

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: September 6, 2016

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB0616-0039
2051 North Bay Road

The applicant, Jamil Bouchareb, is requesting Design Review approval for the construction of a new two-story single-family home to replace an existing pre-1942 architecturally significant two-story single family home, including variances to reduce the minimum required front, sides and sum of the side setbacks.

RECOMMENDATION:

Approval with conditions

Approval of the variances with conditions

LEGAL DESCRIPTION:

Lot 27 and the NE 1.27 FT of Lot 28 of Block 16, of the "SUNSET LAKE SUB AMD PL" according to Plat thereof as recorded in Plat Book 8, Page 52 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-4
Future Land Use: RS
Lot Size: 7,459 SF
Lot Coverage:
 Proposed: 1,926 SF / 25.8%
 Maximum: 2,238 SF / 30%

Unit size:
 Proposed: 3,674 SF / 49%
 Maximum: 3,730 SF / 50%

2nd Floor Volume to 1st: 80.59%*

***DRB WAIVER**

Height:
 Proposed: 24'-0" flat roof
 Maximum: 24'-0" flat roof

Grade: +3.48' NGVD

Flood: +8.00' NGVD

Difference: 4.52'

Adjusted Grade: +5.74' NGVD

Finish Floor Elevation: +9.00' NGVD

Max. Elev. Front Yard: +7.125' NGVD

All Yards Min. Elevation: 6.56' NGVD

EXISTING STRUCTURE:

Two-story 1930 residence designed by V.H. Nellenbogen

SURROUNDING PROPERTIES:

North: Vacant

South: One-story 1954 residence

West: Two-story 1933 residence

East: One-story 1960 residence

THE PROJECT:

The applicant has submitted plans entitled "2051 N. BAY RD" as prepared by **Benjamin M. Dronsick P.A.** dated July 15, 2016.

The applicant is proposing to construct a new two-story single-family home to replace an existing pre-1942 architecturally significant two-story single family home, including variances to reduce the minimum required front, sides and sum of the side setbacks.

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

1. The second floor's physical volume exceeds 70% of the first floor in accordance with Section 142-105(b)(4)(c). The proposed second floor is 98% of the first floor, an increase of +28%.

The applicant is requesting the following variance(s):

1. A variance to reduce by 10'-0" the minimum front setback of 30'-0" in order to construct a new two-story single family home at 20'-0" from the front 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:

(1) Front yards: The minimum front yard setback requirement for these districts shall be 20'-0".

b. Two-story structures shall be set back a minimum of an additional 10'-0" from the required front yard setback line.

The design features a one-story garage at the front 20 foot setback line, connected to the main 2-story house with a covered walkway. As such, it is considered attached to the principal two-story structure and therefore must meet the minimum setback of 30'-0" for a two-story structure. Due to a recent Code amendment to the single family regulations, effective January 13, 2016, the garage is required to be setback additional 10'-0" if attached to the two-story structure. This regulation responds to an initiative to increase the landscape within the front of single family residences and at the same time incorporate permeable solutions to increase the retention of storm water on site as well as mitigate the height of the new homes. In this case, the garage walls are minimally attached to the two-story structure only at the roof level. The lot size of the property is 1,459 SF over the minimum lot area for the RS-4 district and the home has been designed with a lot coverage of 25.8% which is below the maximum 30% allowed. Except for the requested waiver, the project meets all other requirements of the zoning regulations. Based on the size of the lot, the lot coverage proposed and the limited connection with the two-story structure, staff finds that there are practical difficulties for the applicant in order to design the one-story garage and provide covering to connect the structure to the main house.

2. A variance to reduce by 2'-6" the minimum interior side setback of 10'-0" in order to construct a new two-story single family home at 7'-6" from the north property line.
3. A variance to reduce by 2'-6" the minimum interior side setback of 10'-0" in order to construct a new two-story single family home at 7'-6" from the south property line.

- Variances requested from:

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

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

(2) Side yards:

c. Interior sides. For lots greater than 60 feet in width any one interior side yard shall have a minimum of ten percent of the lot width or ten feet, whichever is greater. For lots 60 feet in width or less, any one interior side yard shall have a minimum of seven and one-half feet.

4. A variance to reduce by 5'-0" the minimum required sum of the side setbacks of 20'-0" in order to construct a new two-story single family home with a sum of the side setbacks of 15'-0".

- Variance requested from:

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

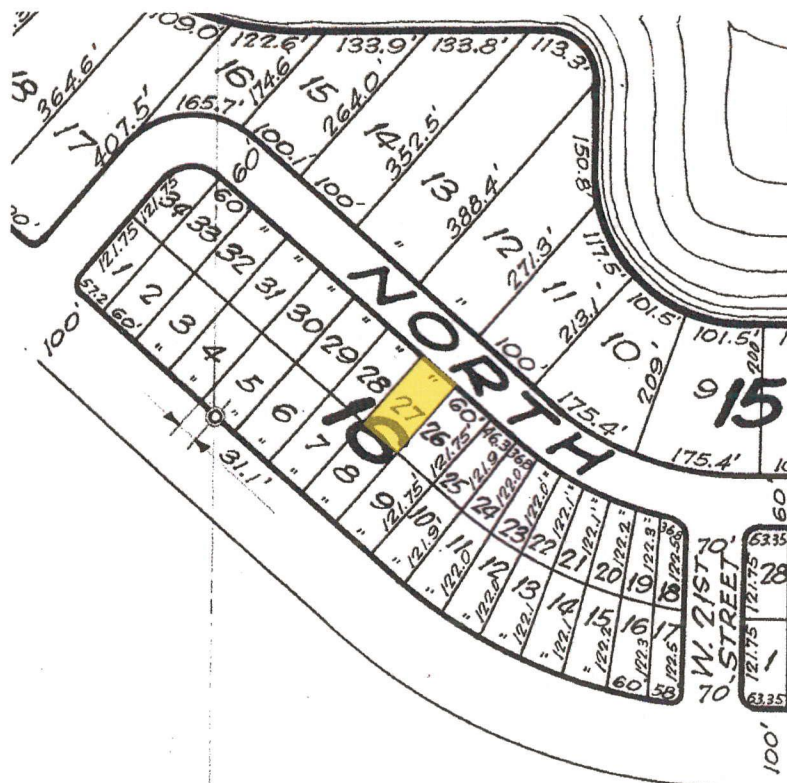
The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(2) Side yards:

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

These three (3) variances are related to the same zoning regulation. The City recently adopted Ordinance No. 2016-3987 which among other things, increased the minimum side setbacks from 7'-6" to 10'-0" for lots wider than 60'-0". The intent of this change is to increase landscape on single family residences and at the same time facilitate the retention of stormwater on site. As the subject site is 61.27' in width, both side setbacks are required to be 10'-0". The property is currently the only lot that exceeds 60'-0" within the block facing North Bay Road. The block was originally platted with lots that did not exceed 60'-0" in width. At some point in time, additional land area was added to the subject property and the adjacent lot was reduced in width to 58.7'. The majority of the properties within the block and the adjacent properties on the rear are also 60'-0" wide lots. Staff finds that the subject property is a unique lot within the block, regarding its size and width, and the increase of the side setbacks would impose an undue hardship on the applicant, that will not apply to most of the properties within the same block. The proposed setback of 7'-6" on both sides is consistent with the required setback for the other surrounding properties. Therefore, the applicant's request would not create a negative impact to the neighboring properties.

The subject property is an interior lot on a block within the Amended Plat of Sunset Lake Subdivision which was historically platted on December 22, 1922 as a series of eight blocks between Alton Road and Sunset Lake. Block 16, of which the subject property is part and parcel of, was historically comprised of 44 lots, 25 of which with metes and bounds measuring as 60'-0" wide frontages. The original building card for the 1930 construction identifies the structure was built on Lot 27 of Block 16. Sometime in the 1980s, the subject property acquired the southern 1.27' of the abutting property, Lot 28; this resulted in a lot with 61.27' of lot width for the subject property. The recent changes to Section 142-106 pertaining to side setback requirements regulate lots with over 60'-0" in width to an increased setback of a minimum of 10'-0" along both side yards. Lots with 60'-0" or less of frontage, are required to propose a minimum of 7'-6" side setback. This would require the subject property, with 1.27' (or 14") of additional frontage to offset the building envelope an additional 5'-0" (2'-6" for each side). Without the granting of this variance, the construction of the building on the lot would be more restrictive than its immediate neighbors and the site could not be developed as other lots in the same district and same platted subdivision. The



Staff is supportive of these variances since the current site configurations dictate the 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 of Adjustment finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

- 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, may be inconsistent with the following sections of the City Code, in addition to the requested variance(s):

1. For two story homes with an overall lot coverage of 25% or greater, the physical volume of the second floor shall not exceed 70% of the first floor of the main home, exclusive of any enclosed required parking area and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria.
2. Chapter 126 of the Land Development Regulations of the City Code, **permits for demolition require a landscape survey to insure that valuable existing trees are not damaged or destroyed. Trees that have a trunk diameter of eight (8) or more inches shall not be removed without the approval of the Planning and Zoning Director.**
3. Section 142-105(8)b.1. The minimum elevation of a required yard shall be no less than five (5) feet NAVD (6.56 feet NGVD), with the exception of driveways, walkways, transition areas, green infrastructure (e.g., vegetated swales, permeable pavement, rain gardens, and rainwater/stormwater capture and infiltration devices), and areas where existing landscaping is to be preserved, which may have a lower elevation. When in conflict with the maximum elevation requirements as outlined in paragraph c. below, the minimum elevation requirements shall still apply. **(As per Ordinance No. 2016-4010- Grade Elevations and Height).**

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

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of

the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Satisfied
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Not Satisfied; the applicant is requesting several setback variances and a design waiver 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 several setback variances and a design waiver 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.
Satisfied
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 several setback variances and a design waiver 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 several setback variances and a design waiver 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.

Satisfied

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.

Not Applicable

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 several setback variances and a design waiver 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.

Not Applicable

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

STAFF ANALYSIS:
DESIGN REVIEW

The applicant is proposing to construct a new contemporary two-story residence on North Bay Road that will replace an existing two-story home, originally constructed in 1930. Since the proposed new construction is replacing a pre-1942 architecturally significant single-family residence, review and approval by the Design Review Board is required; additionally, the applicant is requesting one (1) design waiver and four variances from the Board.

The architect has designed a home that is predomently a two-story home with the exception of the one-story garage. The architect is proposing a material palette that consist of a very dark metal pannels, with bronze-framed windows and white stucco walls. The front façade consist of mostly glass walls framed in the dark metal panel which makes the design of the home more stark than what we typically see. The rear elevation, which contains a mixture of all the materials proposed looks more inviting and interesting since the white stucco walls peeking through elevates the use of the metal panels. Staff would recommend the architect explore a similar use of a lighter material or introduce some of the stucco into the front elevation in order to create more depth and contrast to the front elevation.

The subject parcel is an interior lot on North Bay Road. The neighboring properties are a combination of existing homes and new construction. In the past couple of years there have been several homes permitted that comply with all Code requirements such as lot coverage, unit size, setbacks, etc. without requiring waivers or variances from the Design Review Board. The proposed home contains a lot coverage of 25.8%. The home has a second floor to first floor ratio of 80.59% where the Code restricts the second floor to 70% unless waived by the Design Review Board. Staff is not supportive of this waiver since the applicant is requesting several setback variances from the Board. The combination of the waiver and setback reductions emphasizes the massing of the home. Additionally, the home does not have sufficient movement or relief in the massing of the structure.

Staff would recommend the home comply with the 70% second floor restriction.

VARIANCE REVIEW

Recent changes in the single family regulations require that two-story structures be setback 10 additional feet from the minimum front yard setback of 20 feet. The regulation would not apply to projects that file a DRB application on or before January 13, 2016 or to projects that obtained a building permit process number by the Building Department on or before January 13, 2016. The project does not meet the exceptions deadline. The design features a "connected" one-story garage. The garage is open by at least 5'-0" on all sides as required Code. However, the exterior edge of the two-story portion is setback 30'-7" which is gereater than what is required. The design features an accent eyebrow/overhang that is connected to both the residence and becomes the roof of the garage; thus the connection. Due to the design complying with the intent of the ordiance modifcaiton, staff is supportive of variance #1.

As previously mentioned under 'Project' section of the report, this block of North Bay Road is within the Amended Plat of Sunset Lake Subdivision which was originally platted in the early 1920s along the existing property lines with the exception of a 14" sliver of land that was acquired sometime in the 1980s by a prior property owner. Staff also finds that the requests for variance #2, #3 and #4 meet the criteria for practical difficulties as noted in the variance description part of this report; as such staff recommends approval of the variances

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria and Practical Difficulty and Hardship criteria.

TRM/JGM

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: September 6, 2016

FILE NO: DRB0716-0039

PROPERTY: **2051 N Bay Road**

APPLICANT: Jamil Bouchareb

LEGAL: Lot 27 and the NE 1.27 FT of Lot 28 of Block 16, of the "SUNSET LAKE SUB AMD PL" according to Plat thereof as recorded in Plat Book 8, Page 52 of the Public Records of Miami-Dade County, Florida.

IN RE: The application requesting Design Review Approval for the construction of a new two-story single-family home to replace an existing pre-1942 architecturally significant two-story single family home, including variances to reduce the minimum required front, sides and sum of the side 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 2-3, 5-6, and 12 in Section 118-251 of the Miami Beach Code.
- C. The project would remain consistent with the criteria and requirements of Section 118-251 if the following conditions are met:
 1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 2051 N Bay Road shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The 70% limitation for the second floor volume shall not be waived as proposed.
 - b. Additional finishes shall be added to the front façade in order to break-up the use of glass and metal panels, in a manner to be reviewed and

approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

- c. Hardwired speakers shall not be permitted on the roof deck.
 - d. All roof top lighting shall be located below the parapet level, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - e. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan. All mechanical fixtures shall be located as close to the center of the roof as possible and screened on all sides from view, in a manner to be approved by staff.
 - f. 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.
 - 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.
 - h. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, 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 architect shall incorporate additional hedging or planting material along both side property lines that at the time of planting have a minimum height of approximately 12'-0" and at time of maturity will reach approximately 20'-0" in height, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- 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/or 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 reduce by 10'-0" the minimum front setback of 30'-0" in order to construct a new two-story single family home at 20'-0" from the front property line.
2. A variance to reduce by 2'-6" the minimum interior side setback of 10'-0" in order to construct a new two-story single family home at 7'-6" from the north property line.
3. A variance to reduce by 2'-6" the minimum interior side setback of 10'-0" in order to construct a new two-story single family home at 7'-6" from the south property line.
4. A variance to reduce by 5'-0" the minimum required sum of the side setbacks of 20'-0" in order to construct a new two-story single family home with a sum of the side setbacks of 15'-0".

B. The applicant has submitted plans and documents with the application that satisfiess 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 submitted 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.

C. The Board hereby **Approves** the Variance request(s), and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
2. Revised drawings of the signs shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. The design shall be revised to comply with the 70% limitation for the second floor volume.

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. During Construction of the new home, 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 existing and entering the site and with an eight foot (8'-0") high fence with a wind resistant green mesh material along the front of the 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. 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. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.

- D. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- E. 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.
- F. 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.
- G. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- H. 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 "2051 N. BAY RD" as prepared by **Benjamin M. Dronsick P.A.** dated, signed and sealed July 15, 2016, 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.

