

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: DRB21-0722
1649 W 22nd Street

An application has been filed requesting Design Review Approval for the construction of a new two-story residence that includes one or more waivers to replace an existing three-story single-family home.

RECOMMENDATION:

Continuance to a future date.

LEGAL DESCRIPTION:

Lot 23, Block 4A, of "3rd Revised Plat of Sunset Islands", according to the plat thereof, as recorded in Plat Book 40, Page 8, of the public records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-3
Future Land Use: RS
Lot Size: 21,497 SF
Lot Coverage:
Proposed: 6,080 SF / 28.3%
Maximum: 6,449 SF / 30%
Unit size:
Proposed: 10,385 SF / 48%
Maximum: 10,748.5 SF / 50%
Height:
Proposed: 28'-0" flat roof
Maximum: 24'-0" flat roof
Grade: +4.67' NGVD
Base Flood Elevation: +8.00' NGVD

Adjusted Grade: +6.33' NGVD
First Floor Elevation: +11.00' NGVD (BFE+3' fb)

EXISTING PROPERTY:

Year: 1988
Architect: Miguel Gonzalez
Vacant: No
Demolition: Total

SURROUNDING PROPERTIES:

East: One-story 1953 residence
North: Biscayne Bay, Canal
South: One-story 1938 residence
West: Vacant, recently approved DRB project

THE PROJECT:

The applicant has submitted plans entitled "Request for DRB Approval for: Price Residence", as designed by **Choeff Levy Fischman Architecture + Design**, signed, sealed, and dated September 7, 2021.

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

1. The height of the proposed structure is 28'-0" in accordance with Section 142-105(b); 28' as measured from BFE +3, or 11' NGVD.
2. A two-story side (northeast) elevation in excess of 60'-0" in length in accordance with Section 142-106 (a) (2)(d).
3. A two-story side (southwest) elevation in excess of 60'-0" in length in accordance with Section 142-106 (a) (2)(d).

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)(1) *Lot area, lot width, lot coverage, unit size, and building height requirements*. The lot area, lot width, lot coverage, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows: **RS-3 may be increased up to 28 feet for flat roofs when approved by the DRB in accordance with the applicable design review criteria.**
- Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard:
 - a. The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line.
 - b. The square footage of the additional open space shall not be less than one percent of the lot area.
 - c. The elevation (height) of the open space provided shall not exceed the maximum permitted elevation height of the required side yard, and
 - d. At least 50 percent of the required interior open space area shall be sodded or landscaped with pervious open space.
- The mechanical equipment proposed on the roof plan shall be located further southwest and more within the center of the roof.
- The internal spiral staircase proposed within the northeast bar of the residence shall not have access to the rooftop, as indistinctly depicted on Sheet G100.

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.
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, the applicant is requesting three design waivers.
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, the applicant is requesting three design waivers.
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.
Not Satisfied; See staff analysis. Staff is recommending that the specimen Tamarind tree located near the front of the property be retained and that the proposed new home be designed to accommodate its retention.
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; See staff analysis. Further development of the northeast elevation is required in order to mitigate the requested design waiver due to its overall length.
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; See Nos. 4 & 5 above. Further, staff is recommending that the proposed height waiver be reduced and modified in order to take into consideration the neighboring properties.
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.
No Satisfied; See Nos 4, 5 & 6 above.
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; See No. 4 above and staff analysis.

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; See No. 6. above

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.

Not Applicable

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

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

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

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

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

ANALYSIS:

DESIGN REVIEW

The applicant is requesting Design Review Approval for the construction of a new two-story residence on a waterfront parcel on Sunset Island 4 that will replace an existing three-story residence. The design floor elevation of the new residence is proposed at base flood elevation (8' NGVD) plus a free board +3', or +11.00' NGVD. The proposal seeks three design waivers.

The first design waiver request is for the height of the residence. RS-3 zoned single-family properties can be designed with homes that have an overall height of 24'-0" for flat roof structures; such height may be increased up to four (4) additional feet through the design review board process. The waiver is intended for large lots in the RS-3 districts that closely resemble lot sizes in the RS-1 (30,000 SF) and RS-2 (18,000 SF) zoning districts. The applicant is seeking an additional 4'-0" of height for the new two-story residence from BFE +3'-0", or 11' NGVD.

The subject site has a lot area of 21,497 SF, exceeding the minimum lot area required for RS-3 lots, as well as the minimum area of an RS-2 zoned lot that has a maximum height of 28' for flat roofs. While the lot size of the property size does help to alleviate height impacts on neighboring properties, the immediate area is very diverse in terms of overall building height. In this regard, the following is noted:

- There is a new 2-story home with an approved four (4') foot height waiver to the southwest;

- There is a single story structure constructed in 1953 to the east; and
- There is a pre-1942 architecturally significant home directly across the canal to the north.

Due to this varied context, staff would recommend that no waiver be granted for the northeast wing of the home, which is abutting the single-story home to the east and closest to the pre-1942 home across one of the narrowest waterways in the City. Staff is not opposed to a height waiver of up to two (2') feet for the wing of the new home abutting the neighboring property where the Board previously approved a four (4') foot height waiver. It is important to note that this abutting property is on the wide opening from the canal to Biscayne Bay, with a much larger distance to the nearest property across the waterway, as compared to the subject site.

The second and third design waivers relate to the open space requirements for two-story elevations that exceed 60'-0" in length. The applicant is requesting such waivers for both interior side elevations. The second waiver request pertains to the southwest side elevation that is 105'-2" long and is broken up by a 16'-6" courtyard. The subject two-story elevation is appropriately broken up with a recess that moderates the long two-story elevation. However, one of the two-story volumes exceeds the 60' length by 6'-4", and the provided courtyard does not fulfill the landscape requirement, nor is it fully open to the sky since it features a trellis at the roofline. As proposed, the design of this elevation is broken up with a deep recess and meets the intent of the code. As such staff is supportive of this waiver.

The third waiver request is for the southeast elevation that has a two-story portion that is 79'-8" long without incorporating an open space court. The design of the elevation features a 2'-4" recess on the ground floor. The code requires that such elevations not exceed 50% of the lot depth or 60', whichever is less. Although the nearly 80' two-story elevation is less than 50% of the 202' property line length, staff finds that the elevation does not have enough planar movement and interest to substantiate the request. Staff recommends that the subject elevation be further refined with recessed planes and fenestration in order to mitigate the waiver request, or that this portion of the home be redesigned to comply with the required courtyard space.

Regarding the proposed site plan and existing landscaping, it is important to note that there is a large specimen Tamarind tree near the front of the property, with a diameter of 51". The tree disposition plan lists the tree in 'fair' condition. Staff would recommend that this tree be retained in its current location and the front of the home be redesigned to accommodate its retention.

Lastly, the waterfront elevation, including the continuous glazing proposed for the entirety of the façade, should be further studied and refined. The portion of the canal that the subject lot fronts is unique as it is one of the narrowest canals in the City, and the narrowest of the canals within the Sunset Islands. Due to its visibility from the south side of Sunset Island 3, staff would recommend that solid walls or elements from the home's other elevations be incorporated into the waterfront façade, to better break up this elevation and add visual interest.

Overall the proposed home is well conceived, forward thinking and will be an asset to the Sunset Island neighborhood. Considering the collective impact of the recommended changes

herein, staff recommends that the item be discussed and continued, so that all of the changes can be incorporated into revised plans.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **continued** to a future date. However, should the Design Review Board move to approve the application, staff recommends that such approval be subject to the conditions enumerated in the attached draft Final Order, which address the inconsistencies with the aforementioned Design Review criteria.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 2, 2021

PROPERTY/FOLIO: **1649 W 22nd Street 02-3228-001-1920**

FILE NO: DRB21-0722

IN RE: An application has been filed requesting Design Review Approval for the construction of a new two-story residence that includes one or more waivers to replace an existing three-story single-family home.

LEGAL: Lot 23, Block 4A, of "3rd Revised Plat of Sunset Islands", according to the plat thereof, as recorded in Plat Book 40, Page 8, of the public records of Miami-Dade County, Florida.

APPLICANTS: 164922 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 9 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 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 the proposed new residence at 1649 W 22nd Street shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The proposed 4'-0" increase in height **shall not be** permitted as proposed.
 - b. The proposed (northeast) side open space requirement **shall not be** waived as proposed.

- c. The proposed (southwest) side open space requirement **shall be** waived as proposed.
 - d. The final design details and color selection of the “tarimatec wood” cladding 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 mechanical equipment proposed on the roof shall be relocated closer to the center of the roof.
 - f. The final design details of the screening for the rooftop mechanical equipment 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 color selection of the “natural concrete finish” proposed for the walls 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 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.
 - i. 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.
 - j. 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. No variance(s) were filed as part of this application.

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

- A. Where one or more parcels are unified for a single development, the property owner shall execute and record an unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- B. 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.
- C. 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.
- D. 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.
 - E. 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.
 - F. 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.
 - G. 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.
 - H. 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. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
 - J. 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.
 - K. 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.
 - L. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
 - M. 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 "Request for DRB Approval for: Price Residence", as designed by **Choeff Levy Fischman Architecture + Design**, signed, sealed, and dated September 7, 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 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 _____.

