

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: June 06, 2017

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: DRB17-0143

5774 PineTree Drive and 5777 La Gorce Drive – Single Family Home

The applicants, Sonia Kashuk & Daniel Kaner, are requesting Design Review Approval for the construction of a new two-story single family home to replace an existing architecturally significant pre-1942 two-story home, including variances to reduce the required street side setback, and to exceed the maximum lot coverage allowed.

RECOMMENDATION:

Approval with conditions

Approval of the variances

LEGAL DESCRIPTION:

Lots 8 and 9 of Block 2 of Beach View Subdivision according to the Plat thereof filed for record and recorded in Plat Book 9 at Page 158 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-4
Future Land Use: RS
Lot Size: 20,523 SF
Lot Coverage:
Existing: 6,342 SF / 30.9%
Proposed: 11,452.5 SF / 55.8%
Maximum: 8,209.2 SF / 30%
Unit size:
Existing: 7,021 SF / 34.2%
Proposed: 8,851 SF / 43.1%*
Maximum: 12,313.8 SF / 50%
2nd Floor Volume to 1st: **1957/6894 28%**
Height:
Proposed: 24'-0" flat roof
Maximum: 24'-0" flat roof

Grade: +4.77' NGVD
Flood: +8.00' NGVD
Adjusted Grade: +6.38' NGVD
30" (+2.5') Above Grade: +8.88' NGVD
First Floor Elevation: +9.00' NGVD & 8.42' NGVD

EXISTING STRUCTURES

5774 Pine Tree Drive

Year Constructed: 1955
Architect: A. Swarz
Vacant: No
Demolition Proposed: Minimal

EXISTING STRUCTURE

5777 La Gorce Drive

Year Constructed: 1925
Architect: City Builders Finance CO.
Vacant: No
Demolition Proposed: Full

SURROUNDING PROPERTIES:

East: Two-story 1929 residence
North: One-story 1945 residence
Two-story 1925 residence
South: Two-story 1936 and 1928 residence
West: One-story 1949 residence

THE PROJECT:

The applicants have submitted plans entitled "5774 Pine Tree Drive + 5777 La Gorce Drive" as prepared by **Shulman+ Associates**, dated 04/06/2017.

The applicants are proposing to combine two corner parcels and to construct a new two-story addition to an existing one-story single family residence. The addition will replace an existing architecturally significant pre-1942 two-story home,

The applicants are requesting the following variance(s):

1. A variance to reduce by 2'-6" the minimum required 15'-0" side facing street (north) setback in order to construct an addition to the existing single family home and new frame walls for an entry at 12'-6" from the street side property line facing 58th Street.

- Variance requested from:

Sec. 142-106. Setback requirements for a single-family detached dwelling.

The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(2)Side yards:

b. Side, facing a street. Each required side yard facing a street shall be no less than ten percent of the lot width or 15 feet, whichever is greater.

Two parcels will be unified into one site and the single family structure on the east parcel will be retained and renovated, including a small addition following the existing non-conforming setback of 12'-6" on the street side that removes a side entry. A new covered access with side walls is proposed within the gallery facing the street. Although this new structure complies with the setback of 15'-0", the entry walls framing element following the existing house setback also require a variance. Staff has no objections to this request, as the addition is for a one story space, with minimal alteration to the 1951 home which would be eligible for a determination of architectural significance. The new entry walls are also a small portion of the new structure that will add more architectural interest and movement to the street façade and will keep the side access to the site. Staff finds that the existing non-conforming street setback and the retention of the home, creates the practical difficulties for the variance request.

2. A variance to exceed by 25.8% the maximum allowed lot coverage of 30% for a two-story single family home property in order to construct a new two-story addition with a lot coverage of 55.8%.

- 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:

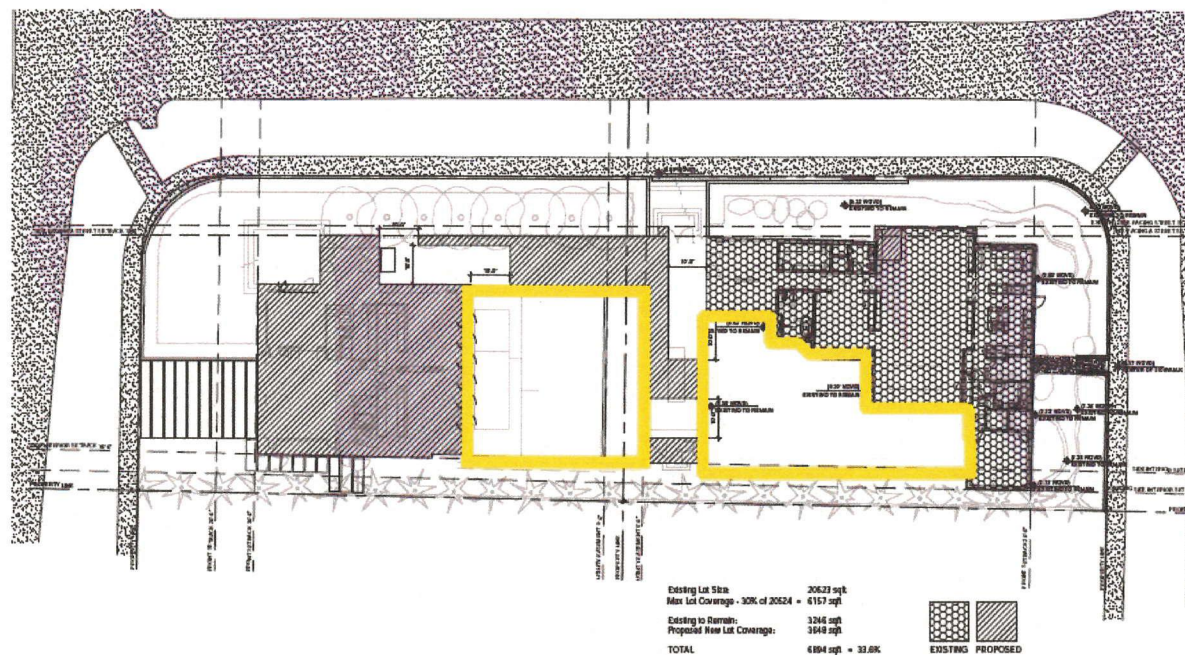
(1) Lot area, lot width, lot coverage, unit size, and building height requirements. The lot area, lot width, lot coverage, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

Zoning District: RS-1, Maximum Lot Coverage for a 2-story Home (% of lot area): 30%.

The combined site currently contains two single family structures constructed in 1925 (western parcel) and 1955 (eastern parcel). The architecturally significant pre-1942 two-story home is

proposed to demolished while the one-story 1955 home will be retained and added onto. Through the "Incentive Ordinance", an eligible architecturally significant single family home that is proposed to be substantially retained and restored can accomodate additions and achieve a lot coverage up to of 40%. In this instance, the post-1942 house has not been determined to qualify but in all likelihood would be eligible as an 'architecturally significant' pre-1966 home. In this case, because the retained structure has not undergone that process, any building addition to the unified site would have to comply with a maximum 30% lot coverage.

The proposed additions creates an outdoor recreational courtyard between the main two massings of the residence. This yard area is predominantly open to the sky and provides ample private recreational area for the residents. For purposes of calculating lot coverage, internal courtyards, which are open to the sky, but which are substantially enclosed by the structure on three or more sides, must be included towards the lot coverage calculation. The two areas highlighted below illustrate the nearly 4,000SF of outdoor areas that constitute the excessive lot coverage of 55%.



If this 4,000SF of outdoor areas was subtracted out for anyalsis purposes, the applicants would be requesting a lot coverage of 34% which is below the maximum lot coverage allowance for the retention and expansion of existing architecturally significant' pre-1966 homes.

Finally, an existing 5'-0" wide utility easement runs down the center of each lot on this block. As such, the unified site is burdened with a 10'-0" wide area that bisects the site and restricts the development of the property outside of this central area and onto the western side. In addition, the unifed site contains three sides that face a street, including two frontage conditions. Staff finds that the combination of site conditions, the retention of the 1955 structure and the utility easement, create practical difficulties that result in the lot coverage variance requested.

PRACTICAL DIFFICULTY AND HARDSHIP 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 of

Adjustment finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

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

COMPLIANCE WITH ZONING CODE

A preliminary review of the project indicates that the application, as proposed, may be inconsistent with the following sections of the City Code, in addition to the requested variance(s):

1. Sections 142-106(1)d and 142-106(2)b. The open space calculations within both front yards and side facing the street are incorrect. The stone walkway existing to remain cannot be counted as part of the required open space.
2. Walkways: Maximum 44 inches. May be increased to a maximum of five feet for those portions of walkways necessary to provide Americans with Disabilities Act (ADA) required turn around areas and spaces associated with doors and gates. Walkways in required yards may exceed these restrictions when approved through the design review procedures.
3. Projections. In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet, unless otherwise noted.

4. Roof top curbs cannot exceed 1 foot. The 3'-0" high proposed parapet wall must be lowered.
5. Any proposed elements located in the existing 10'-0" wide utility easement shall be subject to the review and approval of the Public Works Department. No objects shall be permitted within the easement that hinder any public utility now or in the future from being installed or maintained (any overhead or underground utility).

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 proposed design requires variances
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Not Satisfied; the proposed design requires variances
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; the proposed design requires variances
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
Satisfied
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.
Not Satisfied; the proposed design requires variances
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Not Satisfied; the proposed design requires variances

7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Not Satisfied; the proposed design requires variances
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied
9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Not Satisfied
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Satisfied
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Not Satisfied; the proposed design requires variances
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.
Not Satisfied; the parapet wall must be lowered. The mechanical equipment located on the rooftop shall be centrally located on the roof and screened from view with a mechanism that closely resembles the accent fins of the new construction

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.
Satisfied
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:

DESIGN REVIEW

The subject properties consist of two, platted corner lots between La Gorce Drive and Pine tree Drive. The applicants are proposing to unify the two properties, both of which contain an existing structure, and build a new one-, and two-story additions to an existing one-story residence (5774 Pine Tree Drive) in connection with the replacement of the existing architecturally significant pre-1942 two-story home (5777 La Gorce Drive). A proposed one-story gallery and central pavilion will connect the two massings. The applicants are requesting variances to exceed the maximum lot coverage allowed and to reduce the required street side setback for the new construction.

The new design is driven by a loggia / gallery that runs along West 58th Street. Framed in white stucco, the single-story volume varies in transparency and perforations along its West 58th Street façade. Transitioning from a solid white wall to a mosaic tile wall and continuing as an open corridor of vertical terracotta fins, the loggia connects the existing ranch home to a new two-story wing located in the western parcel.

The new two-story addition is located at the northeast corner of 58th Street and La Gorce Drive, where it intersects with the loggia at a trellis-covered landing. Finished in white stucco, the addition is modestly detailed. Slender, floor-to-ceiling windows that are inset with balcony railings uniformly perforate the second story, whereas larger window openings and a two-car garage are shaded by trellises on the ground floor. While elegant in proportion and scale, the simple elevations are stark and lack the playfulness of materials and transparency found in the loggia façade.

Staff has no major design concerns but would strongly recommend that the architect further refine the front elevations of the proposed home through the incorporation of a contrasting material, such as the mosaic tiles of terracotta fins, in order to counter balance the large areas of smooth white stucco and further tie in to the one-story loggia and connection element. Also, some minor design adjustments may be required in regards to the areas and elements proposed

within the required yards—all of which staff is confident can be achieved through staff level review and approval.

VARIANCE REVIEW

The subject property as a unified site has two fronts and a side facing a street. The proposed improvements include the addition of a two-story structure facing La Gorce Drive, two one-story galleries connecting the one-story structure and a pool area between the two buildings. The project requires two variances from the required setback facing a street and from the maximum lot coverage allowed. The extension of a non-conforming side setback is allowed by the Code only for interior side yards. In this case, a variance is required as the addition is located on a street side. The addition has a minimal impact on the existing structure, which still may qualify for an architectural significance determination, provided the homeowner voluntarily requests this determination. In this case, the proposed addition on the street side would not require a variance if the structure is found to be architecturally significant as the Code allows habitable projections into the required yards. The proposed floor area is below the maximum 25% allowed.

In reference to the lot coverage variance, staff has concluded that the site conditions with two fronts, a side facing a street, a 10'-0" utility easement running across the property, and the retention of the non-conforming one-story structure, create practical difficulties when designing improvements to the site. Based on these peculiar conditions, staff recommends that both variance requests be approved.

RECOMMENDATION:

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

TRM/JGM/IV

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: June 06, 2017

FILE NO: DRB17-0143

PROPERTY: **5774 Pine Tree Drive and 5777 La Gorce Drive**

APPLICANTS: Sonia Kashuk & Daniel Kaner

LEGAL: Lots 8 and 9 of Block 2 of Beach View Subdivision according to the Plat thereof filed for record and recorded in Plat Book 9 at Page 158 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new two-story single family home to replace an existing pre-1942 architecturally significant pre-1942 two-story home, including variances to reduce the required street side setback, and to exceed the maximum lot coverage allowed.

ORDER

The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 3, 5, 6, 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 structures and elements proposed within the 10'-0" wide utility easement shall be subject to the review and final approval by the Public Works Department.
 2. Revised elevation, site plan, and floor plan drawings for the proposed new home at 5774 Pine Tree Drive and 5777 La Gorce Drive shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. The architect shall further articulate the two-story front and side (west and north) façade with the introduction of additional contrasting material or detailing or change in plane/recesses in order to create a more friendly pedestrian experience and add further residential character to the first and second floor of the proposed two-story addition, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - b. Any fence or gate at the front and street side of the property shall be designed in a manner consistent with the architecture of the new structure, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - c. The proposed entrance walkway width perpendicular to West 58th Street shall be permitted as proposed.
 - d. All structures and elements within the required yards shall comply with the zoning allowances found under Section 142-1132(o) *Projections*.
 - e. The final design details and color selection of the mosaic tile wall 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.
 - f. The final design details and color selection of the decorative terracotta fins screening 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.
 - g. 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.
 - h. 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.
 - i. 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.
3. A revised landscape plan, and corresponding site plan, shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
- a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be

limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.

- b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
- c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
- d. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
- e. The architect shall substantially increase the amount of native canopy shade trees within the site, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- f. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- g. 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.
- h. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- i. 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.
- j. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- k. 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.

- I. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right of wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- m. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

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

II. Variance(s)

- A. The applicants filed an application with the Planning Department for the following variance(s):
 1. A variance to reduce by 2'-6" the minimum required 15'-0" side facing street (north) setback in order to construct an addition to the existing single family home and new frame walls for an entry at 12'-6" from the street side property line facing 58th Street.
 2. A variance to exceed by 25.8% the maximum allowed lot coverage of 30% for a two-story single family home property in order to construct a new two-story addition with a lot coverage of 55.8%.
- B. The applicants have 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 applicants have submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

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

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

That granting the variance requested will not confer on the applicant any special

privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

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

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

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

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

- C. The Board hereby grants approval for the requested variances and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:
1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
 2. Any future addition of buildings or structures on the site shall require the applicant to return to the Board for review and approval of the proposed work.
 3. The property shall comply with the minimum required open space within the front and street side yards.

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. 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.
- B. 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.
- C. During construction of the new home, the Applicants will maintain gravel at the front of the construction site within the first 15'-0" of the required front yards and within 10' of the street side yard to mitigate disturbance of soil and mud by related personal vehicles

exiting and entering the site, and with an 8'-0" high fence with a wind resistant green mesh material along the front 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.

- D. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- 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. 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 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.
- H. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- I. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

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

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "5774 Pine Tree Drive + 5777 La Gorce Drive" as prepared by **Shulman + Associates**, dated, signed and sealed 4/6/2017, and as approved by the Design Review Board, as determined by staff.

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 Design Review 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. 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 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 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.

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 _____ ()

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