

**MIAMI BEACH**  
**PLANNING DEPARTMENT**  
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: February 7, 2023

FROM: Thomas R. Mooney, AICP  
Planning Director



for TRM

SUBJECT: DRB22-0898  
**8 Farrey Lane**

An application has been filed requesting Design Review Approval for the construction of a new 4-story home, including variances from the minimum required front yard setback for parking, from the maximum elevation for the interior side yards for walkways and landings, from the maximum allowable projection for stairs and landings, and from the maximum lot coverage in the required rear yard, and from the maximum projection of a trellis into the required rear yard.

**RECOMMENDATION:**

Approval of the design with conditions.  
Approval of variances #1, #2, and #3.  
Denial of variance #4.

**LEGAL DESCRIPTION:**

Lot 8, of Second Section of Belle Isle Villas, according to the plat thereof, as recorded in Plat Book 42, Page 100, of the Public Records of Miami-Dade County, Florida.

**BACKGROUND:**

On October 10, 2016, the Design Review Board approved a new three-story residence to replace an existing one-story residential structure, including a number of variances (DRB16-0052). On February 6, 2018, the Board approved modifications to the previously approved design, and additional variances were approved by the Board on March 6, 2018 (DRB17-0210).

This previous approval expired, and a new application was filed, similar to the previously approved application, but containing an additional floor. That application was originally scheduled for the October 5, 2021, DRB meeting. After a series of continuances, the applicant withdrew the application at the April 5, 2022, DRB meeting.

**SITE DATA:**

Zoning:	RM-1 (Residential, Multifamily Low Intensity)
Future Land Use:	RM-1 (Residential, Multifamily Low Intensity)
Lot Size:	4,590* SF
Proposed FAR:	5,511 SF / 1.20
Maximum FAR:	5,737.5 SF / 1.25
Proposed Height:	49'-0" from BFE + Freeboard / (4) four-story
Maximum Height:	50'-0" from BFE + Freeboard / (5) five-story

\*As indicated on submitted survey.

**Surrounding Properties:**

East: One-story 1941 residence

North: Biscayne Bay

South: One-story 1941 residence (DRB Approval for a second-floor addition)

West: Three-story new construction approved DRB 23155 / DRB16-0053

**THE PROJECT:**

The applicants have submitted plans entitled "8 Farrey Lane Residence", as prepared by **Rene Gonzalez architect** dated, signed and sealed on December 12<sup>th</sup>, 2022.

The applicants are requesting the following variance(s):

1. A variance to eliminate all of the required front setback of 20'-0" in order to construct parking spaces up to the front property line, facing Farrey Lane.
2. A variance to exceed by 1.22' the maximum elevation of 8.78' NGVD for allowable projections within required side yards in order to construct steps and landing at 10.0' NGVD with 40% (3'-0") encroachment into the west side yard.
3. A variance to exceed by 59.1% (272 SF) the maximum of 30% (137 SF) deck area allowed within the rear yard in order to construct a pool deck with 89.1% (409 SF) within the required rear yard.
4. A variance to exceed by 30.1% (2'-6") the maximum 25% (2'-0") projection allowed within the required rear yard to construct ornamental trellis with 55.1% (4'-6") encroachment into the rear yard at 2nd, 3rd and 4th floors.

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

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 #4, 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 #4:

- 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 appears to be inconsistent with the following sections of the City Code, in addition to the variances requested:

1. Sec. 142-155(a)(3). Detailed grading plan shall be submitted at the time of the building permit, specifically to verify that the front yard complies with the minimum and maximum yard elevation required.
2. Landscape and architectural plans are not consistent regarding configuration of the required side and rear yards.

This 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 multiple variances have been requested.**
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 multiple variances have been requested.**

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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.  
**Partially Satisfied; however multiple variances have been requested, and staff recommends denial of variance #5, due to lack of hardship or practical difficulty.**
  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.  
**Partially Satisfied; however multiple variances have been requested, and staff recommends denial of variance #5, due to lack of hardship or practical difficulty.**
  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.  
**Not Applicable**
  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.  
**Satisfied**
  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**



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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.  
**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.  
**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**

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**demolition/building permit to the building department.**

- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Satisfied**
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Satisfied**
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.  
**Satisfied**
- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.  
**Satisfied**
- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.  
**Satisfied**
- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.  
**Satisfied**
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.  
**Not Applicable**
- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.  
**Not Applicable**
- (10) In all new projects, water retention systems shall be provided.  
**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**

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

The properties along Farrey Lane and Century Lane were originally developed with one-story single-family homes, which were all constructed as part of a residential development in 1941. This street, however, is an anomaly within the encompassing RM-1 multifamily district, which allows for a maximum height of 50 feet and a maximum FAR of 1.25. As such, any proposed modification or new construction, even that of a single-family residence, is subject to the RM-1 zoning development regulations. The proposed home will be located on a vacant waterfront parcel adjacent to a three-story home that has been approved for 7 Farrey Lane.

The proposed design is similar to the previous approval in terms of its massing, layout and architectural expression, with the exception of an additional floor and rooftop terrace. The design of the home is grounded and has a tactile approach to the residential program. Specifically, according to the project Architect, the proposal seeks to be “closer to the water and the earth” while still being environmentally responsive and resilient to the rising sea level.

The first floor is elevated to approximately 10'-0" NGVD, and features an open plan that expands into a large outdoor living area along the Bay. The master suite and three other bedrooms are housed on the second floor where the north master bedroom wall is detailed with a louver system overlooking the Bay. A large children's area and outdoor terrace, along with a guest bedroom, is configured on the third level. Lastly, the fourth-floor plan features a kitchenette and outdoor terraces.

The home is very sculptural in quality, particularly with the use of materials and the articulation of the massing and exterior planes. Although the scale is a departure from the one-story homes within the neighborhood, it is consistent with other structures recently approved by the Board on Farrey Lane.

Staff would also note that a multifamily apartment building is permitted on the property with no parking. The proposed single residence, with off-street parking, is an appropriate low density use for this tightly constrained street.

**VARIANCE REVIEW**

The applicants are requesting the following variance(s):

1. A variance to eliminate all of the required front setback of 20'-0" in order to construct parking spaces up to the front property line, facing Farrey Lane.

- Variances requested from:

**Sec. 142-156. - Setback requirements.**

- (a) *The setback requirements for the RM-1 residential multifamily, low density district are as follows:*

At-grade parking lot on the same lot except where (c) below is applicable, Front:  
20 feet.

Subterranean and pedestal, Interior side, Single lots less than 65 feet in width:  
7.5 feet

The parking spaces proposed for the residence are required to be setback 20'-0" from the front property line and the minimum required interior side setback is 7'-6". The parking is

proposed within the 20'-0" front yard. Although parking a vehicle in the front yard is permitted within single family districts, in this case due to the specific location of the property in the RM-1 zoning district, a 20-foot setback is required. This presents a challenge as the subject property, which is one of several properties along Farrey Lane (originally platted in 1941), has a lot depth of only 80 feet, which is well below the typical lot depth for most RM-1 properties.

Staff would note that this variance was previously approved by the Board, and the small lot size and shallow lot depth present practical difficulties in the construction a new home with parking. As such, staff recommends approval of variance #1.

2. A variance to exceed by 1.22' the maximum elevation of 8.78' NGVD for allowable projections within required side yards in order to construct steps and landing at 10.0' NGVD with 40% (3'-0") encroachment into the west side yard.

- Variance requested from:

**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.*

*(6) Porches, platforms and terraces up to 30 inches above the adjusted grade elevation of the lot, as defined in chapter 114.*

The finish floor of the house is required to be at base flood elevation + 1 foot (10' NGVD). The grade for the property is 3.56' NGVD, based on the elevation of the crown of the road in front of the property, as no sidewalk exists. The maximum elevation for allowable encroachments in required yards is calculated as the average of the Base Flood Elevation (BFE) and grade elevation, plus 30 inches. With the finished floor of the house at 10' NGVD, the maximum elevation for allowable encroachments is 8.78', thus creating a gap of 1.22' from the finished floor elevation. In order to locate these allowable encroachments at the same elevation level as the main home, the applicant is seeking a variance.

Staff finds that the existing very low grade of the property creates practical difficulties to accommodate the transition from the existing surrounding low grade to the higher finished floor level required by the Building Code. A similar variance was also previously approved by the Board, and staff would also note that the Code allows the rear yard to be elevated to match the finished floor of the home, which also was part of a previous variance approved that is no longer necessary. In summary, staff recommends approval of variance # 2.

3. A variance to exceed by 59% (272 SF) the maximum of 30% (137 SF) deck area allowed within the rear yard in order to construct a pool deck with 89.1% (409 SF) within the required rear yard.

- Variance requested from:

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

*(j) Hot tubs, showers, saunas, whirlpools, toilet facilities, swimming pool equipment, decks. In all districts, hot tubs, showers, whirlpools, toilet facilities, decks and cabanas are structures which are not required to be connected to the main building but may be*



constructed in a required rear yard, provided such structure does not occupy more than 30 percent of the area of the required rear yard and provided it is not located closer than seven and one-half feet to a rear or interior side lot line.

The area of the pool and deck in multifamily districts is restricted to no more than 30% of the area of the required rear yard. The available area of the rear yard in this case is very limited for outdoor amenities because of the 80 foot lot depth of the property and the irregular shape of the site. The deck area proposed exceeds this threshold up to 89.1% and a similar variance was approved in 2016 for this property. Due to the reduced lot size and lot depth, staff finds that this variance request satisfies the practical difficulties criteria for approval.

4. A variance to exceed by 30.1% (2'-6") the maximum 25% (2'-0") projection allowed within the required rear yard to construct ornamental trellis with 55.1% (4'-6") encroachment into the rear yard at the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> floors.

- Variance requested from:

**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.*

*(5) Ornamental features.*

As part of the building design, a trellis structure is proposed along the rear elevation at the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> floors. The length of this trellis structure exceeds the maximum encroachment allowed within the rear yard. Although the size of the property creates design challenges in order to comply with all zoning requirements, staff is unable to find practical difficulties related to variance #4. Staff finds that this is a design feature and is not necessary to develop a residence consistent with the size and location of the property. As such, staff recommends that the project be modified to comply with the maximum projection allowed, and that variance #4 be denied.

Staff is supportive of the overall design and recommends approval of the application, with the exceptions noted above.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the application be **approved**, inclusive of variance requests #1, #2, and #3, and that variance request #4 be **denied**, subject to the conditions enumerated in the attached Draft Order which address the inconsistencies with the aforementioned Design Review criteria, Sea Level criteria and Practical Difficulty and Hardship criteria, as applicable.

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

MEETING DATE: February 7, 2023

PROPERTY: **8 Farrey Lane**  
FOLIO: **02-3202-157-0010**

FILE NO: DRB22-0898

IN RE: An application for Design Review Approval for the construction of a new 4-story home, including variances from the minimum required front yard setback for parking, from the maximum elevation for the interior side yards for walkways and landings, from the maximum allowable projection for stairs and landings, and from the maximum lot coverage in the required rear yard, and from the maximum projection of a trellis into the required rear yard.

LEGAL: Lot 8 of Second Section of Belle Isle Villas, according to the plat thereof, as recorded in Plat Book 42 at Page 100 of the Public Records of Miami-Dade County, Florida.

APPLICANTS: Steve Rhodes and Jessica Rhodes

**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 the 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:

1. Revised elevation, site plan and floor plan drawings for proposed air conditioning equipment at 8 Farrey Lane shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
  - a. The final design details of all exterior surface 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.
  - b. 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. 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.
  - c. A fully automatic irrigation system with 100% coverage and an automatic rain sensor will be required 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.
  - d. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
  - e. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow prevention devices. Backflow prevention devices shall not be permitted within any required yard or any area fronting a street or sidewalk, unless otherwise permitted by the Land Development Regulations. The location of all backflow prevention devices, and how they are screened 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. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all post-indicator valves (PIV), fire department connections (FDC) and all other related devices and fixtures, which shall be clearly indicated on the site and landscape plans.

- f. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect for 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 or denied:
  1. A variance to eliminate all of the required front setback of 20'-0" in order to construct parking spaces up to the front property line, facing Farrey Lane.  
**(Approved)**
  2. A variance to exceed by 1.22' the maximum elevation of 8.78' NGVD for allowable projections within required side yards in order to construct steps and landing at 10.0' NGVD with 40% (3'-0") encroachment into the west side yard.  
**(Approved)**
  3. A variance to exceed by 59.1% (272 SF) the maximum of 30% (137 SF) deck area allowed within the rear yard in order to construct a pool deck with 89.1% (409 SF) within the required rear yard.  
**(Approved)**
  4. A variance to exceed by 30.1% (2'-6") the maximum 25% (2'-0") projection allowed within the required rear yard to construct ornamental trellis with 55.1% (4'-6") encroachment into the rear yard at 2nd, 3rd and 4th floors.  
**(Denied)**
- B. The applicant has submitted plans and documents with the application that the Board 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.

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** Variance request(s) #1, #2 & #3, **Denies** Variance request #5, 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.

**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. 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, Completion and Business Tax Receipt.

- B. During construction work, gravel shall be maintained at the front of the construction site within the first 15'-0" of the required front yard, and including the swale (subject to the review and approval of Public Works), to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way.
- C. During the course of construction, all vehicles, including, but not limited to all personal vehicles, shall park within the confines of the private property, or at alternate overflow parking sites that are not on-street metered spaces and not zoned RS. Additionally, parking of any vehicles shall be prohibited in the travel lanes of all streets.
- D. Prior to the issuance of a building permit for the new home, a construction fence shall be installed along all property lines, in accordance with Section 142-876 of the City Code, "Vacant and abandoned properties and construction sites." However, along the front property line, such fence shall consist of an opaque screening, a minimum of eight (8') feet tall (as measured from adjacent grade), which may include plywood or aluminum panels, or the equivalent solid construction on a wood or metal frame, with a continuous color finish, and concrete foundations. Only rolling gates or rigid folding panels shall be permitted. Swinging gates shall not be permitted. Such fence shall not encroach into the right-of-way.
- E. All allowable construction signage shall be attached to or situated behind the construction fence, and shall be limited to one (1) sign, in accordance with Section 138-133 of the City Code.
- F. The building and parking departments shall approve a construction parking plan prior to the issuance of any building permit, including applicable demolition permits for the project.
- G. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- H. The contractor(s) shall ensure that the street and the swale directly abutting the construction site remains free of debris and refuse at all times; at a minimum, the contractor(s) shall inspect and clear the street and swale areas before leaving at the end of each day.
- I. This order shall be enforced by the Building, Planning, Parking and Code Compliance Departments.
- J. 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.

- K. 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.
- L. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- M. 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.
- N. 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.
- O. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- P. 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 "8 Farrey Lane Residence", as prepared by **Rene Gonzalez architect** dated, signed and sealed August 2, 2021, and as approved by the Design Review Board, as determined by staff.

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

