

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

MEETING DATE: June 06, 2017

FILE NO: DRB17-0143

PROPERTY: **5774 Pine Tree Drive and 5777 La Gorce Drive**

APPLICANTS: Sonia Kashuk & Daniel Kaner

LEGAL: Lots 8 and 9 of Block 2 of Beach View Subdivision according to the Plat thereof filed for record and recorded in Plat Book 9 at Page 158 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new two-story single family home to replace an existing pre-1942 architecturally significant pre-1942 two-story home, including variances to reduce the required street side setback, and to exceed the maximum lot coverage allowed.

**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 3, 5, 6, and 12 in Section 118-251 of the Miami Beach Code.
- C. The project would remain consistent with the criteria and requirements of Section 118-251 if the following conditions are met:
  1. All structures and elements proposed within the 10'-0" wide utility easement shall be subject to the review and final approval by the Public Works Department.



2. Revised elevation, site plan, and floor plan drawings for the proposed new home at 5774 Pine Tree Drive and 5777 La Gorce Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
  - a. Any fence or gate at the front and street side of the property shall be designed in a manner consistent with the architecture of the new structure, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - b. The proposed entrance walkway width perpendicular to West 58<sup>th</sup> Street shall be permitted as proposed.
  - c. The architect shall lower the height of the one-story loggia's northernmost parapet wall, along 58<sup>th</sup> Street, a minimum of 1'-0" in order to minimize the massing of the proposed wall, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - d. All structures and elements within the required yards shall comply with the zoning allowances found under Section 142-1132(o) *Projections*.
  - e. The final design details and color selection of the mosaic tile wall finish 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. The final design details and color selection of the decorative terracotta fins screening finish 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.
  - g. 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.
  - 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.
3. A revised landscape plan, 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. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
- c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
- d. 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.
- e. The architect shall substantially increase the amount of native canopy shade trees within the site, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- f. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- g. The architect shall relocate the existing Canary Date and Royal Palms on the swale from public property onto private property.
- h. The architect shall remove the existing parking spaces in the parkway facing 58<sup>th</sup> Street, regardless of whether a ROW permit was previously issued, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- i. Street trees shall be required within the swale at both front and side street of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.



- j. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- k. 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.
- l. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- m. 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.
- n. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right of way shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- o. 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 to reduce by a range of 2'-6" to 2'-8" the minimum required 15'-0" north side facing street setback in order to construct an addition to the existing single family home at 12'-4" from the street side property line facing 58<sup>th</sup> Street, and new frame walls for an entry at 12'-6" from the street side property line facing 58<sup>th</sup> Street.
  - 2. A variance to exceed by 26.4% the maximum allowed lot coverage of 30% for a



two-story single family home property in order to construct a new two-story addition with a lot coverage of 56.4%.

- B. The applicants have submitted plans and documents with the application that 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 applicants have 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:

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 applicants 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.

- C. The Board hereby grants approval for the requested variances 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. Any future addition of buildings or structures on the site shall require the applicant to return to the Board for review and approval of the proposed work.



3. The property shall comply with the minimum required open space within the front and street side yards.

**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. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- B. 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.
- C. During construction of the new home, the Applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yards and within 10' of the street side yard to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site, and with an 8'-0" high fence with a wind resistant green mesh material along the front property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The Applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- D. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- 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 adopted by the Board, that the Application for Design Review approval is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "5774 Pine Tree Drive + 5777 La Gorce Drive" as prepared by **Shulman + Associates**, dated, signed and sealed 4/6/2017, and revised plans as presented at the hearing on June 6, 2017 entitled "5774 Pine Tree Drive + 5777 La Gorce Drive: DRB HEARING 06/06/17" as prepared by **Shulman + Associates**, dated, signed and sealed 06/06/17, and as approved by the Design Review Board, as determined by staff.

No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance as set forth in this Order have been met. The issuance of Design Review 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 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 set forth in this Order. No building permit may be issued unless and until all 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 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 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 should 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.

Dated this 15<sup>th</sup> day of June, 2017.

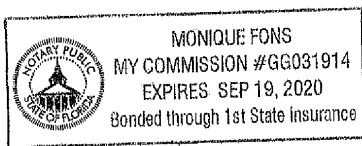
DESIGN REVIEW BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: James G. Murphy

JAMES G. MURPHY  
CHIEF OF URBAN DESIGN  
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of June, 2017 by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.



Monique Fons  
NOTARY-PUBLIC

Miami-Dade County, Florida

My commission expires: 9/19/20

Approved As To Form:

City Attorney's Office: Nick Kallergis (6/14/2017)

Filed with the Clerk of the Design Review Board on June 15, 2017 (6/15/17)

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