

# MIAMI BEACH

## 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. 23246  
**4193 North Bay Road – Single Family Home**

The applicants, Seth Heller and Elisheva Levin, are requesting Design Review approval for the construction of a new two-story single-family home to replace an existing pre-1942 architecturally significant two-story home including variances to reduce the minimum lot size area required and to exceed the maximum permitted lot coverage for a two-story home.

#### **RECOMMENDATION:**

**Continue to May 3, 2016**

#### **LEGAL DESCRIPTION:**

Lot 9 of Block 7, of the "Nautilus Subdivision" according to Plat thereof as recorded in Plat Book 8, Page 95, of the Public Records of Miami-Dade County, Florida.

#### **HISTORY:**

December 30, 2015—the applicants requested a Formal Determination of Architectural Significance for the existing Walter DeGarmo home. Despite some exterior (and interior) modifications made to the existing home, the structure was found to be Architectural Significant.

#### **SITE DATA:**

Zoning: RS-4  
Future Land Use: RS  
Lot Size: 5,750 SF  
Lot Coverage:  
Existing: 1,482.5 SF / 25.8%  
Proposed: 2,044 SF / 35.55%\*  
Maximum: 1,725 SF / 30%

#### **\*VARIANCE REQUIRED**

Unit size:  
Existing: 2,577 SF / 44.82%  
Proposed: 2,856.7 SF / 49.7%  
Maximum: 2,875 SF / 50%  
**2<sup>nd</sup> Floor Volume to 1<sup>st</sup>: 69.95%**  
Height:  
Proposed: 23'-0" flat roof  
**26'-10" sloped roof**  
Maximum: 24'-0" flat roof  
27'-0" sloped roof

Grade: +3.56' NGVD  
Flood: +7.00' NGVD  
Difference: 1.72' NGVD  
Adjusted Grade: +5.28' NGVD  
Finish Floor Elevation: +8.0' NGVD

#### **EXISTING STRUCTURE:**

Year Constructed: 1923  
Architect: Walter DeGarmo  
Vacant: No  
Demolition Proposed: Full

#### **Surrounding Properties:**

East: Two-story 1924 residence  
North: Two-story 1994 residence  
South: Vacant (BOA File No. 3805)  
West: I-195 On-ramp access

**THE PROJECT:**

The applicants have submitted plans entitled "Proposed Residence for: Seth Heller", as prepared by **Felix Pardo & Associates, Inc.** dated, signed, and sealed 2/10/2016.

The applicants are proposing to construct a new two-story home to replace an architecturally significant one-story single family home on an interior lot.

The applicants are requesting the following variance(s):

1. A variance to reduce by 250 SF the minimum required lot area of 6,000 SF within the RS-4 district in order to construct a two-story single family home on a property with a lot area of 5,750 SF.
  - Variance requested from:

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

*(b)(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: Minimum Lot Area (Square Feet): 6,000 SF*

The subject property is an interior lot on a block within the Nautilus Subdivision which was historically platted on March 1, 1923 with the same dimensions and lot areas as today. The lot is 250 SF smaller than the required 6,000 SF for the RS-4 district. Without the granting of this variance, the construction of any building on the lot would not be permitted and the site could not be developed as other lots in the same district. The lot was granted a lot split on February 23, 1999 and a lot size variance was also granted on July 12, 2013 by the Board of Adjustment. The previously approved variance for lot area has since expired. The size of the property and its current parallelogram shape are the same original parcel geometric configuration. Staff is supportive of this variance since the site complies with the Practical Difficulty and Hardship Criteria.

2. A variance to increase by 319 SF (5.55%) the maximum permitted lot coverage of 1,725 (30%) for a new two-story single family home in order to construct a new two-story home with a lot coverage of 2,044 SF (35.55%).
  - Variance requested from:

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

*(b)(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: Maximum Lot Coverage for a 2-story Home (% of lot area): 30%*

The subject lot was platted as a parallelogram which is slightly under the minimum lot area for an RS-4 lot but complies with the minimum lot width. The request for the lot coverage variance is design driven since the location and orientation of the garage and the desire for a two-story home are triggering the variance request. The home can be designed to comply with all zoning

regulations, the requested variance does not comply with the Practical Difficulty and Hardship Criteria, and therefore staff is recommending **denial** of the variance.

**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 request #1;**  
**Not Satisfied for variance request #2;**

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

**Satisfied for variance request #1;**  
**Not Satisfied for variance request #2;**

- 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 request #1;**  
**Not Satisfied for variance request #2;**

- 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 request #1;**  
**Not Satisfied for variance request #2;**

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

**Satisfied for variance request #1;**  
**Not Satisfied for variance request #2;**

- 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 request #1;**

**Not Satisfied for variance request #2;**

- 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 for variance request #1;**

**Not Satisfied for variance request #2;**

**COMPLIANCE WITH ZONING CODE:**

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the City Code, with the exception of 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 lot does not comply with the minimum lot area.**
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.  
**Satisfied**
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 new house exceed the maximum permitted lot coverage.**
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.  
**Not 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 applicants are requesting two 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 applicants are requesting two 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 applicants are requesting two 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; a segregated pedestrian walkway has not been provided.**
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 Applicable**
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 applicants are requesting two variances from the Board.**

**Not Satisfied; the architecture of this proposed residence is too similar in design and materials as the other design as part of the lot split.**

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 Satisfied; the mechanical equipment located on the main roof must be screened.**

#### **STAFF ANALYSIS:**

##### **DESIGN REVIEW**

The applicants are proposing to construct a new two-story single-family home on an interior lot. The proposed project is located on a unique street on Miami Beach, across the street from the I-195 on ramp. This portion of North Bay Road originally contained Bayfront homes on the west side and is a remnant of the lands that were reclaimed by FDOT to construct the Julia Tuttle Causeway, as well as infill land for Mt. Sinai hospital. The street is now one-way and contains 12 remaining individual platted lots. Currently, half of these contain pre-1942 single-family homes while the other half contains post-1942 homes. The applicants own the subject site and the adjacent southerly abutting vacant lot (4173 North Bay Road), which was granted lot split approval by the Planning Board on February 23, 1999 (PB File No. 1381).

The applicants are proposing to develop the two subdivided parcels with individual single family homes with a similar architectural language in regards to form, materiality and massing. Since the companion lot, 4173 North Bay Road, is vacant, DRB review was not required; it is,

however, being evaluated by the Board of Adjustment for the same requested variances scheduled for May 6, 2016 under BOA File No. 3805.

This application is for a new two-story home to replace an existing 1923 single-family home; however, the home has been designed over the maximum zoning thresholds for lot coverage, requiring a variance from the Board which is not supported by staff. In addition to the increased lot coverage request, staff has several issues with the proposed home.

The single family regulations have been modified multiple times in the past two years in an effort to reduce the massing, lot coverage, and size of new construction around the City. The proposed lot coverage is design-based, and there is nothing within the current zoning regulations that would prevent the construction of a new 2-story or 1-story residence that comports with the single-family regulations that all new construction must adhere to.



In addition to the concerns regarding the lot coverage, staff's additional primary concern is with the similarities between the two homes proposed on the two adjacent lots. The homes have been designed with the same massing, the same orientation, the same proportions, the same height, the same floorplan—with the only discernible difference is the application of a pitched roof type on the garage and the entry. The site plans are exact copies except the garage volume is slightly turned on the south parcel.

The two properties were designed by the same project architect and require the same variances. The subject home is proposed to be a two-story volume with an attached one-story garage. While the proposal does not require any design waivers from the Board, the proposed lot coverage would allow a greater ground floor footprint which affects the second floor to first floor ratio (in the applicants' favor). Additionally, the applicant is proposing the minimum setbacks required for a new single-family home. The resulting configuration is a very tight site with minimal landscaping and an oversized footprint.

Staff would recommend that the home be redesigned to be different in the massing, site plan, setbacks and orientation from the proposed home to the south. The home is also designed to be primarily an all stucco finish with no differentiating or contrasting materials. Further, the attached covered terrace proposed in the rear appears to be out of scale with the massing of the home. Staff would recommend additional contrasting materials be introduced along the front and side elevations and that the covered terrace be further developed and reduced in scale.

Staff would recommend the home be continued to the May 3, 2016 Design Review Board hearing in order to address staff's concerns. As previously mentioned, staff does have concerns with the proposed similarity in massing, design and surface finishes, in relation to the proposed structure located on the adjacent site. It is suggested that the design of this home be further studied and refined so as to establish a clear difference from the proposed new home on the southern lot. However, in the event that the Board is supportive of the design, staff would recommend implementing certain modifications that are reflected in the attached draft Final Order, which begin to address the inconsistencies with the aforementioned Design Review criteria.

#### **VARIANCE REVIEW**

The subject lot was platted as a parallelogram slightly under the minimum lot area for an RS-4 lot. Therefore, in order to construct on the site the applicant must obtain approval for a lot size variance. This block of North Bay Road is within the Nautilus Subdivision which was originally platted in the early 1920s along the existing property lines. Staff is supportive of this variance since the request satisfies the Practical Difficulty and Hardship Criteria and the development of this lot will not be possible without granting this variance.

While supportive of the first variance, staff does not support the lot coverage variance for the reasons set forth previously under 'Project'. The proposed home can be redesigned to comply with the lot coverage limitations; therefore the request does not satisfy the Practical Difficulty and Hardship Criteria.

#### **RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the application be **continued to May 3, 2016**. In the event that the Board should approve the project, it is further recommended that such approval be 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/LC



**DESIGN REVIEW BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: April 5, 2016

FILE NO: 23246

PROPERTY: **4193 North Bay Road**

APPLICANTS: Seth Heller and Elisheva Levin

LEGAL: Lot 9 of Block 7, of the "Nautilus Subdivision" according to Plat thereof as recorded in Plat Book 8, Page 95, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review approval the construction of a new two-story single-family home to replace an existing pre-1942 architecturally significant two-story home including variances to reduce the minimum lot size area required and to exceed the maximum permitted lot coverage for a two-story home.

**ORDER**

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

**I. Design Review**

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not a 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, 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 4193 North Bay Road shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
  - a. The proposed lot coverage for a two-story home shall not exceed 30% of the lot area.
  - b. The architect shall substantially redesign the proposed home, including its architecture, massing and materiality, in a manner that creates a clear and distinct differentiation in design from the residence proposed on the south parcel depicted in BOA File No. 3805 for 4173 North Bay Road.
  - c. The proposed covered terrace shall be further developed and reduced in scale, 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 architect shall further refine the side elevations and incorporate additional articulation through changes in plane, the introduction of projections and/or recesses and/or other architectural methods, in order to add more dimension and depth to the elevations, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - e. Additional material finishes shall be introduced along the front and side elevations, 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 details of all exterior surface finishes and materials, including samples, 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. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
  - h. 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. The applicant shall incorporate additional canopy shade trees throughout the project, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- e. Direct, segregated pedestrian access to the site from the street and sidewalk shall be provided to the main entrance, 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 architect shall incorporate additional hedging or planting material along both side property lines that at the time of planting have a minimum height of approximately 12'-0" and at time of maturity will reach approximately 20'-0" in height, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- g. 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.
- h. Any proposed walkways within the required yards shall be 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.

- i. 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.
- j. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- k. 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.
- l. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- m. 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.
- n. 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.
- o. 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):
  - 1. A variance to reduce by 250 SF the minimum required lot area of 6,000 SF within the RS-4 district in order to construct a two-story single family home on a property with a lot area of 5,750 SF.

~~2. A variance to increase by 319 SF (5.55%) the maximum permitted lot coverage of 1,725 (30%) for a new two-story single family home in order to construct a new two-story home with a lot coverage of 2,044 SF (35.55%).~~

- B. The applicant has submitted plans and documents with the application that partially satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 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 grants the requested variance(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.

- a. The proposed lot coverage for a two-story home shall not exceed 30% of the lot area.

**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 work, 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. In the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, subject to the review and approval of staff based upon the design review or appropriateness criteria, and/or directions received from the Board.
- 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 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 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 Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "Proposed Residence for: Seth Heller", as prepared by **Felix Pardo & Associates, Inc.** dated, signed, and sealed 2/10/2016, 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 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: \_\_\_\_\_  
DEBORAH J. TACKETT  
DESIGN AND PRESERVATION MANAGER  
FOR THE CHAIR

[illegible]

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by Deborah J. Tackett, Design and Preservation Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.

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 \_\_\_\_\_ ( )