

# MIAMI BEACH

## 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. 23202  
**330 76<sup>th</sup> Street – Townhomes**

The applicant, JEL Development LLC, is requesting Design Review Approval for the construction of a new three-story townhouse building on a vacant site, including variances from the minimum lot size required, to reduce the minimum required pedestal front, side and sum of the side setbacks, to reduce the required clearance from columns for a driveway, to reduce the required driveway width, to reduce the required setback for parking, and to exceed the maximum projection into required yards.

#### RECOMMENDATION:

Approval with conditions

Approval of the variances with conditions.

#### LEGAL DESCRIPTION:

Lot 1 of Block 12, of "Altos Del Mar No.3", according to Plat thereof as recorded in Plat Book 8, Page 41, of the Public Records of Miami-Dade County, Florida.

#### SITE DATA:

Zoning: RM-1  
Future Land Use: RM-1  
Lot Size: 5,497 SF

Residential Units: 3 Units  
Required Parking: 6 Spaces  
Provided Parking: 6 Spaces

Proposed FAR: 6,720 SF/ 1.22\*  
Permitted FAR: 6,871 SF/ 1.25  
\*As represented by the applicant

Grade: +4.38' NGVD  
Flood: +8.00' NGVD  
Difference: 1.81' NGVD  
Adjusted Grade: +6.19' NGVD  
Finished Floor Elevation: +5.16' NGVD

#### Height:

Proposed: **29'-2" / 3-Story**  
Maximum: 50'-0" / 5-Story  
Highest Projection: 40'-0"

#### Surrounding Properties:

East: 2-story 1958 Multi-Family Building  
North: 1-story 1953 Multi-Family Building  
South: 2-story 1951 Multi-Family Building  
West: 2-story 1946 Multi-Family Building

Existing Use: Vacant Parcel  
Proposed Use: Townhomes

#### THE PROJECT:

The applicant has submitted plans entitled "Townhomes @ 330 76<sup>th</sup> Street", as prepared by **Beilinson Gomez Architects, PA** dated, signed, and sealed 08/17/2015.

The applicant is proposing to construct a new three-unit townhome development on a vacant corner site.

The project requires the following waivers:

- 1- All floors of a building containing parking spaces shall incorporate residential uses at the first level along every façade facing a street, sidewalk or waterway. [Sec. 142-156 (b)]. Note for properties less than 60'-0" in width, the total amount of residential space at the first level along a street side shall be determined by the design review or historic preservation board, as applicable. All facades above the first level, facing a street or sidewalk, shall include a substantial portion of residential uses; the total amount of residential space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.

The following variances are requested for the project:

1. A variance to reduce 103 SF from the minimum required lot area of 5,600 SF within the RM-1 district in order to construct a three-story residential building on a property with a lot area of 5,497 SF.
  - Variance requested from:

**Sec. 142-155. - Development regulations and area requirements.**

*(b) The lot area, lot width, unit size and building height requirements for the RM-1 residential multifamily, low density district are as follows:  
Minimum Lot Area (Square Feet): 5,600 SF*

The subject property is a corner lot located in a block platted with 6 parcels and surrounded by 4 streets. The interior lots exceed slightly 5,600 SF, which is the minimum area required in the RM-1 district. However, the corner lots including the subject property are smaller because of the curved shape at the intersection of the streets, as originally platted. In this block, the two parcels facing 76<sup>th</sup> Street have remained as single lots and the adjacent sites to the south have joined developments including the interior lots. Other blocks in the area between 75<sup>th</sup> Street and 76<sup>th</sup> Street have similar conditions and were originally platted with smaller lot sizes than those typically found in the RM-1 zoning district. Without the granting of this variance, the construction of the proposed building would not be permitted and the site could not be developed as other lots in the same district. Based on the special conditions of the site, staff has no objections to this request.

2. A variance to reduce by 1'-8" the minimum required front pedestal setback of 20'-0" in order to construct a three-story residential building at 18'-4" from the front property line facing Abbot Avenue.
  - Variance requested from:

**Sec. 142-156. Setback requirements.**

*The setback requirements for the RM-1 residential multifamily, low density district are as follows:  
Pedestal, Front: 20'-0"*

The front of the building is proposed with a setback of 20'-0" from the front property line except for a small portion at the corner of the site. Because the setbacks are measured parallel from the property lines, the intersection of the required side and front setback lines result in an odd shaped area that affect a triangular piece of the front facade of the building. The majority of the building complies with the required front setback and staff is supportive of this variance request due to its minor impact.

3. A variance to reduce by 2'-6" the minimum required pedestal interior side setback of 7'-6" in order to construct a three-story residential building with a side setback of 5'-0" from the south property line.

- Variance requested from:

**Sec. 142-156. Setback requirements.**

*The setback requirements for the RM-1 residential multifamily, low density district are as follows:*

*Pedestal, Interior side —Minimum: 7.5 feet or 8% of lot width, whichever is greater*

The reduction in the required setback is proposed for portions of the supporting structure at the ground level and on both sides of the balconies above. A substantial area of the side building façade complies with the required 7'-6" setback. The neighboring properties to the south and west have similar non-conforming interior side setbacks. Staff has no objection to this request as the proposed 5'-0" setback is consistent with the interior setback of the adjacent properties.

4. A variance to reduce by 2'-6" the minimum required pedestal sum of the side yards of 15'-0" in order to construct a three-story residential building with a sum of the side yards of 12'-6".

- Variance requested from:

**Sec. 142-156. Setback requirements.**

*The setback requirements for the RM-1 residential multifamily, low density district are as follows:*

*Pedestal, Interior Side: Sum of the side yards shall equal 16% of lot width*

*Minimum: 7.5 feet or 8% of lot width, whichever is greater,*

The building is proposed with the minimum setback of 7'-6" on the side facing the street and 5 feet on the interior side for a sum of the sides of 12'-6". The Code requires a setback of 7'-6" on both sides with a sum of the sides of 15 feet. This variance is triggered by the proposed reduction on the interior south side as indicated in variance number 3. The lot is 50 feet in width with a round corner which makes the design of the project very challenging in order to provide minimum required parking and residential unit size. Staff has no objection to this request, based on the special conditions of this particular property. Further, this type of variance has been previously approved numerous times by the Board and the Board of Adjustment for properties with similar lot size and site conditions within the RM-1 district.

5. A variance to reduce by 3'-11" the minimum required side setback of 5'-0" for at grade parking in order to construct required parking for a three-story residential building with a side setback of 1'-1" from the south property line.

- Variance requested from:

**Sec. 142-156. Setback requirements.**

*The setback requirements for the RM-1 residential multifamily, low density district are as follows:*

*At-grade parking lot on the same lot except where (c) below is applicable, Side Interior: 5 feet, or 5% of lot width, whichever is greater.*

Two enclosed parking spaces are proposed for each townhome with the driveway extending up to 1'-1" from the interior property line where 5' is required. The substandard lot size and lot width of 50 feet are existing conditions that restrict the design of the parking, resulting in the request for several variances. It is almost impossible to provide all required setbacks and a functional parking for three residential units. Because only six parking spaces are proposed, no negative impact is expected in the internal vehicular circulation. The applicant proposes a 7' high wall along the south and rear of the building to mitigate any negative impact on the adjacent neighboring properties. Staff has no objections to this variance request.

6. A variance to reduce all required 1'-6" distance separation from the structural columns to the interior driveway for 90° parking in order to construct the driveway for six parking spaces up to the garage structure for a new residential building.

- Variance requested from:

**Sec. 130-63. Interior aisles.**

*Interior aisles shall meet or exceed the following minimum dimensions permitted: 90° parking—22 feet, with columns parallel to the interior drive on each side of the required drive, set back an additional one foot six inches, measured from the edge of the required interior drive to the face of the column.*

The parking design standards of the City Code require that internal driveways for 90° parking be separated 1'-6" from structural elements in order to facilitate vehicular maneuvering. The existing constraints of the site limit the compliance with this additional clearance. Staff believes that for residential parking and for the low number of spaces proposed, the elimination of this requirement will not have a negative impact. As such, staff recommends approval of this variance request.

7. A variance to reduce 8'-7" from the minimum required width of 22'-0" interior drive aisle for 90° parking in order to provide six (6) parking spaces at 90° with an interior drive aisle of 13'-5".

- Variance requested from:

**Sec. 130-63. Interior aisles.**

*Interior aisles shall meet or exceed the following minimum dimensions permitted:  
90° parking—22 feet, with columns parallel to the interior drive on each side of the required drive, set back an additional one foot six inches, measured from the edge of the required interior drive to the face of the column.*

The interior driveway has a width of 13'-5" at the narrowest point between the structural columns and the curbed landing proposed in front of the electrical meters. The back-out area complies with the required 22 feet for all six parking spaces. This variance request is very common for many new developments on lots 50 feet in width. In most residential areas, these lots were not platted and developed with parking on site. Some residential developments that were originally constructed with parking usually do not comply with the current parking design standards. The space required for parking, driveway and residential component facing the street are not likely provided in many sites with similar conditions. This variance request is one of the most common variance requested and has been granted numerous times. Because the parking area is for 6 cars, staff believes that this is a reasonable request in order to achieve the proposed design.

8. A variance to exceed by 2.2 % (0'-5") the maximum allowable projection of 25% (4'-7") of the proposed front pedestal setback of 18'-4" in order to construct decorative features with 27.2 % (5'-0") of encroachment into the front yard, facing Abbott Avenue.

- Variance requested from:

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

*(o) Projections. In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet.*

*(5) Ornamental features.*

*(7) Roof overhangs.*

A horizontal decorative projection that wraps the building in all floors and at the roof level is proposed with the maximum projection permitted of 25% into the required front yard. However, at the corner of the site the slab encroaches 2.2% more than what is permitted due to the curved corner that intersects the side and front yards. This variance request is only for the portion of the slab that is located in the corner. Staff is supportive of this minor request based on the irregular shape of the lot and the site constrains as noted in the previous variances.

9. A variance to exceed by 27.2% (2'-1") the maximum allowable projection of 25% (1'-10") of the street side yard of 7'-6" in order to construct decorative features with 52.2 % (3'-11") of encroachment into the side yard, facing 76<sup>th</sup> Street.

- Variance requested from:

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

(o)Projections. In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet.

(5)Ornamental features.

(7)Roof overhangs.

A horizontal decorative projection that wraps the building in all floors and at the roof level is proposed with the maximum projection permitted of 25% into the side yard facing the street. As this is a continuous feature, the portion that is located on the at the corner exceed the maximum projection due to the odd shape resulted from the intersection of the front and side yards. This variance request is only for the portion of the slab that is located in the corner. Staff is supportive of the variance request based on the irregular shape of the lot and the site constrains as noted in the previous variances.

#### **PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents with the application 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, in addition to the requested variance(s):

1. All floors of a building containing parking spaces shall incorporate residential uses at the first level along every façade facing a street, sidewalk or waterway. For properties less than 60'-0" in width, the total amount of residential space at the first level along a street side shall be determined by the Design Review Board. **Requires Design Review Board approval.**

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.

**CONSISTENCY WITH COMPREHENSIVE PLAN:**

A preliminary review of the project indicates that the proposed **residential use** appears to be **consistent** with the Future Land Use Map of the 2025 Comprehensive Plan.

**ACCESSIBILITY COMPLIANCE**

Additional information will be required for a complete review for compliance with the Florida Building Code 2001 Edition, Section 11 (Florida Accessibility Code for Building Construction). These and all accessibility matters shall require final review and verification by the Building Department prior to the issuance of a Building Permit.

**CONCURRENCY DETERMINATION:**

In accordance with Chapter 122 of the Code of the City of Miami Beach, the Transportation and Concurrency Management Division has conducted a preliminary concurrency evaluation and determined that the project does not meet the City's concurrency requirements and level-of-service standards. However, the City's concurrency requirements can be achieved and satisfied through payment of mitigation fees or by entering into an enforceable development agreement with the City. The Transportation and Concurrency Management Division will make the determination of the project's fair-share mitigation cost.

A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any Building Permit. Without exception, all concurrency fees shall be paid prior to the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy.

**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 parcel does not comply with the minimum lot size required for the RM-1 Zoning District and will require a variance to develop the lot.**
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 project requires several variances and a design waiver from the Board.**
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 project requires several variances and a design waiver from the Board.**
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.  
**Satisfied**
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.  
**Not Satisfied; the proposed project requires several variances and a design waiver from the Board.**
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.  
**Not Satisfied; the proposed project requires several variances and a design waiver 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.  
**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 submitted**

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).

**Satisfied**

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.

**Not Satisfied; the proposed project requires a design waiver for the residential liner from the Board.**

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**

The subject site is a vacant corner parcel located within the boundaries of the North Shore National Register Historic District. The applicant is proposing to construct the vacant corner parcel with a contemporary (3) three-story, (3) three-unit residential townhouse building with an active roof deck. Vehicular access is off of Harding Avenue. Each unit has been designed with individual entrances and associated parking area and consists of two floors of living area with a private roof top deck. Staff must commend the architect with the success in designing a meticulously planned proposal. The proposed project does require a design waiver and several variances from the Design Review Board.

The ground floor is occupied by a ground level entrance vestibule and the parking area with a second floor common area and third floor bedroom suites. Each unit has access to a private roof deck terrace. The vacant parcel is surrounded by three, two-story MiMo buildings which were constructed in the 1950s and all of which have nonconforming front, rear and side setbacks. The proposed townhouse building is compatible and consistent with the scale and massing of the surrounding residential area.

The subject parcel is slightly under the minimum required lot size for the RM-1 zoning district. Additionally, the parcel has a lot width of 50'-0". The code requires all floors of a building containing parking to be screened with an active residential use. For lots with less than 60'-0" in width, the total amount of residential space at the ground level on the street side is dictated by the Design Review Board. The architect has designed a street façade that incorporates a fair amount of transparency and a high level of exterior finishes along the ground floor which enhances the pedestrian experience along Harding Avenue and 76<sup>th</sup> Street. Further, the impact of the traffic in and out of the parcel has been restricted to one curb cut along Harding Avenue. The architect's use of transom windows and glass doors at the ground level entrances help break up the massing of the ground floor. Staff recommends that that Board eliminate the need for the liner for the 50'-0" wide parcel since the architectural solution composed by the designer reflects the intent of the Code.

The project, as proposed, is designed with a diverse array of materials and shifting volumes and architectural elements that work together to form a complemented and cohesive, well-articulated design. The architect has articulated the massing of the building by creating recesses and shifting the façade on the upper floor to create interest and scale. The provided breaks in the massing of the structure also help alleviate the impact of this structure into the existing urban context of its surrounding area. Additionally the use of the differentiating exterior materials—particularly the use of the textured tiles and glass door and windows along the ground level façade, assist in breaking up the massing and giving each layered volume a unique identity. Staff would note that the success of the massing of the architecture will depend on the high quality and diversity within the selection of the proposed materials and finishes.

Staff does have a significant concern as it pertains to the site plan, specifically as it relates to the proposed landscaping along 76<sup>th</sup> Street. The existing sidewalk along Harding Avenue and 76<sup>th</sup> Street is very narrow—5'-0" wide—the applicant is proposing three Ribbon Fan Palms adjacent to the three townhome entrances. Staff would recommend these be changed for canopy shade trees in order to provide shade and enhance the pedestrian experience.

In summary, staff commends the applicant for proposing a noteworthy design solution for this corner building. Staff would recommend approval of the design.

### **VARIANCE REVIEW**

Staff finds that without the granting of the variance #1 (lot area), the construction of the proposed building would not be permitted and the site could not be developed as other lots in the same district (see 'Project' analysis). Staff finds that without the granting of the variance #2 (front setback) the intersection of the required side and front setback lines would result in an odd shaped area that would affect a triangular piece of buildable area of the structure that similar lots are not challenged with (see 'Project' analysis).

Staff finds that the granting of variances #3-4 (setbacks) is consistent with the building line fabric of the existing MiMo buildings in the area. The construction of the building at the reduced setbacks is more compatible with the existing conditions in the immediate area. (see 'Project' analysis).

Staff finds that without the granting of the variances #5-7 (parking), the construction of the proposed building's parking is challenged by the substandard lot area (request #1) and would not be permitted and the site could not be developed as other lots in the same district. The approval of the variances are self-contained within the site and will not negatively affect any abutting properties (see 'Project' analysis).

Staff believes that the variances proposed are the minimum necessary to make a reasonable use of the land, and no negative impact will be affecting the adjacent properties. In summary, staff has no objection to the requests and recommends approval of the variances as proposed.

### **RECOMMENDATION:**

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

TRM/JGM/LC

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

MEETING DATE: October 06, 2015

FILE NO: 23202

PROPERTY: **330 76<sup>th</sup> Street**

APPLICANT: JEL Development, LLC

LEGAL: Lot 1 of Block 12, of "Altos Del Mar No.3", according to Plat thereof as recorded in Plat Book 8, Page 41, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new three-story townhouse building on a vacant site, including variances from the minimum lot size required, to reduce the minimum required pedestal front, side and sum of the side setbacks, to reduce the required clearance from columns for a driveway, to reduce the required driveway width, to reduce the required setback for parking, and to exceed the maximum projection into required yards.

**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, 6, 9, and 13 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 330 76<sup>th</sup> Street shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
    - a. The proposed exterior finishes along the ground level façades shall consist of a high quality textured tile or a similar high quality contrasting material consistent with the plans submitted and approved by the Board, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
    - b. 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.
    - c. All window frames shall be composed of brushed anodized aluminum frames. All windows shall consist of clear glass and incorporate the minimum tint required by the energy code, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
    - d. All exterior handrails and support posts shall incorporate a flat profile. The final design details, dimensions material and color of all exterior handrails shall be made part of the building permit plans and shall be subject to the review and approval of staff consistent with the Design Review Criteria and/or the directions from the Board.
    - e. 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.
    - f. 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, prepared by a Professional Landscape Architect, registered in the State of Florida, 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 proposed Ribbon Fan Palms shall be exchanged for native shade canopy trees, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

- b. Any fence or gate or security feature along the property facing the rights-of-way shall be designed with high level of transparency and in a manner consistent with the architecture, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board
- c. The applicant shall incorporate more canopy trees in the required front yard, 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 applicant shall explore the incorporation of a more diverse plant pallet along the common walkways and yard between the existing building and new addition, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- e. All exterior walkways shall consist of decorative pavers, set in sand or other semi-pervious material, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- f. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- g. Any existing plant material within the public right-of-way may be required to be removed, at the discretion the Public Works Department.
- h. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- i. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- j. The applicant shall install street trees on all sides of the project consistent with the City's Street Tree Master Plan, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board, and root barriers shall be installed along the sidewalk in conjunction with structural soils.
- k. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- l. 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.

- m. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

## II. Variance(s)

A. The applicant filed an application with the Planning Department for the following variance(s):

1. A variance to reduce 103 s.f. from the minimum required lot area of 5,600 s.f. within the RM-1 District in order to construct a three-story residential building on a property with a lot area of 5,497 s.f.
2. A variance to reduce by 1'-8" the minimum required front pedestal setback of 20'-0" in order to construct a three-story residential building at 18'-4" from the front property line facing Abbot Avenue.
3. A variance to reduce by 2'-6" the minimum required pedestal interior side setback of 7'-6" in order to construct a three-story residential building with a side setback of 5'-0" from the south property line.
4. A variance to reduce by 2'-6" the minimum required pedestal sum of the side yards of 15'-0" in order to construct a three-story residential building with a sum of the side yards of 12'-6".
5. A variance to reduce by 3'-11" the minimum required side setback of 5'-0" for at grade parking in order to construct required parking for a three-story residential building with a side setback of 1'-1" from the south property line.
6. A variance to reduce all required 1'-6" distance separation from the structural columns to the interior driveway for 90° parking in order to construct the driveway for six parking spaces up to the garage structure for a new residential building.
7. A variance to reduce 8'-7" from the minimum required width of 22'-0" interior drive aisle for 90° parking in order to provide six (6) parking spaces at 90° with an interior drive aisle of 13'-5".
8. A variance to exceed by 2.2 % (0'-5") the maximum allowable projection of 25% (4'-7") of the proposed front pedestal setback of 18'-4" in order to construct decorative features with 27.2 % (5'-0") of encroachment into the front yard, facing Abbott Avenue.
9. A variance to exceed by 27.2% (2'-1") the maximum allowable projection of 25% (1'-10") of the street side yard of 7'-6" in order to construct decorative features with 52.2 % (3'-11") of encroachment into the side yard, facing 76th Street.

B. The applicant has submitted plans and documents with the application that satisfy Article

1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board 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.
2. Revised elevation, site plan and floor plan drawings shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
  - a. Opaque fence, concrete fence, or other type of barrier with 7 feet height shall be provided along all parking facing the sides and rear in order to mitigate noise and light spillage onto the adjacent properties, in a manner to be reviewed and approved by staff.

**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. Site plan approval is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed prior to the issuance of a Building Permit.
- 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



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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