

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: October 8, 2019

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: HPB19-0338, **2115 Washington Avenue.**

An application has been filed requesting a Certificate of Appropriateness for the reconfiguration of a portion of the lobby and improvements to the site including variances from the required front, rear, street side and sum of the side setbacks.

### **STAFF RECOMMENDATION**

Approval of the Certificate of Appropriateness with conditions

Approval of the variances #1, #2, and #3.

Denial of variance #4.

### **EXISTING STRUCTURE**

Local Historic District:	Museum
Classification:	Contributing
Original Construction Date:	1947
Original Architect:	Martin L. Hampton

### **ZONING / SITE DATA**

Legal Description:	The south 5 feet of Lot 4 and all of Lots 5 and 6 of a Resubdivision of Lot 5 and 8 of the Ocean Park Subdivision, According to the Plat Thereof, as Recorded in Plat Book 45, Page 40, of the Public Records of Miami-Dade County, Florida.
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Zoning:	RM-2, Residential multi-family, medium intensity
Future Land Use Designation:	RM-2, Residential multi-family, medium intensity

Existing Use/Condition:	Hotel
Proposed Use:	No change

### **THE PROJECT**

The applicant has submitted plans entitled "2115 Washington Avenue", as prepared by 3Design Architecture, dated August 5, 2019.

The applicant is requesting the following variances:

1. A variance to reduce by 14'-5" the required 20'-0" front setback in order to construct an outdoor deck up to 5'-7" from the front property line facing Washington Avenue.
2. A variance to eliminate the minimum required street side setback of 13'-6" in order to construct an outdoor deck and retractable awning up to the street side property line facing 21<sup>st</sup> Street.
3. A variance to reduce by 13'-6" the required sum of the side setbacks of 23'-4" in order to construct an outdoor deck and retractable awning up to the street side property line facing 21<sup>st</sup> Street and provide a sum of the side setbacks of 9'-10".
  - Variances requested from:

**Sec. 142-218. Setback requirements.**

*The setback requirements in the RM-2 residential multifamily, medium intensity district are as follows:*

*Subterranean and Pedestal, Front: 20 feet.*

*Subterranean and Pedestal, Side Facing a Street: Lots equal or greater than 65 feet in width: Minimum 10 feet or 8% of lot width, whichever is greater, and sum of the side yards shall equal 16% of lot width.*

The applicant is proposing interior and exterior renovations to the existing hotel building for the construction of an outdoor seating area accessory to a new café and bar located inside the building. The new work includes the elevation of portions of an existing deck to provide access to the café at the first level with a new door opening on the south side, the installation of a new retractable awning, perimeter planters along the street side, accessible ramp and additional deck within the front of the building. The existing structure has non-conforming front, sides and rear setbacks that are further reduced with the proposed work. Although there is an open courtyard at the front of the building, which can be used for the seating area without variances, it would also have a more significant impact on the existing building and its front façade. The location on the southwest portion of the site is more acceptable in order to minimize any adverse impact on the existing building. The new outdoor area would improve the operation of the existing hotel and its continued use. As the proposed improvements do not constitute floor area and in the future could be easily removed, staff has no objection to the variances requested. The new elements would not negatively impact the character of the existing contributing building or the surrounding properties. Staff finds that the retention of the existing contributing building with non-conforming setbacks create the practical difficulties that result in the need for the variances requested. As such staff recommends approval of variances #1, #2 and #3.

4. A variance to reduce by 5'-0" the required 7'-6" setback for the construction of a deck at 2'-6" from the rear property line.
  - Variance requested from:

**Sec. 142-1132. Allowable encroachments within required yards.**

*(j) Hot tubs, showers, saunas, whirlpools, toilet facilities, swimming pool equipment,*

decks. In all districts, hot tubs, showers, whirlpools, toilet facilities, decks and cabanas are structures which are not required to be connected to the main building but may be constructed in a required rear yard, provided such structure does not occupy more than 30 percent of the area of the required rear yard and provided it is not located closer than seven and one-half feet to a rear or interior side lot line.

As part of the proposed work, the existing deck facing 21<sup>st</sup> Street is proposed to be expanded towards the rear up to 2'-6" from the property line. A deck located in the rear yard requires a minimum setback of 7'-6" from the rear property line. Because the property already has limited landscape area in the side and rear yards, staff would recommend that the proposed deck comply with the required rear setback to allow for landscape adjacent to the proposed deck facing the 21<sup>st</sup> Street. Staff finds that this variance request does not satisfy the practical difficulties or hardship criteria. As such, staff recommends denial of the variance #4.

#### **PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, with the exception of variance #4, 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.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code with the exception of variance #4, as noted above:

- That 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;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That 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 granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

### **COMPLIANCE WITH ZONING CODE**

The application, as submitted, with the exception of the variances requested herein, appears to be consistent with the applicable requirements of the City Code.

This 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.

### **CONSISTENCY WITH 2025 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the existing **hotel use** appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

### **COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(a) of the Land Development 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**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Not Applicable**
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Not Applicable**
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.  
**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.  
**Not Applicable**
- (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.  
**Not Applicable**
- (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.

**Not Applicable**

- (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.

**Not Applicable**

- (11) Cool pavement materials or porous pavement materials shall be utilized.

**Satisfied**

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

**Satisfied**

#### **COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA**

A decision on an application for a Certificate of Appropriateness shall be based upon the following:

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.

**Satisfied**

- b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.

**Satisfied**

- II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. Exterior architectural features.

**Satisfied**

- b. General design, scale, massing and arrangement.

**Satisfied**

- c. Texture and material and color.

**Satisfied**

- d. The relationship of a, b, c, above, to other structures and features of the district.

**Satisfied**

- e. The purpose for which the district was created.

**Satisfied**

- f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.

**Satisfied**

- g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.

**Satisfied**

- h. The original architectural design or any subsequent modifications that have acquired significance.

**Satisfied**

- III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. 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**

- b. 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.

**Not Satisfied**

**The applicant has requested variances.**

- c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.

**Satisfied**

- d. The proposed structure, and/or additions to an existing structure is appropriate to and compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties, or the purposes for which the district was created.  
**Satisfied**
- e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces 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 preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.  
**Satisfied**
- f. 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 any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.  
**Satisfied**
- g. 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 and consistent with a City master plan, where applicable.  
**Satisfied**
- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.  
**Not Applicable**
- i. 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**
- j. Any proposed new structure shall have 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**
- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, 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 sidewalk street, or streets shall have

residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.

**Satisfied**

- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

**Not Applicable**

- m. Any 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).

**Satisfied**

- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.

**Satisfied**

- o. 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**

#### **CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION EVALUATION CRITERIA**

Section 118-564 (f)(4) of the Land Development Regulations of the Miami Beach Code provides criteria by which the Historic Preservation Board evaluates requests for a Certificate of Appropriateness for Demolition. The following is an analysis of the request based upon these criteria:

- a. The Building, Structure, Improvement, or Site is designated on either a national or state level as a part of an Historic Preservation District or as a Historic Architectural Landmark or Site, or is designated pursuant to Division 4, Article X, Chapter 118 of the Miami Beach Code as a Historic Building, Historic Structure or Historic Site, Historic Improvement, Historic Landscape Feature, historic interior or the Structure is of such historic/architectural interest or quality that it would reasonably meet national, state or local criteria for such designation.

**Satisfied**

**The existing structure is located within the Museum Local Historic District.**

- b. The Building, Structure, Improvement, or Site is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.

**Satisfied**

**The existing structure is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.**

- c. The Building, Structure, Improvement, or Site is one of the last remaining examples of its kind in the neighborhood, the country, or the region, or is a distinctive example of an architectural or design style which contributes to the character of the district.



**Satisfied**

**The existing structure is one of the last remaining examples of its kind and does contribute to the character of the district.**

- d. The building, structure, improvement, or site is a contributing building, structure, improvement, site or landscape feature rather than a noncontributing building, structure, improvement, site or landscape feature in a historic district as defined in section 114-1, or is an architecturally significant feature of a public area of the interior of a historic or contributing building.

**Satisfied**

**The existing structure is designated as a Contributing building in the Miami Beach Historic Properties Database.**

- e. Retention of the Building, Structure, Improvement, Landscape Feature or Site promotes the general welfare of the City by providing an opportunity for study of local history, architecture, and design or by developing an understanding of the importance and value of a particular culture and heritage.

**Satisfied**

**The retention of the subject structure is critical to developing an understanding of an important Miami Beach architectural style.**

- f. If the proposed demolition is for the purpose of constructing a parking garage, the Board shall consider it if the parking garage is designed in a manner that is consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, U.S. Department of the Interior (1983), as amended, and/or the design review guidelines for that particular district.

**Not Applicable**

**The demolition proposed is not for the purpose of constructing a parking garage.**

- g. In the event an applicant or property owner proposes the total demolition of a contributing structure, historic structure or architecturally significant feature, there shall be definite plans presented to the board for the reuse of the property if the proposed demolition is approved and carried out.

**Not Applicable**

**The applicant is not proposing the total demolition of the building.**

**ANALYSIS**

The subject structure, originally known as the Cynthia Apartments, was constructed in 1947 and designed by Martin Hampton in the Art Deco style of architecture. The applicant is proposing a number of modest interventions to the building and site.

First, along the primary (Washington Avenue) facade, the applicant is proposing to remove the existing ground level brick cladding adjacent to the main entry to the building. Staff would note that no original permit plans have been located within the Building Department Records. However, as part of the Historic Resources Report, the applicant has located a photograph of the building under construction and a postcard rendering; the brick material is not apparent in either. After review of the on-site conditions and the evidence presented by the applicant staff believes that the brick cladding was most likely a later intervention and as such has no objection to its removal.

Second, within the lobby the applicant is proposing to remove the existing south wall and replace it with a glass wall in order to introduce additional amenity space for guests of the hotel. Again, staff would note that no original permit plans have been located within the Building Department Records. However, through examination of later building permits, staff has determined that the wall proposed to be removed was a later addition. As such, staff has no objection to its removal and replacement with a glass wall system.

Finally, the applicant is proposing a number of improvements to the site including modifications to the hardscape and landscape design. Most notably, a new raised deck is proposed to be introduced along the south side of the site between the existing building and site wall. In order to access the new raised deck from the interior of the building, the applicant is proposing to convert an existing window opening into new double doors. This will require the demolition of the masonry portion of the wall below the existing window opening. Staff has no objection to the currently proposed project which will have no adverse impact on the existing Contributing building or the surrounding historic district and should enhance the pedestrian experience along this portion of Washington Avenue and 21<sup>st</sup> Street.

### **VARIANCE ANALYSIS**

As previously noted in the project section of this report, staff has no objections to variances #1, #2 and #3 based on the existing non-conforming conditions of the property, the limited impact of the proposed improvements and the retention of the contributing building. Staff also recommends denial of variance #4, as it does not satisfy the practical difficulties criteria and it is not related to the retention of the contributing building. In summary, staff recommends approval of the variances with the exception of variance #4.

### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends that variance requests #1, #2, and #3 be approved and variance #4 be **denied**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the Practical Difficulty and Hardship criteria, as applicable. However, should the Board find that the variance(s) requested satisfy Article 1, Section 2 of the Related Special Acts, 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, staff recommends that any approval be subject to the conditions enumerated in the attached Draft Order which address the inconsistencies with the aforementioned Practical Difficulty and Hardship criteria.

**HISTORIC PRESERVATION BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: October 8, 2019

FILE NO: HPB19-0338

PROPERTY: 2115 Washington Avenue

APPLICANT: Italplaza of Miami, LLC

LEGAL: The south 5 feet of Lot 4 and all of Lots 5 and 6 of a Resubdivision of Lot 5 and 8 of the Ocean Park Subdivision, According to the Plat Thereof, as Recorded in Plat Book 45, Page 40, of the Public Records of Miami-Dade County, Florida.

IN RE: The application for a Certificate of Appropriateness for the reconfiguration of a portion of the lobby and improvements to the site including variances from the required front, rear, street side and sum of the side setbacks.

**ORDER**

The City of Miami Beach Historic Preservation 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. Certificate of Appropriateness**

- A. The subject site is located within the Museum Local Historic District.
- 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:
  - 1. Is not consistent with Sea Level Rise and Resiliency Review Criteria (1) in Section 133-50(a) of the Miami Beach Code.
  - 2. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
  - 3. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(2) of the Miami Beach Code.
  - 4. Is not consistent with Certificate of Appropriateness Criteria 'b' in Section 118-564(a)(3) of the Miami Beach Code.
  - 5. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(f)(4) of the Miami Beach Code.
- C. The project would be consistent with the criteria and requirements of section 118-564 and 133-50(a) if the following conditions are met:

1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
  - a. Final design and details of the proposed exterior stair and ramp railings shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. Exterior railings shall return directly to the ground (no loops) and shall be clear anodized aluminum or powder coated grey or light bronze.
  - b. Final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, 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 plan shall incorporate the following:
  - a. The 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.
  - b. Cool pavement materials or porous pavement materials shall be utilized, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

**In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.**

## **II. Variance(s)**

- A. The applicant filed an application with the Planning Department for the following variance(s) which were either approved by the Board with modifications, or denied:

The following variances were **approved** by the Board:

1. A variance to reduce by 14'-5" the required 20'-0" front setback in order to construct an outdoor deck up to 5'-7" from the front property line facing Washington Avenue.
2. A variance to eliminate the minimum required street side setback of 13'-6" in order to construct an outdoor deck and retractable awning up to the street side property line facing 21st Street.

3. A variance to reduce by 13'-6" the required sum of the side setbacks of 23'-4" in order to construct an outdoor deck and retractable awning up to the street side property line facing 21st Street and provide a sum of the side setbacks of 9'-10".

The following variance was **denied** by the Board:

4. A variance to reduce by 5'-0" the required 7'-6" setback for the construction of a deck at 2'-6" from the rear property line.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to variances #1, #2, and #3, 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.

The applicant has submitted plans and documents with the application that also indicate the following, only as it relates to variances #1, #2, and #3, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That 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;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

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

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That 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 granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

- C. The Board hereby **Approves** the requested variance(s) #1, #2, and #3 and **Denies** variance request #4, as noted and imposes the following condition based on its authority in Section 118-354 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.**

**III. General Terms and Conditions applying to both 'I. Certificate of Appropriateness' and 'II. Variances' noted above.**

- A. The applicant agrees and shall be required to provide access to areas subject to this approval (not including private residences or hotel rooms) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the plans approved by the Board and conditions of this order.
- B. The relocation of any tree shall be subject to the approval of the Environment & Sustainability Director and/or Urban Forester, as applicable.
- C. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- D. 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.
- E. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- F. 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.
- G. 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.
- H. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.

- I. 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.
- J. 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.

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 Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "**2115 Washington Avenue**", as prepared by **3Design Architecture**, dated **August 5, 2019**, as approved by the Historic Preservation 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 set forth in this Order. No building permit may be issued unless and until all 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 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 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 Chapter 118 of the City Code; the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project should 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 118 of the City Code, 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 118 of the City Code, for revocation or modification of the application.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
DEBORAH TACKETT  
CHIEF OF HISTORIC PRESERVATION  
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ by Deborah Tackett, Chief of Historic Preservation, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: \_\_\_\_\_

Approved As To Form:  
City Attorney's Office: \_\_\_\_\_ (                    ) )

Filed with the Clerk of the Historic Preservation Board on \_\_\_\_\_ (                    ) )