

December 6, 2021

VIA HAND DELIVERY

The Chairperson and Members of the
Miami Beach Design Review Board
City of Miami Beach Planning Department
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

**Re: FINAL DRB21-0750| Application for an Approval of a Single Family House
and a Variance for the Maximum Height by 1' | 5440 La Gorce Drive
Avenue, Miami Beach (the "Property")**

Dear Chairperson and Members of the Design Review Board:

This letter accompanies Justin Yoshimura, (the "Applicant") application for a public hearing for an approval of a single family house and a height variance before the City of the Miami Beach Design Review Board (the "Board") in connection with the proposed house (the "Project").

The Applicant is requesting that the proposed Project be approved in order to replace the current pre-1942 house with one that addresses the current sea level rise issues as well as addresses the Applicant's desire to adapt to their living needs. The Project has been designed to meet the requirement of the Land Development regulations except for a height variance required to allow useable area under the first habitable floor of the house. The existing house, requires much work in order to restory and before of the living requirements for the property owner the direction is for a total demolition and the building of a new house at the approximatly cost of \$3,000,000.00.

The proposed new house would have an understory plan which is fully described in the plans to meet requirements of the code.

REQUEST FOR A VARIANCE:

The applicant is requesting the following height variance, as determined by the interpretation of the Planning Director:

1. A variance under Section 142-105(b) which currently permits in the RS-4 zoning District a flat roof house to be maximum of 24' where Applicant is proposing 25', or a 1' variance in order to allow for the understory area below the first floor to be at 8', a usable clearance area.

Section 118-353(d) of the Code delineates the standards of review for a variance application. Specifically, a variance shall be approved upon demonstration of the following:

- a) 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;

***Satisfied;** with the inclusion of freeboard to establish grade the house would have to exceed the height to permit 8' clearance. In addition an SUV would have difficulty to fit under the house to create required parking.*

- b) That the special conditions and circumstances do not result from the action of the applicant;

***Satisfied;** The Applicant did not create or amend the Land Use regulations.*

- c) 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;

***Satisfied;** Since it does not impact the overall massing or height of the houses in the area by having a house at 25'.*

- d) 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;

***Satisfied;** By limiting the clearance to the height it creates a clearance problem to allow for a proper entranceway to the house, especially for taller persons. In addition, the desire to have park vehicles under the house would prohibit SUV's from being able to Park.*

- e) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

Satisfied; The variance requested is the minimum variance required to provide the necessary clearance. The request provides the basic clearance at the cost of the permitted height of the house.

- f) 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

Satisfied; Granting of the variance will be in harmony with the general intent and purpose of the Code and will not be injurious to the local area. The massing or the overall height of the house will not negatively impact surrounding houses. Actually, granting the variance, would allow garage to be under the house rather an attached structure removing greenspace.

- g) 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.

Satisfied; 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.

SEA LEVEL RISE AND RESILIENCY REVIEW WAIVER

Section 133-50(a) provides review criteria for compliance with the City's recently adopted sea level rise and resiliency criteria.

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

- *A recycling plan will be provided as part of the submittal for a partial/total demolition permit to the building department.*

- (ii) Windows that are proposed to be replaced shall be hurricane proof impact windows.

- *The windows and glass balcony system will be hurricane impact windows.*

- (iii) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

- *Passive cooling systems, such as operable windows and balcony doors, may be installed as appropriate.*

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

- *All new landscaping will consist of Florida friendly plants.*

(v) 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.

- *The Project is designed to activate the pedestrian streetscape with a pedestrian path around the Property. To build the proposed building to BFE plus 5 feet would require significant ramping and would disrupt the pedestrian connectivity and experience with the ground floor active uses designed for the Project. The Applicant will work with staff to address future SLR predictions and resiliency improvements.*

(vi) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.

- *The Project is designed with future public right of way/street raising taken into consideration so that the ground floor spaces will not require significant revision at such time.*

(vii) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation with room to raise.

- *Where feasible, mechanical and electrical systems will be located above BFE. Any such facilitates located below BFE will be floodproofed in accordance with Florida Building Code requirements.*

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

- *N/A.*

(ix) 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 54 of the City Code.

- *N/A*

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

- *Is being done pursuant to code requirements.*

CONCLUSION

The Applicant is requesting the approval of the house as described in the Project and the variance of 1' for height, to allow for clearance in the understory below the first habitable floor. Based on the foregoing, we respectfully request your favorable consideration of this Application.

Very truly yours,

GREENBERG TRAURIG, P.A.

By: _____

Alfredo J. Gonzalez