

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: December 05, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB17-0181
226 West Rivo Alto Drive

The applicant, Edwin Verdezoto, is requesting Design Review Approval for the construction of a new two-story single-family residence, including one or more design waivers, and including variances from the required rear, side facing street, sum of the side yards, to reduce the required side setback for a roof deck and to exceed the maximum unit size allowed, in order to construct a new residence to replace an existing two-story architecturally significant pre-1942 single-family residence.

RECOMMENDATION:

Approval with conditions

Approval of variances #4 and #5 with modifications.

Denial of variances #1-#3.

LEGAL DESCRIPTION:

Lot 19 & 8 feet of a strip adjacent on bay, Block 1 of Rivo Alto Amendment, according to the Plat thereof, as recorded in Plat Book 7, at Page 74, of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning:	RS-3
Future Land Use:	RS
Lot Size:	10,830 SF
Lot Coverage:	
Existing:	2,493 SF / 22.7%
Proposed:	3,104 SF / 28.6%
Maximum:	3,249 SF / 30%
Unit size:	
Existing:	2,493 SF / 22.7%
Proposed:	6,009 SF / 55.5%
Maximum:	5,415 SF / 50%
2 nd Floor Volume to 1 st :	106%* (2,681.7/2,766.5)
	*DRB WAIVER
Height:	
Proposed:	28'-0" flat roof*
Maximum:	24'-0" flat roof
	*DRB WAIVER
Grade:	+4.08' NGVD
Flood:	+9.00' NGVD

Finished Floor: +10.00' NGVD (BFE +1'-0" freeboard)
Difference: +4.92' NGVD
Adjusted Grade: +6.54' NGVD

EXISTING STRUCTURE:

Year Constructed: 1939
Contractor: Robert M. Little
Vacant: No
Demolition Proposed: Full

Surrounding Properties:

East: Two-story 1940 residence
North: Venetian Causeway
South: Two-story 1935 residence
West: Biscayne Bay

THE PROJECT:

The applicant has submitted plans entitled "New Single-Family Residence, 226 Rivo Alto Drive", as prepared by **3Design Architecture**, signed, sealed and dated 10/16/2017.

The applicant is proposing to construct a new two-story residence to replace an existing pre-1942 architecturally significant two-story home.

The applicant is requesting the following design waiver(s):

1. The height of the proposed structure is **28'-0"** in accordance with Section 142-105(b).
2. The second floor's physical volume exceeds 70% of the first floor in accordance with Section 142-105(b)(4)(c).
3. A two-story side elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d).

The applicant is requesting the following variance(s):

1. A variance to reduce by 5'-3" the minimum required rear setback of 27'-6" for a two-story structure in order to construct a two-story home at 22'-3" from the rear (west) property line.
 - Variance requested from:

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:

(3) Rear: The rear setback requirement shall be 15 percent of the lot depth, 20 feet minimum, 50 feet maximum.

Three setback variances are linked to the encroachment(s) within the required rear and side yard setbacks due to a design that contains habitable projecting slab features with vertical and horizontal architectural elements. The applicant refers to these aspects of the proposal as “balconies” and “ornamental louvers” in the letter of intent. Staff has noted several times to the applicant that these features are not allowable encroachments in the required yards since they do not meet the definition of balcony. As defined in the City Code “Balcony means a platform that projects from the wall of a building and has a parapet or railing, the long side of which is open above the guardrail or parapet. The platform may service one unit or it may be a continuous platform serving more than one unit with a wall separating the platform between the units.” It has been determined that although these projecting slabs have attributes that resemble a balcony, they do not qualify as true balconies since vertical architectural elements have been added to the long (and short) sides above the guardrail. Therefore, as designed, these elements are not allowable encroachments and as such cannot project 25% into the required yards as applicable to “true balconies”.

Staff finds that there are no practical difficulties or hardships associated with this variance, since this is a design driven element. Staff finds that the variance request is triggered by the specific design of the home, it is not the minimum variance necessary to make a reasonable use of the property and therefore, it does not satisfy the criteria for the granting of a variance.

Staff has worked with the architect closely as the design of the residence has advanced in refinement over the course of several meetings. Staff has reviewed an alternate design scheme for the balconies with the vertical and horizontal architectural elements removed at railing height. In this version, much of the design was compromised and was less successful in architectural realization. Staff does believe that the vertical and horizontal elements improve the overall design of the home and provide visual interest to the projecting slab elements. However, staff has not been able to identify a practical difficulty or hardship. As such, staff recommends denial of variance #1.

2. A variance to reduce by 4'-0" the required side yard facing a street setback of 15'-0" in order to construct a new single-family home at 11'-0" from the north side property line.

- Variance requested from:

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

(2) Sideyards: b. Side, facing a street. Each required side yard facing a street shall be no less than ten percent of the lot width or 15 feet, whichever is greater.

3. A variance to reduce by 4'-0" the minimum required sum of the side setbacks of 22'-6" in order to construct a new single-family home and provide a sum of the side setbacks of 18'-6".

- Variance requested from:

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.

Variances #2 and #3 are fundamentally linked to one another as they pertain to the minimum required side and sum of the side yard setbacks. However, as also noted above under the analysis for variance #1, these projections, as designed, do not appear to meet the practical difficulty or hardship standards. As such, staff recommends denial of variance #2 and #3.

4. A variance to waive 10'-0" of the minimum required 10'-0" setback from the north side of the exterior outer wall in order to construct an accessible roof deck flush with the side edge of the building facing the street.

- Variance requested from:

Section 142-105(b)(6)Roof decks.

Roof decks shall be setback a minimum of ten feet from each side of the exterior outer walls, when located along a front or side elevation, and from the rear elevation for non-waterfront lots.

The accessible roof deck is proposed as an outdoor amenity at the edge of the roof of the two-story residence, positioned along the northwest side of the structure. The north property line is a side facing street condition (Venetian Causeway). The intent of the ordinance regulating setback distance for active roof decks from the building edge is to ensure the privacy of abutting properties is not diminished or negatively impacted through the introduction of a neighbor's active roof deck. By requiring a minimum setback for an accessible roof deck, line of sights into neighboring yards are ensured to be further obscured. In this instance, the side that would be impacted is not a shared property line, but the Venetian Causeway, which is a 60'-0" wide right-of-way. This distance, in conjunction with the required 15'-0" setback of the residence from the property line, plus the 6'-0" wide sidewalk, ensures that the intent of the ordinance is met. In addition, the accessible deck area complies with another important requirement associated with the maximum 25% of area of the enclosed floor below. In this case, part of the area is also dedicated to circulation, which reduces the main area of the accessible deck. Staff is supportive of the granting of variance #4.

5. A variance to exceed by 5.5% (594 SF) the maximum unit size of 50% (5,415 SF) in order to construct a 6,009 SF two-story home with 55.5% total unit size.

- Variance requested from:

Sec. 142-105. - Development regulations and area requirements.

(b) The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family

residential districts are as follows: (1) Lot area, lot width, lot coverage, unit size, and building height requirements. The lot area, lot width, lot coverage, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows: Maximum Unit Size (% of Lot Area): 50%.

The Code allows for enclosed garages to exempt up to 500 SF from total overall unit size calculations of a residence to contain “required parking.” The Code requires portions of covered terraces, breezeways, or open porches that project more than ten feet from the main home building(s) to be counted towards the total overall unit size of a residence. It has been determined that the contemporary covered vehicle area seen herein that provides shade for the “required parking” but is open on more than one side, must count towards the total unit size of the residence. This additional 630 SF of unit size results in a nearly 5% increase in total unit size. As such, if the front covered car area and rear terrace at the back of the residence, which are both unenclosed areas, were not determined to count towards unit size, the total unit size would be at the allowable 50% and not 55.4%. Staff is supportive of the granting of variance #5.

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 #4 and #5;

Not satisfied for variance #1, #2 and #3;

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

Satisfied for variances #4 and #5;

Not satisfied for variance #1, #2 and #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 #4 and #5;

Not satisfied for variance #1, #2 and #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 #4 and #5;
Not satisfied for variance #1, #2 and #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 #4 and #5;
Not satisfied for variance #1, #2 and #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 #4 and #5;
Not satisfied for variance #1, #2 and #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 in addition to the requested variances:

1. The maximum building height is 24'-0" for flat roofed structures and 27'-0" for sloped roofs. In the RS-3 zoning district, the DRB may approve a building height of up to 28'-0" for flat roofs, and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria. **Whereas the second floor roofline is designed at a height of 24'-0", the applicant is requesting a height of 28'-0" for architectural, decorative features that project beyond the roof line, which will require a waiver from the DRB.**
2. For two story homes with an overall lot coverage of 25% or greater, the physical volume of the second floor shall not exceed 70% of the first floor of the main home, exclusive of any enclosed required parking area and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria. **The applicant is requesting a 2nd Floor Volume to 1st of 106% with a 29% lot coverage which will require a waiver from the DRB.**
3. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60'-0", whichever is less, without incorporating additional

open space, in excess of the minimum required side yard, directly adjacent to the required side yard. The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line. The square footage of the additional open space shall not be less than 1% of the lot area. The intent of this regulation shall be to break up long expanses of uninterrupted two-story volume at or near the required side yard setback line and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria.

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:

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 be found 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 applicant is requesting five (5) variances and four (4) design waivers from the Board.
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 applicant is requesting five (5) variances and four (4) design waivers from the Board.
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 applicant is requesting five (5) variances and four (4) design waivers from the Board.

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.
Satisfied
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Satisfied
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Not Satisfied; a separate, segregated pedestrian walkway to the front property line has not been provided.
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; a lighting plan has not been submitted.
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.

Not Applicable

18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the City Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.

Not Applicable

19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

Not Satisfied

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 will be provided for permitting
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.
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.
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. Where feasible and appropriate, water retention systems shall be provided.
Satisfied

STAFF ANALYSIS:

The applicant is proposing to construct a new two-story residence on a waterfront parcel on Rivo Alto Island that will replace an existing pre-1942 architecturally significant two-story home. The proposal includes a request for 4 design waivers and 5 variances.

The design features and finishes proposed have resulted in clean, simple forms within a successful modern design. The carefully designed forms permit the interior spaces to be illuminated naturally from deep balconies, and within the side open spaces, and dramatically transition from the spaces across the bridge of the floorplans. Great detail has been given to the exterior appearance and cladding through the use of the accent brise soleil wall punctured with square openings and vertical and horizontal louvers. The material selections consist of tinted natural concrete and stucco, accentuated with aluminum metal louvers. All of these features and finishes work harmoniously to create a residence with a diverse architectural palette that compliments the bold forms and usage of the solids and the voids created by the open hallway projecting slabs and deep areas of the open space recesses. Staff commends the architectural team on a well designed residence that reflects some mid

century elements in a contemporary manner.

The first design waiver requested by the applicant pertains to the highest rooftop projection. The maximum building height in the RS-3 zoning district is 24'-0" for flat roofs. However, in the RS-3 zoning district, the DRB may approve a building height of up to 28'-0" for flat roofs. While the top of the main roof slab is designed at the 24'-0" maximum building height, the home's contemporary design features vertical architectural louvers that project beyond the roof slab. These elements are not considered allowable height exceptions under Section 142-105(b)(7) of the City Code. Therefore the architectural features proposed along the second floor of the side elevations and rear elevations to provide screening and privacy at balconies, vertically extend past the main roofline and therefore must seek the waiver. As designed, staff is supportive of this requested waiver.

The second design waiver pertains to the second floor to first floor ratio. Since the proposed home has a lot coverage of 29%, any second floor massing is restricted to 70% of the first floor unless a waiver is sought by the DRB. The second floor exceeds the first floor by 6%. Staff notes that the lot coverage calculation for the design must include a portion of the covered vehicular structure's SF. The outdoor covered vehicular parking structure is one story in height and open on two sides but since it is an attached structure projecting more than 10 feet from the main home building(s), such outdoor covered areas must be included in the lot coverage calculation. The amount exceeds two percent (2%) of the lot. Also, the covered vehicular parking does not qualify as a 'garage' which allows up to 500SF to be exempt from lot coverage calculations under certain design provisions. Since it is an outdoor covered area, the area must be counted. Given that the lot coverage for this residence would be below 25% if this area were not included in the calculation, staff is supportive of the requested waiver.

The applicant is also requesting a waiver of the open space requirement for two-story elevations that exceed 60'-0" in length. Actually the applicant proposes to provide the open space recesses along both north and south side elevations in order to break up the massing. However, as designed it does not satisfy the required criteria. Along both sides (north and south) the architect has configured two side open space areas that alleviate any overpowering impact of the overall massing of the two-story structure on respective neighboring properties. The architect has designed the residence with varied movement and accentuated the forms with architectural elements that provide visual interest. Both side elevations have incorporated open spaces as recesses that are open to the sky. However, the cumulative width of both open spaces is greater than 30% of the maximum developable building width of the property and thus does not adhere to the code. Additionally, the open space along the north elevation has been designed with a reflective pond that exceeds the allowable pervious area of the interior open space and thus does not adhere to the strict requirements of that Code regulation. The design of both open space areas address the intent of the ordinance, which is to break up the two-story massing. As such, staff is supportive of both of these requested open space waivers.

Staff recommends that the design of the replacement home be approved including the requested design waivers.

VARIANCE ANALYSIS:

As identified under the 'Project' description of the analysis, the variances being requested pertains primarily due to projecting slab elements and an open-air covered parking area. The applicant is requesting a rear, side and sum of the side setback variances for the residence. Under the strict adherence to the Code, the projecting balconies are not considered true balconies and therefore cannot extend into setbacks and therefore must comport to the same regulations as the two-story home. The proposed home, specifically the balcony elements, can be redesigned to comply with the setback requirements since this is new construction on a vacant lot. Staff recommends denial of variances #1, #2 and #3, and approval of variances #4 and #5.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends **approval** of the design and variance requests #4 and #5 and **denial** of variance requests #1, #2 and #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

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: December 05, 2017

FILE NO: DRB17-0181

PROPERTY: **226 West Rivo Alto Drive**

APPLICANT: Edwin Verdezoto

LEGAL: Lot 19 & 8 feet of a strip adjacent on bay, Block 1 of Rivo Alto Amendment, according to the Plat thereof, as recorded in Plat Book 7, at Page 74, 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 residence, including one or more design waivers, and including variances from the required rear, side facing street, sum of the side yards, to reduce the required side setback for a roof deck and to exceed the maximum unit size allowed, in order to construct a new residence to replace an existing two-story architecturally significant pre-1942 single family residence.

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, 8, 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 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 226 West Rivo Alto Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The projecting slabs with architectural elements shall be redesigned as “true balconies” in order to encroach 25% into the required yards, or relocated outside of any required yard, 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 final design and details of the metal “louver façade” finished cladding proposed along the façades of the residence 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.
 - 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. A separate, segregated walkway shall be provided within the front yard leading to the front property line and separated from the vehicular driveway, 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. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- 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 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.

- I. 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 **denied** by the Board:

1. A variance to reduce by 5'-3" the minimum required rear setback of 27'-6" for a two-story structure in order to construct a two-story home at 22'-3" from the rear (west) property line.
2. A variance to reduce by 4'-0" the required side yard facing a street setback of 15'-0" in order to construct a two-story home at 11'-0" from the north side property line.
3. A variance to reduce by 4'-0" the minimum required sum of the side setbacks of 22'-6" in order to construct a two-story home and provide a sum of the side setbacks of 18'-6".

The following variances were **approved** by the Board:

4. A variance to waive the minimum required 10'-0" setback from each side of the exterior outer wall located along the side elevations in order to construct an accessible roof deck at the side edge of the street.
 5. A variance to exceed by 5.4% (593.5 SF) the maximum unit size of 50% (5,415 SF) in order to construct a 6,009 SF two-story home with 55% total unit size.
- 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.4, and II.A.5, 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.4 and II.A.5:

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) #4 and #5, as noted and **Denies** variance requests #1, #2 and #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 projecting slabs with architectural elements shall be redesigned as “true balconies” in order to encroach 25% into the required yards, or relocated outside of any required yard, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from 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. 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 and 10’ of the required 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.

- 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 "New Single-Family Residence, 226 Rivo Alto Drive", as prepared by **3Design Architecture**, signed, sealed and dated 10/16/2017, 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

