

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: November 06, 2018

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB18-0325
15 East San Marino Drive

DRB18-0325, 15 East San Marino Drive. The applicant, 15 San Marino LLC, is requesting Design Review Approval for the construction of a new two-story single-family residence to replace an existing two-story architecturally significant pre-1942 residence including one or more waivers, and variances from the required rear setback and to exceed the maximum allowable encroachment into required yards.

RECOMMENDATION:

Approval with conditions

Denial of the variances.

LEGAL DESCRIPTION:

Lot 2 and 5'-0" strip adjacent 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: 13,406 SF
Lot Coverage:
Existing: ~3,160 sf / 23.5%
Proposed: 3,345.4 SF / 24.9%
Maximum: 4,021.8 SF / 30%
Unit size:
Existing: 4,745 / 35.3%
Proposed: 6,616.3 SF / 49.3%*
Maximum: 6,703 SF / 50%
2nd Floor Volume to 1st: N/A < 25%
Grade: +6.17' NGVD
Flood: +9.00' NGVD
Adjusted Grade: +7.58' NGVD
30"(+2.5') above Adj Grade: +10.0' NGVD
First Floor Elevation: +13.67' NGVD
(BFE +4.67' FB)

***As per architect's plans**

Height:

Proposed: **25'-6" flat roof** from BFE +4.67'

Maximum: 24'-0" flat roof

***DRB WAIVER**

EXISTING STRUCTURE:

Year Constructed: 1938
Architect: David Ellis
Vacant: No
Demolition Proposed: Full

SURROUNDING PROPERTIES:

East: Two-story 2017 residence
(B1301580)
North: Vacant (DRB0716-0041)
South: Biscayne Bay
West: Two-story 1929 residence

THE PROJECT:

The applicant has submitted plans entitled "San Marino Residence" as designed by **BRG STUDIO**, dated September 7, 2018.

The applicant is proposing to construct a new two-story residence on a waterfront property on the south side of San Marino Island that will replace an existing two-story architecturally significant pre-1942 residence.

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

1. The height of the proposed structure is **25'-6"** in accordance with Section 142-105(b).

The applicant is also incorporating the use of mechanical lifts:

Sec. 130-38(4)(b) Single-family homes utilizing up to **three mechanical lifts** may be approved by the design review board or historic preservation board, as applicable.

The applicant is requesting the following variance(s):

1. A variance to reduce up to 12'-4" the minimum required rear setback of 27'-0" in order to construct a two-story residence at a minimum of 14'-8" from the rear 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:

(3) Rear: The rear setback requirement shall be 15 percent of the lot depth, 20 feet minimum, 50 feet maximum.

A continuous, outdoor covered terrace at the first and second levels is proposed along the entire rear elevation of the new residence. The proposed terrace extends from the enclosed floor and wraps around towards the south side in a "L" formation at both levels. A northern wall and a multi-level spiral stair in the side provide the structural posts to support the wide cantilevered terrace on the ground floor. Portions of the terrace extend into the required 27'-0" rear yard setback from a varying distance ranging from 3'-1" at the north to 12'-4" at the south due to rectangular shape of the terrace against the pie-shaped curve of the parcel. As designed, this architectural element does not qualify under Section 142-1132(o) of the City Code as a 'projection' and, therefore, must be analyzed as an extension of the principal structure. The City Code does allow for unclosed balconies to extend into required yards - up to 25% of the required setback. It also allows ground floor porches, platforms and terraces to encroach into required yards but those elements cannot extend 30" above adjusted grade (no higher than 30"). In this design, the rear feature includes vertical support elements and does not meet the definition of a balcony, ("*Balcony* means a platform that projects from the wall of a building,") but instead a covered terrace, ("*Terrace* means a platform that extends outdoors from a floor of a house serving as an outdoor living space, and which may not be covered."). Because of the height, and significant extension of the terraces at the first and second floor, a rear setback variance for the principal residence is required.

As the overall design of the rear portion of the residence is created by the specific scheme of the home for new construction on a vacant site, it is not considered a practical difficulty to comply with the Code requirements. Staff finds that the variance request is triggered by the specific design of the home, and therefore, it does not satisfy the criteria for the granting of a variance. For this reason, staff recommends **denial** of the applicant's request. There is no practical difficulty or hardship.

2. A variance to exceed by 6'-4" the maximum projection of 6'-0" for allowable structures in required yards in order to construct a roof overhang up to 12'-4" within the required rear yard of 27'-0".

- Variance requested from:

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

(o) Projections: In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25% of the required yard up to a maximum projection of 6'-0", unless otherwise noted.

(7)Roof overhangs.

This variance pertains to the roof that covers the terrace at the rear of the property. The maximum projection allowed for roof overhangs is 6'-0" and at its most extreme encroachment, the roof extends 12'-4" into the rear yard for a portion of the a triangular area of terrace towards the south of the property. The roof projection exceeds more than double the maximum allowance by the Code. As above, this is a design element of the home that can be easily modified.

First, the plan proposes a front setback of 36'-6" where the Code requires 30'-0" for two-story structures. The residence could be shifted 6'-6" away from the waterside of the parcel to begin to minimize the variance request. Also, a large open area at the front of the entrance to the structure, with an extensive water feature, can be modified and reduced in order to shift the terrace element inwards at the southern portion away from the water or change its configuration to align with the arc of the rear property line. Alternatively, the roof overhang could be reduced to the maximum 6'-0" allowed. There are other numerous outdoor areas proposed on the sides of the home at the ground level and at the roof level that can be altered. Staff recommends that the roof overhang be reduced to comply with the Code. Staff finds that the variance request is triggered by the specific design of the home, and therefore, it does not satisfy the criteria for the granting of a variance. For this reason, staff recommends **denial** of the applicant's request. There is no practical difficulty or hardship.

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:

- 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 **through DRB approval** in accordance with the applicable design review criteria. **The applicant is requesting a height of 25'-6" from BFE +4'.6" for the second floor roofline, which will require a waiver from the DRB.**
- Height exceptions: (f.) Elevator bulkheads shall be located as close to the center of the roof as possible and be visually recessive such that they do not become vertical extensions of exterior building elevations.

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

Not Satisfied; the applicant is requesting two (2) variances and one (1) 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 contemporary residence on a waterfront lot on along the southern portion of San Marino Island that will replace an existing two-story architecturally significant pre-1942 residence. 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 modern residence features a well-realized material palette of contrasting coral stone finishes, warm wood tone cladding and vertical screening elements, and abundance of natural landscaping features incorporated onto and around the all sides of the proposed residence. Each of the four elevations contains a mastered balance of these elements. Staff commends the design team on the architectural richness of the finishes of the exterior of the residence. The rectilinear massing of the residence, as sited on the pie-shaped parcel, creates multiple opportunities for extensive outdoor living areas. The design incorporates a two-story elevated home proposed at BFE +4.67fb, or 13.67' NGVD with an extensive continuous rear terrace element.

The first design waiver pertains to the height of the residence. The maximum building height in the RS-3 zoning district is 24'-0" for flat roofed structures. However, in the RS-3 zoning district the DRB may approve a building height of up to 28'-0" for flat roofs. The architect is seeking a height of 25'-6" for the new two-story residence, as measured from BFE +4'-6". The subject site contains a lot area of 13,406 SF, which is 30% above the minimum lot area required for RS-3 lots (10,000 SF). The waiver is intended for larger lots in the RS-3 districts that closely resemble lot sizes in the RS-1 (30,000 SF) and RS-2 (18,000 SF) zoning districts. Although the subject property does not meet these larger lot area thresholds, staff

is supportive of the full 1'-6" in height since the majority of the massing and volume of the residence is configured towards the rear of the pie-shaped waterfront parcel.

Additionally, the neighboring waterfront property to the northeast of the subject property was the south half of a Division of Land/Lot Split application approved by the Planning Board on September 23, 2008, pursuant to PB1833. The residence thereupon, built in 2017, was constructed with a side setback of 9'-0" to the shared property line of the subject property and contains a relatively featureless two-story elevation, with the exception of one second floor ribbon window, constructed at 27'-4" from Grade (7.4' NGVD) as the subject property's closet neighbor. The proposal in this design configuration is setback 10'-6" along its northeast side, which would create a nearly 20'-0" side separation between the two contemporary structures. The neighboring waterfront property to the southwest of the subject property is a two-story architecturally significant residence built in 1929. The proposal in this design configuration is setback 12'-2" along its southwest side with a saw-tooth shaped site plan along this side of the parcel that zig zags along the angled pie-shape of the subject property and minimizes its massing's impact on the neighboring property. As such, staff is supportive of the requested height.

The applicant is proposing the use of mechanical lifts within the one-story garage. The approval will allow the applicant to store up to four vehicles (two 'stackers') within the 14'-6" high, one-story enclosure setback 36'-6" from the front property line. The garage elevation has been configured above BFE at 9.17' NGVD and has been designed with a green roof in order to soften its overall appearance. Staff has no objection to the use of the mechanical parking lifts since the proposed infrastructure is fully enclosed within the residence and will not be visible from any exterior view. The proposed residence also features an elevator located in the northeastern portion of the siteplan proximate to the side open space "courtyard" at along the western façade that accesses the habitable roof deck. The Code requires that elevator [bulkheads] be located as close to the center of the roof [floorplan] as possible and be visually recessive such that they do not become vertical extensions of exterior building elevations. The elevator is not located central to the residence and although the vertical element does become part of the side (west) elevation, it is offset by about 10'-0" deep courtyard recess on both levels with an exterior wall clad by a living green wall. In this instance, staff has no objection to the location of the elevator.

Staff's primary concern from a zoning and design standpoint pertain to the rear waterfront elevation. As previously mentioned, the majority of the massing and volume of the residence is configured towards the rear of the pie-shaped parcel. The applicant has incorporated a continuous two-level covered terrace along the entirety of the back façade, this brings the residence closer to the water in order to capitalize on the vistas of Biscayne Bay. The required rear yard setback is 27'-0" and the design herein proposes to reduce that amount by nearly half to about 14'-0" for a two-story waterfront home that seeks an additional height waiver for. In this instance, the inclusion of the rear terrace element, with its wide overhangs, serve to greatly exacerbate the volume and massing of the residence when viewed from the waterway (see variance requests under the 'Project' description of the analysis). Staff recommends that the design of the replacement home be approved with the exception of the rear façade (see below).

VARIANCE ANALYSIS:

As identified under the 'Project' description of the analysis, the variances being requested pertain to terraces and encroachments located within the required rear yard of the property, which is 27'-0" (15% of the lot depth) in this instance. The Code allows encroachment of balconies, terraces and porches up to 25% of the length of the required yard up a maximum of 6'-0". Two variances are associated with the terraces at the first and second floor and roof overhang that encroach equally on the rear yard at 3 levels. As a new construction on a potentially vacant waterfront lot, with a total lot area of 13,400 SF there are absolutely no practical difficulties for the approval of the variances. They are not the minimum variance necessary to make a reasonable use of the property and they are intrinsically related to the specific design chosen for the residence which all could be easily modified to comply with all of the underlying Code requirements. The granting of these variances would confer a benefit to the applicant that is not permitted for other single family properties.

Staff would also note that if the terrace at the first and second floor would not have a vertical support at the ground level, the second floor 10'-wide covered terrace would be considered as a cantilever balcony, in which case, the area exceeding 6'-0" would have to be counted in the unit size, resulting in an excess of the maximum 50% unit size allowed and the applicant would have to reduce the size of the balcony or request an additional variance.

Based on this analysis, staff would recommends denial of the variance requests and a redesign of the rear of the property including the reduction of the terraces out of the rear yard, or be redesigned as true balconies so that they may along with the roof overhangs comply with a maximum 6'-0" of projection.

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/IV

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 06, 2018

FILE NO: DRB18-0325

PROPERTY: **15 East San Marino Drive**

APPLICANT: 15 San Marino LLC.

LEGAL: Lot 2 and 5'-0" strip adjacent 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 an existing two-story architecturally significant pre-1942 residence including one or more waivers, and variances from the required rear setback and to exceed the maximum allowable encroachment into 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, 4, 5, 6, 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 15 East San Marino Drive shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. The design of the rear of the residence **shall not be** approved as proposed. The residence shall be designed to comply with all of the rear yard setback and encroachment requirements.
 - b. The use of up to three (3) mechanical lifts **shall be** permitted within the enclosed garage.
 - c. The proposed increase in height **shall be** permitted as proposed; the maximum height of the structure shall be 25'-6" when measured from BFE + freeboard (4.67' NGVD).
 - d. The location of the elevator **shall be** permitted as proposed.
 - e. All required yards shall comply with the minimum yard elevations.
 - f. The stone cladding proposed along the façades of the residence identified as "oolite coral" and "split faced coral" shall consist of a natural coral stone or other natural stone, a material sample of the finish and color 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.
 - g. The final design details and color selection of the "cumaru wood" 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.
 - h. 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.
 - i. 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.
 - j. 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 up to 12'-4" the minimum required rear setback of 27'-0" in order to construct a two-story residence at a minimum of 14'-8" from the rear property line.
 - 2. A variance to exceed by 6'-4" the maximum projection of 6'-0" for allowable structures in required yards in order to construct a roof overhang up to 12'-4" within the required rear yard of 27'-0".
- B. The applicant has submitted plans and documents with the application that **DO NOT** satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also **DO NOT** indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

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

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

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

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

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

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

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

C. The Board hereby **Denies the requested variance(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 residence shall be designed to comply with the rear setback requirements.

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 "San Marino Residence" as designed by **BRG STUDIO**, dated September 7, 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_____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____

