



# BERCOW RADELL FERNANDEZ & LARKIN

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## VIA ELECTRONIC FILING / HAND DELIVERY

December 8, 2017

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

Re: Fence/Wall Setback Variances for "87 Park" Development at 8701 Collins Avenue (File DRB17-0195 (Former DRB File 23129)).

Dear Tom:

Our law firm represents 8701 Collins Development, LLC (the "Applicant"), the owner of the parcel at the above-described address. Please consider this letter the Applicant's letter of intent for minor setback variances for the perimeter walls and fences for the above-referenced site (the "Property").

Property Description. The Property is approximately 83,130 square feet in size and is identified by Miami-Dade County folio number 02-3202-006-0010. The development site for the 87 Park project also includes the 87 Terrace right of way, the vacation of which has been approved by the City. The Property is very long – 458 feet from Collins Avenue to the Erosion Control Line. The Property also has significant changes in elevation – with the Collins Avenue side (where grade is measured) located at 6.51' NAVD and portions of the site located at up to 11' NAVD.

87 Park Development Approval. On March 3, 2015, the City's Design Review Board approved (through File 23129) an order (the "Design Review Order") that issued the necessary design approval for what is now known as the 87 Park project. As depicted on the approved "8701 Collins Avenue" plans, prepared by designer Renzo Piano Building Workshop and architect Kobi Karp Architecture and Interior Design, the project will consist of sixty-four (64) residential units and related amenities as well as a partially subterranean parking structure. The 87 Park plans depict the building as being 200 feet in height and 21 stories, and the total floor area as approximately 202,326 square feet. The plans also incorporate elaborate decorative plantings and masonry walls/cable fencing that will separate the public beach access points located on both the north and south sides of the Property from the development. The walls have a varying height and have been designed for

maximum safety, while limiting visual impact. The difference in grade along the length of the site, however, has resulted in the need for technical variances to allow the walls to be located along the perimeter at the requested height.

Variances. In order to realize the plan in a reasonable fashion, the Applicant is hereby requesting the approval of the following variances:

- 1) **SIDE SETBACK VARIANCE** to provide a 0' setback for the perimeter wall on the south side of the Property where 18'4" is required.
- 2) **SIDE SETBACK VARIANCE IN OCEANFRONT OVERLAY** to provide a 2'3" to 3'1" setback for the perimeter wall on the south side of the Property where 15' is required.
- 3) **FENCE HEIGHT VARIANCE IN OCEANFRONT AND DUNE OVERLAY** to permit a perimeter wall along the eastern property line to be 18' from grade where 15' is permitted (3' variance).
- 4) **SETBACK VARIANCE IN OCEANFRONT OVERLAY** to provide a 0' setback for the perimeter wall on the north side of the Property where 15' would be required.
- 5) **SETBACK VARIANCE IN OCEANFRONT OVERLAY** to provide a 9' setback for the secondary perimeter wall on the north side of the Property where 15' would be required.
- 6) **FENCE HEIGHT VARIANCE** to permit a perimeter wall on the northeast corner of the Property to be 18' from grade where 15' would be allowed.
- 7) **REAR SETBACK VARIANCE** to permit a perimeter wall to locate 0' from the rear property line.
- 8) **SUM OF THE SIDE YARDS SETBACK VARIANCE** to provide 20'2" sum of the side yards setback for the perimeter walls where 36'8" would be required.
- 9) **FENCE HEIGHT VARIANCE** to permit a perimeter wall in the southwest corner of the Property to be 16' from grade where 15' would be allowed.

Code Standards. The relevant listed standards in Section 118-353(d) are below and will be followed by a brief analysis.

- 1) special conditions exist that are peculiar to the applicant's land;

*This site is uniquely burdened by the grade at Collins Avenue and its extreme length, which has resulted in technical heights for the wall/fence that far exceed their "real world" height. The Property is allowed bordered on the south by 87 Street, which will be developed (at the Applicant's expense) as a wide pedestrian access point to the beach. So, while 87 Street technically is a street, it has a functionality much different from a typical right of way.*

- 2) the special conditions were not created by the applicant;

*The Applicant did not create the special conditions inflicted on the Property.*

- 3) granting the requested variance would not confer upon the applicant special privileges;

*The approval of the requested variances will only serve to bring the Property into parity with similarly situated sites, which have not been burdened with the size and elevation issues seen here.*

- 4) literal application of the City's standards would result in unnecessary and undue hardship;

*This Property is so uniquely impacted by the above-described issues, conditions and characteristics that it would cause unnecessary hardship on the Applicant if the variances were not approved.*

- 5) the variance would be the minimum necessary for a reasonable use of the land, building, or structure;

*The requested variance is the minimum needed to develop reasonable walls/fences for the use of the Property.*

- 6) the variance would be in harmony with the general intent of the City's regulations; and

*The approval of the requested variance would allow for the development of reasonable walls/fences for the Property that will ensure continued safety and compatibility for the Property. The City's regulations are intended to promote compatible development throughout the City. The instant application seeks approval of a viable project that is*

*compatible with its surroundings and provides significant amenities open to the general public.*

- 7) the granting of the variance would be consistent with the City's comprehensive plan and does not reduce minimum levels of service established in the comprehensive plan.

*The requested variance will keep the development consistent with the Comprehensive Plan and will not intensify the development of the land in a manner inconsistent with established levels of service.*

Practical Difficulty. The most obvious practical difficulty created by the City's fence and wall requirements as applied to the Property is that development of walls and fences that would provide adequate security is simply impossible given the height limits – as measured from the sidewalk grade. If full compliance with the setbacks and height for the variances fences and walls was required, the

Sea Level Rise and Resiliency. Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

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

*This provision is not applicable to the instant application.*

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

*The new construction will include entirely hurricane impact windows.*

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

*Operable windows are not feasible due to the nature of the development.*

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

*The Applicant will be providing abundant landscaping on the property. The Applicant's proposed landscape plan is resilient as it is comprised of native and Florida-friendly plants appropriate for the area.*

- (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 underlying project has been designed with sea level rise in mind, but this requirement is inapplicable to the instant application.*

- (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.

*This requirement is inapplicable to the instant application.*

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

*This requirement is inapplicable to the instant application.*

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

*No existing buildings will be retained.*

- (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.

*This requirement is inapplicable to the instant application.*

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

*Given the nature of the proposed development, providing a water retention system is not feasible.*

Conclusion. The Applicant is excited to bring this new development to the North Beach area. We look forward to your recommendation on our application. If you have any questions or comments, please call me at 305-377-6229.

Sincerely,



Graham Penn

cc: David Martin  
Michael Patrizio  
Curt Wyborny  
Jeff Bercow, Esq.