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VIA ELECTRONIC SUBMISSION AND HARDCOPY

October 10, 2017

Thomas Mooney, Director
Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: Board of Adjustment Application for a Variance of Setbacks and Open
Space the Property located at 1831 West 23rd Street, Miami Beach

Dear Tom:

This law firm represents David Haber, Trustee (the "Applicant"), the owner of the above-referenced parcel, located at 1831 West 23rd Street (the "Property"). Please consider this letter the Applicant's hardship letter for several setback variances, a yard elevation variance and an open space variance required to permit a new pool and car port on the Property.

The Property. The Property is located in the Single Family Residential District 3 (RS-3) and is approximately 10,941 square feet in size, with an existing two (2) story single-family residence constructed upon it. The Property is identified by Miami-Dade County Folio No. 02-3228-001-1620. The residential structure on the property was originally constructed in 1937. The home recently underwent a modest redevelopment whereby the Applicant opted to enhance and preserve the pre-1942 architecturally significant home, in lieu of demolition and new construction.

Applicant's Proposal. The Applicant proposes replace the existing pool with a new more modern pool in the rear yard of the Property (the "Project"). Additionally, the Applicant proposes to install a new trellis structure near the entrance of the home to protect from rain and the elements. Notably, the setback requests are peculiar because while the front entrance of the home is on 23rd Street, the City considers the front of the home to be on Bay Avenue (pursuant to

the original configuration of the platted lot) and thus the actual front entrance is considered a side street for zoning review purposes.

Requested Variances. The following variances, as outlined in the Variance Data Sheet provided in the application's plans, are requested for approval of the Project:

1. A Variance of Section 142-1132(h)(1)(a) to permit a gate height of 6' 0" where 5' is the maximum permitted by right.
2. A Variance of Section 142-1132(h)(1)(b) to permit a wall height of 9'9" where 7' is permitted by right.
3. A Variance of Section 142-106(2)(c) to permit an Interior Side Setback of a wall of 4' where 10' is the minimum permitted by right.
4. A Variance of Section 142-1133(1) - Rear Yard, to permit a Swimming Pool Deck with a 5' setback where 6' is required.
5. A Variance of Section 143-1133(1) - Rear Yard, to permit a Swimming Pool to the Water's Edge with a 6' 5" setback where 7' 6" is required.
6. A Variance of Section 142-1133(2) - Side Yard (Interior), to permit a Swimming Pool Deck with a 5' 0" setback where 7' 6" is required.
7. A Variance of Section 142-1133 (2) - Side Yard (Interior), to permit a Swimming Pool to the Water's Edge with a 8' setback where 9' is required.
8. A Variance of Section 143-106(2) to permit a structure (carport) with a street side setback of 4'9" where 15' is the minimum permitted by right.
9. A Variance of Section 143-106(3) to permit a structure (carport) with a rear yard setback of 5'1" where 21'6" is the minimum permitted by right.

Satisfaction of Hardship Criteria. Section 118-353(d) of the City's Code sets forth the hardship criteria for a variance request. The Applicant's request satisfies all hardship criteria 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 Applicant has an oddly shaped lot with an actual front entrance that is inconsistent with the way it was originally platted. As a result, setbacks and dimensional regulations do not apply in the same manner as most properties in the City. Furthermore, the Applicant should be commended for opting to

renovate and retain a pre-1942 architecturally significant single-family home at significant cost and expense, in lieu of simply demolishing and building a new home. The retention of this home, and the need to work around the existing site and structures, has made it challenging to locate the pool and car port structure in a manner that is satisfactory to the Applicant and complies with the Code.

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

The need for the requested variance directly results from the Property's physical condition and the location not of the existing structure.

(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;

Granting the requested variance will enable the Applicant to improve the existing Property to a manner compatible with the other homes in the neighborhood. The granting of this variance is in line with the purpose and intent of the Code and does not confer any special privilege on the Applicant.

(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 these land development regulations would work an unnecessary and undue hardship on the Applicant. The variance is being requested in order permit the Applicant to maintain the existing structure and improve the Property to be compatible with the neighborhood while allowing the Applicant to maximize the use and enjoyment of the Property.

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

Because of the limited spacing and existing location of structures on the Property, the Applicant has attempted to find the most feasible manner to locate

a pool and car port without disrupting other elements of the Property and maintaining the character of the existing home.

- (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**

This variance will not be injurious to the area or otherwise detrimental to the public welfare. The proposed pool will be compatible with the existing single-family home. The request is also consistent with the purpose, intent and welfare of the Code, and promotes the restoration and rehabilitation of existing structures.

- (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 variance requested is consistent with the City's comprehensive plan.

Practical Difficulty. The exiting conditions present practical difficulties for the Applicant's use and enjoyment of the Property. Most notably, the configuration of the existing home is inconsistent with the lot as platted, therefore the required setbacks do not apply normally to the Property. Furthermore, the Applicant has opted to preserve and enhance this pre-1942 architecturally significant home, thus requiring certain variances. Had the Applicant demolished the home, variances may not have been required.

Conclusion. The Applicant's proposal is consistent with the character of the neighborhood, as well as the intent of the Code and its design considerations. The modest setback and open space variances are required to accomplish this improvement to the Property. On behalf of the Applicant, we look forward to your favorable review. If you have any questions or comments with regard to the application, please do not hesitate to phone me at 305-377-6238.

Sincerely,



Mickey Marrero

cc: Mr. Michael Belush
Mrs. Irina Villegas