

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: November 07, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB17-0150
2675 Flamingo Drive

The applicant, Mandarin TRS LLC, is requesting Design Review Approval for the construction of a new single family two-story residence to replace an existing two-story architecturally significant pre-1942 single family residence, including variances to reduce the required side and sum of the side setbacks, to exceed the maximum projection allowed for a roof overhang and to reduce the required rear setback for a deck.

RECOMMENDATION:

Approval of the design

Approval of the variances #1, #2, and #4 with conditions.

Denial of variance #3.

LEGAL DESCRIPTION:

Lot 3 of Block 2 of Flamingo Terrace Subdivision, according to the Plat Thereof, as Recorded in Plat Book 10 at Page 3, of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning:	RS-2	Height:	
Future Land Use:	RS	Proposed:	25'-2" flat roof
Lot Size:	23,151 SF	Maximum:	28'-0" flat roof
Lot Coverage:		Grade:	+6.76' NGVD
Proposed:	3,522 SF / 15%	Flood:	+8.00' NGVD
Maximum:	6,945 SF / 30%	Difference:	+1.24' NGVD
Unit size:		Adjusted Grade:	+7.38' NGVD
Proposed:	6,317 SF / 27%	First Floor Elevation:	+9.00' NGVD
Maximum:	11,575.5 SF / 50%		(BFE +1' FB)
2 nd Floor Volume to 1 st :	NA <25%		

EXISTING PROPERTY:

Year: 1937
Architect: Igor Polevitsky
Vacant: Unsafe
Demolition: Emergency

SURROUNDING PROPERTIES:

North: Vacant
South: Two-story 1924 residence
West: Two-story 1933 residence
East: Indian Creek Canal

THE PROJECT:

The applicant has submitted plans entitled "Request for DRB Approval for Residence at 3675 Flamingo Drive" as designed by **Juan B. Ordonez PE**, signed, sealed, and dated August 09, 2017.

The applicant, Mandarin TRS LLC, is requesting Design Review Approval for the construction of a new single family two-story residence to replace an existing two-story architecturally significant pre-1942 single family residence.

The applicant is requesting the following variance(s):

1. A variance to reduce by a range from 8'-1" to 1'-0" the minimum required interior side yard setback of 16'-0" in order to retain a one-story garage at 7'-11" and construct a new two-story home at 15'-0" from the south (side) property line.
2. A variance to reduce by 8'-1" the minimum required sum of the side setbacks of 26'-0" in order to construct a new single family home and provide a sum of the side setbacks of 17'-11".

Sec. 142-106. Setback requirements for a single-family detached dwelling.

The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(2) Side yards:

a. The sum of the required side yards shall be at least 25 percent of the lot width.
c. Interior sides. For lots greater than 60 feet in width any one interior side yard shall have a minimum of ten percent of the lot width or ten feet, whichever is greater. For lots 60 feet in width or less, any one interior side yard shall have a minimum of seven and one-half feet.

Variances #1 and #2 are fundamentally linked to one another as they pertain to the minimum required side and sum of the side yard setbacks. The variances pertain specifically to the retention of the one-story garage structure with a non-conforming side setback of 7'-11" and the proposed south side setback of 15'-0" of the main structure. Although the majority of the property features an orthogonal lot width of 100', the technical lot width of the property, measured at the 20' setback is 104'-3", based on the curved irregular shaped at the front. This configuration of the front results in larger required side and sum of the side setbacks based on the lot width of 104'-3" than the side setbacks based on 100'-0". The garage complies with the minimum finish floor elevation and would easily accommodate any future rising of the streets. Staff has no objections to the variances requested, as the retention of the garage structure results in less demolition for the site and the proposed setbacks within the location of the two-story structure are consistent with the setbacks of a lot width of 100'. Staff finds that the shape of the lot at the front and the retention of the garage structure create practical difficulties that result in the need for the variances requested.

3. A variance to exceed by 6" (5%) the maximum allowed projection of 2'-6" (25%) for roof overhangs within the north side yard in order to construct a new two-story home with a roof overhang projection of 3'-0" (30%) into the north side yard.

- Variances 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.
(7) Roof overhangs.

The new two-story structure is proposed with a continuous roof overhang of 3 feet which exceeds the maximum projection of 25% along the north side. As the proposed setback on this side is 10', the maximum allowed projection is 2'-6". Staff is not supportive of this variance request, as it is created by the proposed setbacks on the sides and not due to practical difficulties or hardship. The proposed 10' and 15' setback of the main home could be easily adjusted to 12.5' on each side and the proposed 3'-0" overhang would not require a variance. Staff recommends that the variance be denied and that the applicant adjust the setbacks to comply with the 3'-0" overhang or reduce the length of the roof overhang on this side to 2'-6".

4. An after-the-fact-variance to reduce all minimum required rear yard setback of 7'-6" in order to retain the existing deck at 0'-0" from the rear (east) property line facing the waterway.

- 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

Decks are required to have a minimum rear setback of 7'-6" from a rear property line. The existing deck platform is located at zero setback from the east property line and the applicant wishes to retain the structure. The deck appears in the City aerial records of 1954 and has remained throughout the years with the same configuration up until today. Although it was not original to the design, It appears that the deck was built in 1946 as "a concrete platform on Owner's property" (building permit #23488). While there are no plans for this permit, but evidence of the City historical aerial confirms an approval for a deck platform extension up to the east property line. Also the building card indicates another permit from 1976 (#89006) that includes the repair of existing seawall and dock that may be related to the existing deck.



1954 Aerial, showing deck configuration



2017 Aerial, showing deck configuration

The building permit evidence and the aerials found indicate that the deck is existing on the site for a long time. The removal of portions of the deck for zoning compliance may impose practical difficulties for the applicant, as it may be associated to the seawall of the property. The site provides substantial landscape green space that exceeds the minimum required, and the existing deck should not have any negative impact on the adjacent properties. For these reasons, staff recommends support of the retention of the deck platform and the 0' setback through the granting approval of variance #4.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded **partially** satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board of Adjustment 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 **partially** 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;

***Satisfied for variances #1, #2 and #4;
Not satisfied for variance #3;***

- That the special conditions and circumstances do not result from the action of the applicant;

***Satisfied for variances #1, #2 and #4;
Not satisfied for variance #3;***

- 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;

***Satisfied for variances #1, #2 and #4;
Not satisfied for variance #3;***

- 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;

***Satisfied for variances #1, #2 and #4;
Not satisfied for variance #3;***

- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

Satisfied for variances #1, #2 and #4;

Not satisfied for variance #3;

- 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

***Satisfied for variances #1, #2 and #4;
Not satisfied for variance #3;***

- 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.

Satisfied

COMPLIANCE WITH ZONING CODE

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code, aside from the requested variances.

1. Section 142-105(b)(8)c.2. Interior Side Yards (located between the front setback line and rear property line). The maximum elevation shall not exceed adjusted grade, or 30 inches above grade, whichever is greater. Yard elevations are not provided on plans.
2. Section 142-105(b)(1)(4)b.3. Covered terraces exceeding 10' from the main walls shall count in the unit size calculations. Although the proposed lot coverage and unit size are well below the maximum allowed, some areas have not been included in the diagrams.

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

CONSISTENCY WITH COMPREHENSIVE PLAN

A preliminary review of the project indicates that the proposed **residential use** appears to be **consistent** with the Future Land Use Map of the 2025 Comprehensive Plan.

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.

Not Satisfied; the project requires setback variances

3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.

Not Satisfied; the project requires setback variances

4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.

Satisfied

5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.

Not Satisfied; the project requires setback variances

6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.

Not Satisfied; the project requires setback variances

7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.

Satisfied

8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.

Satisfied

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

Not Satisfied

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.

Satisfied

11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Satisfied
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
Satisfied
14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Satisfied
18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the City Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.
Not Applicable
19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.
Not Satisfied; 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 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. Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.
Satisfied
5. Whether 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, including a study of land elevation and elevation of surrounding properties were considered.
Not 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.
Satisfied
7. Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.
Satisfied
8. Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.
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. Where feasible and appropriate, water retention systems shall be provided.
Not Satisfied; as part of the civil engineering design to be provided at time of permit.

STAFF ANALYSIS:

DESIGN REVIEW

The applicants are proposing to construct a new two-story residence that will replace an existing two-story home, originally constructed in 1937. The proposed home has been designed within the maximum zoning thresholds for height, lot coverage, and unit size and no design waivers are being sought, but the applicant wishes to retain certain aspects of the existing siteplan improvements that require variances. The original two-story architecturally significant home was built in 1937 by noted architect Igor Polevitsky. An Emergency Demolition Order was issued for the structure by the Building Official on 09/05/17, pursuant to BR0600780. Since the proposed new construction will replace a pre-1942 architecturally significant single-family home, review and approval for the replacement home by the Design Review Board is required, even on the recently vacant site.

The proposed residence is designed rather simply in a contemporary architectural language that is desired by the client. The restrained footprint features a lot coverage of 15% and total unit size of less than 30%. The stucco walls have been punctured by floor to ceiling windows to amplify the amount of natural light. The residence features terraces and balconies that also intend to embrace the outdoor spaces. Proposed in the front and rear of the proposed residence are large fields of green space. Staff recommends that the design of the replacement home be approved.

VARIANCE REVIEW

The subject site is an interior waterfront property that contained two buildings, a principal structure, removed with an emergency demolition order and a one story garage existing on site. A new two-story single family home that resembles the massing and location of the previous structure is proposed along with the retention of the garage building setback more than 60' from the front property line and 7.9' from the side property line. A side and sum of the side setback variances are required for the garage, based on the lot width for the site. Except for these variances the garage will not need substantial adjustments to comply with flooding requirements for it has a finish floor above flood elevation. Staff finds that the curved shape of the lot at the front creates practical difficulties that result in the variance requests #1, and #2 for the new two-story home. The retention of the garage and the new side setbacks proposed should not have any negative impact on the adjacent properties.

Staff only objection is for variance request #3, as practical difficulties were not identified. Staff recommends the adjustment of the roof overhang projection or the side setbacks proposed.

Staff also recommends approval of variance #4, related to an existing deck at the rear, based on the building permit evidence found, its possible connection to the existing seawall and its minor impact on the site and adjacent properties.

Staff would note that although variances are required for the new home, the lot coverage and unit size proposed are well below the maximum allowed. The landscaped open space areas are also significantly larger than many other single family home projects. Staff has only one recommendation and is to create a solid, hard surface path connection between the driveway and the garage to avoid vehicular damage to the surrounding landscape area.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends **approval** of the design and variance requests #1, #2, and #4 and **denial** of variance request #3, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise criteria and Practical Difficulty and Hardship criteria.

TRM/JGM/IV

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 07, 2017

FILE NO: DRB17-0150

PROPERTY: **2675 Flamingo Drive**

APPLICANT: Mandarin TRS LLC

LEGAL: Lot 3 of Block 2 of Flamingo Terrace Subdivision, according to the Plat Thereof, as Recorded in Plat Book 10 at Page 3, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new single family two-story residence to replace an existing two-story architecturally significant pre-1942 single family residence, including variances to reduce the required side and sum of the side setbacks, to exceed the maximum projection allowed for a roof overhang and to reduce the required rear setback for a deck.

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 2, 3, 5, 6, 9, and 19 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1, 5, 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. A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department, in a manner to be reviewed and approved by staff.

2. Revised elevation, site plan, and floor plan drawings for the proposed new home at 2675 Flamingo Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. All interior side yards (located between the front setback line and rear property line) shall not exceed adjusted grade, or 30 inches above grade, whichever is greater.
 - b. All covered terraces that exceed more than 10' from the main walls shall count towards the overall unit size calculations.
 - c. 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.
 - d. 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.
 - e. 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.
 - 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.
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. 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.
- f. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- g. 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.
- h. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- i. 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.
- j. 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.
- k. 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) 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 a range from 8'-1" to 1'-0" the minimum required interior side yard setback of 16'-0" in order to retain a one-story garage at 7'-11" and construct a new two-story home at 15'-0" from the south (side) property line.
2. A variance to reduce by 8'-1" the minimum required sum of the side setbacks of 26'-0" in order to construct a new single family home and provide a sum of the side setbacks of 17'-11".
4. An after-the-fact-variance to reduce all minimum required rear yard setback of 7'-6" in order to retain the existing deck at 0'-0" from the rear (east) property line facing the waterway.

The following variance was denied by the Board:

3. A variance to exceed by 6" (5%) the maximum allowed projection of 2'-6" (25%) for roof overhangs within the north side yard in order to construct a new two-story home with a roof overhang projection of 3'-0" (30%) into the north side yard. (Variance denied)
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to variance(s) II.A.1, II.A.2, and II.A.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 only as it relates to variance(s) II.A.1, II.A.2, and II.A.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.

C. The Board hereby **Approves** the Variance request(s) #1, #2 and #4, as noted and **Denies** variance request #3, as noted 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. The applicant shall obtain all required building permits for the retention of the deck at the rear.
3. A vehicle path composed of erosion resistant material shall be proposed to connect the driveway with the garage.

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 work, 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 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.

- B. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- C. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- D. 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.
- E. 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.
- F. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- G. 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 "Request for DRB Approval for Residence at 3675 Flamingo Drive" as designed by **Juan B. Ordonez PE**, signed, sealed, and dated August 09, 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

