

MIAMI BEACH

PLANNING DEPARTMENT
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: November 5, 2024

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB24-1045
437 West 31 Street

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.

RECOMMENDATION:

Approval of the design.
Approval of the variance.

LEGAL DESCRIPTION:

See Appendix A

SITE DATA:

Zoning: RS-4
Future Land Use: RS
Lot Size: 6,125 SF
Lot Coverage:
Proposed: 1,750 SF / 27.7%
Maximum: 1,837 SF / 30%
Unit size:
Proposed: 3,061 SF / 49.9%
Maximum: 3,062 SF / 50%
Height:
Proposed: **26'-6"** flat roof *
Maximum: 31'-0" flat roof*

*As measured from BFE + free board

Grade: +4.87 NGVD
Base Flood Elevation: +8.00' NGVD
First Floor Elevation: +15.5' NGVD

EXISTING PROPERTY:

Year: n/a
Architect: n/a
Vacant: Yes

SURROUNDING PROPERTIES:

East: One-story 1927 residence
North: One-story 1935 residence
South: One-story 1954 residence
West: Two-story 1978 residence

THE PROJECT:

The applicant has submitted plans entitled "Alparslan Residence" as designed by "**V3 Architectural Group**", dated 09/08/2024. The applicant is proposing to construct a new two-story residence with an understory.

The applicant is requesting review for an understory area:

1. Understory area shall be subject to the review and approval of the Design Review Board in accordance with Section 7.2.2.3.b.6

The applicant is requesting 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.

The applicant is requesting the following waivers:

1. A two-story side (east and west) elevation in excess of 60'-0" in length in accordance with Section 7.2.2.3.b.2.A
2. At least 35 percent (35%) of the second floor along the front elevation shall be set back a minimum of 5 feet from the minimum required setback in accordance with Section 7.2.2.3.b.2.B.I

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts.

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

- 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 special conditions and circumstances do not result from the action of the applicant;
- 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;
- 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 variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- 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;
- 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 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.

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code.

- Section 7.2.2.3.b.1 Required front setback: 30 feet - 2 Story Structures
- Section 7.2.2.3.b.2.A Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard:
 - a. The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line.
 - b. The square footage of the additional open space shall not be less than one percent of the lot area.
 - c. The elevation (height) of the open space provided shall not exceed the maximum permitted elevation height of the required side yard, and
 - d. At least 50 percent of the required interior open space area shall be sodded or landscaped with pervious open space.

The intent of this regulation shall be to break up long expanses of uninterrupted two-story volume at or near the required side yard setback line and exception from the minimum requirements of this provision may be granted only through design review board approval in accordance with the applicable design review criteria.

- Section 7.2.2.3.b.2.B.1 At least 35 percent (35%) of the second floor along the front elevation shall be set back a minimum of 5 feet from the minimum required setback.

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

COMPLIANCE WITH DESIGN REVIEW CRITERIA, SECTION 2.5.3.1:

Design review encompasses the examination of architectural / landscape drawings for consistency with the criteria stated below, with regard to the aesthetics, appearance, safety, and function of any new or existing structure and physical attributes of the project in relation to the site, adjacent structures and surrounding community. The design review board and the planning department shall review plans based upon the below stated criteria, criteria listed in neighborhood plans, if applicable, and applicable design guidelines. Recommendations of the planning department may include, but not be limited to, comments from the building department and the public works department.

- a. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Satisfied
- b. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Satisfied
- c. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably

necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.

Satisfied

- d. The color, design, selection of landscape materials and architectural elements of exterior building surfaces and primary public interior areas for developments requiring a building permit in areas of the city identified in section 2.5.3.2.

Satisfied

- e. The proposed site plan, and the location, appearance and design of new and existing buildings and structures are in conformity with the standards of this article and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the design review board and historic preservation board and all pertinent master plans.

Satisfied

- f. The proposed structure, or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties.

Satisfied

- g. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.

Satisfied

- h. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the site.

Not Applicable

- i. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

Not Satisfied; a lighting plan has not been submitted.

- j. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

Satisfied

- k. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.

Satisfied

- l. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Satisfied
- m. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
Satisfied
- n. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
- o. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Applicable
- p. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied
- q. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Satisfied
- r. In addition to the foregoing criteria, subsection 118-104-6(t) of the General Ordinances shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights- of-way.
Not Applicable
- s. The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.
Satisfied

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 7.1.2.4(a)(i) of the Land Development Regulations 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.
Not Satisfied; a recycling or salvage plan will be submitted for building permit satisfied

2. Windows that are proposed to be replaced shall be hurricane proof impact windows.
Satisfied
3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Satisfied
4. Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 4 of the Land Development Regulations.
Satisfied
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.
Satisfied
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 three (3) additional feet in height.
Satisfied
7. In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.
Satisfied
8. Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.
Not Applicable
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.
Not applicable
10. In all new projects, water retention systems shall be provided.
Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.
11. Cool pavement materials or porous pavement materials shall be utilized.
Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.
12. The project design shall minimize the potential for a project causing a heat island effect on site.
Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.

STAFF ANALYSIS:

The applicant is proposing to construct a new two-story home on a vacant lot that fronts 31st Street and Royal Palm Avenue. Specifically, The applicant is requesting review of the understory, one variance and and three design waivers

The lot has an irregular configuration that is the result of a land division from two original platted lots that were shortened in the rear to create the current configuration. The configuration includes a sliver of land on the north side (lot 23) that provides additional access to this lot, and resulting in an L-shaped lot.

The proposed home features an understory with the first fully enclosed, habitable floor of the residence designed at an elevation of +15.5' NGVD, or BFE plus 7'- 6" of freeboard. In this design, the project architect has incorporated an understory that features vehicle parking, entry open stairs, seating area and portion of the swimming pool.

The new two-story residence is designed in a contemporary architectural style, with the exterior wall planes composed of white stucco, concrete smooth stucco, exposed board formed concrete finish, wood cladding, metal, wood and glass. The front elevation is highlighted by two double-height volumes. One volume incorporates the staircase and access to the home, while the second volume is recessed and provides space for an exterior glass rail balcony.

The façade is framed by thick white stucco walls and topped by a projecting canopy. The sides and rear elevations consist of white stucco finished paint with an exposed board formed concrete finish band located at the parapet level and some walls in the rear façade. The rear façade features ample windows with balconies and terrace glass rails.

Two of the design waivers relates to the open space requirements for two-story side elevations that exceed 60'-0" in length. For such elevations, the code establishes open space requirements to break up long expanses of interior elevations. In this instance, the east and west, side elevations do not comply. These elevation are 65', exceeding by 5' the code requirement that such elevations not exceed 50% of the property length or 60', whichever is less. While the subject elevations do not include an open space to break up its two-story expanse, it minimally exceeds the required length and is designed with recessed walls on the west façade. Additionally, both sides contain a projecting canopy that further breaks-up the massing. Staff is recommending that the applicant explore incorporating a recessed wall plane on the east façade. With this change, staff finds the design of the two-story, west and east elevation meets the intent of the code.

The third waiver relates to the required setback of the second floor along the front elevation, which is required to be set back a minimum of 5 feet from the required setback. The applicant is proposing a double high volume on the east side that is recessed 6'-7", which meets the intent of the code. Staff is supportive of the proposed waiver.

VARIANCE REVIEW

The applicant is requesting the following variances:

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.

- Variance requested from:

7.2.2.3 Development Regulations (RS)

- b. The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:
1. *The FAR, density, lot area, lot width, lot coverage, unit size, setbacks, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:*

BUILDING SETBACKS	RS-1	RS-2	RS-3	RS-4
Front Setback ☉	20 feet -1 Story Structure (5)(6) - provided that any future addition of a two-story attached structure shall be setback a minimum of 40 feet 30 feet - 2 Story Structures - (5)(6)			

Section. 7.2.2.3.b.1 of the Resiliency Code requires a minimum front setback of 30 feet for a 2 story structure, and the applicant is proposing a 15 foot setback to accomodate the allowable unit size (49.9% proposed 50% allowed) in the buildable portion of this lot. As mentioned above the lot has an irregular shape with a narrower extension that cannot be used to accommodate any structure. In this instance, the proposed home is shifted forward to the front of the property, resulting in a setback that is in line with the existing adjacent one-story single family homes on the block.

Due to the practical difficulty associated with developing the home within the allowable building envelope, staff is supportive of the variance request. However, staff is concened that the position of the front façade and the proposed 3'-8 1/2" projecting canopy may be viewed as imposing on the street given its horizontal nature. In order to mitigate this impact, staff is recommending that the canopy projection be reduced to 1'-0".

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review and Sea Level Rise criteria.

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.

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 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 1'- 0" 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 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.
- h. 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.
- i. 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.
- j. 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.
- k. 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.
- l. 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.
- m. 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 application to Chapter 2 of the Land Development Regulations, for revocation or modification of the application.

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.