

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 5, 2024

PROPERTY: **437 West 31 Street** **02-3227-001-0661**

FILE NO: DRB24-1045

IN RE: An application has been filed requesting Design Review Approval for the construction of a new two-story residence with an understory, including a variance to reduce the front setback, and including one or more waivers, located on a vacant lot.

LEGAL: See Appendix A

APPLICANT: Su Sevine Alparslan

ORDER

The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

I. Design Review

- A. The Board has jurisdiction pursuant to Section 2.1.3.1 of the Land Development Regulations. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria b., c. i. & s. in Section 2.5.3.1 of the Land Development Regulations.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1 and 10 in Section 7.1.2.4(a)(1) of the Land Development Regulations.
- D. The project would be consistent with the criteria and requirements 2.5.3.1 and/ or Section 7.1.2.4(a)(1) if the following conditions are met:
 - 1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 437 West 31 Street shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The understory **shall be** approved as proposed.

- b. The two-story side (east) elevation in excess of 60'-0" in length open space requirement for the new building **shall be** waived as proposed.
- c. The two-story side (west) elevation in excess of 60'-0" in length open space requirement for the new building **shall be** waived as proposed.
- d. The design waiver from the additional required second floor setback on the front elevation, per Section 7.2.2.3.b.2.B.1 **shall be** granted.
- e. The east elevation shall incorporate a recessed wall or walls, or glazing, to break up further the façade, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- f. **The projection on the canopy located at the top of the front façade shall be reduced to 2'- 6" (30")** in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- g. The applicant shall work with staff to extend the rear roof overhang to fully cover the balcony, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- h. The final design details and color selection of the exposed formed concrete finish shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- i. The final design details and color selection of the wood cladding shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- j. The final design details and color selection of the metal shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board
- k. The final design details and color selection of the exterior metal fence proposed shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- l. The final design details of the exterior materials and finishes shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- m. URBAN HEAT ISLAND ORDINANCE Section 7.5.3.2(g)(iv) Driveways and parking areas that are open to the sky within any required yard shall be composed of porous pavement or shall have a high albedo surface consisting of a durable material or sealant, as defined in Section 1.2.1 of this Code, and

- (v) Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in Section 1.2.1, shall be prohibited.
- n. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding plans shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plans shall comply with Chapter 4-Landscape Requirements of the Miami Beach Code and shall incorporate the following:
- a. Shrubs and groundcover shall not be planted in the public Right-of-Way. The plans shall be revised to indicate that sod is to be used.
 - b. The plans shall be revised to comply with the line-of-sight visibility triangle requirements, subject to the review and approval of staff.
 - c. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
 - d. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
 - e. Any tree identified to be in good overall condition shall be retained and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff.
 - f. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
 - g. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
 - h. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department. Any new street trees shall be of a

consistent canopy tree species as similar to the neighboring trees along the street.

- i. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- j. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- k. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- l. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

In accordance with section 2.2.4.8 of the Land Development Regulations, the applicant, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal a decision of the design review board for design review approval only to the city commission, except that orders granting or denying a request for rehearing shall not be reviewed by the commission.

I. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
 - 1. A variance from Sec. 7.2.2.3.b.1 to allow a 15 feet front setback when 30 feet is required for 2 story structures.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, as noted above allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

Additionally, the Board has concluded that the plans and documents submitted with the application comply with the following hardship criteria, as they relate to the requirements of Section 2.8.3 of the Land Development Regulations:

- i. 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;
- ii. The special conditions and circumstances do not result from the action of the applicant;

- iii. 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;
- iv. 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;
- v. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- vi. 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;
- vii. 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
- viii. 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.

C. The Board hereby **Approves** the variance requests #1 and imposes the following conditions based on its authority in Section 2.8.1 of the Miami Beach City Code:

- 1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

II. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.

- A. All new construction over 7,000 square feet shall be required to be, at a minimum, certified as LEED Gold by USGBC or alternative certification provided for in section 7.1.3.2. In lieu of achieving the certification, the applicant may follow the procedures in section 7.1.3.2, including electing to pay a sustainability fee. This fee is set as a percentage of the cost of construction.
- B. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance

of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

- C. During construction work, the applicant shall maintain gravel at the front of the construction site within the first 15'-0" of the required front yard and including the swale (subject to the review and approval of Public Works), to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way.
- D. During the course of construction, all vehicles, including, but not limited to all personal vehicles, shall park within the confines of the private property, the swale directly abutting the construction site, or at alternate overflow parking sites that are not on-street metered spaces and not zoned RS. Additionally, parking of any vehicles shall be prohibited in the travel lanes of all streets.
- E. All allowable construction signage shall be attached to or situated behind the construction fence and shall be limited to one (1) sign, not to exceed four (4) square feet, in accordance with Section 6.3.2 of the Land Development Regulations.
- F. The building and parking departments shall approve a construction parking plan prior to the issuance of any building permit, including applicable demolition permits for the project.
- G. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- H. The contractor(s) shall ensure that the street and the swale directly abutting the construction site remains free of debris and refuse at all times; at a minimum, the contractor(s) shall inspect and clear the street and swale areas before leaving at the end of each day.
- I. This order shall be enforced by the Building, Planning, Parking and Code Compliance Departments.
- J. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- K. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit and shall be located immediately after the front cover page of the permit plans.
- L. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- M. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.

- N. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- O. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- P. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "Alparslan Residence" as designed by **V3 Architectural Group, Inc.**, dated 9/8/2024, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Section 2.2.4.6 of the Land Development Regulations; the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 2 of the Land Development Regulations, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the

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application to Chapter 2 of the Land Development Regulations, for revocation or modification of the application.

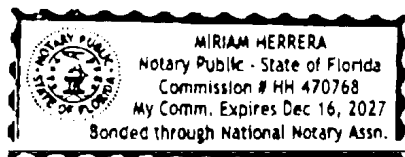
Dated 1/9/2025 | 11:44 AM EST

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

DocuSigned by
Rogelio Madan
BY: Rogelio A. Madan, AICP
Development & Resiliency Officer
For the Chair

STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 15 day of January, 2025 by Rogelio A. Madan, AICP, Development & Resiliency Officer of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me



{NOTARIAL SEAL}

Notary Miriam Herrera
Print Name Miriam Herrera
Notary Public, State of Florida
My Commission Expires: 12-16-27
Commission Number:

Approved As To Form: Faroat Andashvili (1/9/2025 | 10:28 AM EST
City Attorney's Office: Faroat Andashvili

Filed with the Clerk of the Design Review Board on Jessica Gonzalez (1/9/2025 | 12:23 PM EST

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APPENDIX A LEGAL DESCRIPTION

Parcel "A" in Lots 23 and 24, in Block 45, of ORCHARD SUBDIVISION NO. 1, according to the plat thereof as recorded in Plat Book 6, at Page 111, of the Public Records of Miami-Dade County, Florida, more particularly described as follows:

Beginning at the NW corner of Lot 23, in Block 45, as shown on a Plat entitled "ORCHARD SUBDIVISION NO. 1" as recorded in Plat Book 6 at Page 111 of the Public Records of Dade County, Florida, run Easterly along the dividing line between Lots 22 and 23, in Block 45, as shown on aforesaid recorded Plat a distance of 150 feet to the NE corner of said Lot 23; thence run Southerly along the dividing line between Lots 23 and 2 and Lots 24 and 1 of said Block 45, a distance of 100.0 feet to the SE corner of said Lot 24, said point being on the N. line of W. 31st Street; thence run Westerly along the Southerly line of said Lot 24 or the Northerly line of said West 31st Street a distance of 45.34 feet to a point; thence run Northerly along a line deflection 90 to the right, said line being parallel to and 45.34 feet distant Westerly from the Easterly line of said Lots 23 and 24, a distance of 78.72 feet to a point; thence run NW along a line deflecting 45 to the left a distance of 5.06 feet to a point; thence run Westerly along a line deflecting 45 to the left along a line parallel to and 17.70 feet distant Southerly from the North line of said Lot 23 in Block 45, a distance of 34.08 feet to a point; thence run North along a line deflection 90 to the right a distance of 4.0 feet to a point; thence run Westerly along a line deflecting 90 to the left along a line parallel to and 13.70 feet distant Southerly from the North line of said Lot 23 a distance of 67.0 feet to a point on the E. line of Royal Palm Avenue; thence run Northerly along the Easterly line of Royal Palm Avenue or the Westerly line of said Lot 23 a distance of 13.70 feet to the point of beginning of the parcel of land herein described.