

# Holland & Knight

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September 20, 2021

## **VIA HAND DELIVERY**

Mr. Michael Belush  
Chief of Planning and Zoning, Planning Department  
City of Miami Beach  
1700 Convention Center Drive, 2<sup>nd</sup> Floor  
Miami Beach, Florida 33139

**Re: 27 Star Island Drive – File No. DRB21-0733  
Letter of Intent for Design Review Board Approval of Variance Request**

Dear Mr. Belush:

This shall constitute the Letter of Intent on behalf of Starboard Florida IV, LLC (the "Applicant"), in support of Application File No. DRB21-0733 (the "Application") to the Design Review Board ("DRB") for approval of an elevator bulkhead variance request pursuant to City of Code of Ordinances (the "Code") Section 142-105(b)(7)f. for the property located at 27 Star Island Drive, Miami Beach, Florida (the "Property"). The Property is an approximately 0.92-acre waterfront lot located on the northeast side of Star Island, and is identified by Folio No. 02-4204-001-0230.

The Property is zoned RS-1 (Single-Family Residential District) and contains two main structures: a restored historic residence with garage amenities designed by Walter Dergamo,<sup>1</sup> and a recently constructed two-story, single-family home situated on the waterfront portion of the Property. This Application relates to the latter. Specifically, the Applicant is seeking a variance approval of Code Section 142-105(b)(7) to permit an elevator bulkhead to exceed 13'-0" above the roofline, where 10'-0" is permitted.

As approved and constructed, the subject residence currently has a 10'-0" elevator bulkhead on the roof. However, an additional 3'-0" of bulkhead height is necessary to install an elevator of appropriate quality and reliable performance, which was ultimately determined to be essential during the construction process for the main residence. Without the variance, the elevator will not

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<sup>1</sup> The structure is not designated historic or determined to be contributing to a historic district.

meet its intended purpose—to service an approximately 17,500 square foot residence<sup>2</sup> and provide adequate accessibility to the roof of the home. It should be noted, the location of the elevator within the home was previously approved pursuant to DRB File No. 23009 and Permit No. EVR1117-0042 and has been deemed to comply with Code Section 142-105(b)(7)f.<sup>3</sup> This section requires that elevator bulkheads shall be located as close to the center of the roof as possible and be visually recessive such that they do not become vertical extensions of exterior building elevations. The location of the elevator is not changing with this request. Additionally, the plans submitted in connection with this application demonstrate that the proposed elevator bulkhead will not be visible from the street and the change is imperceptible from the waterfront.

This Application request satisfies Related Special Acts, Article 1, Section 2 of the Code, allowing the DRB to grant a variance if it finds that practical difficulties exist concerning implementing the proposed project at the subject property. In addition, the Application also satisfies the criteria under Code Section 118-353(d), as follows:

- (1) 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;*

The variance request is associated with the large size of the Property and the unique nature of the structures constructed thereon, which is commensurate with the scale and massing of neighboring properties in Star Island. Particularly, the design of the elevator requires additional height to accommodate the mechanical and electrical equipment necessary for the type of elevator being installed to service the residence and ensure safe and reliable rooftop accessibility. Therefore, this request is specific to this type of structure and does not apply to other structures in this zoning district.

- (2) The special conditions and circumstances do not result from the action of the applicant;*

The elevator infrastructure has been permitted and constructed with a height of 10'-0". However, technology for residential elevators is constantly evolving. During the construction process, it was confirmed and determined that the subject variance was necessary to install the mechanical and electrical equipment required for the size and type of elevator needed to adequately serve the home. This is a case of the Code not keeping pace with the current elevator technology, which, as such, creates a hardship for the homeowner. This is further evidenced by the fact that a number of homes on Star Island and in other single-family waterfront districts that have been approved for similar variances for elevator bulkheads to provide adequate loading and accessibility for their homes.<sup>4</sup>

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<sup>2</sup> Not including the 6,225 square foot Dergamo house on the Property.

<sup>3</sup> See also Planning Board File Nos. 2140, and 1995.

<sup>4</sup> On Star Island, similar variances have been granted to 6 Star Island Drive (See DRB17-042), 11 Star Island Drive (See ZBA0516-0012), 22 Star Island Drive (See DRB17-0242), and 23 Star Island Drive (See ZBA21-0126).

- (3) 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;*

The approval of the variance will not confer any special privilege on the Applicant. As constructed, the bulkhead is located away from the street front and is visually recessive within the perimeter of the roof. The proposed elevator bulkhead will not be visible from the street and will be imperceptible from the waterfront.

The requested additional 3'-0" in height is necessary and typical for state-of-the-art multi-story residences equipped with commercial-like elevators to provide safe and reliable access to the different levels of a home of this size, including the roof. In addition, approval of this variance request is consistent with previous approvals as well as the trend of development on Star Island (see Fn. 4) and other waterfront homes in RS districts.

- (4) 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;*

As noted above, it is typical for multi-story residences to include elevators in order to provide adequate accessibility to all levels of a home. A denial of this Application would deprive the Applicant of their reasonable enjoyment of their Property and result in a significant, negative impact to the design, accessibility, and utility of the home.

- (5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;*

The subject elevator bulkhead variance is for the minimum amount of additional height required to accommodate the mechanical and electrical equipment in the elevator bulkhead while ensuring that the each level of the home is fully accessible for loading and passenger purposes. Approval of this variance request is not detrimental to the surrounding properties as this element is located at the most appropriate location within the home and thus its visibility has been minimized.

- (6) 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; and*

The granting of this variance will be in harmony with the general intent and purpose of the Code, which provides height exceptions for elevator bulkheads. However, the Code provision for elevator bulkheads has not been updated over time and does not reflect current technology or the infrastructure requirements of modern home design.

The minimal increase in height that will be achieved with the approval of this variance will not be injurious to the area or otherwise detrimental to the public welfare. In accordance with Code Section 142-105(b)(7)f., the elevator bulkhead has been built as close to the center of the roof as possible, and it is visually recessive such that it is not an obvious vertical extension of the exterior building elevation.

- (7) 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 planning and zoning director may require applicants to submit documentation to support this requirement prior to the scheduling of a public hearing or any time prior to the board voting on the applicant's request.*

The Application request is consistent with the Comprehensive Plan and has no impact on infrastructure levels of service.

- (8) 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 133, article II, as applicable.*

The elevator is a necessary component of the single-family residence, which has been designed and constructed to meet or exceed all applicable sea level rise and resiliency review criteria, as previously analyzed pursuant to DRB File No 23009.

Further, the Application meets all applicable sea level rise and resiliency criteria set forth in City Code Section 133-50, as follows:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.

**Not applicable. The subject single-family home has been approved and constructed. With the approval of this variance request, a mere 3'-0' of height will be added to the built elevator bulkhead on the roof.**

- (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) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.

**Not applicable.**

- (5) Whether 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, including a study of land elevation and elevation of surrounding properties were considered.

**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.

**Not applicable.**

- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.

**Satisfied. The subject elevator bulkhead will be located on the roof deck.**

- (8) Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.

**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) Where feasible and appropriate, water retention systems shall be provided.

**Not applicable.**

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

**Not applicable.**

- (12) The design of each project shall minimize the potential for heat island effects on-site.

**Satisfied, as constructed.**

The enclosed plans provide all pertinent details relating to the elevator bulkhead variance request. Overall, the marginal increase in height to accommodate the elevator bulkhead is not only adequate in relation to the site and the scale, character, and design of the home that will be relying on the elevator, but is also compatible with adjacent structures and the surrounding community.

27 Star Island (DRB21-0733)

September 20, 2021

Page 6

Based on the foregoing, we respectfully request your favorable review and recommendation of approval of the Application. Thank you in advance for your considerate attention to these requests. If you have any questions or require additional information, please feel free to call me directly at 305-789-7642.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

A handwritten signature in blue ink that reads "Tracy Slavens". The signature is fluid and cursive, with a long horizontal stroke at the end.

Tracy R. Slavens, Esq.

Enclosures

cc: Vanessa Madrid, Esq.