

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

MEETING DATE: December 11, 2023; March 5, 2024; and October 1, 2024

PROPERTY/FOLIO: **4410 Alton Road 02-3222-011-1150**

FILE NO: DRB23-0941 & DRB 24-1037

IN RE: An application for Design Review Approval for the construction of a new 2-story home with an understory, on a vacant lot.

LEGAL: Lots 15 and 16, Block 5, of Nautilus Subdivision, According to the Plat thereof as recorded in Plat Book 8, Page 95, of the Public Records of Miami-Dade County, Florida.

APPLICANT: Mauricio Rivera Kirschner

**MODIFIED 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 2.1.3.1 of the Land Development Regulations. 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 i. and s. in Section 2.5.3.1 of the Land Development Regulations.
- C. 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 Sea Level Rise Criteria 1 in Section 7.1.2.4(a)(i) of the Land Development Regulations.
- D. The project would be consistent with the criteria and requirements 2.5.3.1 and/ or Section 7.1.2.4(a)(i) if the following conditions are met:
  - 1. Revised elevation, site plan, and floor plan drawings for the proposed new home shall be submitted, at a minimum, such drawings shall incorporate the following:
    - a. The understory **shall be** approved as proposed.

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- b. The overall height of the home shall be reduced by eight (8") inches, in a manner to be reviewed and approved by staff.
  - c. The final design details of the exterior materials and finishes, including any impacts from the structural components, as well as rooftop drainage, shall be submitted ~~for the review and approval of the Design Review Board~~ 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 rooftop deck shall be revised as follows, subject to the review and approval of staff consistent with the Design Review Criteria and/or the directions from the Board:
    - i. The hut on the northern half of the flat roof shall be removed. The height of the elevator run shall be reduced to the extent possible and painted white.
    - ii. The height of the roof deck shall be reduced to the extent possible.
    - iii. Trees and planters shall be removed.
    - iv. The height of the staircase on the south end of the roof deck shall be reduced to the extent possible.
    - v. The A/C enclosure shall be moved closer to the elevator and the height of screening shall not exceed the height of equipment.
    - vi. The height of the parapet wall shall be reduced to the extent possible.
  - e. URBAN HEAT ISLAND ORDINANCE Section 7.5.3.2(g)(iv) Driveways and parking areas that are open to the sky within any required yard shall be composed of porous pavement or shall have a high albedo surface consisting of a durable material or sealant, as defined in Section 1.2.1 of this Code, and (v) Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in Section 1.2.1, shall be prohibited.
  - 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, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding plans 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 plans shall comply with

Chapter 4-Landscape Requirements of the Miami Beach Code and shall incorporate the following:

- a. The landscape elements that engage the building and terraces shall be further developed and detailed along with the structural components, in a manner to be reviewed and approved by ~~the Design Review Board~~. staff consistent with the Design Review Criteria and/or the directions from the Board.
- b. The plans shall comply with the line-of-sight visibility triangle requirements, subject to the review and approval of the Public Works Department.
- c. 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.
- d. 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.
- e. 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.
- f. 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.
- g. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- h. 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. Any new street trees shall be of a consistent canopy tree species as similar to the neighboring trees along the street.
- i. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.

- j. 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.
- k. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- l. 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 2.2.4.8 of the Land Development Regulations, the applicant, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal a decision of the design review board for design review approval only **to the city commission, except that orders granting or denying a request for rehearing shall not be reviewed by the commission.**

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

- A. No variance(s) were filed as part of this application.

**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. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
- B. During construction work, the applicant shall maintain gravel at the front of the construction site within the first 15'-0" of the required front yard and including the swale (subject to the review and approval of Public Works), to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way.
- C. During the course of construction, all vehicles, including, but not limited to all personal vehicles, shall park within the confines of the private property, the swale directly abutting the construction site, or at alternate overflow parking sites that are not on-street metered spaces and not zoned RS. Additionally, parking of any vehicles shall be prohibited in the travel lanes of all streets.

- D. All allowable construction signage shall be attached to or situated behind the construction fence and shall be limited to one (1) sign, not to exceed four (4) square feet, in accordance with Section 6.3.2 of the Land Development Regulations.
- E. The building and parking departments shall approve a construction parking plan prior to the issuance of any building permit, including applicable demolition permits for the project.
- F. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- G. The contractor(s) shall ensure that the street and the swale directly abutting the construction site remains free of debris and refuse at all times; at a minimum, the contractor(s) shall inspect and clear the street and swale areas before leaving at the end of each day.
- H. This order shall be enforced by the Building, Planning, Parking and Code Compliance Departments.
- I. 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.
- J. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- K. 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.
- L. 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.
- M. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- N. 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 for Design Review approval 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 revised plans entitled "House of Kirschner" as designed by **NMD Nomadas**, signed and sealed September 11<sup>th</sup> 2023, as well as the revised landscape plans entitled, "DRB23-0941 - Supplemental Landscape Submittal - 02-12-2024", 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.

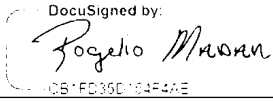
The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped 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 accordance with the requirements and procedures of Section 2.2.4.6 of the Land Development Regulations; the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 2 of the Land Development Regulations, 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 2 of the Land Development Regulations, for revocation or modification of the application.

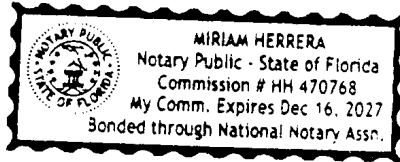
Dated 12/13/2024 | 1:32 PM EST.

DESIGN REVIEW BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

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BY: \_\_\_\_\_  
Rogelio Madan, AICP  
Development & Resilience Officer  
For the Chair

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

The foregoing instrument was acknowledged before me this 19 day of December 2024 by Rogelio Madan, Development & Resilience Officer of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.



{NOTARIAL SEAL}

Notary: Miriam Herrera  
Print Name Miriam Herrera  
Notary Public, State of Florida  
My Commission Expires: 12-16-27  
Commission Number: HH 470768

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

DocuSigned by:  
Farooq Andashava (

12/13/2024 | 12:06 PM EST

Filed with the Clerk of the  
Design Review Board on: \_\_\_\_\_

DocuSigned by:  
Jessica Gonzalez (

12/19/2024 | 1:39 PM EST