



# BERCOW RADELL FERNANDEZ & LARKIN

ZONING, LAND USE AND ENVIRONMENTAL LAW

DIRECT LINE: (305) 377-6236  
E-Mail: MAMster@brzoninglaw.com

## VIA ELECTRONIC SUBMITTAL AND HAND DELIVERY

September 18, 2018

James G. Murphy, Chief of Urban Design  
Planning Department  
City of Miami Beach  
1700 Convention Center Drive, 2<sup>nd</sup> Floor  
Miami Beach, Florida 33139

Re: DRB18-0322 – Design Review, Waiver and Variance Requests for the North Lot  
Located at 4354 Alton Road, Miami Beach, Florida - REVISED Letter of Intent

Dear James:

This law firm represents 4354 Alton Homes, LLC, (the “Applicant”), the owner of the above-referenced property (the “Property”). The Property is the subject of Planning Board application number PB18-0215 to split the Property into two lots – the “North Lot” and the “South Lot.” The lot split request will be heard by the Planning Board on September 25, 2018. Please allow this letter to serve as the revised letter of intent in connection with a request to the Design Review Board (“DRB”) for design review, waiver and variances for a new single-family home on the Property.

The Property. The Property is a small, irregular-shaped corner lot comprised of approximately 6,030 square feet, and is currently vacant. Located just north of Mount Sinai Medical Center and west of Alton Road, the Property is in the RS-4, Single Family Residential Zoning District. The Property is identified by Miami-Dade County Folio No. 02-3222-011-1430.

Description of Proposed Development. The Applicant proposes to construct an exquisitely-designed, modern two-story residence with grey wood cladding panels on the first floor elevations and black accents framing the doors, windows, and second floor eyebrow. The proposed home is low-scale and designed around the dual frontages and existing landscaping. When viewed from Alton Road, the home is setback significantly,

and the vehicular and pedestrian entrances are on West 44 Street, which is the more appropriate neighborhood roadway as opposed to the main thoroughfare of Alton Road. A pool and pool deck will be located on the interior side of the rear yard. The landscaping is purposefully designed to incorporate the existing trees and will include a variety of palms and shrubs. The additional tree locations are purposefully placed on the perimeter of the Property in order to frame the dual frontages and provide privacy between the homes to the west and south. The Applicant will also maintain and expand the existing hedge at the rear property line for additional privacy for the home to the west.

The proposed new home complies with the City of Miami Beach Code (the "Code") requirements for height, unit size, and lot coverage. The height of the home is 24', which is within the maximum height for a flat roof. The size of the proposed home is approximately 2,924 square feet (48% of the lot size), which is below the allowable 50% unit size limit. The lot coverage is approximately 26%, which is considerably below the 30% permitted. In order to create a modestly sized home on this particular Property requires certain minimal waiver and variance requests.

Waiver Request. The Applicant respectfully requests DRB approval of the following waiver:

1. Code Section 142-105(b)(4)c., to permit 87% second floor volume where 70% maximum is permissible.

The intent of the second floor area volume requirement is to reduce the scale and massing of the second story portion of the homes in the single-family zoning districts. The Applicant has very effectively addressed the intent of the Code in the design. The liberal east and north side setbacks reduce the scale and massing of the home along the dual frontage property lines. The proposed home will only have a modest increase over the preferred two-story volume amount and the home is appropriately designed to reduce the two-story elevation. The home will only be 1 foot above Base Flood Elevation, where up to 5 feet is allowed. Further, the variation in materials and color between the first and second floors facades provides visual break to the massing of the home. In addition, the purposeful placement of the lush landscaping will screen the home from rear and south side abutting neighbors. Therefore, the entire design significantly reduces the size of the home and matches the character of the neighborhood. The intent of the Code will be accomplished in the proposed design.

Variance Requests. The Applicant's proposal substantially complies with the single-family home regulations, including lot coverage, unit size, and height. The variances requested are minor and do not contradict the intent of the Code. In order to

fully realize its development and due to the Property's confining characteristics, the Applicant requests the following variances:

1. A variance of Code Section 142-106(2)c., to permit the south interior side setback to be 7'-6" when 10' is required ("Variance 1"); and
2. A variance of Code Section 142-106(2)a., to permit the sum of the required side yards at 22'-6" when 25'-0" is required ("Variance 2").
3. A variance of Code Section 142-1132(g), to permit parallel parking spaces in the driveway setback 0' from the north property line when 5' is required ("Variance 3").

Satisfaction of Hardship Criteria. The Applicant's requests satisfy 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;**

In order to conform to the original platted lot lines, the result is a narrow, irregularly-shaped, corner lot. The irregularly-shaped lot, combined with non-parallel side property lines, and the dual frontage conditions create a challenge in laying out the home and parking. Further, the platted lot has a 60' lot frontage, which would otherwise allow a 7.5' side setback. However, when taken at the 20' front setback, the lot width increases minimally to 60'-6", which mandates a 10' side setback that is more akin to a lot of 100' width. In essence, a 6" exceedance at the 20' setback line requires a 2.5' additional setback. This is a special condition that is peculiar to this lot. The minor encroachment into the south side setback does not result in a larger home, as mentioned, the home is smaller with regards to lot coverage and unit size than what is permitted in the RS-4 zoning district. The minor reduced south side setback is necessary in order to accommodate an appropriate driveway length on the north side of the Property.

The slight encroachment into the interior side setback occurs for less than 30% of the Property's length. With regards to Variance 2, the Property width at the 20' setback is 60'-6", which is only slightly above the threshold for the larger side setbacks, and is a corner lot which requires the home to be further setback. If the lot were 100' wide, the additional setbacks would not be as cumbersome as with this practically 60' narrow lot. Additionally, the sum of the side yards provided is much greater than 25% of the lot width. Therefore, the encroachment of 4'-6" for

only 28'-6" of the Property's length is minor and essential in order to accommodate the north side setback and driveway, within the irregularly-shaped corner lot.

Regarding Variance 3, the Property is a corner lot on the main thoroughfare of Alton Road in the east and a neighborhood road only 1 block long in the north. Although the front of the Property faces Alton Road, the only appropriate and safe location for a driveway is in the north. The narrow lot excessively restricts placement of a driveway with 2 parking spaces in the north. The home complies with the required 15' setback facing W 44 Street, but the narrow lot cannot accommodate 18' long perpendicular parking spaces.

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

The Applicant is returning the Property to its originally platted condition. The Property's narrow, irregularly-shaped lot, non-parallel side lot lines with 60' lot frontage at Alton Road but 60'-6" at front setback line and dual frontages are existing conditions and do not result from the action of the Applicant. The neighborhood is comprised of a variety sized homes and lots. Specifically, the block South of West 44 Street and between North Bay Road and Alton Road is a large curved block. The irregular-shaped block created the irregularity of this particular Property when the area was originally platted. The conditions are not the result of the Applicant.

**(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 other similarly situated property owners to seek similar variances to accommodate development and allow for the construction of certain features, especially on irregular lots with dual frontages that follow the original platted condition. As previously stated, the homes and lots in this area of the City vary greatly. At the 20' setback, the lot is 60'-6", which is only slightly over the threshold for the larger setback requirements. Additionally, the frontage on West 44 Street requires the home to be further setback and the design complies. The provided side setbacks are significantly larger than 25% of the lot width. The driveway and parking are setback significantly from Alton Road for safe access and W 44 Street is only 1 block long with just 4 homes, 2 on each side. Therefore, the design and placement of this home and its parking complies with the purpose and intent of the Code, as well as conforms to the variety of lots and homes in the neighborhood. Therefore, granting of this slight encroachment into an interior

setback for a minimal portion of less than 30% of the property length and open air parking in the required side yard facing a street do 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;**

The home substantially complies with the land development regulations with regards to unit size, lot coverage, and height requirements for homes in the RS-4 zoning district. A literal interpretation of the provisions of these land development regulations, specifically treating what is essentially a 60' lot as a 100' lot, would force the Applicant to build a much smaller structure than what is permitted. The slight deviation from the land development regulations is necessary to construct a viable home, with certain amenities and safe parking in the north setback area, for its residents. The required 18' driveway length on the north side of the Property would not accommodate a vehicle for the homeowner, and the home would be significantly smaller. As a result, the Code would deprive the Applicant of the right to build what is enjoyed by other properties and would work an unnecessary and undue hardship on the Applicant.

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

The sliver of the home that encroaches into the south side setback is the minimum necessary to make reasonable use of the land. This encroachment occurs because of the narrow and irregularly-shaped lot with non-parallel lot lines, and is necessary in order to provide a modestly-sized home with a design that is sensitive to the dual frontages and the abutting neighbors. With regards to Variance 2 specifically, the sum of the provided setbacks are greater than 25% of the lot width, and only a portion of the home encroaches into the south side setback. Concerning Variance 3, the home complies with the 15' side yard facing W 44 Street in the north and the Applicant proposes open air parking on the driveway, not any structure that would increase the scale and massing of the home. The circular drive on this very short neighborhood road, as opposed to the very busy Alton Road, allows for good visibility when entering and leaving the property to ensure safe conditions.

- (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**

The residence and its parking will be in harmony with the surrounding properties, and aims to further the intent and purpose of the land development regulations. The home fully complies with setbacks for a 60' lot and complies with the larger north setback regardless of lot width. Further, the sum of the side yards exceeds 25% of this narrow lot. The entrance to the home will be off of West 44 Street, which has significantly less traffic than Alton Road and is therefore safer. This street is only 1 block long with 4 abutting homes, 2 on each side, and it connects to North Bay Road in the west, which parallels Biscayne Bay. Therefore this street is not well-traveled. The circular drive will allow for great visibility when entering and leaving the Property. The lush landscaping frames the front of the home and provides sufficient buffers between the west and south abutting neighbors. Additionally, the home's low-scale design, and the architectural design is sensitive to the neighbors.

- (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 requests are consistent with the City's comprehensive plan and do not reduce the levels of service as set forth in the plan.

Practical Difficulty. The irregular-shaped narrow lot with non-parallel lot lines and dual frontage conditions as platted, especially with a frontage of 60' but a lot width of 60'-6", represent practical difficulties inhibiting the Applicant from meeting all of the land development regulations. The additional setback on the north side setback, with which the Applicant complies, and the abnormally larger south setback that treats the lot as if it were 100' wide, create a challenge in providing a suitable home on the Property. The proposal does not maximize lot coverage and the slight encroachment in the south does not increase the scale of the home, and will permit the residence certain amenities, including an appropriate driveway. The parking area is much better suited in the north on a very limited neighborhood roadway as opposed to the main thoroughfare of Alton Road, and the circular drive allows for great visibility when entering and leaving the

Property. The Applicant's proposal satisfies the intent and purposes of the Code to provide a modestly-sized home that is compatible with the neighborhood.

Sea Level Rise and Resiliency Criteria. The proposed project advances the sea level rise and resiliency criteria in Section 133-50(a) as follows:

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

The Applicant will provide a recycling or salvage plan during permitting.

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

The windows on the new home will be hurricane-impact.

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

Operable windows will be provided on the new home.

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

The Applicant's proposed landscape plan is resilient as it will be comprised of native and Florida-friendly plants, including trees and shrubs that are compatible with 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 Applicant proposes the new structure to have a finished floor elevation at 9 feet NGVD, one foot above the Base Floor Elevations (BFE).

- (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.**

The Applicant proposes a finished floor elevation of 9 feet NGVD, with appropriate ramping from the street to the parking area and entrance to the home that will be compatible to future raising of public right-of-ways and adjacent land.

- (7) **Where feasible and appropriate. All critical mechanical and electrical systems are located above base flood elevation.**

All critical mechanical and electrical systems will be located above BFE.

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

Not applicable as the Property is vacant and the Applicant proposes a new home at BFE +1'.

- (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.**

No habitable space is located below BFE.

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

The Applicant has engaged the services of an engineer to analyze and provide an appropriate drainage plan for the Property. Accordingly, a water retention system will be implemented.

Conclusion. Granting this design review application and associated waiver and variances will permit the development of a beautifully-designed modern single-family home that is compatible with the surrounding neighborhood. We look forward to your favorable review of the application. If you have any questions or comments in the interim, please give me a call at 305-377-6236.

Sincerely,

Handwritten signature in blue ink that reads "Emily Ky Balt" with "for" written below it.

Matthew Amster

cc: Michael W. Larkin, Esq.  
Emily K. Balter, Esq.