

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: February 1, 2022

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB21-0750
5440 La Gorce Drive

An application has been filed requesting Design Review Approval for the construction of a new two-story residence with an understory, including a variance from the maximum height for a two-story structure, to replace an existing pre-1942 architecturally significant residence.

RECOMMENDATION:

Approval of the design.

Denial of the variance 1.

LEGAL DESCRIPTION:

Lot 5, and the North 37.0 feet of Lot 4, Block 12, of BEACH VIEW SUBDIVISION, according to the Plat thereof, recorded in Plat Book 9, Page 158, of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-4
Future Land Use: RS
Lot Size: 12,100 SF
Lot Coverage:
Proposed: 3,464 SF / 28.6%
Maximum: 3,630 SF / 30%
Unit size:
Proposed: 6,047.7 SF / 49.9%
Maximum: 6,050 SF / 50%
Height:

Grade: +4.12 NGVD
Base Flood Elevation: +8.00' NGVD
Adjusted Grade: 6.06' NGVD
First Floor Elevation: +14.5' NGVD (BFE 6.5" FB)

EXISTING PROPERTY:

Year: 1936
Architect: Russel t. Pancoast
Vacant: No

SURROUNDING PROPERTIES:

East: One-story 1939 residence
North: Two-Story 1958 residence
South: One-Story 1950 residence
West: La Gorce Golf Course

Proposed: **25'-0"** flat roof *
Maximum: 24'-0" flat roof

***VARIANCE REQUIRED**

THE PROJECT:

The applicant has submitted plans entitled "Yoshimura Residence." as designed by **Choeff, Levey Fishman Architecture + Design**, signed and sealed December 6, 2021.

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 variance:

1. A variance to exceed by 1'-0" the maximum height of 24'-0" for a two-story structure with a flat roof.

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, 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:

- 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.

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
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied. The applicant requesting understory review and one variance from the Board.
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
Satisfied
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.
Not Satisfied. The applicant is requesting understory review and one variance from the Board.
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Not Satisfied. The applicant is requesting understory review and one variance from the Board.
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection,

relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.

Satisfied. However, the applicant is requesting understory review and one variance from the Board.

8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied
9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Not Satisfied; a lighting plan has not been submitted.
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Satisfied
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Not Satisfied; the applicant is requesting understory review and one variance from the Board.
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
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.
Not Applicable

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.
Not Applicable
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 of 54 of the City Code.

Not Applicable

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

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

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

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

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

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

STAFF ANALYSIS:

The applicant is proposing to construct a new two-story residence on a site that fronts the La Gorce Golf Course to replace an existing architecturally significant pre-1942 home. Additionally, the application includes the review of the understory and a request for one variance.

The proposed home features an understory with the first fully-enclosed, habitable floor of the residence designed at an elevation of 14'-6" NGVD, or BFE plus 6.5' of freeboard. The design intention is to create a larger, non-air-conditioned space below the main slab that serves as a usable outdoor recreational amenity and program feature for the owner. In this design, the project architect has incorporated an understory for the parking, outdoor recreational spaces, storage and access to the main level.

The residence has been designed in a contemporary architectural style. The design is comprised of projecting volumes of varying forms, textures and cladding that collectively provide good movement to the predominantly cubic home. The design has an extensive material palette that includes wood cladding, vertical wood louvers, polished concrete and smooth stucco for surfaces contrasted with black-veined stone accents. The proposed design is dynamic, and staff is supportive of the design.

VARIANCE REVIEW

The project includes the following variance request:

A variance to exceed by 1'-0" the maximum height of 24'-0" for a two-story structure with a flat roof.

- 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:*

(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:*

<i>Zoning District</i>	<i>Minimum Lot Area (square feet)</i>	<i>Minimum Lot Width (feet)*</i>	<i>Maximum Lot Coverage for a 2-story Home (% of lot area)**</i>	<i>Maximum Unit Size (% of Lot Area)</i>	<i>Maximum Building Height, which shall not exceed two stories above the base flood elevation, plus freeboard in all districts***</i>
<i>RS-4</i>	<i>6,000</i>	<i>50</i>	<i>30%</i>	<i>50%</i>	<i>24 feet - flat roofs.</i> <i>27 feet - sloped roofs.</i>

The applicant has chosen to construct a home with an understory, and it is their position that they need the variance in order to have a higher clearance within the understory area, which in turn raises the entire height of the house. In this regard, the applicant is proposing an overall interior height of 11'-8" from the floor of the first habitable level to the top of the second floor, and an overall interior height of 11'-7" from the top of the second floor to the roof. These interior heights can be easily be adjusted by a total of one (1'-0") foot to comply with the height requirements of the City Code for this zoning district.

Staff cannot identify a hardship or practical difficulty in constructing a home within the requirements of the City Code as the property consists of a vacant site. It should further be noted that when the City Code was revised to consider requirements for understory homes, it

was clearly stated at that time, that an understory home would not result in a taller structure than what could otherwise be built.

In summary, it is the applicant's choice to construct an understory home, and if a higher understory clearance is desired, the interior heights of the upper floors should be reduced so that the overall height of the new home to complies with the maximum height requirements of the City Code. As such, staff recommends denial of the variance.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved**, and that the variance request be **denied**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review and Sea Level Rise criteria.