

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: March 06, 2018

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB17-0199

5465 Pine Tree Drive – Single Family Home

The applicants, David and Leila Centner, are requesting Design Review Approval for the construction of a new two-story single family residence to replace an existing two-story architecturally significant pre-1942 single family residence, including one or more waivers, and including variances from the required front, side and sum of the side yard setbacks, to exceed the maximum allowed projection in required yards, to exceed the maximum height allowed for a fence and for ornamental lamps on a fence, to reduce the required setback for a driveway, and to exceed the maximum height allowed for a decorative roof structure.

RECOMMENDATION:

Approval with conditions

Approval of the variances #1, #2, #3, #4, #5, #6, #7, #8, and #9.

Denial of variance # 10.

LEGAL DESCRIPTION:

Lot 28 of Block 1 of Beach View Subdivision, also that parcel of land bounded on North by Block 1A, on the south by Block 1, on the west by east line of Pine Tree Drive, on the east by Indian Creek and marked private street, as shown on the plat thereof filed for record and recorded in Plat Book 9 at Page 158 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-3
Future Land Use: RS
Lot Size: 21,214 SF
Lot Coverage:
Existing: 8,602 SF / 41%
Proposed: 6,200 SF / 29.2%
Maximum: 6,347 SF / 30%
Unit size:
Existing: 7,401 SF / 34.9%
Proposed: 10,377 SF / 49%
Maximum: 10,578 SF / 50%
2nd Floor Volume to 1st: **3967/5239 75.72%***

Height:

Proposed: 28'-0" flat roof; 31'-0" sloped roof
Maximum: 24'-0" flat roof, 27'-0" sloped roof

Grade: +6.64' NGVD

Flood: +8.00' NGVD

Difference: 1.36' NGVD

Adjusted Grade: +7.32' NGVD

30" (+2.5') Above Grade: +9.82' NGVD

First Floor Elevation: +9' NGVD (BFE +1 FB)

EXISTING STRUCTURE

Year Constructed: 1925

Architect: Beach Construction Co.

Vacant: No

Demolition Proposed: Full

SURROUNDING PROPERTIES:

East: Indian Creek Waterway

North: Three-story 2015 residence

South: Two-story 1929 residence

West: Two-story 1931 residence

THE PROJECT:

The applicant has submitted plans entitled "5465 Pine Tree Drive" as prepared by **Luce Architects**, dated, signed and sealed on 01/05/2018.

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

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

1. The height of the proposed structure is **28'-0"** for flat roof and **31'-0"** for sloped roof 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).

The applicant is requesting the following variances for the retention of a two-story garage building:

1. A variance to reduce by 19'-3" the minimum required front setback of 30'-0" in order to retain a two-story structure at 10'-9" from the front property line facing Pine Tree Drive.
2. A variance to reduce by 8'-3" the minimum required interior side setback of 13'-9" in order to retain a two-story structure at 5'-6" from the north side property line.
3. A variance to reduce by 8'-3" the minimum required sum of the side setbacks of 31'-1" in order to retain a two-story structure at the front of the property and construct a new two-story single family home providing a sum of the side setbacks of 22'-10".

- Variances 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:

(1) Front yards: The minimum front yard setback requirement for these districts shall be 20 feet.

b. Two-story structures shall be set back a minimum of ten additional feet from the required front yard setback line.

(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.

4. A variance to exceed by 2.7% (0'-2") the maximum allowable encroachment of 25% (1'-4") within the existing 5'-6" north side yard to allow a roof overhang of 1'-6" and provide 27.2% encroachment.

- Variance 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, unless otherwise noted.

(7) Roof overhangs.

The applicant is proposing to renovate and retain a non-conforming two-story garage structure located at the front of the site. A new front terrace, windows, roof and architectural details will be added to the existing detached building to create more architectural compatibility with the style of the new replacement two-story home. The garage building does not comply with the required front and interior side setbacks and therefore the retention of the building elicits four (4) variances from the front, side, sum of the side setbacks and from the maximum roof overhang to be required in order to retain the existing structure as a renovated part of the site.

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. The variances pertain specifically to the existing non-conforming side setback of 5'-6" and the proposed south side setback of 17'-4" of the new main structure. The new two-story home substantially complies with the required side and sum of the side setbacks. Because the variances are for the retained structure, and not for the new two-story home, staff is supportive of variances #2 and #3.

Variance #4 is for new roof overhang that exceeds by 2 inches the maximum 25% projection allowed on the north side. This variance request is associated with the retention of the non-conforming side setback and the retention of the existing overhang. This variance request would not be detrimental to the adjacent property to the north, as this is a current condition that has existed for many years.

Staff finds that the renovation and retention of the non-conforming architecturally significant structure satisfies the practical difficulties criteria that justify the variances #1, #2, #3 and #4 requested conditioned to the retention of the existing roof line profile and massing of the structure without substantial modifications. The proposed height and profile of the new roof adds to the massing of the building, mainly at the front, and it is not compatible with the height of the existing structure.

The applicant is requesting the following variances for the retention of walls, gates and driveway at the property:

5. A variance to eliminate the required front setback of 20'-0" for a structure in order to retain two gates with a maximum height of up to 18.05' NGVD at a zero setback from the front property line facing Pine Tree Drive.

- 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:

(1) Front yards: The minimum front yard setback requirement for these districts shall be 20 feet.

6. A variance to exceed by 1'-11" the maximum allowed height of 5'-0" for a fence located at the front property line in order to retain a wall fence of up to 6'-11" (13.50' NGVD) in height as measured from the grade of 6.64' NGVD facing Pine Tree Drive.

- Variance requested from:

Sec. 142-1132: - Allowable encroachments within required yards.

(h) Fences, walls, and gates. Regulations pertaining to materials and heights for fences, walls and gates are as follows:

(1) All districts except I-1:

a. Within the required front yard, fences, walls and gates shall not exceed five feet, as measured from grade. The height may be increased up to a maximum total height of seven feet if the fence, wall or gate is setback from the front property line. Height may be increased one foot for every two feet of setback.

The applicant is proposing the retention of the existing walls, columns and gates along the front property line. The structure does not conform to the maximum height allowed in today's City Code for a fence and staff was unable to find evidence of an approved construction permit for the fence in the Building Department records. The retention of the existing fence is much more desirable than a new code compliant wall, due to the existence of a 90-year-old Banyan tree with a canopy with a spread of approximately 110', and a diameter of 25' located immediately adjacent to the walls. A tree report provided as part of the documents submitted and prepared by Alexis Alvey, certified arborist, notes that the tree is in good health and provides substantial environmental benefits to the urban forest of Miami Beach, which is also an asset to the property. It is recommended in the report that the wall at the front of the property remains unaltered due to the existing aerial roots that have grown down around the wall and which if removed would negatively impact the health and stability of the tree. Staff finds that the existing significant tree creates the practical difficulties that justify the variances requested, for which staff is supportive of the approval of the variances as proposed.

7. A variance to exceed by 2'-2" the maximum total height allowed of 7'-0" for ornamental light fixtures located on a fence at the front property line in order to retain light fixtures up to 9'-2" (15.83' NGVD) in height measured from grade of 6.64' NGVD facing Pine Tree Drive.

- Variance requested from:

Sec. 142-1132: - Allowable encroachments within required yards.

(h) Fences, walls, and gates. Regulations pertaining to materials and heights for fences, walls and gates are as follows:

(1) All districts except I-1:

(m) Ornamental fixtures or lamps. In all districts, requirements for ornamental fixtures and lamps shall be as follows:

(1) Ornamental fixtures and lamps are permitted to be placed on walls or fences when they are adjacent to a public street, alley, golf course or waterway. The total height of the combined structure shall not exceed the required fence or wall height by more than two feet.

This variance pertains to the height of the existing light fixtures on top of the columns at the front fence. The City Code limits the height of these ornamental elements including the columns to 2' above the maximum height of the fence. In this case, the existing height is approximately 9'-2"

where the maximum is 7'-0" at the property line. The lighting fixtures are part of the design and character of the fence and the applicant is proposing to restore them as needed. The existing wall and columns, part of variances #5 and #6 and the retention of the significant banyan tree create the practical difficulties that result in the need for this variance request. Staff is supportive of the approval of this variance that would keep the historic character of the front fence.

8. A variance to exceed by 2'-11" the maximum allowed height of 7'-0" for a fence located on the interior side yard in order to retain a wall fence up to 9'-11" (16.53' NGVD) in height measured from grade of 6.64' NGVD on the south side yard.

- Variance requested from:

Sec. 142-1132: - Allowable encroachments within required yards.

(h) Fences, walls, and gates. Regulations pertaining to materials and heights for fences, walls and gates are as follows:

(1) All districts except I-1:

a. Within the required front yard, fences, walls and gates shall not exceed five feet, as measured from grade. The height may be increased up to a maximum total height of seven feet if the fence, wall or gate is setback from the front property line. Height may be increased one foot for every two feet of setback.

A portion of the existing south side wall that exceeds the maximum height allowed of 7'-0" in the south side yard is proposed to be retained. Evidence of approved building permits for the construction of the fence could not be found and it is not clear when it was constructed. The higher wall is not visible from the street or from the waterway and occupies only a portion along the side property line. Because of this condition staff has no objection to the variance request conditioned to not extending this height in the future within the rear yard of the property, in which case it shall comply with the required 5'-0" height, as required by the Code.

9. A variance to reduce by 1'-6" the minimum required side setback of 4'-0" for a driveway in order to construct a driveway at 2'-6" from the south property line.

- Variance requested from:

Sec. 142-1132: - Allowable encroachments within required yards.

(g) Driveways. Driveways and parking spaces leading into a property located in single-family and townhome districts shall have a minimum setback of four feet from the side property lines.

This variance pertains to an existing circular driveway setback 2'-6" from the south side property line at the closest point. As the driveway circles inside the property, the side setback from the property line is increased as one enters the property. The driveway is located within the south gate adjacent to the banyan tree proposed to be retained and preserved. As noted in the tree report provided, the underground root system is likely extensive and spreads underneath the paver driveway. The removal of the surrounding elements adjacent to the tree would negatively affect its health and stability. It is also noted in the report that the existing planting bed depth should be extended toward the house to provide for more rooting space for which the installation of a driveway set on sand is recommended. Staff is supportive of the variance request that would allow the driveway setback farther from the existing tree. Staff finds that the existent tree to be retained create the practical difficulties that satisfies the criteria for the granting of this variance.

The applicant is requesting the following variance related to the new two-story main house structure:

10. A variance to exceed by 1'-6" the maximum allowed height of 10'-0" for elevator bulkhead and decorative structure in order to construct a two-story single family home with elevator bulkhead and decorative structure up to 11'-6" in height above the main roof line.
 - 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:

(7) Height exceptions. The height regulation exceptions contained in section 142-1161 shall not apply to the RS-1, RS-2, RS-3 and RS-4 zoning districts. The following exceptions shall apply, and unless otherwise specified in terms of height and location, shall not exceed ten feet above the roofline of the structure. In general, height exceptions that have not been developed integral to the design intent of a structure shall be located in a manner to have a minimal visual impact on predominant neighborhood view corridors as viewed from public rights-of-way and waterways.

b. Decorative structures used only for ornamental or aesthetic purposes such as spires, domes, belfries, and covered structures, which are open on all sides, and are not intended for habitation or to extend interior habitable space. Such structures shall not exceed a combined area of 20 percent of the enclosed floor area immediately one floor below, and shall be setback a minimum of ten feet from the perimeter of the enclosed floor below.

The new two-story structure features an accessible roof deck with an elevator and belfry above the main roof line. Both structures are exempted from the maximum building height allowed with a limitation of 10'. The applicant is requesting an additional 1'-6" in order to follow the elevator's manufacturer requirements and to also compliment the design of the home, as noted in the applicant's letter of intent. Although the structures comply with other important aspects of the Code such as location to minimize visual impact and maximum area allowed, staff was unable to find a practical difficulty associated with this variance request. The main house is designed with a height of 15' at the first floor and a height of 13' for the second floor, which should be able to accommodate the additional height requested of 1'-6" without substantial changes to the design. Based on this analysis, staff recommends that the variance be denied.

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, #3, #4, #5, #6, #7, #8 and #9;
Not satisfied for variance #10;***

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

***Satisfied for variances #1, #2, #3, #4, #5, #6, #7, #8 and #9;
Not satisfied for variance #10;***

- 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, #3, #4, #5, #6, #7, #8 and #9;
Not satisfied for variance #10;***

- 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, #3, #4, #5, #6, #7, #8 and #9;
Not satisfied for variance #10;***

- 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, #3, #4, #5, #6, #7, #8 and #9;
Not satisfied for variance #10;***

- 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, #3, #4, #5, #6, #7, #8 and #9;
Not satisfied for variance #10;***

- 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, may be inconsistent with the following sections of the City Code, in addition to the requested variance(s):

1. Section 142-106. The north side setback shall be 13'-9" in order to comply with the

required sum of the side setbacks of 25% based on the lot width of 124'-2".

2. 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 31'-0" for sloped roofs, and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria. **The applicant is requesting a height of 28'-0" for portions of the second floor flat roofline and 31'-0" for portions of the second floor sloped roofline which will require a waiver from the DRB.**
3. 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 76% with a nearly 30% lot coverage which will require a waiver from the DRB.**

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 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.
Not Satisfied; the applicant is requesting ten (10) variances and two (2) design waivers from the Board.
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 ten (10) variances and two (2) 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 ten (10) variances and two (2) 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 ten (10) variances and two (2) 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.
Not Satisfied; the applicant is requesting ten (10) variances and two (2) design waivers from the Board.
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.
Not Satisfied; the applicant is requesting ten (10) variances and two (2) design waivers from the Board.
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, no lighting plan provided
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).
Not Satisfied; the applicant is requesting ten (10) variances and two (2) design waivers from the Board.

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 Satisfied; the applicant is requesting ten (10) variances and two (2) design waivers from the Board.
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.

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 applicant is proposing to construct a new two-story home designed in a mediteranean Baroque style that will replace an existing pre-1942 architecturally significant single-family home. The subject property is a waterfront lot on Pine Tree Drive that contains a Mediterranean style residential complex comprised of a 1925 two-story house, tennis courts and a two-story accessory garage building. While the project intends to demolish the existing home, plans call for the retention and renovation of an original non-conforming two-story garage / guest house and site fence along the front portions of the site.

The owners purchased ths home with the intent to renovate and add-on to the existing house and perhaps incorporating zoning bonueses allowed under the incentive ordinance for the substantial renovation and retention of existing architecturrally singificant pre-1942 homes. After

multiple meetings with staff, the owner determined that fundamental building issues resulted in this request for new construction reminiscent of the existing style and character of the original architecture. As such, the design of the new two-story home retains the Mediterranean feel of the original complex. The home abounds in ornamentation with elaborate Baroque and Palladian details that include pediments, corinthian columns, arched windows and entryways, finials and towers. The front façade of the home has a central arched entrance that rises with classical details to a tower. With an "L" shaped plan, the home's interior spaces unfold around loggia that overlooks the pool and Indian Creek.

In addition to the construction of the new home, the applicant is renovating the existing site wall and a two-story garage/guesthouse. The existing site fence runs along Pine Tree Drive and the southern property line. It is a masonry wall with piers finished in stucco, with two car gates and a pedestrian door. The wall is adorned with lanterns at each of its piers. At its highest point, the wall is 7'-2" tall. The applicant proposes to paint the walls and piers in white, restore the lanterns and gates. The garage / guest house, which is located in the front portion of the site, 11'-0" from the property line, will be retained and renovated to resemble the new main building. A new gabled roof inset with a pediment will face the street, and arched windows, a corner turret and baroque details will embellish the structure throughout. Staff finds the new roof for the existing garage / guest house to be too large in scale for the existing structure and recommends that the architect revisit its slope.

Overall, staff has no objections to the design of the main residence and accessory structures. However, staff is concerned that the abundance of detail proposed may lend it to be significantly diminished by the time the project is slated for permitting. While confident that minor modifications to the design can be achieved through staff level review and approval, staff would caution that significant changes, if proposed at time of permitting, will require Board approval of the modifications to the design approved herein.

VARIANCE REVIEW

As identified under the 'Project' description of the analysis, the variances being requested pertain primarily to the retention and renovation of non-conforming structures inclusive of a two-story garage building located at the front of the property, front and side fences, gates and driveway. Nine (9) of the variances requested are related to the protection of a large specimen of banyan tree that would be severely damaged by the removal of the structures and by construction activity in its surroundings, as noted in the tree report submitted as part of the submittal. Staff has reviewed the report with the City's urban forester, Omar Leon, and he also recommends that all efforts should be made to preserve the existing banyan tree, deemed to be approximately 90 years old, and provides environmental benefits to the surrounding neighborhood which would be impossible to replace due to its sheer size.

The preservation and protection of the significant tree satisfies the criteria for the granting of variances #1, #2, #3, #4, #5, #6, #7, #8, and #9. Therefore, staff recommends approval of the variances as requested.

The last variance being requested is to construct an elevator and belfry above the main roof line. As noted in the project section of this report, staff finds that this variance is related to the specific design of the home and that the additional height can be accommodated within the proposed building height, for which also a height waiver increase is requested. As such, staff recommends denial of variance #10.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends **approval** of the design and variance requests #1, #2, #3, #4, #5, #6, #7, #8, and #9 and **denial** of variance request #10, 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/FSC

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: March 06, 2018

FILE NO: DRB17-0199

PROPERTY: **5465 Pine Tree Drive**

APPLICANTS: David and Leila Centner

LEGAL: Lot 28 of Block 1 of Beach View Subdivision, also that parcel of land bounded on North by Block 1A, on the south by Block 1, on the west by east line of Pine Tree Drive, on the east by Indian Creek and marked private street, as shown on the plat thereof filed for record and recorded in Plat Book 9 at Page 158 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new two-story single family residence to replace an existing two-story architecturally significant pre-1942 single family residence, including one or more waivers, and including variances from the required front, side and sum of the side yard setbacks, to exceed the maximum allowed projection in required yards, to exceed the maximum height allowed for a fence and for ornamental lamps on a fence, to reduce the required setback for a driveway, and to exceed the maximum height allowed for a decorative roof structure.

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. Revised elevation, site plan, and floor plan drawings for the proposed new home at 5465 Pine Tree Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The 70% limitation for the second floor volume shall be waived as proposed.
 - b. The proposed increase in height shall be permitted as proposed; the maximum height of the structure shall be 28'-0" for flat roofs and 31'-0" for sloped roofs when measured from BFE + freeboard (1'-0").
 - c. The architect shall refine and revised the new roof for the proposed renovated two story garage structure to more closely resemble in style, height and slope the original roof, 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 exterior design of the home shall replicate as closely as possible the amount, style and precision of the decorative ornamentation found throughout the exterior design of the proposed estate.
 - 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.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding plans 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 plans shall comply with Chapter 26-Landscape Requirements of the Miami Beach Code and 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. Prior to any site demolition work, a tree protection fence following the City standard shall be installed for trees scheduled to remain subject to the review and approval of the City Urban Forester.
- d. Any necessary root and tree branch pruning with a DBH of 2" or greater shall be approved by the City Urban Forester prior to any tree work.
- e. 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.
- f. 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.
- g. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- h. 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.
- i. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- j. 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.
- k. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- l. 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.

- m. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right of way shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- n. 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 19'-3" the minimum required front setback of 30'-0" in order to retain a two-story structure at 10'-9" from the front property line facing Pine Tree Drive.
2. A variance to reduce by 8'-3" the minimum required interior side setback of 13'-9" in order to retain a two-story structure at 5'-6" from the north side property line.
3. A variance to reduce by 8'-3" the minimum required sum of the side setbacks of 31'-1" in order to retain a two-story structure at the front of the property and construct a new two-story single family home providing a sum of the side setbacks of 22'-10".
4. A variance to exceed by 2.7% (0'-2") the maximum allowable encroachment of 25% (1'-4") within the existing 5'-6" north side yard to allow a roof overhang of 1'-6" and provide 27.2% encroachment.
5. A variance to eliminate all required front setback of 20'-0" for a structure in order to retain two gates with a maximum height up to 18.05' NGVD at zero setback from the front property line facing Pine Tree Drive.
6. A variance to exceed by 1'-11" the maximum allowed height of 5'-0" for a fence located at the front property line in order to retain a wall fence up to 6'-11" (13.50' NGVD) in height measured from grade of 6.64' NGVD facing Pine Tree Drive.
7. A variance to exceed by 2'-2" the maximum total height allowed of 7'-0" for ornamental light fixtures located on a fence at the front property line in order to

retain light fixtures up to 9'-2" (15.83' NGVD) in height measured from grade of 6.64' NGVD facing Pine Tree Drive.

8. A variance to exceed by 2'-11" the maximum allowed height of 7'-0" for a fence located on the interior side yard in order to retain a wall fence up to 9'-11" (16.53' NGVD) in height measured from grade of 6.64' NGVD on the south side yard.
9. A variance to reduce by 1'-6" the minimum required side setback of 4'-0" for a driveway in order to construct a driveway at 2'-6" from the south property line.

The following variance was **denied** by the Board:

10. A variance to exceed by 1'-6" the maximum allowed height of 10'-0" for elevator bulkhead and decorative structure in order to construct a two-story single family home with elevator bulkhead and decorative structure up to 11'-6" in height above the main roof line.
- 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, II.A.3, II.A.4, II.A.5, II.A.6, II.A.7, II.A.8, and II.A.9, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code only as it relates to variance(s) II.A.1, II.A.2, II.A.3, II.A.4, II.A.5, II.A.6, II.A.7, II.A.8, and II.A.9:

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, #5, #6, #7, #8 and #9 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 existing overall height and roof profile of the two-story garage structure retained shall be substantially maintained, subject to the review and approval of staff.
3. The existing driveway shall be reduced to a maximum of 11'-0" in width in the periphery adjacent to tree trunk, and setback as much as possible subject to the review and approval of the City Urban Forester.
4. Areas of the driveway under the tree canopy shall be replaced with a drivable ornamental loose landscape gravel subject to the review and approval of staff.
5. The approval of variance #8 does not include any portion of the side yard within the required rear yard of 25'-10" along the rear of the property. Any fence or wall within the rear yard shall be not higher than 5'-0" from grade.
6. Approval from the Public Works department shall be required in order to retain the gate and portion of the front wall within the public right of way facing Pine Tree Drive.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

III. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.

- A. Where one or more parcels are unified for a single development, the applicant shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- B. All new construction over 7,000 square feet shall be required to be, at a minimum, certified as LEED Gold by USGBC. In lieu of achieving LEED Gold certification, properties can elect to pay a sustainability fee, pursuant to Chapter 133 of the City Code. This fee is set as a percentage of the cost of construction.
- C. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval

herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

- D. 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.
- E. If applicable, a Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- F. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- G. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- H. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- I. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- J. 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.
- K. 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.
- L. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- M. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were 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 "5465 Pine Tree Drive" as prepared by **Luce Architects**, dated signed and sealed 01/05/2018, and as approved by the Design Review Board, as determined by staff.

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

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

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

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

Dated this _____ day of _____, 20_____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
JAMES G. MURPHY
CHIEF OF URBAN DESIGN
FOR THE CHAIR

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)SS
)

The foregoing instrument was acknowledged before me this _____ day of _____ 20____ by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.

NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: _____

Approved As To Form:

City Attorney's Office: _____ ()

Filed with the Clerk of the Design Review Board on _____ ()

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