

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: January 07, 2020

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB19-0460
1717 North View Drive

DRB19-0460 (DRB16-0083), 1717 North View Drive. An application has been filed requesting modifications to a previously approved Design Review Approval to the one-story accessory structure in the rear yard including a variance to reduce the distance separation between accessory structure and the main residence, to reduce the required rear yard open space and to exceed the maximum area for the second floor of an accessory building.

RECOMMENDATION:

Approval of the variances with conditions

LEGAL DESCRIPTION:

Lot 10 of Block 1 H of 3rd revised Plat of Sunset Islands—Island No. 1 according to Plat thereof as recorded in Plat Book 40, Page 8 of the Public Records of Miami-Dade County, Florida.

HISTORY:

On January 03, 2017, the Design Review Board approved a new two-story residence including two waivers (height and second floor ratio), pursuant to DRB16-0083.

This item was originally scheduled for the November 05, 2019 DRB meeting and was continued at the request of the applicant to January 07, 2020 in order for the application to be re-advertised with a correct variance request properly noticed before the Board.

SITE DATA:

Zoning: RS-2
Future Land Use: RS
Lot Size: 26,978 SF
Lot Coverage:
 Approved: 7,095 SF / 26.3%
 Maximum: 8,093 SF / 30%
Unit size:
 Approved: 13,183 SF / 48.8%
 Maximum: 13,489 SF / 50%
2nd Floor Volume to 1st: **97%**
Height:
 Approved: **28'-0" flat / from BFE+1'**
 Revised: **28'-0" flat / from BFE+3'**

Grade: +4.24' NGVD
Flood: +8.00' NGVD
Difference: 3.76'
Adjusted Grade: +6.12' NGVD
30" (+2.5') Above Grade: +8.62' NGVD
First Floor Elevation: ~~+9.00' NGVD~~
+11.00' NGVD

SURROUNDING PROPERTIES:

East: Two-story 1952 residence
North: Biscayne Bay
South: Two-story 1936 residence
West: Two-story 1938 residence

THE PROJECT:

The applicant has submitted plans entitled "DRB Variance Sunset Island Residence", as prepared by **Choeff Levy Fischman P.A.** dated November 12, 2019.

The applicant is proposing to construct the rear accessory structure at a greater height than permitted. The design of the residence was approved on January 03, 2017, by the DRB including two waivers (height and second floor ratio), pursuant to DRB16-0083. The building permit was approved and issued on August 31, 2017, pursuant to BR1700838.

The applicant is requesting the following variance(s):

1. A variance to exceed by 50% (380 SF) the maximum permitted 50% (380 SF) of the first floor area (760 SF) for a second story in order to construct the second floor of an accessory building with 100% (760 SF) of the first floor area located in the rear yard.

- Variance requested from:

Sec. 142-1132. Allowable encroachments within required yards.

(a) Accessory buildings.

(2) In single-family districts the following regulations shall apply to accessory buildings within a required rear yard:

c. Two-story structures. The second floor of an accessory building shall not exceed 50 percent of the first floor area

2. A variance to reduce by 4'-0" the minimum distance separation of 5'-0" between the accessory building and the principal structure in order to retain a cabana building at 1'-0" from a storage room at the rear of the property.

- Variance requested from:

Sec. 142-1132. - Allowable encroachments within required yards.

(a) Accessory buildings.

(2) In single-family districts the following regulations shall apply to accessory buildings within a required rear yard:

d. Building separation. Accessory buildings shall be separated from the main home by a minimum of five feet, open to the sky with no overhead connections.

f. Height. Accessory buildings shall be limited to two stories. Height for accessory buildings shall be measured from the base flood elevation plus freeboard of one (1) foot. The maximum height above shall not exceed 12 feet for a one-story structure and 20 feet for a two-story structure.

The project was originally designed with a finished first floor elevation of 9'-0" NGVD that was revised by the owner to 11'-0" NGVD, during the building permit process due to sea level rise concerns and flooding events. The 2'-0" consequently affects the accessory elements (cabana and pool) in the rear yard, which at that time was limited to 12'-0" in height as measured from the adjusted grade of 6.12' NGVD. The change was approved through the building permit process, including an erroneous determination of the adjusted grade (6.62'). Recently, the City Code was amended to allow a one-story accessory building

in the rear yard up to 12'-0" in height as measured from BFE +1'-0". However, the proposed finish floor of the cabana following the finish floor of the main home and the erected structure still exceeds the maximum height from BFE +1'-0". Staff would note that the site is currently under construction and the cabana structure is substantially finished, except for the roof. The cabana structure is currently 13'-7" in height above BFE+1' (9.0' NGVD), as noted on page A-4.3a of the submitted plans. The cabana also complies with the interior setback for a two-story structure. As such, it was determined to apply the variances for a two-story structure, instead of a one-story structure that exceeds the maximum height allowed.

As staff is seeing more and more residences constructed at "higher" freeboard elevations for the finished first floor, the rear accessory elements are measured differently—in fact these are the only structures measured from adjusted grade, which is half the distance between CMB Grade and Base Flood Elevation. This measurement datum is an outdated measurement elevation that doesn't contemplate climate concerns as they pertain to the built environment. On October 30, 2019, the City Commission adopted amendments to the land development regulations that modified, among other things, the elevation datum for measurement of these rear accessory structures from adjusted grade to base flood elevation plus 1' within single-family zoning districts. The proposed height of 16'-0" for the accessory building exceeds the allowable maximum height even with the previously requested height variance by 1'-0". Staff would also note that for one-story accessory buildings, a setback of 7'-6" from the interior side property line. The subject structure is located with an interior side setback of 15'-0", which exceeds the 12'-6" setback required for two-story accessory structures. Further, the cabana is setback 19'-3" from the rear property line, complying with the requirements for a two-story structure.

The rear accessory cabana is designed as a predominantly outdoor covered space, highlighted by a slanted plate roof that is supported by two columns near the pool and anchored in the ground through the enclosed cabana bath situated to the north of the rear yard. The outline of the covered area measures 19'-0" wide by 40'-0", for a total of 760 SF. The actual enclosed area containing the outdoor cabana bath measures approximately 15'-6" by 8'-6" for a total of 130 SF. It is important to note that this square footage was added to the overall unit size calculation of the property. The ordinance regulates area size for second floors to be limited to 50% of the first floor and is intended for two-story enclosed accessory structures with two distinct levels of habitation. The LDRS do not contemplate open air structures of this area and height and therefore it has been determined that since the structure exceeds 12'-0" from BFE +1' freeboard, it must be analyzed as a two-story structure as it pertains to setbacks, height and second floor area. In this regard, the outdoor covered pavilion complies with the setback requirements of two-story structures, is under the height limitation for two-story structures by nearly 4'-0". However, the roof slab floor plate, does not comply with the area limitations for second floor area, once a structure is greater than 12'-0" from BFE +1'. The girth of the covered roof slab measures 1'-0". The open-air structure will not create an imposing element to the abutting property to the north nor will appear as an oversized two-story rear accessory structure when viewed from the waterway since, by design, it is not an enclosed two-story structure but rather a single-roofed covered pavilion with minimal profile building elements. Staff is supportive of variance #1.

Variance #2 is related to the current approved building permits for the home under permit BR170083. Plans were approved with a small storage room located within the required setbacks of the main structure and setback less than 5'-0" from the cabana building partially

located within the rear yard. The fact that the main home is setback at 46'-5" when the required setback is 33'-9", as noted on plans, contributed to the oversight of the actual location of the storage room and the accessory building, two independent structures from the main home. Staff is supportive of variance #2 as a corrective action to the building permit plans that approved this distance separation in error.

3. A variance to reduce by 3.3% (142 s.f.) the minimum required rear yard open space of 70% (3,014 s.f.) to be sodded or landscaped pervious open space in order to construct a new single family residence with 66.7% (2,872 s.f.) open space in the rear yard.

- Variance requested from:

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

3) Rear: The rear setback requirement shall be 15 percent of the lot depth, 20 feet minimum, 50 feet maximum. At least 70 percent of the required rear yard shall be sodded or landscaped pervious open space; when located at or below adjusted grade, the water portion of a swimming pool may count toward this requirement, when located above adjusted grade, the water portion of a swimming pool may count towards 50% of this requirement, provided adequate infrastructure is incorporated into the design of the pool to fully accommodate on-site stormwater retention.

As previously mentioned, since the original approval, the finished first floor of the residence and its adjacent outdoor deck were revised to an elevation of 11'-0" NGVD, a 2'-0" increase over the original approval. Additionally, there was an error in the building permit plans that identified adjusted grade at 6.6' NGVD whereas the adjusted grade is 6.12' NGVD. While there is no geometrical modification to the shape of the pool in the rear yard, this miscalculation results in certain areas counting towards the open space 70% requirement.

The Code allows that the water portion of a swimming pool may count as open space when located at or below adjusted grade; when located above adjusted grade, only 50% of the water portion may count as open space. As such, the discrepancy in the adjusted grade determination results in additional pool areas counting as impervious surface. As noted in the photographs provided as part of the documents submitted construction has commenced on the site, including the foundation plans for these elements. The proposed open space is 3.3% deficient, and both side yard areas are designed clear of hardscape obstruction to offset this deficiency in the rear yard. Staff is supportive of variance #3 as a corrective action to the building permit plans that approved the open space calculation.

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 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 consistent with the following sections of the City Code, aside from the requested variances. The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Not Satisfied; the applicant is requesting three variances to be granted by the Board.

2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Not Satisfied; the applicant is requesting three variances to be granted by 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 three variances to be granted by 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 three variances to be granted by 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 three variances to be granted by 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.
Not Satisfied; the applicant is requesting three variances to be granted by the Board.
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Not Satisfied
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Satisfied
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Not Satisfied; the applicant is requesting three variances to be granted by the Board.
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
Satisfied
14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Not Applicable

18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.
Not Applicable
19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.
Not Satisfied; see below

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

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

- (1) A recycling or salvage plan for partial or total demolition shall be provided.
Not Satisfied
A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Satisfied
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Satisfied
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.
Satisfied
- (5) The project applicant shall consider the 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. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.
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 and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.
Satisfied
- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.

Satisfied

- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.

Not Applicable

- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

Not Applicable

- (10) In all new projects, water retention systems shall be provided.

Not Satisfied

- (11) Cool pavement materials or porous pavement materials shall be utilized.

Not Satisfied

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

Not Satisfied

STAFF ANALYSIS:

DESIGN REVIEW

The applicant is requesting exterior design modifications to a previously approved Design Review Approval for the construction of a new two-story home with waivers on a waterfront parcel on one of the Sunset Islands. Specifically, variance requests pertaining to the raising of the rear yard and those subsequent effects on the one-story accessory structure and pool and deck area. Staff has no outstanding design concerns.

VARIANCE REVIEW

As identified under the 'Project' description of the staff report, due to the distinct nature of the open air rear accessory covered cabana and the oversight in the approval of the building permit plans, staff finds that there are practical difficulties that justify the variances requested. As such, staff recommends approval of the variances.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the requested variances #1, #2 and #3 be approved, and the design be **approved** subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria, Sea Level Rise, and Practical Difficulty and Hardship criteria, as applicable.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: January 07, 2020

FILE NO: DRB19-0460

PROPERTY: **1717 North View Drive**

APPLICANT: Misha Ezratti

LEGAL: Lot 10 of Block 1 H of 3rd revised Plat of Sunset Islands—Island No. 1 according to Plat thereof as recorded in Plat Book 40, Page 8 of the Public Records of Miami-Dade County, Florida.

IN RE: An application has been filed requesting modifications to a previously approved Design Review Approval for variances to exceed the maximum building height allowed for a one-story accessory structure in the rear yard, to reduce the distance separation between the accessory structure and the main residence and to reduce the required open space in the rear yard.

ORDER

The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 1, 2, 3, 4, 5, 6, 9, 12, and 19 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1, 10, 11 and 12 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
 - 1. The property shall comply with all of the conditions of the original approval enumerated in the Final Order for DRB16-0083, dated January 03, 2017, except as modified herein.

2. Revised elevation, site plan, and floor plan drawings for the proposed addition at 1717 North View Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. 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.
 - b. 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.

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):

The Board approved the following variances:

1. A variance to exceed by 50% (380 SF) the maximum permitted 50% (380 SF) of the first floor area (760 SF) for a second story in order to construct the second floor of an accessory building with 100% (760 SF) of the first floor area located in the rear yard.
 2. A variance to reduce by 4'-0" the minimum distance separation of 5'-0" between the accessory building and the principal structure in order to retain a cabana building at 1'-0" from a storage room at the rear of the property.
 3. A variance to reduce by 3.3% (142 s.f.) the minimum required rear yard open space of 70% (3,014 s.f.) to be sodded or landscaped pervious open space in order to construct a new single family residence with 66.7% (2,872 s.f.) open space in the rear yard.
- B. The applicants have 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 applicants have 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** variance requests #1, #2, and #3 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.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

III. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.

- A. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance

of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

- B. During construction work, the applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site, and with an 8'-0" high fence with a wind resistant green mesh material along the front property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- C. If applicable, a Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- D. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- E. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- F. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- H. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- I. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- K. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

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

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "DRB Variance Sunset Island Residence", as prepared by **Choeff Levy Fischman P.A.** dated November 12, 2019 and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this _____ day of _____, 20_____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
JAMES G. MURPHY
CHIEF OF URBAN DESIGN

FOR THE CHAIR

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

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

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

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

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