

# MIAMI BEACH

## PLANNING DEPARTMENT Staff Report & Recommendation

## Design Review Board

TO: DRB Chairperson and Members

DATE: November 1, 2022

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: DRB22-0861  
**7645 & 7637 Carlyle Avenue**

An application has been filed requesting Design Review Approval for the construction of a new four-story building including one or more waivers and a variance from the maximum allowable projection into the required front yard, and from the minimum garage clearance, to replace an existing single-story building.

### **RECOMMENDATION:**

Approval of the design.

Approval of the variances

### **LEGAL DESCRIPTION:**

Lots 1 & 2, Block 22, of "ALTOS DEL MAR NO 3", according to Plat thereof as recorded in Plat Book 8, Page 41, of the Public Records of Miami-Dade County, Florida.

### **SITE DATA:**

Zoning: RM-1  
Future Land Use: RM-1  
Lot Size: 11,122 SF\*  
Lot 1 (Existing) 5,497  
Lot 2 (Project) 5,625 SF  
\*As represented by Applicant  
Proposed FAR: 13,877 /1.25  
Lot 1 (Existing) 6,863.8 SF  
Lot 2 (Project) 7,012.5 SF\*  
\*As represented by the Applicant  
Permitted FAR: 13,902 /1.25

### **Height:**

Proposed: 40'-0" / 4-Story  
Maximum: 50'-0" / 5-Story  
Existing Use: Single Family Residence  
Proposed Use: Townhomes  
Residential Units: 7 Units

Required Parking: 7 Spaces

Provided Parking: 5 Spaces \*

### **\*DRB Waiver**

Grade: +4.34' NGVD

Flood: +8.00' NGVD

Adjusted Grade: +6.56' NGVD

Garage Elevation Clearance: 7'-7" from BFE+1

Required Garage Elev. Clearance: **12'-0"**

Finished Floor Elevation: +9'-0" NGVD  
(BFE + 1' FB)

### **Surrounding Properties:**

East: 1-story 1950 multi-family

North: 2-Story 1951 multi-family

South: 2-Story 1957 multi-family

West: 2-story 1958 multi-family

**THE PROJECT:**

The applicant has submitted revised plans entitled "7637 Carlyle Avenue., Miami Beach, FL – 7 TOWNHOUSES PROJECT", as prepared by **Gustavo J. Ramos Architecture | Planning | Interiors**, dated, signed and sealed 08/08/2022.

The applicant is proposing to construct a new 4-story residential townhouse development in the North Shore Historic National Register Conservation District. The proposed project is the southern lot (7637 Carlyle Avenue) of a two-lot aggregation, where the existing lot (7645 Carlyle Avenue) is a contemporary townhouse project of seven (7) townhouses, which was approved by the Design Review Board on December 1, 2015, pursuant to DRB File No. 23221 and has been construction.

The applicant is requesting the following waiver(s):

1. A waiver from the off-street parking requirements of one parking space per residential unit.(5 parking spaces are provided and 7 spaces are required)

The applicant is requesting the following variance(s):

1. A variance from the maximum allowable projection of 25% (2'-6") into the front yard of 10'-0" in order to encroach a maximum of 40% (4'-0") into the required front yard.
2. A variance to reduce by 2'-6" the minimum required ceiling clearance height of 12'-0" from base flood elevation plus minimum freeboard to the underside of the first-floor slab, in order to provide parking ceiling clearance of 9'-6" from 9.0' NGVD.

**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 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.

Additionally, staff has concluded that the plans and documents with the application comply with the following hardship criteria, as noted, 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 waiver and variances.

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.

**CONSISTENCY WITH 2040 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the proposed **multi-family residential** use appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

**ACCESSIBILITY COMPLIANCE**

Additional information will be required for a complete review for compliance with the Florida Building Code 2001 Edition, Section 11 (Florida Accessibility Code for Building Construction). These and all accessibility matters shall require final review and verification by the Building Department 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 application includes one waiver and two variances.**
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 application includes one waiver and two variances.**
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; however, the application includes one waiver and two variances.**
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; however, the application includes one waiver and two variances.**
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 was not 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; however, the application includes one waiver and two variances.**
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.  
**Satisfied**
14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.  
**Satisfied**
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).  
**Not Applicable**
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.  
**Satisfied**
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.  
**Satisfied**

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**

**COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

1. A recycling or salvage plan for partial or total demolition shall be provided.  
**Not Satisfied; applicant will provide a recycle/salvage plan for demolition at time of permitting.**
2. Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Satisfied**
3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Satisfied**
4. Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.  
**Satisfied**
5. The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.  
**Satisfied**
6. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.  
**Satisfied**
7. In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.

**Satisfied**

8. Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.

**Not Applicable**

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

**Not Applicable**

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

**Not Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.**

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

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

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

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

**STAFF ANALYSIS:**  
**DESIGN REVIEW**

The subject site located within the boundaries of the North Shore National Register Historic District. The applicant is proposing to construct a new contemporary (4) four-story, (7) seven-unit residential townhouse building with accessible roof deck. This site is part of a lot aggregation with the property to the north, 7645 Carlyle Avenue, where a similar townhouse development was approved by the Design Review Board in 2015 and has been constructed. The vehicular access into the subject project is through the 7645 Carlyle Avenue building, with an entrance from the north along 77<sup>th</sup> Street. Each unit has been designed with individual pedestrian entrances and a shared covered parking level.

The architect has designed a street façade that incorporates a fair amount of transparency along the ground floor that enhances the pedestrian experience along Carlyle Avenue and 77<sup>th</sup> Street. Further, vehicular ingress and conflict with pedestrians will be minimized since the traffic in and out of the parcel has been restricted to the existing 71<sup>st</sup> Street curb cut. The ground floor is highlighted by entrance vestibules, two facing Carlyle Avenue and the remainders facing the south interior yard, with small, elevated porches for each individual unit and a shared covered parking area. The proposed townhouse building is similar in massing and design to its sister building to the north and is compatible and consistent with the scale and massing of the surrounding residential area.

The project, as proposed, is designed in a minimalist style. The architect has articulated the massing of the building by introducing balconies and shifting the façade on the upper floor to

create interest and scale. The additional setbacks to the upper levels help to alleviate the impact of the new construction on the existing urban context of its surrounding area. Staff would recommend introducing another finish along the main elevation (west) in order to further break up the massing and the impact of the new construction, as well as introduce additional architectural richness. Currently, the architect is only proposing a white stucco finish and grey aluminum window and door frames.

The applicant is requesting the following waiver(s):

1. A waiver from the off-street parking requirements of one parking space per residential unit.(5 parking spaces are provided and 7 spaces are required)

Waiver from Sec. 130-32. Off-street parking requirements for parking district no. 1:

(6) Apartment building and apartment-hotel:

- e. When located within the North Beach National Register Conservation Overlay District the following parking requirements shall apply:
  2. One space per unit for buildings on lots greater than 65 feet in width. In the event that the property owner can substantiate that the proposed new construction will not need to provide off-street parking, the design review board or historic preservation board, as applicable, may waive the parking requirement.

Although the lot where the new development is proposed is less than 50 feet in width, and would be exempt from the parking if developed on its own, it is being combined with the neighboring lot to the north, in order to provide vehicular access to the parking under the proposed new building. As the resulting site is more than 65 feet in width, one parking space is required for each of the seven units and five parking spaces have been provided. Staff is fully supportive of the waiver request, which allows the Carlyle Avenue frontage to be fully developed with residential units to screen the internalized parking under the building. Access to the parking will be through the existing curb cut on 77<sup>th</sup> street, and under the existing townhome project, previously approved by the Board in 2015.

### **VARIANCE ANALYSIS**

The applicant is requesting the following variance(s):

1. A variance from the maximum allowable projection of 25% (2'-6") into the front yard of 10'-0" in order to encroach a maximum of 40% (4'-0") into the required front yard.

#### **Sec. 142-1132. Allowable encroachments within required yards.**

*(o) Projections. In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet, unless otherwise noted.*

The variance request is substantially related to the access to the parking under the building. The proposed building could be moved in its entirety two (2') feet towards the rear (as it



exceeds the required rear setback), however the parking has been located to align with the drive aisle of the building to the north, from which parking for this site will be accessed. This parking is setback over 40 feet from the front property line, with an entire apartment unit as well as entrances to two units above provided on the Carlyle Avenue frontage. These entrances contain a shared front porch, which is the subject of the variance request. Because of the practical difficulties of providing parking on this site through an existing building to the north, and the resulting constraints on this small site, staff is supportive of the requested variance.

2. A variance to reduce by 2'-6" the minimum required ceiling clearance height of 12'-0" from base flood elevation plus minimum freeboard to the underside of the first-floor slab, in order to provide parking ceiling clearance of 9'-6" from 9.0' NGVD.

- Variance requested from:

**Sec. 142-155. - Development regulations and area requirements.**

**(a) The development regulations in the RM-1 residential multifamily, low density district are as follows:**

**f. Ground floor requirements. When parking or amenity areas are provided at the ground floor level below the first habitable level, the following requirements shall apply:**  
**1. A minimum height of 12 feet shall be provided, as measured from base flood elevation plus minimum freeboard to the underside of the first floor slab. The design review board or historic preservation board, as applicable, may waive this height requirement by up to two feet, in accordance with the design review of certificate of appropriateness criteria, as applicable.**

The ground floor of the building contains a residential unit, 6 separate entrance vestibules and a covered garage parking area. As part of the requirements to mitigate sea level rise impact on new buildings, the City Code requires that when parking is provided at the ground level, a minimum height of 12'-0" from base flood elevation plus 1 foot to the underneath the second-floor slab be provided to allow future raising of the streets and building first floor including continued operation of the parking area, as required. The ceiling height proposed for the ground floor is 9'-6" for which a variance is requested. If the clearance was at least 10 feet, the Board could grant a waiver.

Due to the very tight constraints on the portion of the property to be developed, which is only 50 feet wide and less than 6000 square feet, it is challenging to provide a townhome project with individual stairways rising almost 15 feet from the sidewalk level to the first finished floor level above the garage. As proposed, the clearance from the garage floor to the underside of the slab above will be 13'-0" (9'-6" from B.F.E. + 1 foot). As the variance request is minimal, applies to only 5 parking spaces, and is on a lot that individually would not require parking, staff is supportive of the request.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the application be **approved**, including the requested variances, subject to the conditions enumerated in the attached Draft Order which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria and Practical Difficulty and Hardship criteria, as applicable.

**DESIGN REVIEW BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: November 1, 2022

PROPERTY: **7645 & 7637 Carlyle Avenue**  
7645 Carlyle Avenue (Lot 1) 02-3202-007-1750  
7637 Carlyle Avenue (Lot 2) 02-3202-007-1760

FILE NO: DRB22-0861

IN RE: An application for Design Review Approval for the construction of a new four-story building including one or more waivers and a variance from the maximum allowable projection into the required front yard and from the minimum garage clearance, to replace an existing single-story building.

LEGAL: Lots 1 & 2, Block 22, of "ALTOS DEL MAR NO 3", according to Plat thereof as recorded in Plat Book 8, Page 41, of the Public Records of Miami-Dade County, Florida.

APPLICANT: Carlyle Condominium Property, LLC

**ORDER**

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

**I. Design Review**

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 19 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1 and 10 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/or Section 133-50(a) if the following conditions are met:

2. Revised elevation, site plan and floor plan drawings for the proposed multi-family residential building shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
  - a. The parking requirements for residential units **shall be** waived.
  - b. A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department, in a manner to be reviewed and approved by staff.
  - c. The final details and color of the proposed wood composite wall cladding, including samples, 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.
  - d. The final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - e. Post Indicator Valves (PIV) and Fire Department Connections (FDC) that are proposed visible from the right-of-way shall be finished in chrome.
  - f. All exterior handrails and support posts shall incorporate a flat profile. The final design details, dimensions material and color of all exterior handrails shall be made part of the building permit plans and shall be subject to the review and approval of staff consistent with the Design Review Criteria and/or the directions from the Board.
  - g. The final color selection of the exterior stucco elements shall be subject to the review and approval of staff consistent with the Design Review Criteria and/or the directions from the Board.
  - 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. 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 site plan, 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 plan shall incorporate the following:

- a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
- b. 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.
- c. 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.
- d. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- e. 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.
- f. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- g. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
- h. 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 wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- i. 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):
1. A variance from the maximum allowable projection of 25% (2'-6") into the front yard of 10'-0" in order to encroach a maximum of 40% (4'-0") into the required front yard.
  2. A variance to reduce by 2'-6" the minimum required ceiling clearance height of 12'-0" from base flood elevation plus minimum freeboard to the underside of the first-floor slab, in order to provide parking ceiling clearance of 9'-6" from 9.0' NGVD.
- B. The applicant has submitted plans and documents with the application that satisfies Article 1, Section 2 of the Related Special Acts, 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 the Board has concluded 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.

- C. The Board hereby **Approves** the Variance request(s), 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.
  2. Removal of the on-street parking shall be approved by the Parking Department.

**The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.**

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

- A. A Unity of Title or Covenant in Lieu, shall be required for the subject lots, prior to the issuance of building permit for the proposed new construction.
- B. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.
- 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. Site plan approval is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed prior to the issuance of a Building Permit
- E. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- F. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- G. 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.

- H. 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.
- I. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- J. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "7637 Carlyle Avenue., Miami Beach, FL – 7 TOWNHOUSES PROJECT", as prepared by **Gustavo J. Ramos Architecture | Planning | Interiors**, dated, signed and sealed 08/08/2022 and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Filed with the Clerk of the  
Design Review Board on \_\_\_\_\_ ( )