

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: July 07, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB16-0082
2120 Lucerne Avenue – Single Family Home

The applicants, Patrick and Marisa Dwyer, are requesting Design Review Approval for the construction of a new two-story single family home to replace an existing pre-1942 architecturally significant one-story home, including a variance to exceed the maximum allowed floor to ceiling clearance for non-air conditioned space located under a main structure.

RECOMMENDATION:

Continue to a future meeting date for further design development.

Denial of the variance

LEGAL DESCRIPTION:

Lot 9, Block 4B, 3rd Revised Plat of Sunset Islands, according to the map thereof, as recorded in Plat Book 40, Page 8 of the Public Records of Miami-Dade County, Florida.

HISTORY:

On June 06, 2017 the Design Review Board continued the application in order for the applicant to further refine the design and lessen the impact on the surrounding area.

SITE DATA:

Zoning: RS-4
Future Land Use: RS
Lot Size: 7,066 SF 60'x120'
Lot Coverage:
Existing: ±2,024 SF / 28.6%
Proposed: 2,107 SF / **29.8%**
Maximum: 2,120 SF / 30%
Unit size:
Existing: ±2,024 SF / 28.6%
Proposed: 3,326.8 SF / **47%**
Maximum: 3,533 SF / **50%**
2nd Floor Volume to 1st.
Proposed **44.9%**
Maximum **70%**
Roof Deck: **4%**
Height:
Proposed: 22'-6" flat roof
(from BFE+5' | 13' NGVD)

Maximum: 24'-0" flat roof
(from BFE+5' | 13' NGVD)

Grade: +4.48' NGVD
Base Flood: +8.00' NGVD
Difference: 3.52'
Adjusted Grade: +6.24 NGVD
30" (+2.5') Above Grade: +8.74' NGVD
First Floor Elevation: +16.75' NGVD

EXISTING STRUCTURE:

Year Constructed: 1937
Architect: M. M. Ungaro
Vacant: No
Demolition Proposed: Total

Surrounding Properties:

East: One-Story 1938 residence

North: Two-Story 1941 residence
South: Two-story 1940 residence

West: Two-story 1944 residence

THE PROJECT:

The applicants have submitted revised plans entitled "Dwyer Residence", as prepared by **Arquitectonica**, dated, signed and sealed June 12, 2017.

The applicants are proposing to construct a new, contemporary two-story residence on a corner lot on Sunset Islands No. IV that will replace an existing pre-1942 architecturally significant one-story residence.

The applicants are requesting the following variance(s):

1. A variance to exceed by 2'-0" the maximum floor to ceiling clearance of 7'-6" allowed under the main structure in order to construct a new two-story single family home including area under the main structure with a height clearance up to 9'-6", as measured from the lowest level slab provided (4'-7" NGVD).
- Variance requested from:

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

(4) Unit size requirements.

d. Non-air conditioned space located below minimum flood elevation, plus freeboard. Notwithstanding the above, for those properties located in the RS-1, RS-2, RS-3, RS-4 single-family residential districts, where the first habitable floor is located six feet or more above existing grade in order to meet minimum flood elevation requirements, including freeboard, the following shall apply:

1. The height of the area under the main structure may have a maximum floor to ceiling clearance of seven feet six inches from the lowest level slab provided.

2. Up to, but not exceeding, 600 square feet of segregated parking garage area may be permitted under the main structure.

3. The area under the first habitable floor of the main structure shall consist of non-air conditioned space. Such area shall not be subdivided into different rooms, with the exception of the parking garage area, and required stairs and/or elevators.

4. The parking garage area and the non-air-conditioned floor space located directly below the first habitable floor, shall not count in the unit size calculations.

The first fully-enclosed, habitable floor of the residence is designed at an elevation of 15'-10" NGVD, approximately 6'-10" above the minimum building standard requirement of +9'-0" NGVD (BFE +Fb). This is nearly 2'-10" higher than the maximum freeboard allowance of +5.00' over Base Flood Elevation (+8.00'). The design intention is to create a larger, non-air-conditioned space below the main slab that serves as a usable outdoor recreational amenity and program feature for the residents. The Code, however, restricts the maximum floor to ceiling height of this under slab area to 7'-6". This non-air-conditioned area is created due to differences in CMB Grade and BFE building code requirements. The applicants are

requesting an additional clearance of 2'-0", for a total height of 9'-6" for a portion of the area under the first enclosed habitable floor featuring a concrete open air deck including a counter top, sink, and other equipment not identified. The area is not related to the required parking created underneath the building. In fact, the parking area complies with the 7'-6" height clearance. However, the letter of intent states that the variance is necessary to allow parking underneath the building and to allow for a proper entranceway to the house, especially for taller persons. However, the intent of the Code is to limit the allowable areas underneath the building to no more than 7'-6". Furthermore, staff would note that as per the *'Residential Florida Building Code 2010'*, the minimum necessary height for occupiable spaces is 7'-0". See below an excerpt of the SECTION R305 CEILING HEIGHT:

"R305.1 Minimum height. Habitable space, hallways, bathrooms, toilet rooms, laundry rooms and portions of basements containing these spaces shall have a ceiling height of not less than 7 feet."

Based on the minimum ceiling height required in residential spaces, the height of 7'-6" allowed by the zoning regulations would allow for the reasonable use of the space underneath the main living area. While staff commends the overall design initiative in its pursuit to promote resiliency, in this design configuration of spatial areas, staff does not support the additional 2'-0" of clearance that will increase the height under the main structure to 9'-6" as the reasons set forth in the applicants' Letter of Intent do not meet the practical difficulties and hardship criteria in the code. The additional area with non-conforming height is the applicant's choice and does not satisfy the practical difficulties criteria for the height increase requested.

Staff finds that the variance requested is self-imposed and is associated with the specific design, which is out of character with the neighborhood and the corner lot.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicants have submitted plans and documents with the application that **DO NOT** 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 **DO NOT** 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, appears to be consistent with the following sections of the City Code, aside from the requested variances. The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

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

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
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 proposed design requires a variance.
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; the proposed design requires a variance. Also the residence is out of scale with the surrounding context and is developed with a massing that breaks the existing streetscape and dominates the corner parcel, and looms over the front and sides of the property when compared to the existing neighborhood character.

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 a variance. Also the residence is out of scale with the surrounding context and is developed with a massing that breaks the existing streetscape and dominates the corner parcel, and looms over the front and sides of the property when compared to the existing neighborhood character.
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 a variance. Also the residence is out of scale with the surrounding context and is developed with a massing that breaks the existing streetscape and dominates the corner parcel, and looms over the front and sides of the property when compared to the existing neighborhood character.
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.
Satisfied
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; a lighting plan has not been provided

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 a variance. Also the residence is out of scale with the surrounding context and is developed with a massing that breaks the existing streetscape, dominates the corner parcel, and looms over the front and sides of the property when compared to the existing neighborhood character.
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.
No Satisfied; a mechanical equipment plan and the associated screening has not been submitted.
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied
17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Not Applicable

18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the City Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.

Not Applicable

19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

Satisfied

STAFF ANALYSIS:

DESIGN REVIEW

The applicants are proposing to construct a new two-story residence that will replace an existing pre-1942 architecturally significant one-story home. Built in 1937, the existing one-story home is designed in a deco / bungalow style, and is sited on the northeast corner of an interior block of Sunset Island IV. Sunset Island IV is the southernmost island of the Sunset Island Neighborhood and is located due north of 20th Street and west of North Bay Road. The Sunset Islands were developed in the late 1920's by the Sunset Islands Company and are the last man-made dredged residential islands in Florida.

The residence is a pilotis-style home that addresses the issue of sea level rise by elevating the home 12'-0" above CMB Grade. Wrapped in glass and wood-patterned concrete formliner, the elevated habitable stories expose the home's concrete structural columns, wherein breeze block walls delineate parking, storage, an entry and a covered outdoor area. It is designed in the spirit of Florida residential architecture, referencing both the floating houses of Stiltsville and the Post War Florida modern residential architecture exemplified by the Sarasota School of Architecture.

The proposed home largely follows the minimum setback requirements. Elevated well-above Base Flood Elevation (BFE) plus freeboard, from an appearance standpoint it reads as a three story building even as it follows the regulations of the code. The design attempts to restrain the impact of the enclosed 2nd floor on the overall elevation by minimizing its square footage, which at 951sf is only 44.9% of the first floor volume; and by inserting the majority of the second floor within the parapet of the first floor's exterior cladding. The result is a considerable first floor volume, which as presently designed, and at an elevation nearly 3'-0" above maximum freeboard, overwhelms the 7,066 SF lot.

Staff has met with the applicants' architectural team on numerous occasions since October of 2016, and has been generally supportive of the overall design concept and the direction of the architecture. However, Staff has been very clear and continually stated to the team that the proposed design may not be the most appropriate form for an interior dry lot on a corner parcel, which exposes two elevations to the street. The final product is a residential design that seeks to comply with both the City's zoning regulations for single family homes and the client's desire to build a home that responds to the pending threat of sea level rise.

At the June 06, 2017 DRB meeting, the Board provided the applicant with clear design direction in two specific areas:

1. Lowering the overall height; and
2. reduce the requested variance from 3'-0" to 2'-0" for greater clearance within the non-air-conditioned area.

The applicant has lowered the height to 22'-6" from BFE plus maximum freeboard in order to maintain the "elevated" design. The variance request has also been decreased by 1'-0" for a two (2') feet of increased clearance. Notwithstanding these modifications, staff still has concerns with the proposed home in terms of its sensitivity to and compatibility with the immediate area. Contextually the proposal will still be a significant departure from the replacement homes the Board has reviewed over the past few years, almost all of which have been more conventional, yet contemporary (2) two-story residences. Staff believes that the proposed design still does not adequately address the scale, character and context of the surrounding area; and continues to overwhelm the corner lot.

Staff also continues to have a concern with the spatial relationship of the ground level to the upper living level. Typically the successful floating houses of notable predecessors, such as Rufus Nims and Paul Rudolph, were designed with a proportion of height that clearly denoted the utilitarian ground floor space with a lower ceiling height than that of the celebrated upper living space. In the contrary, the residence in this application has been designed with upper and lower spaces of nearly equal division. This, factored with the new regulation that measures single family residential homes from Base Flood Elevation plus freeboard, results in a disproportionate ground floor to upper floor in height.

The architect and client have envisioned the residence as a solid form floating at the second story level above the flat site. By raising the habitable floorplate on pilotis with a centralized vertical circulation lobby, the residence will capture more breezes, obtain better views, and gain an economical shaded first level which serves as an expansive outdoor garden that consumes most of the entire site. In this regard, the proposal takes on the appearance of a three-story residence, as the first enclosed floor has been lifted so high off of the ground. The offset of the floor slab of the living space is unharmonious with the neighboring two-story homes. Staff would recommend that the uppermost level containing four bedrooms be removed in its entirety and that the spaces be reconfigured onto one main living floorplan. This 27'-2" x 36'-4" area contributes to the awkward massing of the home and its inconsistent relationship to existing homes.

The program benefits of a single living floor would include an increase of up to 50% lot coverage and greater ceiling height. Staff recommends that the architect re-study the massing to soften the impact of the proposed home on its corner siting and neighboring properties.

Additionally, to maintain the design effect of a floating second level while establishing a more context sensitive relationship with the neighboring properties, staff would suggest that louvers and similar opaque elements be placed along the perimeter of the ground floor level. Combined with the change to a single habitable floor plate, this would create the appearance of a two-story structure that is more consistent with the established architectural fabric of the immediate area. Staff would also recommend reducing the area identified as

“storage” on the ground floor and the central “core” where currently the vertical circulation is located to accommodate a storage room.

The landscape design is diverse and incorporates native species. Landscape within the property line is limited in comparison to the proposed planting within the public right-of-way (ROW). The City Right-of-Way (ROW) Streetscape Neighborhood Project is currently underway. Landscape within the public ROW cannot commence until the City work is completed. Furthermore, landscape within the ROW is subject to review and approval of the Public Works Greenspace Division and is limited to sod and street trees. Staff recommends that more emphasis be placed on planting within the property boundaries, as well as providing a landscape buffer from the street within our property line and not in the ROW. This may require the redesign of landscape and hardscape/fence that runs along the property lines at the streets.

In addition, the landscape design calls to retain canopy trees and palms. Staff has concerns with the proposed hardscape and low walls that are near existing trees #5 and #6 and recommends that the landscape architect revise the proposed design so that proposed elements do not compromise the existing root systems of the trees. Lastly, the proposed landscape buffer within the west interior side yard should be further enhanced in order to provide a continuous landscape buffer. Staff recommends additional tall plantings, 25' minimum in height at the time of installation. Further, the finish material of the walkway should consist of ornamental landscape gravel in order to enhance rooting space for trees/palms and/or bamboo specified to provide screening.

The design of the space under the proposed structure is predominately comprised of concrete hardscape. By elevating the habitable spaces, the residence's fundamental intent is resiliency, yet the ground cover materials underneath the first floor are contrary to this. Staff believes that the property, throughout, should be comprised of permeable hardscapes and abundant vegetation.

Staff commends the applicant on a generally forward thinking design concept. However, given the specific forms and spatial relationships chosen by the architect and the established context of the immediate area, staff believes that further design refinements are in order, as noted above, and recommends the application be continued to a future date.

VARIANCE REVIEW

As identified under the 'Project' description of the analysis, the variance being requested pertains to an additional 2'-0" of height clearance for non-air conditioned space under the main structure. The maximum ceiling height for non-air conditioned space located below the main structure, where the first habitable floor is located six feet or more above existing grade, is seven feet six inches (7'-6") from the lowest level slab provided. The requested variance would increase the floor to ceiling height of the non-air-conditioned space below the house to 9'-6". Staff is not supportive of the variance request. The proposed uses for the non-air-conditioned area, which include parking, storage, and a concrete open air deck, do not require additional height clearance, as per the minimum requirements of the Residential Florida Building Code, as noted in the project portion of this report.

Likewise, the additional clearance brings the proposed first habitable floor elevation to 15'-

10", which exceeds Base Flood plus freeboard by nearly 3'-0". The increased first floor elevation coupled with a building volume that adheres to the minimum required setbacks, overwhelms the 7,066 square foot lot and, in turn, the surrounding neighborhood. The project proposes uncovered parking area that satisfies the minimum required by the Code and the additional parking and outdoor areas below the raised first floor is the applicant's choice. Further, the additional heightacerbates the massing of the home and in conjunction with the two enclosed levels above, creates the appearance of an oversized three level residence. Staff recommends denial of the variance due to a lack of hardship or practical difficulties.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the **denial** of the variance request and that the application be **continued** to the September 05, 2017 Design Review Board meeting. In the event that the Board should approve the design of the home, it is further recommended that the project be subject to the conditions enumerated in the attached Draft Order which address the inconsistencies with the aforementioned Practical Difficulty and Hardship criteria, as applicable.

TRM/JGM/FSC/IV

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: June 06, 2017

FILE NO: DRB16-0082

PROPERTY: **2120 Lucerne Avenue**

APPLICANTS: Patrick and Marisa Dwyer

LEGAL: Lot 9, Block 4B, 3rd Revised Plat of Sunset Islands, according to the map thereof, as recorded in Plat Book 40, Page 8 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 one-story home, including a variance to exceed the maximum allowed floor to ceiling clearance for non-air conditioned space located under a main structure.

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. Revised elevation, site plan, and floor plan drawings for the proposed new home at 2120 Lucerne Avenue shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The maximum floor to ceiling clearance under the main structure shall be limited to 7'-6".
 - b. The uppermost level containing four bedrooms be removed in its entirety and that the spaces be reconfigured onto one main living floorplan.

- c. The perimeter wall shall not be permitted as proposed. The overall design of the wall shall be redesigned in order to make it more transparent / breathable. Any fence or gate at the front 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.
 - d. The proposed entrance walkway width perpendicular to Lucerne Avenue shall be not permitted as proposed. The walkway shall be reduced 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.
 - e. 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.
 - f. 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.
 - g. 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. The subject property is located within the Sunset Island #3 & 4 CIP ROW Streetscape Neighborhood Project, which is currently underway and installation of any required street trees shall not be permitted until after the completion of the City project. Shortly after the completion of the City's ROW project, the property owner shall be responsible for obtaining a separate Public Works ROW permit for the installation of the required street trees, which may occur after the issuance of a FINAL CO.
 - b. The installation of sod and street trees in the public ROW is subject to the review and approval of the Public Work Greenspace Division. All understory landscape material in the public ROW should be removed and replaced with sod.
 - c. In order to protect the root system of existing trees #5 and 6, as identified on sheet L1-20, the architect shall remove the section of the coral rock wall proposed at the property line, and low walls outlining the driveway/parking edge located within the dripline of the trees. A less intrusive fence, such as picket / wire mesh shall be provided in these sections in order to secure the property. Also, the hardscape area in the

public ROW and within the dripline of tree #6 shall be removed. A 3' wide walkway may be provided for pedestrian access subject to the review and approval of the Public Works Department and CMB Urban Forester.

- d. The proposed landscape buffer within the west interior side yard shall be further enhanced in order to provide a continuous landscape buffer and specified to be 25'-0" minimum in height at the time of installation and subject to the review and approval of staff. The finish material of the walkways shall consist of an ornamental landscape gravel in order to enhance rooting space for trees/ palms and/or bamboo specified to provide screening.
- e. 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.
- f. 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.
- g. 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.
- h. 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.
- i. 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.
- j. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- k. 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.

- l. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- m. 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.
- n. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- o. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventers and all other related devices and fixtures. The location of backflow preventers, 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.
- p. 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 way shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- q. 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:

The following variance was denied by the Board:

- 1. A variance to exceed by 3'-0" the maximum floor to ceiling clearance of 7'-6" allowed under the main structure in order to construct a new two-story single family home including area under the main structure with a height clearance up to 10'-6", as measured from the lowest level slab provided.
- A. The applicants have submitted plans and documents with the application that DO NOT 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 DO NOT 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.

B. The Board hereby DENIES the requested variance and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
2. The maximum floor to ceiling clearance under the main structure shall be limited to 7'-6".

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 Applicants will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard 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.

- B. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- C. The Supplemental Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- D. 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.
- E. 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.
- F. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- G. 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 "Dwyer Residence", as prepared by **Arquitectonica**, dated, signed and sealed 4/11/2017, 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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