

# MIAMI BEACH


## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: February 06, 2017

FROM: Thomas R. Mooney, AICP  
Planning Director 

SUBJECT: DRB16-0047  
**1060 West 47<sup>th</sup> Street– Single Family Home**

The applicant, Jorge Fernandez, is requesting Design Review approval for the construction of a new two-story single-family home to replace an existing pre-1942 architecturally significant two-story single-family home including ~~variances from the front, both required sides and sum of the side setbacks for the principal structure; variances from the required side and rear setbacks for an accessory structure, to exceed the maximum area for an accessory structure, to exceed the maximum unit size of the accessory structure in relation to the main house, to exceed the maximum projection allowed in required yards, and to reduce the required landscaped open space,~~ in order to retain an existing one-story accessory building in the rear yard.

~~Denotes variances withdrawn~~

#### **RECOMMENDATION:**

Approval with conditions.

Approval of variance requests #1-5 as they pertain to the accessory structure with modifications.

#### **LEGAL DESCRIPTION:**

Lot 6 of Block 15 of the Nautilus Addition, according to Plat thereof as recorded in Plat Book 8, Page 130 of the Public Records of Miami-Dade County, Florida.

#### **HISTORY:**

On March 01, 2016, the applicant requested a Formal Determination of Architectural Significance for the existing 1929 home. A site visit of the subject property was conducted by staff on March 11, 2016 and existing structure was found to meet at least one of the criteria to be identified as 'Architecturally Significant'.

On November 01, 2016, the Design Review Board continued the application to February 6, 2017 in order for the applicant to further refine the design.

#### **SITE DATA:**

Zoning:	RS-4
Future Land Use:	RS
Lot Size:	8,127 SF
Lot Coverage:	
Existing:	2,097 SF / <b>26%</b>
Proposed:	2,399 SF / 29.5%
Maximum:	2,438 SF / 30%

Unit size:

Existing: 2,635 SF / 33%  
Proposed: 3,731 SF / 46%  
Maximum: 4,063.5 SF / 50%  
2<sup>nd</sup> Floor Volume to 1<sup>st</sup>: 2399/1332 55%  
Height:  
Proposed: **24'-0" flat roof**  
Maximum: 24'-0" flat roof

Grade: +3.9' NGVD  
Flood: +8.00' NGVD  
Finished Floor: +9.00' NGVD (BFE +1'-0" freeboard)  
Difference: +4.1' NGVD  
Adjusted Grade: +5.95' NGVD

**EXISTING STRUCTURE:**

Year Constructed: 1929  
Contractor: A.L Sammons  
Vacant: No  
Demolition Proposed: Full

**Surrounding Properties:**

East: One-story 1937 residence  
North: Two-story 1931 residence  
South: Two-story 1951 residence  
West: One-story 1936 residence

**THE PROJECT:**

The applicant has submitted revised plans entitled "JF South Beach Residence", as prepared by **CHISHOLM Architecture**, signed, sealed and dated 12/12/16.

The applicant is proposing to construct a new two-story residence to replace an existing pre-1942 architecturally significant one-story home. An existing accessory structure is located in the required rear yard and is proposed to remain, requiring multiple variances to be retained.

The applicant has since redesigned the proposal to eliminate the need for the originally requested variances for the principal structure.

The following variances pertain to the retention of the existing accessory structure:

1. A variance to reduce by 2'-0" the minimum required interior side setback of 7'-6" for a one-story accessory building in order to retain a non-conforming structure at 5'-6" from the west property line.
2. A variance to reduce by 2'-0" the minimum required rear setback of 7'-6" for a one-story accessory building in order to retain a non-conforming structure at 5'-6" from the rear property line.
  - Variances 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:

e. Setbacks

1. Single Story. A single story accessory building shall not be located closer than seven and one half feet to an interior rear or interior side lot line, and 15 feet when facing a street.

3. A variance to exceed by 11.3% (8") the maximum allowed projection of 25% (1'-4") of the existing side yard of 5'-6" in order to retain an accessory building with roof overhang encroaching 36.3% (2'-0") into the side yard.

- Variance 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, unless otherwise noted.

(7) Roof overhangs.

4. A variance to exceed by 11.9% (166 SF) the maximum 25% (345.8 SF) of area for an accessory building located in the rear yard in order to retain an accessory building with 36.9% (511.8 SF) of the area of the required rear yard (1,383.4 SF).

- 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:

a. Lot coverage. Accessory buildings that are not a part of the main building, shall be included in the overall lot coverage calculations for the site, and may be constructed in a rear yard, provided such accessory building (or accessory buildings) does not occupy more than 25 percent of the area of the required rear yard.

5. A variance to exceed by 3.7% (138.7 SF) the maximum unit size permitted of 10% (373.1 SF) for an accessory building in relation to the unit size of the main house in order to retain an accessory building at 13.7% (511.8 SF) of the size of the main home (3,731 SF).

- 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:*

*b. Size. The area of accessory buildings shall be included in the overall unit size calculation for the site. In no instance shall the total size of all accessory building(s) exceed 10% of the size of the main home on the subject site, or 1,500 SF, whichever is less.*

- Supplemental Section:

**Sec. 118-395. - Repair and/or rehabilitation of nonconforming buildings and uses.**

*(2) Nonconforming buildings which are repaired or rehabilitated by more than 50% of the value of the building as determined by the building official, shall be subject to the following conditions:*

*c. The entire building and any new construction shall comply with the current development regulations in the zoning district in which the property is located.*

An existing one-story accessory building is located in the rear of the property in the southwest corner of the parcel. Constructed in tandem with the main structure in 1929, it served as the garage to the main house according to City records (permit #3250). Along with the demolition of the existing architecturally significant home and the proposed new construction, the cost of the new improvements to the site will exceed the 50% value rule. Therefore, the existing accessory structure must comply with all zoning regulations.

Staff has no objections to these variances as they are related to the existing one-story structure that has been on site since 1929 and no additions or expansions are proposed. The existing setbacks of 5'-0" are consistent with the setbacks of structures constructed at that time and the retention of the building would not be detrimental to the adjacent neighboring properties. In addition, the applicant has modified the plans to eliminate a variance for the open space within the required rear yard to allow additional landscaping at the rear.

Staff finds that there are practical difficulties for the retention of the accessory building as existing and recommends that variances #1-#5 be approved.

**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:**

The application, as submitted, appears to be consistent with the applicable requirements of the City Code, with the exception of the variance(s) requests herein. This shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

**COMPLIANCE WITH DESIGN REVIEW CRITERIA:**

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

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.  
**Satisfied**
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.  
**Not Satisfied; the applicant is requesting 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.  
**Not Satisfied; the material palette needs to be diversified.**
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.  
**Not Satisfied; aspects of the design are not compatible with the residential character of the neighborhood.**
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.  
**Satisfied**
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.  
**Satisfied**
9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.  
**Satisfied**
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.  
**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; aspects of the design are not compatible with the residential character of the neighborhood.**

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 Satisfied; aspects of the design are not compatible with the residential character of the neighborhood.**

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:**

This item was continued at the November 01, 2016 Design Review Board meeting after the Board provided the applicant with design input and direction. The applicant is proposing to construct a new contemporary two-story residence that will replace an existing two-story home, originally constructed in 1929. Since the proposed new construction replaces a pre-1942 architecturally significant single family home, review and approval for the replacement home by the Design Review Board is required. The proposed home is within the maximum zoning thresholds for lot coverage and unit size and no design waivers are being sought; however, multiple variances are being requested for the retention of a nonconforming accessory structure located in the rear of the property.

The original application submitted and heard by the Board on November 01, 2016 requested

ten (10) variances. In response to concerns expressed by the Board, the new submittal represents a redesign to eliminate all of the variances from the new construction and an improved scale and texture on the front façade. Additional materials, textures and architectural details have been added which improves the scale and architectural richness of the design. The industrial look of the residence has been reexamined by re-studying the selected material palette as well as the architectural embellishments.

This section of the Nautilus neighborhood of Mid-Beach has not seen much recent residential construction, with the exception of the new single-family homes developed in association with the Miami Heart residential project along West 48<sup>th</sup> Street. This area also contains many homes dating back to the 1930's, most of which have second floors that are less than the first floor. The majority of the homes are Mediterranean Revival in design, where only a portion of the massing contains two-story volumes. Additionally, many ranch style houses dating from the 1940s and 1950s can be found in the area. This proposed home is a departure from the established neighborhood context which is composed of predominantly one-story single-family homes built in the 1930s. The existing home generally have smaller footprints and greater front setbacks, along with a mix of multiple roof pitches.

Understanding the need to place the finished first floor at BFE + freeboard, the architect has lifted the ground floor of the proposed home by a structural network consisting of a series of steel I-beams that are exposed and visible. This interpretation of pilotis with exposed i-beams is not characteristic of the residential architecture in the immediate area. Setback from the edge of the building within the underside of the slab, "vermin control mesh" has been proposed, to deter unwanted access to the crawlspace. Both of these elements result in less residential architectural base and are highly evocative of industrial architecture. Staff would strongly recommend modifying the base of the house to have a continuous wall or base setback from the edge of the residential slab in order to achieve both the "floating house" perception and the protection againsts unwanted visitors underneath the home.

The elevations have been redesigned, eliminating the previously applied heavy architectural framework, replacing it with decorative, sculptural 'awnings' proposed above the windows. The location and configuration of these aluminum steel members are more deliberately planned than the previous execution, and the resulting product complies with the zoning regulations.

The applicant has done a good job of revising the overall footprint, scale, massing and general design of the subject home, since the initial design concept was presented to staff and to the Board. In this regard, the somewhat boxy architectural style of the home, while not typical to the Nautilus neighborhood, is now generally more compatible with the surrounding area. Further, some tangible steps have been taken to reduce the overall massing of the home in a manner that will be more compatible with the built context of the immediate area.

Staff believes that the proposed redesign has addressed the areas of concern and follows the direction provided by the Board. In doing so, the overall design is a vast improvement from the initial proposal.



**VARIANCE ANALYSIS:**

The proposed home has been redesigned to comply with all the setback requirements and the open space required within the rear yard.

Staff has concluded that the retention of the accessory building creates practical difficulties for the design of the new home and the variances requested satisfy the criteria for the granting of these variances. Staff would recommend that variances #1-5 be approved with the recommendation that no additional area or height be added to the existing accessory structure in the future.

**RECOMMENDATION:**

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

TRM/JGM

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

MEETING DATE: February 06, 2017

FILE NO: DRB16-0047

PROPERTY: **1060 West 47<sup>th</sup> Street**

APPLICANT: Jorge Fernandez

LEGAL: Lot 6 of Block 15 of the Nautilus Addition, according to Plat thereof as recorded in Plat Book 8, Page 130 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review approval for the construction of a new two-story single-family home to replace an existing pre-1942 architecturally significant two-story single-family home including variances ~~from the front, both required sides and sum of the side setbacks for the principal structure; variances from the required side and rear setbacks for an accessory structure, to exceed the maximum area for an accessory structure, to exceed the maximum unit size of the accessory structure in relation to the main house, to exceed the maximum projection allowed in required yards, and to reduce the required landscaped open space,~~ in order to retain an existing one-story accessory building 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 2-6, 12, and 15 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. Prior to the issuance of a Building Permit, revised elevations, site plan, and floor plan drawings for the proposed new home at 1060 West 47<sup>th</sup> Street shall

be submitted and approved by staff; at a minimum, such drawings shall incorporate the following:

- a. The base of the house, including the exposed I-beams and vermin control mesh located under the first floor slab, shall be redesigned to not be visible either with an architectural base or a raising of the yards, in a manner to be reviewed and approved by staff.
  - b. The architect shall provide a minimum of 5'-0" landscape separation from the front of the building to the paved parking area(s), with the exception of driveways and paths leading to the building, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - c. The final design details of all exterior proposed architectural awning elements applied to the exterior of the front and side façades, including materials, color 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.
  - d. The stone cladding proposed along the façades of the residence shall consist of a natural keystone or other natural stone, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - e. 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.
  - f. Any 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.
  - g. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
  - h. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit
2. A revised landscape plan, 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. 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 proposed landscape plan should be further developed and significantly enhanced with a more diverse plant palette inclusive of native plant species subject to the review and approval of staff.
- f. In order to enhance rooting space, Silva Cells should be provided for the Live Oak tree proposed in the center area of the front yard.
- g. Walkways within the required yards shall be limited to 5'-0" in width, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- h. The architect shall substantially increase the amount of native canopy shade trees within the site, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- i. The architect shall incorporate additional hedging or planting material along both side property lines that at the time of planting have a minimum height of approximately 12'-0" and at time of maturity will reach approximately 20'-0" in height, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

- j. The proposed trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- k. Canopy shade trees as required by code should be provided in the public ROW subject to the review and approval of the Urban Forestry Division and the Planning Department.
- l. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- m. 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.
- n. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- o. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
- p. 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.
- q. 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.**

**I. Variance(s)**

- A. The applicant filed an application with the Planning Department for the following variance(s):

1. A variance to reduce by 2'-0" the minimum required interior side setback of 7'-6" for a one-story accessory building in order to retain a non-conforming structure at 5'-6" from the west property line.
  2. A variance to reduce by 2'-0" the minimum required rear setback of 7'-6" for a one-story accessory building in order to retain a non-conforming structure at 5'-6" from the rear property line.
  3. A variance to exceed by 11.3% (8") the maximum allowed projection of 25% (1'-4") of the existing side yard of 5'-6" in order to retain an accessory building with roof overhang encroaching 36.3% (2'-0") into the side yard.
  4. A variance to exceed by 11.9% (166 SF) the maximum 25% (345.8 SF) of area for an accessory building located in the rear yard in order to retain an accessory building with 36.9% (511.8 SF) of the area of the required rear yard (1,383.4 SF).
  5. A variance to exceed by 3.7% (138.7 SF) the maximum unit size permitted of 10% (373.1 SF) for an accessory building in relation to the unit size of the main house in order to retain an accessory building at 13.7% (511.8 SF) of the size of the main home (3,731 SF).
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, 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 **Approves** the requested variance(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. Any future addition of buildings or structures within the required rear yard shall require the applicant to return to the Board for review and approval of the proposed work.
  3. The existing accessory building shall not be modified in floor area, or height in the future.

**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.**

**II. 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. Second kitchens are subject to the review and discretion of the Planning Director, pursuant to City Code Section 142-905(b)(2), and subject to a restrictive covenant. If a second kitchen is permitted by the Planning Director, a restrictive covenant, subject to the approval of the City Attorney, shall be required, indicating among other things, that the guest cottage will not be rented out separately as an apartment unit.
- 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 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 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 "JF South Beach Residence", as prepared by **CHISHOLM Architecture**, signed, sealed and dated 12/12/16, 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 \_\_\_\_\_ (                    ) )