

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: July 03, 2018

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: DRB17-0217  
**6000 Indian Creek Drive**

The applicant, Glen Larson Dock and Marine Construction, is requesting Design Review Approval for the construction of a dock, piers and the mooring of 8 vessels including a variance to exceed the maximum projection allowed into the waterway for the existing multifamily property.

#### **RECOMMENDATION:**

Approval of the variance

#### **LEGAL DESCRIPTION:**

Lots 26, 27, 28, 29 and 30, Block 2 of Amended Plat of Second Ocean Front Subdivision, according to the Plat thereof, as recorded in Plat Book 28, at Page 28, of the Public Records of Miami-Dade County, Florida.

#### **SITE DATA:**

Zoning:	RM-2
Future Land Use:	RM-2
Lot size:	27,828 SF

#### **EXISTING STRUCTURE:**

2006 | Sieger Suarez Architectural Partnership | 25-story residential building | 34 units

#### **HISTORY:**

On July 14, 1998, the Design Review Board approved an application for the construction of a new 25-story condominium tower with subterranean parking, pursuant to DRB File No. 10386.

#### **Surrounding Properties:**

East: Three-story 2010 residential building, *Terra Condominium*  
North: 16-story 1992 residential building, *Sixty Sixty Condominium*  
South: Six-story 2004, *Nautica Condominium*  
West: Indian Creek Canal

#### **THE PROJECT:**

The applicant has submitted plans entitled "New "T" Dock, and (4) Finger Piers at: 6000 Indian Creek", as prepared by Leandro Fernandez, P.E., dated April 10, 2018.

The applicant is proposing the construction of a new dock, boatlift and mooring piles including a variance to exceed the maximum allowed projection into the waterway.

The applicant is requesting the following variance(s):

1. A variance to exceed by 27'-8" the maximum allowed 34'-0" projection into the waterway of 227'-6" in width in order to permit the construction of a dock and mooring piles including the docking of 8 vessels with a maximum projection of 61'-8" from the wet face of the seawall into the waterway.

- Variance requested from:

**Sec. 66-113. Limitation on projection of structures; public hearing.**

*Boat slips, docks, wharves, dolphin poles, mooring piles or structures of any kind shall not be constructed or erected that extend into any canal or waterway in the city more than ten percent of the width of such canal or waterway at a specific location measured from the seawall or property as shown by recorded plat line if no seawall exists; but if a canal or waterway is more than 100 feet in width, the structure may extend into such canal or waterway a distance not greater than 15 percent of the width of such canal or waterway at that specific location, but not to exceed a distance greater than 40 feet.*

The maximum projection for marine structures into waterways are regulated by the width of the canal of which it abuts. The adjacent waterway has a canal width that varies from 219'-0" to 227'-0". This would permit the subject site, at the location of the proposed structures, a maximum projection of up to 34'-0" into the waterway. The maximum projection is contemplated for any marine structure including the dockage of a boat. Pursuant to the requirements of the Miami-Dade County Regulatory and Economic Resources ("RER") Department, the mooring of the proposed vessels, as shown in the submitted plans, must be at a minimum of 24'-0" from the seawall in order to reach the minimum necessary water depth of 4'-0", as required by DERM and substantiated in DERM's letter dated May 24, 2018. Based on this requirement, only 10'-0" into the waterway would remain to construct and place any structure including dock, mooring piles and boat. Staff finds that the existing shallow water depth along this portion of Indian Creek Canal creates the practical difficulties that result in the need for this variance in order to construct a dock with associated structures with reasonable size. As the proposed structures have been preliminary approved by DERM, the Department of Environmental protection and the Army Corps of Engineers, staff is supportive of the variance requested.

**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 of Adjustment finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also 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:**

The application, as submitted, appears to be consistent with the applicable requirements of the City Code, with the exception of the variance(s) requests herein. This 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 project requires a variance**

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 project requires a variance**
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 project requires a variance**
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; lighting plans not included**
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).  
**Satisfied**
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 Applicable**

**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 Applicable**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Not Applicable**
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Not Applicable**
- (4) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.  
**Not Applicable**
- (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.  
**Not Applicable**
- (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.  
**Not Applicable**
- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.  
**Not Applicable**
- (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 Applicable**

**STAFF ANALYSIS:**

This subject site contains a multistory residential building constructed in 2006. The project was originally approved by the Design Review Board on July 14, 1998 (DRB File No. 10386) and finished construction in 2006. The property had a dock constructed in 1947, which was later repaired in 1972. After many years the dock has dilapidated where only mooring piles exist today. As part of the residential development, several building permits to replace the existing dock were approved throughout the years, according to City records; all of them have since expired and construction never commenced.

The applicant is proposing the removal of the existing piles and the construction of a new dock along the property with 4 finger piers and 10 mooring piles for the docking of 8 vessels. The location of the structures exceeds the maximum projection of 34'-0" into the waterway.

The City Code restricts the projection of marine structures into the waterway with a width less than 1000' to a maximum of 15% of the width of the canal and not greater than 40'. Based on the existing water depth adjacent to the site and the RER- Natural Resources Division and the Miami Dade County Code of Ordinances Section 24-48.3, the mooring of a boat is prohibited within the first 24' from the seawall. Because of this requirement, the mooring of any type of boat would exceed the maximum projection allowed by the Code.

See excerption of Section 24-48.3 of the Miami Dade County Code of Ordinances below:

*(3) In addition to the applicable evaluation factors found in Section 24-48.3(1)(a) through (i) above, boat slips created by the construction or placement of fixed or floating docks, piers, piles and other structures requiring a permit under this article and located in tidal waters within the geographical boundaries of Miami-Dade County, Florida shall have a minimum water depth of four feet N.O.A.A. mean low water datum. It shall be unlawful to moor or store vessels at fixed and floating docks, piers, piles and any structure requiring a permit under this article in tidal waters within the geographical boundaries of Miami-Dade County in areas with less than four feet of depth N.O.A.A. mean low water datum except for those existing structures which were constructed or placed in accordance with all of the requirements of the Code of Miami-Dade County, Florida prior to October 11, 1985.*

There are other docks installed along the canal, but none with a similar projection. Staff was unable to find permits or approval for other similar marine structures exceeding the maximum projection within the surrounding properties. As the requested variance is triggered by the existing conditions of the waterway, and minimum water depth requirements, staff has no objections to the approval of the variance.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends **approval** of the design and variance requests, subject to the following conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise criteria, and Practical Difficulty and Hardship criteria, as applicable.

TRM/JGM/IV

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

MEETING DATE: July 03, 2018

FILE NO: DRB17-0217

PROPERTY: **6000 Indian Creek Drive**

APPLICANT: Glen Larson Dock and Marine Construction.

LEGAL: Lots 26, 27, 28, 29 and 30, Block 2 of Amended Plat of Second Ocean Front Subdivision, according to the Plat thereof, as recorded in Plat Book 28, at Page 28, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a dock, piers and the mooring of 8 vessels including a variance to exceed the maximum projection allowed into the waterway for the existing multifamily property.

**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, and 9 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 not applicable with the Sea Level Rise Criteria 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 4541 Adams Avenue shall be submitted, at a minimum, such drawings shall incorporate the following:



- a. 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.
- b. 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.

**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 exceed by 27'-8" the maximum allowed 34'-0" projection into the waterway of 227'-6" in width in order to permit the construction of a dock and mooring piles including the docking of 8 vessels with a maximum projection of 61'-8" from the wet face of the seawall into the waterway.
- 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 request as noted and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
2. The applicant shall comply with the following standards and operational conditions, which shall be submitted to and approved by staff as part of the permitting process:
  - a. The subject dock and mooring structures shall be for the sole use of the owners and residents of the property. Any type of sub-leasing, or the commercial use of the dock and mooring structures shall be prohibited.
  - b. All marine vessels shall be required to meet the required side yard setbacks at all times.
  - c. The use of the dock and associated marine structures shall be prohibited until after a TCO or CO for the house under construction is issued.
  - d. The mooring of any type of vessel or watercraft shall be prohibited along either side of the walkway leading from the seawall to the boat dock.
  - e. Pursuant to Section 66-113 of the City Code, a vessel shall not be docked or moored so that its projection into the waterway would be beyond the maximum permissible linear projection of 61'-8" from the seawall approved herein.
  - f. The dockage, mooring, storage, launching, beaching or servicing of personal watercraft (such as Jet-Skis, Wave Runners, and other similar types of personal watercraft) shall be prohibited unless such personal watercraft contains a 4-stroke or smaller engine.
  - g. The only lights permitted shall be those required by Miami Dade County Department of Regulatory and Economic Resources, Environmental Resources Management (RER), the U.S. Coast Guard, and any other permitting agency for navigational safety, including but not limited to

navigational reflectors on the mooring piles. One electric light equipped with a motion sensor may be installed at the terminal platform for security purposes. Any required lights and reflectors shall be indicated on the permit plans and shall be subject to the review and approval of staff prior to the issuance of a building permit.

- h. The design of any handrails shall be submitted to staff for review and approval prior to the issuance of a building permit.
- i. All lighting associated with, but not limited to, the deck, vessel or marine structures shall be installed in such a manner so as to minimize glare and reflection on surrounding properties and not to impede navigation. All lighting shall be erected so as to direct light only on the premises on which they are located, and shall be contained within the subject area.
- j. The project shall receive final approval by all county, state or federal permitting agency as may be required.

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

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

- A. Where one or more parcels are unified for a single development, the applicant shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- B. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- C. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- D. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy, a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- E. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- F. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.

G. Nothing in this order authorizes a violation of City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans submitted, 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 entitled "New "T" Dock, and (4) Finger Piers at: 6000 Indian Creek", as prepared by Leandro Fernandez, P.E., dated April 10, 2018, and as approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

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

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

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

DESIGN REVIEW BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

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

STATE OF FLORIDA                    )  
  )SS  
COUNTY OF MIAMI-DADE         )

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

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

Approved As To Form:  
City Attorney's Office: \_\_\_\_\_ (                    )

Filed with the Clerk of the Design Review Board on \_\_\_\_\_ (                    )