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## **VIA ELECTRONIC SUBMISSION**

October 12, 2025

Rogelio A. Madan  
City of Miami Beach  
1700 Convention Center Drive, 2<sup>nd</sup> Floor  
Miami Beach, Florida 33139

Re: **Letter of Intent** –Request for Variance and Waiver for Walls  
for the Property Located 1600 Cleveland Road

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Dear Mr. Madan,

This law firm represents Frederic Cumenal and Leslie Diamond, (the "Applicant"), the owner of the above referenced property identified by Miami-Dade County Folio No. 02-3203-001-0940 (the "Property") within the City of Miami Beach (the "City"). Please allow this letter to serve as the letter of intent in connection with a pre-application request for Design Review Board ("DRB") approval for a variance and waiver associated with walls and gates on the perimeter of the Property. Notably, this Property is the subject of prior DRB File Nos. DRB22-0833 and DRB23-0925.

Property Description. The Property is a waterfront corner lot located at the intersection of Cleveland Road and Henedon Avenue, adjacent to the bridge that connects the north and south sides of Biscayne Point Island. See Figure 1, Aerial, below The Miami-Dade County Property Appraiser's Office identifies the Property with Folio No. 02-3203-001-0940.. The size of the overall Property is approximately 8,866 square feet according to a survey prepared by John Ibarra & Associates, Inc., dated March 7, 2023. The Property contains an existing two-story single-family residence and is located within the RS-4, Single Family Residential Zoning District. The Property is adjacent to the bridge connecting the north and south sides of Biscayne Point.



**Figure 1, Aerial.**

Approved Home. This Property is the subject of prior DRB File Nos. DRB22-0833 and DRB23-0925, which approved of a second-floor addition to an existing single-story home. As a rehabilitation and addition to an existing home, the previously approved home obtained approval of variances from the maximum permitted lot coverage, front setback, side interior setback, required setback for pool equipment, and the minimum required setbacks for the construction of a nonstandard carport. The approved home is actively under construction in accordance with Master Building Permit No. BR2308198 (as revised by Building Permit No. RV2424214) (collectively the "Approved Building Permit"). Notably, the home was approved in 2022, prior to the effective date of the Resiliency Code.<sup>1</sup> Accordingly, the home is being developed in accordance with the pre-Resiliency Code yard elevations and requirements.

The home has been substantially constructed consistent with the Approved Building Permit. The Approved Building Permit was mistakenly issued with a wall in the front yard and side facing a street that exceeds the maximum permitted height for walls. Specifically, the height

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<sup>1</sup> The Resiliency Code was approved in February 2023 and effective in June 2023. Projects that received DRB approval prior to the effective date were permitted to proceed under the pre-Resiliency Code regulations.

of the wall in the front and side yard was measured from the maximum elevation of the yards (6.85' NGVD). Consequently, the Applicant constructed a beautifully designed oolitic limestone wall that exceeds the maximum height of walls permitted in the front and side yard facing a street.

Requests. In order to remedy the mistakenly approved height of the wall in the front yard and side yard, the Applicant makes the following requests:

1. Waiver pursuant to pre-Resiliency Code section 142-106(b)(7)(b) to allow a wall within the side yard facing a street to permit a wall that is 4.675' tall (10.85' NGVD) as measured from adjusted grade (6.175' NGVD).
2. Variance from pre-Resiliency Code section 142-106(b)(7)(a) to allow a maximum wall height of 6.5' (10.85' NGVD) as measured from grade (4.35' NGVD).

Waiver Request for Wall in Side Yard Wall. The Applicant requests DRB approval of a 0.675' height waiver to allow for 4.675' tall wall as measured from adjusted grade. The proposed wall is located on either side of the pedestrian entry gate along Henedon Avenue. The Property was approved for development at the maximum yard elevations permitted under the pre-Resiliency Code regulations (6.85' NGVD) and is therefore eligible for a waiver to allow a wall taller than 4' as measured from adjusted grade. The Property is located adjacent to the Henedon Avenue bridge, which causes the roadway elevation to slope up from the corner of Cleveland Road to the crest of the bridge. The actual grade elevation of the sidewalk adjacent to the proposed wall is between 5' and 6' NGVD, which mitigates the additional height of the wall. Further, the wall is designed of high quality natural oolitic limestone, referencing natural Florida topography and complimenting the design of the home. The proposed walls on either side of the entry gate provide enhanced security along Henedon Avenue, which experiences additional pedestrian and vehicular traffic due to the bridge between. Overall the proposed wall in the side yard on either side of the entry gate provides an attractive entrance feature that compliments the home design, is compatible with the neighborhood context, and provides enhances security for the home, consistent with the Design Review Criteria.

Variance Request for Wall in Front Yard. The wall in the front yard was developed at an appropriate height given the elevation of the front yard at 6.85' NGVD. The proposed wall at 10.85' NGVD in elevation is exactly 4 feet higher than the maximum elevation of the front yard (6.85' NGVD), creating an effective barrier between the home's front yard and Cleveland Road. It must be noted that if the front yard wall were developed in accordance with the requirements of the Code, the top of the wall would only be 1.5' tall as measured from the inside of the front

yard. Such a wall would likely be rejected by the City's Building Department as a life safety hazard and would be an ineffective barrier to Cleveland Road.

*Satisfaction of Hardship Criteria.* The Variances requested satisfy the hardship criteria pursuant to Section 2.8.3.a. 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;**

Special conditions arise from the climate-resilient objectives, architectural design, and spatial organization of the home. The home is uniquely located next to the Henedon Avenue Bridge, on a corner lot, and has mixed elevation in the front yard. This creates a peculiar situation in which there is a greater need for a taller front wall to ensure the yard is safe; a shorter wall would create a hazardous condition.

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

The front yard elevation is required by the Code and the existing elevation gradient due to the Property's location adjacent to the Henedon Avenue bridge did not result from any action of the Applicant.

**3. Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;**

Granting the requested variance will not confer any special privilege. The Code provides a process for similarly situated property owners to request variances where, as here, such requests are justified by site conditions, resiliency objectives, or architectural design. The requested relief is limited to the specific features of the front yard wall that help to ensure safety on the Property and is consistent with the intent of the Code.

**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;**

A literal interpretation of the provisions of the land development regulations would deprive the Applicant rights enjoyed by other properties in the same zoning district that have resiliency-focused designs. The requested Variance supports the home's overall intent to maintain a safe yard area that is sufficiently concealed from neighboring properties and street traffic. Strict application of the front and side wall limitations would force design compromises that reduce the quality, functionality, and safety. The design complies with the spirit of the Code, yet strict adherence to every technical requirement would prevent a durable result and would impose unnecessary and undue hardship.

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

The variance requested is limited in scope and directly tied to specific functional needs. The variance is the minimum required to ensure that the yard area is safe and contained, and that all walls on the property are developed at a uniform height of 10.85' NGVD. The home itself remains well within the maximum permitted square footage and complies with or far exceeds all required setbacks, preserves a two-story character, conceals parking and services, and maintains substantial landscaped and pervious areas across the site. The requested variance represents the minimum deviation necessary to support the reasonable use of the Property in a manner consistent with its context and the goals of the Resiliency Code.

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

Granting the requested variance will be in harmony with the intent and purpose of the City's land development regulations. The requested variance will ensure a safe yard area and maintains an appearance consistent with the surrounding neighborhood. The variance will not be injurious to adjacent properties or detrimental to the public welfare.

**7. The granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan. The planning and zoning director may require applicants to submit documentation to support this requirement prior to the scheduling of a public hearing or any time prior to the board of adjustment voting on the applicant's request.**

The purpose of the Single-Family Residential District is to provide development opportunities for and to enhance the desirability and quality of existing and new single family residential development. The Project is consistent with this purpose.

*Practical Difficulty.* The wall in the front yard does the most possible to provide a functional and viable use of the Property. The very low existing grade of 4.35' NGVD at the midpoint of sidewalk in the front yard as compared to the higher grade at the southeast corner of the Property, as well as the required yard elevations for development of the Property, represent practical difficulties justifying deviation from the maximum permitted heights for walls in the front yard. A fully code compliant front yard wall, measured from grade, would be unsafe for persons standing in the front yard of the home as the wall would only be approximately 1.5' in height within the Property, adjacent to a 4' vertical drop to the sidewalk. The wall in the front yard is designed to ensure safety and long-term durability and support a cohesive architectural composition. These practical difficulties support the need for limited relief. The design remains consistent with the City's goals for resiliency, open space, and high-quality single-family development.

Conclusion. Granting the approval of this design review application with the additional height for the walls in the front and side yard will permit the development of an attractive oolite limestone wall that meets the needs of the Applicant. Given the location of the Property adjacent to the Henedon Avenue Bridge, we believe the modest increase in wall height is both contextually appropriate and minimally impactful. If you have any questions or comments, please give me a call at (305) 377-6234.

Sincerely,



Nicholas Rodriguez

CC: Leslie Diamond Cumenal