



200 S. Biscayne Boulevard
Suite 300, Miami, FL 33131

www.brzoninglaw.com

305.377.6231 office
305.377.6222 fax
mlarkin@brzoninglaw.com

VIA ELECTRONIC DELIVERY

October 13, 2024

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

Re: ZBA24-0169 – Letter of Intent – Application for
Variance from Front Setback Regulations Applicable to
the Property located at 41 La Gorce Circle, Miami Beach,
Florida

Dear Mr. Madan,

This law firm represents the owner (the "Owner") of the property located at 41 La Gorce Circle (the "Property") in the City of Miami Beach (the "City"). The Owner intends to construct a padel court within the front yard of the new single-family home under construction on the Property. This letter serves as the Owner's letter of intent in support of an application to the Board of Adjustment ("BOA") for a variance from the front setback requirement provided in the Miami Beach Resiliency Code (the "Code") for the Property to allow for the construction of the padel court partially within the front setback area.

Property Description. The Property is located on La Gorce Island on the west side of Brevity Lane. See Figure 1. Aerial, below. The Miami-Dade County Property Appraiser's Office identifies the Property with Folio No. 02-3210-003-0300. The Property is approximately 43,936 square feet in size and is currently under construction. The Property is located within the RS-2 Single Family Residential zoning district. In 2022, the Property was unified through a Unity of Title recorded in Miami-Dade

County Official Records Book 33288 at Page 1340. See Exhibit A, Unity of Title. The Property was formerly comprised of two (2) lots with the addresses 39 La Gorce Circle and 41 La Gorce Circle.



Figure 1. Aerial.

Approval History. In May of 2022, the Property received design review approval for File No. DRB21-0660, an application for the construction of a new two-story single-family home on the Property. See Exhibit B, 2022 DRB Approval. This application did not include the padel court.

Also in May of 2022, the Governor signing into law House Bill 423, also known as Chapter 2022-136 of the Laws of Florida specifically adding Section 553.79(25), Florida Statutes, which pre-empts local municipalities from requiring additional regulations, including public hearings, for single-family homeowners to obtain a demolition permit. This bill became effective on July 1, 2022. As a result, a Notice of Abandonment of Design Review Board File No. DRB21-0660 was filed in December of 2022. See Exhibit C, Notice of Abandonment.

Property Frontage. The Property consists of a unique lot shape, which is essentially a peninsula surrounded by La Gorce Circle and Brevity Lane. It was determined through the previous Design Review Board ("DRB") application that, a result of this condition, the Property's frontage is considered to be the entirety of the eastern, northern, and western borders of the Property. See Figure 2. Property Frontage, below.



Figure 2. Property Frontage.

Proposed Development. The Owner proposes to construct a thoughtfully placed, lushly landscaped padel court on the northern corner of the Property as part of the greater development of the two (2) story single family home being constructed on the Property. The padel court will be located in what is technically considered to be part of the Property's front yard. The proposed location for the padel court faces a large triangular median with dense landscaping. The structure will consist of the glass walls customarily associated with padel courts as well as court lighting, as described in more detail in the plans included in this application. The Project's design largely complies with the requirements and goals of the City's Resiliency Code (the "Code"). This ensures minimal impact on the abutting neighbors.

The estimated cost of the proposed development is \$55,000.

Neighbor Support. The Owner has received support for this application from the neighboring property owners, as shown in Table 1 and Figure 3, below. The letters of support have been submitted as part of this application.

Number	Name	Address
1	Diego Trujillo	42 La Gorce Cir
2	Diego Trujillo	6655 Brevity Lane
3	Deborah C. Kainen	6645 Brevity Lane
4	Oliver M. Lloyd	6625 Brevity Lane
5	Sean Smith	President of LGI Board

Table 1. Letters of Support.



Figure 3. Letters of Support Aerial.

Variance Request. Pursuant to Section 7.2.2.3.b of the Code, the minimum front setback requirement for the Property is thirty feet (30'). As illustrated in the plans included with this application, the proposed padel court encroaches into the front setback for the primary structure. Accordingly, relief from this setback requirement in the form of a variance is respectfully requested. More specifically, variances are requested from the front setback requirement for both the sport court and the light poles. The requested variance satisfies the hardship criteria provided in the Code and the proposed padel court complies with all other requirements provided in the Code.

Satisfaction of Section 2.8.3 Criteria. The Applicant's request satisfies all variance criteria provided in Section 2.8.3 of the 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;

The Property's unique lot configuration surrounded by two streets wrapping around the Property create a peculiar lot frontage that is unique to this Property. This condition creates a particular hardship as the Property is required to comply with the more restrictive thirty-foot (30') front setback on three (3) of four (4) sides of the lot, whereas typically lots are only required to comply with this setback on one (1) of four (4) sides (the front). Further, the side and rear yard setback requirements are less restrictive than the front setback requirement.

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

The Owner/applicant is not responsible for the special conditions and circumstances justifying this variance request.

(3) Granting the variances 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 this variance will not confer on the applicant any special privilege. Due to the Property's unique conditions, while the proposed padel court is located in what appears to be the side yard of the home, it is classified as part of the front yard, therefore requiring a greater setback than what is normally required in a side yard and creating a hardship for the Owner when attempting to utilize this portion of his Property.

(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;

Literal interpretation of the land development regulations deprives the Owner of rights commonly enjoyed by other properties in the same zoning

district. The Property's unique configuration results in what would typically be considered as a side yard to be considered part of the frontage. The Property's unique curved shape coupled with the more restrictive front setback requirement restricts the Owner from utilizing the side yard of the Property in the way other similarly situated properties can utilize their side yards.

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

The requested variance is the minimum variance that makes possible the reasonable use of the Property. The request is not a substantial request, the proposed padel court projects only partially into the required thirty-foot (30') front setback, which is approximately double the typical fifteen-foot (15') side facing a street setback requirement in the RS-2 district.

(6) The granting of the variances will be in harmony with the general intent and purpose of these land development regulations and that such variances will not be injurious to the area involved or otherwise detrimental to the public welfare;

The granting of the variance will be in harmony with the general intent and purpose of the Code and will not be injurious to the area involved. As explained above, due to the Property's unique conditions it is required to treat its side yard as part of its frontage. The Property maintains the required thirty-foot (30') front setback across the entire frontage along La Gorce Circle and Brevity Lane. Moreover, the location of the proposed padel court is thoughtfully placed in the corner of the frontage which does not directly face any homes, but rather a large triangular median with significant landscape buffering. Additionally, this application has received support from all the surrounding property owners and the president of the association, as identified above. The proposed padel court will provide a new amenity to the neighborhood that the surrounding property owners are excited to share in the enjoyment of.

(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

The variance request is consistent with the City's Comprehensive Plan and does not reduce the levels of service as 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.

The Property, including the proposed padel court, complies with the sea level rise and resiliency review criteria in Chapter 7, Article I.

Sea Level Rise and Resiliency Criteria. The new office building and home advance the sea level rise and resiliency criteria in Section 7.1.2.4 of the Resiliency Code, as follows:

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

A recycling or salvage plan will be provided if any demolition is required to construct the padel court.

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

The Owner proposes hurricane proof impact windows.

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

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

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

Resilient landscaping will be provided.

5. The project applicant shall consider the 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. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

During the approval process, sea level rise projections were considered, as well as the elevation of the development and adjacent development.

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, and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to 3 additional feet in height.

The proposed padel court is adaptable to future raising of public rights of way and adjacent lands.

7. As applicable to all new construction, all critical mechanical and electrical systems are located above base flood elevation. All redevelopment projects shall, whenever practicable and economically reasonable, include the relocation of all critical mechanical and electrical systems to a location above base flood elevation.

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

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

The proposed padel court is elevated to base flood elevation plus City freeboard.

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.

Any areas below base flood elevation plus freeboard will implement appropriate flood mitigation measures to protect the property.

10. As applicable to all new construction, storm water retention system 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 design of the proposed padel court will minimize the potential for heat island effects on site.

Conclusion. The unique configuration of the Property results in special conditions and circumstances creating a significant hardship for the Owner justifying the approval of the requested variance. The proposed padel court is carefully placed, designed, and thoroughly landscaped to minimize any impacts and preserve the general intent and purpose of the Code's requirements. The application is supported by the neighboring property owners and will enhance 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 305-377-6231.

Sincerely,



Michael W. Larkin

Cc: Benjamin Sherry