

# MIAMI BEACH

## PLANNING DEPARTMENT

1700 Convention Center Drive, Miami Beach, Florida 33139; Tel: 305.673.7550; Web: [www.miamibeachfl.gov/planning](http://www.miamibeachfl.gov/planning)

### LAND USE BOARD HEARING APPLICATION

The following application is submitted for review and consideration of the project described herein by the land use board selected below. A separate application must be completed for each board reviewing the proposed project.

Application Information			
FILE NUMBER DRB22-0794		Is the property the primary residence & homestead of the applicant/property owner? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (if "Yes," provide office of the property appraiser summary report)	
<b>Board of Adjustment</b> <input type="checkbox"/> Variance from a provision of the Land Development Regulations <input type="checkbox"/> Appeal of an administrative decision <input type="checkbox"/> Modification of existing Board Order		<b>Design Review Board</b> <input checked="" type="checkbox"/> Design review approval <input checked="" type="checkbox"/> Variance <input type="checkbox"/> Modification of existing Board Order	
<b>Planning Board</b> <input type="checkbox"/> Conditional Use Permit <input type="checkbox"/> Lot Split <input type="checkbox"/> Amendment to the Land Development Regulations or Zoning Map <input type="checkbox"/> Amendment to the Comprehensive Plan or Future Land Use Map <input type="checkbox"/> Modification of existing Board Order		<b>Historic Preservation Board</b> <input type="checkbox"/> Certificate of Appropriateness for design <input type="checkbox"/> Certificate of Appropriateness for demolition <input type="checkbox"/> Historic District/Site Designation <input type="checkbox"/> Variance <input type="checkbox"/> Modification of existing Board Order	
<input type="checkbox"/> Other:			
Property Information – Please attach Legal Description as "Exhibit A"			
ADDRESS OF PROPERTY 5980 North Bay Road			
FOLIO NUMBER(S) 02-3215-003-0190			
Property Owner Information			
PROPERTY OWNER NAME North Bay Road-H Trust and North Bay Road-W Trust			
ADDRESS 1285 Ave of The Americas		CITY New York	STATE NY
BUSINESS PHONE (212)373-3034		CELL PHONE	EMAIL ADDRESS mmasotti@paulweiss.com
Applicant Information (if different than owner)			
APPLICANT NAME Same			
ADDRESS		CITY	STATE
BUSINESS PHONE		CELL PHONE	EMAIL ADDRESS
Summary of Request			
PROVIDE A BRIEF SCOPE OF REQUEST Design Review Board approval for variances relating to the rear yard open space, setback of a new roof deck, and new accessory structure for an existing and preserved pre-1942 home. See Letter of Intent for additional details.			

Project Information				
Is there an existing building(s) on the site?			<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If previous answer is "Yes", is the building architecturally significant per sec. 142-108?			<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the project include interior or exterior demolition?			<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Provide the total floor area of the new construction.				SQ. FT.
Provide the gross floor area of the new construction (including required parking and all usable area).				SQ. FT.
Party responsible for project design				
NAME Christopher Fernandez		<input checked="" type="checkbox"/> Architect <input type="checkbox"/> Contractor <input type="checkbox"/> Landscape Architect <input type="checkbox"/> Engineer <input type="checkbox"/> Tenant <input type="checkbox"/> Other _____		
ADDRESS 36 NE 1 Street Suite 936		CITY Miami	STATE FL	ZIPCODE 33027
BUSINESS PHONE (239)898-7549	CELL PHONE	EMAIL ADDRESS chris@cfzdesign.com		
Authorized Representative(s) Information (if applicable)				
NAME Michael W. Larkin		<input checked="" type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____		
ADDRESS 200 S. Biscayne Blvd., Suite 300		CITY Miami	STATE FL	ZIPCODE 33131
BUSINESS PHONE (305) 374-5300	CELL PHONE	EMAIL ADDRESS mlarkin@brzoninglaw.com		
NAME Matthew Amster		<input checked="" type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____		
ADDRESS 200 S. Biscayne Blvd., Suite 300		CITY Miami	STATE FL	ZIPCODE 33131
BUSINESS PHONE (305) 374-5300	CELL PHONE	EMAIL ADDRESS mamster@brzoninglaw.com		
NAME Emily K. Balter		<input checked="" type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____		
ADDRESS 200 S. Biscayne Blvd., Suite 300		CITY Miami-Dade	STATE FL	ZIPCODE 33131
BUSINESS PHONE (305) 374-5300	CELL PHONE	EMAIL ADDRESS ebalter@brzoninglaw.com		

**Please note the following information:**

- A separate disclosure of interest form must be submitted with this application if the applicant or owner is a corporation, partnership, limited partnership or trustee.
- All applicable affidavits must be completed and the property owner must complete and sign the "Power of Attorney" portion of the affidavit if they will not be present at the hearing, or if other persons are speaking on their behalf.
- To request this material in alternate format, sign language interpreter (five-day notice is required), information on access for persons with disabilities, and accommodation to review any document or participate in any City sponsored proceedings, call 305.604.2489 and select (1) for English or (2) for Spanish, then option 6; TTY users may call via 711 (Florida Relay Service).



**Please read the following and acknowledge below:**

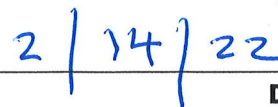
- Applications for any board hearing(s) will not be accepted without payment of the required fees. All checks are to be made payable to the "City of Miami Beach".
- All disclosures must be submitted in CMB Application format and be consistent with CMB Code Sub-part A Section 2-482(c):
  - (c) If the lobbyist represents a corporation, partnership or trust, the chief officer, partner or beneficiary shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five percent or more ownership interest in such corporation, partnership, or trust.
- Public records notice – All documentation submitted for this application is considered a public record subject to Chapter 119 of the Florida Statutes and shall be disclosed upon request.
- In accordance with the requirements of Section 2-482 of the code of the City of Miami Beach, any individual or group that will be compensated to speak or refrain from speaking in favor or against an application being presented before any of the City's land use boards, shall fully disclose, prior to the public hearing, that they have been, or will be compensated. Such parties include: architects, engineers, landscape architects, contractors, or other persons responsible for project design, as well as authorized representatives attorneys or agents and contact persons who are representing or appearing on behalf of a third party; such individuals must register with the City Clerk prior to the hearing.
- In accordance with Section 118-31. – Disclosure Requirement. Each person or entity requesting approval, relief or other action from the Planning Board, Design Review Board, Historic Preservation Board or the Board of Adjustment shall disclose, at the commencement (or continuance) of the public hearing(s), any consideration provided or committed, directly or on its behalf, for an agreement to support or withhold objection to the requested approval, relief or action, excluding from this requirement consideration for legal or design professional service rendered or to be rendered. The disclosure shall: (I) be in writing, (II) indicate to whom the consideration has been provided or committed, (III) generally describe the nature of the consideration, and (IV) be read into the record by the requesting person or entity prior to submission to the secretary/clerk of the respective board. Upon determination by the applicable board that the foregoing disclosure requirement was not timely satisfied by the person or entity requesting approval, relief or other action as provided above, then (I) the application or order, as applicable, shall immediately be deemed null and void without further force or effect, and (II) no application form said person or entity for the subject property shall be reviewed or considered by the applicable board(s) until expiration of a period of one year after the nullification of the application or order. It shall be unlawful to employ any device, scheme or artifice to circumvent the disclosure requirements of this section and such circumvention shall be deemed a violation of the disclosure requirements of this section.
- When the applicable board reaches a decision a final order will be issued stating the board's decision and any conditions imposed therein. The final order will be recorded with the Miami-Dade Clerk of Courts. The original board order shall remain on file with the City of Miami Beach Planning Department. Under no circumstances will a building permit be issued by the City of Miami Beach without a copy of the recorded final order being included and made a part of the plans submitted for a building permit.

The aforementioned is acknowledged by:

☐ Owner of the subject property    ☒ Authorized representative


**SIGNATURE**

Marco V. Masotti, Trustee

**PRINT NAME**

**DATE SIGNED**

**OWNER AFFIDAVIT FOR INDIVIDUAL OWNER**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, N/A, being first duly sworn, depose and certify as follows: (1) I am the owner of the property that is the subject of this application. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (3) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (4) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (5) I am responsible for remove this notice after the date of the hearing.

**SIGNATURE**

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. The foregoing instrument was acknowledged before me by \_\_\_\_\_, who has produced \_\_\_\_\_ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

**NOTARY PUBLIC**

My Commission Expires: \_\_\_\_\_

**PRINT NAME****ALTERNATE OWNER AFFIDAVIT FOR CORPORATION, PARTNERSHIP OR LIMITED LIABILITY COMPANY**STATE OF New YorkCOUNTY OF New York

I, Marco V. Masotti, being first duly sworn, depose and certify as follows: (1) I am the Trustee (print title) of North Bay Road-H Trust and North Bay Road-W Trust (print name of corporate entity). (2) I am authorized to file this application on behalf of such entity. (3) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (4) The corporate entity named herein is the owner of the property that is the subject of this application. (5) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (6) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (7) I am responsible for remove this notice after the date of the hearing.

**SIGNATURE**

Sworn to and subscribed before me this 14th day of February, 2022. The foregoing instrument was acknowledged before me by Marco V. Masotti, who has produced Drivers License as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

AUSTIN KWAME WILKINSON  
Notary Public, State of New York  
No. 01WI5051848

**NOTARY PUBLIC**

My Commission Expires: \_\_\_\_\_

Qualified in New York County  
Commission Expires November 13 2025

**PRINT NAME**



**POWER OF ATTORNEY AFFIDAVIT**

STATE OF New York  
 COUNTY OF New York

I, Marco V. Masotti, being first duly sworn, depose and certify as follows: (1) I am the owner or representative of the owner of the real property that is the subject of this application. (2) I hereby authorize M. Larkin, M. Amster, E. Balter, C. Fernandez to be my representative before the Design Review Board. (3) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (4) I am responsible for remove this notice after the date of the hearing.

Marco V. Masotti, Trustee

**PRINT NAME (and Title, if applicable)**

AM Masotti

**SIGNATURE**

Sworn to and subscribed before me this 14th day of February, 2022. The foregoing instrument was acknowledged before me by Marco V. Masotti, who has produced Driver License as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

AUSTIN KWAME WILKINSON  
 Notary Public, State of New York  
 No. 01WI5051848  
 Qualified in New York County

My Commission Expires: Commission Expires November 13 2025

Austin Kwame Wilkinson

**NOTARY PUBLIC**

AUSTIN KWAME WILKINSON  
 Notary Public, State of New York  
 No. 01WI5051848  
 Qualified in New York County

**PRINT NAME**

Commission Expires November 13 2025

**CONTRACT FOR PURCHASE**

If the applicant is not the owner of the property, but the applicant is a party to a contract to purchase the property, whether or not such contract is contingent on this application, the applicant shall list the names of the contract purchasers below, including any and all principal officers, stockholders, beneficiaries or partners. If any of the contact purchasers are corporations, partnerships, limited liability companies, trusts, or other corporate entities, the applicant shall further disclose the identity of the individuals(s) (natural persons) having the ultimate ownership interest in the entity. If any contingency clause or contract terms involve additional individuals, corporations, partnerships, limited liability companies, trusts, or other corporate entities, list all individuals and/or corporate entities.

N/A

**NAME**

**DATE OF CONTRACT**

NAME, ADDRESS AND OFFICE

% OF STOCK

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In the event of any changes of ownership or changes in contracts for purchase, subsequent to the date that this application is filed, but prior to the date of a final public hearing, the applicant shall file a supplemental disclosure of interest.

**DISCLOSURE OF INTEREST  
CORPORATION, PARTNERSHIP OR LIMITED LIABILITY COMPANY**

If the property that is the subject of the application is owned or leased by a corporation, partnership or limited liability company, list ALL of the owners, shareholders, partners, managers and/or members, and the percentage of ownership held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.

N/A

**NAME OF CORPORATE ENTITY**

NAME AND ADDRESS

% OF OWNERSHIP

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**NAME OF CORPORATE ENTITY**

NAME AND ADDRESS

% OF OWNERSHIP

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If there are additional corporate owners, list such owners, including corporate name and the name, address and percentage of ownership of each additional owner, on a separate page.



**DISCLOSURE OF INTEREST**  
**TRUSTEE**

If the property that is the subject of the application is owned or leased by a trust, list any and all trustees and beneficiaries of the trust, and the percentage of interest held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.

North Bay Road-H Trust and North Bay Road-W Trust

<b>TRUST NAME</b>	
NAME AND ADDRESS	% INTEREST
Marco V. Masotti, Esq., Trustee	100%
MB Miami Properties LLC, Beneficiary	100%
c/o Paul, Weiss, Rifkind, Wharton & Garrison LLP	
1285 Avenue of the Americas	
New York, NY 10019	

**COMPENSATED LOBBYIST**

Pursuant to Section 2-482 of the Miami Beach City Code, all lobbyists shall, before engaging in any lobbying activities, register with the City Clerk. Please list below any and all persons or entities retained by the applicant to lobby City staff or any of the City's land development boards in support of this application.

NAME	ADDRESS	PHONE
Michael W. Larkin	200 S. Biscayne Boulevard, Suite 300	(305) 374-5300
Matthew Amster	200 S. Biscayne Boulevard, Suite 300	(305) 374-5300
Emily Balter	200 S. Biscayne Boulevard, Suite 300	(305) 374-5300
Christopher Fernandez	36 NE 1 Street Suite 936	(239)898-7549

Additional names can be placed on a separate page attached to this application.

**APPLICANT HEREBY ACKNOWLEDGES AND AGREES THAT (1) AN APPROVAL GRANTED BY A LAND DEVELOPMENT BOARD OF THE CITY SHALL BE SUBJECT TO ANY AND ALL CONDITIONS IMPOSED BY SUCH BOARD AND BY ANY OTHER BOARD HAVING JURISDICTION, AND (2) APPLICANT'S PROJECT SHALL COMPLY WITH THE CODE OF THE CITY OF MIAMI BEACH AND ALL OTHER APPLICABLE CITY, STATE AND FEDERAL LAWS.**

**APPLICANT AFFIDAVIT**

STATE OF New York  
 COUNTY OF New York

I, Marco V. Masotti, being first duly sworn, depose and certify as follows: (1) I am the applicant or representative of the applicant. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief.

*Marco V. Masotti*

**SIGNATURE**

Sworn to and subscribed before me this 14th day of February, 2022. The foregoing instrument was acknowledged before me by Marco V. Masotti, who has produced Driver's License as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

My Commission Expires: \_\_\_\_\_

*Austin Kwame Wilkinson*

**NOTARY PUBLIC**

*Austin Kwame Wilkinson*

**PRINT NAME**

AUSTIN KWAME WILKINSON  
 Notary Public, State of New York  
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[mamster@brzoninglaw.com](mailto:mamster@brzoninglaw.com)

March 7, 2022

**VIA ELECTRONIC SUBMITTAL**

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

Re: **DRB22-0794** – Design Review and Variance  
Requests for the Property Located 5980 North Bay Road,  
Miami Beach, Florida

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Dear Mr. Belush:

This law firm represents North Bay Road-H Trust and North Bay Road-W Trust (collectively the "Applicant"), the owners of the existing single-family home located at 5980 North Bay Road (the "Property") in the City of Miami Beach (the "City"). The Applicant intends to preserve the home and setbacks, increase the rear yard open space, demolish the accessory structure in the northwest corner of the rear yard, incorporate new pergola in the northeast corner, and add a stair enclosure to a new roof deck. Please allow this letter to serve as the letter of intent for design review and associated variances with maintaining the existing home.

Property Description. The waterfront Property is located on the west side of North Bay Road, just south of W 60 Street. The Miami-Dade County Property Appraiser identifies the Property with Folio No. 02-3215-003-0190. See Exhibit A, Property Appraiser Detailed Report. The Property is approximately 42,720 square feet in size. The Property is located within the RS-2, Single Family Residential Zoning District, and surrounded by varying sized single-family homes with

various amenities, such as pools, cabanas, tennis and basketball courts, roof decks and docks.

The Property contains a two-story house, with a garage structure and basketball court in the front and cabana, dock, accessory structure, tile deck, and pool in the rear. Pursuant to the Property Appraiser, the home was built in 1940, with renovations in 2015.

Proposed Development. The Applicant's goal is to retain the existing home in substantially the same condition, including the garage and basketball court, and improve the rear yard with additional open space, plantings, and a more open accessory structure and to incorporate an addition to access to the new roof deck. The roof deck will have consistent glass balcony railings in the rear (the "Project"). The existing unit size is only 11,939 square feet, which is 27.9% of the lot size where 50% is the maximum allowed. The existing lot coverage will decrease from the existing 8,992 square feet to approximately 8,950 square feet, which is 21% where 30% allowed.

There is currently no roof deck, and the proposed roof deck is 800 square feet, which is only twenty percent (16.6%) of the enclosed floor area below and will not have an additional shade structure projection. Additionally, the roof deck is setback over thirty-three (33) feet from the east interior property line. This distance ensures there is no negative impact on neighbors. To minimize any additional height or a long bulky staircase, the Applicant is proposing two (2) spiral staircases within the existing home's footprint to access the new roof deck. The first is an internal staircase from the first level to an addition on the second level, and the second staircase is from the open terrace on the second level to the roof deck. This results in a second floor addition that maintains existing setback on the north-east corner an minimal impact on the neighbor to the northeast.

The main home encroaches into today's required 45'-9 3/8" rear setback, resulting in an effectively smaller rear setback of approximately 37' – 7 3/4". However, the Code required rear yard is approximately 7,265 square feet in size, and currently 4,744 square feet are paved deck or occupied by the building and only 1,490 square feet is landscaped. The Applicant is proposing to reduce the deck so that it and the building only cover 2,758 square feet and increase the landscaped area to 2,772.5 square feet, a 86% increase. Along the rear elevation the Applicant is also proposing to square the arched elements, which were not original to the home.

Overall, the Project maintains the existing home and improves the views and permeability of the rear yard. However, certain improvements do not directly comply with



the City Code of Ordinances (the "Code") and require the Applicant to seek minimal variances.

Variance Requests. The Applicant's proposal substantially complies with the single-family home regulations and is an improvement of the existing rear yard conditions. In order to fully realize its development and due to the Property's confining characteristics, the Applicant requests the following variances:

1. A variance of Code Section 142-106(a)(3) to permit forty-nine percent (49%) of the rear yard as open space, when seventy (70%) is required (Variance 1).
2. A variance of Code Section 142-106(b)(1)(d)(1) to permit a rear setback of 15'-3" for an accessory structure, when 22' – 10 5/8" is required (Variance 2).
3. A variance of Code Section 142-105(b)(6) to permit a roof deck along a side exterior wall, when a 10' setback is required (Variance 3).
4. A variance of Code Section 142-106(a)(2)(a) to permit sum of the side setbacks at 14'-2" when at least 25% of the lot width or 32'-6" is required (Variance 4).

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

**(1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;**

The irregular-shaped lot, with non-parallel front and rear property lines, existing size of the rear yard, and pre-1942 two-story home pushed well towards the rear of the Property are special conditions and circumstances that are peculiar to this land and not applicable to other lands. The Applicant's goal is to reduce certain nonconformities and improve the overall design of the rear yard amenities.

First, although the rear yard open space does not comply with today's land development regulations, the Project almost doubles the rear yard open space. Variance 1 will allow the Applicant to provide 3,584.5 square feet of open space, when only 2,016 is provided today. Additionally, the main home encroaches into the rear setback leaving little room to appropriately accommodate an accessory structure. To minimize the impact of the accessory structure in the rear yard due to this specific condition, Variance 2 allows

the Applicant to demolish the existing accessory structure and provide a more open, modern structure where the home pulls back from the irregular rear setback line. The more open pergola structure improves views and massing from the waterside.

The two-story portion of the main home is centrally located with a lower one-story portion on the sides. This allows a new, centrally located roof deck location and extension for the stair enclosures, which is specific to the building involved. The new roof deck and stairs have minimal impact on the front and rear elevations. From the front, the addition will be in line with the varying sloped roof heights and will not extend further than the existing interior side setback. Also, the main home is not visible from the right of way because it is setback over seventy-five (75) feet and there are layers of dense landscaping.

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

The special conditions and circumstances of the Property do not result from the action of the Applicant. The dual frontage and irregular, non-parallel front and rear property lines, and pre-1942 home pushed substantially to the rear are existing special conditions. Additionally, the Applicant is proposing to retain the existing home and make certain improvements to nonconforming conditions. More specifically, the Applicant's actions are improving the overall permeability, viability, and design of the existing home, returning the rear elevation vocabulary to a prior condition.

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

The Code allows other similarly situated property owners to seek similar variances to accommodate development and allow for the construction of certain amenities, especially on pre-1942, waterfront, irregular-shaped lots. The existing home and proposed amenities comply with the purpose and intent of the Code. The design also fits in with the variety of uses and lot sizes in the neighborhood. With regards to Variance 2, there are at least six homes along North Bay Drive with accessory structures setback fifteen (15) or less from the rear property lines. Many of the homes also contain roof decks. Therefore, granting increase rear yard open space, minor encroachment into the rear setback for an open pergola structure, and a centrally located roof deck with stair enclosure addition does not confer any special privilege on the Applicant. Variance 3 and 4 is based on strict interpretations of the Code because the roof deck is setback thirty-three (33) feet from the property line and the addition on the second level will not exceed



the existing side setback. Also, Variances 1 and 2 improve the existing conditions of the rear yard with regards to permeability and openness.

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

The proposed amenities substantially comply with the land development regulations in the RS-2 zoning district. A literal interpretation of the provisions of these land development regulations means the Applicant would not be permitted any improvement of the rear yard, a much smaller roof deck than allowed without appropriate accessibility, and a design that would clash with the existing home.

The slight deviations from the land development regulations are necessary to improve the rear yard with lush landscaping and provide a roof deck amenity with an elevator. Variance 3 specifically would otherwise be permitted, as of right, on a newly constructed home. As a result, the Code would deprive the Applicant of the right to build what is enjoyed by other properties and would work an unnecessary and undue hardship on the Applicant.

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

The Applicant's goal is to introduce certain amenities as enjoyed by others to this dream home, while keeping the existing structure. The Applicant ensures privacy to the neighbors through extensive landscape screening and is improving the design overall. The variances are the minimum necessary to accomplish this goal. Variance 1 is an improvement of the existing nonconforming rear yard open space by 1,568 square feet. Variance 2 places the accessory structure further away from the waterfront and dock, where the main home is further setback, and provides a more open structure improving views of the main home from the waterway. Variance 3 is a result of the existing location of central two-story massing with one-story at a nonconforming setback line. Adding the roof deck incentivizes preservation of the pre-1942 home and maintains the varied barrel tiled slopped roofs. Variance 4 does not increase the existing nonconforming setback and provides an innovative alternative to accessing the roof deck, without additional height, and more opportunities for outdoor living space. Overall, the Applicant is retaining the pre-1942 home on the Property, which has existing setbacks that cannot be increased.

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

The residence will be in harmony with the surrounding properties, and aims to further the intent and purpose of the land development regulations. Granting of the variances will be in harmony with the land development regulations and the proposed amenities will not be injurious to the area. Rather, it will improve the existing nonconformities, enhance the design from the waterway, and provide amenities that are commonly enjoyed along North Bay Road.

**(7) The granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan. The planning and zoning director may require applicants to submit documentation to support this requirement prior to the scheduling of a public hearing or any time prior to the board of adjustment voting on the applicant's request.**

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

Practical Difficulty. The entirely paved rear yard, existing nonconforming rear setback, dual-frontages, irregular, non-parallel front and rear property lines for this existing pre-1942 home that is substantially pushed to the rear of the Property are all practical difficulties inhibiting the Applicant from meeting all of the land development regulations to introduce permitted amenities as enjoyed by others. The Applicant is retaining the home on the Property, which has existing setbacks that cannot be increased. The slight deviations from the Code are overall improvements to the design and viability of the home. Increasing the rear yard open space and relocating the accessory structure results in a better flow of the rear yard with increase plantings and permeability and better views of the Bay. The roof deck will be centrally located on the home, which provides an existing one-story portion to the east. Therefore, all four requested Variances are results of the existing main home and would not be injurious to the area. The Applicant's proposal satisfies the intent and purposes of the Code to provide a home with certain amenities that is compatible with the neighborhood.

Sea Level Rise and Resiliency Criteria. The new home advances the sea level rise and resiliency criteria in Section 133-50(a) of the City Code, as follows:

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

A recycling and salvage plan for demolition of the existing home will be provided at permitting.

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

Any new windows installed will be hurricane proof impact windows.

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

The Applicant will provide, where feasible, passive cooling systems. The proposed pergola structure is open on all sides.

**4. Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.**

All landscaping will be Florida friendly and resilient.

**5. Whether 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, including a study of land elevation and elevation of surrounding properties were considered.**

The elevation of the existing structure and proposed amenity uses considers the elevation of the surrounding properties.

**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.**

The yard elevations ensure that the existing home and amenities are adaptable to the raising of public rights-of-ways and adjacent land in the future.

**7. Where feasible and appropriate. All critical mechanical and electrical systems are located above base flood elevation.**



All mechanical and electrical systems will be located above base flood elevation.

**8. Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.**

There are no proposed alterations to the elevation of the existing home.

**9. When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.**

There are no proposed alterations to the elevation of the existing home.

**10. Where feasible and appropriate, water retention systems shall be provided.**

Where feasible, water retention systems will be provided.

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

Cool pavement materials or porous pavement materials will be utilized where possible.

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

The proposed design provides a significant number of plantings and non-air-conditioned shaded living spaces to strategically minimize the potential for heat island effects on site.

Conclusion. Based on the above reasons, granting this design review application with associated variances will ensure retention of this pre-1942 home and permit the development of beautifully-designed amenities for the Applicant's home that will add much more value to the surrounding neighborhood. The design updates will beautify the views of the home from the Bay. The Project significantly complies with the land development regulations and intent of Code and the design ensures no negative impact to the neighbors.

We look forward to your favorable review of the application. If you have any questions or comments in the interim, please give me a call at 305-377-6236.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Matthew Amster', with a long horizontal flourish extending to the right.

Matthew Amster

Attachments

cc: Michael W. Larkin, Esq.  
Emily K. Balter, Esq.



## EXHIBIT A

## OFFICE OF THE PROPERTY APPRAISER

## Detailed Report

Generated On : 2/14/2022

Property Information	
<b>Folio:</b>	02-3215-003-0190
<b>Property Address:</b>	5980 N BAY RD Miami Beach, FL 33140-2044
<b>Owner</b>	MARCO V MASOTTI TRS NORTH BAY ROAD H TR PAUL WEISS RIFKIND WHARTON AND MARCO V MASOTTI TRS
<b>Mailing Address</b>	1285 AVE OF THE AMERICAS NEW YORK, NY 10019 USA
<b>PA Primary Zone</b>	2100 ESTATES - 15000 SQFT LOT
<b>Primary Land Use</b>	0101 RESIDENTIAL - SINGLE FAMILY : 1 UNIT
<b>Beds / Baths / Half</b>	6 / 9 / 1
<b>Floors</b>	2
<b>Living Units</b>	1
<b>Actual Area</b>	15,040 Sq.Ft
<b>Living Area</b>	11,690 Sq.Ft
<b>Adjusted Area</b>	12,776 Sq.Ft
<b>Lot Size</b>	43,615 Sq.Ft
<b>Year Built</b>	Multiple (See Building Info.)



Assessment Information			
Year	2021	2020	2019
<b>Land Value</b>	\$13,267,683	\$11,339,900	\$11,339,900
<b>Building Value</b>	\$4,562,636	\$4,610,795	\$4,658,952
<b>XF Value</b>	\$116,181	\$117,598	\$119,013
<b>Market Value</b>	\$17,946,500	\$16,068,293	\$16,117,865
<b>Assessed Value</b>	\$17,675,122	\$16,068,293	\$10,231,513

Benefits Information				
Benefit	Type	2021	2020	2019
<b>Save Our Homes Cap</b>	Assessment Reduction			\$5,886,352
<b>Non-Homestead Cap</b>	Assessment Reduction	\$271,378		
<b>Homestead</b>	Exemption			\$25,000
<b>Second Homestead</b>	Exemption			\$25,000
Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).				

Taxable Value Information			
	2021	2020	2019
<b>County</b>			
Exemption Value	\$0	\$0	\$50,000
Taxable Value	\$17,675,122	\$16,068,293	\$10,181,513
<b>School Board</b>			
Exemption Value	\$0	\$0	\$25,000
Taxable Value	\$17,946,500	\$16,068,293	\$10,206,513
<b>City</b>			
Exemption Value	\$0	\$0	\$50,000
Taxable Value	\$17,675,122	\$16,068,293	\$10,181,513
<b>Regional</b>			
Exemption Value	\$0	\$0	\$50,000
Taxable Value	\$17,675,122	\$16,068,293	\$10,181,513

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# OFFICE OF THE PROPERTY APPRAISER

Generated On : 2/14/2022

## Property Information

Folio: 02-3215-003-0190

Property Address: 5980 N BAY RD

## Roll Year **2021** Land, Building and Extra-Feature Details

Land Information					
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
GENERAL	RS-2	2100	Square Ft.	43,615.00	\$13,267,683

Building Information						
Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
1	1	2015	14,092	11,626	11,828	\$4,494,640
3	1	1940	884	0	884	\$63,648
5	1	2006	64	64	64	\$4,348

Extra Features			
Description	Year Built	Units	Calc Value
Patio - Concrete Slab	2014	5,390	\$20,266
Elevator - Passenger	2014	2	\$23,040
Wall - CBS unreinforced	2014	720	\$2,765
Dock - Wood Girders on Concrete Pilings	1940	1,000	\$20,100
Pool COMM AVG 3-6' dpth, plain feat 15x30 av size	1940	1,140	\$26,733
Patio - Terrazzo, Pebble	1940	3,485	\$15,290
Wall - CBS 4 to 8 in, reinforced	1940	252	\$1,351
Wall - CBS 4 to 8 in, reinforced	1940	1,238	\$6,636

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# OFFICE OF THE PROPERTY APPRAISER

Generated On : 2/14/2022

## Property Information

Folio: 02-3215-003-0190

Property Address: 5980 N BAY RD

## Roll Year **2020** Land, Building and Extra-Feature Details

Land Information					
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
GENERAL	RS-2	2100	Square Ft.	43,615.00	\$11,339,900

Building Information						
Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
1	1	2015	14,092	11,626	11,828	\$4,541,952
3	1	1940	884	0	884	\$64,444
5	1	2006	64	64	64	\$4,399

Extra Features			
Description	Year Built	Units	Calc Value
Wall - CBS unreinforced	2014	720	\$2,794
Elevator - Passenger	2014	2	\$23,280
Patio - Concrete Slab	2014	5,390	\$20,482
Wall - CBS 4 to 8 in, reinforced	1940	252	\$1,371
Patio - Terrazzo, Pebble	1940	3,485	\$15,404
Wall - CBS 4 to 8 in, reinforced	1940	1,238	\$6,735
Pool COMM AVG 3-6' dpth, plain feat 15x30 av size	1940	1,140	\$27,132
Dock - Wood Girders on Concrete Pilings	1940	1,000	\$20,400

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# OFFICE OF THE PROPERTY APPRAISER

Generated On : 2/14/2022

## Property Information

**Folio:** 02-3215-003-0190

**Property Address:** 5980 N BAY RD Miami Beach, FL 33140-2044

## Roll Year **2019** Land, Building and Extra-Feature Details

Land Information					
Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
GENERAL	RS-2	2100	Square Ft.	43,615.00	\$11,339,900

Building Information						
Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
1	1	2015	14,092	11,626	11,828	\$4,589,264
3	1	1940	884	0	884	\$65,239
5	1	2006	64	64	64	\$4,449

Extra Features			
Description	Year Built	Units	Calc Value
Elevator - Passenger	2014	2	\$23,520
Patio - Concrete Slab	2014	5,390	\$20,698
Wall - CBS unreinforced	2014	720	\$2,822
Dock - Wood Girders on Concrete Pilings	1940	1,000	\$20,700
Pool COMM AVG 3-6' dpth, plain feat 15x30 av size	1940	1,140	\$27,531
Wall - CBS 4 to 8 in, reinforced	1940	1,238	\$6,834
Wall - CBS 4 to 8 in, reinforced	1940	252	\$1,391
Patio - Terrazzo, Pebble	1940	3,485	\$15,517

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# OFFICE OF THE PROPERTY APPRAISER

Generated On : 2/14/2022

## Property Information

**Folio:** 02-3215-003-0190

**Property Address:** 5980 N BAY RD

## Full Legal Description

LA GORCE GOLF SUB PB 14-43

LOT 21 & BEG AT SW COR LOT 20 N

47.1FT NW281.92FT S60FT S ELY

281.92FT POB BLK 1

LOT SIZE 47184 SQ FT

OR 13184-522 1286 3

## Sales Information

Previous Sale	Price	OR Book-Page	Qualification Description
06/01/2021	\$22,000,000	32551-3331	Partial interest
11/29/2010	\$10,645,000	27508-2117	Qual by exam of deed
08/27/2008	\$10	26549-2470	Sales which are disqualified as a result of examination of the deed
09/01/1985	\$2,500,000	12666-0574	Sales which are qualified
11/01/1980	\$1,175,000	10934-2095	Sales which are qualified
02/01/1980	\$790,000	10661-0212	Sales which are qualified

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Version:

Property Address: 5980 N Bay RoadDate: 2/7/22**DRB BOARD APPLICATION CHECK LIST - SINGLE FAMILY RESIDENTIAL**

A Pre-Application meeting must be scheduled via CSS to obtain a plan case number and for board staff review of all submittals, and review by the Development Review Committee, as needed.

Pre-Application meetings for applications that do not require a traffic study are scheduled on a first come-first served basis and must occur no later than five(5) business days prior to CSS First submittal.

**Incomplete, or submittals found to be insufficient will not be placed on a Board agenda.**

<b>FIRST SUBMITTAL (VIA CSS) ** To be uploaded online (CSS) by the applicant before 5:00 pm by First submittal deadline. ALL PLANS MUST BE DIMENSIONED AND LEGIBLE. INCLUDE A GRAPHIC SCALE.</b>		<b>Required</b>
<b>1</b>	Application Fee and Peer review fees shall be paid after Pre-Application meeting and before the First submittal. It is the applicant's responsibility to make this payment, if an invoice is not generated by the CSS system, the applicant should contact staff prior to first submittal to be invoiced and make payment.	<input checked="" type="checkbox"/>
<b>2</b>	Is the property the primary residence & homestead of the applicant/property owner? (If yes, provide office of the Property Appraiser Summary Report).	<input checked="" type="checkbox"/>
<b>3</b>	Copy of signed and dated check list issued at Pre-Application meeting.	<input checked="" type="checkbox"/>
<b>4</b>	Completed Board Application, Affidavits & Disclosures of Interest (original signatures).	<input checked="" type="checkbox"/>
<b>5</b>	Signed and dated Letter of Intent. <b>Letter must outline application details and identify hardships if Variances are requested. Letter must also identify design waivers.</b>	<input checked="" type="checkbox"/>
a	The letter of Intent shall include and respond to all sea level rise and resiliency review criteria per section 133-50 of the City Code.	<input checked="" type="checkbox"/>
b	The Letter of Intent for Variances shall include and respond to all review guidelines in the code as follows: Section 118-353 (d) of the City Code for each Variance.	<input checked="" type="checkbox"/>
<b>6</b>	Mailing Labels: Upload property owner's list and copy of original certified letter from provider. See #52 for submittal of Hard copy / originals of these items.	<input checked="" type="checkbox"/>
<b>7</b>	Copies of all current or previously active Business Tax Receipts if applicable.	<input type="checkbox"/>
<b>8</b>	Copies of previous recorded final Orders if applicable.	<input checked="" type="checkbox"/>
<b>9</b>	Survey: Electronic version of original signed & sealed, dated no more than six months from date of application. Survey must provide: lot area, grade per Section 114-1 of the City Code. (If no sidewalk exists, provide the elevation of the crown of the road) and spot elevations.	<input checked="" type="checkbox"/>
a	Existing and Proposed detailed topographic survey depicting existing spot grades (NAVD) as well as all underground/overhead utilities and easements/agreements with recording data.	<input checked="" type="checkbox"/>
b	Full legal description of the property if not included in survey (for lengthy legal descriptions, attach as a separate document - label clearly).	<input checked="" type="checkbox"/>
<b>10</b>	Copy of original Building Permit Card, & Microfilm, if available.	<input checked="" type="checkbox"/>
<b>11</b>	Copy of previously approved building permits. (provide building permit number).	<input type="checkbox"/>
<b>12</b>	<b>Architectural Plans and Exhibits (must be 11"x 17")</b>	
a	Cover Sheet with bullet point scope of work, clearly labeled "First Submittal" and dated with First Submittal deadline date.	<input checked="" type="checkbox"/>
b	Drawing Index	<input checked="" type="checkbox"/>
c	Copy of the original survey included in plan package. See No. 10 above for survey requirements	<input checked="" type="checkbox"/>
d	Zoning Data Sheet (Use Planning Department zoning data sheet format).	<input checked="" type="checkbox"/>
e	Context Location Plan, Min 8.5"X11" Color Aerial 1/2 mile radius, identifying project and showing name of streets. (no Google images)	<input checked="" type="checkbox"/>

Indicate N/A If Not Applicable

Initials: FSC



Property Address: 5980 N Bay RoadDate: 2/7/22

f	Current color photographs, dated, Min 4"x 6" of project site and existing structures (no Google images)	<input checked="" type="checkbox"/>
g	Current color photographs, dated, Min 4"x 6" of context, corner to corner, across the street and surrounding properties with a key directional plan (no Google images)	<input checked="" type="checkbox"/>
h	Existing Lot Coverage and Unit Size Diagrams.	<input checked="" type="checkbox"/>
i	Proposed Lot Coverage Diagram. IF APPLICABLE	<input checked="" type="checkbox"/>
j	Proposed Unit Size Diagram for each floor, including roof plan. IF APPLICABLE	<input checked="" type="checkbox"/>
k	Site Plan (fully dimensioned with setbacks, existing and proposed, including adjacent right-of-way widths).	<input checked="" type="checkbox"/>
l	Demolition Plans (Floor Plans & Elevations with dimensions)	<input checked="" type="checkbox"/>
m	Proposed Floor Plans and Roof Plan, including mechanical equipment plan and section marks. Plans shall indicate location of all property lines and setbacks.	<input checked="" type="checkbox"/>
n	Proposed Elevations, materials & finishes noted (showing grade, base flood elevation, heights in NGVD values and free board if applicable)	<input checked="" type="checkbox"/>
o	Proposed Section Drawings	<input checked="" type="checkbox"/>
p	Color Renderings (elevations and three dimensional perspective drawings).	<input checked="" type="checkbox"/>
q	Contextual Elevation Line Drawings, corner to corner, across the street and surrounding properties (dated).	<input checked="" type="checkbox"/>
r	Axonometric Diagram.	<input checked="" type="checkbox"/>
s	Required yards open space calculations and shaded diagrams.	<input checked="" type="checkbox"/>
t	Required yards section drawings.	<input checked="" type="checkbox"/>
u	Variance and/or Waiver Diagram, if applicable.	<input checked="" type="checkbox"/>
<b>13</b>	<b>Landscape Plans and Exhibits (must be 11"x 17")</b>	
a	Tree Survey	<input checked="" type="checkbox"/>
b	Tree Disposition Plan	<input checked="" type="checkbox"/>
c	Landscape Plan- private property and right-of-way areas. Proposed landscaping with landscape legend form, hardscape areas, ground floor equipment, overhead and underground utilities information.	<input checked="" type="checkbox"/>
d	Hardscape Plan, i.e. paving materials, pattern, etc.	<input checked="" type="checkbox"/>
Other*	VARIANCES ASSOCIATED W/ MODIFICATIONS TO REAR YARD AND NEW ROOF DECK	<input checked="" type="checkbox"/>
Other*		<input type="checkbox"/>
Other*		<input type="checkbox"/>
Other*		<input type="checkbox"/>

\* \*ADDITIONAL INFORMATION AS MAY BE REQUIRED AT THE PRE-APPLICATION MEETING

Property Address: 5980 N Bay RoadDate: 2/7/22**FINAL SUBMITTAL (via CSS & PAPER)**

Revised and/or supplemented documents and drawings to address staff comments. Plans should be clearly labeled "Final Submittal" and dated with Final Submittal deadline date.

Upload documents online (via CSS) before NOON on final submittal deadline. Staff will review and issue a notice to proceed to Paper Final submittal or to continue submittal to a future meeting if the application is found incomplete.

Required

**PAPER FINAL SUBMITTAL:**

1	Original application with all signed and notarized applicable affidavits and disclosures.	<input checked="" type="checkbox"/>
2	Original of all applicable items.	<input checked="" type="checkbox"/>
3	One (1) signed and sealed 11"X17" bound, collated set of all the required documents.	<input checked="" type="checkbox"/>
4	One (1) CD/DVD with electronic copy of entire final application package (plans, application, Letter of Intent, traffic/sound study, etc.) see CD/DVD formatting attached, for instructions.	<input checked="" type="checkbox"/>
5	Mailing Labels -2 sets of gummed labels and a CD including: Property owner's list and Original certified letter from provider.	<input checked="" type="checkbox"/>

**ADDITIONAL INFORMATION AND ACKNOWLEDGEMENTS**

- A. **\*\* Other information/documentation required for First submittal will be identified during Pre-Application meeting and Development Review Committee Meeting but may be modified based on further analysis.**
- B. **It is the responsibility of the applicant to confirm that documents submitted via CSS, Paper Submittal set and electronic version on CD are consistent with each other and legible.**
- C. **All PDF files must be named with the submittal deadline date and the type of document in the following format 'MM-DD-YYYY Document Name'.**
- D. **Plan revisions and supplemental documentation will not be accepted after the Final Submittal deadline**
- E. **All documents required for Board applications must be submitted in an electronic format (PDF) via CD in the manner prescribed herein. The CD is considered the "Formal Submission", and must include the electronic version of all hard copy documents associated with the application. A new Updated CD will be required if any modifications are made before or after hearing. Failure to comply with the aforementioned may result in a rehearing before the applicable board at the applicant's expense.**

Emily Balter

Applicant's or designee's Name



Applicant's or designee's signature

02/07/2022

Date