

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: January 02, 2019

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB18-0343
3746-3750 Royal Palm Avenue

An application has been filed Design Review Approval for the construction of a new two-story addition to an existing architecturally significant pre-1942 two-story residence on the southern lot that will replace the existing architecturally significant pre-1942 two-story residence on the northern lot, including one or more waivers and variances to exceed the maximum projection allowed for habitable additions and to reduce the minimum required sum of the side yard setbacks.

RECOMMENDATION:

Approval with conditions

HISTORY:

On October 01, 2018, owner of 3746 Royal Palm Avenue (south lot) requested a formal determination of architectural significance with Section 142-108(a) of the City Code from the Planning Department. The residence was found to satisfy all four criteria and therefore determined to be 'architecturally significant', pursuant to DRB18-0338.

LEGAL DESCRIPTION:

Lots 6 and 7 of Block 52 of Orchard Park Subdivision 2 and 3 According to the Plat thereof as recorded in Plat Book 8 Page 116, of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-4
Future Land Use: RS
Lot Size: 15,000 SF
Lot Coverage:
Proposed: 5,900 SF / 39.3%
Maximum: 6,000 SF / 40%
Unit size:
Proposed: 6,938 SF / **46.25%**
Maximum: 9,000 SF / **60%**
Height:
Maximum: **27'-0" sloped**
Proposed: **24'-8" sloped roof**

Grade: +3.6' NGVD
Base Flood Elevation: +8.00' NGVD
Difference: 4.4'
Adjusted Grade: +5.8' NGVD
30" (+2.5') Above Grade: +6.1' NGVD

First Floor Elevation: +9.00' NGVD
(BFE+1' FB)

EXISTING STRUCTURES:

3746 Royal Palm Avenue (south lot)
Year Constructed: 1935
Architect: Robert Little
Demolition Proposed: Minor
3750 Royal Palm Avenue (north lot)
Year Constructed: 1937
Architect: Wm. McCarty
Demolition Proposed: Full

Surrounding Properties:

East: One-story residence
North: One-story residence
South: One-story residence
West: One-story residence

THE PROJECT:

The applicant has submitted plans entitled "3746-3750 Royal Palm Residence" as designed by **ig Architecture and Planning** dated 05/23/18.

The applicant is proposing to substantially add onto one of the existing residence with a new two-story addition on two combined lots.

The applicant is requesting the following variance(s):

1. A variance to exceed by 19% (3'-10") the maximum projection of 25% (5'-0") within the required interior (north) side yard of 20'-1" in order to construct a two-story addition at 11'-3" from the property line and 44% (8'-10") projection within the north side yard.

- Variance requested from:

Sec. 142-108. - Provisions for the demolition of single-family homes located outside of historic districts

(g) New construction requirements for properties containing a single-family home constructed prior to 1942.

2) Regulations for additions to architecturally significant homes which are substantially retained and preserved. In addition to the development regulations and area requirements of section 142-105, of the land development regulations of the City Code, the following shall apply in the event an architecturally significant single-family home constructed prior to 1942 is substantially retained and preserved. In the event of a conflict between the provisions of section 142-105, 142-106 and section 118-252, and the regulations below, the provisions herein shall control:

j.Projections. Habitable additions to, as well as the relocation of, architecturally significant structures, may project into a required rear or side yard for a distance not to exceed 25 percent of the required yard, up to the following maximum projections:

1. Interior side yard: Five feet.

When architecturally significant homes constructed prior to 1942 are substantially retained and restored, the Code allows for new additions to encroach up to 25% into the required side and rear yards, among other benefits. The two-story architecturally significant single family home on the south side is proposed to be renovated, including a new attached two-story addition on the north side. The majority of the available floor area is placed on the new structure to minimize the impact on the significant home. In this case, as an allowable projection, the addition shall be setback 15'-1" or 25% of the required setback, which for the north side is 20'-1" to balance for the difference to make the sum of both sides 25% of the lot width or 25'-0". The project proposes the new side setback at 11'-3" that requires a variance. This setback, though, is larger than the 7'-6" required side setback of the surrounding properties with a lot width of 50'-0". Due to the combination of two 50-foot wide lots, the minimum required side setback is 10'-0". Staff has no objection to this variance request since it allows the expansion of an architecturally significant home with minimal impact on the original structure. Staff would also note that the rear setback of 41'-6" on the north side and 53'-11" on the south side are significantly larger than the 22'-6" rear setback

required for this property. The lot width of the property and the retention of the significant home with its non-conforming side setback create the the practical difficulties that result in the need for the variances requested.

2. A variance to reduce by 3'-10" the minimum required sum of the side setbacks of 20'-0" in order to construct a two-story addition and provide a sum of the side setbacks of 16'-2".
 - 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:

(2)Side yards:

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

This variance is linked to variance #1 that reduces the side setbacks and consequently the sum of both side setbacks. Due to the size of the property containing 2 single lots, the required sum of the side setbacks is substantially increased in reference to a single 50-foot wide lot, as is typical in the surrounding area. Based on the lot width of 100', the sum of both side setbacks would have to be at least 25'-0" for a new single family home compared to the 15'-0" required for a lot 50 feet in width. As the property contains an architecturally significant home the new addition could also extend up to 25% into the required side setback, as noted on variance #1. This allowance reduces the sum of the side setbacks for additions from the sum of the side setbacks required for new construction. As the design of the addition to the home is impacted with larger setbacks than other single lots in the single family district, staff finds that there are practical difficulties associated with the size and lot width of the property as well as the retention of the home significantly unaltered that create the variance requested.

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, 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. **In this case, the requested variances are necessary in order to satisfy the Design Review Criteria and not to adversely impact the existing significant pre-1942 home.**

Additionally, staff has concluded that the plans and documents with the application comply with the following hardship criteria, 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:

- **Sec. 142-108. (g)** New construction requirements for properties containing a single-family home constructed prior to 1942. (2) Regulations for additions to architecturally significant homes which are substantially retained and preserved. In addition to the development regulations and area requirements of section 142-105, of the land development regulations of the City Code, the following shall apply in the event an architecturally significant single-family home constructed prior to 1942 is substantially retained and preserved.
- The following are the following aspects of the “incentive ordinance” that are utilized in the design herein:
 - a. *Lot coverage.* The total lot coverage may be increased to, but shall not exceed 40 percent
 - b. *Unit size.* The total unit size may be increased to, but shall not exceed 60 percent
 - c. *Two-story ground level additions.* The construction of a ground floor addition of more than one story shall be allowed to follow the existing interior building lines, provided a minimum side setback of five feet is met, and may be approved at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.
 - d. *Front setback.* Two-story structures or the second floor may encroach forward to the 20-foot front setback line,
 - e. *Projections.* Habitable additions to, as well as the relocation of, architecturally significant structures, may project into a required rear or side yard for a distance not to exceed 25 percent of the required yard.
- Maximum height of fences/walls is 7’-0 from CMB Grade *3.08’ NGVD not adjusted

grade 5.54'

- Existing equipment on the side of the accessory building does not comply with the required 5'-0" setback.

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 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 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 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 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 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 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 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 applicant is proposing to construct a new two-story addition to an existing two-story architecturally significant pre-1942 residence on two interior lots that will replace an existing two-story architecturally significant pre-1942 home. One of the existing homes (Lot 6 the southern parcel) is an architecturally significant one-story home constructed in 1935 while the other one-story home (Lot 7 the northern parcel) was constructed in 1937. The design will extend the existing residence onto the two combined parcels. On October 10, 2018, the residence located on the south lot (3746 Royal Palm Avenue) was determined to be 'architecturally significant', pursuant to DRB18-0338. This determination allows the owner to utilize certain zoning bonuses under the "incentive ordinance" portion of the zoning code. When an 'Architecturally Significant' home is retained and added onto, tangible zoning incentives that include increased height, increased lot coverage, and increased unit size allowances, among others, may be utilized. The proposed improvements include variances to reduce the side and sum of the side setbacks.

The new addition will follow the overall style of the retained two-story residence in the Mediterranean Revival - Art Deco Transitional style of architecture that was common in the 1930's. The home features many architectural features such as the keystone front door and window surrounds, multiple pitched hip roofs, rectilinear massing, and a decorative chimney. Overall, the proposed design responds well to the existing built context and is consistent with the architectural styles found throughout the neighborhood. Staff recommends that the design of the replacement home be approved.

VARIANCE ANALYSIS:

Two variances are necessary for the improvements on the property containing an architecturally significant home. The north side setback is proposed at 11'-3" where 15'-1" is required. In this case, additions can encroach up to 25% of the required side and rear yards. However, due to the large lot width of the property, the minimum setback requirement is larger than the side setback for additions in a typical 50-foot-wide single lot, which would be allowed a setback of 5'-7" for a 25% projection. The abutting property to the north is a 50-foot wide lot with a required side setback of 7'-6".

The addition is compatible with the scale and massing of the existing structure and has been sited in a manner to inflict the least alteration to the main house. The variances requested allows for the expansion of the home while maintaining its architectural significance and retaining its prevailing architectural features.

As noted in the project portion of this report, staff is supportive of all variances requested as the architecturally significant pre-1942 home is minimally altered with limited areas of demolition, and the unusual lot width of the property within the RS-4 district imposes larger setbacks than the typical setbacks for single lots in the single family district. In summary, staff recommends approval of the variances.

RECOMMENDATION:

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

TRM/JGM/IV

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: January 02, 2019

FILE NO: DRB18-0343

PROPERTY: **3746-3750 Royal Palm Avenue**

APPLICANT: Alexander Niemeyer and Christine Niemeyer

LEGAL: Lots 6 and 7 of Block 52 of Orchard Park Subdivision 2 and 3 According to the Plat thereof as recorded in Plat Book 8 Page 116, 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 addition to an existing architecturally significant pre-1942 two-story residence on the southern lot that will replace the existing architecturally significant pre-1942 two-story residence on the northern lot, including one or more waivers and variances to exceed the maximum projection allowed for habitable additions and to reduce the minimum required sum of the side yard setbacks.

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. A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department, in a manner to be reviewed and approved by staff.

2. Revised elevation, site plan, and floor plan drawings for the proposed new home at 3746-3750 Royal Palm Avenue shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. Any fence or gate at the front of the property shall be designed in a manner consistent with the architecture of the new structure, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - b. 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.
 - c. 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.
 - d. The final color selection and application of paint proposed along the facades of the residence shall be as depicted in renderings and shall be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - e. The final design details including color sample of the proposed “porcelain tile” cladding proposed along the façades of the residence shall be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - f. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
 - g. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
3. A revised landscape plan, and corresponding site plan, shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
 - a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.

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

- k. 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 wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- l. 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 exceed by 19% (3'-10") the maximum projection of 25% (5'-0") within the required interior (north) side yard of 20'-1" in order to construct a two-story addition at 11'-3" from the property line and 44% (8'-10") projection within the north side yard.
 2. A variance to reduce by 3'-10" the minimum required sum of the side setbacks of 20'-0" in order to construct a two-story addition and provide a sum of the side setbacks of 16'-2".
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

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

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

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

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

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

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

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

- C. The Board hereby **Approves** the Variance requests and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:
1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
 2. Any future addition following the non-conforming side setback of 4'-11" will require design Review Board approval.

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. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
 - E. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
 - F. 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.
 - G. 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.
 - H. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
 - I. Nothing in this order authorizes a violation of City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

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

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "3746-3750 Royal Palm Residence" as designed by **ig Architecture and Planning** dated 05/23/18, 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_____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

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

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

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

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

Approved As To Form:

City Attorney's Office: _____ ()

Filed with the Clerk of the Design Review Board on _____ ()