MIAMIBEACH
PLANNING DEPARTMENT

Staff Report & Recommendation — Design Review Board

TO: DRB Chairperson and Members — DATE: October 06, 2015

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: Design Review File No. 23104
5777 Pinetree Drive – Single Family Home

The applicant, Miami Waterfront Development & Retail LLC, is requesting modifications to a previously issued 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. Specifically, the applicant is requesting variances to exceed the maximum building height and to exceed the maximum elevation of required yards, and the elimination of a condition requiring that only the central portion of the residence, identified with "double volume" spaces, shall extend to the requested 28'-0" height and the remainder of the proposed new residence shall be limited to 24'-0" to the top of the main roofline when measured from BFE.

RECOMMENDATION:
Denial of the modifications
Denial of the variances

LEGAL DESCRIPTION:
Lot 21 of Block 1A of the Beach View Subdivision, according to Plat thereof as recorded in Plat Book 9, Page 158 of the Public Records of Miami-Dade County, Florida.

HISTORY:
On December 02, 2014, the Design Review Board approved a new two-story home.

SITE DATA:

Zoning:	RS-3
Future Land Use:	RS
Lot Size:	13,259 SF
Lot Coverage:	
Existing:	±4,331 SF / 32.6%
Proposed:	3,770 SF / **28.4%**
Maximum:	3,997 SF / 30%
Unit size:	
Existing:	±4,331 SF / 32.6%
Proposed:	6,629 SF / **50%**
Maximum:	6,629.5 SF / **50%**

2nd Floor Volume to 1st- **98%**
***DRB WAIVER GRANTED**

Height-	
Proposed-	**31'-0" flat roof** *
Permitted	24'-0" flat roof
Maximum	28'-0" flat roof*

***VARIANCE REQUIRED**

Grade: +5.26' NGVD (approx.)
Flood: +8.00' NGVD
Difference: +1.37' NGVD (approx.)
Adjusted Grade: +6.63' NGVD (approx.)
Finished Floor Elevation: +11.00' NGVD

EXISTING STRUCTURE:

Year Constructed:	1951
Architect:	Stefan H. Zachar

Vacant: No
Demolition Proposed: Full

Surrounding Properties:
East: Indian Creek Canal
North: Two-story 2004 residence
South: Two-story 1929 residence
West: Two-story 1925 residence

THE PROJECT:
The applicant has submitted plans entitled "5777 Pinetree Drive Residence", as prepared by **Borges + associates** signed and sealed 08/17/2015.

The applicant is proposing modifications to the previously approved plans. Specifically, the applicant is seeking to eliminate the following condition from the rendered Final Order:

B.1.c. *Only the central portion of the residence, identified with "double volume" spaces, shall extend to the requested 28'-0" height and the remainder of the proposed new residence shall be limited to 24'-0" to the top of the main roofline when measured from BFE.*

The applicant had previously obtained 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). **[Approved on December 02, 2014]**

2. A two-story side elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d). **[Approved on December 02, 2014]**

3. The height of the proposed structure is **28'-0"** in accordance with Section 142-105(b). **[Approved on December 02, 2014]**, applicant is seeking modifications to the previously approved height and request an additional 3'-0" height increase thru a variance request]

The applicant is requesting the following variance(s):

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

   - Variance requested from:

   Sec. 142-105. - Development regulations and area requirements
   (b)The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:
   (1) Lot area, lot width, lot coverage, unit size, and building height requirements. The lot area, lot width, lot coverage, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:
   Zoning District - RS-3-, Maximum Building Height, which shall not exceed two stories above the minimum flood elevation in all districts - 24 feet - flat roofs. May be increased up to 28 feet for flat roofs and 31 feet for sloped roofs when approved by the DRB or HPB, in accordance with the applicable design review or appropriateness criteria.

The maximum building height for the RS-3 Zoning District is 24 feet for flat roofed structures and 27 feet for sloped roofs. In the RS-3 zoning district, the DRB may approve a building height of up to 28 feet for flat roofs and 31 feet for sloped roofs, when approved by the DRB in accordance with the applicable design review criteria. On December 02, 2014 the Board granted approval for the construction of a new two-story home at the subject property. At that time the board granted an additional 4'-0" in height waiver for the new construction. The applicant is seeking an additional 3'-0" height variance in order to construct the home with a finish floor located 3'-0" above Base Flood Elevation. Staff is not supportive of this waiver since this is a self-imposed hardship and the applicant already received a height waiver from the board.

2. A. A variance to exceed by 1.37' the maximum permitted elevation height of +7.76' NGVD within required front yard in order to elevate the yard at +9.13' NGVD.

   B. A variance to exceed by a range from 0.79' to 1.7' the maximum permitted elevation height of +7.76' NGVD within required interior side yards in order to elevate the yard a range from +8.55' NGVD to +9.46' NGVD.

   C. A variance to exceed by 1.5' the maximum permitted elevation height of +8.00' NGVD within required yards in order to construct the pool and pool deck at +9.50' NGVD within the required rear yard.

- 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:

(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:

2.A. *b.1. Front Yard. The maximum elevation within a required front yard shall not exceed adjusted grade, or 30 inches above grade, whichever is greater.*

2.B. *b.2. Interior Side Yards (located between the front setback line and rear property line). The maximum elevation shall not exceed adjusted grade, or 30 inches above grade, whichever is greater*

2.C. *b.4.(A). 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: Waterfront. The maximum elevation shall not exceed the minimum required flood elevation.*

The established grade for the site is 5.26' NGVD while the base flood elevation is set at +8.00' NGVD. The applicant is proposing to construct the new home with a finished floor at

+11.00 NGVD, three (3') feet above flood elevation. The applicant is proposing to substantially raise the required yards in excess of what is permitted by Code. This includes ramping the front yard from the existing crown of road to a height of 9.13' NGVD and raising the interior size yards to maximum height of 9.46' NGVD. Staff would note the single family home regulations were recently amended under the "Adjusted Grade Ordinance" to allow the yards to be raised higher than what was previously permitted. The proposed new floor plans and site plan show the grade being raised on all the required yards in a range between 0.79' to 1.5'. The new elevation of the pool and pool deck is also proposed at a higher elevation. The new proposal features a two level terrace. Within the developable width, the terrace is proposed at +10.45' NGVD and within the required yards the terrace steps down further to +9.50' NGVD, which is a 1'-6" above Base Flood Elevation. The pool and pool deck are proposed in the rear yard fronting the waterway. The applicant is proposing to raise the existing seawall from 3.77' NGVD to 7.5' NGVD—the increase in height is due to the recent regulations associated with the minimum height of seawalls as they are repaired or reconstructed. This however does not constitute a hardship since under the new regulations the yard and the associated pool and pool deck can be raised to the minimum Base Flood Elevation of 8.0' NGVD.

3. A variance to exceed by 2'-2" the maximum permitted building height of 12'-0" as measured from adjusted grade in order to construct a new one-story accessory building in the rear yard to measure up to 14'-2" in high measured from Adjusted Grade (6.63' NGVD).

   - Variance requested from:

   Sec. 142-1132. Allowable encroachments within required yards.
   (a) Accessory buildings.
   (2) In single-family districts the following regulations shall apply to accessory buildings within a required rear yard:
   f. Height. Accessory buildings shall be limited to two stories. The maximum height above adjusted grade shall not exceed 12 feet for a one-story structure and 20 feet for a two-story structure. The allowable height exceptions of Section 142-1161 shall not apply to accessory buildings in single-family districts.

   The proposed building exceeds the maximum height of 12'-0" for a one-story accessory structure measured from adjusted grade (average between flood elevation and grade) by 2'-2". The applicant is proposing the finish floor of the cabana bathroom at 9.13' NGVD and a total height of 11'-3" above the finish floor. Staff does not support the additional increase in height since this is a self-imposed hardship. The proposed accessory structure houses a cabana bathroom which is not required to be raised above base flood elevation nor does it need a floor to ceiling height of 11'.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

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

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

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

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

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

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

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

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

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

COMPLIANCE WITH ZONING CODE:

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

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. **[Approved]**

2. Two-story side elevations located parallel to a side property line shall not exceed 50% 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 8'-0" 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. **[Approved]**

3. The maximum building height is 24'-0' for flat roofed structures and 27'-0" for sloped roofs. In the RS-3 zoning district, the DRB may approve a building height of up to 28'-0" for flat roofs and 31'-0" for sloped roofs, and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria. **[Approved with conditions]**

4. On June 10, 2015 the new Adjusted Grade Ordinance was adopted by the City Commission. Since the pool is elevator to Base Flood Elevation, only 50% of the water will count toward the open space requirement.

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

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

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
   Not Satisfied; the applicant is proposing to raise the required yards to an elevation significantly higher than allowed by Code.

2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
   Not Satisfied; the applicant is proposing to raise the required yards to an elevation significantly higher than allowed by Code.

3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
   Not Satisfied; the applicant is proposing to raise the required yards to an elevation significantly higher than allowed by Code. The applicant is also requesting several height variances.

4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
   Satisfied

5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.
Not Satisfied; the applicant is proposing to raise the required yards to an elevation significantly higher than allowed by Code. The applicant is also requesting several height variances.

6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Not Satisfied; the applicant is proposing to raise the required yards to an elevation significantly higher than allowed by Code. The applicant is also requesting several height variances.

7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Not Satisfied; the applicant is proposing to raise the required yards to an elevation significantly higher than allowed by Code.

8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Satisfied

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Not Satisfied; the applicant is proposing to raise the required yards to an elevation significantly higher than allowed by Code.

11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.

Not Applicable

12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Not Satisfied; the applicant is proposing to raise the required yards to an elevation significantly higher than allowed by Code. The applicant is also requesting several height variances.

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

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

This application was originally approved by the Design Review Board on December 02, 2014. At the time of approval the Board granted two design waivers. The first waiver was for the second floor to exceed 70% of the ground floor by an additional 28% and the second was an additional 4'-0" in height in order to construct the central portion of the roof at 28'-0" above Base Flood Elevation while maintaining the rest of the building at 24'-0" above Base Flood Elevation. The applicant is seeking a modification of the previously approved plan to elevate the entire roof to 31'-0" above Base Flood Elevation. Additionally, the applicant is seeking approval for several variances enumerated above.

Staff is not supportive of the modifications to the previously approved plans. The home already received a height waiver for a portion of the roof based on discussion at the December 2014 DRB meeting. In this regard, the proposed home is compatible with its neighbor to the north—5785 Pinetree Drive—which was built in 2004 as a three-story home with a lot coverage of 35% and a large central atrium. However, the home abutting the proposed to the south is a 1929 architecturally significant single-family residence, designed in the Mediterranean revival style of architecture that has massing characterized with multiple red-tiled, hipped roof line of varying heights and volumes. As such, the approval of the increased massing through a waiver and through the variance process would negatively impact the neighboring 1929 architecturally significant home.

Additionally, the additional height is a self-imposed design decision by the applicant.

VARIANCE REVIEW

The applicant is proposing modifications to a previously approved new two-story residence. The requested variances are all interwoven and result from the applicant's desire to elevate the new construction +3'-0" above the minimum Base Flood Elevation and the accessory structure 1'-3" above Base Flood Elevation. This, in turn, affects the elevation of the yards in relationship to the location of the finished floor and the overall grading of the site. Staff would note that the Board already approved an additional 4'-0" in height for the central portion of the home when the house was approved in December 02, 2014 (RS-3 zoned properties may gain up to 4'-0" additional height through the Design Review Board process).

The added height was approved even though the size of the lot is more consistent with the RS-3 minimum lot size because the higher height was limited in size and its location towards the center of the volume. The modifications are to raise the entire roof to 31'-0" above BFE. The applicant is also requesting to elevate all the required yards in excess of the minimum Base Flood Elevation (8.00' NGVD). Staff is not supportive of this variance since this is a self-imposed hardship that negatively impacts the existing 1929 single family home immediately adjacent to the subject parcel.

In addition to the height variance the applicant is also seeking variances to elevate the required yards to an elevation exceeding the maximum permitted by Code. Staff will note that the regulations regarding the elevation of the required yards were amended on June 06, 2015 to allow the yards to be raised higher than adjusted grade. The new regulations allow the front and side yards to be elevated to adjusted grade (6.63' NGVD) or 30" above CMB Grade (5.26' NGVD) whichever is greater and the required rear yard to be raised to Base Flood Elevation. The applicant is proposing to raise the elevations of the yards grading from a range of 0.79' to 1.5' above the maximum permitted by the Ordinance. Staff is not supportive of these variances since the grading plan for the site is, again, a self-imposed hardship by the applicant since the maximum permitted by Code exceeds the minimum Base Flood Elevation and the minimum height requirement for the seawall.

The last variance is related to the raising of the yards. Accessory structures located within the required rear yard are restricted in height to 12'-0" measured from adjusted grade (6.63' NGVD). The proposed accessory structure is a small cabana bathroom which is required by the Florida Building Code to have a finish floor of Base Flood Elevation (8.00' NGVD). The applicant is proposing the cabana to be elevated to 9.00' NGVD with a total height of 14'-2" measured above adjusted grade. Staff is not supportive of the height variance for the accessory structure since the difference between adjusted grade and Base Flood Elevation

is 1.37' which would still allow for sufficient floor to ceiling height for a detached cabana bathroom and a reasonable height of an ancillary space of that nature.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **denied without prejudice**.

TRM/JGM/ LC

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DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: October 06, 2015

FILE NO: 23104

PROPERTY: **5777 Pinetree Drive**

APPLICANT: Miami Waterfront Development & Retail LLC

LEGAL: Lot 21 of Block 1A of the Beach View Subdivision, according to Plat thereof as recorded in Plat Book 9, Page 158 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review approval modifications to a previously issued 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. Specifically, the applicant is requesting variances to exceed the maximum building height and to exceed the maximum elevation of required yards, and the elimination of a condition requiring that only the central portion of the residence, identified with "double volume" spaces, shall extend to the requested 28'-0" height and the remainder of the proposed new residence shall be limited to 24'-0" to the top of the main roofline when measured from BFE.

SUPPLEMENTAL ORDER

The City of Miami Beach Design Review Board makes the following FINDING 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:

> 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, 5-7, 10, and 12 in Section 118-251 of the Miami Beach Code.

IT IS HEREBY ORDERED, based upon the foregoing finding 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 recommendation, that the Application is **DENIED WITHOUT PREJUDICE** for the above-referenced project.

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

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

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