

MIAMI BEACH


PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: December 6, 2016

FROM: Thomas R. Mooney, AICP 
Planning Director

SUBJECT: DRB16-0056
1134 South Biscayne Point Road (Parcel 2) – Single Family Home

The applicant, Biscayne Point 2016 LLC, is requesting Design Review Approval for the construction of a new one-story single family home on the east side (parcel 2) of a property containing an existing one-story home including variances from the minimum lot width, from the required rear setback for a structure, from the required side setback for a driveway and from the minimum open space requirements within the rear yard. This application is subject to the approval of a lot split application pending before the Planning Board.

RECOMMENDATION:

Approval with conditions

Approval of variances #1-#4

HISTORY:

An application for a lot split is scheduled to be heard by the Planning Board on November 15, 2016 (PB16-0059). If approved, it will be subject to the conditions enumerated in the Final Order for the application.

LEGAL DESCRIPTION: See attached 'Exhibit A'

The eastern portion of Lot 33 of Block 7 (identified as "Parcel 2" on the submitted survey dated 9-2-1016) of "Biscayne Point", according to the plat thereof filed for record and recorded in Plat Book 14 at Page 35 of the Public Records of Dade County, Florida.

SITE DATA:

Zoning: RS-3
Future Land Use: RS
Lot Size: 19,411 SF
Lot Coverage:
Existing: 3,053 SF / 10%
Proposed: 5,600 SF / **29%**
Maximum: 7,764 SF / 40%

Height:

Proposed: **18' from BFE+1**

Maximum: 18' from BFE+fb

Vacant: No
Demolition Proposed: Full

Grade: +6.26' NGVD
Base Flood Elevation: +8.00' NGVD
Difference: 1.7'
Adjusted Grade: +7.13' NGVD
Finish Floor Elevation: +9.00' NGVD

Surrounding Properties:

East: Canal

North: Two-story 1959 residence

South: Biscayne Waterway

West: Proposed one-story home DRB16-0055

EXISTING STRUCTURE:

Year Constructed: 1955

Architect: N.A. Seiderman

THE PROJECT:

The applicant has submitted plans entitled "1134 S Biscayne Point Road Parcel 2", as prepared by **DVICE Design House & Builtworks** dated, signed, and sealed October 23, 2016.

The applicant is proposing to construct a new one-story home which will require the demolition of an existing 1955 one-story home.

An application for a lot split is scheduled to be heard by the Planning Board on November 15, 2016 (PB16-0059). If approved, it will be subject to the conditions enumerated in the Final Order for the application.

The applicant is requesting the following variance(s):

1. A variance to reduce by 17'-1" the minimum required lot width of 60'-0" for a RS-3 zoned parcel in order to construct a new one-story home on a parcel with a lot width of 42'-11".

- Variance requested from:

Sec. 142-105. - Development regulations and area requirements.

(b) The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows: Zoning District, RS-3, Minimum Lot Width (feet): 60'-0"- All others.

As a result of the lot split, the subject property has a substandard lot width for the RS-3 district which requires a minimum lot width of 60'-0". The lot width for single family properties is measured at the 20'-0" setback from the front property line, however, when the property has non-parallel side lines, fronts on a cul-de-sac or a circular street with a radius of less than 230'-0" that, the lot width is the average between the front and rear property lines. The subject property meets most of this criteria, except that it is not located on a circular street or on a cul-de-sac, then, the lot width is measured at the front setback line. The property would comply with the minimum lot width based on the average of the front and rear property lines.

Although the new parcel requires a variance for the lot width, it has an area of 19,411 sf which exceeds the minimum lot area of 10,000 required in the RS-3 residential district. Staff would note that the adjacent parcel 1, part of the lot split, also does not conform to the minimum lot width required and that unless this variance is approved for both properties, the lot split and development of the two sites will not be possible. The irregular shape of the existing and new lot and its location create the practical difficulties that result in the variance requested. The lower scale and massing of the proposed single family home, also well below the maximum unit size allowed are mitigating factors that staff concluded would merit the granting of the variance, as it would have less negative impact on the neighborhood than a new two-story home, based on the lot area.

2. A variance to reduce by 14'-6" the minimum required rear yard setback of 37'-0" in order to construct a new one-story single family home with a rear setback of 22'-6.

- 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:

(3) Rear: The rear setback requirement shall be 15% of the lot depth, 20'-0" minimum, 50'-0" maximum.

The original parcel, Lot 33 of Block 7, is a tear-shaped property with approximately 525'-0" linear feet of waterfront frontage. Once subdivided by the lot split, the subject property—the eastern portion of Lot 33—is an irregularly shaped lot with non-parallel side lines determined to have two rear setbacks, one along the larger side of the site (37'-0"), and another on the shorter side, which is required to be 20 feet. The larger rear setback substantially differs from the required rear yard for the surrounding properties with rectangular shape. The front of the site is very narrow with 36' at the front and the proposed house is placed toward the rear, with a rear setback of 22'-6", consistent with the required rear yard for the adjacent properties to the west. The new home has a front setback of 95 feet where 20 feet is required and a side setback of 8'-0". The project also complies with the 20' rear setback on the east side along the water.

The existing property is the edge lot on a block within the Biscayne Point Subdivision, which was historically platted on March 10, 1922. Block 16, of which the subject property is part and parcel of, was factually comprised of lots with 60'-0" or 75'-0" wide frontages and depths of either 120'-0" or 150'-0". The rear setback requirement for these parcels would be 20'-0" or 22'-6". Due to the lot depth of the subject property, 246.8' in depth, the rear setback requirement is greater for the property. 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.

Staff finds that the narrow front of the property, increased lot depth, relative to the surrounding properties, and the fact that this site is burdened with two rear setbacks, limits the development of the new home and creates the practical difficulties that result in the variance requested.

3. A variance to reduce by 16.5% (758 SF) the minimum required open space of 70% (3,210 SF) within the required rear yard in order to construct a one-story home and accessory pool and deck within the required rear yard and provide 53.5% (2,452 SF) of open space.

- 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:

(3) Rear: At least 70% 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 the subdivided parcel 2 has two rears, the open space requirements applies to both rear yards. The applicant is proposing to comply with the 70% open space within the proposed 22'-6" rear setback of the new home and exceeds the minimum requirements on the rear yard facing

the east. However, the open space requirements must still be provided within the required rear yard of 37' on the south side, on which the project provides 53.5% of open space. The reduction of the required rear yard is associated to variance request #2. Staff finds that the narrow lot width, irregular shape of the site and the setbacks for the two rear sides, impose difficulties to develop the new home with a 20'-0" front setback. As such the home is set back 95' from the front property line, which also impact the required rear setback of the new home. The proposed rear setback and proposed open space is consistent with what is required for the adjacent properties. The granting of this variance would allow the construction of the new home with a similar percentage of open space as required for the surrounding properties. Staff finds that the irregular shape of the lot, the lot depth larger than other adjacent properties and the reduced lot width, the variance request satisfies the practical difficulties criteria for the granting of the variance.

4. A variance to reduce by 4'-0" the minimum required setback of 4'-0" for a driveway in order to construct a driveway at zero setback along the side property line.

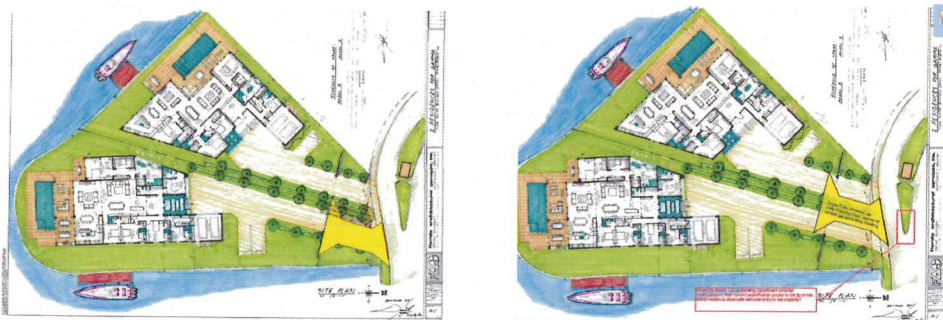
- Variance requested from:

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

(g) Driveways. Driveways and parking spaces leading into a property located in single-family and townhome districts shall have a minimum setback of 4'-0" from the side property lines. Driveways and parking spaces parallel to the front property line shall have a minimum setback of 5'-0" from the front property line. Driveways and parking spaces located within the side yard facing the street shall have a minimum setback of 5'-0" to the rear property line.

In an effort to be least disruptive to the area, the applicant is proposing a shared driveway between this property and the companion application (DRB15-0055: Parcel 1). In order to do so, the driveway must straddle both parcels' shared interior property line. This is the most practical and safest solution in order to have access to and from the new residences created as a result of the lot split. The location of the property entrance to Biscayne Point, with a very narrow front, is a special condition that results in the variance requested, in addition to the existing locations of the guardhouse and the entrance bridge. The proposed driveway must **NOT** create a conflict with the center landscaped median which serves as part of the entry feature to the community currently being renovated by the CIP Department. Again, due to the narrow width of the front property line and irregular shape of the lot, the variance request complies with the practical difficulties criteria.

The graphics below depicts the impact of having two separate driveways for the properties and the single shared driveway.



Original two separate driveway plan without variances

Shared driveway with variance

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicants have submitted plans and documents with the application that partially satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

Additionally, staff has concluded that the plans and documents submitted 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;
- 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, appears to be inconsistent with the following sections of the City Code, aside from the requested variances pertaining to the proposed signage as noted herein this application:

1. The open space calculations and diagrams shall be further detailed to clearly indicate overall dimensions of the rear yard, pool and deck area in order to verify that the project provides 70% open space within the proposed rear yard of 22'-6".

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 multiple variances.
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 multiple variances.
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 multiple variances.
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.

Not 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

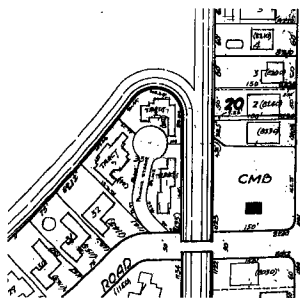
STAFF ANALYSIS:

An application for a lot split is scheduled to be heard by the Planning Board on November 15, 2016 (PB16-0059). The approval would divide the 33,538 SF parcel of land (Lot 33 of block 7) into two individual single family development sites. The eastern portion, Parcel 1, is proposed to contain 14,127 SF of lot area, and is the subject of the companion application DRB15-0055 which is also part of this meeting's agenda. The western portion, Parcel 2, is the subject property and proposed to contain 19,100 SF of lot area. The existing one-story home is proposed to be demolished in order to accommodate two, new, contemporary one-story homes.

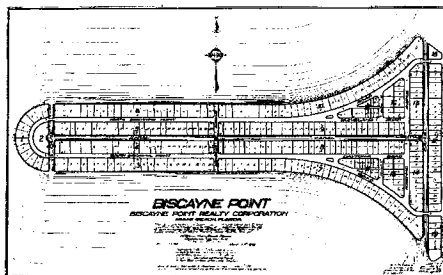
Overall, the applicant has produced a design for the replacement home in a manner that is sensitive to the neighborhood's overall context and which architecturally distinguishes itself from the neighboring structure to the west (DRB16-0055, Parcel 1). Staff recommends that the design of the home be approved.

VARIANCE REVIEW

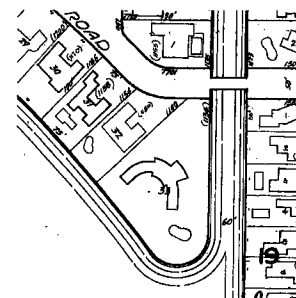
The applicant is requesting several variances for parcel 2, as a result of the lot split of the property. Similar variances are also requested on the adjacent parcel 1. The existing property with an area of 33,538 SF approximately is within the plat of Biscayne Point Subdivision which was originally platted in 1925. The original plat contains two similar irregular shaped edge parcels. The northern parcel of Lot 33 of Block 10 is the mirror image to the subject property (before the lot split). As shown in the images below, in 1955 that lot (Lot 33 of Block 10) was also subdivided into three tracts and platted with access by a private street. In this regard, the subdivision of land, is compatible and in character with the area.



Tracts 1, 2, and 3 of Lot 33 of Block 10



Original 1925 plat of Biscayne Point



Lot 33 of Block 7
Subject Property is the western half

The adjacent lots to the west and north of the subject property are substantially smaller in area ranging from 11,250 sf to 15,300 sf approximately, and based on the minimum area required for the RS-3 district, the site, subject to a lot split, could theoretically be subdivided in three 10,000 SF lots, similar to the mirror properties to the north. However, its location, irregular shape and access to the street, create practical difficulties that make this property unique in size, as it is almost three times larger in area than the surrounding properties and also subject to a more restrictive rear setback. Also, due to its larger area, a more massive and imposing single family home could be constructed, which may negatively affect the neighborhood, as the majority of the homes are one-story structures. Staff finds that the proposed project is more compatible with the neighborhood and would not have an adverse impact in the urban context.

As previously mentioned under 'Project' section of the report, staff finds that the requests for variances #1, #2, #3 and #4 meet the criteria for practical difficulties; 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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'Exhibit A'

Legal Description
1134 S. Biscayne Point Rd- Lot 2

Lot 33, Block 7, of BISCAYNE POINT, according to the plat thereof as recorded in Plat Book 14, at Page 35, of the Public Records of Miami-Dade County, Florida,

Less and except the following:

Commence at the Northeast corner of Lot 33, Block 7, of BISCAYNE POINT, thence S8T38'29"W, along the North line of said Lot 33, also being the South right-of-way line of South Biscayne Point Road, a distance of 37.00 feet to the Point of Beginning; thence S15°31'15"W, a distance of 223.26 feet to a point of cusp with a non tangent curve concave to the Southwest, having a radius of 168.80 feet, the initial radial of which bears N49.26'23"E, said point also lying on the exterior face of the exiting bulkhead; thence Northwesterly along said exterior face of the exiting bulkhead; an arc distance of 111.04 feet, through a central angle of 3°44'46" to a point; thence N44.18'37"W, along the exterior face of the exiting bulkhead, a distance of 115.22 feet to the Southwest corner of aforesaid Lot 33; thence N44.24'58"E, along the Northwesterly boundary line of said Lot 33, a distance of 172.45 feet to a point of cusp with a non tangent curve concave to the Northeast, having a radius of 100.00 feet, the initial radial of which bears S05°55'23"W, said point being also the Northwest corner of said Lot 33 and lying on the South right-of-way line of South Biscayne Point Road; thence in a southeasterly direction, along said curve, an arc distance of 14.48 feet through a central angle of 3°17'54" to the point of tangency; thence continue along the North line of aforesaid Lot 33, also being the South right-of-way line of South Biscayne Point Road, N8T38'29"E, a distance of 16.28 feet to the Point of Beginning.

19,411 Square Feet or 0.45 Acres more or less by calculations.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: December 6, 2016

FILE NO: DRB16-0056

PROPERTY: **1154 South Biscayne Point Road, Parcel 2**

APPLICANTS: Biscayne Point 2016 LLC

LEGAL: **See attached 'Exhibit A'**

The eastern portion of Lot 33 of Block 7 (identified as "Parcel 2" on the submitted survey dated 9-2-1016) of "Biscayne Point", according to the plat thereof filed for record and recorded in Plat Book 14 at Page 35 of the Public Records of Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new one-story single family home on the east side (parcel 2) of a property containing an existing one-story home including variances from the minimum lot width, from the required rear setback for a structure, from the required side setback for a driveway and from the minimum open space requirements within the rear yard. This application is subject to the approval of a lot split application pending before the Planning Board.

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 a 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, 9 and 14 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. The proposed home shall be subject to a lot split (PB16-0059) being approved by the Planning Board and subject to the conditions enumerated in the Final Order for the division of land application.

2. Future plans shall include significant detail for the work within the public's right-of-way, to include but not limited to existing and proposed spot grades as well as water/sewer proposed lines and shall be subject to the review and approval of the Public Works Department.
3. FPL power service line for both lots should be provided underground and under driveways in order to avoid conflicts with the rooting system of the canopy shade trees within the front yard. The underground location of the service line on both architectural site and landscape plans shall be required.
4. Revised elevation, site plan, and floor plan drawings for the proposed new home at 1134 South Biscayne Point Road, Parcel 2, shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. Additional material finishes shall be introduced along the front and side (east) elevations, 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. 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.
 - c. The final design and details of the exterior Brazilian teak wood finish color, 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
 - a. 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.
 - b. Any fence or gate at the front of the property shall be designed in a manner consistent with the architecture of the new structure, 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 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.
5. 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 landscape plans shall incorporate one preferably native large canopy shade tree in the landscape area in front of the fence and east of the proposed driveway.
- f. The landscape plans shall remove *Clusia guttifera* from the proposed planting species (as it is not native to Florida) and a preferably native and salt tolerant species be selected as a replacement, subject to the review and approval of staff.
- g. 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.
- h. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- i. 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.

- j. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- k. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventers and all other related devices and fixtures. The location of backflow preventers, 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.
- l. 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.
- m. 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 17'-1" the minimum required lot width of 60'-0" for a RS-3 zoned parcel in order to construct a new one-story home on a parcel with a lot width of 42'-11".
 - 2. A variance to reduce by 14'-6" the minimum required rear yard setback of 37'-0" in order to construct a new one-story single family home with a rear setback of 22'-6".
 - 3. A variance to reduce by 16.5% (758 SF) the minimum required open space of 70% (3,210 SF) within the required rear yard in order to construct a one-story home and accessory pool and deck within the required rear yard and provide 53.5% (2,452 SF) of open space.

4. A variance to reduce by 4'-0" the minimum required setback of 4'-0" for a driveway in order to construct a driveway at zero setback along the side property line.
- B. The applicant has submitted plans and documents with the application that the Board has concluded satisfy Article 1, Section 2 of the Related Special Acts.

The applicant has submitted plans and documents with the application that the Board has concluded 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. At least 70% of open space within the proposed rear yard shall be provided.

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. The applicant shall submit a Hold Harmless Covenant Running with the Land to the City Attorney's Office in a form acceptable to the City Attorney indemnifying and holding harmless the city against any claim or loss in the event of an accident involving a motor vehicle or other instrumentality due to the proximity of the driveway to the adjacent neighboring properties.
- C. 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. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- E. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- F. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy, a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- G. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- H. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.

- I. Nothing in this order authorizes a violation of 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 "1134 S Biscayne Point Road Parcel 2", as prepared by DVICE Design Hosue & Builtworks dated, signed, and sealed October 23, 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

BY: _____
DEBORAH J. TACKETT
DESIGN AND PRESERVATION MANAGER
FOR THE CHAIR

[illegible]

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by Deborah J. Tackett, Design and Preservation Manager, 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 _____ ()

'Exhibit A'

Legal Description

1134 S. Biscayne Point Rd- Lot 2

Lot 33, Block 7, of BISCAYNE POINT, according to the plat thereof as recorded in Plat Book 14, at Page 35, of the Public Records of Miami-Dade County, Florida,

Less and except the following:

Commence at the Northeast corner of Lot 33, Block 7, of BISCAYNE POINT, thence S8T38'29"W, along the North line of said Lot 33, also being the South right-of-way line of South Biscayne Point Road, a distance of 37.00 feet to the Point of Beginning; thence S15°31'15"W, a distance of 223.26 feet to a point of cusp with a non tangent curve concave to the Southwest, having a radius of 168.80 feet, the initial radial of which bears N49.26'23"E, said point also lying on the exterior face of the exiting bulkhead; thence Northwesterly along said exterior face of the exiting bulkhead; an arc distance of 11.04 feet, through a central angle of 3°44'46" to a point; thence N44.18'37"W, along the exterior

face of the exiting bulkhead, a distance of 115.22 feet to the Southwest corner of aforesaid Lot 33; thence N44.24'58"E, along the Northwesterly boundary line of said Lot 33, a distance of 172.45 feet to a point of cusp with a non tangent curve concave to the Northeast, having a radius of 100.00 feet, the initial radial of which bears S05°55'23"W, said point being also the Northwest corner of said Lot 33 and lying on the South right-of-way line of South Biscayne Point Road; thence in a southeasterly direction, along said curve, an arc distance of 14.48 feet through a central angle of 3°17'54" to the point of tangency; thence continue along the North line of aforesaid Lot 33, also being the South right-of-way line of South Biscayne Point Road, N8T38'29"E, a distance of 16.28 feet to the Point of Beginning.

19,411 Square Feet or 0.45 Acres more or less by calculations.