

MIAMIBEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: April 5, 2016

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: Design Review File No. 23245
110 North Hibiscus Drive – Single Family Home

The applicants, Ross Marchetta and Mary Vaccaro, are requesting Design Review Approval for the construction of a new two-story home to replace an existing one-story home including variances: (1) to exceed the maximum allowed projection within required yards, (2) to exceed the maximum allowed elevation within required yards, (3) to exceed the maximum area allowed for an accessible roof deck and (4) to reduce the minimum required side setback.

RECOMMENDATION:

Approval with conditions.

Approval of the variances # 1A, 1B and # 2 with conditions.

Denial of variances # 3 and #4.

LEGAL DESCRIPTION:

Lot 6, Block 1, of "Re-Subdivision of Blocks 'C' and 'D' of Hibiscus Island", according to Plat thereof, recorded in Plat Book 34, at Page 87, of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-4
Future Land Use: RS
Lot Size: 9,371 SF
Lot Coverage:
Existing: ±3,472 SF / 37.1%
Proposed: 2,618 SF / **28%**
Maximum: 2,811.3 SF / 30%
Unit size:
Existing: ±5,210 SF / 55.6 %
Proposed: 4,674 SF / **49.9%**
Maximum: 4,685.5 SF / 50%
2nd Floor Volume to 1st: 80.6%
***DRB WAIVER**

Height:

Proposed: 24'-0" flat roof
Maximum: 24'-0" flat roof

Grade: +6.16' NGVD
Flood: +10.00' NGVD
Difference: 3.84'
Adjusted Grade: +8.08' NGVD
30" Above Grade: +8.66' NGVD
First Floor Elevation: +10.00' NGVD

EXISTING STRUCTURE:

Year Constructed: 1946
Architect: Leroy K. Albert
Vacant: No
Demolition Proposed: Total

Surrounding Properties:

East: One-story 1948 residence
North: Three-story 2011 residence
South: One-story 1941 residence
West: Two-story 2012 residence

THE PROJECT:

The applicants have submitted plans entitled "110 N Hibiscus Dr.", as prepared by **Choeff Levy Fischman P.A.** dated 2/12/2016.

The applicants are proposing to construct a new two-story residence on an interior parcel.

The applicants are requesting the following design waiver(s):

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

The applicants are requesting the following variance(s):

1.
 - A. A variance to exceed by 28.3% (4'-3") the maximum allowable projection of 25% (3'-9") of the required street side setback of 15'-0" in order to construct an accessibility ramp and railings with 53.3% (8'-0") of encroachment into the street side yard, facing North Hibiscus Drive.
 - B. A variance to exceed by 7.5% (1'-6") the maximum allowable projection of 25% (5'-0") of the required rear setback of 20'-0" in order to construct an accessibility ramp and railings with 32.5% (6'-6") of encroachment into the rear yard.
- Variances requested from:

Sec. 142-1132. - Allowable encroachments within required yards.

(o) 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.

(6) Porches, platforms and terraces (up to 30 inches above the elevation of the lot, as defined in subsection 142-105(a)(1)e.

The applicants are proposing a design which includes a wheelchair accessibility ramp to be constructed on the northern side of the property, facing the street and that exceeds 4'-3" which is the maximum allowable projection within a required yard. Ramps are allowable encroachments in yards up to 25% of the required setback. Grade for the site is indicated at 6.16' NGVD while Base Flood Elevation (BFE) for the property is 10.00' NGVD. ADA standards require that ramp surfaces have a maximum slope of 1:12 or 1" in height per 12" of length with a single run not to exceed 30" in height. This requirement determines the length of the ramp. In this case, there is a difference of approximately 46" between the bottom of the ramp and the finished floor of the house, which requires two ramp runs. Landing and railings are also required due to the height of the ramp. The landing of the ramp also exceeds by 1'-6" the maximum projection within the rear yard, as it is located on the west side of the house. The applicants' letter of intent states that the accessible ramp is a necessary and essential means of access to the house.

The architect has configured side setbacks larger than what the Code requires for the new house, in order to accommodate ramps on both sides. Side setbacks are 17'-0" on the street side yard where fifteen feet (15'-0") is required and 10'-0" on the interior side where 7'-8" is required. The portion of the ramp located within the interior side yard does not require a variance. These larger setbacks mitigate the variances requested and staff finds that they are the minimum necessary in order to make the house fully accessible. Also, the need for disability access appears to be a practical difficulty to justify the variance requests.

Staff finds that the existing site conditions and location of the property on a corner parcel create the practical difficulties that justify the variance requests. A corner lot requires larger side street setbacks than a regular interior lot which imposes restrictions on the available area to locate the accessible ramp. If the lot were an interior lot, with the same lot width, a variance would not be required for the projection into the side setback. The difference of 3.8' between grade and flood elevation creates design challenges for the new ramp in order to comply with ADA standards. Based on these conditions, staff is supportive of the applicants' requests.

2. A variance to exceed by 1'-4" the maximum permitted elevation of +8.67' NGVD within the required rear yard in order to construct the pool and pool deck at +10.00' NGVD (Base Flood Elevation) within the required rear yard.

- Variance requested from:

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

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

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

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

(B) Non-waterfront. The maximum elevation shall not exceed adjusted grade, or 30" above grade, whichever is greater.

The applicants are proposing to construct a pool with the coping at flood elevation of 10.0' NGVD. The maximum elevation allowed in the rear yard is 30" above grade or 8.66' NGVD, as this is a non-waterfront property. The pool is slightly at the same level of the pool deck, in order to not to create additional level changes in the rear of the property. Because the new house is designed to be ADA compliant and requires minor changes in elevation on accessible routes, the existing difference in elevation between flood elevation and grade impose design challenges to accommodate access to the pool. Staff finds that this condition creates the practical difficulties needed to support the variance request. The majority of the pool is proposed within the buildable area and does not need to comply with the maximum height requirements, only the portion within the rear yard requires the variance.

3. A variance to exceed by 10.2% (235.75 SF) the maximum allowed accessible roof deck area of 25% (577.25 SF) of the enclosed floor area below (2,309 SF) in order to construct a roof deck with 35.2% (813 SF) of the enclosed floor area below.

- 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:

(6) Roof decks. Roof decks shall not exceed six inches above the main roofline and shall not exceed a combined deck area of 25 percent of the enclosed floor area immediately one floor below, regardless of deck height.

Roof decks for single family homes are restricted to 25% (577.25 SF) of the area immediately one floor below. The location of the elevator towards the eastern edge of the building and the secondary access thru the stairs located in the the southern side, creates a self-imposed hardship which requires 370 SF of area dedicated to circulation only to reach the actual usable roof deck. This is a design choice that can be easily modified. The applicant is proposing a roof deck 35.2% (813 SF) of the floor below. Staff recommends the relocation of the elevator toward the center, so the accessible roof area is reduced to comply with the maximum area required. Staff finds that there are no practical difficulties or hardships associated with this variance. For this reason, staff recommends **denial** of this variance request.

4. A variance to reduce all minimum required setback of 10'-0" from the side exterior outer walls to a roof deck in order to construct a roof deck at 0'-0" setback from the exterior walls below.

- 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:

(6) Roof decks. Roof decks shall not exceed 6" above the main roofline and shall not exceed a combined deck area of 25% of the enclosed floor area immediately one floor below, regardless of deck height. Roof decks shall be setback a minimum of 10'-0" from each side of the exterior outer walls, when located along a front or side elevation, and from the rear elevation for non-waterfront lots.

Roof decks for single family homes required to be setback a minimum of 10'-0" from the exterior walls of the floor below. The applicants comply with the required setbacks from the north, east and west edges, however the roof deck is proposed at 0'-0" from the south edge of the building. This is a design-driven choice that can be modified and also triggers another variance (see variance #3). Staff finds that there are no practical difficulties or hardships associated with this variance. For this reason, staff recommends **denial** of the variance request.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicants have submitted plans and documents with the application that staff has concluded only partially (as noted) satisfy Article 1, Section 2 of the Related Special Acts,

allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

Additionally, staff has concluded that the plans and documents submitted with the application partially satisfy compliance with the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

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

Satisfied for variance requests #1A, 1B and #2;
Not Satisfied for variance requests #3 and #4;

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

Satisfied for variance requests #1A, 1B and #2;
Not Satisfied for variance requests #3 and #4;

- 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;

Satisfied for variance requests #1A, 1B and #2;
Not Satisfied for variance requests #3 and #4;

- 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;

Satisfied for variance requests #1A, 1B and #2;
Not Satisfied for variance requests #3 and #4;

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

Satisfied for variance requests #1A, 1B and #2;
Not Satisfied for variance requests #3 and #4;

- 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

Satisfied for variance requests #1A, 1B and #2;
Not Satisfied for variance requests #3 and #4;

- 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.

Satisfied.

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code, in addition to the requested variances:

1. For two story homes with an overall lot coverage of 25% or greater, the physical volume of the second floor shall not exceed 70% of the first floor of the main home, exclusive of any enclosed required parking area and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria.
2. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60'-0", whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard. The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line. The square footage of the additional open space shall not be less than 1% of the lot area. The intent of this regulation shall be to break up long expanses of uninterrupted two-story volume at or near the required side yard setback line and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria.
3. Elevator bulkheads shall be located as close to the center of the roof as possible and be visually recessive such that they do not become vertical extensions of exterior building elevations.

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.
Satisfied
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 applicants are requesting several variances pertaining to an accessibility ramp and the proposed pool and pool deck.

3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; the proposed design requires several design waivers and variances from the Board.
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
Satisfied
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.
Not Satisfied; the proposed design requires several design waivers and variances from the Board.
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Not Satisfied; the proposed design requires several design waivers and variances from the Board.
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Not Satisfied; the proposed design requires several design waivers and variances from the Board.
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.
Not Satisfied; the accessibility ramp requires several variances from the Board.
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.

Satisfied

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

Not Satisfied; the proposed design requires several design waivers and variances from the Board.

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

Satisfied

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

Satisfied

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

Not Applicable

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

Satisfied

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

Not Applicable

STAFF ANALYSIS:

The applicants are proposing to construct a new contemporary two-story residence on a corner parcel on Hibiscus Island that will replace an existing one-story home, originally constructed in 1946. The home has been designed requiring five variances and two design waivers to be approved by the Board.

The first design waiver requested by the applicants pertain to the second floor to first floor ratio. Since the proposed home has a lot coverage of 28%, a waiver is required by the Design Review Board. The home has a second floor to first floor ratio of 80.6% where the Code limits the ratio to 70%. Staff has no objection to this waiver since this parcel is a dry corner lot which requires additional setbacks when facing a street—15'-0", and the applicants are also providing additional setbacks on the interior side—10'-0", when 7'-6" is required by Code. Additionally, the neighboring property directly to the west (permitted in 2012) and the home across the street on the north (permitted in 2011) were both permitted and constructed under the previous Code which did not have this restriction. Both of these homes have a second floor to first floor volume ratio of approximately 89%. As such, staff is supportive of this requested waiver as it is contextually compatible with its neighbors.

The applicants are also requesting a waiver of the open space requirement for two-story elevations that exceed 60'-0" in length. The two-story north elevation is 83'-5" in length. This elevation is the side facing North Hibiscus Drive and contains the main entrance to the home. While the elevation does not comply with the minimum requirements to break up the two-story massing, the design has a lot of movement and architectural interest. Through the use of solids and voids, the architect has managed to minimize the scale of the home. As such, staff is supportive of this requested waiver.

Staff has two design concerns. The first pertains to the design of the garage. The architect has designed the garage as a solid cube with a dark wood finish. Although, the architectural intent is to make the garage a sculptural element, staff maintains that it should be further articulated since the mass is reading as a "stark mass." The second design concern is the location of the elevator. The location of the elevator, on floor plan and elevations, is in an awkward location. It is located on the ground floor, in the middle of the service areas of the home and across from the garage. The area provided to get from the garage to the elevator is a tight, confined space which would be difficult to maneuver. Similarly, on the second floor the elevator is in the middle of the fitness room in front of the second floor balcony. Moreover, the elevator also does not comply with the Code requirements. When the single-family regulations were amended in 2013, elevators were allowed to be a height projection, provided that they were located as close to the center as possible and be visually recessive. As designed the elevator becomes an extension of the East 3rd Court façade which contradicts the regulations as it pertains to the garage and the location of the elevator leading to the roof deck.

Staff recommends that the design of the replacement home be approved with the modifications suggested herein.

VARIANCES

The applicants are requesting four variances for the proposed project. Variances number 1A, 1B, and number 2 are related to a ramp structure that provides accessible routes to the new home. Staff is supportive of these variances, based on existing conditions of the site

and location of the property, as noted in the project portion of this report. Variances number 3 and number 4 associated with an accessible roof deck that exceeds the maximum area permitted and does not comply with the required setback from the building side walls are design-based and self-imposed variances. Staff finds that these variances can be eliminated by relocating the stair access to the roof and the elevator toward the center or reduce the distance between each roof access, which would reduce the area of the roof deck to comply with the Code. In summary, staff recommends **approval** of the variances number 1A, 1B and number 2 and recommends **denial** of the variances number 3 and number 4.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved** as to variance requests #1A, #1B and #2 and **denied** as to variance requests #3 and #4; and the design 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, as applicable.

TRM/JGM/LC/IV

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: April 5, 2016

FILE NO.: 23245

PROPERTY: **110 North Hibiscus Drive**

APPLICANTS: Ross Marchetta and Mary Vaccaro

LEGAL: Lot 6, Block 1, of "Re-Subdivision of Block 'C' and 'D' of Hibiscus Island", according to Plat thereof, recorded in Plat Book 34, at Page 87, Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new two-story home to replace an existing one-story home including variances to exceed the maximum allowed projection within required yards, to exceed the maximum allowed elevation within required yards, to exceed the maximum area allowed for an accessible roof deck and to reduce its minimum required side setback.

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 2, 3, 5-8, and 12 in Section 118-251 of the Miami Beach Code.

- C. The project would be consistent with the criteria and requirements of Section 118-251 if the following conditions are met:
1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 110 N Hibiscus Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The 70% limitation for the second floor volume shall be waived as proposed.
 - b. The side open space requirement shall be waived as proposed.
 - c. The garage volume shall be further developed by providing additional articulation through change in plane, the introduction of projections and/or recesses and/or other architectural methods, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - d. The elevator shall be relocated to a more centralized location,, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - e. Hardwired speakers shall not be permitted on the roof deck.
 - f. All roof top lighting shall be located below the parapet level, 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.
 2. A revised landscape plan, and corresponding site plan, shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and

subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:

- a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
- b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
- c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
- d. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
- e. In the required yards the walkways shall be reduced to 44" in width except for landing where a 5'-0" turning radius is required, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- f. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- g. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- h. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.

- i. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- j. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
- k. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right of wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- l. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

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

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s), which were either approved by the Board with modifications, or denied (Underlying denotes new language and ~~strike through~~ denotes stricken language):
 - 1. A. A variance to exceed by 28.3% (4'-3") the maximum allowable projection of 25% (3'-9") of the required street side setback of 15'-0" in order to construct an accessibility ramp and railings with 53.3% (8'-0") of encroachment into the street side yard, facing North Hibiscus Drive.
 - B. A variance to exceed by 7.5% (1'-6") the maximum allowable projection of 25% (5'-0") of the required rear setback of 20'-0" in order to construct an accessibility ramp and railings with 32.5% (6'-6") of encroachment into the rear yard.
- 2. A variance to exceed by 1'-4" the maximum permitted elevation of +8.67' NGVD within the required rear yard in order to construct the pool and pool deck at +10.00' NGVD (Base Flood Elevation) within the required rear yard.

3. ~~A variance to exceed by 10.2% (235.75 SF) the maximum allowed accessible roof deck area of 25% (577.25 SF) of the enclosed floor area below (2,300 SF) in order to construct a roof deck with 35.2% (813 SF) of the enclosed floor area below. (Variance denied).~~
 4. ~~A variance to reduce all minimum required setback of 10' 0" from the side exterior outer walls to a roof deck in order to construct a roof deck at 0' 0" setback from the exterior walls below. (Variance denied).~~
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to Variance(s) II.A.1A, II.A.1B, and II.A.2, as noted above, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, as it relates to Variance(s) II.A.1A, II.A.1B, and II.A.2, as noted above:

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 requests as noted in II.A.3 and II.A.4 and grants the requested variance(s) as noted in II.A.1A, II.A.1B, and II.A.2, 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.

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

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

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

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

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the Application for Design Review approval and Variances II.A.1A, II.A.1B and II.A.2 as noted above, is GRANTED and that the Application for Variances II.A.3 and II.A.4 as noted above, is DENIED 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 "110 N Hibiscus Dr.", as prepared by **Choeff Levy Fischman P.A.** signed, sealed and dated February 12, 2016, and as approved by the Design Review Board, as determined by staff.

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

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

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

