

MIAMI BEACH

PLANNING DEPARTMENT
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: October 5, 2021

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB21-0687
420 West 51st Street

An application has been filed requesting Design Review Approval for the construction of a new two-story residence, with an understory, and including variances from the required front yard open space and from the required setbacks for the construction of a tennis court, fence and associated lighting on a vacant site.

RECOMMENDATION:

Approval of the design with conditions.

Denial of the variance requests.

LEGAL DESCRIPTION:

Lot 17 in Block 31, "Lake View Subdivision", according to the Plat thereof, as recorded in Plat Book 14, at Page 42, of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-2
Future Land Use: RS
Lot Size: 28,317 SF
Lot Coverage:
Proposed: 7,911 SF / 27.93%
Maximum: 8,495 SF / 30%
Unit size:
Proposed: 11,880 SF / 41.95%
Maximum: 14,158 SF / 50%
Height:
Proposed: 28'-0" flat roof
Maximum: 28'-0" flat roof

Grade: +4.83' NGVD
Base Flood Elevation: +8.00' NGVD
Adjusted Grade: +6.415' NGVD
First Floor Elevation: +13' NGVD (BFE+5fb)

EXISTING PROPERTY:

Vacant: Yes

SURROUNDING PROPERTIES:

North: Two-story 1935 residence
South: Surprise Lake
West: One-story 1950 residence
East: Two-story 1940 residence

THE PROJECT:

The applicant has submitted plans entitled "420 W. 51st St. Residence", as designed by **Kobi Karp Architecture and Interior Design, Inc.**, signed, sealed, and dated August 2, 2021.

The applicant is requesting Design Review Approval for the construction of a new elevated one-story residence on a vacant waterfront parcel.

The applicant is requesting review for an understory area:

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 variances:

1. A variance to reduce by 17'-3" the minimum required front setback of 20'-0" for a tennis court play surface in order to construct a tennis court at 2'-9" from the front property line facing 51st Street.
2. A variance to reduce by 17'-3" the minimum required front setback of 20'-0" for a tennis court fence in order to construct a tennis court fence at 2'-9" from the front property line facing 51st Street.
3. A variance to reduce by 517 sf the minimum required 70% (1,796 sf) open space within the front yard of 20'-0" in order to provide an open space of 50% (1,279 sf) for the construction of a new single family home.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

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

Additionally, staff has concluded that the plans and documents with the application **DO NOT** comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, only as related to variance #1:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

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

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code:

- Section 142-105.(b)(4)d. 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.
- Section 142-105.(b)(7) Height exceptions. The elevator bulkhead shall not exceed ten feet (10') above the roofline of the structure.
- URBAN HEAT ISLAND ORDINANCE Sec. 142.106(b)(6) Driveways. d. 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. e. 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.
- Section 142-105(b)(4)7. Revise open space diagram in the front yard to include only the portion within the first 20'-0" of front setback.

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Not Satisfied; the applicant is requesting variances to reconstruct an existing tennis court that encroaches into the required front yard.
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Not Satisfied; the applicant is requesting variances to reconstruct an existing tennis court that encroaches into the required front yard.
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.

Partially Satisfied; the applicant is requesting design review of the understory area and variances to retain and reconstruct a tennis court that encroaches into the required front yard.

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 variances to retain and reconstruct a tennis court that encroaches into the required front yard.

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

Not Satisfied; the applicant is requesting variances to retain and reconstruct a tennis court that encroaches into the required front yard.

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

Satisfied

8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.

Satisfied

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

Not Satisfied; a lighting plan has not been submitted.

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.

- Not satisfied; the applicant is requesting variances to retain and reconstruct a tennis court that encroaches into the required front yard, including a variance to reduce the minimum required front yard open space.**
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied.
 12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Not Satisfied; the applicant is requesting variances to retain and reconstruct a tennis court that encroaches into the required front yard.
 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; Applicant will provide a recycle/salvage plan for demolition at time of permitting.
2. Windows that are proposed to be replaced shall be hurricane proof impact windows.
Satisfied
3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Satisfied
4. Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.
Satisfied
5. The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.
Satisfied
6. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.
Satisfied
7. In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.
Satisfied
8. Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.
Not Applicable
9. When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

Not Applicable

10. In all new projects, water retention systems shall be provided.

Not Satisfied

11. Cool pavement materials or porous pavement materials shall be utilized.

Satisfied

12. The project design shall minimize the potential for a project causing a heat island effect on site.

Satisfied; design proposes vegetated green roofs.

ANALYSIS:

DESIGN REVIEW

The applicant is proposing to construct a new, elevated two-story residence on a waterfront parcel with a tennis court. The proposal includes the review of the understory portion of the design. The design floor elevation of the new residence is proposed at base flood elevation (8') plus 5' of free board, or 13' NGVD.

Since the 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 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 has incorporated an understory for the primary use of parking, storage and access to the main level.

The contemporary styled home features a large, one-story garage at the front of the site and adjacent to the remnants of a former tennis court. The applicant is also proposing to reconstruct the tennis court as part of this application. Further setback towards the rear of the site, over 120' from the front property line, is the primary two-story residence with an understory overlooking Surprise Lake. The proposed garage structure is clad in rust-colored metal panels and features bubble-patterned perforated screens. The main residence is enhanced by stucco finished structural components that are contrasted with recessed walls of travertine-like stone and louvered screens.

Overall, staff is supportive of the design and understory and recommends the approval of the design with the conditions noted in the draft order.

VARIANCE ANALYSIS

The project includes the following variance requests:

1. A variance to reduce by 17'-3" the minimum required front setback of 20'-0" for a tennis court play surface in order to construct a tennis court at 2'-9" from the front property line facing 51st Street.
2. A variance to reduce by 17'-3" the minimum required front setback of 20'-0" for a tennis court fence in order to construct a tennis court fence at 2'-9" from the front property line facing 51st Street.

- Variances requested from:

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

(b) Allowable encroachments within required yards:

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

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

f. Any play surface, whether paved or unpaved, when associated with such court games, shall have the following minimum required yards: Front—20 feet.

3. A variance to reduce by 517 sf the minimum required 70% (1,796 sf) open space within the front yard of 20'-0" in order to provide an open space of 50% (1,279 sf) for the construction of a new single family home.

- 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:

(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 design review board or historic preservation board, as applicable, may approve 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.

Subject to the review and approval of the design review board or historic preservation board, as applicable, the following shall apply to the understory area(s):

7. At least 70 percent of the required front yard and street side yard areas shall consist of sodded or landscaped pervious open space. For purposes of this section, the required front yard shall be the same as the required front setback of the principal structure. All allowable exterior walkways and driveways within the front and street side yards shall consist of pavers set in sand or other semi-pervious material. The use of concrete, asphalt or similar material within the required front or street side yards shall be prohibited.

As part of the improvements to the vacant property, a new tennis court is proposed approximately in the same area where the remains of an old tennis court exist. The applicant is requesting three (3) variances to reconstruct the tennis court in approximately the same location. As the site is currently vacant, all new structures proposed, including the proposed new tennis court, must comply with the current zoning regulations.

The property, which is located in the RS-2 district with a lot area exceeding 28,000 sf, significantly exceeds the minimum lot area of 18,000 sf for properties within the district and significantly exceeds the minimum lot width of 75'-0" for standard lots in the district, with 100'-0 at the narrowest portion at the rear and 130'-0" at the front. Based on these two important parameters, and the vacant condition of the site, the property can be developed with a new single-family home and accessory structures and amenities that comply with all regulations.

The reconstruction of the tennis court so close to the front property line is the applicant's choice. This location is not compatible with the single family environment of the neighborhood and will likely have a negative impact on the adjacent properties.

A variance from the minimum open space requirements within the front yard is also being requested, due to the size and location of the tennis court. The proposed reduction in minimum open space would also have a negative impact on the front of the property and its relationship to adjacent homes. Additionally, it would have a negative impact on the drainage of the site. Approval of any of these variances would confer a benefit to the applicant denied to other properties in the same district.

Although the main structure is significantly setback from the front, this does not mitigate the negative impact of the tennis court on the surrounding area and will not reduce the noise and potential light spillage beyond the property limits. The rendering on page A1.04 shows a landscape barrier and a perimeter fence; however, it appears that there is no landscape proposed along the front of the tennis court, per the landscape drawings, except for trees in the right-of way. Staff would also note that a massive 10-car garage is proposed at the front of the home, along with enclosed parking for three (3) cars under the home. The extensive garage can very easily be reduced or eliminated so that a tennis court can be accommodated on the site, in accordance with all regulations.

In summary, staff strongly recommends denial of all variances requested, as the hardship criteria has not been satisfied and practical difficulties have not been demonstrated. Instead, staff recommends that the location of the tennis court be reconfigured within the site and adhere to the minimum requirements of the Code.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved**, and that the variance requests be **denied**. However, should the Board find that the variance(s) requested satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property, staff recommends that any approval be subject to the conditions enumerated in the attached Draft Order which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria and Practical Difficulty and Hardship criteria, as applicable.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: October 5, 2021

PROPERTY/FOLIO: **420 West 51st Street 02-3222-022-1570**

FILE NO: DRB21-0719

IN RE: An application has been filed requesting Design Review Approval for the construction of a new two-story residence, with an understory, and including variances from the required front yard open space and from the required setbacks for the construction of a tennis court, fence and associated lighting on a vacant site.

LEGAL: Lot 17 in Block 31, "Lake View Subdivision", according to the Plat thereof, as recorded in Plat Book 14, at Page 42, of the Public Records of Miami-Dade County, Florida.

APPLICANT: David Block Irrevocable Trust

ORDER

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

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 1, 2, 3, 5, 6, 9, 10, 12 and 19 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1, 10 and 12 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
 1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 420 West 51st Street shall be submitted, at a minimum, such drawings shall incorporate the following:

The design of the understory area **shall be** permitted as proposed.

- a. The design of the understory area **shall be** permitted as proposed.
- b. URBAN HEAT ISLAND ORDINANCE Sec. 142.106(b)(6) Driveways. d. 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. e. Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in section 114-1 of this Code, shall be prohibited.
- c. The proposed tennis court shall comply with the required front setback for play surface and fence.
- d. The final design details and color selection of the travertine “stone” cladding on the main residential building 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.
- e. The final design details, material and color selection of the louvered screens proposed on the main residential building shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- f. The final design details, material and color selection of the “wood” soffits on the main residential building 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.
- g. The final design details and plant selection of the green wall proposed on the west elevation of the main residential building 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.
- h. The final design details and color selection of the metal panels proposed for the cladding of the garage 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.
- i. The final design details and color selection of the patterned perforated metal panels at the garage 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.
- j. The final design details of the exterior materials and finishes shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- k. 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.

- I. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding plans shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plans shall comply with Chapter 26-Landscape Requirements of the Miami Beach Code and shall incorporate the following:
 - a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
 - b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
 - c. Prior to any site demolition work, a tree protection fence following the City standard shall be installed for trees scheduled to remain subject to the review and approval of the City Urban Forester.
 - d. Any necessary root and tree branch pruning with a diameter at breast height (DBH) of 2" or greater shall be approved by the City Urban Forester prior to any tree work.
 - e. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
 - f. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
 - g. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.

- h. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP
- i. Any proposed new street trees shall be of a planting species consistent or similar with existing street trees in the immediate area or consistent with any master street tree plan for the area, subject to the review and approval of the City Urban Forester.
- j. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- k. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- l. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- m. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
- n. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right-of-way shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- o. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

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

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s) which were either approved by the Board with modifications, or denied:

The following variances were denied by the Board:

1. A variance to reduce by 17'-3" the minimum required front setback of 20'-0" for a tennis court play surface in order to construct a tennis court at 2'-9" from the front property line facing 51st Street.
 2. A variance to reduce by 17'-3" the minimum required front setback of 20'-0" for a tennis court fence in order to construct a tennis court fence at 2'-9" from the front property line facing 51st Street.
 3. A variance to reduce by 517 sf the minimum required 70% (1,796 sf) open space within the front yard of 20'-0" in order to provide an open space of 50% (1,279 sf) for the construction of a new single family home.
- B. The applicant has submitted plans and documents with the application that staff has concluded **DO NOT** satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents with the application **DO NOT** comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

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

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

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

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

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

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

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

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

- C. The Board hereby **Denies** the variances 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.

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. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
- B. During construction work, the applicant shall maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site. 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.
- C. Prior to the issuance of a demolition permit for the existing home, a construction fence shall be installed along all property lines, in accordance with Section 142-876 of the City Code, "Vacant and abandoned properties and construction sites." However, along the front property line, such fence shall consist of an opaque screening, a minimum of eight (8') feet tall, which may include plywood or aluminum panels, or the equivalent solid construction on a wood or metal frame, with a continuous color finish, and concrete foundations. Only rolling gates or rigid folding panels shall be permitted. Swinging gates shall not be permitted.
- D. If applicable, a Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- E. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- F. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.

- G. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- H. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- I. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- J. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- K. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- L. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "6342-6360 North Bay Road" as designed by **CFZ Design**, dated 03-16-2021, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and

