

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

MEETING DATE: July 07, 2017

FILE NO: DRB17-0148

PROPERTY: **160 South Hibiscus Drive**

APPLICANT: Edmundo Tamayo

LEGAL: Lot 24 of Block 3 and 20 foot wide strip contiguous to same in Bay of Hibiscus Island, according to Plat thereof as recorded in Plat Book 8, Page 75 of the Public Records of 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 one-story home, including variances to reduce the required front, both sides and sum of the side setbacks, to reduce the minimum open space requirement in the required rear yard, to exceed the maximum elevation and projection allowed within required yards.

**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 a 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 2, 3, 5, 9, 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. Revised elevation, site plan, and floor plan drawings for the proposed new home at 160 South Hibiscus Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
    - a. The proposed height waiver **shall not** be approved as proposed.
    - b. The 70% limitation for the second floor volume **shall be** waived as proposed.



- c. The side open space requirement **shall be** waived as proposed.
- d. All overhead projections within the required side yards shall not exceed the maximum allowable projection of 1'-10" (25%) within the proposed side yards of 7'-6".
- e. The architect shall increase sodded or landscape pervious open space in rear yard to meet the requirement of 70% by either reducing the size of the proposed swimming pool; or by relocating the entire two-story massing of the residence closer by 1'-0" to the front property line (by reducing the size of the courtyard between the one-story garage and two-story residence), 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 and 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.
- g. The final design details and color selection of the stone wall finish shall be submitted, in a manner to be reviewed and approved by staff. The stone cladding proposed along the façades of the residence, identified as "stone veneer", shall consist of a natural keystone or other natural stone, in a manner to be reviewed and approved by staff consistent.
- h. The final design details and color selection of the wood rainscreen 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.
- i. The final exterior surface color scheme, including color samples, shall be subject to the review and approval of staff and shall require a separate permit.
- j. Increase sodded or landscape pervious open space in rear yard to meet the requirement of 70%.
- k. Any fence or gate at the front 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.
- l. 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.
- m. 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.



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2. 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, subject to the review and approval of staff.
  - 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 landscape plans shall remove *Clusia guttifera* from the proposed planting species (as it is not native to Florida) and a preferably native and salt tolerant species be selected as a replacement, subject to the review and approval of staff.
  - f. 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.
  - 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/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- j. 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.
- k. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right of wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- l. 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), the following variance(s) which were either approved by the Board with modifications, or denied:

The following variances were approved by the Board:

1. A variance to reduce by 9'-2" the minimum required front setback of 30'-0" for a two-story structure in order to construct a one story garage structure connected to the main two-story home at 20'-10" from the front property line.
2. A variance to reduce by 2'-6" the minimum required 10'-0" interior side setback in order to construct a new single family residence at 7'-6" from the east side property line.
3. A variance to reduce by 2'-6" the minimum required 10'-0" interior side setback in order to construct a new single family residence at 7'-6" from the west side property line.
4. A variance to reduce by 5'-0" the minimum required sum of the side yards of 20'-0" in order to construct a new single family home and provide a sum of the side yards of 15'-0".



6. A variance to exceed by 1'-10" (23.8%) the maximum allowed projection of 1'-10" (25%) within the proposed side yard of 7'-6" in order to construct steps projecting 3'-8" (48.8%) up to 12.0' NGVD into the east side yard.
7. A. A variance to exceed by 1.85' the maximum elevation allowed of 8.15' NGVD within the interior side yards in order to raise portions of the east side yard up to 10.0' NGVD.  
  
B. A variance to exceed by 1.85' the maximum elevation allowed of 8.15' NGVD within the interior side yards in order to raise portions of the west side yard up to 10.0' NGVD.

The following variances were denied by the Board:

8. A variance to reduce by 3.7% (59.8 sf) the minimum required open space of 70% (1,129.8 sf) within the required rear yard in order to construct a new single family home with 66.3% (1,070.5 sf) open space within the required rear yard. **(variance denied)**

The following variances were withdrawn by the applicant:

5. A variance to exceed by 2'-5" (30%) the maximum allowed projection of 1'-10" (25%) within the proposed side yard of 7'-6" in order to construct a single family home with roof overhang and decorative vertical element projecting 4'-3" (56.6%) into the west side yard. **(variance withdrawn by applicant)**
- 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, only as it relates to variance(s) II.A.1, II.A.2, II.A.3, II.A.4, II.A.6 and II.A.7, 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.

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, only as it relates to variance(s) II.A.1, II.A.2, II.A.3, II.A.4, II.A.6 and II.A.7, as noted above:

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.

C. The Board hereby **Approves** the requested variance(s) #1, #2, #3, #4, #6 and #7, as noted and **Denies** the requested variance(s) #8, as noted and imposes the following condition 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. The maximum projection of roof overhangs and decorative elements within the side yard shall not exceed the maximum allowable projection of 1'-10" (25%) within the proposed side yard of 7'-6".
3. Increase sodded or landscape pervious open space in rear yard to meet the requirement of 70%.

**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. 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 yard to mitigate disturbance of soil and mud by related personal vehicles existing and entering the site and with an eight foot (8'-0") high fence with a wind resistant green mesh material along the front of the 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.



- B. If applicable, 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.
- C. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- D. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- E. 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.
- F. 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.
- G. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- H. Nothing in this order authorizes a violation of 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 "160 S. Hibiscus Drive Residence Revised Final DRB17-0148 Submittal with Variance" as designed by **Borges Architects + Associates** signed, sealed, and dated May 24, 2017, and as approved by the Design Review Board, as determined by staff.

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

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



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

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

Dated this 13<sup>th</sup> day of July, 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 13<sup>th</sup> day of July, 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: Jeffrey Sauter (7/12/17)

Filed with the Clerk of the Design Review Board on September 11, 2017 (7/12/17)

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