

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: May 02, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB17-0124
6342 North Bay Road – **Single Family Residence**

The applicant, 6342 NBR LLC, is requesting modifications to a previously issued Design Review Approval dated November 03, 2015 for the construction of a new two-story single family home to replace the existing pre-1942 architecturally significant two-story home. Specifically, the applicant is requesting exterior design modifications including a new outdoor cabana in the rear of the property and a variance to exceed the maximum allowable height in order to install a clerestory tower feature to the front of the residence.

RECOMMENDATION:

Approval with conditions

Denial of the variance

LEGAL DESCRIPTION:

Lot 8 and NE 25 feet of Lot 9, Block 1, of LA GORCE GOLF SUBDIVISION, according to Plat thereof, recorded in Plat Book 14, at Page 43, Public Records of Miami-Dade County, Florida.

HISTORY:

An application was approved by the Design Review Board on November 03, 2015, subject to the conditions set forth in the Final Order (DRB No. 23215) for a two-story residence on the subject site.

SITE DATA:

Zoning: RS-2

Future Land Use: RS

Lot Size: 24,671 SF

Lot Coverage:

Approved: 7,100 SF / **28.8%**

Proposed: 7,004 SF / **28.4%**

Maximum: 7,401.3 SF / 30%

Unit size:

Approved: 12,313 SF / **49.9%**

Proposed: 12,303 SF / **49.9%**

Maximum: 12,335.5 SF / 50%

2nd Floor Volume to 1st: 87.7%*DRB WAIVER APPROVED

2nd Floor Volume to 1st: 87.5%*DRB WAIVER PROPOSED

Height:

Proposed: 28'-0" flat roof

Maximum: 28'-0" flat roof

Grade: +5.26' NGVD
Flood: +8.00' NGVD
Difference: 1.37'
Adjusted Grade: +6.63' NGVD
First Floor Elevation: +8.00' NGVD

EXISTING STRUCTURE:

Year Constructed: 1935
Architect: Schoeppl & Southwell
Vacant: No
Demolition Proposed: Total

SURROUNDING PROPERTIES:

East: Two-story 1938 residence
North: Two-story 2013 residence
South: Two-story 1937 residence
West: Biscayne Bay

THE PROJECT:

The applicant has submitted plans entitled "MARCH 09, 2017: 6342 North Bay Road", as prepared by **Choeff Levy Fischman P.A.** dated 03/09/2017.

The applicant is seeking design modifications to the materials to be used on the exterior finishes. Additionally, the applicant is seeking to modify the pool deck and add a detached poolbath cabana at the rear of the property.

The applicant is requesting the following variance(s):

1. A variance to exceed by 3'-0" the maximum permitted building height of 28'-0" as measured from Base Flood Elevation in order to construct a portion of a new two-story single family home at 31'-0" in height as measured from Base Flood Elevation (8.00' NGVD).

- Variance requested from:

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

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

- (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 - RS-2-, Maximum Building Height, which shall not exceed two stories above the minimum flood elevation in all districts - 28 feet - flat roofs. 31 feet - sloped roofs.

The maximum building height for the RS-3 Zoning District is 28'-0" for flat roofed structures. The applicant is seeking an additional 3'-0" height variance in order to construct the home with a "clerestory tower" feature located 3'-0" above the main roofline. Staff is not supportive of this variance since this is a self-imposed hardship.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded **DO NOT** satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents submitted with the application **DO NOT** comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the following sections of the City Code, aside from the requested variances. The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

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

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Not Satisfied; the applicant is proposing a height variance.
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Not Satisfied; the applicant is proposing a height variance.
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; the applicant is proposing a height variance.
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
Satisfied
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.
Not Satisfied; the applicant is proposing a height variance.
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Not Satisfied; the applicant is proposing a height variance.
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Not Satisfied; the applicant is proposing a height variance.
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Satisfied
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Satisfied
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Not Applicable
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Not Satisfied; the applicant is proposing a height variance.
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
Satisfied
14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Not Applicable

18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the City Code shall apply to the design review 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

STAFF ANALYSIS:

An application was approved by the Design Review Board on November 03, 2015, subject to the conditions set forth in the Final Order (DRB No. 23215) for a two-story residence on the subject site. Staff views the changes in exterior material finishes as an overall improvement to the design of the residence, particularly the improved appearance of the front garage. Staff recommends that the design modifications be approved with the exception of the clerestory tower.

VARIANCE REVIEW

In February 2014, after strong consensus for addressing the perception of "oversized" homes and limiting the size of homes, the City Commission adopted the "Oversized Single Family Homes Ordinance" (ORDINANCE NO 2014 3835). This ordinance among other things aimed at greatly reducing the visual impact of roof decks and associated height exceptions. In order to address the concerns expressed regarding height projections, several modifications were made to minimize these impacts. Stairwell bulkheads and other structures were removed as an allowable height encroachment. The variance request herein is inconsistent with the current single family home regulations.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the design modifications be **approved**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria and/or Practical Difficulty and Hardship criteria. Further, in view of the foregoing variance analysis, staff recommends the variance request be **denied without prejudice**.

TRM/JGM

F:\PLAN\DRB\DRB17\05-02-2017\MAY17 Staff Reports\DRB17-0124 6342 North Bay Road.MAY17.doc

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: May 02, 2017

FILE NO: DRB17-0124 (a.k.a. DRB File No. 23215)

PROPERTY: **6342 North Bay Road**

APPLICANT: 6342 NBR LLC

LEGAL: Lot 8 and NE 25 feet of Lot 9, Block 1, of LA GORCE GOLF SUBDIVISION, according to Plat thereof, recorded in Plat Book 14, at Page 43, Public Records of Miami-Dade County, Florida

IN RE: The Application for Design Review Approval dated November 03, 2015 for the construction of a new two-story single family home to replace the existing pre-1942 architecturally significant two-story home. Specifically, the applicant is requesting exterior design modifications including a new outdoor cabana in the rear of the property and a variance to exceed the maximum allowable height in order to install a clerestory tower feature to the front of the residence.

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, 2, 3, 5, 6, 7, and 12 in Section 118-251 of the Miami Beach Code.
- C. The project would remain consistent with the criteria and requirements of Section 118-251 if the following conditions are met:
 - 1. All of the original conditions of approval by this Board, as reflected in the Final Order dated November 03, 2015, pursuant to DRB File No. 23215, shall remain in effect except as modified herein.

2. Revised elevation, site plan, and floor plan drawings for the proposed new home at 6342 North Bay Road shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. ~~The final design details and color selection of the lpe wood finish shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.~~
 - b. 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.
 - c. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
 - d. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the City Administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
 1. A variance to exceed by 3'-0" the maximum permitted building height of 28'-0" as measured from Base Flood Elevation in order to construct a portion of a new two-story single family home at 31'-0" in height as measured from Base Flood Elevation (8.00' NGVD). (Variance denied).
- B. The applicant has submitted plans and documents with the application that the Board has concluded do not satisfy Article 1, Section 2 of the Related Special Acts.

The applicant has submitted plans and documents with the application that the Board has concluded do not comply with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

~~That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;~~

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

~~That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;~~

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

C. The Board hereby **Denies** the Variance request(s), and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
2. The proposed clerestory tower feature shall comply with the height regulations.

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

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

- A. All new construction over 7,000 square feet 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.
- B. During Construction of the new home, the Applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to

mitigate disturbance of soil and mud by related personal vehicles existing and entering the site and with an eight foot (8'-0") high fence with a wind resistant green mesh material along the front of the property line. All construction materials, including dumpsters and portable toilets, shall be located behind the ~~construction fence and not visible from the right-of-way. All construction vehicles~~ shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The Applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.

- C. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- D. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- E. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- F. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy, a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- G. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- H. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- I. Nothing in this order authorizes a violation of City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

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

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "MARCH 09, 2017: 6342 North Bay Road", as prepared by **Choeff Levy Fischman P.A.** dated 03/09/2017, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this _____ day of _____, 20_____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
JAMES G. MURPHY
CHIEF OF URBAN DESIGN
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this _____ day of _____ 20____ by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.

NOTARY PUBLIC

Miami-Dade County, Florida

My commission expires: _____

Approved As To Form:

City Attorney's Office: _____ ()

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

F:\PLAN\SDRB\DRB17\05-02-2017\MAY17 Final Orders\DRB17-0124 6342 North Bay Road.MAY17.FO.docx