

MIAMIBEACH
PLANNING DEPARTMENT
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: March 1, 2016

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: Design Review File No. 23241
5150 Cherokee Avenue

The applicant, 5150 Cherokee LLC, is requesting Design Review Approval for the construction of a new two-story home on a vacant site and requesting a variance to reduce the required rear setback.

RECOMMENDATION:

Approval with conditions

Approval of the variance with conditions

LEGAL DESCRIPTION:

Lot 22, of Block 21, of the "Lake View Subdivision" according to Plat thereof as recorded in Plat Book 7, Page 161 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning:	RS-4	Grade:	+5.25' NGVD
Future Land Use:	RS	Flood:	+8.00' NGVD
Lot Size:	12,760 SF	Difference:	+2.75' NGVD
Lot Coverage:		Adjusted Grade:	+6.63' NGVD
Proposed:	3,705 SF / 29%	Finished First Floor:	+13.50' NGVD
Maximum:	3,828 SF / 30%		
Unit size:			
Proposed:	4,763 / 38%		
Maximum:	6,380 SF / 50%		
2 nd Floor Volume to 1 st :	350%*		
	*DRB WAIVER		
Height:			
Proposed:	19'-10" flat roof		
Maximum:	18'-0" One-story		
	24'-0" Two story		

SURROUNDING PROPERTIES:

North: La Gorce Golf Course
South: One-story 1945 residence
West: One-story 1937 residence
One-story 1941 residence
East: La Gorce Golf Course
West 51st Terrace

THE PROJECT:

The applicant has submitted plans entitled "5150 Cherokee Avenue" as designed by **DOMO Architecture + Design** signed, sealed, and dated January 08, 2016.

The applicant is proposing to construct a new contemporary residence on a vacant parcel abutting the southern edge of the La Gorce Golf Course. The subject property is a parallelogram shaped parcel abutting La Gorce Golf Course sharing its north property line for nearly 207 linear feet. The applicant is proposing a rectangular shaped design—a

cantilevered slab containing an elevated residence and cantilevered pool and deck—on a site that contains front and rear angled property lines.

The applicant is requesting the following design waiver(s):

1. The second floor's physical volume exceeds 70% of the first floor in accordance with Section 142-105(b)(4)(c). The proposed second floor is 350% of the first floor.
2. A two-story side elevation in excess of 60'-0" in length in accordance with Section 142-106(2)(d). The proposed southern elevation measures 114'-10" in length.

The applicant is requesting the following variance(s):

1. A variance to reduce by 16'-9" the minimum required rear setback of 31'-4" in order to construct a structure (elevated pool deck) at 14'-7" from the east 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:

(3) Rear: The rear setback requirement shall be 15% of the lot depth, 20'-0" minimum.

The applicant is requesting a variance to reduce the required rear setback in order permit the elevated pool and cantilevered deck at 13'-2" NGVD, slightly below the finished floor elevation of the main residence at elevation 13'-6" NGVD and be setback 14'-7" at its closest point. Since the elevated pool deck exceeds the permissible height allowance of 30" above adjusted grade, or 7.76' NGVD in this instance, the structure must comply with the required rear setback of the principal structure, or 31'-4" in this instance where otherwise 6'-0" would be required for a traditional at-grade pool deck.

The pool and pool deck are a continuous element of the poured cantilevered structural system of the slab of the house and the deck varies from a setback of 14'-7" at its closest point to 28'-0" at its furthest. It must be noted that the actual exterior wall of the habitable area of the residence is setback over 47'-0" from the rear of the property at its closest point. Finally, the entire pool deck occupies less than 25% of the required rear yard, allowing for opportunities for adequate water retention on site.

The adjacent properties to the rear all have large rear setbacks with open areas and the pool deck would have a minimal impact on these properties. As sea level rise is a constant concern, and the proposed design provides a proactive approach to mitigate this problem, without increasing the massing of the proposed building, staff finds that practical difficulties exist that justify the variance requested.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

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 of

Adjustment 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.

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. Height

Two-story structures: Section 142-105(b)(1) Maximum Building Height, which shall not exceed **two stories above the minimum Base Flood Elevation in all districts: 24'-0" flat roof structures.** Height shall be measured from the minimum required Base Flood Elevation for the lot, measured to the top of the structural slab for a flat roof and to the mid-point of the slope for a sloped roof. Single story homes shall follow the requirements of section 142-105(b)(4)b.

One-story structures: Section 142-105(b)(4)b One-story structures may exceed the maximum lot coverage noted in subsection 142-105(b)(1) above, through staff level review and shall be subject to the setback regulations outlined in section 142-106, but in no instance shall the building footprint exceed 50% of the lot area. **For**

purposes of this section, a one-story structure shall not exceed 18'-0" in height for flat roof structures as measured from the minimum Base Flood Elevation.

2. For two story homes with an overall lot coverage of 25% or greater, the physical volume of the second floor shall not exceed 70% of the first floor of the main home, exclusive of any enclosed required parking area and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria.
3. Two-story side elevations located parallel to a side property line shall not exceed 50% of the lot depth, or 60'-0", whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard. The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line. The square footage of the additional open space shall not be less than 1% of the lot area. The intent of this regulation shall be to break up long expanses of uninterrupted two-story volume at or near the required side yard setback line and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria.
4. With the exception of driveways and paths leading to the building, a minimum of five foot (5'-0") landscape separation from the front of the building to the paved parking area(s) is required.
5. Swimming pools- Side yard setback. A seven foot six inch (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. A nine foot (9'-0") minimum required setback from side property line to the water's edge of the swimming pool or to the waterline of the catch basin of an infinity edge pool.
6. Chapter 126 of the Land Development Regulations of the City Code, **permits for demolition require a landscape survey to insure that valuable existing trees are not damaged or destroyed. Trees that have a trunk diameter of eight (8) or more inches shall not be removed without the approval of the Planning and Zoning Director.**

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.
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 design requires two design waivers and one variance 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 design requires two design waivers and one variance 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 design requires two design waivers and one variance 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 design requires two design waivers and one variance from the Board.
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Satisfied
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered.

Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.

Satisfied

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

Not Satisfied; a lighting plan has not been submitted to staff.

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 design requires two design waivers and one variance 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 applicant is requesting Design Review Approval for the construction of a new “two-story” home on a vacant parcel abutting the southern edge of the La Gorce Golf Course.

The architect has designed the residence as a solid form floating at the second story level above the flat site and engaging the abutting Golf Course. By raising the habitable floorplate on structured fill areas with a centralized vertical circulation lobby and garage, the residence will capture more breezes, obtain better views, and create a residential architecture that environmentally responds to the pressing sea level and resiliency issues challenged to all properties in Miami Beach. There are three “base” pedestals that lift and support the slab—two of which are identified as fill and one of which is occupiable.

The home is entered at its circulation “base” and one ascends into the central living space on the second floor. This central area divides the floor plan into two distinct sleeping zones—flanking a more communal living space. Outdoor balconies have been provided on the north side of the sleeping quarters offering views onto the fairway. A single outdoor terrace is located off of the master bedroom and leads to the expansive habitable pool deck in the rear of the structure. A triangular portion of the rectangular shape of the continuous structural slab encroaches into the required rear yard. Since the entirety of the home is elevated to 13.5' NGVD or five feet (5'-0") above Base Flood Elevation (BFE), a variance for the structure is required (See the 'Project' section of the recommendation.)

Although the proposal consists of a single floor of living space, the design must be reviewed as a two-story residence, as the City Code defines a one-story home as a structure that does not exceed 18'-0" in height for flat roof structures when measured from the minimum BFE. The applicant has calculated the proposed home to contain 3,700 SF of mostly floating second floor living space above 1,000SF of garage, circulation and storage areas. Although the floor to ceiling of the living space has been limited to 14'-4", the applicant has placed the finished floor at 13'-6"—five feet (5'-0") above BFE. Regardless of where the first floor is established, the building height is measured from the minimum base flood elevation or 8'-0". In this particular instance, a “one-story structure” would measure 19'-10" (27'-10" NGVD) where a one-story structure is limited to 18'-0". Furthermore, the 1,000SF of garage, circulation and storage areas constituted another floor.

It should be noted that a two-story structure cannot exceed 24'-0" in height for flat roof structures when measured from the minimum Base Flood Elevation, or 32'-00" NGVD. For zoning purposes, the proposed home is treated as a two-story structure which has a maximum lot coverage of 30%. The home has a second floor to first floor ratio of 350% where the Code restricts the second floor to 70% unless waived by the Design Review Board. Staff has no objection to the proposed waiver since the home is, for practical purposes, an elevated one-story home. The intent of this regulation was to restrict second

floor massing on two-story homes in order to control capacious massing and downsize the appearance of voluminous “oversized” two story homes.

The applicant is also requesting a waiver of the open space requirement for two-story elevations that exceed 60'-0" in length. The southern elevation of the elevated living space measures 114'-10" in length and the roof overhangs measure 126'-6". Staff has no objection to this waiver since the home is again, for all practical purposes, an elevated one-story home. The intent of this regulation is to break up long expanses of uninterrupted two-story elevations at or near the required side yard setback lines in order to prevent the “blank wall syndrome” that may negatively affect a neighboring property by diminishing the light and air offered to their site. Staff supports the waiver.

Contextually the proposal is a departure from the replacement homes the Board has reviewed over the past few years, almost all of which have been standard two-story residences designed and constructed in a more traditional format. The proposed design endeavors to respect the scale, and context of its neighbors. In summary, staff commends the applicant on a design executed with simplicity, discipline and refined proportions. Staff recommends that the design of the replacement home be approved including the requested waivers.

VARIANCE REVIEW

As noted under the ‘Project’ section of the report, the subject property is adjacent to La Gorce Golf Club and has a unique geometric shape. The applicant is proposing a rectangular shaped design—a cantilevered slab containing an elevated residence and cantilevered pool and deck—on a site that contains front and rear angled property lines. Since the platted lot is a parallelogram in shape and the architect has created a rectilinear design, a triangular portion of the design remains “unusable” without the requested variance. As previously noted, the variance is for a cantilevered slab that contains the residence and the pool deck on an elevated plane.

Staff also finds that the requests for variance number 1 meets the criteria for practical difficulties as noted in the variance description part of this report; as such staff recommends approval of the variance.

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

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: March 01, 2016

FILE NO.: 23241

PROPERTY: **5150 Cherokee Avenue**

APPLICANT: 5150 Cherokee LLC

LEGAL: Lot 22, of Block 21, of the "Lake View Subdivision" according to Plat thereof as recorded in Plat Book 7, Page 161 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new two-story home on a vacant site including a variance to reduce the required rear setback.

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, 9 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 5150 Cherokee Avenue shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The 70% limitation for the second floor volume shall be waived as proposed.
 - b. The interior side open space requirement shall be waived as proposed.
 - c. The maximum height of the proposed residence shall not exceed **19'-10"** (27'-10" NGVD) to the top of the main roofline when measured from BFE, and the main floor of the structure shall be limited to a maximum floor to ceiling height of 14'-10", in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - d. The habitable enclosed area underneath the main slab shall be limited to 1,100 SF of circulation, garage and storage areas, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board
 - e. 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.
 - f. 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.
 - g. 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. 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 architect shall provide a minimum of 5'-0" landscape separation from the front of the building to the paved parking area(s), with the exception of driveways and paths leading to the building, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- f. Aside from the under floor areas identified as "fill" or the 1,000 SF of circulation and storage areas, the groundcover underneath the main slab shall be permeable and non-paved, 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.

- I. 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):
 1. A variance to reduce by 16'-9" the minimum required rear setback of 31'-4" in order to construct a new structure (elevated pool deck) at 14'-7" from the east property line.
- 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.

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. 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.

- C. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- D. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- E. 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.
- F. 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.
- G. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- H. 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** is GRANTED 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, "5150 Cherokee Avenue" as designed by DOMO Architecture + Design signed, sealed, and dated January 08, 2016 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 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

