

# PETER P. LURIA

VIA ELECTRONIC SUBMITTAL

April 10, 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: ZBA23-0150 - Variance Requests for the Property Located at 1800 W 23 Street, Miami Beach, Florida

Dear Michael:

My wife, Pam and I (the “Applicants”) are the owners of the property located at 1800 W 23 Street (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 6.06’ NGVD bordering a property with an existing home constructed in 1936, and with an existing seawall with height of 3.86’ NGVD, and a rear setback variance for an open-sided Trellis on the pool deck.

Property Description. The Property consists of one parcel of land identified by the Miami-Dade County Property Appraiser’s Office by Folio No. 02-3228-001-1710. See Exhibit A, Property Appraiser Summary Report. The Property contains a two-story single-family residential structure constructed in 1936. The Property is located within the RS-3, Single Family Residential Zoning District. The legal description is Sunset Island No 3 PB 40-8 W1/2 Lot 6 & All Lot 7 BLK 3H Lot Size 112.500 x 175’. The total lot size is 19,688 SQ FT.

The existing home has a low finished floor of only 6.16’ NGVD and at the rear of the property, the pool and associated pool deck are approximately 5.70’ NGVD. The rear yard beyond slopes down from the pool deck to an elevation slightly lower than the existing seawall to 3.76’ NGVD. The existing pool and pool deck are actually slightly higher than the existing seawall so the existing seawall does not obstruct views of the waterway from either the pool, pool deck, rear yard or ground floor of the home. The seawall and dock are in need of repair.

Proposed Seawall and Dock. The Applicants propose to construct a new seawall and dock to a new height of 6.06' NGVD bordering a property with an existing home constructed in 1936., and with an existing seawall with a height of 3.86' NGVD (the "Project"). The proposed seawall design will increase the current seawall height by two feet and the width be 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 and under the new dock along the entire property shoreline. The new seawall is designed for future elevation of 7.26' NGVD, the height required when a new home is built. The goal is to improve resiliency of the Property in a manner that protect the exiting 1936 structure and maintains current use and enjoyment of the Property for the Applicants, despite the fact that the proposed higher seawall will now be visible from the rear yard, pool pool deck and inside the home.

Variance Request. We seek the following two variances:

1. Rear Setback Variance Request to permit an open-sided Trellis.
2. A Variance of Code Section 54-62(a) to permit a seawall with a height of 6.06' NGVD where a height of 7.26' NGVD is required.

The proposed Trellis is 10' x 20' and is open on all four sides. Its height is 10'. The existing pool patio is 5.70' NGVD. In comparison, the height of a first floor elevation for a new house could be as high as 13.0' NGVD. The waterway directly to the rear is 100' wide. The Applicants are constrained by the existing house and pool layout. The Applicants are not requesting any side variance.

The open sided Trellis will not have a negative impact on either of the neighbors abutting the Property. There is a 30' tall hedge of Podocarpus trees running along the entire rear east side property line extending all the way down to the waterway. This will hide the trellis from the nearest neighbor directly to the east of the Property. The Property consists of 1.5 lots with a total width of 112.50'. The neighbor directly to the west is approximately 80' away from where the proposed trellis will be situated. The width of a standard lot along the water on Sunset Island 3 is 75'. The trellis will be situated at a greater distance than the width of the entire lot of the neighbor directly to the west. In addition, there is an approximately 12' tall Radermachera hedge and various trees along the rear west side of the property also extending all the way down to the waterway that will block its view.

While the proposed Trellis will be hidden from the neighbors, it will however, allow the Applicants the enjoyment of being able to sit out by the pool and waterway while avoiding any unnecessary exposure to the sun. The Applicants both have a history of skin cancer.



The Applicants also respectfully request the Board of Adjustment approval to provide a new seawall with a height of 6.06' NGVD where a height of 7.26' NGVD is required. The current Ordinance No. 2021-4393 allows seawalls at 5.56' NGVD in cases where the costs for a seawall is minimal. Unfortunately, due to the length of the seawall and today's construction costs, our proposal does not meet the exemption.

In 2019, the Applicants contracted Cummins Cederberg, a coastal and marine engineering firm, to design a new seawall and dock in order to protect the Property from the effects of sea-level raise. The proposed seawall was designed at 6.06' NGVD. The Applicants started this project before the current Seawall Ordinance existed. At that time, the Applicants were above the required minimum by 1/2 ft. The current Ordinance did not go in effect until 1/23/2021 or approximately 16 months after the Applicants began their project.

In 2020, everything was pretty much shutdown because of Covid including DERM's inspections. The Applicants finally received DERM's preliminary approval at the end of 2021. After receiving DERM's preliminary approval, the Applicants then needed the Army Corps of Engineers (USACE) approval. The USACE completed its review on 3/03/2023. During the period between the start of the Project (2019) and getting the Gov't approvals (2023), the City revised the height ordinance for all seawalls regardless of whether it was for a new home with a higher first floor elevation requirements or an existing 1936 house like the Applicants.

Raising the seawall to 7.26 NGVD means that a sizable wall of approximately 3.5' 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 above the minimum in the Code, 6.06' NGVD, which results in a smaller intrusion on the view with only a 2.3' wall. The existing neighbors on either side of the Property currently have higher seawalls than the Applicants but the Applicants seawall will be higher than either adjacent neighbor when completed.

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 increase 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 2.84' higher than the existing home.

Making us provide the full height of the seawall now when we are keeping the existing home is also counter to the Code's intent of preserving older homes, which is what we are doing. While not proposing any work now, the Applicant could exercise incentives in the Code for adding on to the existing home without having to raise the structure. The lower minimum height for a seawall, 5.56' NGVD, is suitable for maintaining an existing home.

Further, the proposed seawall will support the future raising by 1.2' more to 7.26' NGVD whenever a new home is built or substantial renovations to the existing house require it to be raised. The Applicants proposed seawall is 6.06' NGVD or 1/2 ft above the minimum.

The Project's design complies with the current City of Miami Beach Code of Ordinances (the "Code") requirements for private docks. The Applicants 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 of the existing structure, was first built in 1936 with a finished floor elevation of 6.16' NGVD and a pool and pool deck that was built at an elevation of 5.70' NGVD, both substantially preceding the Applicants purchase of the Property. The Project aims to protect the existing 87-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 6.06' 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 districts.**

The Code allows property owners to seek similar variances to accommodate sensitive developments. 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 6.06' NGVD.

**4. Literal interpretation of the provisions these lands development regulations would deprive the applicant 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 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 is 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 2.84' foot difference in elevation a new home and existing, but only a 1.2' difference in seawall heights, the Applicant's proposal at 6.06' NGVD 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 the 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 and not improving the landward portion of the property and are not required to raise the yard at this time. Thus, the proposed 6.06' seawall works with the existing conditions and can be raised by 1.2' 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 6.16' NGVD and the pool and pool deck sits at 5.07' NGVD, both considerably below the seawall requirement, resulting in a wall many feet tall at the waterway. Therefore, literal application the requirements would keep the Applicants form 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. or structure

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

The variances sought are the minimum variances that will make possible the reasonable use of the residence, its yard, and the pool. Notably, at the proposed 6.06' NGVD, the seawall will still obstruct views presently enjoyed by the Applicants. Additionally, the foundation 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;**

Granting the variances will be in harmony with the general intent and purpose of these land development regulations and will not be injurious to the aerator otherwise detrimental to the public welfare. Instead the variance is requested as part of a project that will protect the existing 1936 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. 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 the 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 variances 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 (6.16'), pool deck and pool (5.70'), as well as the rear yard beyond that slopes down to the existing seawall (3.86') are long-standing existing conditions of about 87 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 the required height, there will be a wall approximately 3.3' along the entire waterway that will fully block views of the water from the ground floor and pool.

The proposed height of the seawall at 6.06', while still creating a wall condition of about 2.3' 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 9' NGVD, which is significantly higher than the seawall and will not create any wall conditional 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 the existing elevation, which the Applicants are doing here. They should not have their present use and enjoyment negatively impacted when the Code encourages retention. The proposal allows adding on the 1.2' 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 and pool deck will be provided at permitting.

**2. Windows that are proposed to be replaced shall be hurricane proof impact window.**

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 changes 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 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 sea level rise projections by raising the existing seawall from a current height of 3.86' NGVD to a new proposed height of 6.06' 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 electric 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 1936 structure will remain at its current elevation of 6.16' NGVD.

**9. When habitable space is located below 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.**

Not applicable.

**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 each project shall minimize the potential for heat island effects on the site.**

The proposed seawall, dock and open sided Trellis are designed to minimize the potential for heat island effects on the site,

Conclusion. Granting the variance application will allow for the construction of a seawall that protects an existing 87-year-old residential structure and a trellis for 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 a new wall will obstruct views along the waterway from the rear yard, pool 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) 321-3201.

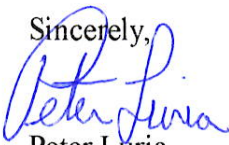
Sincerely,  
  
Peter Luria





Exhibit A

## OFFICE OF THE PROPERTY APPRAISER

## Summary Report

Generated On : 4/5/2023

Property Information	
Folio:	02-3228-001-1710
Property Address:	1800 W 23 ST Miami Beach, FL 33140-4521
Owner	PETER LURIA & W PAM
Mailing Address	1800 W 23 ST MIAMI BEACH, FL 33140-4521
PA Primary Zone	0800 SGL FAMILY - 1701-1900 SQ
Primary Land Use	0101 RESIDENTIAL - SINGLE FAMILY : 1 UNIT
Beds / Baths / Half	5 / 4 / 0
Floors	2
Living Units	1
Actual Area	6,747 Sq.Ft
Living Area	6,062 Sq.Ft
Adjusted Area	5,972 Sq.Ft
Lot Size	19,688 Sq.Ft
Year Built	Multiple (See Building Info.)



Assessment Information			
Year	2022	2021	2020
Land Value	\$8,268,960	\$5,891,634	\$5,512,640
Building Value	\$899,532	\$653,672	\$658,860
XF Value	\$45,487	\$48,736	\$48,984
Market Value	\$9,213,979	\$6,594,042	\$6,220,484
Assessed Value	\$1,259,611	\$1,217,120	\$1,200,316

Benefits Information				
Benefit	Type	2022	2021	2020
Save Our Homes Cap	Assessment Reduction	\$7,954,368	\$5,376,922	\$5,020,168
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	
SUNSET ISLANDS-ISLAND NO 3 PB 40-8 W1/2 LOT 6 & ALL LOT 7 BLK 3H LOT SIZE 112.500 X 175 OR 16160-2519 1193 2	

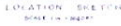
Taxable Value Information			
	2022	2021	2020
County			
Exemption Value	\$50,000	\$50,000	\$50,000
Taxable Value	\$1,209,611	\$1,167,120	\$1,150,316
School Board			
Exemption Value	\$25,000	\$25,000	\$25,000
Taxable Value	\$1,234,611	\$1,192,120	\$1,175,316
City			
Exemption Value	\$50,000	\$50,000	\$50,000
Taxable Value	\$1,209,611	\$1,167,120	\$1,150,316
Regional			
Exemption Value	\$50,000	\$50,000	\$50,000
Taxable Value	\$1,209,611	\$1,167,120	\$1,150,316

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
11/01/1993	\$1,325,000	16160-2519	Deeds that include more than one parcel
12/01/1983	\$550,000	11993-2536	Other disqualified

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:





ISLAND NO. 1

MIAMI BEACH.      DADE COUNTY, FLA

For a certificate  
concerning the  
boundary line, of  
Block 2-H of Island  
No. 2. See Book  
2141, Page 333.  
E. B. Charleston - Clerk  
by W. B. Lord & C.