

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: January 16, 2025

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **DRB24-1049**
1470 LINCOLN TERRACE

An application has been filed requesting Design Review Approval and Variance after-the-fact for the placement of air conditioning equipment within a required interior side yard setback.

RECOMMENDATION:

Approval of the design and location of the air-conditioning equipment and its screening.

Approval of the variance requested for the air conditioner equipment setback location.

HISTORY:

On January 4, 2019, a code violation was issued to the property regarding improvements made over the years, some without a permit (BVC19000276). On August 29, 2023 an after-the-fact building permit application was submitted to address this violation.

LEGAL DESCRIPTION:

Lot 8, "Lincoln Terrace Subdivision", according to the Plat thereof as recorded in Plat Book 49, page 100, of the Public Records of Miami-Dade County, Florida. (per survey submitted by the applicant).

SITE DATA:

Zoning:	RM-2 Residential Multifamily Medium Intensity District
Future Land Use:	RM-2 Residential Multifamily Medium Intensity District
Lot Size:	4,600 SF (Per Miami-Dade Property appraiser)
Year Built:	1950 (Per Miami-Dade Property appraiser)

LAND USES:

North: Multifamily Residential
South: Multifamily Residential
East: Multifamily Residential
West: Multifamily Residential

THE PROJECT:

The applicant has submitted plans entitled "1470 Lincoln Terrace", as prepared by **Paula Arrazola, RA PA Architecture & Design**. The applicant is requesting Design Review Approval and a Variance after-the-fact for the placement of air conditioning equipment within a required interior side yard setback.

The applicant is requesting the following variance:

1. A variance to reduce by 2'-4" the required interior side setback of 7'-6" to 5'-2" for the installation of air conditioning equipment and screen.

The aforementioned variance is requested from:

7.2.5.3 Development Regulations (RM-2)

BUILDING SETBACKS

Side, Facing a Street Setback
Lots less than 65 feet in width

NON-OCEANFRONT
7.5 feet

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 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.

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the applicable requirements of the City Code, aside from the requested variance(s). This shall not be considered final zoning review or approval 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, 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.
Not applicable
- 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.
Not applicable
- 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 applicable
- 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.
Not applicable
- 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 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 applicable
- f. 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 applicable

- 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.

Not applicable

- 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 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.

Not applicable

- 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 applicable

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

Not applicable

- 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.

Not applicable

- 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).

Not applicable

- 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.

Not applicable

- n. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Not applicable
- 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 improvements.
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 city Code 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 complies with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.
Not applicable

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.
Not applicable.
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Not applicable
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Not applicable
- (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.
Not applicable

- (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.

Not applicable

- (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.

Not applicable

- (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.

Not addressed

- (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.

Not applicable

- (11) Cool pavement materials or porous pavement materials shall be utilized.

Not applicable

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

Not applicable

STAFF ANALYSIS:

Design Review

The applicant is seeking to legalize the placement of existing air conditioning equipment and its screening, which are located within the interior side setback of the property. The equipment consists of three condenser units situated on the east side of the two-story building, towards the rear. The building was built in 1950 and has a pitched roof.

Variance Review

A variance is requested for relief from the setback requirements of the Code, to retain the location of the air conditioning equipment and its screening. Specifically, a setback reduction of 2'-4" is proposed.

In this regard, the subject equipment maintains a 5'-2" space between the screen and the property line, which allows for adequate access to the rear of the property. Staff believes that the size and location of the air conditioning units and screen will not negatively impact the neighboring building to the east.

Given the size of property and the location of an existing, older building, with a sloped roof, there is a practical difficulty as there is no other location for the air conditioning units. As such, staff recommends approval of the variance.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be approved, including approval of the variance, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review, Sea Level Rise criteria and Hardship and Practical Difficulties criteria, as applicable.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: January 16, 2025

PROPERTY: **1470 Lincoln Terrace**
02-3233-008-0080

FILE NO: DRB24-1049

IN RE: An application has been filed requesting Design Review Approval and Variance after-the-fact for the placement of air conditioning equipment within a required interior side yard setback.

LEGAL: Lot 8, "Lincoln Terrace Subdivision", according to the Plat thereof as recorded in Plat Book 49, page 100, of the Public Records of Miami-Dade County, Florida. (per survey submitted by the applicant).

APPLICANT: Camila Osorio

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 consistent with Design Review Criteria 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 consistent with Sea Level Rise Criteria 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 drawings shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. The location of the air-conditioning equipment and its screening shall be approved as proposed.
- b. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit and shall be located immediately after the front cover page of the permit plans.

Underline denotes added language and ~~striketrough~~ denotes stricken language from the original final Order.

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. 7.2.5.3. to reduce by 2'-4" the required interior side setback of 7'-6" to 5'-2" for the location of the air conditioning equipment and its screening.
- B. The applicant has submitted plans and documents with the application that DO NOT satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of the requested variances 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 DO NOT 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.

The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in Section 7.1.2.4(a)(i), as applicable

C. The Board hereby **Approves** the variance requests

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 and Waivers*’ 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. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- C. This order shall be enforced by the Building, Planning, Parking and Code Compliance Departments.
- D. 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.
- E. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- 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 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 "1470 Lincoln Terrace ", as prepared by **Paula Arrazola, RA PA Architecture & Design**. 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.

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