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May 10, 2021

VIA ELECTRONIC SUBMITTAL AND HAND DELIVERY

Thomas Mooney, Planning Director  
Planning Department  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, Florida 33139

Re: Modification to BOA File NO. 3420 to Reflect Change in Operator for the Property at 743 Washington Avenue, Miami Beach

Dear Tom:

This law firm represents Mansourandco, LLC (the "Applicant") lessor of the property at 743 Washington Avenue in City of Miami Beach (the "City") and further identified by Folio No. 02-4203-004-0690 (the "Property"). The Applicant intends to take over operations of the existing entertainment establishment at the Property and relaunch a new concept for the space—VENDÔME Miami Beach. In order to do so, the Applicant must modify Board of Adjustment ("BOA") File No. 3420 to reflect that the Applicant is the now the operator.

Proposed Establishment. VENDÔME is envisioned as the City's newest luxury entertainment establishment delivering exclusive entertainment and curated experiences to a sophisticated clientele. The concept is inspired by the Place Vendôme neighborhood in Paris which is widely known for its exquisite architecture and high-profile residents. The team behind VENDÔME are veterans of international nightlife successfully operating high-end entertainment establishments in the United States, Europe and Australia. Jonathan Mansour, who leads the VENDÔME team, has experience with operating entertainment establishments in the Miami area as a founding partner of the Victory Restaurant and Lounge in Downtown Miami. Mansour and his team will bring their expertise and vision to the venue and help make it an asset to Miami Beach.

Elevated entertainment experiences, such as VENDÔME, are needed in the City in order to appeal to an affluent and sophisticated consumer base that can contribute to the City's hospitality and service industry which is currently struggling to recuperate from the economic hardships created by the Covid-19 closures. It is imperative for the economic well-being of the City's hospitality and service industries that responsible operators who comply with City regulations be allowed to open to the public and bring new life to the City. As such, the Applicant respectfully petitions that his request as detailed below be granted.

Request. In 2009, the BOA approved a variance to reduce the minimum required 300-foot distance separation between dancehalls/entertainment establishments licensed to sell alcoholic beverages and not operating as a restaurant (the "Approval"). Condition No. 3 of the Approval states that any subsequent owner or operator is required to go before the BOA and affirm their understanding of all conditions listed in the Approval. As such, subsequent operators have requested—and this Board has granted—modification of the Approval to reflect a change in operator. See Exhibit A, BOA File 3420. Now, the Applicant hereby requests that the Approval be modified, as it has been in the past, to reflect that the Applicant is the operator.

The Applicant has thoroughly reviewed the Approval and affirms that VENDÔME will comply with all conditions of the Approval to ensure safe operation of the new establishment. The enclosed operational plan shows the location of all tables, DJ stage, and bar inside the building, along with the maximum number of guests (140) and staff (53) that are permitted to occupy this space at any one time. Further, hours of operation and noise levels will be consistent with limitations set forth in the Approval and otherwise provide in the City Code.

Conclusion. Mansour and his team are excited to make their vision for VENDÔME a reality and bring a new elevated entertainment experience to Washington Avenue. After over a year of stagnation, the City is finally in a position to approve projects such as VENDÔME that will bring affluent customers back to the City and help revive the hospitality and service industry. The Applicant understands and affirms that he and his team will comply with all conditions set forth in the Approval. Based on the foregoing, Applicant respectfully requests that his request to modify the Approval be granted. Thank you for your consideration

Sincerely,



Michael J. Marrero

Enclosures

cc: Michael W. Larkin, Esq.  
Cecilia Torres-Toledo, Esq.



CFN 2015R0388530  
OR BK 29660 Pgs 1715-1719 (5Pgs)  
RECORDED 06/17/2015 12:54:08  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

**BOARD OF ADJUSTMENT  
CITY OF MIAMI BEACH, FLORIDA**

**PROPERTY:** 743 Washington Avenue

**FILE NO.** 3420

**IN RE:** The application for modifications to conditions of approval for a previously approved variance for the reduction from the minimum required 300 foot distance separation between dance hall/entertainment establishments licensed to sell alcoholic beverages and not operating as a restaurant with full kitchen and serving full meals. Specifically, the applicant is requesting to change the name of the owner/operator.

**LEGAL DESCRIPTION:** Lot 14 thru 16, Block 33 of OCEAN BEACH ADDITION #1, According to the Plat Thereof, Recorded in Plat Book 3, Page 11, of the Public Records of Miami-Dade County, Florida.

**MEETING DATE:** June 5, 2015

**MODIFIED ORDER**

The applicant, Keith Paciello / 743 Associates, LLC., filed an application with the Planning Department for modifications to a previously approved variance granted on June 5, 2009 to reduce the minimum required 300 foot distance separation between dance hall/entertainment establishments licensed to sell alcoholic beverages and not operating as a restaurant with full kitchen and serving full meals, The applicant requests to modify Condition No. 3 of the June 3, 2011 BOA "Modification Order" No. 3420, which granted the approval of the variance to the previous applicant and operator to permit the transfer of approval to Keith Paciello / 743 Associates, LLC., as follows:

3. ~~This Order is issued~~ modified approval is granted to Keith Paciello / 743 Associates, LLC., as operator of the establishment ~~restaurant/lounge~~. Any subsequent owners or operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.

The City of Miami Beach Board of Adjustment 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:

- A. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the Planning Department Staff Report, the project as submitted satisfies the requirements of Section 118-353(d) of the Miami Beach Code. Accordingly, the Board of Adjustment has determined the following:

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;

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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.

B. The Board imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code. Strike-through denote previous language stricken and underlining denotes new language:

1. The applicant shall comply with all conditions imposed by the Planning Board File No. 2053 (fka 1906).
2. If there is any change in the of use or operation of the establishment, including but not limited to the establishment attempting to become a stand-alone bar, or a dance hall and/or entertainment establishment, or in the event the use ceases to exist for any reason (except for temporary closure during a season or remodeling, both for a period up to six (6) months), the variance shall be subject to Section 118-356, City Code, for revocation or modification of the variance.
3. This Order is issued modified approval is granted to Keith Paciello / 743 Associates, LLC, as operator of the establishment restaurant/lounge. Any subsequent owners or operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
4. ~~Security personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation.~~
5. ~~The hours of operation for the restaurant/lounge shall be as follows:~~  
~~Monday-Friday: 10:30 a.m. to 5:00 a.m.~~  
~~Saturday & Sunday: 5:00 p.m. to 5:00 a.m.~~

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- ~~6. As shown on the plans, the existing double door vestibule shall be maintained at the main entrance.~~
- ~~7. A revised floor plan that shows the seating arrangement shall be submitted to staff for review and approval prior to obtaining a building permit. In addition, security personnel shall be posted in close proximity to the rear exit door.~~
- ~~8. The garbage holding room opening towards the alley shall be enclosed and air conditioned in order to contain malodorous garbage and to avoid any garbage escaping to the alley.~~
- ~~9. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division. A final concurrency determination shall be conducted prior to the issuance of a Certificate of Occupancy or Certificate of Completion. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving the Business Tax Receipt.~~
- ~~10. The applicant shall coordinate with the Parking Department and the Transportation Manager the location of valet drop off/pick up and sufficient spaces for the queuing of vehicles waiting to be serviced by the valet operator.~~
- ~~11. Once the applicant enters into a contract with the valet operator, a valet staffing plan and a vehicle storage plan shall be submitted to staff for review and approval.~~
- ~~12. The applicant shall submit for staff review and approval specific noise attenuation measures inclusive of interior proofing prior to the issuance of a Business Tax Receipt.~~
- ~~13. Any window treatment that may be proposed shall be such that there is a clear view from the sidewalk in order to activate the area. Such treatments shall be included in the building permit plans and shall be reviewed and approved by staff.~~
- ~~14. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.~~
- ~~15. Queuing of persons on the sidewalk shall be prohibited. Queuing shall take place within the premises, as shown in the plans submitted, and controlled by The Gates security personnel so that there is no spillover that could conflict with pedestrian flow in front of the subject establishment.~~
- ~~16. The applicant shall be responsible for maintaining the frontage and exterior of the building and the property in excellent condition, including keeping the sidewalk, curb and gutter in front and side of the building in a clean and sanitary condition, free of all refuse, at all times. When sweeping the sidewalk in front of the establishment, the personnel doing the sweeping shall ensure that they do not merely push the refuse in front of another building, but pick up all trash and dispose~~

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~~of it appropriately. In addition, at the end of business each day sidewalks shall be swept and hosed down.~~

- ~~17. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a certificate of use.~~
- ~~18. This Order shall be recorded in the Public Records of Miami-Dade County, Florida at the expense of the applicant.~~
19. The Board of Adjustment shall retain jurisdiction to call operators back before them to add additional conditions and modify these conditions including the hours of operation should there be complaints (as determined by Code Compliance) about late night noise. Violation of the Miami-Dade County Code Section 21-28 (a/k/a "noise ordinance") shall be deemed a violation of this Variance and subject to the remedies as described in Sec. 118-194 of the City Code.
20. 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.
21. The applicant shall comply with all conditions imposed by the Public Works Department.
22. The conditions on this modified Order are binding on the applicant, the property's owners and all successors in interest and assigns.
23. This modified 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.
24. This modified Order shall be recorded, at the expense of the applicant, in the Public Records of Miami-Dade County; the original or a certified copy shall be provided to the Planning Department prior to the issuance of a Building Permit.
25. The conditions on this Order are binding on the applicant, the property's owners and all successors in interest and assigns.
26. 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, except to the extent of the variance granted herein.

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 staff recommendations, as modified by the Board of Adjustment, that the application for Variance(s) Approval is GRANTED for the above-referenced project, subject to those certain conditions

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specified in Paragraph B (Condition Nos. 1-26, inclusive) hereof, to which the applicant has agreed.

Dated this 11<sup>th</sup> day of JUNE, 2015.

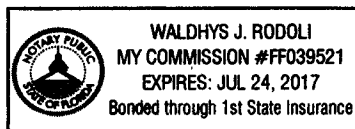
BOARD OF ADJUSTMENT  
CITY OF MIAMI BEACH, FLORIDA

BY: Michael Belush  
Michael Belush, AICP  
Planning and Zoning Manager  
For the Chair

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of June, 2015, by Michael Belush, Planning and Zoning Manager of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]



Waldhys J. Rodoli  
Notary:  
Print Name: Waldhys J. Rodoli  
Notary Public, State of Florida  
My Commission Expires: 7-24-2017  
Commission Number: FF 039521

Approved As To Form:  
City Attorney's Office

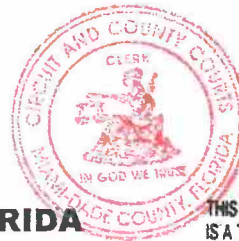
City Attorney's Office 6/11/2015  
Filed with the Clerk of the Board of Adjustment on 06/11/15 [Signature]

MB



CFN 2011R0592646  
 OR Bk 27814 Pgs 2173 - 2177; (5pgs)  
 RECORDED 09/06/2011 09:27:47  
 HARVEY RUVIN, CLERK OF COURT  
 MIAMI-DADE COUNTY, FLORIDA

**BEFORE THE  
 BOARD OF ADJUSTMENT  
 OF THE CITY OF MIAMI BEACH, FLORIDA**

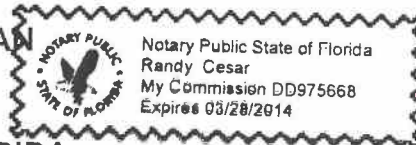


**CERTIFICATION**

THIS IS TO CERTIFY THAT THE ATTACHED DOCUMENT  
 IS A TRUE AND ACCURATE COPY OF THE ORIGINAL ON  
 FILE IN THE OFFICE OF THE PLANNING DEPARTMENT.  
 CITY OF MIAMI BEACH

*[Signature]* 9-2-2011  
 (Signature of Planning Director or Designee) (Date)  
 Personally known to me or Produced ID:

IN RE: The application of  
**JACK FLECHNER AS MEMBER OF  
 WASHINGTON ENTERTAINMENT, LLC**  
 743 WASHINGTON AVENUE  
 LOT 14, BLOCK 33 OF OCEAN  
 BEACH ADDITION # 1  
 PLAT BOOK 3, PG 11;  
 MIAMI-DADE COUNTY, FLORIDA



Notary Public, State of Florida at Large  
 Printed Name: *Randy Cesar*  
 My Commission Expires: (Seal)  
 This document contains 5 pages.

MEETING DATE: JUNE 3, 2011  
 FILE NO. 3420

**MODIFICATION ORDER**

The applicant, Jack Flechner as Member of Washington Entertainment, LLC, filed an application with the Planning Department for a modification to a condition of approval for a variance granted on June 5, 2009, waiving the minimum distance separation of 300 feet required between dance hall/entertainment establishments licensed to sell alcoholic beverages, and not also operating as a restaurant with full kitchen and serving full meals, as follows:

Condition number 2 of the Order dated June 5, 2009, requires that if there is any change in use or operation or ownership of the establishment, including but not limited to the establishment attempting to become either a bar or nightclub use, or in the event the restaurant use ceases to exist for any reason (except for temporary closure during a season or remodeling, both for a period up to six months), the variance shall automatically become null and void. Condition number 3 of the same Order states that the Order is issued to the previous applicant. The applicant is requesting to allow the transfer of the variance to Washington Entertainment, LLC.

Notice of the request for extension of time was given as required by law and mailed to owners of property within a distance of 375 feet of the exterior limits of the property on which application was made.

THE BOARD FINDS, based upon evidence, testimony, information and documentation presented to the Board, and portions of the staff report and recommendations, as applicable, which are incorporated herein by this reference, that good cause exists to grant the requested modification.

IT IS THEREFORE ORDERED, by the Board, that the request as modified above be APPROVED, and that all conditions as imposed by the Board of Adjustment and contained within the Order issued for this project on June 9, 2009 shall remain in full force and effect,

except as modified herein:

1. The applicant shall comply with all the conditions imposed by Conditional Use granted by the Planning Board File No. 1906.
2. If there is any change in the use or operation of the establishment, including but not limited to the establishment attempting to become a stand-alone bar, or a dance hall and/or entertainment establishment, or in the event the use ceases to exist for any reason (except for temporary closure during a season or remodeling, both for a period up to six (6) months), the variance shall be subject to Section 118-356, City Code, for revocation or modification of the variance.
3. This Order is issued to Washington Entertainment, LLC, as operator of the restaurant/lounge. Any subsequent owners or operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
4. Security personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation.
5. The hours of operation for the restaurant/lounge shall be as follows:  
Monday-Friday: 10:30 a.m. to 5:00 a.m.  
Saturday & Sunday: 5:00 p.m. to 5:00 a.m.
6. As shown on the plans, the existing double door vestibule shall be maintained at the main entrance.
7. A revised floor plan that shows the seating arrangement shall be submitted to staff for review and approval prior to obtaining a building permit. In addition, security personnel shall be posted in close proximity to the rear exit door.
8. The garbage holding room opening towards the alley shall be enclosed and air conditioned in order to contain malodorous garbage and to avoid any garbage escaping to the alley.
9. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division. A final concurrency determination shall be conducted prior to the issuance of a Certificate of Occupancy or Certificate of Completion. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving the Business Tax Receipt.
10. The applicant shall coordinate with the Parking Department and the Transportation Manager the location of valet drop-off/pick up and sufficient spaces for the queuing of vehicles waiting to be serviced by the valet operator.
11. Once the applicant enters into a contract with the valet operator, a valet staffing plan and a vehicle storage plan shall be submitted to staff for review and approval.

12. The applicant shall submit for staff review and approval specific noise attenuation measures inclusive of interior proofing prior to the issuance of a Business Tax Receipt.
13. Any window treatment that may be proposed shall be such that there is a clear view from the sidewalk in order to activate the area. Such treatments shall be included in the building permit plans and shall be reviewed and approved by staff.
14. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
15. Queuing of persons on the sidewalk shall be prohibited. Queuing shall take place within the premises, as shown in the plans submitted, and controlled by The Gates security personnel so that there is no spillover that could conflict with pedestrian flow in front of the subject establishment.
16. The applicant shall be responsible for maintaining the frontage and exterior of the building and the property in excellent condition, including keeping the sidewalk, curb and gutter in front and side of the building in a clean and sanitary condition, free of all refuse, at all times. When sweeping the sidewalk in front of the establishment, the personnel doing the sweeping shall ensure that they do not merely push the refuse in front of another building, but pick up all trash and dispose of it appropriately. In addition, at the end of business each day sidewalks shall be swept and hosed down.
17. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a certificate of use.
18. This Order shall be recorded in the Public Records of Miami-Dade County, Florida at the expense of the applicant.
19. The Board of Adjustment shall retain jurisdiction to call operators back before them to add additional conditions and modify these conditions including the hours of operation should there be complaints (as determined by Code Compliance) about late night noise. Violation of the Miami-Dade County Code Section 21-28 (a/k/a "noise ordinance") shall be deemed a violation of this Variance and subject to the remedies as described in Sec. 118-194 of the City Code.
20. 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.
21. The applicant shall comply with all conditions imposed by the Public Works Department.

22. The conditions on this Order are binding on the applicant, the property's owners and all successors in interest and assigns.
23. This 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.
24. This Order shall be recorded, at the expense of the applicant, in the Public Records of Miami-Dade County; the original or a certified copy shall be provided to the Planning Department prior to the issuance of a Building Permit.
25. The conditions on this Order are binding on the applicant, the property's owners and all successors in interest and assigns.
26. 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, except to the extent of the variance granted herein.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Board of Adjustment, as determined by staff, entitled "Nightclub Buildout", as prepared by Juan C. David, R.A., dated April 29, 2011, modified in accordance with the conditions set forth in this Order and staff review and approval.

Board of Adjustment of  
The City of Miami Beach, Florida

By:



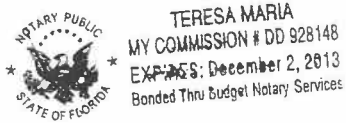
Richard G. Lorber, AICP  
Planning & Zoning Manager  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, Florida 33139


STATE OF FLORIDA           )  
COUNTY OF MIAMI-DADE   )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of June, 2011, by Richard G. Lorber, Planning and Zoning Manager of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of

Board of Adjustment Order: Meeting of June 3, 2011  
File No. 3420: Jack Flechner as Member of Washington Entertainment, LLC  
743 Washington Avenue, Miami Beach, Florida  
Page 5 of 5


the corporation. He is personally known to me.



  
Notary:  
Print Name: Teresa Maria  
Notary Public, State of Florida

[NOTARIAL SEAL]  
My Commission Expires:

Approved As To Form:  
Legal Department (gheled 6-8-2011)

Filed with the Clerk of the Board of Adjustment on 6/10/11 

F:\PLAN\zba\FINALORD\3420 - MOD Order - 743 Washington Av - 6-11.doc

STATE OF FLORIDA, COUNTY OF DADE  
I HEREBY CERTIFY that this is a true copy of the  
original filed in this office on 06 day of  
August A.D. 20 11  
WITNESS my hand and Official Seal.  
HARVEY RUVIN, CLERK of Circuit and County Courts  
By By #2015 D.C.



**BEFORE THE  
BOARD OF ADJUSTMENT  
OF THE CITY OF MIAMI BEACH, FLORIDA**



CFN 2009RD548576  
DR BK 26958 Pgs 2535 - 2539 (5pgs)  
RECORDED 07/29/2009 13:09:58  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

IN RE: The application of  
SCOTT ROBINS AS PRESIDENT OF  
8<sup>TH</sup> STREET WASHINGTON HOLDINGS, INC.  
743 WASHINGTON AVENUE  
LOT 14, BLOCK 33 OF OCEAN  
BEACH ADDITION # 1  
PLAT BOOK 3, PG 11;  
MIAMI-DADE COUNTY, FLORIDA

MEETING DATE: JUNE 5, 2009  
FILE NO. 3420

**ORDER**

The applicant, Scott Robins as President of 8<sup>th</sup> Street Washington Holdings, Inc., filed an application with the Planning Department for a variance in order to operate a dance hall / entertainment establishment not also operating as a restaurant at the subject location, as follows:

1. A variance to waive the minimum distance separation of 300 feet required between dance hall/entertainment establishments licensed to sell alcoholic beverages, and not also operating as a restaurant with full kitchen and serving full meals:

Notice of the request for variance was given as required by law and mailed to owners of property within a distance of 375 feet of the exterior limits of the property on which application was made.

THE BOARD FINDS that the property in question is located in the CD-2 Zoning District.

THE BOARD FURTHER FINDS, based upon evidence, testimony, information and documentation presented to the Board, and portions of the staff report and recommendations, as applicable, which are incorporated herein by this reference, that with regard to the requested variances when conditioned as provided for in this Order:

*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*

**EXHIBIT**

tabbles

*A*

*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.*

IT IS THEREFORE ORDERED, by the Board, that the variance be APPROVED as requested and set forth above; with the following conditions to which the applicant has agreed:

1. The applicant shall comply with all the conditions imposed by Conditional Use granted by the Planning Board File No. 1906.
2. If there is any change in the use or operation of the establishment, including but not limited to the establishment attempting to become a stand-alone bar, or a dance hall and/or entertainment establishment, or in the event the use ceases to exist for any reason (except for temporary closure during a season or remodeling, both for a period up to six (6) months), the variance shall be subject to Section 118-356, City Code, for revocation or modification of the variance.
3. This Order is issued to Scott Robins, as Pres. of 8<sup>th</sup> Street Washington Holdings, Inc., as operator of the restaurant/lounge. Any subsequent owners or operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
4. Security personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation.
5. The hours of operation for the restaurant/lounge shall be as follows:  
Monday-Friday: 10:30 a.m. to 5:00 a.m.  
Saturday & Sunday: 5:00 p.m. to 5:00 a.m.
6. As shown on the plans, the existing double door vestibule shall be maintained at the main entrance.
7. A revised floor plan that shows the seating arrangement shall be submitted to staff for review and approval prior to obtaining a building permit. In addition, security personnel shall be posted in close proximity to the rear exit door.

8. The garbage holding room opening towards the alley shall be enclosed and air conditioned in order to contain malodorous garbage and to avoid any garbage escaping to the alley.
9. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division. A final concurrency determination shall be conducted prior to the issuance of a Certificate of Occupancy or Certificate of Completion. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving the Business Tax Receipt.
10. The applicant shall coordinate with the Parking Department and the Transportation Manager the location of valet drop-off/pick up and sufficient spaces for the queuing of vehicles waiting to be serviced by the valet operator.
11. Once the applicant enters into a contract with the valet operator, a valet staffing plan and a vehicle storage plan shall be submitted to staff for review and approval.
12. The applicant shall submit for staff review and approval specific noise attenuation measures inclusive of interior proofing prior to the issuance of a Business Tax Receipt.
13. Any window treatment that may be proposed shall be such that there is a clear view from the sidewalk in order to activate the area. Such treatments shall be included in the building permit plans and shall be reviewed and approved by staff.
14. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
15. Queuing of persons on the sidewalk shall be prohibited. Queuing shall take place within the premises, as shown in the plans submitted, and controlled by The Gates security personnel so that there is no spillover that could conflict with pedestrian flow in front of the subject establishment.
16. The applicant shall be responsible for maintaining the frontage and exterior of the building and the property in excellent condition, including keeping the sidewalk, curb and gutter in front and side of the building in a clean and sanitary condition, free of all refuse, at all times. When sweeping the sidewalk in front of the establishment, the personnel doing the sweeping shall ensure that they do not merely push the refuse in front of another building, but pick up all trash and dispose of it appropriately. In addition, at the end of business each day sidewalks shall be swept and hosed down.
17. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a certificate of use.

18. This Order shall be recorded in the Public Records of Miami-Dade County, Florida at the expense of the applicant.
19. The Board of Adjustment shall retain jurisdiction to call operators back before them to add additional conditions and modify these conditions including the hours of operation should there be complaints (as determined by Code Compliance) about late night noise. Violation of the Miami-Dade County Code Section 21-28 (a/k/a "noise ordinance") shall be deemed a violation of this Variance and subject to the remedies as described in Sec. 118-194 of the City Code.
20. 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.
21. The applicant shall comply with all conditions imposed by the Public Works Department.
22. The conditions on this Order are binding on the applicant, the property's owners and all successors in interest and assigns.
23. This 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.
24. This Order shall be recorded, at the expense of the applicant, in the Public Records of Miami-Dade County; the original or a certified copy shall be provided to the Planning Department prior to the issuance of a Building Permit.

PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Board of Adjustment, as determined by staff, entitled "Interior Alteration", as prepared by Coltrain Jones Architects, P.A., dated April 17, 2009, modified in accordance with the conditions set forth in this Order and staff review and approval.

The applicant shall have a full building permit for the work contemplated herein issued by the Building Department on or before December 5, 2010 (within eighteen months of the date of this hearing) as per the above conditions. If the full building permit is not obtained within the specified time limits, the applicant shall apply to the Board for an extension of time prior to expiration of such period; otherwise, this Order will expire, and become null and void, unless the issuance of such permit is stayed by an appeal of this Order to a court of competent jurisdiction.

This Order does not constitute a building permit, but upon presentation of a recorded copy of this Order to the Planning Department, a permit shall be processed and approved (subject to compliance with the conditions hereof) in accordance with and pursuant to the ordinances of the City of Miami Beach.

Board of Adjustment Order: Meeting of June 5, 2009  
File No. 3420: Scott Robins as President of 8<sup>th</sup> Street Washington Holdings, Inc.  
743 Washington Avenue, Miami Beach, Florida  
Page 5 of 5

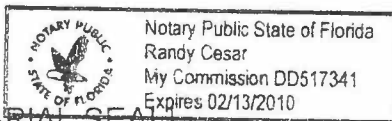
Board of Adjustment of  
The City of Miami Beach, Florida

By:

*[Signature]*  
Richard G. Lorber, AICP  
Planning & Zoning Manager  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, Florida 33139

STATE OF FLORIDA     )  
COUNTY OF MIAMI-DADE    )

The foregoing instrument was acknowledged before me this 13 day of July, 2009, by Richard G. Lorber, Planning and Zoning Manager of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



[NOTARIAL SEAL]

My Commission Expires:

*Randy Cesar*  
Notary:  
Print Name: Randy Cesar  
Notary Public, State of Florida

Approved As To Form:  
Legal Department (*Heed 7-14-09*)

Filed with the Clerk of the Board of Adjustment on 07/15/09 *[Signature]*