

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: October 10, 2016

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: DRB16-0052  
**8 Farrey Lane**

The applicant, Steve Rhodes, is requesting Design Review Approval for the construction of a new three-story single-family residence to replace an existing one-story pre-1942 architecturally significant home, including variances from the minimum required lot size, from the front setback for parking, from the maximum elevation allowed for projections and structures in required yards, from the required rear setback for a pool and from the maximum area for decks within the required rear yard.

#### **RECOMMENDATION:**

Approval with conditions

Approval of the variances #1, #2, #3, #4, and #5 with conditions.

Denial of variance #6.

#### **LEGAL DESCRIPTION:**

Lot 8 of "2<sup>nd</sup> Section of Belle Isle Villas", according to the plat thereof filed for record and recorded in Plat Book 42 at Page 100 of the Public Records of Dade County, Florida.

#### **SITE DATA:**

Zoning:	RM-1 (Residential, Multifamily Low Intensity)
Future Land Use:	RM-1 (Residential, Multifamily Low Intensity)
Lot Size:	<b>4,590* SF VARIANCE REQUIRED</b>
Proposed FAR:	<b>4,655 SF / .87</b>
Maximum FAR:	5,337.5 SF / 1.25
Proposed Height:	<b>38'-6" from BFE + Freeboard / (3) three-story</b>
Maximum Height:	50'-0" from BFE + Freeboard / (5) five-story

\*As indicated on submitted survey.

#### **Surrounding Properties:**

East: One-story 1941 residence

North: Biscayne Bay

South: One-story 1941 residence (DRB Approval for a second floor addition)

West: Three-story new construction DRB23155/DRB16-0053

#### **THE PROJECT:**

The applicant has submitted plans entitled "8 Farrey Lane Residence", as prepared by **Rene Gonzalez architect** dated, signed and sealed August 12, 2016.

The applicant is proposing to construct a new three-story single family residence on a vacant parcel, including variances from the minimum required lot size, from the front setback

for parking, from the maximum elevation allowed for projections and structures in required yards, from the required rear setback for a pool and from the maximum area for decks within the required rear yard to construct a new single family home on an RM-1 zoned site.

The applicant is requesting the following variance(s):

1. A variance to reduce 1,010 SF from the minimum required lot area of 5,600 SF within the RM-1 district in order to construct a new three-story single family residence on a multifamily property with a lot area of 4,590 SF.

- Variance requested from:

**Sec. 142-155. - Development regulations and area requirements.**

- (b) *The lot area, lot width, unit size and building height requirements for the RM-1 residential multifamily, low density district are as follows: Minimum Lot Area (Square Feet): 5,600 SF*

The subject property is a platted, tapered shaped lot, slightly irregular in shape, containing a total lot area of 4,590 SF. The Code defines lot area as “*the total horizontal area within the lot lines of the lot*”. The minimum lot area required by the Code for an RM-1 lot is 5,600 SF. This portion of the City along Farrey Lane is an anomaly within the RM-1 Zoning District as the lots that are part and parcel of 2<sup>nd</sup> Section of Belle Isle Villas were originally platted to this size—smaller than typically found in the RM-1 Zoning District. The subject property is an interior waterfront lot on a block within the Subdivision which was historically platted on December 23, 1941 with the same dimensions and lot area as today. As such, a variance to construct the single family residence containing a lot area of less than 5,600 SF is required. Without the granting of this variance, the construction of a new residence, or any structure for that matter, would not be permitted. Staff finds that the size of the lot as originally platted establishes the hardship that justifies the variance request.

2. A variance to eliminate all of the required front setback of 20'-0" in order to construct parking spaces up to the front property line, facing Farrey Lane.

- Variance requested from:

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

- (a) *The setback requirements for the RM-1 residential multifamily, low density district are as follows: At-grade parking lot on the same lot except where (c) below is applicable, Front: 20'-0"*

The proposed single family home shall comply with the RM-1 zoning regulations, on which at-grade parking is required to be at a setback of 20'-0" from the front property line. In order to be able to park a vehicle in the front yard, a standard occurrence with single family residences, a variance is required. A front setback variance for the parking would not be required if the house were located in a single family district as parking is allowed in the front setback of 20'-0". Staff finds that the substandard lot area creates difficulties to construct a single family home, as allowed by the uses permitted in the district.

3. A variance to exceed by 1.15' the maximum elevation of 8.85' NGVD for allowable structures within required yards in order to construct stairs at 10.0' NGVD and 60% (6'-6") encroachment into both side yards.
  4. A variance to exceed by 1.15' the maximum elevation of 8.85' NGVD for allowable structures within required yards in order to construct a pool and deck at 10.0' NGVD within the rear yard.
- Variances requested from:

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

*(o) Projections. In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet.*

*(6) Porches, platforms and terraces (up to 30 inches above the elevation of the lot, as defined in subsection 142-105(a)(1)e.*

The finish floor of the house is required to be at flood elevation + 1 foot or 10' NGVD in this case. The grade for the property is 3.7' NGVD, the elevation of the crown of the road, in front of the property, as no sidewalk exist. The maximum elevation for allowable encroachments in required yards is calculated as the average of these two elevations, plus 30 inches. The maximum elevation of these structures is 8.85' and the finish floor of the house at 10.0' that leaves a gap of 1.15' resulting in the need for the variance requested. Staff finds that the existing low grade for the property create the practical difficulties to accommodate the transition from the existing surrounding low grade to the higher finish floor required by the City Code. However, staff has some concerns regarding the portion of the side stairs landing located within the rear yard. Due to the extent of the side landing along the pool is considered part of the pool deck and shall be set back 7'-6" from the side property lines. Staff recommends that this portion be eliminated to provide additional landscape. With this modification, staff is supportive of the variances.

5. A variance to reduce by 3'-3" the minimum required setback of 7'-6" from a pool water's edge to a rear property line in order to construct the pool water's edge at a minimum of 4'-3" from the rear property line.
- Variance requested from:

**Sec. 142-1133. Swimming pools.**

*This section applies to swimming pools in all districts, except where specified. Accessory swimming pools, open and enclosed, or covered by a screen enclosure, or screen enclosure not covering a swimming pool, may only occupy a required rear or side yard, provided:*

*(1)Rear yard setback. There shall be a minimum seven and one-half-foot setback from the rear property line to the water's edge of the swimming pool or to the waterline of the catch basin of an infinity edge pool.*

Most single family homes have an accessory pool within the 20' required rear yard. In this case, the rear yard of the property is approximately 8' which impose restrictions for the construction of a pool within that width. In order to place a pool in the rear, the setback for

the structure has to be increased, as a minimum of 7'-6" is required from the rear property line to the pool water's edge. The building is proposed at 15' from the rear property line, to allow this accommodation, but still a variance is necessary for the pool at the proposed location. Staff is supportive of the applicant's request as the reduced lot area, below the minimum required and required rear setback create the practical difficulties that result in the need for this variance.

6. A variance to exceed by 53.9% (241.6 SF) the maximum of 30% (134.4 SF) deck and pool area allowed within the rear yard in order to construct a pool and deck with 83.9% (376 SF) of area at the required rear yard.

- Variance requested from:

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

*(j) Hot tubs, showers, saunas, whirlpools, toilet facilities, swimming pool equipment, decks. In all districts, hot tubs, showers, whirlpools, toilet facilities, decks and cabanas are structures which are not required to be connected to the main building but may be constructed in a required rear yard, provided such structure does not occupy more than 30 percent of the area of the required rear yard and provided it is not located closer than seven and one-half feet to a rear or interior side lot line.*

The area of pool and deck in multifamily districts is restricted to no more than 30% of the area of the required rear yard. The applicant is proposing an area that exceeds this threshold up to 83.9%. Based on the overall number of variances and their impact, the deck area within the rear yard is excessive and unnecessary, considering the proposed pool deck within the allowed building developable area, the deck/dock area over the water and the limited landscape in the front and side yards, impacted by variances number 2, and 3. In addition, two stairs are proposed on the sides of the pool deck that connect to the dock. This transition can be achieved through the pool deck without the long walkway/landing. Staff finds that this variance request does not meet the practical difficulties criteria and it is not the minimum variance to make a reasonable use of the land. Staff recommends that the overall deck area within the rear yard be reduced to comply with the maximum 30%, and that the stair and landing on both sides of the deck be reduced in length to provide the minimum area required to access the pool deck. For these reasons, staff recommends that this variance be **denied**.

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that staff has concluded only partially (as noted) satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents with the application partially satisfy compliance 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;

**Satisfied for variance requests #1, #2, #3, #4, and #5;**  
**Not Satisfied for variance request #6;**

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

**Satisfied for variance requests #1, #2, #3, #4, and #5;**  
**Not Satisfied for variance request #6;**

- 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;

**Satisfied for variance requests #1, #2, #3, #4, and #5;**  
**Not Satisfied for variance request #6;**

- 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;

**Satisfied for variance requests #1, #2, #3, #4, and #5;**  
**Not Satisfied for variance request #6;**

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

**Satisfied for variance requests #1, #2, #3, #4, and #5;**  
**Not Satisfied for variance request #6;**

- 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

**Satisfied for variance requests #1, #2, #3, #4, and #5;**  
**Not Satisfied for variance request #6;**

- 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.

**Satisfied**

#### **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:

1. The portions of the stair/walkways on both sides of the pool deck shall require 7'-6" setback from the side property lines. Only a small area to allow access to the pool deck is allowed.

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 project requires several variances including a variance of the required front setback for parking and to waive the minimum lot size to construct a new single family home on an undersized RM-1 zoned lot.**
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 project requires several variances see Criteria #2.**
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 project requires several variances see Criteria #2.**
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.  
**Satisfied**
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.  
**Satisfied**

8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.  
**Satisfied**
9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.  
**Not Satisfied**
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).  
**Satisfied**
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).  
**Satisfied**
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 properties along Farrey Lane were originally developed with one-story single family homes all constructed as part of a residential development in 1941. This street however, is an anomaly within the encompassing RM-1 multifamily district, which allows for a maximum height of (5) five-stories and properties to be developed with a maximum FAR of 1.25. As such, any proposed modification or new construction, even that of a single-family residence would have to comply with the RM-1 zoning development regulations. The proposed home will be located on a vacant waterfront parcel adjacent to the east of a recently approved three-story home.

Unlike the neighboring design to the west of the subject property, which relied heavily on the use of a pilotis to elevate the home and argue the case for elevated living and create a landscaped ground floor with outdoor sitting and dining area, this design features a very grounded and tactile approach to the residential program. Specifically, the proposal seeks to be "closer to the water and the earth" while still being environmental responsive to resilient to rising seas.

The first floor is elevated approximately 10'-0" NGVD and features an open plan for dining, kitchen and parlor that open up to a large outdoor living area and then the Bay. The master suite and three other bedrooms are housed on the second floor where the north master bedroom wall is detailed with a louver system that overlooks the Bay. A large children's area and outdoor terrace, along with a guest bedroom, is configured on the third level. Like its neighboring predecessor, the home is very minimalist in style and sculptural in quality, particularly with the use of materials and the articulation of the massing and exterior planes, it is a departure from the one-story homes within the neighborhood.

Staff has no design concerns and believes the house successfully addresses the Design Review Criteria. As such, staff recommends the proposal be approved as designed.

**VARIANCE REVIEW**

As part of the project, several variances are requested for the construction of the single family home on a site that does not conform to the minimum required 5,600 SF lot area for the RM-1 District. The proposed project could not be achieved if the lot size variance (#1) is not approved as the site would be undevelopable. In addition, variances from the side setbacks, from the maximum elevation allowed in required yards and from the required setback for a pool, are also requested (variances #2, #3, #4 and #5). These variances are associated with the lot size, its relation to the required floor elevation for the home and the required rear setback. Staff is supportive of these variances, as all of these relate to practical difficulties created by the existing conditions of the property. However, staff does not support variance #6, as it results in a substantial reduction of the landscape area in the rear and it is not related to an existing condition or to practical difficulties. In summary, staff recommends approval of variances #1, #2, #3, #4 and #5 and denial of variance #6.



**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends **approval** of the design and variances #1, #2, #3, #4, and #5 and **denial** of variance #6, subject to the following conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria and/or Practical Difficulty and Hardship criteria, as applicable.

TRM/JGM

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**DESIGN REVIEW BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: October 10, 2016

FILE NO: DRB16-0052

PROPERTY: **8 Farrey Lane**

APPLICANT: Steve Rhodes

LEGAL: Lot 8 of "2<sup>nd</sup> Section of Belle Isle Villas", according to the plat thereof filed for record and recorded in Plat Book 42 at Page 100 of the Public Records of Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new three-story single-family residence to replace an existing one-story pre-1942 architecturally significant home, including variances from the minimum required lot size, from the front setback for parking, from the maximum elevation allowed for projections and structures in required yards, from the required rear setback for a pool and from the maximum area for decks within the required 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. 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 and 9 in Section 118-251 of the Miami Beach Code.
- B. The project would be 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 shall be submitted to and reviewed by staff, at a minimum, such drawings shall incorporate the following:
    - a. The final design details of all exterior surface 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.

- b. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and shall be screened from view on all sides, in a manner to be approved by staff.
  - c. 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.
  - d. 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, 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. 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. The driveway shall be constructed of an erosion resistant material and the paved area shall be kept to the minimum required for a drive aisle width, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board
  - c. A fully automatic irrigation system with 100% coverage and an automatic rain sensor will be required 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.
  - d. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
  - e. The applicants shall install street trees on all sides of the project consistent with the City's Street Tree Master Plan, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board, and root barriers shall be installed along the sidewalk in conjunction with structural soils.
  - f. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow prevention devices. Backflow prevention devices shall not be permitted within any required yard or any area fronting a street or sidewalk, unless otherwise permitted by the Land Development Regulations. The location of all backflow prevention

devices, and how they are screened 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. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all post-indicator valves (PIV), fire department connections (FDC) and all other related devices and fixtures, which shall be clearly indicated on the site and landscape plans.

- g. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect for 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), which were either approved by the Board with modifications, or denied (Underlying denotes new language and ~~strike through~~ denotes stricken language):
  1. A variance to reduce 1,010 SF from the minimum required lot area of 5,600 SF within the RM-1 district in order to construct a new three-story single family residence on a multifamily property with a lot area of 4,590 SF.
  2. A variance to eliminate all of the required front setback of 20'-0" in order to construct parking spaces up to the front property line, facing Farrey Lane.
  3. A variance to exceed by 1.15' the maximum elevation of 8.85' NGVD for allowable structures within required yards in order to construct stairs at 10.0' NGVD and 60% (6'-6") encroachment into both side yards.
  4. A variance to exceed by 1.15' the maximum elevation of 8.85' NGVD for allowable structures within required yards in order to construct a pool and deck at 10.0' NGVD within the rear yard.
  5. A variance to reduce by 3'-3" the minimum required setback of 7'-6" from a pool water's edge to a rear property line in order to construct the pool water's edge at a minimum of 4'-3" from the rear property line.
  6. ~~A variance to exceed by 53.9% (241.6 SF) the maximum of 30% (134.4 SF) deck and pool area allowed within the rear yard in order to construct a pool and deck with 83.9% (376 SF) of area at the required rear yard. (Variance denied)~~

- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to Variance(s) II.A.1, II.A.2, II.A.3, II.A.4 and II.A.5, as noted above, 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, only as it relates to Variance(s) II.A.1, II.A.2, II.A.3, II.A.4 and II.A.5 as noted above:

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 **Denies** the Variance request as noted in II.A.6 and **Approves** the requested variance(s) as noted in II.A.1, II.A.2, II.A.3, II.A.4 and II.A.5, 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 site plan and floor plan drawings shall be submitted to and reviewed by staff, at a minimum, such drawings shall incorporate the following:

- a. The pool deck shall be setback 7'-6" from the side property lines, inclusive of any walkway located within the rear yard abutting the pool deck, subject to the review and approval of staff.

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

**III. General Terms and Conditions applying to both 'I. Design Review Approval' 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 yard to mitigate disturbance of soil and mud by related personal vehicles existing and entering the site and with an 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 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 for Design Review approval and Variances II.A.1, II.A.2, II.A.3, II.A.4 and II.A.5, as noted above, is GRANTED and that the Application for Variance II.A.6, as noted above is DENIED 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 "8 Farrey Lane Residence", as prepared by **Rene Gonzalez architect** dated, signed and sealed August 12, 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.

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

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