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VIA ELECTRONIC AND HARD COPY SUBMITTAL

February 13, 2023

Michael Belush, Chief of Planning and Zoning
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: **ZBA22-0144** – Board of Adjustment Approval for
Variance for the Seawall Height at Property Located at
800 Lakeview Drive, Miami Beach, Florida 33140

Dear Michael:

This law firm represents Ariel and Lilliam Furst (the "Applicants"), the owners of the property located at 800 Lakeview Drive (the "Property") within the City of Miami Beach (the "City"). Please allow this letter to serve as the letter of intent in connection with a request to the Board of Adjustment ("BOA") for approval of a variance for a proposed seawall height of 5.56' NGVD bordering a property with an existing home constructed in 1938, and with an existing seawall with height of 3.56' NGVD.

Property Description. The Property consists of one parcel of land identified by the Miami-Dade County Property Appraiser's Office by Folio No. 02-3222-022-1360. See Exhibit A, Property Appraiser Summary Report. The Property contains a two-story single-family residential structure constructed in 1941 and designed by notable architect Roy France. See Exhibit B, Building Card. The Property is located within the RS-3, Single Family Residential Zoning District. See Figure 1, below.



Figure 1.

The existing home has a low finished floor of only 6.46' NGVD and at the rear of the home the Applicants have a pool and associated pool deck at lower elevation than the existing home, at approximately 5.46' NGVD. The rear yard beyond slopes down to the same elevation of the existing seawall at 3.56' NGVD so the seawall does not obstruct views of the waterway from either the pool, pool deck or ground floor of the home. The Applicants' seawall is in need of repair and they want to add a modest dock.

Proposed Seawall and Dock. The Applicants propose to construct a dock and rebuild the existing seawall to a new height of 5.56' NGVD bordering a property with an existing home constructed in 1941, and with an existing seawall with height of 3.56' NGVD (the "Project"). The proposed seawall design will increase the current seawall height by two feet and the width by 18 inches, and add concrete piling and lime rock rip-rap ranging in size from 12 inches to 36 inches to be placed along the face of the new seawall along the entire property shoreline. The new seawall will be able to be added onto in the future to achieve a height of 7.26' NGVD. Notably, the new seawall will support the future raising of the cap by 1.7' more to 7.26' NGVD, the height required when a new home is built. The Applicant are maintaining the existing home and only doing work on the seawall and dock. The proposed Brazilian hardwood dock will extend out 6 feet and have an area of 380 square feet. The Applicants' goal is to improve the resiliency of the Property in a

manner that protects the existing 1941 structure and maintains current use and enjoyment of the Property, despite the fact that the proposed higher seawall will now be visible from the rear yard, pool, pool deck and inside the home.

The Applicants have already submitted for building permit at the City and for a Class I permit from DERM, along with associated agency permits, The Applicant obtained preliminary approval of the Class I permit plans from DERM on November 9, 2022.

Variance Request. The Applicants seek the following variance:

1. A Variance of Code Section 54-62(a) to permit a seawall with a height of 5.56' NGVD where a height of 7.26' NGVD is required.

The Applicants respectfully request Board of Adjustment approval to provide a new seawall with a height of 5.56' NGVD where a height of 7.26' NGVD is required. The Code allows seawalls at 5.56' NGVD in cases where the costs for the seawall is minimal. Unfortunately, due to the length of the seawall and today's construction costs, the Applicants' proposal does not meet the exemption. However, the Applicants do not propose any renovations to the existing home nor to the accessory uses in the rear yard. The home has a low finished floor elevation of only 6.46' NGVD and an accessory pool deck and pool at only 5.46' NGVD. Raising the seawall to 7.26' NGVD means that a sizeable wall of approximately 3.7' will border the rear of the property and extensively block all views of the waterway from the home and pool deck. The Applicants' proposal raises the wall to the minimum in the Code, 5.56' NGVD, which results in a much smaller intrusion on the view with only a 2' wall.

The intent of the Code for raising seawalls to 7.26' NGVD is to provide resiliency when a new home is built or substantially renovated to an existing home. In both cases, just as the seawall is raised, so too are the finished floor of the home and the yards. The minimum landward increases in elevations are actually higher than the required minimum for the seawall and thus do not result in any wall condition being located along the waterfront. The minimum finished floor for this Property would be 9' NGVD, which is 2.5' higher than the existing home. When raising the seawall from the proposed 5.56' NGVD to 7.26' NGVD, a 1.7' difference, this means that a new home would be more than three-quarters of a foot higher than the top of the seawall and not create any wall condition.

Making the Applicants provide the full height of the seawall now when they are keeping the existing home is also counter to the Code's intent of preserving older homes, which the Applicants are doing here. While not proposing any work now, they could

exercise incentives in the Code for adding on to the existing home without having to raise the structure. The lower minimum height for seawalls, 5.56' NGVD, is suitable for maintaining an existing home. Further, the proposed seawall will support raising by 2' more to 7.26' NGVD whenever a new home is built or substantial renovations to the existing require it to be raised.

The Project's design complies with the current City of Miami Beach Code of Ordinances (the "Code") requirements for private docks. The Applicant's proposal complies with the RS-3 land development regulations.

Satisfaction of Hardship Criteria. The variance requested satisfies the hardship criteria pursuant to Section 118-353(d) of the City Code, 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;

There are special conditions and circumstances that exist which are peculiar to the land and uses. The Applicants have a challenging site because the existing structure, was first built in 1941 with a finished floor elevation of 6.46' NGVD, and a pool was built at an elevation of 5.46' NGVD, both substantially preceding the Applicants' purchase of the Property. The Project aims to protect the existing 82-year-old home by raising the seawall height by two feet, which while resilient will now be visible from everywhere in the rear. These special conditions create the necessity to build a seawall at the proposed height of 5.56' NGVD to maintain the current level of enjoyment of the Property while protecting the older residential structure.

2. The special conditions and circumstances do not result from the action of the applicant;

The special circumstances, in this case, do not result from the actions of the Applicants. The Applicants purchased the Property with the existing home and pool. The Applicants had no role in the platting of the Property, the construction of the residence, the grading of the yard, or the design of the existing seawall. Building a seawall to the required 7.26' NGVD height would greatly interfere with the current use and enjoyment of the Property as such a height would rise above the floor elevation of the home and substantially obstruct the view of the waterway.

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 Code allows property owners to seek similar variances to accommodate sensitive development. The Project meets the intent of the Code because, instead of redeveloping, the Applicants want to maintain and protect the older home that sits on the Property. To that end, the Applicants should not be discouraged from improving upon the existing seawall in a manner that maintains the enjoyment of the existing structure and the pool. The proposed Project adds two feet of height to the existing seawall, for a total proposed height of 5.56' NGVD.

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;

A literal interpretation of the provisions of the land development regulations would deprive the Applicant rights enjoyed by other properties in the same zoning district. A majority of the surrounding properties facing the water have similar yards with pools, and which also have seawalls and docks comparable to the one proposed. However, neighbors who have redeveloped properties with new homes are required to raise the first floor elevation to 1 foot above BFE, which everywhere in the City and here at 9' NGVD is considerably higher than the required height of the seawall at 7.26' NGVD. In those cases, none of the neighbors will have views obstructed by the cap of the seawall. Here, there's a 2.5' foot difference in elevation of a new home and existing, but only a 1.7' difference in seawall heights, the Applicant's proposal at 5.56' versus 7.26' NGVD. This means only a new home significantly accommodates the additional seawall cap, but raising the seawall now negatively impacts the existing use and enjoyment of the home. Further, pursuant to Code Section 142-105, the minimum elevation of a property's rear yard shall be no less than 6.56' NGVD, which can only be achieved here with a seawall of 7.26' NGVD, but the Applicants are not improving the landward portion of the Property and are not required to raise the yard at this time. Thus, the proposed 5.56' seawall works with existing conditions and can be raised by 1.7' in the future when a new home is built.

Application of the 7.26' NGVD height requirement presents unnecessary hardship on the Applicants as the existing residential structure already sits at 6.46' NGVD and the pool sits at 5.46' NGVD, both considerably below the seawall requirement, resulting in a wall many feet tall at the waterway. Therefore, literal application of the requirements

would keep the Applicants from rights commonly enjoyed by neighboring waterfront properties, specifically unobstructed views of the water. This would also require the Applicants to undergo additional expenditure where they have already put forward significant effort to protect the existing structure.

5. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure

The variances sought are the minimum variances that will make possible the reasonable use of the residence, its yard, and the pool. The variance to waive 1.7' of the required seawall height is the minimum amount possible to maintain existing use of the pool, built 82 years ago, which sits at a height of 6.46' NGVD without the risk of flooding the pool during storm events. Notably, at the proposed 5.56' NGVD, the seawall will still obstruct views presently enjoyed by the Applicants. Additionally, the foundation of the proposed seawall has been designed to structurally account for a wall at the required 7.26' NGVD height. Therefore, future owners who wish to redevelop the existing structure will be able to increase the seawall height to meet the requirement at that time.

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

Granting of the variances will be in harmony with the general intent and purpose of these land development regulations and will not be injurious to the area or otherwise detrimental to the public welfare. Instead the variance is requested as part of a project that will protect the existing 1941 structure from projected sea level rise and tidal waves, a benefit that will inure to the surrounding properties and the right-of-way abutting the Property. There is minimal concern to the seawall's impact on the abutting properties, which were built in 2020 and 2021, respectively, as those properties were built with required side yard retaining walls because they were built at a higher elevation than the Property. Additionally, the proposed seawall will provide increased stormwater retention on the Property.

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 of adjustment voting on the applicant's request.

The variance requested is consistent with the comprehensive plan and will have no impact on the levels of service for the Property.

Practical Difficulty. The existing low elevations of the home (6.46'), pool deck and pool (5.46'), as well as the rear yard beyond that slopes down to the existing seawall (3.56') are long-standing existing conditions of about 82 years that present a practical difficulty in raising the seawall to 7.26' NGVD. Today, there is no obstruction of view to the waterway, but at that required height, there will be a wall approximately 3.7' along the entire waterway that will fully block views of the water from the ground floor, pool deck and pool.

The proposed height of the seawall at 5.56', while still creating a wall condition of about 2' is less obstructive and provides appropriate resilience. The only reason to raise the seawall to 7.26' NGVD is for building a new home or substantially renovating the existing because in both cases the finished floor has to be at 9' NGVD, which is significantly higher than the seawall and will not create any wall condition at the rear. The Applicants are preserving the existing home, and are under no obligation to raise it. Further, the Code provides incentives to preserve older homes and keep them at existing elevation, which the Applicants are doing here. They should not have their present use and enjoyment negatively impacted when the Code encourages such retention. The proposal allows adding on the 1.7' of height to the seawall when a new home is built, thus achieving the intent of the Code.

Sea Level Rise and Resiliency Criteria. The new home advances the sea level rise and resiliency criteria in Section 133-50(a) of the Code, as follows:

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

A recycling and salvage plan for demolition of existing portions of the seawall will be provided at permitting.

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.

If any change to landscaping, all landscaping will be Florida friendly and resilient.

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.

The Applicants have considered and are proactively addressing seal level rise projections by raising the existing seawall from a current height of 3.56' NGVD to a new proposed height of 5.56' NGVD, which can accommodate additional raising to 7.26' NGVD in the future.

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 are located above base flood elevation.

Not applicable.

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

The existing 1941 structure will remain at its current elevation of 6.46' NGVD.

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 as no work is proposed on the existing home.

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

Where feasible, water retention systems will be provided.

11. 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.

The proposed seawall and dock are designed to minimize the potential for heat island effects on the site.

Conclusion. Granting this variance application will allow for the construction of a seawall that protects an existing 82-year-old residential structure and the current use and enjoyment of the Property, and its yard and pool deck. The proposed seawall provides an additional two feet of protection from seawater than the current seawall and adds lime rock rip-rap along the face of the new seawall along the entire property shoreline. While the new wall will obstruct views of the waterway from the rear yard, pool, pool deck and inside the home, which is not the norm for seawalls behind homes, the variance prevents a substantially taller high wall at the rear of the Property that greatly blocks views of the waterway and is at odds with the Code's encouraging preservation of such older homes. The Project complies with private dock requirements and has minimal impact on abutting neighbors.

We look forward to your favorable review of the application. If you have any questions or comments, please give me a call at (305)377-6236.

Sincerely,



Matthew Amster

Attachments

cc: Jeffrey Bercow, Esq.
Alejandro Moreno, Esq.



Exhibit A OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On : 1/17/2023

Property Information	
Folio:	02-3222-022-1360
Property Address:	800 LAKEVIEW DR Miami Beach, FL 33140-2633
Owner	ARIEL FURST & W LILLIAM
Mailing Address	800 LAKEVIEW DR MIAMI BEACH, FL 33140-2633
PA Primary Zone	0800 SGL FAMILY - 1701-1900 SQ
Primary Land Use	0101 RESIDENTIAL - SINGLE FAMILY : 1 UNIT
Beds / Baths / Half	3 / 4 / 0
Floors	2
Living Units	1
Actual Area	6,222 Sq.Ft
Living Area	5,326 Sq.Ft
Adjusted Area	5,286 Sq.Ft
Lot Size	18,264.29 Sq.Ft
Year Built	Multiple (See Building Info.)



Assessment Information			
Year	2022	2021	2020
Land Value	\$3,652,792	\$2,648,219	\$2,282,718
Building Value	\$816,095	\$594,413	\$497,434
XF Value	\$31,664	\$32,077	\$32,512
Market Value	\$4,500,551	\$3,274,709	\$2,812,664
Assessed Value	\$774,904	\$752,334	\$741,947

Benefits Information				
Benefit	Type	2022	2021	2020
Save Our Homes Cap	Assessment Reduction	\$3,725,647	\$2,522,375	\$2,070,717
Homestead	Exemption	\$25,000	\$25,000	\$25,000
Second Homestead	Exemption	\$25,000	\$25,000	\$25,000

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

Short Legal Description
LAKE VIEW SUB PB 14-42 LOT 8 BLK 30 LOT SIZE 97.670 X 187 OR 16568-4297 1194 1

Taxable Value Information			
	2022	2021	2020
County			
Exemption Value	\$50,000	\$50,000	\$50,000
Taxable Value	\$724,904	\$702,334	\$691,947
School Board			
Exemption Value	\$25,000	\$25,000	\$25,000
Taxable Value	\$749,904	\$727,334	\$716,947
City			
Exemption Value	\$50,000	\$50,000	\$50,000
Taxable Value	\$724,904	\$702,334	\$691,947
Regional			
Exemption Value	\$50,000	\$50,000	\$50,000
Taxable Value	\$724,904	\$702,334	\$691,947

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
11/01/1994	\$481,000	16568-4297	Sales which are qualified
03/01/1992	\$340,000	15453-2418	Sales which are qualified
03/01/1988	\$396,000	13631-840	Sales which are qualified
07/01/1986	\$196,000	12943-3184	Sales which are qualified

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

Version:

MRS. HARRY RUBIN

Owner MRS. HARRY RUBIN Mailing Address Permit No. 16113 Cost \$ 22,600:
 Lot 8 Block 30 Subdivision LAKE VIEW Address 800 Lake View Drive
 General Contractor A. J. Miles 15131 Bond No. 2934 Exhibit B
 Architect Roy F. France Engineer 3222 22 136
 Zoning Regulations: Use RC Area 7 Lot Size fan shaped
 Building Size: Front 73'10 Depth 68'8 Height 25'0 Stories two
 Certificate of Occupancy No. Use Residence - 8 rooms - 4 baths - 2 car garage
 Type of Construction CBS Foundation Spread footing Roof Tile Date Sept. 9, 1941

Plumbing Contractor H.L. Robertson # 15828 Sewer Connection one 4" Date 9-10-41
 Temporary Closet one Date
 Laundry tray 1, Date
 Plumbing Contractor Floor Drains
 Water Closets 4 Bath Tubs 2 Grease Traps
 Lavatories 4 Showers 2 Drinking Fountains
 Urinals Sinks 1
 Gas Stoves Gas Heaters Rough Approved Date
 Gas Radiators Gas Turn On Approved
 Septic Tank Contractor Tank Size Date
 Oil Burner Contractor # 16360 - Fla Fuel Oil Co: Tank Size 275 gals Date Dec. 9-1941
 Sprinkler System Hot Water - H.L. Robertson " 15948- Oct. 7, 1941

Electrical Contractor Biscayne Electric Co. #17859 Address Date Oct. 29, 1941
 Switch 48 Range 1, Motors Fans Temporary Service #17625
 OUTLETS Light 45 HEATERS Water Biscayne- Sept. 18-1941
 Receptacles 33 Space Centers of Distribution 2, #18359- Biscayne- 1 temporary- 1-29-1942
 Refrigerators 1, Sign Outlets
 Irons 1, Date
 No. FIXTURES 55 Electrical Contractor Date
 FINAL APPROVED BY Date of Service

Alterations or Repairs—Over
 Electric # 18443-- Fla Fuel Oil Co: 1 motor- March 19, 1942 O V E R

ALTERATIONS & ADDITIONS

Building Permits: # 24586 Painting - H. W. Taylor, \$ 300.... May 24, 1947
37655 Roofing - Miami Roofing & Sheet Metal Co. \$ 360.... Dec. 10, 1951

#57985 Ray Boone Air Cond: 2 - 1 ton window air conditioners - \$400 - Dec. 1, 1958 OK 5/12/59 Flaag

#67874 Sears Roebuck and Co.: Install 1 - 2 hp air conditioners, wall units - \$400. - 8/20/62

#70658 Palmer Roofing Co.: Reroof - \$1220. - 11/26/63

#80064 Brandon Air Cond. Corp.: One 4-Ton split system - \$2400 - 4/10/68 (mont 800)

#85093 - Dock & Marine - Repair seal wall \$3,700.00 9/28/70

#87394 - Assoc. Ated Roofers - reroof 4 sq. built up \$575.00 8/18/71

#02496-Owner-paint exterior-\$250-2-6-73

#04113-Owner-Garage enclosure-utility room-\$1500-9-21-73

Plumbing Permits:

#50203-Serota Plumbing- 1 laundry tray-9-25-73

Electrical Permits:

52810 Astor Electric: 2 0-1 hp motors 10/10/

#58404 Astor Elec.Inc.: 1 cent. of dist.; 1 motor, 0-1 hp - 6/29/62

#63273 Miami Beach Electric Co.: 1 serv. equip. - 2/25/66

LOT _____ BLOCK _____ SUBDIVISION _____ ADDRESS _____

ALTERATIONS & ADDITIONS

Building Permits:

12-11-80/#19404/nyon tent fumigation/Orkin Extermination/\$1,087

#23692 4/13/83 Truly Nolen fumigation \$600.

#MO8332 8/8/86 Pan Am Air Cond - 3-5 kw central heat, 8 ton air cond central

Plumbing Permits:

Electrical Permits:

LOT _____ BLOCK _____ SUBDIVISION _____ ADDRESS _____

ALTERATIONS & ADDITIONS

Building Permits:

6/16/81 - #20421 - Atlantic Roofing - Remove existing tile roof & replace with new tile - \$1,500.00

Plumbing Permits:

Electrical Permits: