

MIAMI BEACH
PLANNING DEPARTMENT
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: January 15, 2016

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: Design Review File No. 23219
6016 La Gorce Drive

The applicant, Marce L. Sanchez is requesting Design Review Approval for the construction of one and two-story additions to an existing pre-1942 architecturally significant two-story single-family home including a variance to reduce the interior side setback for a building structure, after-the-fact variances to reduce the required rear and side setbacks for a pool deck and to retain existing pavement within the easement area located within the adjacent golf course.

RECOMMENDATION:

Approval with conditions

Approval of the variances with conditions.

LEGAL DESCRIPTION:

Lot 5, of Block 11, of the "Beach View Addition Miami Beach Bay Shore Company" according to Plat thereof as recorded in Plat Book 16, Page 10 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-4
Future Land Use: RS
Lot Size: 8,058.39 SF
Lot Coverage:
Existing: 1,804.53 SF / 22.3%
Proposed: 2,406.05 SF / 29.8%
Maximum: 3,223.35 SF / 40%

Unit size:
Existing: 3,005.34 SF / 37.2%
Proposed: 3,859 SF / 47.8%
Maximum: 4,835 SF / 60%
2nd Floor Volume to 1st: 58.3%

Height:
Existing: ~20'-0" sloped roof
Proposed: Same

Maximum: 27'-0" sloped roof
Grade: +4.45' NGVD (approx.)
Flood: +8.00' NGVD
Difference: +3.55' NGVD (approx.)
Adjusted Grade: +6.22' NGVD (approx.)

EXISTING STRUCTURE:

Year Constructed: 1938
Architect: Unknown
Vacant: No
Demolition Proposed: Partial

SURROUNDING PROPERTIES:

North: Two-story 1929 residence
South: One-story 1940 residence
West: La Gorce Golf Course
East: Two-story 1934 residence

THE PROJECT:

The applicant has submitted plans entitled "Sanchez-Gilbert Residence" as prepared by **George M. Jenetopulos, PA**, signed sealed and dated November 16, 2015.

The applicant is proposing several additions to an existing pre-1942 single-family home and façade modifications including the removal of original architectural features and the request of multiple variances.

The following variance(s) are requested for the project:

1. A variance to reduce by 2'-6" the minimum required 7'-6" interior side setback in order to construct a one story garage addition at 5'-0" from the north side property line.

- 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:

b. Interior sides. Any one interior side yard shall have a minimum of ten percent of the lot width or seven and one-half feet, whichever is greater.

The proposed work within the front façade includes the relocation of the main entry, the demolition of the one-car garage and the construction of a new two-car garage at the same location. This garage addition reduces the required side setback to 5'-0" at the northern side and reduces the existing front yard that measures 39'-0" in depth to 20'-0". The original one-car garage does not satisfy the current needs of the homeowners. The large front yard lends itself to be the most logical area for the new garage. The architect has designed it in a manner that the facade configuration follows the same architectural language of the existing house. Since the proposed 5'-0" foot side setback is proposed for the length of the garage walls (21'-7") and this setback is typical of many single family homes constructed in the 1940's, staff is supportive of the requested variance. The rest of the house has a varying 7'-6" to 8'-0" side setback along the north property line. The pre-1942 house is being retained, which creates practical difficulties that result in this variance request. Staff finds that this site condition meets the criteria for the granting of this variance.

2. A. An after-the-fact variance to reduce by 2'-6" the minimum required interior side setback of 7'-6" for a pool deck in order to retain the existing pool deck at 5'-0" from the north property line.

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- B. An after-the-fact variance to reduce by 2'-6" the minimum required interior side setback of 7'-6" for a pool deck in order to retain the existing pool deck at 5'-0" from the south property line.

- Variance requested from:

Sec. 142-1133. Swimming pools.

This section applies to swimming pools in all districts, except where specified. Accessory swimming pools, open and enclosed, or covered by a screen enclosure, or screen enclosure not covering a swimming pool, may only occupy a required rear or side yard, provided:

(2) Side yard setback. A 7'-6" minimum required setback from the side property line to a swimming pool deck, or platform, the exterior face of an infinity edge pool catch basin, or screen enclosures associated or not associated with a swimming pool.

The pool deck located at the rear of the property does not comply with the required setback of 7'-6" from both side property lines. The applicant is proposing to increase the existing nonconforming 2'-0" and 2'-6" pool deck setback to 5'-0" on both sides. The area available for the pool deck is limited by the existing configuration and size of the pool as well as by the 5'-0" easement located within the rear of the property and parallel to the golf course. The existing shape and size of the pool creates practical difficulties resulting in the request of these two variances. Staff finds that these variance requests meet the hardship criteria for the granting of the variances 2A and 2B.

3. An after-the-fact variance to reduce by 1'-0" the minimum required 6'-0" rear setback for a pool deck in order to retain an existing pool deck at 5'-0" from the rear property line adjacent to the golf course.
 - Variance requested from:

Sec. 142-1133. Swimming pools.

This section applies to swimming pools in all districts, except where specified. Accessory swimming pools, open and enclosed, or covered by a screen enclosure, or screen enclosure not covering a swimming pool, may only occupy a required rear or side yard, provided:

(1) Rear yard setback. A 6'-0" minimum setback from rear property line to swimming pool deck or platform, or screen enclosure associated or not associated with a swimming pool, provided, however, that swimming pool decks may extend to the property line and be connected to a dock and its related decking when abutting upon any bay or canal.

The existing pool deck is located at 1'-0" from the rear property line which is adjacent to the golf course property. The applicant is proposing to remove the existing pavement and retain 1'-0" of deck along the rear side of the pool for a rear setback of 5'-0" where 6'-0" is required. Since the rear of the property is adjacent to the golf course and the applicant has purchased easement areas within the golf course, the reduced rear setback of 5'-0" for the pool deck would not have a negative impact on any adjacent properties. The existing pool is 11'-0" in width and is located at 1'-0" from the utility easement. Staff finds that this condition within the rear of the property creates practical difficulties that create this variance request.

4. An after-the-fact variance to retain three (3) deck structures located on the easement area within the adjacent golf course.
 - Variance requested from:

Sec. 142-396. - Setback requirements.

The setback requirements in the GC golf course district are as follows:

- (2) Yards abutting single family homes: 75'-0" from the property line of any single-family residence abutting the golf course property. The setback on the golf course adjacent to 51st Terrace and homes whose side property line abuts the golf course shall be 87'-0". There shall be no structures, including restroom facilities or rest stations, new parking lots or roads, excluding golf cart paths and existing maintenance roads, within this setback area, except that the existing comfort station within this buffer zone may remain and may be reconstructed, repaired and/or rehabilitated.

This variance request pertains to three existing deck structures located outside of the single family property and within the golf course. The easement area was purchased by the applicant from the Golf Course. Because the Code restricts the construction of any structure in the Golf Course District within 75'-0" abutting single family properties, a variance is required to retain the unpermitted decks. As indicated in the easement agreement between the golf course and the applicant, pavers or deck may be constructed within the area purchased, with the approval of the applicable authorities. Staff has no concerns with the deck areas located at the center and immediately adjacent to the golf course and the home property. However, staff would recommend that the deck area abutting the north side property line be reduced or relocated with a minimum setback of 7'-6" consistent with the setback required for a deck, in order to provide for more privacy from the adjacent area that may be own under similar ownership rights. As the rear yard of the single family property only have a pool that takes most of the rear yard and no other accessory structure is proposed within the rear yard or the easement areas, staff finds that the variance application meets the practical difficulty criteria for the granting of this variance.

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 submitted 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, may be inconsistent with the following sections of the City Code:

1. The existing walkway along the north side exceeds the maximum 44" allowed by the Code.

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; there are nonconforming paving conditions.
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 requesting 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 requesting 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 requesting 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.
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
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.
Not Applicable
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.
Satisfied

STAFF ANALYSIS:
DESIGN REVIEW

The applicant is requesting Design Review Approval for the construction of one- and two-story additions to an existing pre-1942 architecturally significant two-story single-family home. The structure was designed in the Mediterranean Revival-Art Deco Transitional Style of architecture also known as "Med-Deco". The style was a popular transitional design in the City in the early 1930s and is a hybrid between the popular Mediterranean Revival Style and Art Deco. The architectural style preserved elements from the Mediterranean Revival design features such as the projecting balconies, arches, cornices, niches and entrance surrounds while at the same time incorporated the clean ziggurat roof lines, crisp geometric detailing, and other features found within the realm of Art Deco.

The applicant is proposing to demolish the existing one-car garage in order to construct a two-car garage and a second floor addition to the existing home. The applicant will also demolish and re-construct the entry covered porch feature in order to accommodate the new

additions. Staff is supportive of these alterations since the architect is substantially retaining the original pre-1942 structure and has successfully designed the additions in a manner that is consistent and seamless transition with the architecture of the existing home.

VARIANCE REVIEW

Several variances are requested as part of the renovation and additions to the existing architecturally significant home. A new two-car garage is proposed in the front within the existing front setback of more than 40'-0" which is an uncharastic expansive front yard for a single family home on a parcel such as this. This spacious area, as such, is the most logical portion of the site to locate the new garage in order to not minimize any potential negative towards the existing house fromt the new constuction. However, in orden to maintain the same proportions and architectural style of the house, the covered entry must be relocated to the side and in doing so, requires a setback variance to enlarge the existing garage.

Staff finds that the existing pre-1940 structure and the established front and side setbacks are existing conditions, not created by the applicant, and meet the practical difficulty criteria of the City's Charter to grant the variance number 1. The pre-1942 house on site is being retained, which creates practical difficulties that result in this variance request. Staff finds that this site condition meets the criteria for the granting of the variances to accommodate the existing structures. The City of Miami Beach has often found that the retention of pre-1942 architecture as meeting the practical difficulties standard of the Charter.

The site currently has a substantial amount of paving that the applicant is removing to comply with the required landscape/open space area in all yards. However, the side and rear setback variances are requested to retain portions of the existing pool deck. Further, staff recommends that walkways on the sides be reduced in width to a maximum of 44". Staff finds that the current conditions of the rear yard where a 5'-0" easement exist and that the pool occupies most of the rear yard, meet the hardship criteria for practical difficulties that create the variances requested number 2A, 2B and number 3.

Staff also finds that the request for variance number 4 meets the criteria for practical difficulties as noted in the variance description part of this report. A modification to increase the setback to 7'-6" from the north property line is recommended by staff to distance this area from the neighboring property.

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 Practical Difficulty and Hardship criteria.

TRM/JGM/LC/IV

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

MEETING DATE: January 15, 2016

FILE NO: 23219

PROPERTY: **6016 La Gorce Drive**

APPLICANT: Marce L. Sanchez

LEGAL: Lot 5, of Block 11, of the "Beach View Addition Miami Beach Bay Shore Company" according to Plat thereof as recorded in Plat Book 16, Page 10, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of one and two-story additions to an existing pre-1942 architecturally significant two-story single-family home including a variance to reduce the interior side setback for a building structure, after-the-fact variances to reduce the required rear and side setbacks for a pool deck and to retain existing pavement within the easement area located within the adjacent golf course.

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, and 9 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 6016 LaGorce Drive shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. 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.
 - 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.
 - 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. The existing ficus hedge on the front of the property shall be reduced in height to a maximum of 5'-0" along the sides of the property within the front yard. The 5'-0" high hedge material shall be maintained with periodic trimming. The high ficus hedge located at the front center of the property shall be removed and replaced with a native planting material not to exceed 36" in height at maturity which would not require periodic trimming in order to maintain 36" in height.
- e. 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.
- f. The proposed walkways within the required yards shall be reduced to 44" in width except for landing where a 5'-0" turning radius is required, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- 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 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.

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 2'-6" the minimum required 7'-6" interior side setback in order to construct a one story garage addition at 5'-0" from the north side property line.
 - 2. A. An after-the-fact variance to reduce by 2'-6" the minimum required interior side setback of 7'-6" for a pool deck in order to retain the existing pool deck at 5'-0" from the north property line.

B. An after-the-fact variance to reduce by 2'-6" the minimum required interior side setback of 7'-6" for a pool deck in order to retain the existing pool deck at 5'-0" from the south property line.
 - 3. An after-the-fact variance to reduce by 1'-0" the minimum required 6'-0" rear setback for a pool deck in order to retain an existing pool deck at 5'-0" from the rear property line adjacent to the golf course.
 - 4. An after-the-fact variance to retain three deck structures located on the easement area within the adjacent golf course.
- 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. The existing pavement within the easement area located within the adjacent golf course shall be setback 7'-6" from the north side property line.
 3. The walkway on the north side yard shall not exceed 44" in width.

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 work, 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. 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 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 "Sanchez-Gilbert Residence" as prepared by **George M. Jenetopulos, PA.**, dated 11/16/2015, 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 _____ ()

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