

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: February 06, 2018

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: DRB17-0203  
**5709 La Gorce Drive**

The applicant, Aurelio Tine, is requesting Design Review Approval for the construction of a new two-story addition that will replace a portion of an existing two-story architecturally significant pre-1942 single family residence, including one or more waivers, and including variances from the required rear and side setbacks, to reduce the required open space in the rear yard, and to exceed the maximum lot coverage and unit size allowed.

#### **RECOMMENDATION:**

Approval with conditions

Approval of variances #1- #5.

#### **LEGAL DESCRIPTION:**

Lot 16 of Block 2 of Beach View according to the Plat thereof, as recorded in Plat Book 9, at Page 158, of the Public Records of Miami-Dade County, Florida.

#### **SITE DATA:**

Zoning:	RS-4
Future Land Use:	RS
Lot Size:	10,109 SF
Lot Coverage:	
Existing:	4,644 SF / 45%
Proposed:	4,571 SF / 45%* <b>VARIANCE REQUIRED</b>
Maximum:	3,032.7 SF / <b>30%</b>
Unit size:	
Existing:	7,050 SF / 69%
Proposed:	6,655 SF / 66%* <b>VARIANCE REQUIRED</b>
Maximum:	5,054 SF / <b>50%</b>
2 <sup>nd</sup> Floor Volume to 1 <sup>st</sup> :	<b>72%* (4644/3351)</b>
	<b>*DRB WAIVER</b>
Height:	
Existing:	24'-0"
Proposed:	24'-0" No change
Maximum:	24'-0"

Grade: +5.04' NGVD

Flood: +8.00' NGVD

Difference: +3.96' NGVD

Finished Floor Elevation: +9.1' NGVD (BFE +1'-1" freeboard)  
Adjusted Grade: +6.52' NGVD

**EXISTING STRUCTURE:**

Year Constructed: 1925  
Contractor: City Builder's Finance Co.  
Vacant: Yes  
Demolition Proposed: Partial

**Surrounding Properties:**

East: One-story 1954 residence  
North: Two-story 1938 residence  
South: Two-story 1941 residence  
West: Two-story 1926 residence

**THE PROJECT:**

The applicant has submitted plans entitled "5709 La Gorce Drive LLC", as prepared by **JCD Architect**, signed, sealed and dated 12/08/17.

The applicant is proposing to construct a new two-story addition to replace a portion of an existing pre-1942 two-story home.

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

1. The second floor's physical volume exceeds 70% of the first floor in accordance with Section 142-105(b)(4)(c).

The applicant is requesting the following variance(s):

1. A variance to reduce by 11'-7" the minimum required rear setback of 20'-0" in order to construct a two-story addition at 8'-5" from the rear (east) 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.

2. A variance to reduce by 4'-6" the required interior side setback of 10'-0" in order to construct a two-story addition at 5'-6" from the side (north) property line.

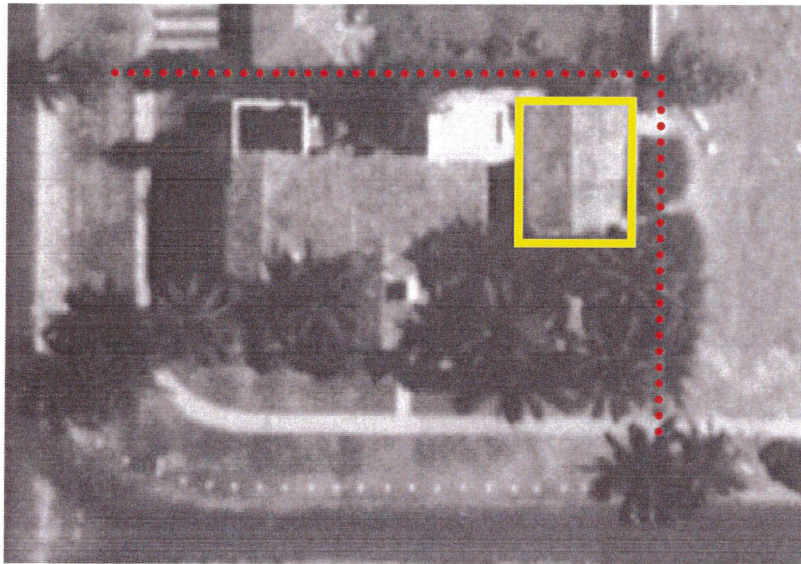
- Variance requested from:

**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:*

(2) Side yards:

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.



1941 aerial

Variances #1 and #2 are fundamentally linked to one another as they pertain to the minimum required interior side and rear yard setbacks for the reconstruction of the new two-story addition. The new construction will follow the non-conforming interior side (north) and rear (east) setback footprint of the existing structure. The existing garage portion was built in wood frame construction in 1925. As the owner was preparing some exploratory demolition in preparation for a complete interior renovation and remodeling project, severe structural deficiencies were discovered in those portions of the wood structure that connected to the primary residence. The applicant is proposing to remove and rebuild a portion of the residence in roughly the same footprint and area. Staff is supportive of the variances requested. The new footprint, although requiring setback variances, is proposed in a manner that is compatible with the architecture of the building and with minimum impact on the architecturally significant home, originally constructed in 1925. Staff finds that these conditions and the retention of the structure create practical difficulties that result in the requested variances; as such staff supports variance requests #1 and #2.

3. A variance to reduce by 4% (61 SF) the minimum required landscaped pervious open space required of 70% (1,158 SF) within a rear yard in order to provide an open space of 66% (1,097 SF) within the rear yard.
  - 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: At least 70 percent of the required rear yard shall be sodded or landscaped pervious open space; when located at or below adjusted grade, the water portion of a swimming pool may count toward this requirement..*

The applicant is proposing a two-story addition in the rear of the property for a new family room and living area at the second floor. The structure follows the non-conforming interior side and rear setback of a portion of the footprint of the pre-1942 architecturally significant house (as described in variance #1 and #2). The newly reconstructed two-story addition will improve the existing nonconforming side setback from 5'-2" to 5'-6" and the rear setback from 5'-6" to 8'-5", as well as improve the nonconforming open space condition of the rear yard. The increased rear setback buffer of 8'-5" will be composed of green landscape materials and remain free from building and paving obstruction which is a great improvement from the current conditions. Staff finds that these conditions and the retention of the structure create practical difficulties that result in the requested variances. Staff is supportive of the variance request #3

4. A variance to exceed by 15% (1,538.3 SF) the maximum allowed lot coverage of 30% (3,032.7 SF) for a two story single family home in order to increase the lot coverage to 45% (4,571 SF) for the construction of a two-story addition to the existing two-story home.

- 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:*

*Zoning District: RS-4, Maximum Lot Coverage for a 2-story Home (% of lot area): 30%.*

5. A variance to exceed by 16% (1,601 SF) the maximum allowed unit size of 50% (5,054 SF) for a two-story home in order to increase the unit size to 66% (6,655 SF) for the construction of a two-story addition.

- 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:*

*Zoning District: RS-4, Maximum Unit Size (% of lot area): 50%.*

When architecturally significant homes constructed prior to 1942 are substantially retained and restored, the Code provides for certain zoning incentives that allows for increases in the maximum allowable lot coverage to 40% and unit size to 60%, among other allowances. In order to utilize such incentives, applicants must proceed through a streamlined formal determination process. In this instance, the existing home currently has a legal nonconforming lot coverage of 45% and unit size of 69% that exceeds the incentive ordinance allowances. And while there are a few parts of the proposal that could be approved administratively, the reconstruction of a portion of the residence to occupy the same footprint and with the same habitable square footages surpasses what staff can review.

The existing garage portion was built in wood frame construction in 1925. As the owner was preparing some exploratory demolition in preparation for a complete interior renovation and remodeling project, severe structural deficiencies were discovered in those portions of the wood structure that connected to the primary residence. The applicant is proposing to remove and rebuild a portion the residence in more-or- less the same footprint and in area.

Staff finds that the retention of the architecturally significant home with non-conforming setbacks, lot coverage and unit size imposes practical difficulties that justify the proposed location of the addition and the variances pertaining to the lot coverage and unit size requests (#4 and #5).

#### **PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts, 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. **In this case, the requested variances are necessary in order to satisfy the Design Review Criteria and not to adversely impact the existing significant pre-1942 home.**

Additionally, staff has concluded that the plans and documents with the application comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the 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.

**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. 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 2<sup>nd</sup> Floor Volume to 1<sup>st</sup> of 72% with a 45% lot coverage which will require a waiver from the DRB.**
2. Walkways: Maximum 44". May be increased to a maximum of five feet (5'-0") for those portions of walkways necessary to provide Americans with Disabilities Act (ADA) required turn around areas and spaces associated with doors and gates. Walkways in required yards may exceed these restrictions when approved through the **Design Review** procedures.

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 one (1) 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 one (1) 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 one (1) 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.  
**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; 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:**  
**DESIGN REVIEW**

The subject site is a corner lot containing a two-story residence constructed in 1925 with a detached garage. There are multiple records of additions of varying significance done on the property throughout the years, including a bedroom addition connecting the garage to the main building (#54215, in 1957), an enlarged bath addition (#64890, in 1961), a conversion of the existing garage to a dining room (#81904, in 1969) according to the Building Department records.

The applicant is proposing a new two-story addition that would replace a portion of the existing two-story residence and garage originally constructed in 1925 as part of the original construction. The footprint of the new construction adheres to more or less the same footprint of the structure of which it is to replace. The home has many nonconforming zoning attributes, including setbacks, unit size and lot coverage allowances. The proposal includes a request for 1 design waiver and 5 variances. The new addition will decrease the amount of legal nonconformity in regards to the side and rear setback distances, as well as will increase the amount of open space located in the required rear yard.

The only design waiver pertains to the second floor to first floor ratio. Since the home has a lot coverage of over 25%, any second floor massing is restricted to 70% of the first floor unless a waiver is sought by the DRB. The second floor ratio already exceeds the first floor by about 4%. The applicant is proposing to remove and rebuild a portion of the residence in more or less the same footprint and in area. This will not only replicate the nonconforming lot coverage and unit size, but also the second floor ratio. Given that the overage is only 2%, and that it is an existing condition that has stood for nearly 95 years, staff is supportive of the requested waiver.

Staff recommends that the design of the addition be approved with the requested design waiver.

**VARIANCE ANALYSIS:**

As identified under the 'Project' description of the analysis, the variances being requested pertain primarily due to reconstruction of an existing nonconforming portion of an existing architecturally significant pre-1942 single-family home.

The subject site is a corner lot containing a two-story residence constructed in 1925. There are records of additions of varying significance done on the property throughout the years, including a bedroom addition connecting the garage to the main building (#54215, in 1957), an enlarged bath addition (#64890, in 1961), a conversion of the existing garage to a dining room (#81904, in 1969) according to the Building Department records. The applicant is

proposing a two-story addition that would replace the existing two-story garage originally constructed in 1925 as part of the original construction.

As the reconstructed two-story addition will be placed in the most reasonable location in more or less the same footprint, while preserving the majority of the pre-1942 architecturally significant structure, staff has no objection to the applicant's requests and recommends approval of variances #1, #2, #3, #4 and #5.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends **approval** of the design and variances #1—#5 subject to the following 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, as applicable.

TRM/JGM/IV

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

MEETING DATE: February 06, 2018

FILE NO: DRB17-0203

PROPERTY: **5709 La Gorce Drive**

APPLICANT: Aurelio Tine

LEGAL: Lot 16 of Block 2 of Beach View according to the Plat thereof, as recorded in Plat Book 9, at Page 158, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new two-story addition to an existing two-story architecturally significant pre-1942 single family residence, including one or more waivers, and including variances from the required rear and side setbacks, to reduce the required amount of rear yard open space, and to exceed the maximum unit size and lot coverage allowed.

**ORDER**

The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

**I. Design Review**

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 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 5709 La Gorce Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
  - a. 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.
  - b. The 70% limitation for the second floor volume shall be waived as proposed.
  - c. The width of the walkway in the required side facing street yard shall be approved as proposed.
  - d. The architect shall refine the new openings for the proposed new garage, 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.
- 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) 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 11'-7" the minimum required rear setback of 20'-0" in order to construct a two-story addition at 8'-5" from the rear (east) property line.
  2. A variance to reduce by 4'-6" the required interior side setback of 10'-0" in order to construct a two-story addition at 5'-6" from the side (north) property line.
  3. A variance to reduce by 4% (61 SF) the minimum required landscaped pervious open space required of 70% (1,158 SF) within a rear yard in order to provide an open space of 66% (1,097 SF) within the rear yard.
  4. A variance to exceed by 15% (1,538.3 SF) the maximum allowed lot coverage of 30% (3,032.7 SF) for a two story single family home in order to increase the lot coverage to 45% (4,571 SF) for the construction of a two-story addition to the existing two-story home.
  5. A variance to exceed by 16% (1,601 SF) the maximum allowed unit size of 50% (5,054 SF) for a two-story home in order to increase the unit size to 66% (6,655 SF) for the construction of a two-story addition.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The 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:

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 requests #1, #2, #3, #4 and #5 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.

**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 "5709 La Gorce Drive LLC", as prepared by **JCD Architect**, signed, sealed and dated 12/08/17, 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.

