

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: November 2, 2021

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB21-0718 (a.k.a. DRB16-0052)
8 Farrey Lane

An application has been filed requesting Design Review Approval for the construction of a new 4-story single-family residence including variances from the required setbacks for parking, from the maximum height and maximum projections associated with stairs, walkways, and trellis structures, and a variance from the required side yard setback requirements.

RECOMMENDATION:

Approval of the design with conditions.

Approval of variances #1, #2, #3 and #4.

Denial of variance #.5

LEGAL DESCRIPTION:

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.

BACKGROUND:

On October 10, 2016, the Design Review Board approved a new three-story single-family home to replace an existing one-story structure, including a number of variances, pursuant to DRB16-0052. On February 6, 2018, the Board approved modifications to the previously approved design, and continued the requested additional variances pursuant to DRB17-0210. The subject variances were approved by the Board at the March 6, 2018 meeting.

The approval subsequently expired and as such, the applicant is returning to the Design Review Board for approval of the new 4-story single family residence with variances. At the October 5, 2021 meeting this application was continued to a date certain of October 20, 2021 due to the excess number of applications on the agenda.

At the October 20, 2021 meeting, the application was continued to a date certain of November 2, 2021 due to lack of quorum.

SITE DATA:

Zoning:	RM-1 (Residential, Multifamily Low Intensity)
Future Land Use:	RM-1 (Residential, Multifamily Low Intensity)
Lot Size:	4,590* SF
Proposed FAR:	5,585 SF / 1.25
Maximum FAR:	5,585 SF / 1.25
Proposed Height:	49'-0" from BFE + Freeboard / (4) four-story
Maximum Height:	50'-0" from BFE + Freeboard / (5) five-story

*As indicated on submitted survey.

Surrounding Properties:

East: One-story 1941 residence

North: Biscayne Bay

South: One-story 1941 residence (DRB Approval for a second floor addition)

West: Three-story new construction DRB23155/DRB16-0053

THE PROJECT:

The applicants have submitted plans entitled "8 Farrey Lane Residence", as prepared by **Rene Gonzalez architect** dated, signed and sealed August 2, 2021.

The applicants are requesting the following variance(s):

1. 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.
2. A variance to reduce by 4'-0" the minimum required interior side pedestal setback of 7'-6" in order to construct a new four-story single-family home at 3'-6" from the side (east) property line.
3. A variance to exceed by 1.22' the maximum elevation of 8.78' NGVD for allowable projections within required side yards in order to construct steps and landing at 10.0' NGVD with 40% (3'-0") encroachment into the west side yard.
4. A variance to exceed by 59.1% (271.3 SF) the maximum of 30% (137.7 SF) deck area allowed within the rear yard in order to construct a pool deck with 89.1% (409 SF) within the required rear yard.
5. A variance to exceed by 30.1% (2'-6") the maximum 25% (2'-0") projection allowed within the required rear yard to construct ornamental trellis with 55.1% (4'-6") encroachment into the rear yard at 2nd, 3rd and 4th floors.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, with the exception of variance #5, 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, with the exception of variance #5:

- 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 appears to be consistent with the following sections of the City Code in addition to the variances requested:

1. Sec. 142-155(a)(3). Detailed grading plan shall be submitted at the time of the building permit, specifically to verify that the front yard complies with the minimum and maximum yard elevation required.
2. Landscape and architectural plans are not consistent regarding configuration of the required side and rear yards.

This 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.
Satisfied
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.
Satisfied; however multiple variances have been requested.

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.
Satisfied; however multiple variances have been requested.
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.
Partially Satisfied; however multiple variances have been requested, and staff recommends denial of variance #5, due to lack of hardship or practical difficulty.
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.
Partially Satisfied; however multiple variances have been requested, and staff recommends denial of variance #5, due to lack of hardship or practical difficulty.
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.
Not Applicable
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.
Satisfied
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Satisfied

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

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

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

- (1) A recycling or salvage plan for partial or total demolition shall be provided.
Not Satisfied
A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Satisfied
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Satisfied
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.
Satisfied
- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.
Satisfied
- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.
Satisfied
- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.
Satisfied
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.
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 54 of the City Code.
Not Applicable
- (10) In all new projects, water retention systems shall be provided.
Not Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.

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

Satisfied

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

Satisfied

STAFF ANALYSIS:

DESIGN REVIEW

The properties along Farrey Lane were originally developed with one-story single-family homes all constructed as part of a residential development in 1941. This street, however, is an anomaly within the encompassing RM-1 multifamily district, which allows for a maximum height of (5) five-stories and properties to be developed with a maximum FAR of 1.25. As such, any proposed modification or new construction, even that of a single-family residence would have to comply with the RM-1 zoning development regulations. The proposed home will be located on a vacant waterfront parcel adjacent to a three-story home to the east.

The proposed design remains similar as previously approved in its massing, layout and architectural expression, with the exception of an additional floor and rooftop terrace. The design of the home is grounded and has a tactile approach to the residential program. Specifically, the proposal seeks to be “closer to the water and the earth” while still being environmental responsive and resilient to the rising sea level.

The first floor is elevated approximately 10'-0", and features an open plan for dining, kitchen and parlor that open up to a large outdoor living area along the Bay. The master suite and three other bedrooms are housed on the second floor where the north master bedroom wall is detailed with a louver system that overlooks the Bay. A large children's area and outdoor terrace, along with a guest bedroom, is configured on the third level. Lastly, the fourth-floor plan features a kitchenette and outdoor terraces. The home is very minimalist in style and sculptural in quality, particularly with the use of materials and the articulation of the massing and exterior planes. Although the scale is a departure from the one-story homes within the neighborhood, it is consistent with other structures recently approved by the Board on Farrey Lane.

VARIANCE REVIEW

The applicants are requesting the following variance(s):

1. 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.
2. A variance to reduce by 4'-0" the minimum required interior side pedestal setback of 7'-6" in order to construct a new four-story single-family home at 3'-6" from the side (east) property line.

- Variances requested from:

Sec. 142-156. - Setback requirements.

(a) The setback requirements for the RM-1 residential multifamily, low density district are as follows:

At-grade parking lot on the same lot except where (c) below is applicable, Front:
20 feet.
Subterranean and pedestal, Interior side, Single lots less than 65 feet in width:
7.5 feet

The proposed single-family home is required to comply with the RM-1 zoning regulations on which at-grade parking is required to be at a setback of 20'-0" from the front property line and the minimum required interior side setback is 7'-6". The parking is proposed within the 20'-0" front yard and an elevator is proposed at 3'-6" from the south side property line for which two variances are requested. Although parking a vehicle in the front yard is permitted within single family districts, in this case due to the specific location of the property in the RM-1 zoning district, a 20 foot setback is required. This presents a challenge as the subject property, which is one of several properties along Farrey Lane (originally platted in 1941) that does not meet the minimum lot area required per today's Code in the RM-1 district. In addition, the lot depth of approximately 80'-0" is well below the lot depth of most properties in the City.

Staff would note that these two variances were previously approved by the Board, and the substandard lot area of the property with 4,590 sf where the minimum required is 5,600 sf and the lot depth create practical difficulties to construct a single-family home and provide parking, as allowed by the uses permitted in the district. As such, staff recommends approval of variances #1 and #2.

3. A variance to exceed by 1.22' the maximum elevation of 8.78' NGVD for allowable projections within required side yards in order to construct steps and landing at 10.0' NGVD with 40% (3'-0") encroachment into the west side yard.

- Variance requested from:

Sec. 142-1132. - Allowable encroachments within required yards.

(o) Projections. In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet.

(6) Porches, platforms and terraces up to 30 inches above the adjusted grade elevation of the lot, as defined in chapter 114.

The finish floor of the house is required to be at base flood elevation + 1 foot or 10' NGVD in this case. The grade for the property is 3.56' NGVD, based on the elevation of the crown of the road in front of the property, as no sidewalk exists. The maximum elevation for allowable encroachments in required yards is calculated as the average of flood elevation and grade elevation, plus 30 inches. With the finished floor of the house at 10.0', the maximum elevation for allowable encroachments is 8.78', thus creating a gap of 1.22' from the finished floor elevation. In order to locate these allowable encroachments at the same elevation level as the main home, the applicant is seeking a variance.

Staff finds that the existing very low grade of the property creates the practical difficulties to accommodate the transition from the existing surrounding low grade to the higher finished floor level required by the Building Code. A similar variance was also previously approved by the Board, and staff would also note that the Code allows the rear yard to be elevated to match the finished floor of the home which also was part of a previous variance approved that is no longer necessary. In summary, staff recommends approval of variance # 3.

4. A variance to exceed by 59.1% (271.3 SF) the maximum of 30% (137.7 SF) deck area allowed within the rear yard in order to construct a pool deck with 89.1% (409 SF) within the required rear yard.

- Variance requested from:

Sec. 142-1132. - Allowable encroachments within required yards.

(j) Hot tubs, showers, saunas, whirlpools, toilet facilities, swimming pool equipment, decks. In all districts, hot tubs, showers, whirlpools, toilet facilities, decks and cabanas are structures which are not required to be connected to the main building but may be constructed in a required rear yard, provided such structure does not occupy more than 30 percent of the area of the required rear yard and provided it is not located closer than seven and one-half feet to a rear or interior side lot line.

The area of the pool and deck in multifamily districts is restricted to no more than 30% of the area of the required rear yard. The available area of the rear yard in this case is very limited for outdoor amenities because of the 82'-0" lot depth of the property and the irregular shape of the site. The deck area proposed exceeds this threshold up to 89.1%. A similar variance was approved in 2016 for this property. Due to the reduced lot size and lot depth, staff find that this variance request satisfies the practical difficulties criteria for approval.

5. A variance to exceed by 30.1% (2'-6") the maximum 25% (2'-0") projection allowed within the required rear yard to construct ornamental trellis with 55.1% (4'-6") encroachment into the rear yard at 2nd, 3rd and 4th floors.

- Variance requested from:

Sec. 142-1132. - Allowable encroachments within required yards.

(o) Projections. In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet.

(5) Ornamental features.

As part of the building design, a trellis structure is proposed along the rear elevation at the 2nd, 3rd and 4th floors. The length of the structures exceeds the maximum encroachment allowed within the rear yard. Although the size of the property creates design challenges in order to comply with all zoning requirements, staff is unable to find practical difficulties related to variance #5. Staff finds that this is a design feature, and is not necessary to develop a single family home consistent with the size and location of the property. As such, staff recommends that the project be modified to comply with the maximum projection allowed, and that variance #5 be denied.

Staff is supportive of the overall design and recommends approval of the application, with the exceptions noted above.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved**, inclusive of variance requests #1, #2, #3 and #4, and that variance request #5 be **denied**, subject to the conditions enumerated in the attached Draft Order which address the inconsistencies with the aforementioned Design Review criteria, Sea Level criteria and Practical Difficulty and Hardship criteria, as applicable.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 2, 2021

PROPERTY: **8 Farrey Lane** **02-3202-157-0010**

FILE NO: DRB21-0718

IN RE: An application has been filed requesting Design Review Approval for the construction of a new 4-story single-family residence including variances from the required setbacks for parking, from the maximum height and maximum projections associated with stairs, walkways, and trellis structures, and a variance from the required side yard setback requirements.

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.

APPLICANT: Lirame Properties LLC

ORDER

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

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 5, 6 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 in consistent with the Sea Level Rise Criteria 1 and 10 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 proposed air conditioning equipment at 8 Farrey Lane shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. Access gates shall be installed along the eastern property line at the western terminus of Farrey Lane. Such gates, and the access driveway shall only be utilized for servicing of the FPL equipment and for emergency egress from the hotel property. Except when associated with a Special Events permit, loading and unloading operations servicing the hotel shall not be permitted from the FPL access drive.
 - b. 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.
 - 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 applicant shall install street trees adjacent to the subject property consistent with the City's Street Tree Master Plan or similar to existing species along the street, 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.
 - 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 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.
- f. 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):
 - 1. 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.
 - 2. A variance to reduce by 4'-0" the minimum required interior side pedestal setback of 7'-6" in order to construct a new four-story single-family home at 3'-6" from the side (east) property line.
 - 3. A variance to exceed by 1.22' the maximum elevation of 8.78' NGVD for allowable projections within required side yards in order to construct steps and landing at 10.0' NGVD with 40% (3'-0") encroachment into the west side yard.
 - 4. A variance to exceed by 59.1% (271.3 SF) the maximum of 30% (137.7 SF) deck area allowed within the rear yard in order to construct a pool deck with 89.1% (409 SF) within the required rear yard.

5. A variance to exceed by 30.1% (2'-6") the maximum 25% (2'-0") projection allowed within the required rear yard to construct ornamental trellis with 55.1% (4'-6") encroachment into the rear yard at 2nd, 3rd and 4th floors.
- B. The applicant has submitted plans and documents with the application that the Board has concluded 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.

The applicant has submitted plans and documents with the application that the Board has concluded 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 **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.

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. 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 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 "8 Farrey Lane Residence", as prepared by **Rene Gonzalez architect** dated, signed and sealed August 2, 2021, and as approved by the Design Review Board, as determined by staff.

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.

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

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