated this 9th day of March, 2018.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]
JAMES G. MURPHY
CHIEF OF URBAN DESIGN
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this 9th day of March 2018 by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.



[Signature]
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: 8-3-21

Approved As To Form: _____
City Attorney's Office: Dickallegis (3/8/2018)

Filed with the Clerk of the Design Review Board on Jessia Murray (3/9/18)

[Handwritten mark]

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: February 06, 2018

FILE NO: DRB17-0210 (a.k.a. DRB16-0052)

PROPERTY: **8 Farrey Lane**

APPLICANTS: Steve and Jessica Rhodes

LEGAL: Lot 8 of "2nd Section of Belle Isle Villas", according to the plat thereof filed for record and recorded in Plat Book 42 at Page 100 of the Public Records of Dade County, Florida.

IN RE: The Application for modifications to a previously issued Design Review Approval for the construction of a new three-story single-family residence including new variances to reduce the required side and sum of the side setbacks in order to construct a new elevator within the required east side yard.

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 2, 3, and 5 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 in Section 133-50(a) of the Miami Beach Code.
 - D. The project would remain consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met
 1. All of the original conditions of approval by this Board shall remain in full force and effect under the prior Final Order dated October 06, 2016 for DRB16-0052 except as modified herein.



2. The proposed design changes shall be exception of the proposed elevator.
3. The final design details of all exterior surface 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.

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.

I. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
 1. ~~A variance to reduce by 5'-0" the minimum required interior side pedestal setback of 7'-6" in order to build an elevator addition to the existing structure at 2'-6" from the side (east) property line.~~
 2. ~~A variance to reduce by 5'-0" the minimum sum of the side pedestal setback of 15'-0" in order to build an elevator addition to the existing structure and provide a sum of the side setbacks of 10'-0".~~

The variances requested herein shall be continued to the March 06, 2018 Design Review Board meeting.

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.

II. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.

- A. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- B. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- C. 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.
- D. 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.

- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- F. 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 adopted by the Board, that the Application for Design Review approval is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Design Review Board, as determined by staff, entitled "8 Farrey Lane", as prepared by **Rene Gonzalez architect** dated, signed and sealed 12/08/17, and as approved by the Design Review Board, modified in accordance with the conditions set forth in this Order and 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 Design Review 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 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 Design Review Approval was granted, the Design Review 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), the Design Review Approval will expire and become null and void.

Dated this 06 day of February, 20 18.

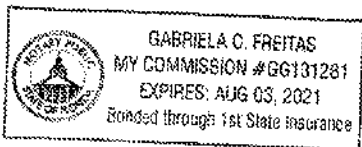
DESIGN REVIEW BOARD

THE CITY OF MIAMI BEACH, FLORIDA

BY: *James G. Murphy*
JAMES G. MURPHY
CHIEF OF URBAN DESIGN
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this 8 day of February 2018 by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.



Gabriela C. Freitas
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: 8-3-21

Approved As To Form: *[Signature]*
City Attorney's Office: *[Signature]* (2/7/18)

Filed with the Clerk of the Design Review Board on *[Signature]* (2/8/18)

[Handwritten mark]