

# MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: July 5, 2023

FROM: Thomas R. Mooney, AICP  
Planning Director



For TRM

SUBJECT: DRB23-0925  
**1600 Cleveland Rd**

An application has been filed requesting Design Review Approval including variances from the maximum lot coverage, from the minimum required setback for pool equipment, and from the minimum required setbacks for the construction of a nonstandard carport on a site containing an existing home.

### **RECOMMENDATION:**

Approval with conditions.  
Approval of the variances.

### **LEGAL DESCRIPTION:**

Lot 30, Block 5, Biscayne Point, according to Plat thereof as recorded in Plat Book 14, Page 35 of the Public Records of Miami-Dade County, Florida.

### **HISTORY:**

On September 6, 2022, the DRB approved the construction of a second floor addition to an existing single story home, including one or more waivers, and variances from the maximum lot coverage, front setback, and interior side setback requirements.

### **SITE DATA:**

Zoning:	RS-4
Future Land Use:	RS
Lot Size:	8,866 SF
Lot Coverage:	
Existing:	2,259 SF / 25.5%
Prev. Approved:	2,521 SF / <b>30.8%</b>
<b>Proposed:</b>	
Maximum:	2,989 SF / <b>34%</b>
Unit size:	
Existing:	2,281 SF / >25.7%
Proposed:	4,433 SF / 50%
Maximum:	<4,500 SF 50%

### Height:

Existing:	~7.6' ** (1-story)
Proposed:	24'-0" (2-story)
Maximum:	24'-0" (2-story)

### **EXISTING STRUCTURE:**

Year Constructed:	1952
Vacant:	No
Demolition Proposed:	Partial

### **Surrounding Properties:**

East:	One-story 1963 home
North:	Two-story 2010 home
South:	One-story 1952 home
West:	One-story 1978 home

\*\* Height measured from BFE + 1'.

**THE PROJECT:**

The applicant previously submitted plans entitled "Cumenal – Diamond Residence" as prepared by **Castellanos Design Studio** dated, July 11, 2022.

The applicant previously received approval for the demolition of small portion of the existing single story single family home and the construction of a new second floor addition.

The applicant previously received approval for the following design waiver(s):

1. A waiver to reduce the additional 5'-0" set back required for the second-floor front façade when the lot coverage is 25% or greater as per Sec. 142-105(b)(4)(c)(1) of the city code. This is related to Variance #1 below. Should the Board grant the requested variance to allow a front setback of 26'-0" for the second floor addition, then 35% of the façade (a length of 14'-0) would have to be set back an additional 5 feet. As proposed, 9'-4" of the developable lot width is setback the additional 5 feet.
2. A waiver to reduce the additional 5'-0" set back required for the second-floor side facing a street façade when the lot coverage is 25% or greater as per Sec. 142-105(b)(4)(c)(2) of the city code. 50% of the façade (a length of 31.3') would have to be set back an additional 5 feet. As proposed, 28'-5" of the facade is setback the additional 5 feet.
3. A waiver to reduce the minimum square footage of the additional open space of one percent of the lot area for the street side yard. As per sec. 142-106(a)(2)(d), two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard.

The applicant previously received approval for the following variances:

1. A variance from the maximum lot coverage requirement of **30%** for a 2-story home, as per Section 142-105(b)(1), in order to allow a lot coverage of up to **31%**.
2. A variance the minimum required **40'-0"** front setback for the 2-story portion of the home, as per Section 142-106(a)(1) of the City Code, in order to provide a front setback of **26'-0"**.
3. A variance from the minimum required interior side setback of **7'-6"**, as per Section 142-106(a)(2)c. of the City Code, in order to follow the existing side setback of **5'-0"** for the construction of a second story.

With this current application, the applicant has submitted plans entitled "Cumenal – Diamond Residence" as prepared by **Ryan N. Alderman** dated, 5/8/2023.

The applicant is now requesting the following variances:

1. A variance from the maximum lot coverage requirement of **30%** for a 2-story home, as per Section 7.2.3.3.(b)(i). in order to allow a lot coverage of up to **34%**. **[Note: This a**

**modification to the variance previously approved.]**

2. A variance from the minimum required street side setback of **15 feet**, as per Section 7.2.3.3(b)(i) in order to allow the construction of a non-standard carport with a street side setback of **18 inches**.
3. A variance from the minimum required street side setback of **ten (10') feet**, as per Section 7.2.2.3(b)(xii)(5)(I). in order to install pool equipment with a street side setback of **four (4") inches**.

**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 2.8.3 of the Land Development Regulations:

- i. 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;
- ii. The special conditions and circumstances do not result from the action of the applicant;
- iii. Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;
- iv. Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;
- v. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- vi. The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare;
- vii. 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; and
- viii. 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 7, article I, 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. 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, SECTION 2.5.3.1:**

Design review encompasses the examination of architectural drawings for consistency with the criteria stated below, with regard to the aesthetics, appearance, safety, and function of any new or existing structure and physical attributes of the project in relation to the site, adjacent structures and surrounding community. The design review board and the planning department shall review plans based upon the below stated criteria, criteria listed in neighborhood plans, if applicable, and applicable design guidelines. Recommendations of the planning department may include, but not be limited to, comments from the building department and the public works department.

- a. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.  
**Satisfied**
- b. 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**
- c. 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**
- d. 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 2.5.3.2.  
**Satisfied**
- e. 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 article and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the design review board and historic preservation board and all pertinent master plans.  
**Satisfied**
- f. The proposed structure, 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**
- g. 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**

- h. 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 safety 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**

- i. 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.**

- j. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

**Satisfied**

- k. 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**

- l. 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**

- m. 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**

- n. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

**Satisfied**

- o. 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).

**Satisfied**

- p. 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**
- q. 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**
- r. In addition to the foregoing criteria, subsection 118-104-6(t) of the General Ordinances 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**
- s. The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.  
**Not Satisfied; see below**

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

Section 7.1.2.4(a)(i) of the Land Development Regulations 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 4 of the Land Development Regulations..  
**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.  
**Satisfied**
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.  
**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:**

On September 6, 2022, the applicant received Design Review Approval for a small ground floor addition, including a solar carport and a second floor addition to an existing single family home that was originally constructed in 1952.

The following design waivers were previously approved by the Board:

1. A waiver to reduce the additional 5'-0" set back required for the second-floor front façade when the lot coverage is 25% or greater as per Sec. 142-105(b)(4)(c)(1) of the city code.
2. A waiver to reduce the additional 5'-0" set back required for the second-floor side facing a street façade when the lot coverage is 25% or greater as per Sec. 142-105(b)(4)(c)(2) of the city code. 50% of the façade (a length of 31.3') would have to be set back an additional 5 feet. As proposed, 28'-5" of the facade is setback the additional 5 feet.

3. A waiver to reduce the minimum square footage of the additional open space of one percent of the lot area for the street side yard. As per sec. 142-106(a)(2)(d), two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard.

The applicant previously received approval for the following variances:

1. A variance from the maximum lot coverage requirement of **30%** for a 2-story home, as per Section 142-105(b)(1), in order to allow a lot coverage of up to **31%**.
2. A variance the minimum required **40'-0"** front setback for the 2-story portion of the home, per Section 142-106(a)(1) of the City Code, in order to provide a front setback of **26'-0"**.
3. A variance from the minimum required interior side setback of **7'-6"**, per Section 142-106(a)(2)c.2. of the City Code, in order to follow the existing side setback of **5'-0"** for the construction of a second story.

### **VARIANCE REVIEW**

The applicant is now requesting the following variances:

4. A variance from the maximum lot coverage requirement of **30%** for a 2-story home, as per Section 7.2.3.3.b.i. in order to allow a lot coverage of up to **34%**. **[Note: This a modification to the variance previously approved.]**

- Variance requested from:

<b>DEVELOPMENT REGULATIONS TABLE (RS)</b>				
	RS-1	RS-2	RS-3	RS-4
Maximum Lot Coverage for a 2story Home (% of lot area)	30%			

As part of the home's renovation, the applicant previously proposed a carport to shade two vehicles. The portion of the covered area in excess of 5 feet from the building is required to be counted as lot coverage. The previously submitted plans did not include correct calculations for lot coverage. The correct calculation results in a lot coverage of 34% vs the 31% that was previously indicated. Considering the practical difficulties involved in working with the constraints of the existing home, and the difficulty in retrofitting the existing home to provide an enclosed garage, staff is supportive of the expanded variance request for a carport.

5. A variance from the minimum required street side setback of **15 feet**, as per Section

7.2.3.3.b.i. in order to allow the construction of a non-standard carport with a street side setback of **18 inches**.

- Variance requested from:

BUILDING SETBACKS				
	RS-1	RS-2	RS-3	RS-4
Front Setback A	20 feet -1 Story Structure (5) - provided that any future addition of a two-story attached structure shall be setback a minimum of 40 feet 30 feet - 2 Story Structures - (5)			
	RS-1	RS-2	RS-3	RS-4
Side, facing a street Setback B	10% of the lot width or 15 feet, whichever is greater (5)			

The city code allows a typical canvas and pipe carport as an allowable encroachment with a front yard or a side yard facing a street, with a setback of 18 inches. Because the proposed carport is not constructed of the standard canvas and pipe, and a solar carport is no longer proposed, the main home setbacks apply. Due to the configuration of the lot and siting of the existing home, there are practical difficulties with meeting the current setback requirements.

The proposed carport is simple, yet elegant, with a framed retractable canopy, supported by metal posts. The standard carport that is allowed by code often wears poorly and can be an eyesore. Staff is supportive of the requested variance due to the practical difficulties identified, as well as the enhanced design which meets the overall intent of the code, while providing for an improved design.

6. A variance from the minimum required street side setback of **ten (10') feet**, as per Section 7.2.2.3.b.xii.5.l. in order to install pool equipment with a street side setback of **four (4") inches**.

- Variance requested from:

7.2.2.3.b.xii.5. **Central air conditioners, emergency generators, swimming pool equipment, gas tanks solar panels, home battery systems and other similar mechanical equipment.** Accessory central air conditioners, generators, swimming pool equipment, solar panels, home battery systems and other similar mechanical equipment, including attached screening elements, may occupy a required side or rear yard, provided that:

- I. They are not closer than 5 feet to a rear or interior side lot line, or **10 feet to a side lot line facing a street.**

The subject property is a corner lot, with the street side located along Hendon Avenue and a bridge over the canal which abuts the rear of the property. This lot configuration, and the location of the existing home, present practical difficulties with regard to the location of

required pool equipment. As the top of the guardrail for the bridge is over 6 feet above the elevation of the rear yard, and there is already heavy vegetation located between the bridge and the proposed pool equipment, staff is supportive of the requested variance. The equipment will not be visible from the bridge, and complies with the required rear setback from the water.

In summary, the variances proposed meet the practical difficulty standards, are minor in nature, and should not have a negative impact on neighboring properties or the surrounding neighborhood.

**RECOMMENDATION:**

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

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

MEETING DATES: September 6, 2022; July 5, 2023

PROPERTY/FOLIO: 1600 Cleveland Rd 02-3203-001-0940

FILE NOS: DRB22-0833; DRB23-0925

IN RE: An application for Design Review Approval for the construction of a second floor addition to an existing single story home, including one or more waivers, and variances from the maximum lot coverage, front setback, and interior side setback requirements, and including variances from the minimum required setback for pool equipment, and from the minimum required setbacks for the construction of a nonstandard carport on a site containing an existing home.

LEGAL: Lot 30, Block 5, Biscayne Point, according to Plat thereof as recorded in Plat Book 14, Page 35 of the Public Records of Miami-Dade County, Florida.

APPLICANTS: Frederic Cumenal & Leslie Diamond

**CONSOLIDATED ORDER**

**This document consolidates the previously issued order for DRB22-0833 dated September 6, 2022, and DRB 23-0925, dated July 5, 2023.**

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 2.1.3.1 of the Land Development Regulations. 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 i. and s. in Section 2.5.3.1 of the Land Development Regulations.
- 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 in Section 7.1.2.4(a)(i) of the Land Development Regulations.
- D. The project would be consistent with the criteria and requirements 2.5.3.1 and/ or Section 7.1.2.4(a)(i) if the following conditions are met:

1. Revised elevation, site plan, and floor plan drawings for the proposed new home shall be submitted; at a minimum, such drawings shall incorporate the following:
  - a. A design waiver to reduce the additional 5'-0" set back required for the second-floor front façade when the lot coverage is 25% or greater as per Sec. 7.2.2.3(b)(ii)(2)(l) of the city code, **shall be granted. [Approved by the Board on 9/6/2022]**
  - b. A design waiver to reduce the additional 5'-0" set back required for the second-floor side facing a street façade when the lot coverage is 25% or greater as per Sec. 7.2.2.3(b)(ii)(2)(l) of the city code, **shall be granted. [Approved by the Board on 9/6/2022]**
  - c. A design waiver to reduce the minimum square footage of the additional open space of one percent of the lot area to along the street side yard, per Sec. 7.2.2.3(b)(ii)(1) of the city code, **shall be granted. [Approved by the Board on 9/6/2022]**
  - d. URBAN HEAT ISLAND ORDINANCE Section 7.5.3.2(g)(iv) Driveways and parking areas that are open to the sky within any required yard shall be composed of porous pavement or shall have a high albedo surface consisting of a durable material or sealant, as defined in Section 1.2.1 of this Code, and (v) Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in Section 1.2.1, shall be prohibited.
  - e. The final design details of the exterior materials and finishes shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - f. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding plans shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plans shall comply with Chapter 4-Landscape Requirements of the Land Development Regulations and 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. Any necessary root and tree branch pruning with a diameter at breast height (DBH) of 2" or greater shall be approved by the City Urban Forester prior to any tree work.

- c. 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.
- d. 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.
- e. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP
- f. Any proposed new street trees shall be of a planting species consistent or similar with existing street trees in the immediate area or consistent with any master street tree plan for the area, subject to the review and approval of the City Urban Forester.
- g. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- h. 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.
- i. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- j. 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 2.2.4.8 of the Land Development Regulations, the applicant, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal a decision of the design review board for design review approval only to 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 applications with the Planning Department for the following variance(s):
  1. A variance from the maximum lot coverage requirement of **30%** for a 2-story home, as per Section 7.2.3.3(b)(i) in order to allow a lot coverage of up to **34%**. **[Approved by the Board on 9/6/2022 and modified by the Board on 7/5/2023]**
  2. A variance the minimum required **40'-0"** front setback for the 2-story portion of the home, as per Section 7.2.3.3(b)(i) of the City Code, in order to provide a

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front setback of **26-0"**. **[Approved by the Board on 9/6/2022]**

3. A variance from the minimum required interior side setback of **7'-6"**, as per Section 7.2.3.3(b)(i) of the City Code, in order to follow the existing side setback of **5'-0"** for the construction of a second story. **[Approved by the Board on 9/6/2022]**
  4. A variance from the minimum required street side setback of **15 feet**, as per Section 7.2.3.3(b)(i) in order to allow the construction of a non-standard carport with a street side setback of **18 inches**. **[Approved by the Board on 7/5/2023]**
  5. A variance from the minimum required street side setback of **ten (10') feet**, as per Section 7.2.2.3(b)(xii)(5)(I) in order to install pool equipment with a street side setback of **four (4") inches**. **[Approved by the Board on 7/5/2023]**
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, as noted above allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

Additionally, the Board 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 2.8.3 of the Land Development Regulations:

- i. 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;
- ii. The special conditions and circumstances do not result from the action of the applicant;
- iii. Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;
- iv. Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;
- v. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- vi. The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare;
- vii. 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; and
- viii. 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 7, article I, as applicable.

- C. The Board hereby **Approves** the variance requests and imposes the following condition based on its authority in Section 2.8.4 of the Land Development Regulations:
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 the course of construction, all vehicles, including, but not limited to all personal vehicles, shall park within the confines of the private property, the swale directly abutting the construction site, 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.
- C. All allowable construction signage shall be attached to or situated behind the construction fence, and shall be limited to one (1) sign, not to exceed four (4) square feet, in accordance with Section 6.3.2 of the Land Development Regulations.
- D. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- E. 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.
- F. This order shall be enforced by the Building, Planning, Parking and Code Compliance Departments.
- G. 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.

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- H. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
  - I. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
  - J. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
  - K. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
  - L. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
  - M. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

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

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "Cumenal – Diamond Residence" as prepared by **Castellanos Design Studio** dated, July 11, 2022, and as modified with plans entitled ""Cumenal – Diamond Residence" as prepared by **Ryan N. Alderman** dated, 5/8/2023, 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 (**September 6, 2022**), the application will expire

