

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: December 04, 2018

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: DRB18-0301  
**121 4<sup>th</sup> San Marino Terrace**

**DRB18-0301, 121 4<sup>th</sup> San Marino Terrace.** The applicants, Maria Verneza Trujillo and Fabrizio Yannuzelli Vernaza, are requesting Design Review Approval for the construction of a new two-story residence to replace an existing two-story architecturally significant pre-1942 residence including one or more waivers, and variances from the front, and interior side for a principal structure, and variances from the required front setback for a pool and associated pool deck.

#### **RECOMMENDATION:**

Approval with conditions

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

#### **HISTORY:**

On October 02, 2018, the DRB reviewed and continued the application to December 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.

#### **LEGAL DESCRIPTION:**

Lot 3 of Block B, Address Resubdivision of Block "B"-San Marino Island According to the Plat Thereof, as recorded in Plat Book 39, Page 17, of the Public Records of Miami-Dade County, Florida.

#### **SITE DATA:**

Zoning:	RS-4	Grade: +4.73' NGVD
Future Land Use:	RS	Flood: +9.00' NGVD
Lot Size:	7,342 SF	Difference: 4.27'
Lot Coverage:		Adjusted Grade: +6.865' NGVD
Existing:	2,105 SF / 28.7%	30" (+2.5') Above Grade: +7.23' NGVD
Proposed:	<del>2,279 SF / 31.0%</del>	First Floor Elevation: +10.00' NGVD
	<b>2,199 SF / 30%</b>	(BFE +1' FB)
Maximum:	2,202 SF / 30%	
Unit size:		Height:
Existing:	2,105 SF / 28.7%	Maximum: 24'-0" flat roof
Proposed:	<del>~3,648 SF / 49.6%</del>	Proposed: 24'-0" flat roof
	<b>3,516 SF / 48%</b>	
Maximum:	3,671 SF / 50%	
2 <sup>nd</sup> Floor to 1 <sup>st</sup> :	2119/1761   83%*	
	*DRB WAIVER	

#### **EXISTING PROPERTY:**

Year: 1936  
Architect: Igor P. Polevitzky  
Vacant: No  
Demolition: Full

**SURROUNDING PROPERTIES:**

East: One-story 1939 residence  
North: Two-story 2016 residence  
South: One-story 1939 residence  
West: Two-story 2016 residence

**THE PROJECT:**

The applicant has submitted plans entitled "121 4th San Marino Terrace Residence" as designed by **ARM Architect, P.A.**, signed, sealed, and dated 10/08/18.

The applicant is proposing to construct a new two-story residence on an interior parcel on the northern side of San Marino Island.

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

1. The second floor's physical volume exceeds 70% of the first floor in accordance with Section 142-105(b)(4)(c).
2. A two-story side elevation more than 60'-0" in length in accordance with Section 142-106(2)(d).

The applicant is requesting the following variance(s):

1. A variance to reduce by 4'-2" the minimum required front setback of 30'-0" for a two-story single-family home in order to construct a two-story residence at 25'-10" from the front property line facing 4<sup>th</sup> San Marino Terrace.
2. A variance to reduce by 2'-6" the required interior side setback of 10'-0" in order to construct a two-story home at 7'-6" from the interior side (east) property line.

- 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:*

- (1) Front yards: The minimum front yard setback requirement for these districts shall be 20'0. (b) Two-story structures shall be setback a minimum of an additional 10'-0" from the required front yard setback line.*

*(2) Side yards:*

*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 is a triangular corner lot with no rear property line. The front of the property is along 4<sup>th</sup> San Marino Terrace with a lot width of 91'-7". The street side requires a setback of 15'-0" to the principal structure while the interior side requires a setback of 10'-0". Both side yards combined required a sum of the side yards setback of 25'-0". The proposed home has been designed with the main entrance on San Marino Drive. Since the October

02, 2018 DRB meeting, the architect has revised the site plan and pushed back the residence further “into” the site. Previously a varying street side setback was proposed that at its closest point to the street, requested a reduced setback of 10'-6". Now, the proposal not only complies with this radial setback, in most instances along the side street façade, greatly exceeds the minimum distance, at its closest point the side street setback is 17'-6". The applicant still proposes an interior side setback of 7'-6", where 10'-0" is required, which is a significantly larger requirement than the typical 7'-6" interior side yard setback common to most dry lots in this residential zoning district and with similarly sized lots. This results in a practical difficulty that other surrounding properties do not have. Further, the two-story residence now complies with the sum of the side setbacks (17'-6" + 7'-6" = 25'-0"), eliminating a variance previously requested. Based on this analysis, staff is supportive of variance # 2.

The functional rear of the property has been conceived along the technical front including a covered terrace, pool and pool deck. Due to the unusual site configuration and long street side property line, staff finds that it is challenging to design a new home on this irregularly shaped parcel. 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 the prior version of the design, the two-story residence complied with the front 30'-0" setback. The revised design displays a concerted effort to address both the Board's concerns and recommendations by Planning staff, and moves the massing into the required front setback, triggering a new variance request for front setback reduction. The revised design is setback 25'-10" in an effort to minimize the massing along the street side façade on San Marino Drive by moving closer to the front street of 4<sup>th</sup> San Marino Terrace.

In light of the practical difficulties associated with the lot configuration and lot width, staff is supportive of variances #1 and #2.

3. A variance to reduce by 10'-0" the minimum required 20'-0" setback from the front property line to a pool in order to allow a setback of 10'-0" from the front property line to the pool facing 4th San Marino Terrace.
4. A variance to reduce by 10'-0" the minimum required 20'-0" setback from the front property line to the pool deck in order to allow a setback of 10'-0" from the front property line to the pool deck facing 4th San Marino Terrace.

- Variances requested from:

**Sec. 142-1133. Swimming pools.**

*This section applies to swimming pools in all districts, except where specified. Accessory swimming pools, open and enclosed, or covered by a screen enclosure, or screen enclosure not covering a swimming pool, may only occupy a required rear or side yard, provided:*

Pools and pool decks are not permitted within the front yard in single family districts, except for single family properties with a double-frontage where a 10'-0" setback is allowed in the

functional rear yard. Since pools and pool decks are typically not an essential component that restricts the reasonable use of a single family property, variances from the required setbacks are difficult for staff to provide a favorable recommendation, and specifically so in the case of new single family home construction. However, staff finds that practical difficulties exist in this case based on the triangular shape of the property, its location on a street side that requires larger setbacks than interior lots, the lot width of 91'-7', and that the property has no technical rear. In addition, staff believes that the proposed project satisfies the concerns and direction provided by the Board at the October 02, 2018 DRB meeting. As such, staff recommends approval of variances #3 and #4.

**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. 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 2<sup>nd</sup> Floor Volume to 1<sup>st</sup> of 80% with a 31% lot coverage – a lot coverage greater than the maximum 30% allowed by code; refer to variances being sought - that will require a waiver from the DRB.**
2. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard:
  - a. **The additional open space shall be** regular in shape, **open to the sky from grade**, and at least eight feet in depth, measured perpendicular from the minimum required side setback line.
  - b. The square footage of the additional open space shall not be less than one percent of the lot area. The open space provided along a side elevation in accordance with this subsection, whether required or not, shall not be included in the lot coverage calculation provided that the combined depth of the open space, as measured from the required side setback line(s), is less than 30 percent of the maximum developable building width of the property, as measured from the interior setback lines, and the total open space provided does not exceed five percent of the lot area. Any portions of the interior side yard open space in excess of five percent of the lot area shall be included in the total lot coverage calculation.
  - c. **The elevation (height) of the open space provided shall not exceed the maximum permitted elevation height of the required side yard, and**
  - d. At least 75 percent of the required interior open space area shall be sodded or landscaped with pervious open space.
3. 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.  
**Satisfied**
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.  
**Not Satisfied; the applicant is requesting four (4) setback 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) setback 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.  
**Not Satisfied; the applicant is requesting four (4) setback variances and two (2) 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 four (4) setback 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) setback variances and two (2) 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 four (4) setback 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.

**Not Applicable**

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

**Not Applicable**

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

**Not Satisfied; 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 applicants are proposing to construct a new two-story residence on an interior parcel on the northern side of San Marino Island that will replace an existing pre-1942 architecturally significant one-story residence. The proposed project is seeking relief from multiple aspects of the zoning code resulting in seven variances and two design waivers as part of this application.

This item was previously presented at the October 02, 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 the lot coverage limitation (30%) for two-story residences and the height has been reduced to comply with the maximum allowable height for roof curbs (1'-0"). Further, the architect has shifted the massing of the residence southernly to allow for it to comply with the required street side setback (west) of 15'-0' and the required sum of the side yards of 25'-0". By pushing the building back from the arced side street along West San Marino Drive, significant relief has been provided to mitigate the volume from looming over the compromised street side setback. Consequently, a front setback variance is now requested where originally the two-story residence complied with the 30'-0" requirement; but as proposed, the plan modification balances the overall massing within the site in a much more equitable distribution.

As indicated previously, the 7,342 SF subject property is an extremely challenging parcel, a scalene triangular-shaped corner lot at the intersection of West San Marino Drive and 4<sup>th</sup> San Marino Terrace. It is the westernmost of three dry lots at the north end of San Marino Island, together forming a half pie-shaped terminus for the island's interior, dry lots. To the west, the site has a side yard facing a street, San Marino Drive; a front yard facing 4<sup>th</sup> San Marino Terrace and one interior side yard that abuts its sole neighbor to the east. Given the geometric constraints of the site coupled with the stringent zoning requirements for street fronting properties, the applicant proposes a contemporary two-story home with a front entrance to San Marino Drive. As a result, the design places the pool, and other "backyard"

features such as decking, in the site's technical front yard for zoning purposes.

The shape of the site informs the proposed design of the residence. The outcome is a nearly diamond-shaped massing with additional small facets that mitigate potential sharp angled edges. The home is predominately finished in stucco with floor-to-ceiling bronze, metal-framed window systems that are framed by horizontal concrete eyebrows and brises soleils; providing an otherwise cubical home with planar definition and movement. Bookending the front entrance, as well as softening an angle along the main residential façade, is a stone clad tower, with long louvered openings, that introduces verticality to the design.

The applicant is seeking two design waivers. The first waiver pertains to the second floor to first floor ratio. Since the proposed residence has a lot coverage that exceeds 25%, any second floor is restricted in massing to 70% of the first floor unless a waiver is sought by the Design Review Board. As proposed, the home has a second floor to first floor ratio of 83% where the Code limits the ratio to 70%. When reviewing the second floor volume waiver request, staff takes into account several factors that include design, lot coverage, and overall building massing. The overall design has eliminated four previously requested variances and contains a reduction by 1% for both lot coverage and unit size. Due to the unique geometry of the site, the subject property contains only one abutting neighbor. The home's second floor massing has been shifted away from both streets in order to minimize impact on its neighboring properties. As such, staff does support the requested waiver.

The second waiver that the applicant is requesting pertains to the two-story side elevation located parallel to the east, interior side property line. The Code requires that two-story elevations shall not run uninterrupted for 50 percent of the lot depth, or 60'-0", whichever is less, without incorporating additional open space. The proposed design has a two-story elevation that, by the strictest definition, spans a total of 63' without incorporating open space. The design features a 51'-0" long, two-story elevation parallel to the side property line that "bends" away from the property line at approximately a 45 degree angle for 12'-0". While the end of the elevation does shift planes, providing some relief from the long side elevation, it does not comply with the code requirement without a waiver. Staff finds that design of the interior side elevation does provide a sufficient break in the long façade. As such, staff does support the second design waiver.

Overall, the applicant has produced an attractive architectural design on an extremely challenging site 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 two design waivers.

#### **VARIANCE ANALYSIS:**

A new two-story residence is proposed on a corner property with very challenging geometry. Staff was not supportive of the original application as designed, due to the impact of the overall number of variances and waivers requested that would contribute to a project that was not compatible with the mass and character of the immediate area and would truly overwhelm the irregularly shaped property. Based on the concerns discussed at the October 02, 2018 DRB meeting, the Board found merit in the design, and gave direction as to the general variances that would be supportive. The revised design without question, reduces the impact that was originally conceived. The applicant is requesting four (4) variances fundamentally related to the specific building envelope and pool location.

As noted in the 'Project' section of this report, staff is supportive of variances #1 and #2 considering the irregular shape of the property, the increase on the required side setbacks due to the corner location. The proposed reduce setback is consistent with the setback of a 60-foot wide lot typical for many of the surrounding properties in the area.

Staff is also supportive of the remaining variances pertaining to the pool and deck in the required front yard. The two elements are traditionally located within rear yards, however, in this instance, due to the scalene shape of the subject property, there is no rear yard for zoning purposes. Under the utilization for exceptions to single family properties with double-frontages, a 10'-0" minimum setback is allowed in the functional rear yard. Based on this analysis and direction by the Board at the October 02, 2018 DBR meeting, staff is supportive of variance #3 and #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

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

MEETING DATE: December 04, 2018

FILE NO: DRB18-0301

PROPERTY: **121 4<sup>th</sup> San Marino Terrace**

APPLICANTS: Maria Verneza Trujillo and Fabrizzio Yannuzelli Vernaza.

LEGAL: Lot 3 of Block B, Address Resubdivision of Block "B"-San Marino According to the Plat Thereof, as recorded in Plat Book 39, Page 17 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 residence to replace an existing one--story architecturally significant pre-1942 residence including one or more waivers, and variances from the front, and side setbacks for a principal structure, and from the required front setback for a pool.

**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, 4, 5, 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 121 4<sup>th</sup> San Marino Terrace 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 (north) side open space requirement **shall** be waived as proposed.
  - c. The required front yard shall be redesigned to comply with the 50% open space requirement.
  - d. All required yards shall comply with the minimum yard elevations.
  - e. The mechanical equipment area proposed along the second floor projecting balcony encroaching into the side yard is not an allowable encroachment. The horizontal slats along the south edge of the balcony shall be reduced in height to a railing height (except along the ac equipment) or the slab shall comply with the building setbacks.
  - f. 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.
  - g. The final design details and color selection of the vertical and horizontal “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.
  - 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 by 4'-2" the minimum required front setback of 30'-0" for a two-story single-family home in order to construct a two-story residence at 25'-10" from the front property line facing 4th San Marino Terrace.
  - 2. A variance to reduce by 2'-6" the required interior side setback of 10'-0" in order to construct a two-story home at 7'-6" from the interior side (east) property line.
  - 3. A variance to reduce by 10'-0" the minimum required 20'-0" setback from the front property line to a pool in order to allow a setback of 10'-0" from the front property line to the pool facing 4th San Marino Terrace.
  - 4. A variance to reduce by 10'-0" the minimum required 20'-0" setback from the front property line to the pool deck in order to allow a setback of 10'-0" from the front property line to the pool deck facing 4th San Marino Terrace.

- 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 requested variances 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 two-story residence shall be redesigned to comply with all of the underlying setback requirements, with the exception of the variances granted herein.

**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 and 10' of the required street side 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 "121 4<sup>th</sup> San Marino Terrace Residence" as designed by **ARM Architect, P.A.**, signed, sealed, and dated 10/08/18, 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\_\_\_\_\_.

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