

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: September 04, 2018

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB18-0266
865 North Shore Drive

The applicant, 865 North Shore Dr Investments LLC, is requesting Design Review Approval for the construction of a new two-story residence to replace an existing one-story residence including one or more waivers and variances to reduce the required front, rear, both side yards, and sum of the side yards setbacks, and to exceed the maximum projection allowed in required yards.

RECOMMENDATION:

Approval with conditions

Approval of the variances #1, #2, #3 and #4.

Withdrawal of variances #5, #6, and #7

LEGAL DESCRIPTION:

Lot 7 of Block 62 of Normandy Golf Course Subdivision, according to Plat thereof as recorded in Plat Book 44, Page 62 of the Public Records of Miami-Dade County, Florida.

HISTORY:

On July 03, 2018, the DRB reviewed the item and continued the application to September 04, 2018, in order to allow time for the applicant to seek alternative design solutions to eliminate some of the requested variances for the principal structure.

SITE DATA:

Zoning: RS-3
Future Land Use: RS
Lot Size: 12,425 SF
Lot Coverage:
Previous: 3,356 SF / 25.9%
Proposed: 3,361 SF / 27%
Maximum: 3,727.5 SF / 30%
Unit size:
Previous: 6,210 SF / 49.9%
Proposed: 5,675 SF / 45.7%
Maximum: 6,212.5 SF / 50%
2nd Floor to 1st: ~~2739/3471 78.9%*~~
2865/2335 81.5%*
Height:
Proposed: **25'-8"** flat roof*
Maximum: 24'-0" flat roof;

27'-0" sloped roof
***DRB WAIVER**

Grade: +4.16' NGVD
Flood: +8.00' NGVD
Difference: 3.84' NGVD
Adjusted Grade: +6.08' NGVD
30" (+2.5') Above Grade: +8.58' NGVD
First Floor Elevation: +9' NGVD (BFE +1 FB)

SURROUNDING PROPERTIES:

East: One-story 1951 residence
North: Biscayne Bay
South: One-story 1951 residence
West: One-story 1952 residence

THE PROJECT:

The applicant has submitted revised plans entitled "Normandy Island Residence" as prepared by **CMA Design Studio, Inc.**, dated, signed and sealed on July 27, 2018.

The applicant is proposing to construct a new two-story residence to replace a one-story residence built in 1952.

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

1. The height of the proposed structure is **25-8"** for a flat roof in accordance with Section 142-105(b).
2. The second floor's physical volume exceeds 70% of the first floor in accordance with Section 142-105(b)(4)(c).

The following waiver has been withdrawn by the applicant:

- ~~3. 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 revised variance(s) which pertain to the proposed planters on the second floor of the residence:

1. A variance to reduce by 3'-11" 2'-5" the minimum required interior side setback of 10'-0" in order to construct a two-story residence with planters up to 6'-4" 7'-7" from the west (side) property line.
2. A variance to reduce by 2'-6" the minimum required interior side setback of 10'-0" in order to construct a two-story residence with planters at 7'-6" from the south (side) property line.
3. A variance to reduce by 6'-5" 4'-11" the minimum required sum of the side yards of 20'-0" in order to construct a two-story residence and provide a sum of the side yards of 13'-7" 15'-1".

- Variances requested from:

Sec. 142-106. Setback requirements for a single-family detached dwelling.

The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(2)Side yards:

a. The sum of the required side yards shall be at least 25 percent of the lot width.

c. Interior sides. For lots greater than 60 feet in width any one interior side yard shall have a minimum of ten percent of the lot width or ten feet, whichever is greater. For lots 60 feet in width or less, any one interior side yard shall have a minimum of seven and one-half feet.

The subject property has a lot width of 70'-0", which requires the principal structure to be setback 10'-0" along both side yards. At the direction of the Design Review Board (DRB) from the July 03, 2018 meeting, the design of the principal structure's enclosed air-

conditioned space now complies with the required side and sum and the side yard setbacks. The revised design proposes the exterior walls on the west side with a distance that now comports with the minimum side setback.

Additionally, the application includes proposed elements within the required yards that are not allowable encroachments. Planters are not identified under Section 114-1132 as an allowable encroachment permissible within required yards; as such, those elements are required to adhere to the setback of the principal structure. Staff would note that although the City Code does not include planters as a permitted encroachment, open balconies and railings are allowed. These architectural features could have a greater impact on the building's architecture and on abutting properties. In this regard, staff has evaluated the impact of the specific size of the proposed planters versus balconies and in this instance finds that practical difficulties contribute to the variances requested. In addition, staff also recommends modifications to the main walls at the north side to comply with the 10'-0" setback at the closer point to the property line and that the encroachment of the planters do not exceed 25% of the required side yard.

Staff is supportive of the revised modified variances #1, #2 and #3 given the direction from the Design Review Board to minimize the impact of the massing of the structure.

4. A variance to reduce by 10'-0" the minimum required front setback of 30'-0" for a two-story structure in order to construct a two-story residence at ~~17'-6"~~ 20'-0" from the front property line.

- Variance requested from:

Sec. 142-106. Setback requirements for a single-family detached dwelling.

The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

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

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

In February of 2016, the setback requirements for single-family residences were amended in order to increase the front setback as viewed from the street. One-story, detached structures may have a minimum front setback requirement of 20'-0", but any portion of a two-story residence must be setback an additional 10'-0" with no structural elements within 5'-0" between the two structures. In this design, the two structures are mainly detached by a 7'-6" wide separation at the ground level. However, at the upper levels, roof overhangs for the garage structure and planter elements for the main residence project within the 5'-0" separation, triggering the variance request. While the prior design requested a front setback reduction of 12'-6" in order to construct a two-story residence at 17'-6", the revised design displays a concerted effort to address the Board's concerns and minimize the massing from North Shore Drive. In light of these practical difficulties associated with the aforementioned roof overhangs, staff is supportive of variance #4.

The following variances (#5-#7) have been withdrawn by the applicant:

- ~~5. A variance to reduce by 1' 3" the minimum required rear setback of 25' 6" in order to construct a two-story home with planters at 24' 3" from the rear property line.~~
- ~~6. A variance to exceed by 25% (5' 0") the maximum allowable projection of 25% (2' 6") into the required north side yard of 10' 0" in order to construct roof overhang with 50% (5' 0") of encroachment into the north side yard.~~
- ~~7. A variance to exceed by 25% (5' 0") the maximum allowable projection of 25% (2' 6") into the required south side yard of 10' 0" in order to construct roof overhang with 50% (5' 0") of encroachment into the south side yard.~~

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts, as noted above, 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, as noted above:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code, in addition to the requested variances:

1. The maximum building height is 24'-0" for flat roofed structures and 27'-0" for sloped roofs. In the RS-3 zoning district, the DRB may approve a building height of up to 28'-0" for flat roofs, and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria. **The applicant is requesting a height of 25'-8" for portions of the second floor roofline (rooftop terrace) which will require a waiver from the DRB.**
2. For two story homes with an overall lot coverage of 25% or greater, the physical volume of the second floor shall not exceed 70% of the first floor of the main home, exclusive of any enclosed required parking area and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria. **The applicant is requesting a 2nd Floor Volume to 1st of 81.5% with a 27% lot coverage which will require a waiver from the DRB.**
3. Portions of the side yards and rear yard do not comply with the minimum required yard elevations of 6.56' NGVD.
4. Portions of the covered terrace slab encroaching into the side setback exceed the maximum elevation allowed for projections in the required yards. Maximum elevation is 8.58' NGVD, proposed elevation 8.85' NGVD.

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

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Not Satisfied; the applicant is requesting four (4) variances and two (2) design waivers from the Board.
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Not Satisfied; the applicant is requesting four (4) variances and two (2) design waivers from the Board.
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably

necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.

Not Satisfied; the applicant is requesting four (4) variances and two (2) design waivers from the Board.

4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
Satisfied
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.
Not Satisfied; the applicant is requesting four (4) variances and two (2) design waivers from the Board.
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Not Satisfied; the applicant is requesting four (4) variances and two (2) design design waivers from the Board.
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Not Satisfied; the applicant is requesting four (4) variances and two (2) design waivers from the Board.
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied
9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Not Satisfied, no lighting plan provided
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Satisfied

11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Not Satisfied; the applicant is requesting four (4) variances and two (2) design waivers from the Board.
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
Satisfied
14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not 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 two-story home that will replace an existing one story single family residence. The subject property is a waterfront lot on North Shore Drive. This item was previously presented at the July 03, 2018 Design Review Board meeting and continued to further refine the design and address both Board and staff comments. Since that meeting, the proposed residence has been redesigned to comport with many of the regulations from which the applicant was previously requesting relief. Specifically, the proposed residence has been redesigned to comport with open space requirements for two story elevations. The west (side) elevation has been redesigned to not exceed 60'-0". With a two-story span of 59'-8" in length, as measured from the northernmost wall to southernmost wall along the elevation, the applicant has eliminated one of the waivers that was particular to the massing of the residence.

The proposed residence has been designed in a contemporary, tropical style with hip roofs, expansive wood soffits and exterior terraces and balconies for enhanced outdoor living. The structure is predominately clad in ledgerstone and extensive window walls, which are accented with louvers along the second story. The proposed redesign now includes a request for two (2) design waivers and four (4) variances, which is a reduction from the original request of three (3) design waivers and seven (7) variances.

The first design waiver pertains to the height of the home. As proposed the home has a maximum building height of 25'-8". While the residence is predominately comprised of hip roofs, which have maximum allowable heights of 27'-0" to the midpoint of the slope, a flat roof for a roof deck is proposed at the convergence of the sloped roofs, triggering the need for a height waiver since the Code stipulates a maximum height of 24'-0" for homes with flat roofs. Given that the home is zoned RS-3 and the lot area is 12,425 SF, the height of flat roofs can be increased up to 28'-0" when approved by the Design Review Board. Staff is supportive of the 1'-8" height increase waiver for the central roof deck area.

The second design waiver pertains to the second floor to first floor ratio. With a lot coverage of 27%, the second floor massing of the residence is restricted to 70% of the first floor, unless a waiver is sought by the DRB. As designed, the second floor exceeds the first floor by 12%. When reviewing the second floor volume rule, staff believes that the greater 2nd to 1st floor ratio request proposed is commensurate with the style and design of the home which features many outdoor terraces, protruding planters and pitched roof areas of differing heights. Staff is supportive of the increased second floor ratio waiver.

Overall, the applicant has produced an attractive architectural design with rich finishes and complex elements that is sensitive to the neighborhood's overall context, as well as architecturally distinguishes itself from neighboring structures. Staff recommends the approval of the design, including the three design waivers.

VARIANCE REVIEW

A new two-story single family home is proposed on a waterfront property. The applicant is requesting four (4) variances, primarily related to the specific design elements, the planters that encroach within the required side setbacks of the residence.

Based on the direction from the July 03, 2018 DRB meeting, the Board found merit in the design, and the Code does allow for certain projections into the required yards, such as "Ornamental Features" or "Exterior Unenclosed Private Balconies". In that instance, building elements may project into required yards for a distance not to exceed 25 percent of the

required setback, or 2'-6" in this case. The elements are not habitable, but rather decorative enhancements to the second floor massing, therefore the reduced side setback would not directly impact any abutting property. Additionally, the applicant's request is less impactful to the surrounding neighboring properties than allowable habitable balconies that the Code permits within same projection proposed.

Variances #2 and #3 are fundamentally linked to one another as they pertain to the minimum required side and sum of the side yard setbacks. As described under the analysis, staff is supportive of the granting of variances #1, #2 and #3.

The applicant is requesting a front setback variance for the detached one-story garage. While detached one-story structures are permitted at the 20'-0" setback line, the Code was recently amended to require all two-story structures—inclusive of all attached one-story portions—to be setback an additional 10'-0" from the front property line, unless "separated" from the principal structure by a minimum of 5'-0" "open to the sky". The two structures are detached by a 7'-6" wide separation at the ground level. However, at the upper levels, a roof overhang for the garage structure and planter elements for the main residence project within this separation, triggering the variance request. As outlined in the 'Project' section of the report, staff is supportive of variance #4 in this instance.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends **approval** of the design and of variance requests #1, #2, #3, and #4 subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise criteria and Practical Difficulty and Hardship criteria.

TRM/JGM

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: September 04, 2018

FILE NO: DRB18-0266

PROPERTY: **865 North Shore Drive**

APPLICANT: 865 North Shore Dr Investments LLC

LEGAL: Lot 7 of Block 62 of Normandy Golf Course Subdivision, according to Plat thereof as recorded in Plat Book 44, Page 62 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new two-story single family residence to replace an existing one-story residence including one or more waivers and variances to reduce the required front, ~~rear~~, both side yards, and sum of the side yards setbacks, and to ~~exceed the maximum projection 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 1, 2, 3, 5, 6, 7, 9, 12, 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 865 North Shore Drive shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. The 70% limitation for the second floor volume shall be waived as proposed.
 - b. The proposed increase in height shall be permitted as proposed; the maximum height of the structure shall be 25'-8" for the flat roof portion containing the roofdeck when measured from BFE + freeboard (1'-0").
 - ~~c. The (west) side open space requirement shall be waived as proposed.~~
 - d. The stone cladding proposed along the façades of the residence shall consist of a natural keystone 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 and color selection of the vertical "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.
 - f. The architect shall further refine all of the elements within the required yards to comport with the projection or comply with the setbacks 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.
 - g. 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
 - h. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
 - i. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding plans shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plans shall comply with Chapter 26-Landscape Requirements of the Miami Beach Code and shall incorporate the following:
- a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be

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

- b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
- c. Prior to any site demolition work, a tree protection fence following the City standard shall be installed for trees scheduled to remain subject to the review and approval of the City Urban Forester.
- d. Any necessary root and tree branch pruning with a diameter at breast height (DBH) of 2" or greater shall be approved by the City Urban Forester prior to any tree work.
- e. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
- f. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
- g. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- h. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- i. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- j. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- k. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.

- l. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
- m. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right-of-way shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- n. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the City Administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
 - 1. A variance to reduce by 2'-5" the minimum required interior side setback of 10'-0" in order to construct a two-story home with planters up to 7'-7" from the west (side) property line.
 - 2. A variance to reduce by 2'-6" the minimum required interior side setback of 10'-0" in order to construct a two-story home with planters at 7'-6" from the east (side) property line.
 - 3. A variance to reduce by 4'-11" the minimum required sum of the side yards of 20'-0" in order to construct a two-story home and provide a sum of the side yards of 15'-1".
 - 4. A variance to reduce by 10'-0" the minimum required front setback of 30'-0" for a two-story structure in order to construct a single family home at 20'-0" from the front property line.
- B. The applicant has submitted plans and documents with the application that satisfy

Article 1, Section 2 of the Related Special Acts, allowing the granting of 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 indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

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

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

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

C. The Board hereby **Approves** the Variance requests, 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. Any future addition following the non-conforming side setbacks and sum of the side setbacks herein approved would require approval of the Design Review Board.
3. The slab projecting into the side setback shall comply with the maximum elevation allowed.

4. The property shall comply with the minimum and maximum yard elevations.

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 "Normandy Island Residence" as prepared by **CMA Design Studio, Inc.**, dated, signed and sealed on 07/27/2018, 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.

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