

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: October 10, 2023

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: HPB23-0587 a.k.a. HPB17-0129 a.k.a. HPB 7132, **2740 North Bay Road.**

An application has been filed requesting a modification to a previously issued Certificate of Appropriateness for the total demolition of the previously existing structure and the construction of a new single-family home. Specifically, the applicant is requesting approval for a redesigned new home including variances from the required setbacks.

#### **STAFF RECOMMENDATION**

Approval of the Certificate of Appropriateness with conditions.  
Approval of the variances with conditions.

#### **BACKGROUND**

On May 11, 2010, the Board reviewed and approved a request by a previous owner for the individual designation of the single-family property at 2740 North Bay Road as an individually designated historic single-family home. At the same meeting, the Board reviewed and approved a Certificate of Appropriateness for the partial demolition, renovation, and restoration of the existing 2-story home, including the construction of new 1 and 2-story additions (HPB File No. 7132).

On April 8, 2013, a full building permit was issued for the approved project (B1004477).

On February 13, 2018, at the request of the previous owner, the Board reviewed and approved modifications to the previously approved project. The approval included the total demolition of the previously existing home and modifications to the design including the construction of the previously approved design at a higher finish floor elevation and design modifications to a portion of the new home in order to more closely recall the original 1929 design (HPB17-0129).

On March 5, 2021, a full building permit was issued for the revised project and the previously existing home was subsequently demolished (BR1903519).

In 2022, the property was sold to the current owner.

#### **EXISTING SITE**

Local Historic Site:

2740 North Bay Road

Classification: Individually designated historic single-family residence

**ZONING / SITE DATA**

Folio: 02-3227-008-0750  
Legal Description: Lot 10, Block 12, of Amended Plat of Sunset Lake Subdivision, according to the Plat thereof, as recorded in Plat Book 8 at Page 52 of the Public Records of Miami-Dade County, Florida.  
  
Zoning: RS-2, Single-family residential  
Future Land Use Designation: RS-2, Single-family residential  
Lot Size: 26,152 sq. ft.  
Proposed Lot Coverage: 7,715 sq. ft. / 29.5% (Max lot coverage = 30%)  
Proposed Unit Size: 9,929 sq. ft. / 37.9% (Max unit size = 50%)  
Proposed Height: 28'-0" feet as measured from base flood elevation plus 1' freeboard (9.00' NGVD)  
  
Existing Use/Condition: Vacant lot  
Proposed Use: Single-family residence

**THE PROJECT**

The applicant has submitted plans entitled "Bay House", as prepared by KoDA Architecture + Interior Design, dated August 7, 2023.

**COMPLIANCE WITH ZONING CODE**

A preliminary review of the project indicates that the application appears to be consistent with the Land Development Regulations with the exception of the variances requested herein. This shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

**CONSISTENCY WITH 2040 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the proposed single-family use is **consistent** with the Future Land Use Map of the Comprehensive Plan.

**VARIANCE CRITERIA**

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 2.8.3(a) of the Land Development Regulations:

- i. 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;
- ii. The special conditions and circumstances do not result from the action of the applicant;

- iii. 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;
- iv. 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;
- v. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- vi. 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;
- vii. 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; and
- viii. The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

#### **COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 7.1.2.4(a)(i) of the Land Development Regulations establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.  
**Not Applicable**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Not Applicable**
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Satisfied**
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 4 of the Land Development Regulations.  
**Satisfied**
- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.  
**Satisfied**  
**The land elevation of the site is consistent with the surrounding properties.**

- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.  
**Satisfied**
- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.  
**Satisfied**  
**Additional information shall be provided at the time of building permit review.**
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.  
**Not Applicable**
- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 in General Ordinances.  
**Not Applicable**
- (10) In all new projects, water retention systems shall be provided.  
**Satisfied**  
**Additional information shall be provided at the time of building permit review.**
- (11) Cool pavement materials or porous pavement materials shall be utilized.  
**Satisfied**  
**Additional information shall be provided at the time of building permit review.**
- (12) The project design shall minimize the potential for a project causing a heat island effect on site.  
**Satisfied**

#### **COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA**

A decision on an application for a certificate of appropriateness shall be based upon the following:

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to section 2.13.7(d)(ii)(1) of the Land Development Regulations (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
- a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.  
**Not Applicable**
- b. The Secretary of Interior's Standards for Reconstruction as may be amended from time to time.

**Not Applicable**

- c. Other guidelines/policies/plans adopted or approved by resolution or ordinance by the city commission.  
**Satisfied**
- II. In determining whether a particular application is compatible with surrounding properties the historic preservation board shall consider the following criteria pursuant to section 2.13.7(d)(ii)(2) of the Land Development Regulations (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
  - a. Exterior architectural features.  
**Satisfied**
  - b. General design, scale, massing and arrangement.  
**Satisfied**
  - c. Texture and material and color.  
**Satisfied**
  - d. The relationship of subsections a., b., c., above, to other structures and features of the district.  
**Satisfied**
  - e. The purpose for which the district was created.  
**Satisfied**
  - f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.  
**Satisfied**
  - g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.  
**Satisfied**
  - h. The original architectural design or any subsequent modifications that have acquired significance.  
**Satisfied**
- III. The examination of architectural drawings for consistency with the criteria pursuant to section 2.13.7(d)(ii)(3) of the Land Development Regulations and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. 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.  
**Satisfied**
- b. 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**  
**See the Variance Analysis section of this report.**
- c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 2.13.1(c).  
**Satisfied**
- d. The proposed structure, or additions to an existing structure are appropriate to and compatible with the environment and adjacent structures, and enhance the appearance of the surrounding properties, or the purposes for which the district was created.  
**Satisfied**
- e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces 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 preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.  
**Satisfied**
- f. 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 any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.  
**Satisfied**
- g. 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 and consistent with a city master plan, where applicable.  
**Satisfied**

- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.  
**Satisfied**
- i. 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**
- j. Any proposed new structure shall have an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).  
**Satisfied**
- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, 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 sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.  
**Satisfied**
- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.  
**Satisfied**
- m. Any 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**
- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.  
**Satisfied**
- o. 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.  
**Satisfied**
- p. In addition to the foregoing criteria, the requirements of chapter 104, of the General Ordinances, shall apply to the historic preservation board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.  
**Not Applicable**

- q. The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

**Satisfied**

### **ANALYSIS**

The previously existing single-family home on the subject site was constructed in 1929 and was voluntarily designated as an individual historic single-family residence by the Board in 2010, at the request of the previous owner. At the same meeting, the Board reviewed and approved a Certificate of Appropriateness for the renovation and restoration of the home with modifications including several additions. In 2017, the previous owner returned to the Board to request approval for the total demolition and construction of the approved project at a higher finish floor elevation due to the existing conditions of the home. More specifically, the applicant provided structural evaluation reports by two structural engineers that outlined the complications with regard to the existing structural conditions of the home. Further, the first finish floor level of the home ranged from 5.01' to 5.88' NGVD, well below the minimum requirement of 9.00' NGVD. After several hearings, on February 13, 2018, the Board approved the previous applicant's request including the demolition and construction of the previous approved design inclusive of design modifications to a portion of the new home in order to more closely recall the original 1929 design.

In 2021, a full building permit was issued for the revised project and the home was demolished consistent with the Board's approval; however, construction of the project did not commence and, in 2022, the property was sold to a new owner. Although the previously existing home has been demolished, the property retains its historic designation and remains in the jurisdiction of the Historic Preservation Board. The current owner is not desirous to move forward with the previously approved project; consequently, an application to modify the previous approval to construct a redesigned new home on the site has been submitted.

The currently proposed 2-story home is arranged around an open-air covered walkway which incorporates a series of steps ascending to the first-floor level located at 10.0' NGVD. As viewed from North Bay Road, to the right of the walkway is a 1-story garage clad in coral stone and to the right is a 1-story gym which features an architectural screen inspired by stacked terra-cotta roof tiles. Between the gym and the main 2-story volume of the home is a courtyard that includes a series of planters that trace the footprint of the previously existing home (as can be seen in the center diagram on Sheet Z-004.7 of the plans). Staff commends the architect for an extremely thoughtful design which clearly has been informed by the thorough analysis of the previously existing home that has been submitted as part of this application. The new home has been designed to incorporate many of the architectural concepts of the previous home including cascading roof lines, courtyards, gardens, covered walkways and materials. While the new home has been designed in a contemporary manner, the proposed massing, and careful arrangement of the volumetric spaces is highly characteristic of the Mediterranean Revival style of architecture and compatible with the surrounding single-family neighborhood.

In summary, staff is supportive of the new home design and recommends approval of the request to modify the previously approved Certificate of Appropriateness.

### **VARIANCE ANALYSIS**

The applicant is requesting the following variances:

1. A variance to reduce by 5'-9 1/4" the minimum required side interior setback of 16'-6 3/4" in

order to construct the home at a setback of 10'-9 ½" at the closest point to the northwest side property line. Variance requested from:

**Section 7.2.2.3 Development Regulations (RS)**

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

*(i) The FAR, density, lot area, lot width, lot coverage, unit size, setbacks, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:*

*Development Regulations Table (RS)*

*Building Setbacks*

*Side, Interior Setback, Lots greater than 65 feet in width: 10% of the lot width or 10 feet, whichever is greater and the sum of the required side yards shall be at least 25% of the lot width.*

2. A variance to reduce by 10'-7 ¼" the minimum required sum of the side yards setback of 41'-4 ¾" in order to construct the home with a total sum of the side yards setback of 30'-9 ½". Variance requested from:

**Section 7.2.2.3 Development Regulations (RS)**

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

*(i) The FAR, density, lot area, lot width, lot coverage, unit size, setbacks, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:*

*Development Regulations Table (RS)*

*Building Setbacks*

*Side, Interior Setback, Lots greater than 65 feet in width: 10% of the lot width or 10 feet, whichever is greater and the sum of the required side yards shall be at least 25% of the lot width.*

The requested variances are related to the setbacks of small portions of the proposed home along the northwest side of the property. The subject lot is irregularly shaped with side property lines that are not parallel and a front property line (174.28') that is nearly twice the width of the rear property line (89.53'). The minimum side yard setback requirement is calculated based upon the width of the lot at the required front yard setback (165.58').

The Land Development Regulations (LDRs) do provide an alternate means of calculating lot width for single-family homes if the lot meets all the following criteria:

- (a) the side lot lines are not parallel;
- (b) the front lot line is at least 30 feet wide; and
- (c) the lot fronts on a turning circle of a cul-de-sac or a circular street with a radius of less than 230 feet.

In this particular instance, the radius of the street is well over 230 feet, as the wider part of the lot fronts the street. While the front property line of the subject site follows the curve of the street, the radius is greater than 230 feet. As such, the front and rear property cannot be averaged to determine the required side yard setbacks.

Staff would note that within the City, it is fairly uncommon that the front property line is dramatically wider than the rear, as is the case here. Further, staff would note that the previously existing home had a non-conforming side yard setback. As noted in the Certificate of Appropriateness analysis, the architect has thoughtfully arranged the home in a manner that reflects the unique historical development of the site. Consequently, staff finds that practical difficulties exist with regard to the irregular lot shape and the individual historic designation, warranting the granting of the variances.

**RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the request for a Certificate of Appropriateness and variances be approved, subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria and Hardship and Practical Difficulties criteria, as applicable.

**HISTORIC PRESERVATION BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: October 10, 2023

PROPERTY/FOLIO: 2740 North Bay Road / 02-3227-008-0750

FILE NO: HPB23-0578 a.k.a. HPB17-0129 a.k.a. HPB 7132

APPLICANTS: 2740 North Bay Road LLC & 320 South Hibiscus Drive LLC

IN RE: An application has been filed requesting a Certificate of Appropriateness for the partial demolition, renovation and restoration of the existing building, site improvements, the construction of an attached addition and variances from the off-street parking regulations and setbacks.

LEGAL: Lot 10, Block 12, of Amended Plat of Sunset Lake Subdivision, according to the Plat thereof, as recorded in Plat Book 8 at Page 52 of the Public Records of Miami-Dade County, Florida.

**CONSOLIDATED ORDER**

The City of Miami Beach Historic Preservation 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. Certificate of Appropriateness**

- A. The subject property is designated as an historic single-family residence.
- 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:
  - 1. Is consistent with Sea Level Rise and Resiliency Review Criteria in Section 7.1.2.4(a)(i) of the Land Development Regulations.
  - 2. Is consistent with Certificate of Appropriateness Criteria in section 2.13.7(d)(ii)(1) of the Land Development Regulations.
  - 3. Is consistent with Certificate of Appropriateness Criteria in section 2.13.7(d)(ii)(2) of the Land Development Regulations.
  - 4. Is not consistent with Certificate of Appropriateness Criteria 'b' in section 2.13.7(d)(ii)(3) of the Land Development Regulations.
- C. The project would be consistent with the criteria and requirements of sections 2.13.7(d) and 7.1.2.4(a) of the Land Development Regulations if the following conditions are met:

- ~~1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:~~
  - ~~a. The columns supporting the new covered rear terrace on the first floor shall be redesigned to be more consistent with the original square columns of the house, in a manner to be approved by staff.~~
  - ~~b. The architecture of the proposed second floor terrace, adjacent to the original living room shall be further simplified, in a manner to be reviewed and approved by staff.~~
  - ~~c. Manufacturers drawings and Dade County product approval numbers for all new windows, doors and glass shall be required. All windows in the original portion of the house that are visible from a right of way, shall be replaced with windows to match their historic configuration, in a manner to be reviewed and approved by staff.~~
  - ~~d. Any roof top fixtures, air conditioning units and mechanical devices shall be clearly noted on a revised roof plan and elevation drawings and shall be screened from view, in a manner to be approved by staff. Any mechanical equipment located at the ground shall be located in a manner that is not disruptive to neighboring properties and is screened from view, subject to the review and approval of staff.~~
  - ~~e. 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.~~
  - ~~f. With the exception of the modifications approved and shown on the plans presented at the February 13, 2018 meeting, the exterior of the residence may be reconstructed and such reconstruction shall be in accordance with historical documentation, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.~~
- ~~2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:~~
  - ~~a. Ficus hedges shall not be permitted anywhere on the property. The final selection of perimeter landscaping shall be subject to the review and approval of staff.~~
  - ~~b. The final selection of all landscaped areas located within the right of way shall be provided, in a manner to be reviewed and approved by staff.~~
  - ~~c. 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.~~

- ~~d. Prior to the issuance of a Certificate of Occupancy, 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.~~
- ~~e. The land elevations of the lot shall be raised, in order to reestablish the existing relationship between the historic home and the site, eliminating the need for additional steps to the front entrance of the home, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.~~
- ~~f. 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, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.~~
- ~~3. The final exterior surface color scheme, including color samples, shall be subject to the review and approval of staff and shall require a separate permit.~~
- ~~4. Manufacturers drawings and Dade County product approval numbers for all new windows, doors and glass shall be required, prior to the issuance of a building permit.~~
- ~~5. All roof top fixtures, air conditioning units and mechanical devices shall be clearly noted on a revised roof plan and elevation drawings and shall be screened from view, in a manner to be approved by staff.~~
- ~~6. Revised drawings, with corresponding color photographs, that are separate from the construction documents, drawn to scale and clearly documenting the existing conditions of the subject building, shall be submitted. Such drawings and photographs shall include all four elevations and interior floor plans of the building, as well as a site plan.~~
- ~~7. The project shall comply with any landscaping or other sidewalk/street improvement standards as may be prescribed by a relevant Urban Design Master Plan approved prior to the completion of the project and the issuance of a Certificate of Occupancy.~~
- ~~8. The Final Order shall be recorded in the Public Records of Miami Dade County, prior to the issuance of a Building Permit.~~
- ~~9. 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.~~
- ~~10. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.~~
- ~~11. Nothing in this order authorizes a violation of the City Code or other applicable law,~~

~~nor allows a relaxation of any requirement or standard set forth in the City Code.~~

~~12. In accordance with Section 118-395(b)(2) of the City Code, the requirement pertaining to an existing structure's setbacks, is hereby waived, to allow for the reconstruction.~~

1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
  - a. Final details of all exterior surface finishes and materials shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - b. A plaque or historic display describing the history and evolution of the original home shall be placed on the site in a manner visible from the right of way, prior to the issuance of a Certificate of Occupancy for the building, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
  - g. The project design shall minimize the potential for a project causing a heat island effect on site.
  - h. Cool pavement materials or porous pavement materials shall be utilized, if applicable.

**In accordance with section 2.2.4.8(c) of the Land Development Regulations, the applicant, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special magistrate appointed by the City Commission.**

## **II. Variance(s)**

- A. ~~No request for variances has been filed with the application.~~ The applicant filed an application with the Planning Department for the following variance(s):
  1. A variance to reduce by 5'-9 ¼" the minimum required side interior setback of 16'-6 ¾" in order to construct the home at a setback of 10'-9 ½" at the closest point to the northwest side property line.
  2. A variance to reduce by 10'-7 ¼" the minimum required sum of the side yards setback of 41'-4 ¾" in order to construct the home with a total sum of the side yards setback of 30'-9 ½".

- 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 indicate the following, as they relate to the requirements of section 2.8.3(a) of the Land Development Regulations:

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 these land development regulations to other lands, buildings, or structures in the same zoning district.

That 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.

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 these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

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.

The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

- C. The Board finds that the application satisfies Article 1, Section 2 of the Related Special Acts and the requirements of section 2.8.3(a) of the Land Development Regulations, and hereby **approves** the requested variances; and imposes the following condition based on its authority in section 2.8.4 of the Land Development Regulations:

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.

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. Certificate of Appropriateness' and 'II. Variances' noted above.**

- ~~A. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, as applicable, in a manner to be reviewed and approved by staff.~~
- ~~B. All new FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.~~
- ~~C. All new construction over 7,000 square feet or ground floor additions (whether attached or detached) to existing structures that encompass over 10,000 square feet of additional floor area shall be required to be, at a minimum, certified as **LEED Gold by USGBC**. In lieu of achieving LEED Gold certification, properties can elect to pay a sustainability fee, pursuant to Chapter 133 of the City Code. This fee is set as a percentage of the cost of construction.~~
- ~~D. A copy of all pages of the recorded Supplemental 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.~~
- ~~E. The Supplemental Final Order shall be recorded in the Public Records of Miami Dade County, prior to the issuance of a Building Permit.~~
- ~~F. Where one or more parcels are unified for a single development, the property owner shall execute and record an unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.~~
- ~~G. 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.~~
- ~~H. The Supplemental 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.~~
- ~~I. The previous Final Order dated May 11, 2010 shall remain in full force and effect, except to the extent modified herein.~~
- ~~J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.~~

- ~~K. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.~~
- A. This Final Order consolidates all conditions and requirements for Certificate of Appropriateness and variance approval as same as are contained herein, in the Order dated May 11, 2010 (HPB 7132) and the Order dated February 13, 2018 (HPB17-0129), except to the extent modified herein. Accordingly, this Order shall serve as the Final Order for the proposed project. In the event of a conflict between the provisions hereof and those of the previous Orders, the provisions hereof shall control.
- B. The applicant agrees and shall be required to provide access to areas subject to this approval (not including private residences or hotel rooms) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the plans approved by the Board and conditions of this order.
- C. The issuance of a building permit is contingent upon meeting Public School Concurrency requirements, if applicable. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed. No building permit may be issued unless and until the applicant obtains a written finding from Miami-Dade County Public Schools that the applicant has satisfied school concurrency.
- D. The relocation of any tree shall be subject to the approval of the Environment & Sustainability Director and/or Urban Forester, as applicable.
- E. The applicant shall comply with the electric vehicle parking requirements, pursuant to section 5.1.13 of the land development regulations, as applicable.
- F. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- G. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit and shall be located immediately after the front cover page of the permit plans.
- H. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- I. 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.
- J. 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.

- K. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- L. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.
- M. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

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 Paragraphs I, II and III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled **"Bay House", as prepared by KoDA Architecture + Interior Design, dated August 7, 2023**, as approved by the Historic Preservation 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 set forth in this Order. No building permit may be issued unless and until all 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 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 set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the date of meeting date at which this modification 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 section 2.13.7 of the Land Development Regulations; the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project should 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.

