

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: DRB18-0222
205 South Hibiscus Drive

The applicants, Joe and Mercy Comesana, are requesting Design Review Approval for the construction of a new two-story single family residence to replace an existing one-story architecturally significant pre-1942 single family residence including one or more waivers and variances to exceed the maximum allowable projection in required yards, and to exceed the maximum elevation allowed in required yards.

RECOMMENDATION:

Approval with conditions

Denial of variances #1 and #2.

LEGAL DESCRIPTION:

Lot 1, Block L, of "HIBISCUS ISLAND RESUBDIVISION", according to the Plat thereof, as recorded in Plat Book 34, at Page 87 of the Public Records of Miami Dade County, Florida.

SITE DATA:

Zoning:	RS-4
Future Land Use:	RS
Lot Size:	9,366 SF
Lot Coverage:	
Existing:	2,839 SF / 30.3%
Proposed:	2,475 SF / 26.4%
Maximum:	2,809 SF / 30%
Unit size:	
Existing:	2,839 SF / 30.3%
Proposed:	4,596 SF / 49%
Maximum:	4,683 SF / 50%
2 nd Floor Volume to 1 st :	110%* (2,407/2,189)
	*DRB WAIVER
Height:	
Proposed:	27'-0" sloped roof
Maximum:	27'-0" sloped roof

Grade: +6.26' NGVD (Proposed)
Flood: +10.00' NGVD
Finished Floor: +11.00' NGVD (BFE +1'-0" freeboard)
Difference: +3.74' NGVD
Adjusted Grade: +8.13' NGVD

EXISTING STRUCTURE:

Year Constructed: 1957
Architect: Gilbert M. Fein
Vacant: No
Demolition Proposed: Full

Surrounding Properties:

East: One-story 1957 residence
North: One-story 1957 residence
South: Two-story 2013 residence
West: Vacant GU land

THE PROJECT:

The applicants have submitted plans entitled "Mr. and Mrs. Comesana Residence", as prepared by **John Richard Medina & Associates, Architects**, signed, sealed and dated 02/02/2018.

The applicants are proposing to construct a new two-story residence to replace an existing one-story home.

The applicants are 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 applicants are requesting the following variance(s):

1. A variance to exceed by 1'-4" the maximum allowed projection of 6'-0" within the required yard in order to construct roof eave with 7'-4" of projection into the front yard.

- 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 new structure is proposed with a roof overhang of 7'-4" on the front and side of the property to contour the wrapping front porch. The maximum projection permitted for roof overhangs and porches is 25% of the required setback, which in this instance would be 7'-6". However, the Section 114-1132 of the code further restricts the maximum projection **up to a maximum projection of six feet**, into a required yard. Therefore, although 25% of the

required front setback of 30'-0" yields this amount, in order to minimize these elements on the right-of-ways and adjacent properties, a maximum distance of 6'-0" is set-forth. The roof overhang is part of the overall new design of the home and can be slightly redesigned to comport with the regulations. Staff believes that the architect needs to provide more substantiated reason(s) as to why the extension of a new roof overhang to the porch qualifies as a practical difficulty. In summary, staff recommends that the Board **deny** the variances requested and that the roof overhangs comply with the maximum projection allowed.

2. A variance to exceed by a range from 1.84' to 0.91', the allowable maximum elevation of 8.76' NGVD in required interior yards based on grade elevation of 6.26' NGVD in order to construct the pool deck up to 10.6 NGVD and raise the north side yard up to 9.67' NGVD.

- 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:

(8) Exterior building and lot standards. The following shall apply to all buildings and properties in the RS-1, RS-2, RS-3, RS-4 single family residential districts:

a. The maximum elevation of a required yard shall be in accordance with the following, however in no instance shall the elevation of a required yard, exceed the minimum flood elevation:

- 1. Interior Side Yards (located between the front setback line and rear property line). The maximum elevation shall not exceed adjusted grade, or 30 inches above grade, whichever is greater except:*

Within the required interior side yard, the maximum yard elevation is 8.76' NGVD based on the grade elevation of 6.26' NGVD provided. The architect has designed the house with an internal outdoor recreational area that extends within the required side yard. The ground has been elevated to 9.67' NGVD and the wall of the pool has been elevated to 10.6' NGVD. Staff has concluded that the variance requested is associated with a self-imposed design decision that does not meet the practical difficulty or hardship criteria in the City Code. In summary, staff recommends that the Board **deny** the variance requested and that the pool deck and finished grade in the side yard comply with the maximum height allowed.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicants has submitted plans and documents with the application that staff has concluded **DO NOT** satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents with the application **DO NOT** comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

- That the special conditions and circumstances do not result from the action of the applicants;
- That granting the variance requested will not confer on the applicants 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 applicants 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 applicants;
- 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 applicants are requesting a 2nd Floor Volume to 1st of 110% with a 26.4% lot coverage which will require a waiver from the DRB.**
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.

3. Pavers on the street side yards are only allowed as a walkway with up to 25% projection in the required street side yard. The area proposed shall be reduced as it exceeds these requirements.
4. Front deck/porch at the front exceeds the maximum 25% projection into the required interior side yard.

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 applicants is requesting two (2) 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 applicants is requesting two (2) 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 applicants is requesting two (2) 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.
Satisfied
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Satisfied
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied
9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Not Satisfied; a lighting plan has not been submitted
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Satisfied
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Satisfied
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.

Satisfied

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

Satisfied

15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

Not Applicable

16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.

Satisfied

17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

Not Applicable

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

Not Applicable

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

Not Satisfied

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

1. A recycling or salvage plan for partial or total demolition shall be provided.
Not satisfied; a recycling plan will be provided for permitting
2. Windows that are proposed to be replaced shall be hurricane proof impact windows.
Satisfied
3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Satisfied
4. Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.

Satisfied

5. Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact, including a study of land elevation and elevation of surrounding properties were considered.
Satisfied
6. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.
Satisfied
7. Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.
Satisfied
8. Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.
Satisfied
9. When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.
Not Applicable
10. Where feasible and appropriate, water retention systems shall be provided.
Satisfied

STAFF ANALYSIS:

The applicants are proposing to construct a new two-story residence on an interior dry lot on Hibiscus Island that will replace an existing one-story home built in 1957. Although the site contains a post-1942 home, DRB review and approval is required for the two (2) design waivers and two (2) variances being requested.

The architect is proposing a new two-story home and a separate garage building configured in an L-formation on the corner lot that centers around a covered terrace and pool. With hip roofs, expansive eaves of exposed rafters, second floor balconies with decorative wood brackets, shutters and ornamental wood columns throughout, the home evokes the traditional Anglo-Caribbean style.

The first design waiver pertains to the second floor to first floor ratio. Since the proposed home has a lot coverage of 26.4%, any second floor massing is restricted to 70% of the first floor unless a waiver is sought by the DRB. In this instance, the second floor exceeds the first by 110% through the incorporation of second floor areas covering outdoor terraces below. This top-heavy element is internalized in the private court area and has no impact on the neighboring properties. Given that the lot coverage for this residence would be below 25% if this area were not included in the calculation and that the ratio would be lower if the ground floor area were enclosed, staff is supportive of the requested waiver.

The applicants are also requesting a waiver of the open space requirement for two-story elevations that exceed 60'-0" in length. The architect has designed the south side street elevation with a nearly 72'-0" long façade that contains a recessed central wall along the ground floor, and a recessed balcony at the second level. However, as designed it does not satisfy the required criteria. Given that this particular side elevation faces the street, it is required to be set back 15'-0" from the property line. The nearly 4' recess of the central portion of the home, as well as the required side facing a street setback, alleviates any overpowering impact of the overall two-story massing on respective properties and the street. Further, the architect has designed the residence with varied movement of vertical planes and architectural features, such as balconies, that provide visual interest. The design of the side elevation facing the street does address the intent of the ordinance to break up a monolithic, two-story massing. As such, staff is supportive of the requested open space waiver.

Overall, staff recommends that the proposed design be approved, including the requested design waivers.

VARIANCE ANALYSIS:

As identified under the 'Project' description of the analysis, the variances being requested pertain primarily to elements that can be slightly modified to comply with all the regulations. As proposed the variances requested do not satisfy the practical difficulties criteria for the granting of the variances. Further, staff is supportive of both design waivers that are part of the application, but recommends that the variance portion of the application be **denied**.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends **approval** of the design and waivers and **denial** of variances #1 and #2 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/FSC

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: April 03, 2018

FILE NO: DRB18-0222

PROPERTY: **205 South Hibiscus Avenue**

APPLICANTS: Joe and Mercy Comesana

LEGAL: Lot 1, Block L, of "HIBISCUS ISLAND RESUBDIVISION", according to the Plat thereof, as recorded in Plat Book 34, at Page 87 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 variances to exceed the maximum allowable projection in required yards, and to exceed the maximum elevation allowed in required yards.

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 205 South Hibiscus Avenue 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 open space requirement along both side elevations shall be waived as proposed.
 - c. The final Design details of the exterior materials and finishes shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - 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. The existing specimen size mahogany tree, which is scheduled for removal, should be preserved if it is healthy and stable. Provide a tree report, prepared by a certified arborist, for the existing specimen size tree for the review and approval of the City of Miami Beach Urban Forester.
 - d. 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.

- e. At a minimum, 50% of the required canopy shade trees in private property should consist of large size species, subject to the review and approval of staff.
- f. The proposed bay rum trees within the swale, facing East Palm Midway, should be replaced with larger size tree species, per the Code's Landscape Regulations and subject to review and approval of staff.
- g. 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.
- h. The proposed trees located within the swale facing East Palm Midway shall be replaced with larger size tree species, subject to the review and approval of staff.
- i. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- j. 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.
- k. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- l. 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.
- m. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- n. 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.

- o. 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.
- p. 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 applicants filed an application with the Planning Department for the following variance(s):

The following variances were denied by the Board:

- 1. A variance to exceed by 1'-4" the maximum allowed projection of 6'-0" within the required yard in order to construct roof eave with 7'-4" of projection into the front yard.
 - 2. A variance to exceed by a range from 1.84' to 0.91', the allowable maximum elevation of 8.76' NGVD in required interior yards based on grade elevation of 6.26' NGVD in order to construct the pool deck up to 10.6 NGVD and raise the north side yard up to 9.67' NGVD.
- B. The applicant has submitted plans and documents with the application that DO NOT 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 DO NOT 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 **Denies** the Variance requests #1 and #2 as noted and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. The architect shall redesign the elevation of the side yard and pool deck within the side yard to comply with the zoning regulations and eliminate the need for any variances therein.
2. The architect shall redesign the front porch and roof overhang to comply with the zoning regulations and eliminate the need for any variances therein.
3. 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 "Mr. and Mrs. Comesana Residence", as prepared by **John Richard Medina & Associates, Architects**, signed, sealed and dated 02/02/2018, 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 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.

