

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: September 6, 2022

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: DRB22-0817  
**281 Palm Avenue**

An application has been filed requesting Design Review Approval for the construction of a new two-story residence including an understory, variances from the understory requirements, and one or more waivers, to replace an existing two-story residence.

#### **RECOMMENDATION:**

Approval of the design, with conditions.

Approval of the variance, as modified.

#### **LEGAL DESCRIPTION:**

Lot 52, Block 2-B, of amended Riviera First and Second Addition, according to the plat thereof, as recorded in Plat Book 32, Page 37, of the Public Records of Miami-Dade County.

#### **HISTORY:**

On July 5, 2022, the application was continued to a date certain of September 6, 2022, in order to address the concerns expressed by the Board.

#### **SITE DATA:**

Zoning: RS-4  
Future Land Use: RS  
Lot Size: 6,000 SF  
Lot Coverage:  
Proposed: 1737 SF / 29%  
Maximum: 1800 SF / 30%  
Unit size:  
Proposed: 2766 SF / 46.1  
Maximum: 3000 SF / 50%  
Height:  
Proposed: 24'-0" flat roof  
Maximum: 24'-0" flat roof  
Grade: +4.6' NGVD  
Base Flood Elevation: +9.00' NGVD

Adjusted Grade: +6.8' NGVD  
First Floor Elevation: +9.00' NGVD (BFE+ 5'fb)

#### **EXISTING PROPERTY:**

Year: 1938  
Architect: George Maguolo  
Vacant:  
Demolition: Full

East: Two-story 1971 home  
North: Two-story 1950 home  
South: One story 1938 home  
West: Two-story 1957 home

#### **THE PROJECT:**

The applicant has submitted plans entitled "DeSousa Residence 281 Palm Avenue", as designed by **debowsky design group**, dated 5-16-2022.

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 design waiver(s):

1. A waiver to reduce the additional 5'-0" set back required for the second-floor façade when the lot coverage is 25% or greater as per Sec. 142-105(b)(4)(c)(1) of the city code. 35% of the second floor (12'-4") is required to be setback an additional 5 feet and 31.2% (10'-11") is proposed. This takes into consideration the additional side setbacks proposed beyond the minimum requirement and the portion of the second floor along Palm Avenue that is recessed.

The applicant is requesting the following variance(s):

1. A variance from Section 142-105(b)(4)d. to provide a sodded or landscaped pervious open space of ~~56.9%~~, **68.6%\*** when 70% is required:  
**\*(extent of variance reduced from prior submission)**

*At least **70 percent** of the required front yard and street side yard areas shall consist of sodded or landscaped pervious open space. For purposes of this section, the required front yard shall be the same as the required front setback of the principal structure. All allowable exterior walkways and driveways within the front and street side yards shall consist of pavers set in sand or other semi-pervious material. The use of concrete, asphalt or similar material within the required front or street side yards shall be prohibited.*

With this latest submission, the applicant has substantially reduced the extent of this variance, as previously recommend by staff.

#### **PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents submitted with the application comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.
- The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

**COMPLIANCE WITH ZONING CODE:**

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the City Code, with the exception of the requested variances:

It should be noted that although the applicant has indicated the application includes a variance for unit size, this was based upon their inclusion of the roof deck as part of the unit size which is not the case. The actual unit size proposed is thus 46.1% as included in the zoning summary above.

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

**COMPLIANCE WITH DESIGN REVIEW CRITERIA:**

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.  
**Satisfied**
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.  
**Satisfied. However, the applicant is requesting one waiver and one variance.**
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to

determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.

**Satisfied. However, the applicant is requesting one waiver and one variance.**

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.

**Satisfied**

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.

**Satisfied**

7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.

**Satisfied**

8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.

**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).

**Satisfied**

13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.

**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.  
**Satisfied**
- (10) In all new projects, water retention systems shall be provided.  
**Not Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.**
- (11) Cool pavement materials or porous pavement materials shall be utilized.  
**Satisfied**

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

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

### **STAFF ANALYSIS:**

#### **DESIGN REVIEW**

The applicant is proposing to construct a compact 2-story home with an understory, on a relatively small 6,000 SF lot with two fronts (Palm Ave and N. Coconut Lane). Vehicular access is provided along N. Coconut Lane, with the primary entrance to the home on Palm Avenue. A roof-deck is also proposed, centered on the home, with access from a spiral stair located on the second level terrace fronting N. Coconut Lane.

The proposed home features an understory with the first fully-enclosed, habitable floor of the residence designed at an elevation of 14'-0" NGVD, (B.F.E. plus the maximum 5' of freeboard). The design intent of the understory is to create non air-conditioned space below the main slab of the home that serves as a usable outdoor recreational amenity and program feature for the owner. In this design, the understory is dedicated to parking, seating and landscaped areas.

The new two-story residence is designed in a contemporary architectural style. The residence features wall planes of smooth stucco, wood cladding and wood screening details along portions of the covered terraces, and dark metal railings.

The applicant is also requesting a design waiver for the setback of the second story of the front elevation when the lot coverage exceeds 25%. The City code requires that in such instances, 35% of the second-floor elevation shall be further setback 5', and variation from this requirement is subject to the review and approval of the Design Review Board. As this site has two front elevations, the request is specific to the Palm Avenue frontage, where the North Coconut Lane elevation is in compliance.

35% of the second floor (12'-4") is required to be setback an additional 5 feet and 31.2% (10'-11") is proposed. This takes into consideration the additional side setbacks proposed beyond the minimum requirement and the portion of the second floor along Palm Avenue that is recessed. The required side setbacks are 7'-6" on each side, and the applicant is proposing setbacks of 9'-4" on each side. The combined additional setback of 3'-8" at all levels helps to mitigate the applicant's request, and as such staff recommends approval of this waiver.

#### **September 6, 2022 update**

Since the July meeting, the applicant has substantially revised the design to address the concerns previously expressed by the Board and staff. This includes reducing the scale of the main pedestrian entry from Palm Avenue, adding well-designed balconies at the first and second floors to break-up the continuous plane of the prior submittal, as well as further developing the design of the side elevations. With these changes, staff is fully supportive of the application and recommends approval.

#### **VARIANCE REVIEW**

The applicant is requesting the following variance:

1. A variance from Section 142-105(b)(4)d. to provide a sodded or landscaped pervious open space of ~~56.9%~~ **68.6%\***, when 70% is required.  
**\*(extent of variance reduced from prior submission)**

*At least **70 percent** of the required front yard and street side yard areas shall consist of sodded or landscaped pervious open space. For purposes of this section, the required front yard shall be the same as the required front setback of the principal structure. All allowable exterior walkways and driveways within the front and street side yards shall consist of pavers set in sand or other semi-pervious material. The use of concrete, asphalt or similar material within the required front or street side yards shall be prohibited.*

The narrow width of the site presents some challenges and practical difficulties in providing the minimum required 70% pervious open space requirement for an understory home. A home without an understory is required to provide a minimum open space of 50% within the required front yard. The percentage is increased for understory homes because the understory regulations require that all parking be provided under the building.

Since the prior submission, as recommended by staff, the applicant has reduced the driveway approach from 12'-3" on the front property line to 10 feet, which then expands now to 12 feet (down from 15 feet in the prior submittal) for the center portion of the driveway and then to 20'-6" at the entrance to the covered parking area. The walkway width has also been reduced. This latest reduction in paving, plus the larger landscaped area on the Palm Avenue frontage, as well as the increased landscaped areas on the side yards due to the increased setbacks, are factors that fully mitigate the variance request.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends **approval** of the design, and **approval** of the variance, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise criteria and Practical Difficulty and Hardship criteria.