

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 03, 2020

PROPERTY/FOLIO: 5011 Pine Tree Drive 02-3214-003-0010

FILE NO: DRB20-0534

IN RE: An application has been filed requesting Design Review Approval for the construction of a new two-story residence and the relocation / renovation of an existing architecturally significant pre-1942 two-story residence and carriage boat house on the subject property including one or more setback and height variances and variances to retain two architecturally significant pre-1942 nonconforming structures.

LEGAL: Lots 1 and 2, Block 1, of Beach View Subdivision According to the Plat thereof as recorded in the Plat Book 9, Page 158 of the Public Records of Miami-Dade County, Florida.

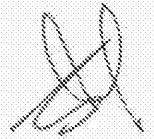
APPLICANT: Jamie Mandel, as Trustee of the Perpetual Love 5011 Residence Trust

ORDER

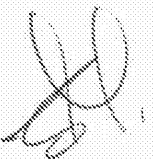
The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 1, 2, 3, 4, 5, 6, 9, 12 and 19 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1, 10, 11 and 12 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
 1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 5011 Pine Tree Drive shall be submitted, at a minimum, such drawings shall incorporate the following:

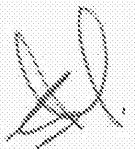


- a. The final design details, color selections, and material selection of all of the proposed exterior architectural details, as shown in the plans dated 10/05/2020, shall be further developed and shall be resubmitted for review and approval to the Design Review Board for the February 02, 2021 DRB meeting.
- b. The architect shall explore incorporating scalloped roofing details, as seen in the architectural details of the roofing of the original tower of the relocated principal structure, into the proposed roofing details of the new construction, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- c. The architect shall refine the street facing windows on sheet A.6001 to reduce the amount of architectural elements and windows on the west façade, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- d. A museum quality historic analysis and display of the existing structure(s), inclusive of a photographic and written description of the history and evolution of the original building, shall be submitted to and approved by staff, prior to the issuance of a Certificate of Occupancy or a Temporary Certificate of Occupancy; such historic analysis and marker shall be displayed prominently within or on the retained existing wall in a location to be determined by staff.
- e. The exterior elevations of the relocated 1927 principal structure and 1926 boathouse shall be restored to the original design to the greatest extent possible, except as modified herein, in a manner to be reviewed and approved by staff consistent with all documented resources.
- f. The Applicant shall submit a restrictive covenant in favor of the City, running with the land, to the Department, approved as to form by the City Attorney, agreeing to (i) retain, preserve, and maintain to the greatest extent possible the relocated architecturally significant portion of the principal structure and the boathouse; (ii) comply at all times with minimum maintenance standards; and (iii) protect the architecturally significant portion of the principal structure and boathouse from demolition by neglect. Any damage that occurs during the course of relocation of the architecturally significant structure shall be repaired and restored to the structure's original condition.
- g. The architect shall revise the dome element as it is measured as a sloped roof and provide the midpoint of the dome to comply with the height requirement or be redesigned to have the dome comply with the open, decorative element that does not extend interior habitable space.
- h. The exterior design of the home shall replicate as closely as possible the amount, style and precision of the decorative ornamentation found throughout the exterior design of the proposed estate, in a manner to be



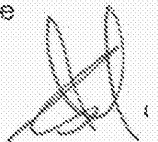
reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

- i. The maximum elevation for decks and yards within the required rear yard shall not exceed the proposed finish floor of the home.
 - j. The open space calculation for the rear yard and street side yard shall not exceed 70% in the rear yard and 50% in the street side yard.
 - k. 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.
 - l. 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.
 - m. 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 126-Landscape Requirements of the Miami Beach Code and shall incorporate the following:
- a. The design of the hardscape shall be reduced in scale and integrated with landscape in order to soften its impact on the site, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - b. 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.
 - c. 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.
 - d. 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.

- e. 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.
- f. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- 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. Any new street trees shall be of a consistent canopy tree species as similar to the neighboring trees along the street.
- h. The applicant shall install street trees adjacent to the subject property consistent with the City's Street Tree Master Plan or similar to existing species along the street, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board, and root barriers shall be installed along the sidewalk in conjunction with structural soils.
- i. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- j. 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.
- k. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- l. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventers and all other related devices and fixtures. The location of backflow preventers, 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.
- m. 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.

- n. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

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

II. Variance(s)

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

The following variances were approved by the Board:

1. A variance to exceed by 1'-11" the maximum allowed height of 5'-0" for a fence located along the front property line in order to retain a wall fence of up to 6'-11" (15.90' NGVD) in height as measured from the grade of 9.01' NGVD facing Pine Tree Drive.
2. A variance to exceed by 0'-10" the maximum allowed height of 6'-0" for a fence located on the interior north side property line along 4'-0" from the front property line in order to retain a wall fence of up to 6'-10" (15.81' NGVD) in height as measured from the grade of 9.01' NGVD.
3. A variance to exceed by 2'-5" the maximum total height allowed of 7'-0" for ornamental light fixtures located on a fence at the front property line in order to retain light fixtures up to 9'-5" (18.40' NGVD) in height measured from grade of 9.01' NGVD facing Pine Tree Drive.
4. A variance to exceed by 58.6% (17'-11") the maximum projection of 25% (7'-7") within the required street side (south) side yard of 30'-6" in order to retain an architecturally significant two-story structure up to 5'-0" setback from the street side property line and 83.6% (25'-6") projection within the south side yard.

The following variance was denied by the Board:

5. A variance to exceed by 3'-0" the maximum height of 3'-0" allowed for a roof curb or parapet in order to construct a parapet surrounding the domed roof above the porte cochere up to 6'-0" in height above the maximum 33'-0" height allowed.

- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, with the exception of variance # 5 as noted above, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code with the exception of variance # 5 as noted above:

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

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

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

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

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

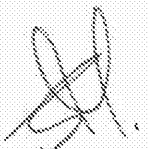
That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

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

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

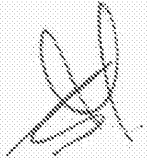
- C. The Board hereby Approves variance(s) #1, #2, #3, and #4 and Denies variance request #5, as noted above and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.



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

- A. In addition to variances to retain the boathouse, the following additional regulatory approvals may be required to place/retain a building / structure over the canal: a Coastal Permit (as the canal is a navigable waterway); review and/or approval by Miami Dade County DERM for the boathouse; and review and/or approval by the State of Florida Division of Environmental Protection.
- 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, Certificate of Completion, and/or Business Tax Receipt.
- C. All new construction over 7,000 square feet shall be required to be, at a minimum, certified as LEED Gold by USGBC. In lieu of achieving LEED Gold certification, properties can elect to pay a sustainability fee, pursuant to Chapter 133 of the City Code. This fee is set as a percentage of the cost of construction.
- D. During construction work, the applicant will 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, and with an 8'-0" high fence with a wind resistant green mesh material along the front property line. 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.
- 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.

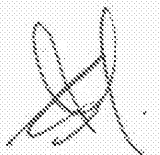
IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were 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 revised plans entitled "5011 Pine Tree Drive Revised Final Submittal", as designed by **Luce Architects**, signed, sealed, and dated October 05, 2020, 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



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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.

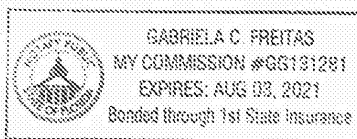
Dated this 15th day of November, 2020.

DESIGN REVIEW BOARD
 THE CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]
 JAMES G. MURPHY
 CHIEF OF URBAN DESIGN
 FOR THE CHAIR

STATE OF FLORIDA)
)SS
 COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 15th day of November, 2020 by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.



[Signature]
 NOTARY PUBLIC
 Miami Dade County, Florida
 My commission expires: Aug. 3, 2021

DocuSigned by:
 Approved As To Form: [Signature]
 City Attorney's Office: [Signature] (11/14/2020 | 3:17 PM EST
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Filed with the Clerk of the Design Review Board on [Signature] (11/18/20)

[Signature]