



ZONING, LAND USE AND ENVIRONMENTAL LAW

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September 8, 2024

VIA ELECTRONIC SUBMITTAL

Rogelio A. Madan, AICP
Development & Resiliency Officer
City of Miami Beach Planning Department
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: Variances for Proposed Accessory Structures at the
Property Located at 5821 Pine Tree Drive, Miami Beach

Dear Mr. Madan:

This law firm represents Jason and Renee Greenberg (the "Applicants"), owners of the property located at 5821 Pine Tree Drive (the "Property"). Please allow this letter to serve as the letter of intent in connection with a request to the Board of Adjustment for approval of setback related variances for proposed accessory structures to an existing architecturally significant home.

Property Description. The Property is generally located on eastern side of Pine Tree Road along Indian Creek. The Miami-Dade County Property Appraiser identifies the Property with Folio No. 02-3211-014-0260. See Exhibit A, Property Appraiser Summary Report. The Property contains a two-story home built in 1935 with 154 feet of waterfront, a dock, a pool and a secondary structure built in 1997.

According to the Official Zoning Map of the City, the Property is located within the RS-3, Single Family Residential Zoning District. The surrounding uses are also single-family residential homes. The Property is not located within a local or national historic district. However, based on the style of the existing home, the City's Planning Department has

studied and classified it as Architecturally Significant. See Exhibit B, Determination of Architectural Significance.

The existing home was constructed in 1935 by Berry & Son and designed by the architects John & Coulton Skinner, and Jorgensen & Schreffler Engineers in the Mediterranean Revival Style of architecture. The Planning Department explains that the exterior of the structure is recognizable as an example of the Mediterranean Revival Style and the massing of the home remains nearly intact. Additionally, several exterior architectural details of the Mediterranean Revival Style remain intact. Some of these details include sloped roofs with Spanish tiles, exposed wood bracket eaves, arched openings, cupolas adorning the garage roof and the residential/stair tower, crenelated brick detail along the frieze of the garage and the stair tower, as well as brick detailing along the rounded garage openings and applied stucco detailing on gabled ends and the chimney towers. The home also features detailed ironwork that adorn balconies and openings.

Section 7.2.2.4 of the Resiliency Code provides a summary of incentivizes for the retention of single-family homes located outside of historic districts. First, the construction of a ground floor addition of more than one story is allowed to follow the existing interior building lines, provided a minimum side setback of five (5) feet is met, and may be approved administratively. Additionally, habitable additions to architecturally significant structures may project into a required rear or side yard for a distance not to exceed 25% of the required yard, up to the following maximum projections:

- Interior side yard: 5'
- Street side yard: 7'-6"
- Rear yard: 15'

The Applicants love the style of architecture of their home. Their goal with this Application is to preserve it to the greatest extent possible and make necessary additions that will add value to the Property.

Proposed Development. The Applicants are proposing to renovate the rear yard, with a new pool, pergola, and construct two (2) accessory structures, while maintaining the architectural integrity of the Property. To maintain the recognizable exterior and the architectural integrity of the home, the proposed additions to the home are planned as detached accessory structures. The estimate cost for the new structures is approximately \$200,300.00. Including the proposed additions, the Property is substantially in compliance with the applicable land development regulations. Specifically, the proposed lot coverage is 23.75%, when 30% maximum is permitted, and the proposed unit size is

33.17%, when 50% maximum is permitted. The proposed accessory structures encroach minimally upon the interior north and south side setbacks, which results in a minor deficiency of the required sum of side yard setbacks.

Variance Requests. In order to maintain the architectural integrity of the main home and include sensitive accessory structures additions, the Applicants are seeking the following deviations from Section 7.2.2.3(b)(1) of the Resiliency Code:

1. A variance of the minimum required side yard setback of 15' in order to construct a two-story guesthouse in the rear yard with a south side setback of 8'-8".
2. A variance from the minimum required side yard setback of 15' in order to construct a one-story structure with a north side setback of 10'-0".
3. A variance from the sum of the required side yard setback of 25% of the lot width, 37'-8", in order to construct the two accessory structures resulting in a sum of side yard setbacks of 18'-8".

Variance Criteria. The side yard variances are requested pursuant to the hardship variance criteria provided within Chapter 2, Article VIII, Subsection 2.8.3 of the Resiliency Code. Each criterion is satisfied as described below.

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 that are peculiar to this land and structures involved. The Property has dual frontage, on Pine Tree Drive and Indian Creek, and is three times the size of a typical RS-3 zoned property. The design of any proposed new home or additions must take into consideration the dual frontages. Also, the size of the home requires a larger sum of the side yard setbacks than the surrounding properties. Based on the large lot size, the Applicants could build a significantly larger main home. The existing north side setback is nonconforming at 7'-8". Therefore, based on the provisions to incentivize the retention of single-family homes located outside of historic districts, an attached addition could be approved administratively. However, that would require partial demolition of the home.

Additionally, the existing home is significantly below the maximum permitted lot coverage and unit size, as well as being classified as architecturally significant. To

maintain the specific characteristics of the Mediterranean Revival architectural style the Applicants are not making irreversible modifications that might render the structure unrecognizable. Changing the shape of the massing would change the nature of the front yard courtyard, and threaten the integrity of the architectural consistency. Building detached accessory structures allows the Applicants to avoid threatening the architectural designation. As discussed above, this is a peculiar condition because, the proposed accessory structures would not require variance if the Applicants attached additions to the home.

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

The aforementioned special conditions and circumstances are not the result of the Applicant. Rather, the Applicants are trying to preserve the main home to the greatest extent possible and minimally include necessary upgrades.

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 variances will provide no special privilege to the Applicants. As mentioned, based on the water frontage and oversize lot size, the Applicants could build a home that is significantly larger than the current home. Also, the Applicants could attach the accessory structures. However, that will negatively impact the architecturally significant home and detract from the character of the neighborhood.

Other lands, buildings, and structures in the same zoning district enjoy significantly more freedom in their rights of development. Granting the variances here would minimize the disparity the Applicants currently experience with their development and land rights.

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;

Here, a literal interpretation of the provisions of the City's land development regulations deprives the Applicants of rights commonly enjoyed by other architecturally significant properties in the same district. The rights of those engaged

in new construction allow single family residences that are significantly larger in both unit size and lot coverage, and rear yard setbacks. The literal interpretation of the regulations would work unnecessary and undue hardship on the Applicants by depriving them of the right to develop their property in accordance with the neighborhood, while maintaining the integrity of the architecturally significant home.

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

Granting the requested variances is the minimum required to produce a project that is compatible with the surrounding area and will make possible the preservation of an architecturally significant home that is encouraged through the City's land development regulations. The setback variances are the minimum needed to make possible the reasonable construction of accessory structures that are modern yet befitting of the as-built condition.

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 advance the general intent and purpose of the land development regulations, to encourage the maintenance of architecturally significant homes while maintaining a cohesive neighborhood appearance. The variances will have no negative impact on the area or the public welfare, in fact, it is likely to have a positive impact, as the neighborhood's attractiveness will be enhanced.

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; and

Granting these variances will further the comprehensive plan and will have no impact on the levels of service set forth in the plan.

8. The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

Granting the variances will result in accessory structures and a rear yard in compliance with the applicable sea level rise and resiliency review criteria in Chapter 7, Article I.

Practical Difficulty. The innovative design of the accessory structures does the most possible to provide a functional and viable home and maintain its architectural significance. There are multiple practical difficulties that must be addressed in order to make practical use of the Property with the proposed accessory structures, such as the multiple frontages, oversized lots, and existing nonconformities. Additionally, the home's classification as architecturally significant warrants a higher level of scrutiny to renovations and additions. An attached addition could maintain the existing nonconforming setbacks. However, the Applicant's goal is to preserve the home to the greatest extent possible. This involves detached accessory structures.

Sea Level Rise and Resiliency Criteria. The new accessory structures advance the sea level rise and resiliency criteria in Section 7.1.2.4 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 any demolition in the rear yard of the existing home will be provided at permitting.

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

Hurricane proof impact windows will be provided.

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

The Applicant will provide, where feasible, passive cooling systems.

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

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 Applicant is proactively addressing sea level rise projections by providing the first floor of the accessory structures at a base flood elevation of 9' NGVD and 1' of freeboard.

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.

Any new ground floor, driveways, and ramping for the construction of the new accessory structures will be adaptable to the raising of public rights-of-ways and adjacent land.

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

All mechanical and electrical systems will be located above base flood elevation.

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

The new construction will be located above base flood elevation.

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 base flood elevation.

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.

Cool pavement materials or porous pavement materials will be utilized where possible.

12. The design of each project shall minimize the potential for heat island effects on-site.

The proposed design provides large open spaces and non-air-conditioned shaded living spaces to strategically minimize the potential for heat island effects on site.

Conclusion. The related setback variances would allow the beautiful existing single-family residential home to maintain its classification as architecturally significant while allowing the Applicant to modernize the Property. Approval of the variances is in harmony with the intent and purpose of the City's Comprehensive Plan and Land Development Regulations.

Based on these reasons, the Applicant respectfully requests your favorable review and recommendation of this application. If you have any questions or comments regarding the application, please contact me at (305) 377-6231.

Sincerely,



Michael W. Larkin

Enclosures

CC: Judy Schottenstein
Emily K. Balter, Esq.
Peter Shoemaker, Esq.

EXHIBIT A



OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On: 08/18/2024

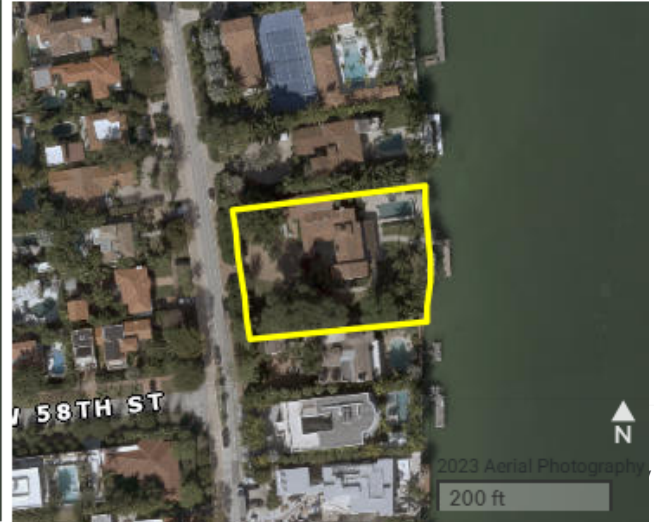
PROPERTY INFORMATION	
Folio	02-3211-014-0260
Property Address	5821 PINE TREE DR MIAMI BEACH, FL 33140-2122
Owner	JASON GREENBERG , RENEE GREENBERG
Mailing Address	5821 PINE TREE DR MIAMI BEACH, FL 33140
Primary Zone	0800 SGL FAMILY - 1701-1900 SQ
Primary Land Use	0101 RESIDENTIAL - SINGLE FAMILY : 1 UNIT
Beds / Baths /Half	6 / 6 / 1
Floors	2
Living Units	1
Actual Area	8,578 Sq.Ft
Living Area	6,849 Sq.Ft
Adjusted Area	6,923 Sq.Ft
Lot Size	32,018.8 Sq.Ft
Year Built	Multiple (See Building Info.)

ASSESSMENT INFORMATION				
Year	2024	2023	2022	
Land Value	\$16,810,283	\$16,010,223	\$7,204,150	
Building Value	\$1,236,700	\$1,239,883	\$1,227,465	
Extra Feature Value	\$66,807	\$67,620	\$68,433	
Market Value	\$18,113,790	\$17,317,726	\$8,500,048	
Assessed Value	\$7,305,580	\$7,092,797	\$6,886,211	

BENEFITS INFORMATION				
Benefit	Type	2024	2023	2022
Save Our Homes Cap	Assessment Reduction	\$10,808,210	\$10,224,929	\$1,613,837
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	
BEACH VIEW ADDN PB 16-10	
LOTS 11 & 12 BLK 3	
LOT SIZE 153.200 X 209	
OR 17262-1354 0796 1	



TAXABLE VALUE INFORMATION			
Year	2024	2023	2022
COUNTY			
Exemption Value	\$50,000	\$50,000	\$50,000
Taxable Value	\$7,255,580	\$7,042,797	\$6,836,211
SCHOOL BOARD			
Exemption Value	\$25,000	\$25,000	\$25,000
Taxable Value	\$7,280,580	\$7,067,797	\$6,861,211
CITY			
Exemption Value	\$50,000	\$50,000	\$50,000
Taxable Value	\$7,255,580	\$7,042,797	\$6,836,211
REGIONAL			
Exemption Value	\$50,000	\$50,000	\$50,000
Taxable Value	\$7,255,580	\$7,042,797	\$6,836,211

SALES INFORMATION			
Previous Sale	Price	OR Book-Page	Qualification Description
03/02/2020	\$8,150,000	31857-4397	Qual by exam of deed
10/07/2015	\$0	29817-3068	Corrective, tax or QCD; min consideration
07/01/1996	\$1,251,000	17262-1354	Sales which are qualified
12/01/1994	\$950,000	16614-3092	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>

EXHIBIT B

MIAMI BEACH

PLANNING DEPARTMENT

Determination of Architectural Significance

July 16, 2024

Jason and Renee Greenberg
5821 Pine Tree Drive
Miami Beach, FL 33140

**Re: 5821 Pine Tree Drive, Miami Beach
Request for a Determination of Architectural Significance
DRB24-1035**

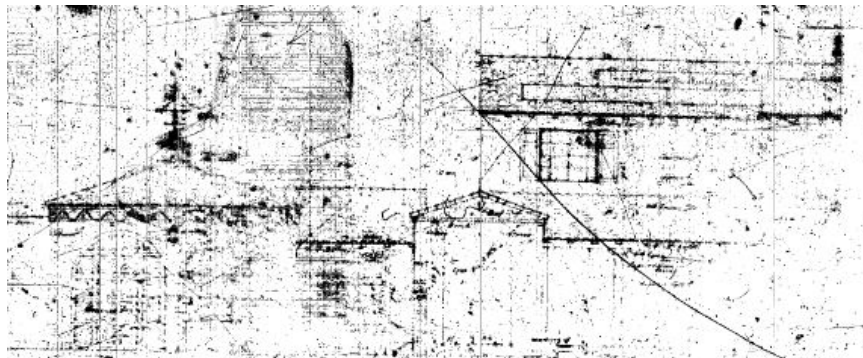
Dear Mr. and Mrs. Jason Greenberg,

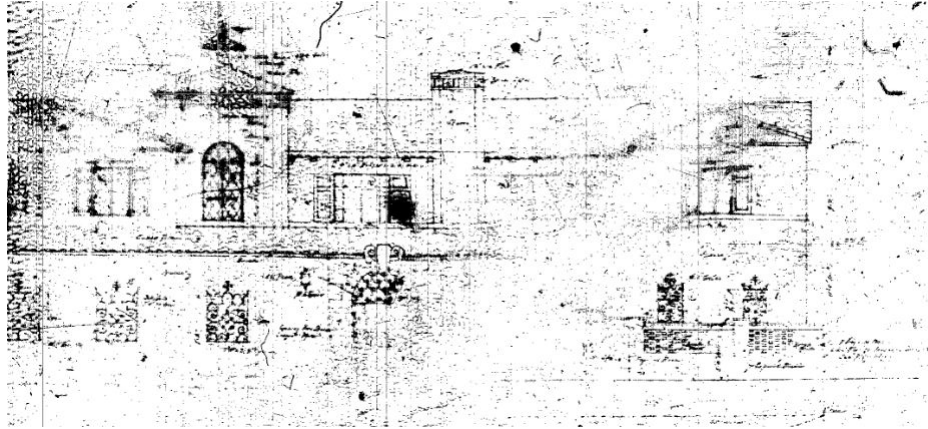
Pursuant to your letter and receipt of all the required documentation received in completion on July 9, 2024, the Planning Department has evaluated the subject property at **5821 Pine Tree Drive** to determine whether the existing single-family residence is 'architecturally significant'. This evaluation was done in accordance with the criteria set forth within Section 7.2.2.4(a)(i) of the city's Land Development Regulations.

A comprehensive review of current site photos and all available aerial photographs of the subject residence from 1941 to the present was undertaken to determine the extent of alterations. The following is an analysis of each of the four criteria used to determine if the subject pre-1942 single-family home is 'architecturally significant':

1. The subject structure is characteristic of a specific architectural style constructed in the city prior to 1942 including, but not limited to, Vernacular, Mission Revival Style, **Mediterranean Revival**, Art Deco, Monterey Colonial, or variations thereof.

Satisfied. *The subject structure was constructed in 1935 by Berry & Son and designed by the architects John & Coulton Skinner, and Jorgensen & Schreffler Engineers in the Mediterranean Revival Style of architecture. The original building card identifies the structure to have been originally constructed as a residence garage (Permit no. 7220). On review of the original permit drawings, historical photos and current photos, the subject building remains characteristic of the eclectic style and its variations.*





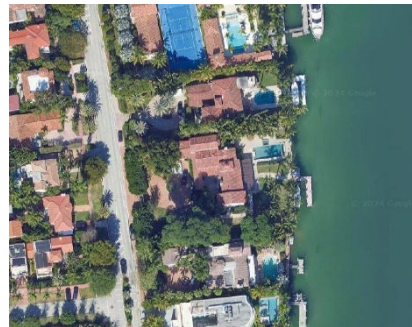
Details from Permit 7220 - Front Elevations

2. The exterior of the structure is recognizable as an example of its style and/or period, and its architectural design integrity has not been modified in a manner that cannot be reversed without unreasonable expense.

Satisfied. *The exterior of the structure is recognizable as an example of the Mediterranean Revival Style and from review of aerial photography from 1941, the massing of the home remains nearly intact. The home is predominately two-storied in height with a stair tower and chimneys that soar above the Spanish-tiled, sloped roof line. The U-shaped massing is highlighted by a front yard courtyard with open colonnades connecting different building volumes. The rear elevation faces Indian Creek and has an enclosed loggia on the ground floor with an open loggia above supported with decorative columns. The home also retains several architectural features that are clearly influenced by the eclectic Mediterranean Revival Style, which amalgamates various details influenced by the Mediterranean coast.*



Aerial 1941



Aerial 2024

3. Significant exterior architectural characteristics, features, or details of the subject structure remain intact.

Satisfied. *Several exterior architectural details of the Mediterranean Revival Style remain intact. Some of these details include sloped roofs with Spanish tiles, exposed wood bracket eaves, arched openings, cupolas adorning the garage roof and the residential/stair tower, crenelated brick detail along the frieze of the garage and the stair tower, as well as brick detailing along the rounded garage openings and applied stucco detailing on gabled ends and the chimney towers. Additionally, the home features detailed ironwork that adorn balconies and openings.*



West (Front) Elevation Entrance Colonnade



East (Rear) Elevation

4. The subject structure embodies the scale, character, and massing of the built context of its immediate area.

Satisfied. *The Beach View Addition neighborhood has a significant collection of single-family homes built from the 1920's through to the 1940's in a varying range of styles. Based upon review of the available documentation and a study of the aerials from 1941 to today, the massing and character of the structure is consistent with the surrounding neighborhood.*

Based on the foregoing, the Planning Department has determined that the subject home meets the criteria in 7.2.2.4(a)(i) and, therefore, is 'architecturally significant'. In addition to the aforementioned criteria, the determination of architectural significance was based upon a combination of current site photos, as well as the evidence revealed in the aerial photographs and microfilms of all available plans.

An appeal of this determination may be made to the Board of Adjustment, in accordance with the procedures set forth in Section 2.2.4.7 of the Land Development Regulations.

If you wish to pursue significant additions or alterations to the subject structure or property, it may be eligible to utilize zoning incentives identified under Section 7.2.2.4(a)(iv) provided that the architecturally significant structure is substantially retained and preserved. Please contact Rogelio Madan, Development & Resiliency Officer, at 305-673-7550, in order to determine if such additions and/or alterations require Design Review Board approval or may be approved by Planning staff.

A new State Law (HB 423) went into effect on July 1, 2022. This new law pre-empts local jurisdictions from regulating the demolition of single-family homes with a lowest finished floor below BFE plus 1 foot. The only exception to this are homes designated historic prior to January 1, 2022.

If the lowest finished floor of the subject home is below Base Flood Elevation (BFE) plus one (1') foot, Design Review Board (DRB) review of a replacement home is no longer mandatory. DRB review would still be required for any new structure that includes an understory, or seeks a design waiver or variance.

If you have any further questions or concerns, please do not hesitate to contact either myself or Mr. Madan.

Sincerely,



Thomas R. Mooney, AICP
Planning Director

c: Rafael Granado, City Clerk
Rogelio Madan, Development & Resiliency Officer
Fernanda Sotelo-Chotel, Planning Consultant
DRB24-1036