

# MIAMI BEACH

## PLANNING DEPARTMENT

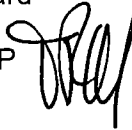
### Staff Report & Recommendation

### Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: February 12, 2019

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: HPB18-0247, **925 Lenox Avenue.**

An application has been filed requesting a Certificate of Appropriateness for the restoration of an existing 2-story building, the construction of a new, detached 3-story ground level addition and variances to reduce the required width, curb cut width and setback for a two way driveway, to reduce the required pedestal rear and side setbacks, and to reduce the required pedestal sum of the side yards.

#### **STAFF RECOMENDATION**

Approval of the Certificate of Appropriateness with conditions  
Approval of the variances

#### **BACKGROUND**

On May 12, 2015, the Board approved a Certificate of Appropriateness for the total demolition of an accessory structure, the restoration of an existing 2-story building, and the construction of a new, detached 3-story ground level addition, including variances to waive the required width, curb cut width and setback for a two way driveway, to waive the required pedestal rear and side setback, and to waive the required pedestal sum of the side yards (HPB 7498).

On July 12, 2016, the Board approved modifications to the previously issued Certificate of Appropriateness. Specifically, the Board approved a waiver from Section 118-564(f)(6) of the City Code allowing the applicant to demolish the Non-Contributing rear accessory structure prior to the approval of a full Building Permit for the replacement construction (HPB0416-0007).

At the same meeting, the Board approved a one year Extension of Time to obtain a Full Building Permit for a previously issued Certificate of Appropriateness.

On May 9, 2017, a Building Permit was issued for the Non-Contributing accessory structure. The structure was subsequently demolished.

A full Building Permit for the new 3-story addition was not obtained by November 12, 2017, and no additional extensions are possible at this time. Consequently, the applicant has submitted a new application requesting approval of the previously approved project.

### **EXISTING STRUCTURE**

|                          |                    |
|--------------------------|--------------------|
| Local Historic District: | Flamingo Park      |
| Classification:          | Contributing       |
| Original Architect:      | Lawrence W. Markes |
| Construction Date:       | 1941               |

### **ZONING / SITE DATA**

|                    |  |
|--------------------|--|
| Legal Description: | Lot 9, Block 120, Lenox Manor Re-subdivision, According to the Plat Thereof, as Recorded in Plat Book 7, Page 15, of the Public Records of Miami-Dade County, Florida. |
|--------------------|--|

|                              |   |
|------------------------------|---|
| Zoning:                      | RM-1, Residential Multifamily, low intensity            |
| Future Land Use Designation: | RM-1, Residential Multifamily, low intensity            |
| Lot Size:                    | 10,000 S.F. (Max FAR 1.25)                              |
| Existing FAR:                | 3,295 S.F.  |
| Proposed FAR:                | 11,425 S.F. / 1.14 FAR, as represented by the architect |
| Existing Height:             | 2-stories / ~25'-0"                                     |
| Proposed Height:             | 3-stories / 32'-3"                                      |
| Existing Use/Condition:      | Multifamily residential                                 |
| Proposed Use:                | Multifamily residential                                 |

### **THE PROJECT**

**The applicant has submitted plans entitled "Residence Detached Addition 925 Lenox Avenue" as prepared by 3 Design Architecture, dated November 5, 2018.**

The applicant is requesting a Certificate of Appropriateness for the restoration of an existing 2-story building and the construction of a new, detached 3-story ground level addition.

The applicant is requesting the following variances:

1. A variance to reduce 13'-10" from the minimum required width of 22'-0" for a two-way driveway, in order to construct a driveway for four (4) parking spaces with a minimum driveway width of 8'-2".

- Variance requested from:

#### **Sec. 130-64. Drives.**

**Drives shall have a minimum width of 22 feet for two-way traffic and 11 feet for one-way traffic.**

The new ground level addition at the rear of the property includes four parking spaces at the rear of the site. The access driveway is proposed on the south side where the current setback to the existing building is approximately 10 feet. The proposed new driveway will have a minimum width of 8'-2" where 22 feet is required. The variance request is triggered by the existing non-conforming side setback and the retention of the existing building which will be retained and restored. In addition, the site does not have alley access for an alternate driveway access. Staff finds that these conditions result in the need for the variance requested. As such, staff recommends approval of the variance #1.

2. A variance to reduce 3'-0" from the minimum required curb-cut and driveway entrance width of 12'-0", in order to construct a driveway for four (4) parking spaces with a driveway entrance and curb-cut width of 9'-0".

- Variance requested from:

**Sec. 130-64. Drives.**

*Drives shall have a minimum width of 22 feet for two-way traffic and 11 feet for one-way traffic. For those grade level parking areas with less than ten parking spaces, inclusive of those parking areas underneath a building or structure, the curb-cut and driveway entrance shall have a minimum width of 12 feet.*

A curb-cut at street level requires a minimum width of 12 feet for drives accessing less than 10 parking spaces. As proposed, the new driveway width is 8'-2" and the curb cut is proposed at 9'-0" in width. The current side setback of the building is 10'-6" which limits the width of the proposed access driveway. The north side of the property is not suitable for vehicle access as the building has a non-conforming side setback of 5 feet. As the site contains a contributing building which imposes additional restrictions to accommodate the new residential addition, staff has no objection to this request and recommends approval of variance #2.

3. A variance to reduce 3'-6" from the minimum required interior side setback of 5'-0" for a driveway in order to construct a new driveway on the south side at 1'-6" from the interior property line.

- Variance requested from:

**Sec. 142-156. Setback requirements.**

*(a) The setback requirements for the RM-1 residential multifamily, low density district are as follows:*

*At-grade parking lot on the same lot except where (c) below is applicable, Side Interior: 5 feet, or 5% of lot width, whichever is greater.*

The parking area including the driveway is not permitted closer than 5'-0" from the side property line. Due to the reduced setback of 10'-6" feet, the new driveway, ranging in width from 9' to 8'-2" is proposed to be located 1'-6" from the property line. Building records of the property show that the current driveway on the south side has existed for many years. Originally, the driveway accessed a storage building located in the rear of the site and was later reduced in length and connected to a detached garage behind the existing building. Staff has no objection to this variance as this driveway has been a component of the property at this location for many years, and as previously noted, the retention of the contributing building with non-conforming side setbacks impose a hardship that contribute to the need for the variance request associated with the driveway. Further, the driveway also abuts the front yard parking area of adjacent residential building.

4. A variance to reduce 1'-6" from the minimum required pedestal interior side setback of 7'-6" in order to construct a new residential building addition at 6'-0" from the north property line.

- Variance requested from:

**Sec. 142-156. Setback requirements.**

*(b) The setback requirements for the RM-1 residential multifamily, low density district are as follows:*

*Pedestal, side interior —Minimum: 7.5 feet or 8% of lot width, whichever is greater.*

The new residential building located in the rear complies with the minimum side setbacks on both sides, with the exception of two columns proposed on the north side located close to the existing building, and setback 6'-0" from the property line. The columns are part of a U-shape structural element that extends slightly up to the second floor. Staff has no objection to this request as it pertains to a small portion of the new building and similar non-conforming setbacks are common in this area.

5. A variance to reduce 11'-0" from the minimum required pedestal rear setback of 16'-0" in order to construct a new residential building addition at 5'-0" from the rear property line.

- Variance requested from:

**Sec. 142-156. Setback requirements.**

*(a) The setback requirements for the RM-1 residential multifamily, low density district are as follows:*

*Pedestal, rear, Non-oceanfront lots—Minimum: 10% of lot depth.*

The site contains an existing Contributing building with an FAR below the maximum permitted. Including the proposed addition, the site will still be well below the maximum FAR permitted. The new building is proposed at 5' from the rear property line where 11'-0" is required. Staff has no objection to this variance as the proposed 5'-0" rear setback is consistent with the setback of the neighboring properties.

6. A variance to reduce 1'-6" from the minimum required pedestal sum of the side yards of 15'-0" in order to construct a new residential building addition with a sum of the side yards of 13'-6".

- Variance requested from:

**Sec. 142-156. Setback requirements.**

*(b) The setback requirements for the RM-1 residential multifamily, low density district are as follows:*

*Pedestal: Sum of the side yards shall equal 16% of lot width.*

This variance is in reference to the addition of the side setbacks at the narrower points. The existing building complies with the sum of the side yards with 5 feet on the north and 10'-6" on the south side. However, the sum of the setbacks on the new addition is 13'-6" due to the 6'-0" setback at the column on the north side. As the reduction is only in a small portion of the building and the sum of the side yards is consistent with the surrounding properties, staff has no objection to this variance request.

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board 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 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.
- The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

#### **COMPLIANCE WITH ZONING CODE**

The application, as submitted, with the exception of the variances requested herein, appears to be consistent with the applicable requirements of the City Code.

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

#### **CONSISTENCY WITH 2025 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the proposed **residential** use appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

#### **COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.  
**Not Applicable**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**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.  
**Satisfied**  
**It would not be reasonably feasible to elevate the existing building at this time.**
- (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.  
**Satisfied**
- (10) Where feasible and appropriate, water retention systems shall be provided.  
**Satisfied**  
**To be reviewed at time of Building Permit**

#### **COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA**

A decision on an application for a Certificate of Appropriateness shall be based upon the following:

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
  - a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.  
**Satisfied**

- b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.  
**Satisfied**
- II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
  - a. Exterior architectural features.  
**Satisfied**
  - b. General design, scale, massing and arrangement.  
**Satisfied**
  - c. Texture and material and color.  
**Satisfied**
  - d. The relationship of a, b, c, above, to other structures and features of the district.  
**Satisfied**
  - e. The purpose for which the district was created.  
**Satisfied**
  - f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.  
**Satisfied**
  - g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.  
**Satisfied**
  - h. The original architectural design or any subsequent modifications that have acquired significance.  
**Satisfied**
- III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
  - a. 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 combined vehicular and pedestrian access from Lenox Avenue to the rear units may result in conflicts between automobiles and pedestrians.**

- b. 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**

**Variances have been requested.**

- c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.

**Satisfied**

- d. The proposed structure, and/or additions to an existing structure is appropriate to and compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties, or the purposes for which the district was created.

**Satisfied**

- e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces 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 preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.

**Not Satisfied**

**The combined vehicular and pedestrian access from Lenox Avenue to the rear units may result in conflicts between automobiles and pedestrians.**

- f. 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 any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.

**Not Satisfied**

**The combined vehicular and pedestrian access from Lenox Avenue to the rear units may result in conflicts between automobiles and pedestrians.**

- g. 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 and consistent with a City master plan, where applicable.

**Satisfied**



- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.  
**Satisfied**
- i. 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**
- j. Any proposed new structure shall have an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).  
**Satisfied**
- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, 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 sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.  
**Satisfied**
- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.  
**Satisfied**
- m. Any addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).  
**Satisfied**
- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.  
**Satisfied**
- o. 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**

#### **ANALYSIS**

Staff would preface this analysis by noting that a nearly identical project was approved by the Historic Preservation Board in 2015. A Full Building Permit was not obtained within the timeframe permitted by Code, and no further extensions are possible at this time. Consequently, the applicant has submitted a new application requesting approval of the previously approved project with the exception of the previously approved demolition of the Non-Contributing rear building, which has been completed.

The existing structure on the subject site was constructed in 1941 as a 2-story, 2 unit apartment building designed by Lawrence W. Markes in the Vernacular style of architecture with Mediterranean Revival influences. The proposed design of the addition is consistent with the mass and scale of the neighboring buildings, and is proposed to be separated 10'-0" from the existing 2-story historic structure. While supportive of the design direction, placement and scale of the proposed new structure, staff has a concern with regard to a potential conflict between pedestrian and vehicular access to the rear of the site along the south side of the property. As such, staff recommends that a pedestrian path to the rear of the site be provided within the north side setback in order to segregate pedestrian and vehicular circulation within the site.

Staff is confident that the above noted recommendations can be addressed administratively and recommends that the project be approved as indicated below.

### **VARIANCE ANALYSIS**

The existing building will be retained and restored and is currently well below the maximum FAR permitted for the site. A new detached building is proposed at the rear of the site. The proposed FAR is below the maximum permitted by the Code. The new addition will contain parking spaces at the ground level, two floors of residential units and an accessible roof deck with pool. Multiple variances are also requested in order to construct the new building.

Staff would note that although the Code was modified after the original approval of the project in 2015 and now there is no required parking for the new addition, the project is consistent with previous recommendations by staff to reduce the paved area of the driveway and to shift the elevator vestibule further north and the driveway to provide additional landscape on the side. As the existing non-conforming building will be retained and renovated, staff is supportive of all variances requested.

In light of the practical difficulties associated with the construction and program of the proposed addition, in relation to the retention and restoration of the existing 2-story building, staff recommends approval of the variances #1, #2, #3, #4, #5 and #6, as no negative impact is expected on the adjacent properties. Additionally, the proposed setbacks are substantially consistent with existing setbacks in the neighborhood.

### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the application be approved, subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria and Practical Difficulty and Hardship criteria, as applicable.

**HISTORIC PRESERVATION BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: February 12, 2019

FILE NO: HPB18-0247

PROPERTY: 925 Lenox Avenue

APPLICANT: 925 Lenox, LLC (Chris Brumder)

LEGAL: Lot 9, Block 120, Lenox Manor Re-subdivision, According to the Plat Thereof, as Recorded in Plat Book 7, Page 15, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for a Certificate of Appropriateness for the total demolition of an accessory structure, the restoration of an existing 2-story building, the construction of a new, detached 3-story ground level addition, one or more waivers and variances to reduce the required width, curb cut width and setback for a two way driveway, to reduce the required pedestal rear and side setbacks, and to reduce the required pedestal sum of the side yards

**ORDER**

The City of Miami Beach Historic Preservation 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. Certificate of Appropriateness**

- A. The subject structure is classified as a Contributing structure in the Miami Beach Historic Properties Database, and is located within the Flamingo Park Local Historic District.
- 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:
  - 1. Is consistent with Sea Level Rise and Resiliency Review Criteria in Section 133-50(a) of the Miami Beach Code.
  - 2. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
  - 3. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(2) of the Miami Beach Code.
  - 4. Is not consistent with Certificate of Appropriateness Criteria 'a', 'b', 'e' & 'f' in Section 118-564(a)(3) of the Miami Beach Code.
- C. The project would be consistent with the criteria and requirements of section 118-564 if the following conditions are met:

1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
  - a. The proposed driveway shall consist of 18" wide wheel strips composed of concrete paver or a similar material. The remainder of the driveway area shall consist of sodding, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - b. A pedestrian walkway accessing the new construction shall be located within the north side setback, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - c. The existing structure on site shall be fully renovated and restored, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board; at a minimum, this shall include the following:
    - i. All through-the-wall air conditioning units shall be removed and replaced with a central air conditioning system, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
    - ii. The existing windows shall be removed; new casement windows shall be provided and shall incorporate a muntin configuration that is consistent with the with the architectural style of the building, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - d. Final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - e. The final location and details of all exterior ramp and railings systems, including materials, dimensions and finishes, shall be provided in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - f. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and elevation drawings and shall be screened from view, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - g. 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.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, 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. The final landscape plan shall satisfy or exceed minimum landscape requirements outlined in Chapter 126 of the City Code, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
- b. The existing hedge type landscape material within the front yard of the property shall be removed. Within this portion of the site any landscaping shall consist of plant material that does not exceed approximately 36" in height at maturity with the exception of trees, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
- c. The existing chain link fence located within the required front yard shall be removed and replaced with a metal picket fence, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
- d. The use of Silva Cells or approved equivalent shall be provided for any canopy shade tree planted in an area where rooting space may be limited.
- e. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the final revised landscape plan.
- f. 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.

**In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.**

## **II. Variance(s)**

- A. The applicant filed an application with the Planning Department for the following variance(s):
  1. A variance to reduce 13'-10" from the minimum required width of 22'-0" for a two-way driveway, in order to construct a driveway for four (4) parking spaces with a minimum driveway width of 8'-2".
  2. A variance to reduce 3'-0" from the minimum required curb-cut and driveway entrance width of 12'-0", in order to construct a driveway for four (4) parking spaces with a driveway entrance and curb-cut width of 9'-0".

3. A variance to reduce 3'-6" from the minimum required interior side setback of 5'-0" for driveway in order to construct a new driveway on the south side at 1'-6" from the interior property line.
  4. A variance to reduce 1'-6" from the minimum required pedestal interior side setback of 7'-6" in order to construct a new residential building addition at 6'-0" from the north property line.
  5. A variance to reduce 11'-0" from the minimum required pedestal rear setback of 16'-0" in order to construct a new residential building addition at 5'-0" from the rear property line.
  6. A variance to reduce 1'-6" from the minimum required pedestal sum of the side yards of 15'-0" in order to construct a new residential building addition with a sum of the side yards of 13'-6".
- 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 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.

The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

- C. The Board hereby **Approves** the requested variance(s) and imposes the following condition 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. Revised elevations, site plan and floor plan drawings shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
    - a. A temporary construction fence with fabric screening shall be constructed prior to any demolition or new construction along the entire south property line.
    - b. A solid 7'-0" tall masonry wall shall be introduced along the south property line beginning at the west façade wall of the existing structure located at 915 Lenox Avenue extending eastward for the length of the property, in a manner to be reviewed and approved by staff.
    - c. Ambient lighting shall be provided along the driveway from the edge of the front facade to the rear edge of the new building addition in a manner to be reviewed and approved by staff.

**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. Certificate of Appropriateness' and 'II. Variances' noted above.**

- A. The applicant shall comply with the electric vehicle parking requirements, pursuant to Sec. 130-39 of the City Code.
- B. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- C. Site plan approval is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed prior to the issuance of a Building Permit.
- D. The applicant shall submit a Hold Harmless Covenant Running with the Land to the City Attorney's Office in a form acceptable to the City Attorney indemnifying and holding harmless the city against any claim or loss in the event of an accident involving a motor

vehicle or other instrumentality due to the proximity of the driveway to the adjacent neighboring property.

- 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.
- A. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- B. 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.
- C. 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.
- D. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- E. 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.
- F. 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.

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 Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "Residence Detached Addition 925 Lenox Avenue" as prepared by 3 Design Architecture, dated December 04, 2018, and subject to the additional modifications as approved and required by the Historic Preservation 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 set forth in this Order. No building permit may be issued unless and until all 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 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 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 should 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\_\_\_\_.

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
DEBORAH TACKETT  
CHIEF OF HISTORIC PRESERVATION  
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by Deborah Tackett, Chief of Historic Preservation, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC

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HPB18-0247  
Meeting Date: February 12, 2019

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

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

Filed with the Clerk of the Historic Preservation Board on \_\_\_\_\_ (                      )