MIAMIBEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: December 01, 2015

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: Design Review File No. 23191
31 Star Island Drive – Single Family Home

The applicants, Wayne and Wendy Holman, are requesting Design Review Approval for the construction of a new two-story single family home to replace an existing pre-1942 architecturally significant two-story home including a variance from the required side setback to retain an existing two story wood structure and variances from the required front and side setbacks for a tennis court fence and play surface and from the required side setback for lighting associated with the tennis court in order to retain an existing tennis court located in the front of the property.

RECOMMENDATION:
Approval with conditions.
Approval of variance #1, #4, #5 and #6 with conditions.
Denial of variance #2 and #3 for the tennis court front setback.

LEGAL DESCRIPTION:
Lot 31 and the northerly ½ of Lot 32, of STAR ISLAND, according to Plat thereof, recorded in Plat Book 5, at Page 52, Public Records of Miami-Dade County, Florida, and CORRECTED PLAT OF STAR ISLAND recorded in Plat Book 31, at Page 60, Public Records of Miami-Dade County, Florida.

HISTORY:
On September 01, 2015 the application was presented before the Design Review Board and was continued by the Board to the November 03, 2015 DRB meeting. On November 03, 2015 the applicant requested to be continued to the December 01, 2015 meeting.

SITE DATA:

Zoning:	RS-1
Future Land Use:	RS
Lot Size:	60,735 SF
Lot Coverage:	
Existing:	±7,665 SF / 12.6%
Proposed:	6,940 SF / **11.5%**
Maximum:	18,220.5 SF / 30%
Unit size:	
Existing:	±13,681 SF / 22.5%
Proposed:	9,178 SF / **15.1%**
Maximum:	18,220.5 SF / 50%

Grade: +5.31' NGVD
Flood: +10.00' NGVD
Difference: 4.69'
Adjusted Grade: +7.65' NGVD

Height:	
Proposed:	25'-2" flat roof
Maximum:	28'-0" flat roof

EXISTING STRUCTURE:

Year Constructed:	1920
Architect:	DeGarmo & Vermey
Vacant:	No
Demolition Proposed:	Total

Surrounding Properties:
East: Biscayne Bay
North: Two-story 2013 residence
South: Two-story 1937 residence
West: Star Island Park

BACKGROUND:
The existing structure was designed by DeGarmo and Vermey and built by the Flagler Company in 1926. Walter DeGarmo was a prominent architect in Miami Beach and designed many structures throughout the City and environs during the 1920s and 1930s, including several of the original Star Island estate homes. The house was originally conceived as a two-story Mediterranean Revival style home but has undergone numerous additions, modifications, and stylistic alterations to the property, most notably to the front of the residence. The original design consisted of a U-shaped footprint with a detached accessory structure at the front of the property. The home featured a cross-hipped roof with wide overhangs supported by wood brackets, two chimneys, and a decorative stained-glass window. The home also featured a courtyard in the front of the property enclosed with a decorative wall which connected the two wings. During the 1960s and the 1980s there were several additions along the north side of the property, most notably the addition of accessory structure and side breezeway leading to the rear. The courtyard was also significantly altered in 2001 with the demolition of the wall and the addition of a circular domed portico connected by a breezeway.

THE PROJECT:
The applicants have submitted plans entitled "31 Star Residence" as prepared by **Kobi Karp** signed and sealed 07/13/2015 and supplemental plans dated 10/02/2015.

The applicants are proposing a new one-story residence with a detached two-story guest house and garage to replace a two-story residence. Additionally, the applicants are seeking approval for the retention of the existing detached wood structure located along the south property line and the retention of a non-conforming tennis court located at the front of the property.

The applicants are requesting the following variance(s):

1. A variance to reduce by 13'-4" the minimum required sum of the side setbacks of 37'-6" in order to retain an existing two-story wood structure at 9'-2" from the south property line for a sum of the side setbacks of 24'-2".

   - Variance requested from:

   Sec. 142-106. Setback requirements for a single-family detached dwelling.
   The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:
   (2)Side yards:
   a.The sum of the required side yards shall be at least 25 percent of the lot width.

The applicants are proposing to retain the existing two-story wood structure. Since the structure is located within the south side yard, it is not considered an "accessory building" and therefore the underlying setback requirements for the principal structure govern. Only detached structures that are located within the required rear yard are considered accessory

buildings for zoning purposes. The new house is sited at the minimum side setback of 15'-0" on the north side and the detached building is located at 9'-2" from the south property line resulting in a sum of the side setbacks totaling 24'-2" where 37'-6" would be required. It must be noted, that the sum of the side setbacks for the new home is 52'-0" which exceeds by more than 14'-0" the required amount. The variance request is specific only for the detached play house. Considering the low scale and massing of the new home and that only a portion of the south side setback is reduced, staff is supportive of this variance request.

2. A variance to reduce by 15'-6" the minimum required front setback of 20'-0" in order to retain the existing tennis court play surface in the front yard of a single family property at 4'-6" from the front property line facing East Star Island Drive.

   - Variance requested from:

   Sec. 142-1134. - Tennis courts and similar court games.
   The following regulations shall apply for fences, light poles or other accessory structures associated with court games in all districts.
   (6) Any play surface, whether paved or unpaved, when associated with such court games, shall have the following minimum required yards: front – 20'-0".

   - Supplemental Section:

   Sec. 118-395. - Repair and/or rehabilitation of nonconforming buildings and uses.
   (2) Nonconforming buildings which are repaired or rehabilitated by more than 50 percent of the value of the building as determined by the building official, shall be subject to the following conditions:
   c. The entire building and any new construction shall comply with the current development regulations in the zoning district in which the property is located.

The applicant proposes the retention of the existing tennis court located in the front yard of the property. Although variances were obtained in 1989 for the tennis court to be located at 5'-0" from the front property line, the site is being substantially improved by more than 50% of the existing building value and therefore all elements retained and any new construction must adhere with the current development regulations as per section 118-395 of the City Code.

As shown on the proposed plans there is sufficient open space on the east side to relocate the tennis court in a way that complies with the required front setback. Staff recommends denial of this variance request due to a lack of hardship.

3. A variance to reduce by 15'-3" the minimum required front setback of 20'-0" in order to retain a tennis court fence in the front yard of a single family property at 4'-9" from the front property line facing East Star Island Drive.

   - Variance requested from:

   Sec. 142-1134. - Tennis courts and similar court games.

The following regulations shall apply for fences, light poles or other accessory structures associated with court games in all districts.
(1) In a required front yard the maximum height of fences shall be ten feet and the fences shall be set back at least 20'-0" from the front property line.

This variance is associated with the variance #2 for the play surface at 4'-6" from the property line. The proposed fence is located at 4'-9" from the front property line and might negatively impact the planting and maintenance of landscape inside the property along the front. As noted on submitted plans, landscape is not provided inside the property to screen the tennis court as per section 142-1134(5) of the Code. The existing high hedge located at the front in the public right of way is proposed to be retained. Staff opposes to this proposal and recommends that this variance be denied and that the tennis court fence be relocated to the east side to comply with the front setback.

4. A variance to reduce by 3'-0" the minimum required interior side setback of 7'-6" in order to retain the existing tennis court play surface in the side yard of a single family property at 4'-6" from the south property line.

- Variance requested from:

Sec. 142-1134. - Tennis courts and similar court games.
The following regulations shall apply for fences, light poles or other accessory structures associated with court games in all districts.
(6) Any play surface, whether paved or unpaved, when associated with such court games, shall have the following minimum required yards: interior side—7½ feet.

The existing tennis court play surface is also non-conforming with regard to its required side setback. As noted in variance #2 the entire property shall comply with the zoning regulations as the site is being substantially renovated. However, staff is not opposed to this variance as the mature fruit tree located on the north side of the tennis court is proposed to be retained and the relocation toward the north side may damage the tree.

5. A variance to reduce by 2'-9" the minimum required interior side setback of 7'-6" in order to retain a tennis court fence in the side yard of a single family property at 4'-9" from the south property line.

- Variance requested from:

Sec. 142-1134. - Tennis courts and similar court games.
The following regulations shall apply for fences, light poles or other accessory structures associated with court games in all districts.
(2) In a required side and required rear yard the maximum height of fences shall be ten feet and the fences shall be set back at least 7½ feet from the interior side or rear property line.

The tennis court play surface and side fence are retained. The location of the fence is associated with the location of the play surface. As indicated in variance #4, staff is also supportive of this request as the mature fruit tree on the north side is retained and relocation of the tennis court to the north to increase the side setback may damage the tree.

6. A variance to reduce by 17'-9" the minimum required interior side setback of 22'-6" for light poles which are approximately 20'-0" in height, in order to install lighting fixtures for an associated tennis court on a single family home property at 4'-9" from the south property line.

   - Variance requested from:

   Sec. 142-1134. Tennis courts and similar court games.
   The following regulations shall apply for fences, light poles or other accessory structures associated with court games in all districts.
   (3) Accessory lighting fixtures, when customarily associated with the use of court games, shall be erected so as to direct light only on the premises on which they are located. The maximum height of light fixtures shall not exceed ten feet when located in a required yard; otherwise, the maximum height shall not exceed 20'-0". Light is permitted to be cast on any public right-of-way.

The existing light poles do not comply with the required setback due to the proximity of the play surface and fence of the tennis court. The City Code permits 10'-0" high light poles associated with a tennis court to be located at 7'-6" from a side property line. However, because the lighting is approximately 20'-0" in height, the setbacks required for the main house apply. The required side setback for the house on the south side is 22'-6" to comply with a sum of the side setbacks of 25% of the lot width. The light poles would have to be located at 22'-6" from the side property line and the tennis court be placed closer to the center of the property. Staff has no objection to this variance and recommends approval with additional conditions.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

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

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

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

  Satisfied for variance requests #1, #4, #5 and #6;
  Not Satisfied for variance requests #2 and #3;

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

  Satisfied for variance requests #1, #4, #5 and #6;
  Not Satisfied for variance requests #2 and #3;

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

  ***Satisfied* for variance requests #1, #4, #5 and #6;**
  ***Not Satisfied* for variance requests #2 and #3;**

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

  ***Satisfied* for variance requests #1, #4, #5 and #6;**
  ***Not Satisfied* for variance requests #2 and #3;**

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

  ***Satisfied* for variance requests #1, #4, #5 and #6;**
  ***Not Satisfied* for variance requests #2 and #3;**

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

  ***Satisfied* for variance requests #1, #4, #5 and #6;**
  ***Not Satisfied* for variance requests #2 and #3;**

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

  Satisfied

COMPLIANCE WITH ZONING CODE:
A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code, in addition to the requested variance(s):

1. Building Plans for the existing two-story wood structure were not found and have not been provided by the applicant. A building permit shall be obtained for the detached structure.

2. The tennis court fence shall be substantially screened from the street. Landscape shall be provided inside the property. The continuous height hedge at the front of the property shall be removed.

3. Lighting shall not cast onto a neighboring property. The photometric lighting plan for the tennis court is not clear and appears that lighting might project outside the property line on the south side.

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 retain a non-conforming tennis court and tree house which require several variances.

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 retain a non-conforming tennis court and tree house which require several variances.

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 retain a non-conforming tennis court and tree house which require several 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 retain a non-conforming tennis court and tree house which require several 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.

Satisfied

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 retain a non-conforming tennis court and tree house which require several variances.

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; the photometric lighting plan for the tennis court is unclear and it appears that lighting may project outside the property line on the south side.

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.
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:

EXISTING STRUCTURE

On February 20, 2015, staff issued a formal determination of Architectural Significance for the existing structure. Although the original structure has been altered from its original condition with a major renovation in the 2001, other key design features remain intact and are still evident such as the hipped roof, the chimney and the original openings; furthermore, the waterfront façade remains virtually unchanged. The building card for the property starts with a 1926 addition, designed by DeGarmo & Vermey, however further research show the home at its current location in the June 1921 Sanborn maps and it was also part of Claude Matlack photos dated November 1, 1922 (see photos pg. 12). In both instances the home is shown fully constructed.

Timeline of Construction:

c.1920—Original home is constructed. City Directories show Cecil and Louise Fowler as residing at this address (Cecil was the president of the Flamingo Co.).
1926—Addition to the existing structure designed by DeGarmo & Vermey and construction of the pool. City Directories show C.R. Dashiell as residing at this address.
1963—Construction of a new carport at the East side of the servants quarters.
1970—Construction of a new enclosed garage.
1988—Renovation of existing building and site with new additions.
1989—construction of a new tennis court, with 3 variances granted.
2001—New second floor addition to existing house
2003—Addition and remodeling.

DESIGN REVIEW

The applicant is proposing to construct a striking new contemporary one-story glass pavillion residence on the waterfront parcel that will replace an existing architecturally significant two-story home constructed in 1920. Additionally, the applicant is proposing to construct a new two-story detached guest house located towards the front portion of the site.

The proposed replacement structure is well under the maximum zoning thresholds for lot coverage and unit size and no waivers from the Board are being sought. Since the property was determined to be architecturally significant, review and approval for the replacement structure by the DRB is required. Multiple variances are being requested for the retention of non-conforming structures currently on-site.

The one-story glass pavilion has been configured towards the center of the site to maximize open space recreational areas for the residents as well as to ensure privacy from the neighboring properties and the street. The main volume consists of an open floor common areas with enclosed kitchen, wine room and bedroom suite. The detached two-story structure is setback over 70'-0" from the front property line. The two-story structure houses three bedroom suites and features a cantilevered second floor over a carport.

The pavilion's skin is installed with an operable floor-to-ceiling window storefront system around the entire house, opening up the rooms to the outdoor area. Aside from walls in the center of the house enclosing bathrooms and other utilitarian functions, the floor plan is completely open, in a manner consistent with true minimalism. The perimeter columns and I-shaped steel columns that support the roof and frameworks are also both structural and expressive. The two-story structure is finished in white stucco with Ipe wood accents in the form of privacy screens and garage doors.

In summary, the applicant has proposed a design executed with simplicity, elegance, discipline and generally good proportions. The design endeavors to respect the scale, and light and air of its neighors while simultaneously achieving a high level of residential privacy, intimacy, and modern amenity. Staff believes the house successfully embodies the spirit of the Design Guidelines, and the home is contextually sensitive to the adjacent single story homes in the neighborhood.

VARIANCE REVIEW

The project includes the construction of a new one-story house and a new two-story building that are variance-free, however variances are being requested for the retention of an existing two-story wood structure located on the south side of the property and the retention of an existing tennis court located on the southwest side of the property. The tennis court obtained an approvel to construct it within the reuqired front yard on January 13, 1989, purusant to File No. 1978. A total of six variances are required in order to retain these two structures.

Staff has no objections to the applicants requested variance #1, because the setback reduction is only for a small portion of a tree house structure that occupies the side yard. However, all necessary building permits for the structure must be obtained.

Staff is not supportive of variance #2 and #3. Although variances were obtained in 1989 from the Zoning Board of Adjustment for the tennis court to be located at 5'-0" from the front property line, since the site is being substantially improved by more than 50% of the existing building value, all elements (even existing) must comply with the current development regulations as per section 118-395 of the City Code. Additionally, in order to sufficiently screen the tennis court fence from the street and neighbor, there is inadequate room to properly install and maintain the necessary vegetation to mitigate the recreational court on

private property. Currently, a 20'-0" high ficus hedge is planted within the public right-of-way, which is aesthetically discouraged and not permitted.

Staff is supportive of variances #4, #5 and #6 as described in the variance descriptions conditioned to the retention of the existing fruit tree on the north side of the tennis court and that the applicant make any necessary modifications to the existing or proposed lighting, so light will not cast on the adjacent property.

UPDATE

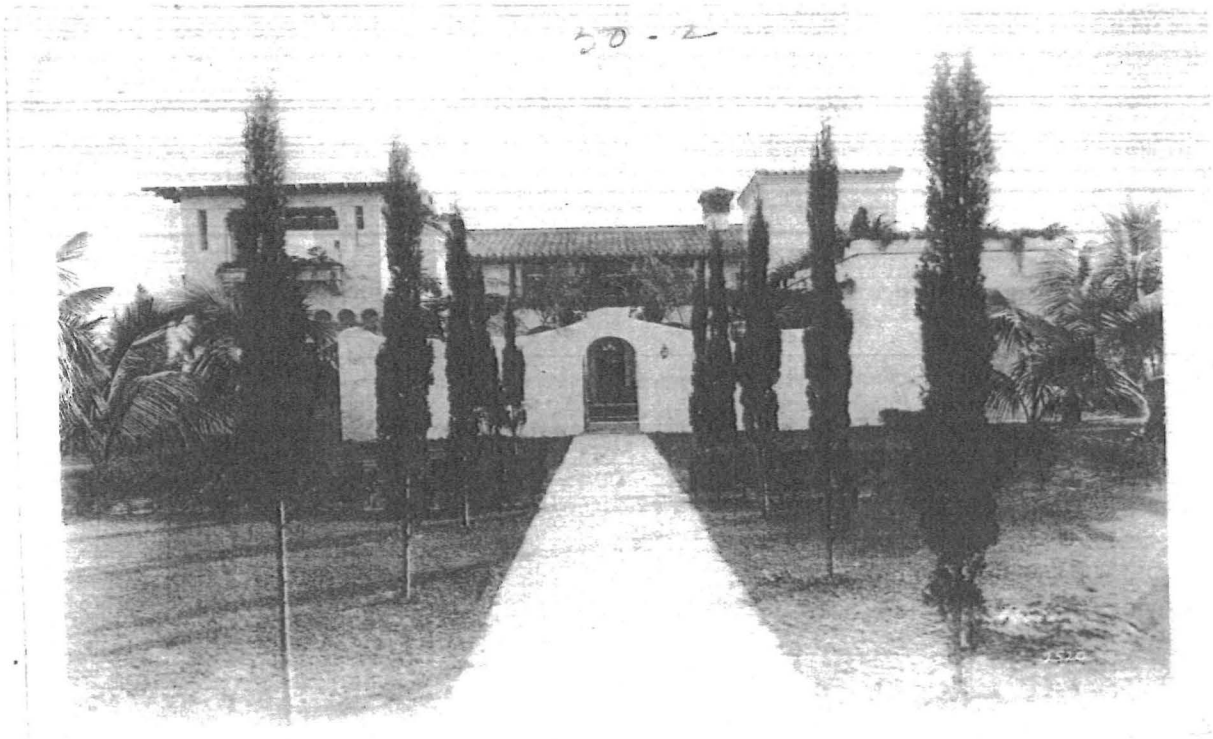
The applicant has submitted four possible schemes showing the retention of the home and relocating the structure towards the front of the property. It is unclear from the plans submitted which portions of the home are being retained, if any.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved** as to variance requests #1, #4, #5, and #6; **denied** as to variance requests #2 and #3; and the design be approved subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria and Practical Difficulty and Hardship criteria, as applicable.

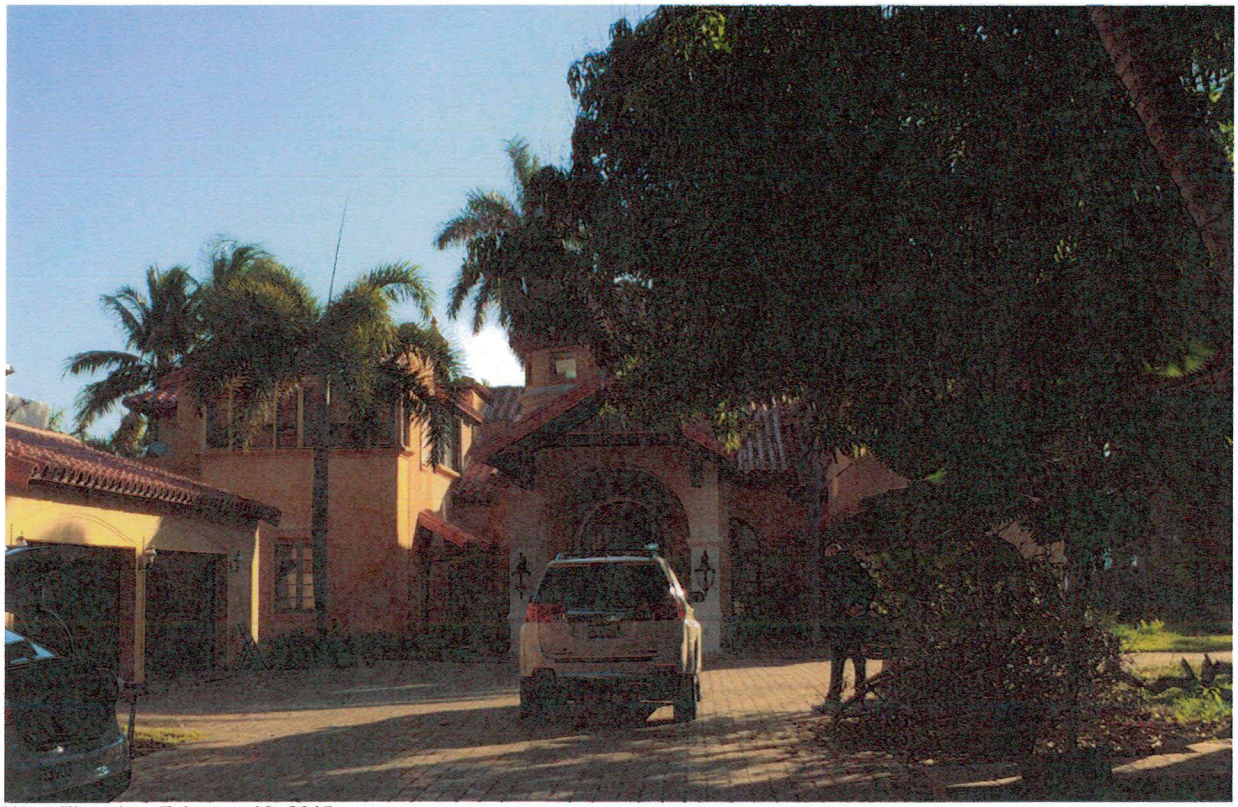
TRM/JGM/LC

F:\PLAN\$DRB\DRB15\12-01-2015\DEC Staff Reports\DRB 23191 31 Star.DEC15.doc



West Elevation. Claude Matlack Archives, "House, Star Island", November 1, 1922. History Miami.

East Elevation. Claude Matlack Archives, "House, Star Island", November 1, 1922. History Miami.



West Elevation, February 12, 2015.

East Elevation, February 12, 2015.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: December 01, 2015

FILE NO.: 23191

PROPERTY: **31 Star Island Drive**

APPLICANTS: Wayne and Wendy Holman

LEGAL: Lot 31 and the northerly ½ of Lot 32, of Star Island, according to the Plat thereof as recorded in Plat Book 5, Page 52, of the Public Records of Miami-Dade County, Florida and Corrected Plat of Star Island recorded in Plat Book 31, at Page 60, 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 two-story home including a variance from the required side setback to retain an existing two story wood structure and variances from the required front and side setbacks for a tennis court fence and play surface and from the required side setback for lighting associated with the tennis court in order to retain an existing tennis court located in the front of the property.

DRAFT

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 1-3, 5 and 7 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 31 Star Island Drive shall be submitted, at a minimum, such drawings shall incorporate the following:

   a. 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.

   b. 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.

   c. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.

2. A revised landscape plan, and corresponding site plan, shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:

   a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.

   b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.

DRAFT

c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.

d. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.

e. The existing 22'-0" high hedge located within the Pubic Right of Way shall be removed and replaced with canopy shade trees, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.

f. Tennis court lighting shall be properly shielded so that the actual light source is not visible from Star Island Drive or the surrounding properties, in a manner to be approved by staff

g. 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.

h. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.

i. 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.

j. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.

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

DRAFT

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 wall 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.

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

II. Variance(s)

A. The applicant filed an application with the Planning Department for the following variance(s), which were either approved by the Board with modifications, or denied (Underlying denotes new language and ~~strikethrough~~ denotes stricken language):

1. A variance to reduce by 13'-4" the minimum required sum of the side setbacks of 37'-6" in order to retain an existing two-story wood structure at 9'-2" from the south property line for a sum of the side setbacks of 24'-2".

2. ~~A variance to reduce by 15'-6" the minimum required front setback of 20'-0" in order to retain the existing tennis court play surface in the front yard of a single family property at 4'-6" from the front property line facing East Star Island Drive.~~ (Variance denied)

3. ~~A variance to reduce by 15'-3" the minimum required front setback of 20'-0" in order to retain a tennis court fence in the front yard of a single family property at 4'-9" from the front property line facing East Star Island Drive.~~ (Variance denied)

4. A variance to reduce by 3'-0" the minimum required interior side setback of 7'-6" in order to retain the existing tennis court play surface in the side yard of

DRAFT

a single family property at 4'-6" from the south property line.

5. A variance to reduce by 2'-9" the minimum required interior side setback of 7'-6" in order to retain a tennis court fence in the side yard of a single family property at 4'-9" from the south property line.

6. A variance to reduce by 17'-9" the minimum required interior side setback of 22'-6" for light poles which are approximately 20'-0" in height, in order to install lighting fixtures for an associated tennis court on a single family home property at 4'-9" from the south property line.

B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to Variance II.A.1, II.A.4, II.A.5, and II.A.6 as noted above, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, as it relates to Variance II.A.1, II.A.4, II.A.5, and II.A.6 as noted above:

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

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

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

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

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

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

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

C. The Board hereby **Denies** the Variance requests as noted in II.A.2 and II.A.3 and grants the requested variance as noted in II.A.1, II.A.4, II.A.5, and II.A.6, and

DRAFT

imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. The existing tennis court play surface and tennis court fence shall be redesgned to comply with the required front yard setback.

2. A full building permit shall be obtained for the detached structure referenced as part of the variance application.

3. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

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

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

A. During Construction of the new home, the Applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles existing and entering the site and with an 8'-0" high fence with a wind resistant green mesh material along the front of the property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The Applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.

B. The applicant shall provide proof of a building permit for the detached wood structure or obtain all necessary building permits for this structure within 18 months from the hearing date.

C. In the event that the tennis court is changed to a different court game, as determined by the Planning Director or designee, the applicant shall return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board. The Board reserves the right to modify the Variance approval at this time in a non-substantive manner, to impose additional conditions.

D. The tennis court shall not be used after 9:00 pm, seven days a week. Additionally, all lighting fixtures associated with the tennis court shall be turned off by 9:00 pm, seven days a week, as proffered by the applicant.

DRAFT

E. 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.

F. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.

G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

H. 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.

I. 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.

J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.

K. Nothing in this order authorizes a violation of City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the Application for Design Review approval and Variances II.A.1, II.A.4, II.A.5, and II.A.6 as noted above, is GRANTED and that the Application for Variances II.A.2 and II.A.3 as noted above, is DENIED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "31 Star Residence" as prepared by Kobi Karp signed and sealed 07/13/2015, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the

DRAFT

conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

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

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

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this _____ day of _____, 20_____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY:_____
DEBORAH J. TACKETT
DESIGN AND PRESERVATION MANAGER
FOR THE CHAIR

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

DRAFT

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 _____ ( )

F:\PLAN\$DRB\DRB15\12-01-2015\DEC Final Orders\DRFT DRB 23191 31 Star Island.DEC15.fo.docx

DRAFT