

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: June 10, 2019

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: HPB19-0286, **1351 Lenox Avenue.**

An application has been filed requesting a Certificate of Appropriateness for the partial demolition and renovation of the existing 2-story home and the construction of a 2-story ground level addition and a partial 1-story rooftop addition, one or more waivers, and a variance from the required side setback.

STAFF RECOMMENDATION

Approval of the Certificate of Appropriateness with conditions

Approval of the variance with conditions

EXISTING STRUCTURE

Local Historic District:	Flamingo Park
Classification:	Contributing
Original Construction Date:	1937
Original Architect:	Nordin & Nadel

ZONING / SITE DATA

Legal Description:	Lot 15, Block 94, of the Ocean Beach Addition No. 3, according to the plat thereof recorded in Plat Book 2, Page 81 of the public records of Miami Dade County, Florida.
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Zoning:	RS-4 (Residential, single family)
Future Land Use Designation:	RS-4 (Residential, single family)

Lot Size:	7,500 S.F.
Existing Lot Coverage:	1,853 S.F. / 24.7%
Proposed Lot Coverage:	2,125 S.F. / 28.3%
Existing Unit Size:	2,789.25 S.F. / 37.1%
Proposed Unit Size:	3,687.85 S.F. / 49.1%
Existing Height:	~20'-8" / 2-story
Proposed Height:	No Change
Existing Use:	Single Family
Proposed Use:	No Change

THE PROJECT

The applicant has submitted plans entitled “Rey Residential Renovation” as prepared by Eilert Lewis Architects Studio, LLC, dated April 24, 2019.

The applicant is requesting the following variance(s):

1. A variance to reduce by 2.48’ the minimum required side setback of 7.5’ in order to construct a 2-story addition at the rear of the property, setback 5.02’ from the north side interior property line.

- Variance requested from:

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

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

(2) Side yards:

c. Interior sides:

- 2. For lots 60 feet in width or less, any one interior side yard shall have a minimum of seven and one-half feet.**

The existing contributing 2-story home was constructed in 1937 with a front setback of 49.0’, a north side setback of 5.02’ and south side setback of 4.92’. The applicant is proposing a 2-story addition along the north side extending towards the rear. The Code permits the maintenance of a non-conforming interior side setback for the linear extension of a 1-story home, or a second floor addition, as long as the interior setback of the existing home is at least 5.0’. However, for the linear extension of a 2-story addition, the second floor must comply with the minimum required side setback of 7.5’. Staff would note that if the home was located outside of a local historic district, the project may have been able to take advantage of certain incentives related to the substantial retention of an architecturally significant home. Among the incentives is the ability to receive approval for the construction of a 2-story ground level addition along the existing non-conforming setbacks without a variance. As the proposed floor area is located in a manner to minimally impact the existing structure, staff is supportive of the variance requested. Staff finds that the site conditions related to the existing Contributing building and location of the structure within a local historic district, create the practical difficulties that justify 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.

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.
- 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

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 variance(s):

1. **Section 142-106(3).** The required rear yard does not comply with the required 70% open space required.
2. **Section 142-105.** Lot coverage calculations shall be revised to include portion of second floor that projects at the front of the structure.
3. **Section 142-105.** Unit size calculations shall be revised. The plans submitted indicate a unit size of 3,236.3 sf (43.1%). However, it appears that the accessory building area (451 sf) was not added to the calculations.
4. **Section 142-1132(j).** The deck at the rear shall be setback 7'-6" from the rear property line and subject to maximum area allowed for open space in the rear yard.
5. **Section 142-1132(f).** Air conditioning equipment on the side does not comply with the required 5'-0" setback. Unless the existing ac units were previously approved with a building permit on the existing location, the new ac equipment will have to be relocated or comply with the required side setbacks.
6. **Section 142-1132(o)(11).** Walkway on the side yard cannot exceed 44" in width.
7. **Section 142-905(b)(2).** Second kitchens are subject to the review and discretion of the Planning Director. If a second kitchen is permitted by the Planning Director, a restrictive covenant, subject to the approval of the City Attorney, shall be required, indicating among other things, that the guest cottage will not be rented out separately as an apartment unit.

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.

CONSISTENCY WITH 2025 COMPREHENSIVE PLAN

A preliminary review of the project indicates that the proposed **single family 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 Satisfied
A recycling or salvage plan has not been provided.
- (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
Yard elevations and First Finish Floor levels are consistent with neighboring properties.
- (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.
Not Applicable
- (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

To be addressed at time of building permit review.

- (10) Where feasible and appropriate, water retention systems shall be provided.

Satisfied

To be addressed at time of building permit review.

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
The proposed additions will not be visible from the right-of-way, do not require the demolition of significant architectural features and are consistent with the mass and scale of the adjacent 1 and 2-story single-family homes and the surrounding historic single-family neighborhood.
 - 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.

Satisfied

- 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

See Compliance with Zoning Code section.

- 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

The proposed additions will not be visible from the right-of-way, do not require the demolition of significant architectural features and are consistent with the mass and scale of the adjacent 1 and 2-story single-family homes and the surrounding historic single-family neighborhood.

- 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.

Satisfied

- 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.

Satisfied

- 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

CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION EVALUATION CRITERIA

Section 118-564 (f)(4) of the Land Development Regulations of the Miami Beach Code provides criteria by which the Historic Preservation Board evaluates requests for a Certificate of Appropriateness for Demolition. The following is an analysis of the request based upon these criteria:

- a. The Building, Structure, Improvement, or Site is designated on either a national or state level as a part of an Historic Preservation District or as a Historic Architectural Landmark or Site, or is designated pursuant to Division 4, Article X, Chapter 118 of the Miami Beach Code as a Historic Building, Historic Structure or Historic Site, Historic Improvement, Historic Landscape Feature, historic interior or the Structure is of such historic/architectural interest or quality that it would reasonably meet national, state or local criteria for such designation.
Satisfied
The subject structure is designated as part of the Flamingo Park Local Historic District; the building is classified as a Contributing structure in the historic district.
- b. The Building, Structure, Improvement, or Site is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.
Satisfied
The subject structure would be difficult and inordinately expensive to reproduce.
- c. The Building, Structure, Improvement, or Site is one of the last remaining examples of its kind in the neighborhood, the country, or the region, or is a distinctive example of an architectural or design style which contributes to the character of the district.
Satisfied
The subject structure is a distinctive example of an architectural style which contributes to the character of the district.
- d. The building, structure, improvement, or site is a contributing building, structure, improvement, site or landscape feature rather than a noncontributing building, structure, improvement, site or landscape feature in a historic district as defined in section 114-1,

or is an architecturally significant feature of a public area of the interior of a historic or contributing building.

Satisfied

The subject structure is classified as a Contributing building in the Miami Beach Historic Properties Database.

- e. Retention of the Building, Structure, Improvement, Landscape Feature or Site promotes the general welfare of the City by providing an opportunity for study of local history, architecture, and design or by developing an understanding of the importance and value of a particular culture and heritage.

Satisfied

The retention of this structure is critical to developing an understanding of an important Miami Beach architectural style.

- f. If the proposed demolition is for the purpose of constructing a parking garage, the Board shall consider it if the parking garage is designed in a manner that is consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, U.S. Department of the Interior (1983), as amended, and/or the design review guidelines for that particular district.

Not Applicable

The demolition proposed in the subject application is not for the purpose of constructing a parking garage.

- g. In the event an applicant or property owner proposes the total demolition of a contributing structure, historic structure or architecturally significant feature, there shall be definite plans presented to the board for the reuse of the property if the proposed demolition is approved and carried out.

Not Applicable

The applicant is not proposing total demolition of the existing building.

- h. The Miami-Dade County Unsafe Structures Board has ordered the demolition of a Structure without option.

Not Applicable

The Miami-Dade County Unsafe Structures Board has not ordered the demolition of any part of the subject buildings.

STAFF ANALYSIS

The existing single family home on the subject site was constructed in 1937 and designed by architects Nadel & Nordin in the Mediterranean Revival/Art Deco Transitional style of architecture. The applicant is proposing to construct a 2-story ground level addition and partial 1-story roof top addition located at the rear of the existing home. Along the primary façade, the applicant is proposing to convert an existing second floor window opening into a door allowing access to the roof of the 1-story portion of the home facing Lenox Avenue. This modification requires the demolition of the portion of wall beneath the window opening. Staff has no objection to the proposed project as the additions will not be visible from the right-of-way and are consistent with the mass and scale of the adjacent 1 and 2-story single-family homes and the surrounding historic single-family neighborhood.



1949 photograph

Staff has one concern with regard to the existing hedge located at the front property line. The solid hedge and fence limit transparency into the site, block views to the historic structure, and create visibility obstructions, from a safety standpoint. As such, staff recommends that the existing hedge be removed; any new hedge should consist of plant material that will not exceed the height of the existing fence height (approximately 6'-0"), in order to ensure views to the primary elevation of the historic home.

Finally, the applicant is seeking a waiver of the second floor to first floor area ratio. For 2-story homes with a lot coverage of 25% or greater, the second floor volume may not exceed 70% of the first floor. The Historic Preservation Board may waive this requirement, in accordance with the applicable Certificate of Appropriateness criteria. As outlined in this report, staff finds that the project satisfies the Certificate of Appropriateness criteria. Specifically, the proposed additions will not be visible from the right-of-way, do not require the demolition of significant architectural features and are consistent with the mass and scale of the adjacent 1 and 2-story single-family homes and the surrounding historic single-family neighborhood. As such, staff recommends that the waiver be granted.

VARIANCE ANALYSIS

As noted in the project portion of the staff recommendation, the variance requested would allow the applicant to construct a 2-story attached addition along the north side of the property, and

maintaining the existing non-conforming side setback of 5.02'. Although the home is considered a 'Contributing' structure in the Flamingo Park Historic District, the property does not qualify for the incentives associated to architecturally significant homes located outside of a local historic district, which would allow the two-story addition without a variance. The proposed addition is compatible with the architecture of the existing home and the surrounding historic district. Staff finds that the applicant's request satisfies the practical difficulties for the granting of the variance.

RECOMMENDATION

In view of the foregoing analysis, staff recommends the application be **approved** as to the Certificate of Appropriateness and variance request, 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: June 10, 2019

FILE NO: HPB19-0286

PROPERTY: 1351 Lenox Avenue

APPLICANT: Jorge Rey

LEGAL: Lot 15, Block 94, of the Ocean Beach Addition No. 3, according to the plat thereof recorded in Plat Book 2, Page 81 of the public records of Miami Dade County, Florida.

IN RE: The application for a Certificate of Appropriateness for the partial demolition and renovation of the existing 2-story home and the construction of a 2-story ground level addition and a partial 1-story rooftop addition, one or more waivers, and a variance from the required side setback.

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 site 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 not consistent with Sea Level Rise and Resiliency Review Criteria (1) 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 'b' in Section 118-564(a)(3) of the Miami Beach Code.
 - 5. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(f)(4) of the Miami Beach Code.

- C. The project would be consistent with the criteria and requirements of section 118-564 and 133-50(a) 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. 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.
 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 existing hedge within the required front yard shall be removed. Any new hedge shall consist of a plant material that will not exceed the height of the existing 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.
 3. In accordance with Section 142-105(b)(4)(c) of the City Code, the requirement pertaining to the second floor to first floor area ratio, is hereby waived.

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 by 2.48' the minimum required side setback of 7.5' in order to construct a 2-story addition at 5.02' from the north side property line
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of 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.

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 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. Applicant agrees that in the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, in a manner to be reviewed and approved by staff.
3. Second kitchens are subject to the review and discretion of the Planning Director. If a second kitchen is permitted by the Planning Director, a restrictive covenant, subject to the approval of the City Attorney, shall be required, indicating among other things, that the guest cottage will not be rented out separately as an apartment unit.

4. Revised elevation, site plan and floor plan drawings shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a) Lot coverage diagram and calculations shall be revised to include portion of second floor that projects at the front of the structure.
 - b) Unit size diagram and calculations shall be revised to include the area of the accessory building.
 - c) Air conditioning equipment on the side does not comply with the required 5'-0" setback. Unless the existing units were previously approved with a building permit on the existing location, the new equipment will have to be relocated or comply with the required side setbacks.
 - d) The required rear yard shall comply with the minimum 70% open space required unless a variance is granted.
 - e) The deck at the rear shall be setback 7'-6" from the rear property line and subject to maximum area allowed for open space in the rear yard
 - f) Walkway on the side yard cannot exceed 44" in width.

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. During construction work, the applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yards 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.
- B. 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.
- C. 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.

- D. 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.
- 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 the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.
- J. 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 "Rey Residential Renovation" as prepared by Eilert Lewis Architects Studio, LLC, dated April 24, 2019, as approved 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
Miami-Dade County, Florida

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HPB19-0286
Meeting Date: June 10, 2019

My commission expires: _____

Approved As To Form:

City Attorney's Office: _____ ()

Filed with the Clerk of the Historic Preservation Board on _____ ()