

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: June 05, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB17-0209

55 East San Marino Drive – Single Family Residence

The applicant, Benco Brasil LTD C/O Fidelity Corp Services LTD (Paula Shayene Araujo), is requesting Design Review Approval for the construction of a new two-story single family residence to replace two existing single-family homes, one of which is an architecturally significant pre-1942 single family residence, including one or more waivers and variances to exceed the maximum elevation allowed in required yards.

RECOMMENDATION:

Approval with conditions

Denial of the variances.

LEGAL DESCRIPTION:

Lots 5 and 6 of Block 4 of San Marino Island, according to Plat thereof as recorded in Plat Book 9, Page 22 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-3
Future Land Use: RS
Lot Size: 22,685 SF
Lot Coverage:
Existing: 4,749 / 21%
3,160 / 14%
Proposed: 6,779 SF / 29.9%
Maximum: 6,805.5 SF / 30%
Unit size:
Existing: 4,749 / 21%
3,160 / 14%
Proposed: 8,117 SF / 44%
Maximum: 11,342.5 SF / 50%
2nd Floor Volume to 1st: 57%

Height:

Proposed: **24'-0" flat roof** from BFE +2'

Maximum: 24'-0" flat roof

EXISTING STRUCTURES:

Lot 5 (35 ESMD)

Year Constructed: 1941
Architect: Donald Smith
Vacant: No
Demolition Proposed: Full

Lot 6 (55 ESMD)

Year Constructed: 1951
Architect: A.H. Mathes
Vacant: No
Demolition Proposed: Full

Grade: +5.65' NGVD
Flood: +9.00' NGVD
Difference: 3.35'
Adjusted Grade: +7.32' NGVD
30" (+2.5') above Adj Grade: +9.825' NGVD
First Floor Elevation: +11' NGVD
(BFE +2' FB)

SURROUNDING PROPERTIES:

East: Biscayne Bay
North: Two-story 2016 residence
South: Two-story 1935 residence
West: Vacant (DRB0716-0041)

THE PROJECT:

The applicant has submitted plans entitled "Final Submittal 55 East San Marino Residence" as designed by **Roomscapes Inc** signed, sealed, and dated February 02, 2018.

The applicant is proposing to construct a new two-story residence on two combined, waterfront parcels on the eastern side of San Marino Island.

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

1. 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 exceed by 1.18' the maximum elevation of 9.82' NGVD for allowable structures in required yards in order to construct access cantilevered walkways up to 11.0' NGVD at 12'-4" setback from the north side property line.
2. A variance to exceed by 1.18' the maximum elevation of 9.82' NGVD for allowable structures in required yards in order to construct access cantilevered walkways up to 11.0' NGVD at 12'-8" setback from the south side property line.

- Variances 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% of the required yard up to a maximum projection of 6'-0", unless otherwise noted.

(6) Porches, platforms and terraces (up to 30" above the elevation of the lot).

Access steps within the required yards are permitted not to exceed the maximum elevation of 9.825' NGVD, based on the property's 30" above adjusted grade of 7.32' NGVD. Because the finish floor is required to be at 11' NGVD, access walkways are a common architectural occurrence of side access in order to transition from the finished grade elevation to the higher finished floor. The walkway is usually of minimal area and similar to side access in most single family homes. Commonly walkways located along the side yards at lower elevation would be permitted without a variance. However, in this case the property is more than 22,000 sf of area, where the minimum lot area required in the district is 10,000 sf and the proposed setbacks are 16'-0" and 16'-7" where the required is 13'-6" on each sides. These two aspects allow the design of the home with enough flexibility to avoid the variances requested. Most of the width of the proposed walkways is not located within the required yards and are not subject to the height requirements. Only 1'-2" on the north side and 10" on the south side encroach in the required yards. Based on the lot area of the property, larger than most RS-3 properties in the area, and the side setbacks proposed, are larger than required, staff finds that there are no practical difficulties for the variances and recommends that the Board denies variances #1 and #2.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

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 the requested variances 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.

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:

- Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, 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 one percent of the lot area. The open space provided along a side elevation in

accordance with this subsection, whether required or not, shall not be included in the lot coverage calculation provided that the combined depth of the open space, as measured from the required side setback line(s), is less than 30 percent of the maximum developable building width of the property, as measured from the interior setback lines, **and the total open space provided does not exceed five percent of the lot area. Any portions of the interior side yard open space in excess of five percent of the lot area shall be included in the total lot coverage calculation.**

- The elevation (height) of the open space provided shall not exceed the maximum permitted elevation height of the required side yard, and
- at least 75 percent of the required interior open space area shall be sodded or landscaped previous open space.

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 the minimum requirements of this provision may be granted only through design review board approval in accordance with the applicable design review criteria.

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria 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.
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 two (2) variances and one (1) design waivers from the Board.
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; the applicant is requesting two (2) variances and one (1) design waivers from the Board.
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.

Satisfied

5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.

Not Satisfied; the applicant is requesting two (2) variances and one (1) design waivers from the Board.

6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.

Not Satisfied; the applicant is requesting two (2) variances and one (1) 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.

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.
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 contemporary residence on two waterfront lots on the southeastern portion of San Marino Island that will replace two existing one-story single-family homes. One of the existing homes (Lot 5 the southern parcel) is an architecturally significant one-story home constructed in 1941 while the other one-story home (Lot 6 the northern parcel) was constructed in 1951. The proposed replacement

structure is within the maximum zoning thresholds for lot coverage and unit size; however the proposed design does require one design waiver and two variances to be granted by the Board.

The rectilinear design has been elegantly proportioned and refined with a rich coral stone material cladding along all façades, contrasted by elongated slender vertical wood finishes, and stacked massing. The applicant is requesting a waiver of the open space requirement for two-story elevations that exceed 60'-0" in length. The applicant proposes to provide open space recess along the north side elevation in order to break up the massing and to alleviate any overpowering impact of the overall massing of the two-story structure on the respective neighboring property to the north, built in 2016. However, the open space along the north elevation has been designed with a reflective pond that exceeds the allowable pervious area of the interior open space as well as the maximum elevation height permitted, and thus does not adhere to the strict requirements of that Code regulation. Further, the recess exceeds five percent of the lot area, but the architect has included the excess area over the five percent of the lot area towards the total lot coverage calculation. The architect has designed the residence with varied movement and accentuated the forms with architectural elements that provide visual interest.. Staff maintains that the design of side open space area address the intent of the ordinance, which is to break up the two-story massing. As such, staff is supportive of the requested open space waiver along the north side.

Staff recommends that the design of the replacement home be approved as proposed including the requested waiver.

VARIANCE ANALYSIS:

As identified under the 'Project' description of the analysis, the variances being requested pertain to certain projections in the north and south side yard; specifically the ground floor cantilevered walkways that exceed the maximum elevation allowance for projections. The maximum elevation is adjusted grade + 30", or 9.82' NGVD, whereas the applicant has proposed the cantilevered slabs with elevations at 10.7' NGVD to be designed fairly flush with the interior ground floor that has a design floor elevation of 11' NGVD (BFE +2'FB). Staff cannot find practical difficulties for the approval of the variances, as the lot area and setbacks of the property allows other possible locations on the site to place the walkways to lower them to comport with the allowance encroachment limitations, on the combined parcels. As such staff recommends denial of the variance requests (#1 and #2).

RECOMMENDATION:

In view of the foregoing analysis and the inconsistencies with the aforementioned Design Review criteria and Practical Difficulty and Hardship criteria, staff recommends approval of the project, subject to the conditions enumerated in the attached draft Final Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise criteria and Practical Difficulty and Hardship criteria, as applicable, and that the variance requests #1-#2 be **denied**.

TRM/JGM

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: June 05 2018

FILE NO: DRB17-0209

PROPERTY: **55 East San Marino Drive**

APPLICANT: Benco Brasil LTD C/O Fidelity Corp Services LTD (Paula Shayene Araujo),

LEGAL: Lots 5 and 6 of Block 4 of San Marino Island, according to Plat thereof as recorded in Plat Book 9, Page 22 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 two existing single-family homes, one of which is an architecturally significant pre-1942 single family residence, including one or more waivers and variances 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, 6, 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. A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department, in a manner to be reviewed and approved by staff.
2. Revised elevation, site plan, and floor plan drawings for the proposed new home at 55 East San Marino Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The (north) side open space requirement shall be waived as proposed.
 - b. The final design details and color selection of the “ornamental aluminum” cladding proposed finish shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - c. The architect shall further refine all of the elements within the required side (south and north) yards to comport with the projection or comply with the side street setback of the principal structure, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - d. The final design details and color selection of the “coral stone” finish shall be submitted, and consist of a natural coral or other natural stone, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board
 - e. 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.
 - 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. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
3. A revised landscape plan, and corresponding site plan, shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
 - a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be

limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.

- b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
- c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
- d. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
- e. The architect shall substantially increase the amount of native canopy shade trees within the site, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- f. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- g. 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.
- h. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- i. 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.
- j. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.

- k. 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.
- l. 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.
- m. 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):

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

- 1. A variance to exceed by 1.18' the maximum elevation of 9.82' NGVD for allowable structures in required yards in order to construct access cantilevered walkways up to 11.0' NGVD at 12'-4" setback from the north side property line.
 - 2. A variance to exceed by 1.18' the maximum elevation of 9.82' NGVD for allowable structures in required yards in order to construct access cantilevered walkways up to 11.0' NGVD at 12'-8" setback from the south side property line.
- B. The applicants have 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 applicants have 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 request(s), 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 site plan shall be redesigned to comport with the setback requirements found within Chapter 142 of the Land Development Regulations.

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. 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.
- B. Where one or more parcels are unified for a single development, the property owner 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.
- 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. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- 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 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 55 East San Marino Residence" as designed by **Roomscapes Inc** 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 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_____.

