

# MIAMI BEACH

## 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. 23212  
**1787 Normandy Drive – Townhomes**

The applicant, Santina Bevilacqua, is requesting Design Review Approval for the construction of a new three-story multi-family building on a vacant lot including variances to reduce the front and rear setbacks for the building, to reduce the rear and side setbacks for parking, and to reduce the entry driveway and the interior two-way driveway width.

#### RECOMMENDATION:

Approval with conditions

Approval of the variances with conditions.

#### LEGAL DESCRIPTION:

Lot 24 of Block 31, of "Isle of Normandy Miami View Section Part 2", according to Plat thereof as recorded in Plat Book 41, Page 75, of the Public Records of Miami-Dade County, Florida.

#### SITE DATA:

Zoning: RM-1  
Future Land Use: RM-1  
Lot Size: 6,250 SF

Residential Units: 5 Units  
Required Parking: 8 Spaces  
Provided Parking: 8 Spaces

Proposed FAR: 7,809.5 SF / 1.24\*  
Permitted FAR: 7,812.50 SF / 1.25

\*As represented by the applicant

Grade: +3.70' NGVD  
Base Flood Elevation (BFE): +8.00' NGVD  
Difference: 2.15' NGVD  
Adjusted Grade: +5.85' NGVD  
Finished Floor Elevation: +5.16' NGVD

#### Height:

Proposed: **24'-9" / 3-Story\***  
Maximum: 50'-0" / 5-Story  
Highest Projection: 33'-11"

\*Measured from BFE +1

#### Surrounding Properties:

East: 2-story 1956 Multi-Family Building  
North: 2-story 1945 Multi-Family Building  
South: 2-story 1946 Multi-Family Building  
West: 1-story 1949 Multi-Family Building

Existing Use: Vacant Parcel  
Proposed Use: Townhomes

#### THE PROJECT:

The applicant has submitted plans entitled "New Construction for: 5 Unit Townhouse Building", as prepared by **Fandino Botero Architecture** dated, signed, and sealed 10/13/2015.

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

The following variances are requested for the project:

1. A variance to reduce by 5'-0" the minimum required front pedestal setback of 20'-0" in order to construct a three-story residential building at 15'-0" from the front (south) property line facing Normandy Drive.

- 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 building is proposed with a front setback of 15'-0" from the front (south) property line where 20'-0" is required. The building contains a total of five apartment units and eight required parking spaces on site. The proposed three story height of the building is compatible with the low-scale massing of the neighboring properties. The proposed front setback is consistent with the nonconforming setbacks of other properties in the neighborhood ranging from 5'-0" to 20'-0". The lot width of 50'-0" for this property creates practical difficulties for a new development on the site in order to make a reasonable use of the land.

2. A variance to reduce by 1'-2" the minimum required pedestal rear (north) setback of 12'-6" in order to construct a three-story residential building with a rear (north) setback of 11'-4" from the north 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, Rear —Non-oceanfront lots: 10% of lot depth*

The building is proposed with a rear (north) setback of 11'-4", a larger setback than the rear setback of other multifamily buildings on the same side of the street that contain nonconforming setbacks. The size and shape of the lot imposes certain design challenges of the new building. The structure complies with the minimum side setbacks, and the massing of the building has been configured towards the front and rear. Although the proposed rear setback is proposed to be reduced with a variance, this condition does not create a negative impact on the surrounding properties as it is larger than the rear setbacks of the adjacent buildings on the sides. Further, the 50'-0" lot width creates certain practical difficulties when designing the residential units while accommodating all parking on site.

3. A variance to reduce by 1'-3" the minimum required side setback of 5'-0" for at grade parking in order to construct parking spaces at 3'-9" from the west 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.*

The existing 50'-0" width of the property creates certain practical difficulties for the design of the new parking area. Vehicular entry is accessed thru the front and the minimum space for parking and driveways are commonly in conflict with the narrowness of the property. Due to the shape of the lot, the majority of the parking spaces are proposed along the larger side. The pavement is proposed at 5'-0" with a vehicle overhang that reduce the setback to 3'-9". Staff finds the practical difficulty standard has been met for this variance request.

4. A variance to reduce by 1'-3" the minimum required rear setback of 5'-0" for at grade parking in order to construct parking spaces at 3'-9" from the rear 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, Rear: Non-oceanfront lots: 5 feet.*

Two parking spaces are located at 3'-9" from the rear property line as an overhang of 1'-3 is proposed over the 5'-0" landscape area. Again, the lot width of 50'-0" imposes limitations to design the parking area. Staff believes that the practical difficulties criteria have been met for this variance request.

5. A variance to reduce by 2'-0" the minimum required width of 12'-0" for a driveway entrance associated with eight parking spaces in order to provide a driveway entrance with a minimum width of 10'-0".

- Variance request from:

**Sec.130-64. Drives.**

*Drives shall have a minimum width of 22'-0" for two-way traffic and 11'-0" for one-way traffic. For those grade level parking areas with less than ten parking spaces, inclusive of those parking areas underneath a building or structure, the curb-cut and driveway entrance shall have a minimum width of 12'-0".*

The access vestibule of two units and vehicle entry are located at the front of the property, as proposed. The driveway and curb cut comply with the required width of 12'-0"; however it is reduced to 10'-0" in a small portion that interferes with the area required for the first parking space. The existing lot width of 50'-0" and the shape of the property with narrow front and larger side, come in conflict with the design of the parking area. As previously

mentioned this type of shape and lot width creates the practical difficulty that requires the requested variance.

6. A variance to reduce by 3'-5" the minimum required width of 22'-0" interior drive aisle for 90° parking in order to provide eight (8) parking spaces with an interior drive aisle of 18'-7".

- Variance requested from:

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

*Interior aisles shall meet or exceed the following minimum dimensions permitted: 90° parking—22'-0", with columns parallel to the interior drive on each side of the required drive, set back an additional 1'-6" measured from the edge of the required interior drive to the face of the column.*

As proposed, the interior driveway for parking is reduced in the center by the structural elements of the building. The entry vestibule of each unit is placed in a way that only a small portion of the driveway is reduced from the required 22'-0" to 18'-7". The proposed driveway width would not have a negative impact in the functionality of the parking as it is designed for only 8 spaces. This type of variance has been previously approved in properties with a similar lot width and lot shape. Staff believes that this variance request meets the practical difficulties criteria.

**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. The proposed driveway is in conflict with the existing street light pole. The relocation of the light pole shall be determined and approved by the Florida Department of Transportation.

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.  
**Satisfied**
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.  
**Not Satisfied; the proposed project requires several variances 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 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 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 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.

**Satisfied**

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.

**Satisfied**

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

**Satisfied**

12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

**Not Satisfied; the proposed project requires several variances from the Board.**

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

**Satisfied**

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

**Satisfied**

15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

**Not Applicable**

16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.

**Satisfied**

17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

**Not Applicable**

**STAFF ANALYSIS:**  
**DESIGN REVIEW**

The subject site is a vacant parcel located in Normandy Isle. The applicant is proposing to construct a new contemporary (3) three-story, (5) five-unit residential townhouse building with an active roof deck. Vehicular access is off of Normandy Drive and is flanked by the ground level entrances to two of the townhomes. Each unit has been designed with individual entrances and a shared parking area and consists of two floors of living area with a private roof top deck. The proposed project does require several variances from the Design Review Board.

The ground floor is occupied by ground level entrance vestibules for each individual unit and a shared parking area. Each unit is three-stories high and has access to a private roof deck terrace. The vacant parcel is surrounded by one-story and two-story MiMo buildings which were constructed in the 1940s and 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 since the applicant has restricted the number of stories to three. Staff's primary design concern pertains to the entrance to the front townhouses from the parking. As proposed, the stairs are on the side of the building next to the parking spaces. Staff would recommend the relocation of these stairs to the front of the building to be parallel to the front property line. The relocation of the stairs will further breakdown the massing of the building as seen from the street and will provide more protection for a pedestrian accessing the unit from the street as well as the parking.

The project, as proposed, is designed with a diverse array of materials and architectural elements that work together to form a cohesive and well-articulated design. The architect has articulated the building by keeping the scale low and providing cantilevering balconies. The use of floor to ceiling clear windows along the corners of the building assists in breaking up the massing and giving each layered volume a unique identity. The provided breaks in the structure also reduces the impact of the structure within the existing urban context of its surrounding area. 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 concern as it pertains to the site plan, specifically as it relates to the proposed landscaping along Normandy Drive. The existing sidewalk is very narrow—5'-0" wide—however, there is a 6'-0" parkway which can accommodate some additionally street trees. There's also an existing light pole which is in conflict with the proposed driveway. Normandy Drive is State Route 934 and therefore is under the jurisdiction of the Florida Department of Transportation (FDOT). The relocation of the existing light pole and the planting of street trees or other right-of-way improvements will be subject to their review and approval.

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

**VARIANCE REVIEW**

Staff finds that the existing lot width of 50'-0" and elongated shape of the property create practical difficulties for the design of the project. The variances requested are in harmony with the surrounding context and have been previously approved by the Board for similar properties within the same zoning district. Staff has concluded that the requested variances are the minimum necessary to make a reasonable use of the land while also providing required parking, with minimal impact on the adjacent properties; a more detailed analysis can be found in "**THE PROJECT**" portion of this recommendation. 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: December 01, 2015

FILE NO: 23212

PROPERTY: **1787 Normandy Drive**

APPLICANT: Santina Bevilacqua

LEGAL: Lot 24 of Block 31, of "Isle of Normandy Miami View Section Part 2", according to Plat thereof as recorded in Plat Book 41, Page 75, 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 multi-family building on a vacant lot including variances to reduce the front and rear setbacks for the building, to reduce the rear and side setbacks for parking, and to reduce the entry driveway and the interior two-way driveway width.

**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 2, 3, 5, 6, and 12 in Section 118-251 of the Miami Beach Code.

- C. The project would be consistent with the criteria and requirements of section 118-251 if the following conditions are met:
1. Revised elevation, site plan and floor plan drawings for the proposed new home at 1787 Normandy Drive shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
    - a. The entrance to the front townhouse units shall be relocated to the front of the property, 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 and return straight to the ground. 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. 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

- b. 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.
- c. 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.
- d. The location of the existing light pole conflicts with the proposed driveway location. The relocation of the light pole shall be determined and approved by the Public Works Department.
- e. Any existing plant material within the public right-of-way may be required to be removed, at the discretion the Public Works Department.
- f. 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.
- g. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- h. 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.
- i. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventers and all other related devices and fixtures. The location of backflow preventers, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- j. 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.
- k. 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.

I.

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

## **II. Variance(s)**

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

1. A variance to reduce by 5'-0" the minimum required front pedestal setback of 20'-0" in order to construct a three-story residential building at 15'-0" from the front property line facing Normandy Drive.
2. A variance to reduce by 1'-2" the minimum required pedestal rear setback of 12'-6" in order to construct a three-story residential building with a rear setback of 11'-4" from the north property line.
3. A variance to reduce by 1'-3" the minimum required side setback of 5'-0" for at grade parking in order to construct parking spaces at 3'-9" from the west property line.
4. A variance to reduce by 1'-3" the minimum required rear setback of 5'-0" for at grade parking in order to construct parking spaces at 3'-9" from the rear property line.
5. A variance to reduce by 2'-0" the minimum required width of 12'-0" for a driveway entrance associated with eight parking spaces in order to provide a driveway entrance with a minimum width of 10'-0".
6. A variance to reduce by 3'-5" the minimum required width of 22'-0" interior drive aisle for 90° parking in order to provide eight (8) parking spaces with an interior drive aisle of 18'-7".

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. Proposed maneuvering graphic to exit the two parking spaces located in the rear shall require the review and approval of the Planning and Transportation Department.

**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. Vacant or unoccupied structures or sites shall provide recent photographic evidence that the site and structure are secured and maintained. The applicant shall obtain and post a 'No Trespassing Sign' obtained from the Miami Beach Police Department.
- D. 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.
- E. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- F. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- G. 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.
- H. 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.
- I. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- J. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled New Construction for: 5 Unit Townhouse Building", as prepared by **Fandino Botero Architecture** dated, signed, and sealed 10/13/2015, 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 conditions set forth in this Order. No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

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

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

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

DESIGN REVIEW BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

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

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

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

\_\_\_\_\_  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: \_\_\_\_\_

Approved As To Form:  
City Attorney's Office: \_\_\_\_\_ ( )

Filed with the Clerk of the Design Review Board on \_\_\_\_\_ ( )