MIAMIBEACH

PLANNING DEPARTMENT

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139

File No: _____
Date: _____
MCR No: _____
Amount: _____
Zoning Classification_____
(For Staff Use Only)

STANDARD APPLICATION FORM
DEVELOPMENT REVIEW BOARD HEARING

1. The below listed applicant wishes to appear before the following City Development Review Board for a scheduled public hearing: NOTE: This application form must be completed separately for each applicable Board hearing a matter.

( ) BOARD OF ADJUSTMENT
(X) DESIGN REVIEW BOARD
( ) FLOOD PLAIN MANAGEMENT BOARD
( ) HISTORIC PRESERVATION BOARD
( ) PLANNING BOARD

NOTE: Applications to the Board of Adjustment will not be heard until such time as the Design Review Board, Historic Preservation Board and/or the Planning Board have rendered decisions on the subject project.

2. THIS REQUEST IS FOR:

a. (x) A VARIANCE TO A PROVISION(S) OF THE LAND DEVELOPMENT REGULATIONS (ZONING) OF THE CODE
b. ( ) AN APPEAL FROM AN ADMINISTRATIVE DECISION
c. (X) DESIGN REVIEW APPROVAL
d. ( ) A CERTIFICATE OF APPROPRIATENESS FOR DESIGN
e. ( ) A CERTIFICATE OF APPROPRIATENESS TO DEMOLISH A STRUCTURE
f. ( ) A CONDITIONAL USE PERMIT
g. ( ) A LOT SPLIT APPROVAL
h. ( ) AN HISTORIC DISTRICT/SITE DESIGNATION
i. ( ) AN AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS OR ZONING MAP
j. ( ) AN AMENDMENT TO THE COMPREHENSIVE PLAN OR FUTURE LAND USE MAP
k. ( ) TO REHAB, TO ADD TO AND / OR EXPAND A SINGLE FAMILY HOME
l. (X) OTHER: Modification of DRB File 23224

3. NAME & ADDRESS OF PROPERTY: 44 Star Island Drive

LEGAL DESCRIPTION: See Exhibit A

4. NAME OF APPLICANT Shay Kostiner

Note: If applicant is a corporation, partnership, limited partnership or trustee, a separate Disclosure of Interest Form (Pages 6-7) must be completed as part of this application.

1521 Alton Road	Miami Beach	FL	33139
ADDRESS OF APPLICANT	CITY	STATE	ZIP

BUSINESS PHONE # (305) 531-6750 **CELL PHONE #**_____

E-mail address: sk4inc@gmail.com

5. NAME OF PROPERTY OWNER (IF DIFFERENT FROM #4, OTHERWISE, WRITE "SAME") SAME

If the owner of the property is not the applicant and will not be present at the hearing, the Owner/Power of Attorney Affidavit (Page 4) must be filled out and signed by the property owner. In addition, if the property owner is a corporation, partnership, limited partnership or trustee, a separate Disclosure of Interest Form (Pages 6 and 7) must be completed.

SAME
ADDRESS OF PROPERTY OWNER CITY STATE ZIP

BUSINESS PHONE # _____ RESIDENCE PHONE # _____ FAX # _____

CELL PHONE # _____ e-mail address: _____

6. Jose Gomez, Beilinson Gomez Architects
NAME OF ARCHITECT, LANDSCAPE ARCHITECT, ENGINEER, CONTRACTOR OR OTHER PERSON RESPONSIBLE FOR PROJECT DESIGN

8101 Biscayne Blvd, Suite 309-310 Miami FL 33138
ADDRESS (please circle one of the above) CITY STATE ZIP

BUSINESS PHONE # (305) 559-1250 **RESIDENCE PHONE #** N/A **FAX #** (305) 551-1740

CELL PHONE # N/A e-mail address: jg@beilinsonarchitectspa.com

7. NAME OF AUTHORIZED REPRESENTATIVE(S), ATTORNEY(S), OR AGENT(S) AND/OR CONTACT PERSON:

a. Michael W. Larkin, Esq. 200 S. Biscayne Boulevard, Suite 850 Miami Florida 33131
NAME ADDRESS CITY STATE ZIP

BUSINESS PHONE # (305) 374-5300 **FAX #** (305) 377-6222

CELL PHONE # _____ e-mail address: mlarkin@brzoninglaw.com

b. Matthew Amster, Esq. 200 S. Biscayne Boulevard, Suite 850 Miami Florida 33131
NAME ADDRESS CITY STATE ZIP

BUSINESS PHONE # (305) 374-5300 **FAX #** (305) 377-6222

CELL PHONE # _____ e-mail address: mamster@brzoninglaw.com

c. _____
NAME ADDRESS CITY STATE ZIP

BUSINESS PHONE # _____ **FAX #** _____

CELL PHONE # _____ e-mail address: _____

NOTE: ALL ARCHITECTS, LANDSCAPE ARCHITECTS, ENGINEERS, CONTRACTORS OR OTHER PERSONS RESPONSIBLE FOR PROJECT DESIGN, AS WELL AS AUTHORIZED REPRESENTATIVE(S), ATTORNEY(S), OR AGENT(S) AND/OR CONTACT PERSONS, WHO ARE REPRESENTING OR APPEARING ON BEHALF OF A THIRD PARTY ARE REQUIRED TO REGISTER AS A LOBBYIST WITH THE CLERK, PRIOR TO THE SUBMISSION OF AN APPLICATION.

8. SUMMARY OF PROPOSAL: Modification of DRB File 23224 to increase height of building and required yards to address sea level and flooding issues.

9. IS THERE AN EXISTING BUILDING(S) ON THE SITE? YES (X) NO ( )

10. WILL ALL OR ANY PORTION OF THE BUILDING(S) INTERIOR AND/OR EXTERIOR, BE DEMOLISHED?
[X] YES [ ] NO

11. TOTAL FLOOR AREA (FAR) OF NEW BUILDING (if applicable): previously approved SQ. FT.

12. TOTAL GROSS FLOOR AREA OF NEW BUILDING (including required parking and all usable floor space) _____ SQ. FT.

13. TOTAL FEE: (to be computed by staff) $ 1,232.00

PLEASE NOTE THE FOLLOWING:

- Applications for any Board hearing(s) will not be accepted without payment of the required fee. All checks are to be made payable to: "*City of Miami Beach.*"
- Public records notice: all documentation, application forms, maps, drawing, photographs, letters and exhibits will become a part of the public record maintained by the City of Miami Beach Planning Department and shall under Florida Statute, be disclosed upon proper request to any person or entity.
- In accordance with the requirements of Section 2-482 of the Code of the City of Miami Beach, any individual or group (Lobbyist) that has been, or will be, compensated to either speak in favor or against a project being presented before any of the City's Development Review Boards, shall be fully disclosed prior to the public hearing. All such individuals and/or groups must register with the City Clerk **prior** to the hearing.
- In accordance with Section 118-31 of the Code of the City of Miami Beach, all applicants shall, prior to the public hearing, fully disclose any consideration provided or committed, directly or on its behalf, for an agreement to support or withhold objection to the requested approval, relief or action (exclusive of all legal or professional design services). Such disclosure shall:

  1. Be in writing.
  2. Indicate to whom the consideration has been provided or committed.
  3. Generally describe the nature of the consideration.
  4. Be read into the record by the requesting person or entity prior to submission to the secretary/clerk of the respective board.

  In the event the applicable development review board determines that the foregoing disclosure requirement was not timely satisfied by the person or entity requesting approval, relief or other action as provided above, then the application or order, as applicable, shall immediately be deemed null and void without further force or effect, and no application from said person or entity for the subject property shall be reviewed or considered by the applicable board(s) until expiration of a period of one year after the nullification of the application or order. It shall be unlawful to employ any device, scheme or artifice to circumvent the disclosure requirements of this section and such circumvention shall be deemed a violation of the disclosure requirements of this section.
- When the applicable Boards reach a final decision, a Final Order will be issued stating the Board's decision and any conditions imposed therein. The Final Order must be recorded in the Office of the Recorder of Miami-Dade County; the original shall remain on file with the board clerk/secretary. Under no circumstances will a building permit be issued by the City of Miami Beach without a copy of the recorded Final Order being tendered along with the construction plans.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact 305-604-2489 (voice) or 305-673-7218 (TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

PLEASE COMPLETE ONE OR MORE OF THE FOLLOWING THREE AFFIDAVITS, AS APPLICABLE. NOTE: THE PROPERTY OWNER MUST FILL OUT AND SIGN THE "POWER OF ATTORNEY" PORTION IF THEY WILL NOT BE PRESENT AT THE HEARING, OR IS HAVING OTHER PERSONS SPEAK ON THEIR BEHALF.

OWNER AFFIDAVIT FOR INDIVIDUAL OWNER

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Shay Kostiner, being first duly sworn, depose and say that I am the owner of the property described and which is the subject matter of the proposed hearing; that all the answers to the questions in this application and all sketches, data and other supplementary matter attached to and made a part of the application are true and correct to the best of my knowledge and belief. I understand this application must be completed and accurate before a hearing can be advertised. I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a NOTICE OF PUBLIC HEARING on my property as required by law and I take the responsibility of removing this notice after the date of hearing.

Shay Kostiner
PRINT NAME

SIGNATURE

Sworn to and subscribed before me this 27 day of JANUARY, 2016. The foregoing instrument was acknowledged before me by Shay Kostiner, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

Notary Public State of Florida
Jorge H Bargioni
My Commission FF 223176
Expires 05/26/2019

NOTARY PUBLIC

Jorge H. Bargioni
PRINT NAME

My Commission Expires:

ALTERNATE OWNER AFFIDAVIT FOR CORPORATION or PARTNERSHIP

(Circle one)

STATE OF _____

COUNTY OF _____

I, N/A, being first duly sworn, depose and say that I am the _____ of _____ and as such, have been authorized by such entity to file this application; that all answers to the questions in this application and all sketches, data and other supplementary matter attached to and made a part of the application are true and correct to the best of our knowledge and belief; that the corporation is the owner/tenant of the property described herein and is the subject matter of the proposed hearing. We understand this application must be completed and accurate before a hearing can be advertised. I also hereby authorize the City of Miami Beach to enter the subject property for the sole purpose of posting a NOTICE OF PUBLIC HEARING on the property as required by law and I take the responsibility of removing this notice after the date of hearing.

PRINT NAME

SIGNATURE

Sworn to and subscribed before me this _____ day of _____, 20___. The foregoing instrument was acknowledged before me by _____, _____ of _____ on behalf of such entity, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY PUBLIC

NOTARY SEAL OR STAMP:

PRINT NAME

My Commission Expires:

POWER OF ATTORNEY AFFIDAVIT

STATE OF Florida

COUNTY OF Miami-DADE

I, Shay Kostiner, being duly sworn and deposed say that I am the owner or representative of the owner of the described real property and that I am aware of the nature and effect of the request for Design Review/Variance Approval relative to the subject property, which request is hereby made by me OR I am hereby authorizing Michael W. Larkin, Esq., Matthew Amster, Esq., & Bercow Radell & Fernandez, PLLC to be my representative(s) before the Design Review Board. I also hereby authorize the City of Miami Beach to enter the subject property for the sole purpose of posting a NOTICE OF PUBLIC HEARING on the property as required by law and I take the responsibility of removing this notice after the date of hearing

Shay Kostiner
PRINT NAME (and Title, if applicable)

SIGNATURE

Sworn to and subscribed before me this 27 day of JANUARY, 20 16. The foregoing instrument was acknowledged before me by Shay Kostiner, owner who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP:

Notary Public State of Florida
Jorge H Bargioni
My Commission FF 223176
Expires 05/26/2019

NOTARY PUBLIC

Jorge H. Bargioni
PRINT NAME

My Commission Expires:

CONTRACT FOR PURCHASE

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether the purchaser is a corporation, trustee or partnership, list the names of the contract purchasers below, including the principal officers, stockholders, beneficiaries or partners. Where the principal officers, stockholders, beneficiaries or partners consist of another corporation, trust, partnership or other similar entity, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity. If any contingency clause or contract terms involve additional individuals, corporations, partnerships or trusts, list all individuals and/or complete the appropriate disclosure clause above.*

N/A
NAME

DATE OF CONTRACT

% OF STOCK

NAME, ADDRESS, AND OFFICE

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the dates of final public hearing, a supplemental disclosure of interest shall be filed.

CITY OF MIAMI BEACH
DEVELOPMENT REVIEW BOARD APPLICATION

DISCLOSURE OF INTEREST

1. CORPORATION

If the property which is the subject of the application is owned or leased by a CORPORATION, list ALL the stockholders, and the percentage of stock owned by each. Where the stockholders consist of another corporation(s), trustee(s), partnership(s) or other similar entity, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.*

N/A

CORPORATION NAME

NAME AND ADDRESS	% OF STOCK

CORPORATION NAME

NAME AND ADDRESS	% OF STOCK

IF THERE ARE ADDITIONAL CORPORATIONS, LIST OTHERS, INCLUDING CORP. NAME(S) AND EACH INDIVIDUAL STOCKHOLDER'S NAME, ADDRESS, OFFICE AND PERCENTAGE OF STOCK, ON A SEPARATE PAGE.

NOTE: Notarized signature required on page 8

CITY OF MIAMI BEACH
DEVELOPMENT REVIEW BOARD APPLICATION

DISCLOSURE OF INTEREST

2. TRUSTEE

If the property which is the subject of the application is owned or leased by a TRUSTEE, list the beneficiaries of the trust and the percentage of interest held by each. Where the beneficiary/beneficiaries consist of corporations(s), another trust(s), partnership(s) or other similar entity, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.*

N/A
TRUST NAME

NAME AND ADDRESS	% OF STOCK
N/A	

3. PARTNERSHIP/LIMITED PARTNERSHIP

If the property which is the subject of the application is owned or leased by a PARTNERSHIP or LIMITED PARTNERSHIP, list the principals of the partnership, including general and limited partners. Where the partner(s) consist of another partnership(s), corporation(s), trust(s) or other similar entity, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.*

N/A
PARTNERSHIP or LIMITED PARTNERSHIP NAME

NAME AND ADDRESS	% OF STOCK
N/A	

NOTE: Notarized signature required on page 8

4. COMPENSATED LOBBYIST:

The City of Miami Beach Code sub-section 118-31 requires the disclosure of any individual or group which has been, or will be, compensated to either speak in favor of or against a project being presented before any of the City's Development Review Boards, or not to speak at all. Please list below all persons or entities encompassed by this section.

	NAME	ADDRESS	PHONE #
a.	Michael W. Larkin	200 S. Biscayne Blvd, Suite 850, Miami	(305) 377-6231
b.	Jose Gomez	8101 Biscayne Blvd, Suite 309 -310, Miami	(305) 559-1250
c.	Matthew Amster	200 S. Biscayne Blvd, Suite 850, Miami	(305) 377-6236

Additional names can be placed on a separate page attached to this form.

* Disclosure shall not be required of any entity, the equity interest in which are regularly traded on an established securities market in the United States or other country, or of any entity, the ownership interests of which are held in a limited partnership or other entity consisting of more than 5,000 separate interests and where no one person or entity holds more than a total of 5% of the ownership interests in the limited partnership or other entity.

APPLICANT HEREBY ACKNOWLEDGES THAT ANY APPROVAL GRANTED BY THE BOARD SO APPLIED TO, SHALL BE SUBJECT TO ANY AND ALL CONDITIONS IMPOSED BY SUCH BOARD AND BY ANY OTHER BOARD HAVING JURISDICTION, AND THAT THE PROJECT MUST ALSO COMPLY WITH THE CODE OF THE CITY OF MIAMI BEACH AND ALL OTHER APPLICABLE LAW.

APPLICANT AFFIDAVIT

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Shay Kostiner, being first duly sworn, depose and say that I am the applicant, or the representative of the applicant, for the subject matter of the proposed hearing; that all the answers to the questions in this application and all sketches, data and other supplementary matter attached to and made a part of the application and the disclosure information listed on this application is a full disclosure of all parties of interest in this application are true and correct to the best of my knowledge and belief.

Shay Kostiner
PRINT NAME

SIGNATURE

Sworn to and subscribed before me this 27 day of January, 2016. The foregoing instrument was acknowledged before me by Shay Kostiner, who has produced _____ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

Notary Public State of Florida
Jorge H Bargioni
My Commission FF 223176
Expires 05/26/2019

NOTARY PUBLIC

Jorge H Bargioni
PRINT NAME

My Commission Expires:

EXHIBIT A

LEGAL DESCRIPTION:
Lot 44, as monumented and prorated by Biscayne Engineering Co., inc., circa 1920 during the original layout of the lot lines, in CORRECTED PLAT OF STAR ISLAND, according to the Plat thereof recorded in Plat Book 31 at Page 60 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commencing at a "cut nail" being the Point of Curvature on the Centerline of the Southeast end of Star Island East Drive; thence South 90°00'00" West, 75.00 feet to the Radius Point at the South end of Star Island; thence Southeasterly on a line forming an angle of 65°02'32" with the last described course, along a bearing of South 24°57'28" East, 100.00 feet to an Iron Rebar with cap stamped "BEC 0129", being the Northeast corner of said Lot 44 and the POINT OF BEGINNING of the herein described parcel of land; thence South 16°15'19" East, 400.92 feet along the Easterly line of said Lot 44 to a Nail in concrete stamped "BEC 0129", also being the Southeast corner of said Lot 44, lying on a curve having a Radius of 500.00 feet, and being concentric with the aforesaid Radius Point; thence Westerly 209.47 feet along the arc of said curve, also being the Southerly line of said Lot 44, having a Central Angle of 24°00'13" and a Chord Bearing of South 84°00'44" West, to a nail in concrete stamped "BEC 0129", also being the Southwest corner of said Lot 44; thence North 08°19'03" East, 401.64 feet along the Westerly line of said Lot 44, through an Iron Rebar lying 10.00 feet Southerly of the Northwest corner of said Lot 44, to a point on a curve, having a Radius of 100.00 feet, and concentric with the aforesaid Radius Point, through which point a radial line bears North 03°16'32" West; thence Northeasterly 37.84 feet along said Southerly Right-of-Way line of Star Island Drive, being the arc of said 100.00 foot Radius curve, having a Central Angle of 21°40'56", to the POINT OF BEGINNING.

BERCOW RADELL & FERNANDEZ
ZONING, LAND USE AND ENVIRONMENTAL LAW

DIRECT LINE: (305) 377-6236
E-Mail: MAmster@BRZoningLaw.com

VIA HAND DELIVERY

February 10, 2016

Thomas Mooney, Planning Director
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: DRB File No. 23224 – Modification to Design Review Approval and Variances for Single-Family Home located at 44 Star Island Drive

Dear Tom:

This firm represents Shay Kostiner (the "Applicant"), the owner of the above-referenced property, which is identified by the Miami-Dade County Folio No. 02-4204-001-0370 (the "Property"). Please consider this letter the Applicant's letter of intent in support of variances for building height, elevations of the required side and rear yards and projections in conjunction with the prior design review approval from the Design Review Board ("DRB") for construction of a new single-family home on the Property.

The Property. The Property is an irregular-shaped, long, narrow pie-shaped waterfront lot located at the south end of Star Island, two lots east of the Bridge Road, in the RS-1, Single Family Residential Zoning District. The Property is approximately 49,473 square feet in size.

Description of Proposed Development. On December 1, 2015, the DRB approved a new 2-story family home. See the attached DRB Order. Through the design collaboration of Ricardo Bofill of Bofill Arqitectura and Jose Gomez of Beilinson Gomez Architects, the new residence has been designed in a contemporary style with pronounced symmetry that flows from and as a continuation of Buoy Park running along the center of Star Island.

The home is located in generally the same location as the existing home at the center and rear of the Property with a driveway following the center of the

lot from the street with a large landscape island near the front entrance of the home. The setbacks are very generous, with the front and side setbacks significantly exceeding the minimum requirements; front at 181′ 9″ where 20′ required and sides at 24′ where 15′ 6″ required. The second floor will be inset significantly from the first floor and the comparative area is 69.7%, which complies with the 70% maximum.

Slightly angled eyebrow elements wrap around the entire structure at all levels, including the ground. The angled elements make the home appear to float above the ground level, pool and water features. Recessed areas along the sides are focal points, each containing a central landscaped island bordered by the water features.

The entire Property will be lushly landscaped with a large variety of trees and other plants, the majority of which are native species. An extensive canopy will line the entrance drive and both side property lines will contain significant landscape buffers to provide privacy between properties. Notably, three specimen ficus trees will be retained along the front portion of the Property. Walls along the side property lines will further assist with privacy, including a double wall at the side garages. The rooftop will also contain a significant amount of landscaping and solar panels.

Variance Requests. To address sea-level rise and flooding concerns on this waterfront lot, the Applicant seeks variances to raise the minimum finished floor by 3′ and correspondingly increase the elevation of portions of the required side and rear yards. Notably, the Applicant is proactively incorporating the concept of freeboard, where the minimum building elevation can be increased by 1′ to 3′ to address sea-level rise and flooding issues, which the City Commission has begun discussing. See the attached draft ordinance from the January 20, 2016 Land Use and Development Committee Meeting. The City's legislative process may take many months, sometimes longer, to adopt the changes and the Applicant, while supportive needs to move forward in the short-term with the DRB approval of this project.

Specifically, the Applicant requests the following variances:

a. Variance for a 3′ increase in height (Code Section 142-105(b)(1)) for the proposed home, for a height of 31′ when measured from Base Flood Elevation (BFE) where 28′ is permitted. BFE is 10′ NGVD and the Applicant proposes to construct the finished floor at 13′ NGVD.

Note that the entire approved home design is being raised up 3′ to accommodate freeboard, so the actual height of the home from finished floor to roof remains the same as originally approved at 28′. If the City Commission adopts the proposed freeboard ordinance, then this 3′ height variance would no longer be necessary as it allows for 3′ freeboard.

b. Variance of maximum elevation of small portions of the required interior side yards (Code Section 142-105(b)(8)b.2.), with the highest point at 11.5′ NGVD, where the maximum allowed is 9.26′ NGVD (9.26′ = grade of 6.76′ plus 30 inches, which is greater than adjusted grade of 8.38′).

   Portions of the side driveways will be raised above 9.26′ NGVD to go above the root systems of two of the three large existing ficus trees that will be maintained and to allow ingress and egress to the garages, which have finished floors of 11.5′ NGVD. Importantly, the portions at the high point of 11.5′ will be concealed by interior walls that will be separated 3′ from the side property lines, which will have lower retaining walls.

c. Variance of maximum elevation of small portions of the required rear yard (Code Section 142-105(b)(8)b.4.), with the highest point at 10.5′ NGVD, where the maximum allowed is 10.0′ NGVD (10.0′ = BFE).

   The only raised portions are the southeast and southwest corners of the pool and pool deck, which will be landscaped and allow an appropriate transition between the home, the pool and the much lower rear yard to the south. Notably, if the City Commission adopts the proposed freeboard ordinance, then this variance will no longer be necessary because the maximum elevation would be adjusted to account for freeboard and allow for 13′.

d. The Applicant also requests a variance for a small portion of the ground level rear terrace and roof level eyebrow at the southeast corner of the home. Code Section 142-1132(o) allows projections such as these up to 25% of the required yard, and the projections comply. However, the Code also limits the project to a maximum of 6′. A small triangular portion of the ground level terrace projects at most 4′8″

beyond the maximum allowed and the roof overhang in the same area projects just 7" beyond the maximum. These very minimal exceedances, which result from the irregular shape of the Property, only impact what is an expansive open rear yard that abuts the waterway and do not encroach towards the adjacent properties.

Satisfaction of Hardship Criteria. The Applicant's requests satisfy all hardship criteria as follows:

(1) **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;**

This irregular, pie-shaped waterfront lot will be susceptible to sea-level rise and flooding. Since the Applicant is redeveloping the Property now, this is the appropriate time to build in the best precautions and safeguards. The City is in the process of revising the Code to better address sea-level rise and flooding, but the Applicant cannot presently rely on that and should not be penalized for having to wait for such action.

(2) **The special conditions and circumstances do not result from the action of the applicant;**

The shape of the lot, sea-level rise and flooding concerns, and the yet to be completed amendment of the Code are not the result of any action taken by the Applicant.

(3) **Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;**

The Applicant is taking proactive measures to safeguard his Property, which also protects his neighbors and the entire community. Other property owners may do the same and the City has granted similar variances in the past. Also, the City's in-process actions to address issues that today require these variance requests are a direct acknowledgement that no special privilege is being sought.

(4) **Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;**

A literal interpretation of the provisions of these land development regulations would work as an unnecessary and undue hardship on the Applicant because it would deprive them of establishing necessary safeguards to protect the Property and surrounding area through means already being discussed by the City Commission.

(5) **The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;**

The requests are the minimum variances necessary to provide appropriate sea-level rise and flooding protections for this waterfront home and the surrounding area. The small slivers of the ground level terrace and roof overhang at the southeast corner allow for a reasonable use of this irregular-shaped Property.

(6) **The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and**

One of the intents and purposes of the land development regulations, including recently proposed Code changes, is to protect all property from sea-level rise and flooding, but not to the detriment of rights normally enjoyed by waterfront home owners. Granting the variance will address sea-level rise and flooding concerns, preserve the Applicant's property rights and benefit, rather than injure, the surrounding neighborhood. The tiny projections do not encroach towards the adjacent neighbors and maintain the intent of the Code to have a large open rear yard.

(7) **The granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.**

The variance request is consistent with the City's comprehensive plan and does not reduce the levels of service as set forth in the plan.

Waiver Requests. The Applicant's proposal contains two waiver requests.

a. The additional open space to exceed the maximum 60 foot length of 2-story side elevations (see Code Section 142-106(2)d.). The intent of the 60 foot maximum length for 2-story side elevations is to break-up the massing of the structure as perceived from the neighboring properties. The Applicant provides generous open space areas at the center of both sides that meet all but two of the numerous Code requirements for such areas. These open spaces break-up the side elevations into smaller northern and southern sections. The additional open spaces are immediately adjacent to the side yard, open to the sky, greater than 8′ deep but does not exceed 30% of the developable lot width, and contain a square footage greater than 1% but less than 5% of the lot area.

   The two requirements not met are (1) at least 75% of each area must be sodded or landscaped pervious open space and (2) the area must not be higher than adjusted grade. The Applicant provides passive areas with central landscaped areas surrounded by water features. The landscaping covers 22% of the open space, however, the water in no way detracts from the break in massing accomplished by the open space. The elevation at approximately 10.5′ NGVD may be higher than adjusted grade, but lower than the nearby driveways, no higher than the immediately adjacent grand and still 2.5′ lower than the finished floor elevation. As a result, the additional open spaces and the ground-level water features do not in any way detract from the additional open space or inhibit the purpose and intent of the required effect on the scale and massing of the proposed home. The DRB has approved other such additional open space areas with water features that allow for a varied appearance of these areas while still meeting the desired effect for the adjacent neighbors.

b. The Applicant proposes short interior walls along the outside edges of the driveway at both garages for a distance of 51′ 4″ to block the glare of headlights. Importantly, these interior walls allow the walls along the side property lines to be much shorter to better address the neighbors' yards. The walls on the perimeter will at most be 5.71′ above grade where 7′ is normally allowed throughout the City.

   Due to the elevation of the driveway and garages, the interior walls will physically only be 3′ tall from the proposed fill level. For RS-1 lots the

Code requires that wall height be measured from adjusted grade (see Code Section 142-1132(h)(1)b.), which for this Property is 8.38′, and results in a theoretical wall height of 6.12′.

The allowance to measuring the wall height from adjusted grade for RS-1 lots, rather than from grade, further requires that the portion of the wall above 4′ must have open pickets spaced a minimum of 3″. This means that the majority of the actual wall would have to be open pickets. Such a design defeats the purpose of the wall and would otherwise require the walls on the property lines to be taller to shield the headlights. Since the DRB may waive the open picket design on the top of the wall, the Applicant requests that these interior walls be allowed to be solid.

Conclusion. The Applicant is taking important steps to protect his Property and the surrounding area from sea-level rise and flooding concerns by proactively incorporating freeboard and adjusting the elevations of the required yards accordingly. Implementing these safeguards and granting modest waivers keeps the originally approved elegantly-designed new home compatible with the area. On behalf of the Applicant, we look forward to your favorable review. If you have any questions or comments with regard to the application, please do not hesitate to contact me at (305) 377-6236.

Sincerely,

Matthew Amster

Attachments

cc: Shay Kostiner
Michael W. Larkin, Esq.

CFN: 20150782393 BOOK 29885 PAGE 1151
DATE:12/10/2015 02:46:46 PM
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: December 01, 2015

FILE NO.: 23224

PROPERTY: **44 Star Island Drive**

APPLICANTS: Shay Kostiner

LEGAL: Lot 44 of CORRECTED PLAT OF STAR ISLAND, according to Plat thereof, recorded in Plat Book 31, at Page 60, 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 house to replace an existing pre-1942 architecturally significant two-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 1-10 and 12 in Section 118-251 of the Miami Beach Code.

C. The project would be consistent with the criteria and requirements of Section 118-251 if the following conditions are met:

1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 44 Star Island Drive shall be submitted, at a minimum, such drawings shall incorporate the following:

   a. The proposed swimming pool at the roof deck level shall be counted towards the 25% combined roof deck area, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

   b. A bronze plaque, which includes a brief history of the original home, along with an engraved photo of either the street front or water front elevation, shall be provided in an area at the front of the property, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

   c. Color photos and measured drawings, including floor plans and elevations of the existing home, shall be provided.

   d. 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.

   e. 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.

   f. 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. Trees identified on the 'Existing Tree Survey' and 'Tree Disposition Plan' as #3, #5, and #7, shall be designated to remain in their existing location and be protected. No construction or excavation shall be permitted within

the dripline of these trees, and the hardscape plans shall be modified subject to staff review and approval.

c. Those portions of the proposed driveway, parking and swimming pool, which are in conflict with the retention of Trees as #3, #5, and #7, shall be redesigned in a manner that does not conflict with the retention of such trees, 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 proposed planters along the perimeter of the roof shall be planted with a low planting material that will not exceed 12" above the main permitted height of the structure, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

e. 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.

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, at 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. 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.

k. 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-way, shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.

I. 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. No variance(s) were filed as part of this application.

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 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 "Kostiner Residence", as designed by **Ricardo Bofill** and prepared by **Beilinson Gomez Architects P.A.** signed, sealed and dated October 13, 2015, and landscape plan identified as 'Exhibit A' and submitted as part of the record at the December 01, 2015 Design Review Board meeting signed, sealed and dated December 01, 2015, 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 9th day of December, 20 15.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

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

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

The foregoing instrument was acknowledged before me this 9th day of December 2015 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.

STEVEN GREENE
MY COMMISSION EXPIRES JUL 26, 2017
#FF038517
Boone Beach 1st State Insurance
NOTARY PUBLIC, STATE OF FLORIDA

_____
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: 07-26-2017

Approved As To Form:
City Attorney's Office: _____ (12/3/2015)

Filed with the Clerk of the Design Review Board on _____ (12-9-15)

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MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager for SMT

DATE: January 20, 2016

SUBJECT: **A) DISCUSSION REGARDING GRADE ELEVATIONS FOR NEW CONSTRUCTION**

B) AMENDMENTS TO THE CITY CODE, INCLUDING THE LAND DEVELOPMENT REGULATIONS, TO IMPROVE THE CITY'S RESILIENCY TO SEA LEVEL RISE, FLOODING AND NATURAL HAZARDS

BACKGROUND

On June 10, 2015, the City Commission referred subject item 'A' to the Land Use and Development Committee (Item C4E). On June 17, 2015, the Land Use and Development Committee discussed the item, directed the Administration to prepare a draft Ordinance, and continued the item to the July 29, 2015 meeting.

On July 29, 2015, the item was continued to October 7, 2015. On October 7, 2015 the item was continued to December 2, 2015. The December Land Use meeting was subsequently canceled.

On October 14, 2015, at the request of Commissioner Malakoff, the City Commission referred subject item 'B' to the Land Use and Development Committee (Item C4D).

ANALYSIS

Below is a list of terms along with their common definitions, which are used throughout this analysis:

Freeboard means the additional height between the minimum finished floor elevation and the *base flood elevation*. Freeboard tends to compensate for many unknown factors, such as wave action, blockage of bridge or culvert openings, and other factors, which could contribute to greater flood heights.

Base Flood Elevation means the regulatory elevation associated with building elevation, flood-proofing, protection of building systems and utilities and other flood protection provisions as identified in current FEMA FIRM panels. Currently within the City of Miami Beach, this elevation ranges between 7 to 10 feet *NGVD*.

FEMA – **Federal Emergency Management Agency**. FEMA is an agency of Homeland Security, with the stated mission to "support our citizens and first responders to ensure that as a nation we work together to build, sustain and improve our capability to prepare for, protect against, respond to, recover from and mitigate all hazards."

FIRM – **Flood Insurance Rate Map.** This is the official map of a community on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community.

NGVD and ***NAVD*** are reference surface vertical *datums* (a fixed starting point) used to ensure that all elevation records are properly related. The current national datum is the **National Geodetic Vertical Datum (NGVD)** of 1929, which is expressed in relation to mean sea level, or the **North American Vertical Datum (NAVD)** of 1988. **NGVD 29** used a simple model of gravity based on latitude to calculate the approximate sea level and did not take into account other variations. Thus, the elevation difference for points across the country does change between NGVD and NAVD. In order to convert between the two datums in Miami Beach, 1.56 is added to an elevation that is expressed as NAVD. For example, 5.0 feet NAVD = 6.56 feet NGVD. Although NAVD is a more updated standard, NGVD is still more widely used, thus both reference datums are included in this analysis.

LID - ***Low-Impact Development*** techniques mimic natural processes to manage stormwater, and are frequently cheaper and more attractive than traditional stormwater management techniques.

AECOM is the consultant for the development of the City's Comprehensive Resiliency Program. AECOM's recommendations have been incorporated into the proposed ordinances described in the below analysis.

1. Minimum Base Flood Elevation:

Limited areas of the City are depicted on the current FEMA FIRM panels as having a base flood elevation of 7.0 feet NGVD. Although the designation of base flood elevations are based on coastal inundation modeling by FEMA, further research and modeling as part of the ongoing City of Miami Beach Flood Mitigation Study indicates that during a large storm event, this area will be faced with similar flood risks as the surrounding areas currently mapped with a base flood elevation of 8.0 feet NGVD.

Therefore, to provide adequate protection of properties within this zone, it is recommended that the City adopt a minimum base flood elevation of 8.0 feet NGVD. This will affect major renovation and new construction projects, requiring a one foot higher finish floor elevation. However, it should be noted that this ordinance is intended to apply only to design and permitting requirements in the City and is not intended to be used as an insurance rate tool. The adopted FEMA FIRM panels will continue to be used for this purpose.

New FEMA FIRM panels will be available as soon as 2018-19 based on revised coastal modeling, providing updated base flood elevations for the entire City. Once these FEMA maps are adopted by the City, this code may require revision.

2. Building Freeboard

As sea levels and storm severity continue to increase, low lying infrastructure including buildings must also elevate in order to reduce risk or maintain low risk from potential flood damage. Consistent with U.S. Federal and state guidance, these code changes provide the basic level of protection for buildings through minimal freeboard requirements. This nominal change in new building finish floor elevation requirements provides additional levels of protection, reduces insurance premiums and enhances the City's current NFIP CRS (National Flood Insurance Program Community Rating System) status which can have benefits to all residents and business owners in the City.

As proposed, a minimum freeboard of one (1) foot, and a maximum freeboard of three (3) feet would be established at this time. Building heights would be measured from the base flood elevation plus the actual freeboard provided, which would be between the minimum and maximum freeboard.

In order to account for the future raising of streets and sidewalks for commercial properties, the measurement of building height is also proposed to be modified. Commercial properties often have zero or minimal setbacks, and it is preferable from a business perspective and urban design standpoint to have such commercial uses located at the same level as the sidewalk. In order to accommodate the future raising of streets and sidewalks, additional height will have to be built into projects today, so that the building can be modified with a future raised floor slab to meet the future raised public sidewalk. As proposed, for projects that are designed to accommodate a future raised slab to meet the future sidewalk level, building height would be measured from the base flood elevation plus the provided freeboard. Currently, height for commercial properties that are located predominately at the sidewalk level, are measured from the minimum first floor elevation.

3. Seawall Elevation and Design

The City of Miami Beach is surrounded by water and protected from erosion and damage from wave action by seawalls. Since much of the Island was built out over 50 years ago, many of these sea walls are at a low elevation reducing their effectiveness as the first line of defense against wave energy. For this reason, elevating this critical means of protection for the City is paramount to incorporating resilience.

Understanding the unintended consequences to view sheds from low lying homes, it is recognized that not all sea walls can be built to the ideal elevation of 5.7 feet NAVD at this time. For this reason and to continue protecting properties within the City, private sea walls are recommended to be elevated to an elevation of at least 4.0 feet NAVD, offering additional levels of protection with minimal adverse impacts to view sheds.

In addition to the increase in elevation for private sea walls, the design of the new/renovated walls shall also incorporate a more robust design including larger footer, rebar, width, etc. enabling a retrofit to elevation 5.7 feet NAVD with minimal effort such as with a height extension and new cap.

As proposed, all new public sea walls would be constructed to a minimum elevation of 5.7 feet NAVD. Any private sea walls impacted by public right-of-way projects involving City funds would also be constructed to the minimum elevation of 5.7 feet NAVD

consistent with public sea walls.

Specifically, the Public Works Manual, Section A.2 "General Requirements – Sea Wall Elevation", is proposed to be amended as follows:

> 5) The minimum ~~height~~ top of wall elevation required ~~requirement~~ when replacing/repairing a public seawall is ~~3.2~~ 5.7 ft. NAVD (7.26 ft. NGVD).
>
> 5a) The minimum top of wall elevation required when replacing/repairing a private seawall is 4.0 ft. (NAVD 88), unless part of right-of-way project. However, the seawall structural design shall accommodate a future retrofit for a seawall height extension up to a minimum elevation of 5.7 ft. NAVD (7.26 ft. NGVD).
>
> 9) When existing seawalls are disturbed as part of a right-of-way project they must be raised to a minimum elevation of 5.7 ft. NAVD. *(no change)*

4. Minimum Residential Lot Grade:

Recently, the City Commission amended the requirements for raising yards within Single Family Districts as an adaptation measure to address the effects of sea level rise.

Within single family districts, the maximum elevation of a required front yard and side yards facing a street is limited to no higher than the greater of 'adjusted grade', which is the midpoint between the base floor elevation (BFE) and 'sidewalk grade', or 30 inches above 'sidewalk grade'. As part of its overall review, AECOM has recommended that if the elevation of required yards is less than elevation 2.5 feet NAVD, then required yards may be elevated to 5.0 feet NAVD. Grade is the sidewalk elevation at the center of the property. For example, if grade is 4 feet NGVD, and the base flood elevation (BFE) is 8 feet NGVD, then adjusted grade is 6 feet NGVD. Since the 'adjusted grade' is only 24 inches above 'grade', in this instance the maximum elevation of a required yard could be raised to 30 inches above grade or 6 feet 6 inches NGVD.

While the previous amendments reflect improvements in addressing concerns over sea level rise, there needs to be better agreement between the Land Development Regulations (LDR's) and the Miami Beach Stormwater Management Master Plan (SMP). The adopted SMP calls for the raising of the minimum crowns of roadways in various parts of the City to approximately 5.26 feet NGVD (3.7 feet NAVD). In order to improve consistency between the SMP and LDR's, the proposed ordinance establishes a definition for the 'future crown of the road', where the SMP is referenced. It also establishes a 'future adjusted grade' which is the midpoint elevation between the future crown of the road and the base flood elevation (BFE).

In order to accommodate the raising of the roadways and public sidewalks, the proposed ordinance would require that all required yards be raised to a minimum elevation of 5 feet NAVD (6.56 feet NGVD), with the exception of driveways, private walkways, grade transition areas, surface Stormwater shallow conveyance and LID features and areas where landscaping is to be preserved. However, it would still require that fences within front yards and side yards facing a street be measured from the existing 'sidewalk grade'. This will allow for better transitions between the public right of way and private property as the Stormwater Master Plan is implemented over time.

Staff has included photos of various examples where raised front yards are located in single family neighborhoods that do not create problems with compatibility for the surrounding community.

SUMMARY

The following chart provides a comparison of the primary changes proposed, as described above:

		Existing Requirements	Proposed Requirements
1.	**Base Flood Elevation (BFE)**	5.44 Feet NAVD (7 Feet NGVD)	6.44 Feet NAVD (8 Feet NGVD)
2.	**Freeboard**	0 feet above BFE	+1 foot to +3 feet above BFE
3.	**Seawall Elevation (Private)**	3.2 FT NAVD 4.76 FT NGVD	4 to 5.7 FT NAVD 5.56 to 7.26 FT NGVD
	Seawall Elevation (Public)	3.2 FT NAVD 4.76 FT NGVD	5.7 FT NAVD 7.26 FT NGVD
4.	**Minimum required yard elevation**	No minimum required	5.0 Feet NAVD (6.56 Feet NGVD)

Please see the attached presentation prepared by AECOM which further details the changes proposed herein.

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the matter further and provide appropriate policy direction. If there is consensus on the proposal, it is further recommended that the Committee recommend that the City Commission refer the items to the Planning Board.

JLM/SMT/TRM/MAB

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FREEBOARD

ORDINANCE NO._____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING SUBPART A – GENERAL ORDINANCES, OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 54 "FLOODS" AT SECTION 54-35, "DEFINITIONS," TO ESTABLISH DEFINITIONS FOR MINIMUM FREEBOARD, MAXIMUM FREEBOARD, AND PROVIDED FREEBOARD AND TO AMEND THE DEFINITION OF BASE FLOOD ELEVATION; AND BY AMENDING SECTION 54-48, "SPECIFIC STANDARDS" BY CLARIFYING THE MINIMUM ELEVATION OF THE LOWEST FINISHED FLOOR FOR RESIDENTIAL CONSTRUCTION AND SUBSTANTIAL IMPROVEMENT; AND BY AMENDING SECTION 54-51, "STANDARDS FOR COASTAL HIGH HAZARD AREAS (V-ZONES)," BY CLARIFYING THE MINIMUM ELEVATION OF THE LOWEST FLOOR OF ALL NEW CONSTRUCTION AND SUBSTANTIAL IMPROVEMENTS; PROVIDING CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, sea level rise and flooding is an ongoing concern of the City; and

WHEREAS, low lying infrastructure including buildings must also elevate in order to reduce risk or maintain low risk from potential flood damage; and

WHEREAS, it is appropriate to amend the minimal freeboard requirements for residential structures to provide additional levels of protection to maintain consistency with U.S. Federal and state guidance, and

WHEREAS, these regulations will accomplish these goals and ensure that the public health, safety and welfare will be preserved.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. That Section 54-35, "Definitions", is hereby amended as follows:

* * *

Base flood elevation, for the City of Miami Beach shall be as defined in Chapter 114-1. ~~means the water surface elevation associated with the base flood.~~

* * *

Freeboard means the additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management. Freeboard tends to compensate for many unknown factors, such as wave action, blockage of bridge or culvert openings, and hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the heights calculated for a selected frequency flood and floodway conditions.

Freeboard, minimum equals one (1) foot.

Freeboard, maximum equals three (3) feet.

Freeboard, Provided means the actual freeboard provided, between the minimum and maximum freeboard.

* * *

SECTION 2. That Section 54-48, "Specific Standards", is hereby amended as follows:

In all A-zones where base flood elevation data have been provided (zones AE, A1-30, A (with base flood elevation), and AH), as set forth in section 54-37, the following provisions, in addition to those set forth in sections 54-47 54-47 and 54-49 54-49, shall apply:

(1) *Residential construction.*

(a) All new construction and substantial improvement of any residential building (including manufactured homes) shall have the lowest finished floor elevated to no lower than the base flood elevation plus one foot, with allowance of base flood elevation plus three feet. For multi-family residential structures, garage entrances shall be no lower than the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, there must be a minimum of two openings on different sides of each enclosed area sufficient to facilitate automatic equalization of flood hydrostatic forces in accordance with standards of subsection 54-48(3).

* * *

(4) *Standards for manufactured homes and recreational vehicles.*

(a) All manufactured homes that are placed, or substantially improved within ~~a~~zones A1-30, AH, and AE, on sites (i) outside of an existing manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, the lowest floor be elevated on a permanent foundation to no lower than the base flood elevation plus one foot, with allowance of base flood elevation plus three feet and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

* * *

SECTION 3. That Section 54-51, "Standards for coastal high hazard areas (V-zones)", is hereby amended as follows:

* * *

Located within areas of special flood hazard established in section 54-37 are coastal high hazard areas, designated as zones V1-V30, VE, or V (with BFE). The following provisions shall apply:

(2) All new construction and substantial improvements in zones V1-V30, VE, and V (with BFE) shall be elevated on pilings or columns so that:

(a) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to no lower than the base flood elevation plus one foot, with allowance of base flood elevation plus three feet, whether or not the structure contains a basement; and

* * *

(c) For all structures located seaward of the coastal construction control line (CCCL), the bottom of the lowest horizontal structural member of the lowest floor of all new construction and substantial improvements shall be elevated to the 100-year flood elevation established by the Florida Department of Environmental Protection plus one foot (with allowance of base flood elevation plus three feet), or the base flood elevation plus one foot (with allowance of base flood elevation plus three feet), whichever is the higher.

* * *

(11) For all structures located seaward of the coastal construction control line (CCCL), the bottom of the lowest horizontal structural member of the lowest floor of all new construction and substantial improvements shall be elevated to the flood elevation established by the Florida Department of Environmental Protection plus one foot (with allowance of base flood elevation plus three feet) or the base flood elevation plus one foot (with allowance of base flood elevation plus three feet), whichever is higher. All non-elevation design requirements subsections 54-51(2) through (10) shall apply.

* * *

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 5. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 6. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2016.

_____
Philip Levine, Mayor

ATTEST:

_____
Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

_____
City Attorney Date

First Reading: _____, 2016
Second Reading: _____, 2016

Verified By: _____
Thomas R. Mooney, AICP
Planning Director

Underline = new language
~~Strikethrough~~ = deleted language

DEVELOPMENT REGULATIONS – GRADE ELEVATIONS

ORDINANCE NO._____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 114, "GENERAL PROVISIONS," SECTION 114-1, "DEFINITIONS," INCLUDING A DEFINITION FOR BASE FLOOD ELEVATION, MAXIMUM ADJUSTED GRADE AND FUTURE CROWN OF THE ROAD, AND AMENDING THE DEFINITION OF GRADE; AND BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," DIVISION 2, "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS," BY AMENDING AND CLARIFYING THE MAXIMUM ELEVATION WITHIN A REQUIRED YARD AND INCLUDING A MINIMUM ELEVATION REQUIREMENT, AND AMENDING AND CLARIFYING THE MEASUREMENT FOR MAXIMUM BUILDING HEIGHT; PROVIDING CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, sea level rise and flooding is an ongoing concern of the City; and

WHEREAS, the City has previously implemented increased height requirements for sea walls in order to more fully protect the City from flooding; and

WHEREAS, it is appropriate to amend the maximum elevation requirements within required yards of single family districts to eliminate or mitigate any conflict with corresponding legislation enacted to address sea level rise and flood mitigation; and

WHEREAS, the regulation of grade elevations in single family districts is necessary in order to ensure compatible development within the built character of the single-family neighborhoods in the City; and

WHEREAS, these regulations will accomplish these goals and ensure that the public health, safety and welfare will be preserved in the City's single-family districts.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. That Section 114-1, "Definitions", is hereby amended as follows:

* * *

Base Flood Elevation means the regulatory elevation associated with building elevation, flood-proofing, protection of building systems and utilities and other flood protection provisions as identified in current FEMA FIRM panels. This elevation shall not be less than 8.0 ft. NGVD (6.44 ft. NAVD) in the City of Miami Beach.

* * *

Crown of the road, future means the expected elevation of the crown of a roadway as described in the adopted Miami Beach Stormwater Master Plan.

* * *

Grade means the city sidewalk elevation at the centerline of the property. If there is no sidewalk, the elevation of the crown of the road at the centerline of the property shall be used. ~~the public works director shall establish the city sidewalk elevations.~~

Grade, adjusted means the midpoint elevation between grade and the minimum required flood elevation for a lot or lots.

* * *

Grade, future adjusted, means the midpoint elevation between the future crown of the road and the minimum flood elevation plus provided freeboard for a lot or lots.

* * *

Height of building means the vertical distance from the lowest floor according to the following, as applicable:

(a) When the minimum finished floor elevation is located between grade and base flood elevation plus "City of Miami Beach Freeboard", height shall be measured from the minimum finished floor elevation to the highest point of the roof;

~~(b) When enclosed commercial or residential space is located at or below grade, height shall be measured from grade to the highest point to the roof;~~

~~(c)~~(b) When the minimum finished floor elevation is located above the base flood elevation plus "City of Miami Beach Freeboard", height shall be measured from the base flood elevation plus the provided "Freeboard". The highest point of a roof is as follows:

1. The highest point of a flat roof;
2. The deck line of a mansard roof;
3. The average height between eaves and ridge for gable hip and gambrel roofs; or
4. The average height between high and low points for a shed roof.

(c) For commercial properties, height shall be measured from the future base flood elevation plus the provided "Freeboard", as determined by the Public Works Director or designee, provided that the overall height and structural composition of the first floor of the structure is designed and built to accommodate a future raised floor slab to meet the height of a future raised public sidewalk.

* * *

SECTION 2. That Section 142-105, "Development regulations and area requirements", is hereby amended as follows:

* * *

(b) The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(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:

Zoning District	Minimum Lot Area (square feet)	Minimum Lot Width (feet)*	Maximum Lot Coverage for a 2-story Home (% of lot area)**	Maximum Unit Size (% of Lot Area)	Maximum Building Height, which shall not exceed two stories above the ~~minimum~~ base flood elevation, plus provided freeboard in all districts***
RS-1	30,000	100	30%	50%	28 feet - flat roofs. 31 feet - sloped roofs.
RS-2	18,000	75	30%	50%	
RS-3	10,000	50 - Oceanfront lots. 60 - All others	30%	50%	24 feet - flat roofs. 27 feet - sloped roofs. May be increased up to 28 feet for flat roofs and 31 feet for sloped roofs when approved by the DRB or HPB, in accordance with the applicable design review or appropriateness criteria.
RS-4	6,000	50	30%	50%	24 feet - flat roofs. 27 feet- sloped roofs.
		*Except those lots fronting on a cul-de-sac or circular street as defined in lot width	**Single story homes shall follow the requirements of section 142-105(b)(4)b.		*** Height shall be measured from the ~~minimum~~ required base flood elevation for the lot, plus provided freeboard, measured to the top of the structural slab for a flat roof and to the mid-point of the slope for a sloped roof. Single story homes shall follow the requirements of section 142-105(b)(4)b

(2) *Maximum number of stories.* The maximum number of stories shall not exceed two above the ~~minimum~~ base flood elevation plus the *provided freeboard*.

* * *

(4) Unit size requirements.

* * *

d. Non-air conditioned space located below minimum flood elevation, plus provided freeboard. Notwithstanding the above, for those properties located in the RS-1, RS-2, RS-3, RS-4 single-family residential districts, where the first habitable floor is ~~required to be~~ located six feet or more above existing grade in order to meet minimum flood elevation requirements, including provided freeboard, the following shall apply:

1. The height of the area under the main structure may have a maximum floor to ceiling clearance of seven feet six inches from ~~grade~~ the lowest level slab provided. ~~Except that in the event that the minimum flood elevation requires the underside of the slab of the first habitable floor to exceed seven feet six inches from grade, such slab shall not exceed the minimum flood elevation as measured from grade.~~

2. Up to, but not exceeding, 600 square feet of segregated parking garage area may be permitted under the main structure.

3. The area under the first habitable floor of the main structure shall consist of non-air conditioned space.~~, which is at least 50 percent open.~~ Such area shall not be subdivided into different rooms, with the exception of the parking garage area, and required stairs and/or elevators.

4. The parking garage area and the ~~open~~, non-air-conditioned floor space located directly below the first habitable floor, shall not count in the unit size calculations.~~, provided it remains open in perpetuity.~~

* * *

(8) *Exterior building and lot standards.* The following shall apply to all buildings and properties in the RS-1, RS-2, RS-3, RS-4 single-family residential districts:

a. Exterior bars on entryways, doors and windows shall be prohibited on front and side elevations, which face a street or right-of-way.

b. The minimum elevation of a required yard shall be no less than 5 feet NAVD (6.56 feet NGVD), with the exception of driveways, walkways, transition areas, surface stormwater shallow conveyance and LID features, and areas where existing landscaping is to be preserved, which may have a lower elevation. When in conflict with the maximum elevation requirements as outlined in paragraph c. below, the minimum elevation requirements shall still apply.

~~b~~c. The maximum elevation of a required yard shall be in accordance with the following, however in no instance shall the elevation of a required yard, exceed the minimum flood elevation plus provided freeboard:

1. *Front Yard.* The maximum elevation within a required front yard shall not exceed adjusted grade, ~~or~~ 30 inches above grade, or future adjusted grade, whichever is greater. In this instance the maximum height of any fences or walls in the required front yard, constructed in accordance with Section 142-1132 (h), *Allowable encroachments within required yards*, shall be measured from existing grade.

2. *Interior Side Yards* (located between the front setback line and rear property line).The maximum elevation shall not exceed adjusted grade, or 30 inches above grade, whichever is greater, except:

   a. When the average grade of an adjacent lot along the abutting side yard is equal or greater than adjusted grade, the maximum elevation within the required side yard shall not exceed 30 inches above adjusted grade.

   b. When abutting a vacant property, the maximum elevation within the required side yard shall not exceed 30 inches above adjusted grade.

   c.. Notwithstanding the above, when abutting property owners have jointly agreed to a higher elevation, both side yards may be elevated to the same higher elevation through the submission of concurrent building permits, not to exceed the minimum required flood elevation. In this instance the maximum height of any fences or walls along the adjoining property lines, constructed in accordance with Section 142-1132 (h), *Allowable encroachments within required yards*, shall be measured from the new average grade of the required side yards.

3. *Side Yard Facing a Street.* The maximum elevation within a required side yard facing a street shall not exceed adjusted grade ~~or~~ 30 inches above grade, or future adjusted grade, whichever is greater. In this instance the maximum height of any fences or walls in the required side yard facing a street, constructed in accordance with Section 142-1132 (h), *Allowable encroachments within required yards*, shall be measured from existing grade.

4. *Rear Yard.* The maximum elevation for a required rear yard, (not including portions located within a required sideyard or sideyard facing the street), shall be calculated according to the following:

   a. *Waterfront. The maximum elevation shall not exceed the ~~minimum required~~ base flood elevation plus provided freeboard.*

   b. *Non-waterfront.* The maximum elevation shall not exceed adjusted grade, or 30 inches above grade, whichever is greater, except:

   i. When the average grade of an adjacent lot along the abutting rear yard is equal or greater than adjusted grade, the maximum elevation within the required rear yard shall not exceed 30 inches above adjusted grade.

   ii. When abutting a vacant property, the maximum elevation within the required rear yard shall not exceed 30 inches above adjusted grade.

   iii. Notwithstanding the above, when abutting property owners have jointly agreed to a higher elevation, both rear yards may be elevated to the same higher elevation through the submission of concurrent building permits, not to exceed the minimum required flood elevation. In this instance the maximum height of any fences or walls along the adjoining property lines, constructed in accordance with Section 142-1132 (h), *Allowable encroachments within required yards*, shall be measured from the new average grade of the required rear yards.

5. In all instances where the existing elevation of a site is modified, a site shall be designed with adequate infrastructure to retain all stormwater on site in accordance with all applicable state and local regulations.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 5. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 6. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2016.

_____
Philip Levine, Mayor

ATTEST:

_____
Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

_____
City Attorney Date

First Reading: _____, 2016
Second Reading: _____, 2016

Verified By: _____
Thomas R. Mooney, AICP
Planning Director

Underline = new language
~~Strikethrough~~ = deleted language

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