

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: June 12, 2025

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **DRB25-1079, 845 82 STREET.**

An application has been filed requesting Design Review Approval for the construction of a new four-story multi-family building, with one or more waivers, and variances from the minimum required side setback facing the street for a parking area and from the minimum required side interior setback for an elevator and stairs, including one or more waivers, to replace an existing residence.

RECOMMENDATION:

Approval with Conditions.

LEGAL DESCRIPTION:

LOT 1 IN BLOCK 11 FO BISCAYNE BEACH FIRST ADDITION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 47 AT PAGE 19 O FTHE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

SITE DATA:

Zoning:	RM-1 (Residential, Multifamily Low Intensity)
Future Land Use:	RM-1 (Residential, Multifamily Low Intensity)
Lot Size:	6,180 SF *As indicated on submitted survey
Proposed FAR:	7,876 SF / 1.24
Maximum FAR:	7,910 SF / 1.25
Proposed Height:	44'-6" from DFE (BFE+ Freeboard (1))
Maximum Height:	50'-0" from DFE (BFE+ Freeboard (1))
CMB Grade:	4.88 NGVD
Base Flood Elevation:	8.56' NGVD
Finished First Floor:	6.72 NGVD (Parking)
Finished First	
Habitable Floor:	22.00 NGVD

SURROUNDING PROPERTIES:

North	Single family home
East:	Multi-family building
South:	Multi-family building
West:	Single family home

THE PROJECT:

The applicant has submitted plans entitled "845 82 STREET", as prepared by Alayo Architects PC; signed, sealed and dated 04/06/25.

The applicant is proposing a new four-story multi-family building in the RM-1, Residential multifamily low intensity zoning district.

The applicant is requesting the following variance(s)

1. A variance to reduce by 2'-6" the minimum required side facing a street setback of 7'-6" in order to construct a parking surface area with a setback of 5'-0" from the side facing the street setback.
2. A variance to reduce by 2'-6" the minimum required Interior side setback of 7'-6" in order to construct the elevator and stairs with a setback of 5'-0" from the interior side setback.

The applicant is requesting the following waiver:

1. A minimum height of 12 feet shall be provided, as measured from Base Flood Elevation plus minimum Freeboard to the underside of the first floor slab. The design review board may waive this height requirement by up to two feet, in accordance with the design review. The proposed height is 10'-0" from Base Flood Elevation plus minimum Freeboard.

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 2.8.3 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.
- The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the City Code, with the exception of the proposed variances.

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

CONSISTENCY WITH 2040 COMPREHENSIVE PLAN

A preliminary review of the project indicates that the proposed **multi-family residential** use appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

COMPLIANCE WITH DESIGN REVIEW CRITERIA, SECTION 2.5.3.1:

Design review encompasses the examination of architectural drawings for consistency with the criteria stated below, with regard to the aesthetics, appearance, safety, and function of any new or existing structure and physical attributes of the project in relation to the site, adjacent structures and surrounding community. The design review board and the planning department shall review plans based upon the below stated criteria, criteria listed in neighborhood plans, if applicable, and applicable design guidelines. Recommendations of the planning department may include, but not be limited to, comments from the building department and the public works department.

- a. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Satisfied; however, the applicant is requesting several variances
- b. 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.
Satisfied; however, the applicant is requesting several variances
- c. 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 and two (1) design waiver from the Board.

- d. 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 2.5.3.2.
Satisfied
- e. 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 article and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the design review board and historic preservation board and all pertinent master plans.
Satisfied; however, the applicant is requesting several variances.
- f. The proposed structure, 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
- g. 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
- h. 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 safety 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
- i. 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.
- j. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.
Satisfied
- k. 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.
Partially satisfied; Staff is recommending conditions to ensure that headlights of vehicles are adequately shielded from public view and adjacent properties.

- l. 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
- m. 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
- n. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
- o. 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
- p. 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.
Not Applicable
- q. 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
- r. In addition to the foregoing criteria, subsection 118-104-6(t) of the General Ordinances shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights- of-way.
Not Applicable
- s. The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.
Satisfied

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 7.1.2.4(a)(i) of the Land Development Regulations establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- 1. A recycling or salvage plan for partial or total demolition shall be provided.
Satisfied; additional information will be required at the time of building permit

in order to demonstrate compliance.

2. Windows that are proposed to be replaced shall be hurricane proof impact windows.
Satisfied
3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Satisfied
4. Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 4 of the Land Development Regulations.
Satisfied
5. The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.
Satisfied
6. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.
Satisfied
7. In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.
Satisfied
8. Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.
Not Applicable
9. When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.
Not Applicable
10. In all new projects, water retention systems shall be provided.
Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.
11. Cool pavement materials or porous pavement materials shall be utilized.
Satisfied
12. The project design shall minimize the potential for a project causing a heat island effect on site.

Satisfied

STAFF ANALYSIS:
DESIGN REVIEW

The subject site is a corner parcel located on 82nd Street and Hawthorne Avenue in North Beach. The applicant is proposing to construct a new four story, four-unit residential, multi-family building with ground floor parking. While the subject site currently contains a single-family residence, the immediate surrounding area consists of one and two-story multi-family buildings, as well as single family homes, primarily constructed from the 1940's through the 1980s.

The project proposes 4 three-bedroom units that are approximately 2000 square feet in area. The ground floor has 7 parking spaces, an electrical room and trash room. Pedestrian access is located at the rear of the property on Hawthorne Avenue via a walkway along the rear and east side of the building, leading to two set of open stairs and an elevator lobby. Vehicular access is provided on 82nd street.

Residential access begins on the second level, where a corridor along the east side connects to the entrances of the four units. Each unit is designed in a townhouse-style layout, spanning the second and third floors. Private rooftop terraces are provided for each unit, offering outdoor living space with views.

The design of the building is contemporary, with the west and south elevations facing the street exhibiting a dynamic interplay of movement, textures, and shifts in planes. The design also features orthogonal frames that project beyond the building's walls, painted aluminum mullions, planters, perforated orange mesh panels on the upper floors, and textured stucco finishes.

The rear elevation contains a more subdued design, while still incorporating select architectural elements from the prominent west façade. On the interior east elevation, the first two levels feature the elevator, open common stairs, and a covered hallway. The upper levels include open balconies separated by vertical orange walls, echoing the design language of the west elevation screens.

On the ground floor, the applicant proposes texture stucco walls and a double row of landscape hedges along the west side to screen the parking area from street and pedestrian view. The south side features the garage entrance, framed by two walls, one of which features textured stucco.

The applicant is also requesting a design waiver for the minimum height to the underside of the first-floor slab, which is required to be 12'-0". The proposed height is 10'-0" and given that the first floor does not contain habitable spaces, staff is not opposed to the granting of this waiver. According to the City's Floodplain Manager, the proposed height shall be measured from BFE+2 which is 10.56 NGVD. Staff recommends including a condition to ensure this measurement is adhered to.

Overall, staff is supportive of the design. However, there are concerns regarding the ground floor's compatibility and impact with the adjacent properties, pedestrian and street level

activity. To address these issues and ensure compliance with code, staff recommends the following conditions:

- The minimum height to the underside of the first-floor slab, which, if the waiver is granted, would be 10'-0". Staff recommends that the slab be measured from the minimum Design Flood Elevation.
- The proposed transformer area on the west side of the site should be revised to comply with required setbacks.
- The backflow preventer is not an allowable yard encroachment and must be relocated to comply with the required setbacks.
- Per Section 7.1.2.2.c.2.E: *At least one stair shall be visible and accessible from the building's main lobby (whether interior or exterior), shall provide access to all upper floors, shall be substantially transparent at the ground level and shall be located before access to elevators from the main building lobby along the principal path of travel from the street.* To comply with Section 7.1.2.2.c.2.E. the proposed wall in the front of the stairs on the front façade should be removed from the stairs return up. a railing or a screen similar to the proposed perforated mesh screen located on the west upper floors should be provided.
- A new pedestrian access should be created on 82nd Street and the proposed walkway extended to this entrance.
- At the parking level, the two areas between the columns located on the east side near the steps cannot be used for parking.
- The proposed shrubs located at the perimeter/property line shall not exceed a maximum height of 5 feet from sidewalk elevation, and the second row of hedges located on the west side can cannot exceed 6 feet from future adjusted grade.
- The project should provide a solid perimeter walls on the rear and interior side yard at the maximum height as permitted by City code to help screen the parking area from the neighbors.

These recommendations will enhance the appearance of proposed project in relation to the surrounding properties.

VARIANCE(S) REVIEW

The applicant is requesting the following variance(s):

1. A Variance to reduce by 2'-6" the minimum required side facing a street setback of 7"-6" in order to construct a parking surface area with a setback of 5'-0" from the side facing the street setback.
 - Variance requested from:

7.2.4.3.a. DEVELOPMENT REGULATIONS (RM-1)

Side, Facing a Street Setback ⑥ Lots less than 65 feet in width	
Subterranean	7.5 feet
Pedestal	

The proposed variance is for the portion of the parking area that is located within the required street side yard. Given the narrow width of the lot, the required setback presents a hardship and practical difficulty, as the applicant could otherwise not provide parking for the residential units. As such, staff is supportive of the variance request and recommends conditions to ensure that the parking is well screened and does not negatively impact the surrounding community.

2. A Variance to reduce by 2'-6" the minimum required interior side setback of 7'-6" in order to construct the elevator and stairs with a setback of 5'-0" from the interior side setback.

- Variance requested from:

7.2.4.3.a. DEVELOPMENT REGULATIONS (RM-1)

Side, Interior Setback ⑥ Lots less than 65 feet in width	
Subterranean	7.5 feet (1)
Pedestal	

The proposed variance is for the placement of the elevator and stairs within the required interior side yard. Given the narrow width of the lot, the required setbacks do present a hardship in the applicant's ability to provide the required stairs and elevator, while maintaining appropriate dimensions for the residential units. The proposed variance is minimal in nature and should not negatively impact the surrounding community. As such staff is supportive of the granting of the variance.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved** with conditions, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review and Sea Level Rise criteria.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: June 12, 2025

PROPERTY/FOLIO: **845 82 STREET.**
02-3202-001-0010

FILE NO: **DRB25-1079**

IN RE: An application has been filed requesting Design Review Approval for the construction of a new four-story multi-family building, with one or more waivers, and variances from the minimum required side setback facing the street for a parking area and from the minimum required side interior setback for an elevator and stairs, including one or more waivers, to replace an existing residence.

LEGAL: (See appendix "A")

APPLICANT: L&E RE INVESTMENT LLC

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 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 i. & 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 multi-family residential building shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. The minimum height to the underside of the first-floor slab, which is waived to be 10'-0". Shall be measured from the minimum Design Flood Elevation.
 - b. The proposed transformer area on the west side shall be revised to comply with required setbacks.
 - c. The backflow preventer is not an allowable yard encroachment and shall be related to comply with the required setbacks.
 - d. Per Section 7.1.2.2.c.2.E: *At least one stair shall be visible and accessible from the building's main lobby (whether interior or exterior), shall provide access to all upper floors, shall be substantially transparent at the ground level and shall be located before access to elevators from the main building lobby along the principal path of travel from the street.* To comply with Section 7.1.2.2.c.2.E. the proposed wall in the front of the stairs on the front façade should be removed from the stairs return up. a railing or a screen similar to the proposed perforated mesh screen located on the west upper floors should be provided. in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - e. A new pedestrian access should be created on 82nd street, the proposed walkway shall be extended to this entrance. in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - f. At the parking level, the two areas between the columns located on the east side near the steps cannot be used for parking.
 - g. The project should provide a solid perimeter walls on the rear and interior side yard at the maximum height as permitted by City code to help screen the parking area from the neighbors. Per section 7.5.3.2. in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - h. The final color, of the proposed vertical orange walls located on the east elevation 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.
 - i. The final design and details, including samples and color selection, of the painted aluminum mullion/fin proposed on the west elevation on levels 2 and 3 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.
 - j. The final color, design and details of the orange perforated mesh screen proposed on the west elevation at the fourth level 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.

- k. 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.
 - l. 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.
 - m. 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 proposed shrubs located at the perimeter/property line shall not exceed a maximum height of 5 FT from sidewalk elevation, revise shrub species to achieve this. the second row of hedges located on the west side can cannot exceed 6 FT from future adjusted grade.
 - b. 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.
 - c. Any necessary root and tree branch pruning with a diameter at breast height (DBH) of 2" or greater shall be approved by the City Urban Forester prior to any tree work.
 - 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. 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.
 - f. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.

- g. Any proposed new street trees shall be of a planting species consistent or similar with existing street trees in the immediate area or consistent with any master street tree plan for the area, subject to the review and approval of the City Urban Forester.
- 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 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 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 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. The applicant filed an application with the Planning Department for the following variance(s):
 - 1. A variance from Sec. 7.2.4.3.a. to reduce by 2'-6" the minimum required side facing a street setback of 7'-6" in order to construct a parking surface area with a setback of 5'-0" from the side facing the street setback.
 - 2. A variance from Sec. 7.2.4.3.a. to reduce by 2'-6" the minimum required interior

side setback of 7'-6" in order to construct the elevator and stairs with a setback of 5'-0" from the interior side setback.

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

Additionally, the Board 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 2.8.3 of the Land Development Regulations:

- i. 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;
- ii. The special conditions and circumstances do not result from the action of the applicant;
- iii. Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;
- iv. Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;
- v. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- vi. The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare;
- vii. 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; and
- viii. The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

- C. The Board hereby **Approves** the variance requests and imposes the following conditions based on its authority in Section 2.8.4 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. All new construction over 7,000 square feet shall be required to be, at a minimum, certified as LEED Gold by USGBC. In lieu of achieving LEED Gold certification, properties can elect to pay a sustainability fee or post a bond, pursuant to Section 7.1.3.2 of the Land Development Regulations. This fee is set as a percentage of the cost of construction.
- B. 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.
- C. 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.
- D. 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.
- E. 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.
- F. 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.
- G. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- H. 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.
- I. This order shall be enforced by the Building, Planning, Parking and Code Compliance Departments.
- J. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.

- K. 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.
- L. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- M. 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.
- N. 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.
- O. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- P. 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 Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "845 82nd Street" as designed by **Ayalo Architects PC**, dated April 06, 2025, 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

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

Filed with the Clerk of the
Design Review Board on _____ (

Appendix A
Legal description

LOT 1 IN BLOCK 11 OF BISCAYNE BEACH FIRST ADDITION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 47
AT PAGE 19 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA