

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: DRB16-0072
40 West San Marino Drive – Single Family Home

The applicant, SRR Property Holdings LLC, is requesting Design Review Approval for the construction of a new two-story single family home **including a variance to reduce the minimum lot area and lot width requirements**, to replace an existing pre-1942 architecturally significant one-story home. (ITEM WAS HEARD AND CONTINUED AT THE DECEMBER 6, 2016 DRB MEETING. VARIANCES HAVE BEEN REQUESTED AND NOTICED).

RECOMMENDATION:

Approval with conditions

Approval of the variances of lot size area and lot width

HISTORY:

At the December 06, 2016 Design Review Board meeting, the application was continued to the February 06, 2017, 2016 DRB meeting at the request of the applicant in order to properly notice the variance requests.

LEGAL DESCRIPTION:

See 'Exhibit A'

SITE DATA:

Zoning: RS-3
Future Land Use: RS
Lot Size: **9,953 SF***

***VARIANCE REQUIRED**

Lot Coverage:
Existing: ±3,579 SF / 35%
Proposed: 2,752 SF / **28%**
Maximum: 2,986 SF / 30%

Unit size:
Existing: ±3,579 SF / 35%
Proposed: 4,981 SF / **50%**
Maximum: 4,981 SF / **50%**

2nd Floor Volume to 1st: 86%*
***DRB WAIVER**

Height:

Proposed: **27'-0" flat roof ***
Maximum: 24'-0" flat roof
***DRB WAIVER**

Grade: +5.34' NGVD
Flood: +9.00' NGVD
Difference: 3.66'
Adjusted Grade: +7.17' NGVD
30" (+2.5') Above Grade: +9.67' NGVD
First Floor Elevation: +10.00' NGVD

EXISTING STRUCTURE:

Year Constructed: 1936
Architect: L.M. Barrett
Vacant: No
Demolition Proposed: Total

Surrounding Properties:

East: Vacant—DRB0716-0041
North: Two-story 2007 residence

South: One-story 1936 residence
West: Biscayne Bay

THE PROJECT:

The applicant has submitted revised plans entitled "San Marino Island Residence: DRB Revised Submission", as prepared by **Choeff Levy Fischman P.A.** dated December 16, 2016.

The applicant is proposing to construct a new two-story residence on a waterfront parcel on the western side of the southern portion of San Marino Island.

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

1. The height of the proposed structure is **27'-0"** in accordance with Section 142-105(b).
2. The second floor's physical volume exceeds 70% of the first floor in accordance with Section 142-105(b)(4)(c).
3. A two-story side elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d).

The applicants are requesting the following variance(s):

1. A variance to reduce by 47 SF the minimum required lot area of 10,000 SF within the RS-3 district in order to construct a two-story single family home on a property with a lot area of 9,953 SF.
 2. A variance to reduce by 5'-6" the minimum required lot width of 60'-0" within the RS-3 district in order to construct a two-story single family home on a property with a lot width of 54'-6".
- Variance(s) requested from:

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

(b)(1) Lot area, lot width, lot coverage, unit size, and building height requirements. The lot area, lot width, lot coverage, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

Minimum Lot Width: 60'-0"

Minimum Lot Area (Square Feet): 10,000 SF

The subject property is a waterfront parcel on San Marino Island which was historically platted on June 9, 1923 with the same dimensions and lot areas as today. The lot is on the turning radius of the pill-shaped island, with measurements making it 47 SF smaller in lot area and 5'-6" in lot width than the required 10,000 SF and 60'-0" of width for the RS-3 district. Without the granting of this variance, the construction of any building on the lot would not be permitted and the site could not be developed as other lots in the same district. The size of the property and its current parallelogram shape are the same original parcel

geometric configuration. Staff is supportive of this variance since the site complies with the Practical Difficulty and Hardship Criteria.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicants have 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, 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:

1. The maximum building height is 24'-0" for flat roofed structures and 27'-0" for sloped roofs. In the RS-3 zoning district, the DRB may approve a building height of up to 28'-0" for flat roofs and 31'-0" for sloped roofs, and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria. **The applicant is requesting a height of 27'-0" for portions of the second**

floor roofline which will require a waiver from the DRB.

2. For two story homes with an overall lot coverage of 25% or greater, the physical volume of the second floor shall not exceed 70% of the first floor of the main home, exclusive of any enclosed required parking area and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria. **The applicant is requesting a 2nd Floor Volume to 1st of 86% with a 28% lot coverage which will require a waiver from the DRB.**
3. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60'-0", whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard. The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line. The square footage of the additional open space shall not be less than 1% of the lot area. The intent of this regulation shall be to break up long expanses of uninterrupted two-story volume at or near the required side yard setback line and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria.
4. The proposed steps leading to the guest bedroom and pool bath proposed in the required (north) side yard may not comply with the maximum elevations or allowable encroachments.
5. The edge of the active roof deck must be setback a minimum of 10'-0" from each side of the (north and south) exterior outer walls.
6. If a secondary means of roof access is required, the location of any future exterior stair or elevator shall be reviewed and approved by staff.
7. Portions of the covered area located in the southwestern front of the residence may need to be counted towards lot coverage, adequate details have not been provided.
8. Accessory buildings shall be separated from the main home by a minimum of five feet open to the sky with no overhead connections.

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

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

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

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Not Satisfied; the lot does not comply with the minimum lot area.
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 proposed design requires several design waivers and the lot does not comply with the minimum lot area.
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 proposed design requires several design waivers and the lot does not comply with the minimum lot area.
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 proposed design requires several design waivers and the lot does not comply with the minimum lot area.
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Not Satisfied; the proposed design requires several design waivers and the lot does not comply with the minimum lot area.
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Not Satisfied; the proposed design requires several design waivers.
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and

all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.

Satisfied

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

Not Satisfied

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

Satisfied

11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.

Satisfied

12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

Not Satisfied; the proposed design requires several design waivers and the lot does not comply with the minimum lot area.

13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.

Satisfied

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

Satisfied

15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

Not Applicable

16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.

Satisfied

17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

Not Applicable

STAFF ANALYSIS:

DESIGN REVIEW

The applicant is proposing to construct a new two-story residence on a waterfront parcel on the western side of the southern portion of San Marino Island that will replace an existing pre-1942 architecturally significant one-story home. The home has been designed under the maximum zoning thresholds for lot coverage and unit size but requires three design waivers to be approved by the Board. Two variances are being sought as part of this application.

The first design waiver requested by the applicant pertains to the second floor to first floor ratio. Since the proposed home has a lot coverage of 28%, a waiver is required by the Design Review Board. The home has a second floor to first floor ratio of 86% where the Code limits the ratio to 70%. When reviewing the second floor volume rule, staff believes that the 16% greater 2nd to 1st floor ratio request is commensurate with the design that features 2% less lot coverage than what is permissible by Code. Additionally, the architect has respected the street scale through an increased setback of 60'-0" for the exterior wall of the second floor, which greatly lessens its impact on the street. Finally, the neighboring property directly to the north (permitted B0201376 in 2002 and built in 2007) was permitted and constructed under the previous Code which did not have this restriction. This residence contains a lot coverage of over 36% and unit size of nearly 70%, which translates to a home that would have a second floor to first floor volume ratio of approximately 95%. As such, staff is supportive of this requested waiver.

The maximum building height in the RS-3 zoning district is 24'-0" for flat roofs. However, in the RS-3 zoning district, the DRB may approve a building height of up to 28'-0" for flat roofs. The architect is seeking 27'-0" for the rear half of the new two-story residence. The intent of the waiver was for lots in the RS-3 districts that closely resemble lot sizes in the RS-1 and RS-2 zoning districts. The subject site contains a lot area of less than the minimum lot area required for RS-3 lots (10,000 SF). However, staff is supportive of this requested height increase since the applicant is not raising the height of the finished first floor to the maximum amount of freeboard, 5'-0"; if raised to BFE + 5'-0" it would result in a much greater height of the volume. The applicant is setting the first floor at 10'-0" NGVD, which is BFE + freeboard of only 1'-0". Further, the architect has respected the street scale through an increased setback of 60'-0" for the exterior wall of the second floor. Additionally, the applicant has restricted the height waiver of 3'-0" to the rear portion of the residence and proffered a 1'-6" height request for the front half. As such, staff is supportive of this requested waiver.

The applicants are also requesting a waiver of the open space requirement for two-story elevations that exceed 60'-0" in length. The two-story north elevation is 87'-0" in length. This elevation is most proximate to the abovementioned non-conforming sized residence. The elevation has been designed with an opening recess in order to break up the façade. However, the applicant has placed an exterior spiral stair that leads to the roof deck in the recess which does not adhere to the strict requirements of that Code regulation. The design succeeds with the intent of the ordinance with is to break up the two-story massing and the design has a lot of movement and architectural interest. As such, staff is supportive of this requested waiver.

The architect has designed the structure with a smooth stucco finish and board formed concrete portions accented with a dark Ipe wood finish features. The front façade design features a layered approach to the street elevation which is successful in addressing the scale of the street and transitioning in scale to the larger volume of space more internal to the site. Staff's sole design concern pertains to the covered area located in the southwestern front of the residence which may need to be counted towards lot coverage. Staff would recommend a 50% opening up to the sky in order to be exempt from the calculation. If the covered portion is determined to not count towards lot coverage, the design may remain unchanged. Additionally, staff recommends that the applicant incorporate additional architectural interest along the ground floor of the side (south) elevation, perhaps in the form of 4" wide vertical score lines to mimic to Ipe wood vertical planks. Staff recommends that the design of the new contemporary home be approved including the requested three design waivers with the modifications suggested herein.

VARIANCE REVIEW

The subject lot was platted as a pie shaped parcel located in the turning radius of the pill-shaped island, slightly under the minimum lot area and lot width for an RS-3 lot. Therefore, in order to construct on the site the applicant must obtain approval for variances. This lot on San Marino Island was originally platted in the early 1920s along the existing property lines. Staff is supportive of this variance since the request satisfies the Practical Difficulty and Hardship Criteria and the development of this lot will not be possible without granting both 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

40 W San Marino Drive

Lot 6, Block 1, of "PLAT OF SAN MARINO", as recorded in Plat Book 9, Page 22, of the Public Records of Miami-Dade County, Florida:

TOGETHER WITH THE FOLLOWING DESCRIBED PARCEL:

Begin at the Southeast corner of Lot 7, Block 1, PLAT OF SAN MARINO, as recorded in Plat Book 9, Page 22, of the Public Records of Miami-Dade County, Florida, thence West along the South Line of said Lot 7 for 175 feet to the Southwest corner of said Lot 7; Easterly 175.11 feet to the East line of said lot 7, said point being 6.25 feet North of the Southeast corner of said Lot 7; thence Southerly along the East line of said Lot 7 for 6.25 feet to the Point of Beginning.

Containing 9,953 Square feet or 0.23 Acres, more or less, by calculation.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: February 06, 2017

FILE NO: DRB16-0072

PROPERTY: **40 West San Marino Drive**

APPLICANT: SRR Property Holdings LLC

LEGAL: See 'Exhibit A'

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 one-story home.

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 3, 5, 6, 7, 9, and 12 in Section 118-251 of the Miami Beach Code.
- C. The project would remain consistent with the criteria and requirements of Section 118-251 if the following conditions are met:
 - 1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 40 West San Marino Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The 70% limitation for the second floor volume shall be waived as proposed.
 - b. The side open space requirement shall be waived as proposed.
 - c. The proposed increase in height shall be permitted as proposed. The maximum height of 27'-0" above BFE + freeboard (1'-0") shall be

permitted along the rear volume of the residence and the balance of the two-story portion shall have a maximum height of 25'-6" above BFE + freeboard (1'-0").

- d. The proposed active habitable roof deck shall not exceed a combined deck area of **25%** of the enclosed floor area immediately one floor below.
- e. The proposed active habitable roof deck shall be setback a minimum of 10'-0" from each side of the (north and south) exterior outer walls.
- f. If a secondary means of roof access is required, the location of any future exterior stair or elevator shall be reviewed and approved by staff.
- g. The proposed steps leading to the guest bedroom and pool bath proposed in the required (north) side yard shall be redesigned to comply with the allowable encroachments regulations, 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 applicant shall incorporate additional architectural interest along the ground floor of the side (south) elevation, in the form of 4" wide vertical score lines to mimic to Ipe wood vertical planks or other architectural method, 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 applicant shall provide additional details of the covered area along the southwestern front of the residence to staff in order to determine if any area(s) need to be counted towards the overall lot coverage of the site, in a manner to be reviewed and approved by staff.
- j. The applicant shall incorporate additional architectural interest along the both floors of the side (north) elevation, in the form of 4" wide vertical score lines to mimic to Ipe wood vertical planks or other architectural method, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- k. 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.
- l. The final Design details and color selection of the Ipe wood finish 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.

- m. 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.
 - n. 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.
 - o. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, and corresponding site plan, shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
- a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
 - b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
 - c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
 - d. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.

- e. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- f. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- g. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- h. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- i. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- j. If technically feasible, all overhead utility lines adjacent to the subject property shall be placed underground.
- 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 47 SF the minimum required lot area of 10,000 SF within the RS-3 district in order to construct a two-story single family home on a property with a lot area of 9,953 SF.
 2. A variance to reduce by 5'-6" the minimum required lot width of 60'-0" within the RS-3 district in order to construct a two-story single family home on a property with a lot width of 54'-6".
- 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:

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 grants 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. The accessory building shall be separated from the main home by a minimum of five feet open to the sky with no overhead connections.

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

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

- A. During Construction of the new home, the Applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles existing and entering the site and with an eight foot (8'-0") high fence with a wind resistant green mesh material along the front of the property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The Applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- B. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- C. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- D. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- E. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy, a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.

- F. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- G. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- H. Nothing in this order authorizes a violation of City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

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

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "San Marino Island Residence: DRB Revised Submission", as prepared by **Choeff Levy Fischman P.A.** dated December 16, 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.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

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.

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

'Exhibit A'

Legal Description

40 W San Marino Drive

Lot 6, Block 1, of "PLAT OF SAN MARINO", as recorded in Plat Book 9, Page 22, of the Public Records of Miami-Dade County, Florida:

TOGETHER WITH THE FOLLOWING DESCRIBED PARCEL:

Begin at the Southeast corner of Lot 7, Block 1, PLAT OF SAN MARINO, as recorded in Plat Book 9, Page 22, of the Public Records of Miami-Dade County, Florida, thence West along the South Line of said Lot 7 for 175 feet to the Southwest corner of said Lot 7; Easterly 175.11 feet to the East line of said lot 7, said point being 6.25 feet North of the Southeast corner of said Lot 7; thence Southerly along the East line of said Lot 7 for 6.25 feet to the Point of Beginning. Containing 9,953 Square feet or 0.23 Acres, more or less, by calculation.