

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: April 03, 2018

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: DRB18-0223  
**216 Palm Avenue – Single Family Residence**

The applicant, AG 07 Investments, LLC, is requesting Design Review Approval for the construction of a new two-story single family residence to replace an existing one-story single family home, including one or more waivers and variances to reduce the minimum lot area and lot width requirements, and to eliminate the required side setback for a dock.

#### **RECOMMENDATION:**

Approval of the design with conditions

Approval of variances #1, #2 and #3.

#### **LEGAL DESCRIPTION:**

South 180 FT of east 50 FT of Lot 37, Block 2 and 20 foot wide strip contiguous to same in Bay of Palm Island, according to Plat thereof as recorded in Plat Book 6, Page 54 of the Public Records of Miami-Dade County, Florida.

#### **SITE DATA:**

Zoning: RS-1  
Future Land Use: RS  
Lot Size: 9,700SF (50x194)  
Lot Coverage:  
Existing: 2,994 / 33%  
Proposed: 2,405 SF / 24.8%  
Maximum: 2,910 SF / 30%  
Unit size:  
Existing: 2,994 / 33%  
Proposed: 4,626 SF / 48%  
Maximum: 4,850 SF / 50%

2<sup>nd</sup> Floor Volume to 1<sup>st</sup>: **90% / 2395/2160\***

#### **\*DRB WAIVER**

Grade: +4.56' NGVD  
Flood: +9.00' NGVD  
Difference: 4.44'  
Adjusted Grade: +6.78' NGVD  
30" (+2.5') Above Grade: +9.28' NGVD

First Floor Elevation: +10.00' NGVD  
(BFE+1'fb)

Height:

Proposed: 24'-0" flat roof

Maximum: 28'-0" flat roof

#### **EXISTING PROPERTY:**

Year: 1955  
Architect: Norman Giller  
Vacant: No  
Demolition: Full

#### **SURROUNDING PROPERTIES:**

East: Two-story 2009 residence  
North: One-story 1955 residence  
South: Biscayne Bay  
West: One-story 1955 residence

**THE PROJECT:**

The applicant has submitted plans entitled "Final Submittal New Residence" as designed by **Se7en Ave Design Studio LLC** signed, sealed, and dated February 02, 2018.

The applicant is proposing to construct a new two-story residence on a waterfront parcel on the southern side of Palm Island.

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).
2. A two-story side elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d).

The applicant is requesting the following variance(s):

1. A variance to reduce by 50'-0" the minimum required lot width of 100'-0" for an RS-1 zoned parcel in order to construct a new two-story home on a parcel with a lot width of 50'-0".
2. A variance to reduce by 20,300 SF the minimum required lot area of 30,000 SF for an RS-1 zoned parcel in order to construct a new two-story home on a parcel with a lot area of 9,700 SF.

- Variances requested from:

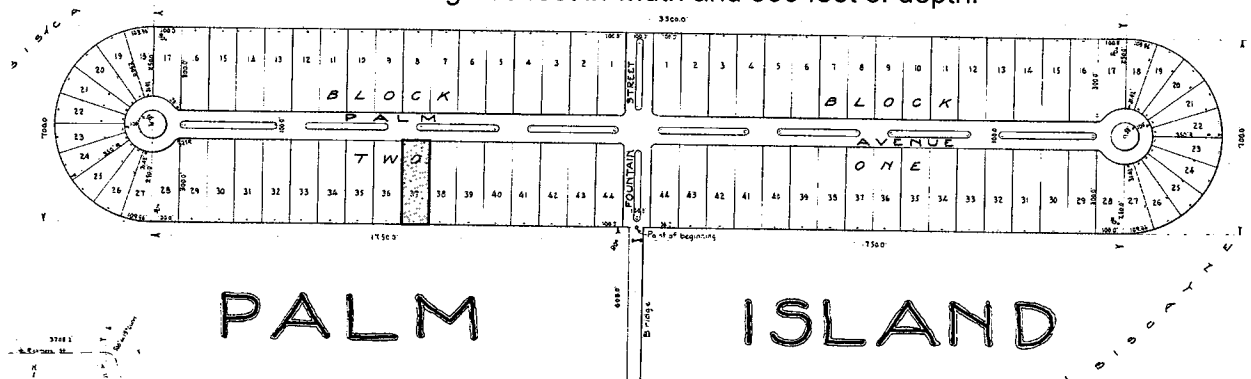
**Sec. 142-105. - Development regulations and area requirements.**

*(b)The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:*

Zoning District, RS-1, Minimum Lot Width (feet): 100'-0".

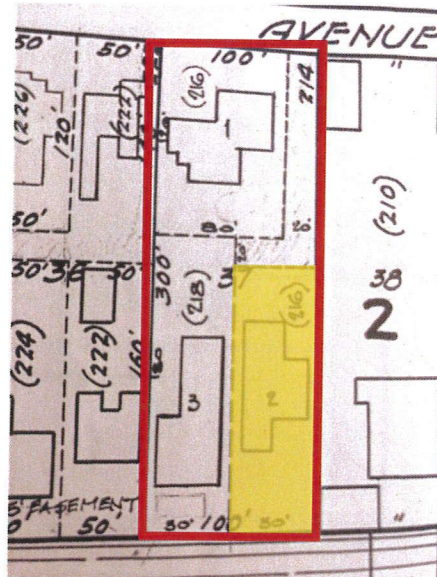
Zoning District, RS-1, Minimum Lot Area (Square Feet): 30,000 SF

The subject property is a portion of a waterfront parcel, formerly known cohesively as Lot 37 on Block 2, on the southern side of Palm Island which was historically platted on July 15, 1920 with standard lots measuring 100 feet in width and 300 feet of depth.



Palm Island PB6-54, July 15, 1920

Today the lot is 50 feet wide and 180 feet deep and contains approximately 9,700SF of lot area. The RS-1 zoning district requires lots to have a minimum lot width of 100'-0" and a minimum lot area of 30,000 SF in order to be a developable parcel.



216 Palm Avenue Plat

Section 118-390 of the Nonconformance applicability of the city Code was recently modified to include *"lot(s) that does not meet the lot frontage, lot width, lot depth, and/or lot area requirements of the current zoning district, provided that such lot met the regulations in effect at the time of platting."* While this property is part of lot 37 of Block 2 of the original 1920 plat of Palm Island, the site was further subdivided into three separate building lots in 1953, pursuant to Miami Dade Records Book No. 3822 pages 104-109. The lot width and area resulting for this property are non-conforming under today's Code and variances for the lot area and lot width are required in order to construct a single family home on the property.

Further, there is a dedicated easement dated 11/30/1955, pursuant to Miami Dade Records Book No. 4190 pages 271-2, granting access and use for the benefits of those three parcels that exists in perpetuity for the purpose of egress and ingress and to obtain access.

The size of the property and its current parallelogram shape are the same parcel geometric configuration of this division of land. The subdivision of the original lot as noted create the hardship that justifies variances #1 and #2. Without the granting of both variances, the construction of any building on the lot would not be permitted and the site could not be developed as other lots in the same district. Staff is supportive of these variances since the site complies with the Practical Difficulty and Hardship Criteria.

3. A variance to eliminate all required side setback of 7'-6" in order to retain an existing dock at 0'-0" from the west property line.

- Variance requested from:

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

(l) Marine structures. In all districts, seaward side yard setbacks for boat slips, decks, wharves, dolphin poles, mooring piles, davits, or structures of any kind shall not be less than seven and one-half feet.

Docks are required to have a minimum setback of 7'-6" from the side property line(s). The existing dock has a non-conforming setback of 0'-0" from the west side property line. A variance was approved by the Board of Adjustment on 03/07/89, pursuant to BOA File No. 1976 to eliminate the required west side yard setback in order to retain a dock. The existing dock was legally constructed to its current setback configuration with Permit No. 89R079132. Before this, building records indicate approval of a 12x18 wooden wharf on February 13, 1957, according to building permit #52658. A dock repair permit was obtained on December 27, 1963, pursuant to building permit #70846. The applicant proposes to retain the existing dock with the original configuration which requires a variance due to the construction of the new single family home. Staff finds that the existing conditions of the property with the dock existing since 1963 satisfy the practical difficulties criteria for the granting of the variance.

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

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.

**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 lot coverage calculation is incorrect. Although the applicant identifies a lot coverage < 25%, staff had determined that certain courtyards have erroneously been omitted from the calculations. Their inclusion would result in a lot coverage > 25%, requiring a second floor waiver of **90%**.
2. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60'-0", whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard. The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line. The square footage of the additional open space shall not be less than 1% of the lot area. The intent of this regulation shall be to break up long expanses of uninterrupted two-story volume at or near the required side yard setback line and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria. **The applicant is proposing the open space elevation raised to 9'-6" NGVD where 9'-3" is the maximum permitted unless waived by the DRB.**
3. The accessible roof deck shall be setback 10'-0" from each side of the exterior outer walls below.
4. Rear setback for accessory building shall be 15'-0" from the rear property line.
5. The second floor screening projecting over the north side yard shall be modified and reduced in length in order to be allowed as an ornamental projection. As proposed the metal screening shall comply with the required side yard of 7'-6".

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 three (3) variances and three (3) 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 three (3) variances and three (3) 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 three (3) variances and three (3) 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.  
**Not Satisfied**

**STAFF ANALYSIS:**  
**DESIGN REVIEW**

The applicant is proposing a new two-story residence on a substandard sized, RS-1 waterfront parcel on Palm Island to replace a two-story home built in 1955. The proposal includes a request for 3 design waivers and 3 variances.

The applicant is requesting a waiver of the open space requirement for two-story elevations that exceed 60'-0" in length, along both side property lines (north and south). Along the north, the applicant is proposing a 9'-6" x 17'-10" open space recess at the approximate halfway portion of the elevation. This 169SF open space adheres to the minimum percentage of area, is 100% landscaped and is open to the sky from the ground up. Along the south, the applicant is proposing a 15'-10" x 23'-4" open space recess at the approximate halfway portion of the elevation. This 369SF open space adheres to the minimum percentage of area, is 100% landscaped and is open to the sky from the ground up. However, to better transition to the interior of the ground level of home which is at finished floor of 1 foot of free board above base flood elevation (+10.00' NGVD), both landscaped open spaces have been elevated to 9.5' NGVD. Therefore, the open space recesses do not meet all of the specific requirements, specifically for being no higher than adjusted grade, or 9.2' in this case. As proposed, both resulting open spaces will still satisfy most of the criteria of the regulation and certainly endeavor the intent of the ordinance since the designated open spaces successfully breaks up the massing of the two-story elevation. Staff is supportive of these design waivers along both side elevations.

As previously mentioned, the applicant has calculated the total lot coverage of the site inaccurately. Although the applicant identifies a lot coverage of less than 25%, staff had determined that certain areas substantially surrounded on three sides would constitute a "courtyard" and would need to be included in the overall lot coverage calculation. The inclusion of this courtyard results in a lot coverage in excess of 25%, thus requiring a second floor waiver of **90%**. Due to the "flag lot" nature of the parcel as a result of the division of land in 1955, there will be no impact on the appearance of the two-story house overwhelming the street; as such staff is supportive of the requested waiver.

Staff has no outstanding design concerns and recommends approval of the home along with the requested waivers.

**VARIANCE REVIEW**

As part of the project, three (3) variances are requested for the construction of the single family home on a site that does not conform to the minimum required 30,000 SF lot area or 100'-0' of lot width for the RS-1 District. The proposed project could not be achieved if the variances are not approved as the site would be undevelopable. Staff is supportive of these variances, as all of these relate to practical difficulties created by the existing conditions of the divided lot. The dock will have the original configuration as previously permitted and legally attained variance in 1989. In summary, staff recommends approval of variances #1, #2, and #3 with conditions.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends **approval** of the design and variances #1, #2 and #3 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

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

MEETING DATE: April 03, 2018

FILE NO: DRB18-0223

PROPERTY: **216 Palm Avenue**

APPLICANT: AG 07 Investments, LLC

LEGAL: South 180 FT of east 50 FT of Lot 37 Block 2 and 20 foot wide strip contiguous to same in Bay of Palm Island, according to Plat thereof as recorded in Plat Book 6, Page 54 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 one-story single family home, including one or more waivers and variances to reduce the minimum lot area and lot width requirements, and to eliminate the required side setback for a dock.

**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, 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 and 10 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:

1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 216 Palm Avenue shall be submitted, at a minimum, such drawings shall incorporate the following:
  - a. If applicable, the 70% limitation for the second floor volume shall be waived as proposed.
  - b. The open space requirement along both side elevations shall be waived as proposed.
  - c. The metal screening on the north side façade shall be reduced in length to be not larger than the length of the balcony facing the front.
  - d. 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.
  - e. 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. 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):

1. A variance to reduce by 50'-0" the minimum required lot width of 100'-0" for an RS-1 zoned parcel in order to construct a new two-story home on a parcel with a lot width of 50'-0".
2. A variance to reduce by 20,300 SF the minimum required lot area of 30,000 SF for an RS-1 zoned parcel in order to construct a new two-story home on a parcel with a lot area of 9,700 SF.
3. A variance to eliminate all required side setback of 7'-6" in order to retain an existing dock at 0'-0" from the west property line.

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 and #3 as noted and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

**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. 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.
- B. 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.
- C. 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.
- D. 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.



- E. 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.
- F. 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.
- G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- H. 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.
- I. 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.
- J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- K. 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 " Final Submittal New Residence" as designed by **Se7en Ave Design Studio LLC** signed, sealed, and dated February 02, 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

