

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: December 17, 2021

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB21-0716
300 West 40th Street

An application has been filed requesting Design Review Approval for the partial demolition, renovation, and exterior façade modifications to an existing one-story religious facility, including a variance from the required interior side setback.

RECOMMENDATION:

Approval with conditions

LEGAL DESCRIPTION:

Lots 5 and 6, in Block 50, of Orchard Subdivision No. 2 & 3, according to the Plat thereof, as recorded in Plat Book 8, at Page 116, of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-2
Future Land Use: RS
Lot Size: 36,065 SF
Lot Coverage:
 Proposed: 3,599.2 SF / 10%
 Maximum: 10,819.5 SF / 30%
Unit size:
 Proposed: 3,599.2 SF / 10%
 Maximum: 18,032.5 SF / 50%
Height:
 Proposed: ~23'-0" sloped roof
 Maximum: 31'-0" sloped roof

Grade: +5.83' NGVD
Flood: +8.00' NGVD
Adjusted Grade: +6.91' NGVD
Finished Floor Elevation: 10.5' NGVD

SURROUNDING PROPERTIES:

North: Parking lot
South: Two story 1938 Residence
 Two-story 1938-1996 Residence
West: One-Story 1950 Residence
East: Two story 1934 and 1986
 Residences

EXISTING STRUCTURE:

Year: 1959
Architect: C. Draper Faulkner
Vacant: No
Demolition: Partial

THE PROJECT

The applicant has submitted plans entitled "Kingdom Hall of Jehovah's witnesses" as designed by **Mark A. Ugowski, P.A.**, signed, sealed, and dated, October 11, 2021.

The applicant is requesting Design Review Approval for partial demolition, renovation, and exterior façade modifications to an existing one-story religious facility, including a variance from the required interior side setback.

The applicant is requesting the following variance:

1. A variance to reduce by 9'-4" the minimum required interior side setback of 19'-6" to retain the existing structure and construct a one story detached addition at 10'-2" from the interior south side property line.

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 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, staff has concluded that the plans and documents with the application comply with the following hardship criteria 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.

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following aspects of the City Code with the exception of the variance requested:

- The parking lots shall be reconfigured to comply with the current code.
- Drive lanes into the site shall not be wider than 12'-0"; the width of the drop off area can be 22' wide to allow for parking and passing of vehicles.
- For further zoning review: Provide an architectural site plan including setbacks and showing all exterior elements existing to remain and proposed.
- Parking spaces to be retained do not comply with minimum size required. Since only 2 parking spaces are required for the property, reconfiguration of the parking areas to comply with requirements of setbacks and parking size and clearances is required.
- Light poles located on the interior side shall be setback 7'-6" from the interior side property line.
- Fence shown on section drawings as existing to remain is inconsistent with location of the fence in survey. The fence does not extend to the edge of the property on both fronts.
- Location of existing fence on the south side appears to be on the utility easement. Location of the fence on the easement shall be approved by Public Works.
- Label use of detached structure in the front facing Pine Tree Drive.
- URBAN HEAT ISLAND ORDINANCE Sec. 142-106(b) 6. Driveways. (d) 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 114-1 of this Code. (e) Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in section 114- 1 of this Code, shall be prohibited.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Satisfied; However, the proposed project seeks a variance from the Board.

2. 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; However, the proposed project seeks a variance from the Board.
3. 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; However, the proposed project seeks a variance from the Board.
4. 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 118-252.
Not Satisfied, staff recommends further refinement of the landscape design.
5. 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 Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.
Satisfied; However, the proposed project seeks a variance from the Board.
6. The proposed Structure, and/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; However, the proposed project seeks a variance from the Board.
7. 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
8. 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.
Satisfied
9. 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.

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.

Not Satisfied; staff recommends further refinement of the landscape design.

11. 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

12. 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

13. 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

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

Satisfied

15. 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

16. 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

17. 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

18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the City Code 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

19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

Not Satisfied; see below

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: A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.
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 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.
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.

Not Satisfied

11. Cool pavement materials or porous pavement materials shall be utilized.

Not Satisfied

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

Satisfied

ANALYSIS:
DESIGN REVIEW

The applicant is proposing the substantial demolition, renovation, and exterior façade modifications to an existing one-story religious facility. The religious building was first built in 1959 as a First Church of Christ, Scientist and in 1995 was purchased by the local congregations of Jehovah's Witnesses, English Congregation of Miami Beach. The site is located on the south side of West 40th Street in a residential zoning district, RS-2. West 40th Street is unique in that the properties along the north side abut the 41st Street commercial corridor and are zoned low-intensity commercial, or CD-1, while the properties to the south are zoned single family residential. Comprising the entire north portion of the easternmost block of West 40th Street, the 36,065 square foot property is street-bound on three sides: to the north by West 40th Street, to the east by Pine Tree Drive and to the west by Sheridan Avenue.

The applicant is proposing to substantially demolish the front portion of the existing revival style religious facility in order to arrive at a smaller building. The modified exterior facades are residential in nature, featuring steep sloped metal roofs, stucco finished walls and a modest entrance of French-style double doors that are crowned by a gabled roof and wood brackets. The design is simple, and staff recommends some finessing of the exterior façade to include more fenestration to break up large expanses of blank wall. In addition to the renovation and modifications to the existing building, the applicant is also proposing a new entrance drive, retaining belvedere garden walls and stairs that are located on each side facing a street, and two small surface parking lots that also face the side streets. With the reduction of the building in its size and occupancy, the site is predominately open to landscape. As such, staff recommends refinement of the landscape to include more canopy trees and a variety of

shrubs and ground covers to enhance the existing formal garden elements, enhance the large front lawn and drive, and to minimize the impact of the retained surface parking lots.

Staff recommends the approval of the application with the conditions and recommendations noted herein.

VARIANCE REVIEW

The project includes the following variance request:

1. A variance to reduce by 9'-4" the minimum required interior side setback of 19'-6" to retain the existing structure and construct a one story detached addition at 10'-2" from the interior south side property line.

- Variance requested from:

Sec. 142-106. Setback requirements for a single-family detached dwelling.

- (a) *The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:*

- (2) *Side yards:*

c. Interior sides.

- 1. For lots greater than 65 feet in width each interior side yard shall have a minimum of ten percent of the lot width or ten feet, whichever is greater.*

e. Nonconforming yards.

- 1. If a single-family structure is renovated in excess of 50 percent of the value determination, as determined by the building official pursuant to the standards set forth in the Florida Building Code, any new construction in connection with the renovation shall meet all setback regulations existing at the time, unless otherwise exempted under chapter 118, article IX of these land development regulations.*

- Supplementary section:

Sec. 118-395. - Repair and/or rehabilitation of nonconforming buildings and uses.

(b) Nonconforming buildings.

- (3) *Nonconforming buildings which are repaired or rehabilitated by more than 50 percent of the value of the building as determined by the building official, shall be subject to the following conditions:*

- c. The entire building and any new construction shall comply with the current development regulations in the zoning district in which the property is located.*

The project consists of the demolition of most of the existing structure and the remodeling of the remaining portion including exterior site improvements and a new one story detached addition on the southeast side. The lot width of the property, at 194.5', requires a minimum of 19'-6" interior side setback for new construction. Although the structure is located in a single-

family district, where an existing non-conforming side setback of 5'-0" could be allowed for additions, this section is related to single family uses not to a religious institution, and because the improvements may exceed 50% of the value of the existing site improvements, a variance has been requested to retain the non-conforming setback and for the new detached addition aligned with the existing setbacks of the retained south side walls.

Staff finds that the variance request satisfies the practical difficulties criteria for approval. The minimum required side setback for this property is unusually larger than the typical surrounding properties with 50' to 75' minimum lot width in the RS-4 and RS-2 districts where the minimum side setback required is 10'-0" or less. The new addition appears to be an auxiliary structure and not part of the main assembly use and therefore it should not create any negative impact on the adjacent single-family home or on other surrounding properties. The applicant shall clarify the use of this structure, not indicated on plans. Based on the low scale of the proposed project, the lot area and lot width of the property, staff is not opposed to the requested variance.

RECOMMENDATION:

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

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: December 17, 2021

PROPERTY: **300 West 40th Street** **02-3227-017-0590**

FILE NO: DRB21-0716

IN RE: An application for Design Review Approval for the partial demolition, renovation, and exterior façade modifications to an existing one-story religious facility, including a variance from the required interior side setback.

LEGAL: Lots 5 and 6, in Block 50, of Orchard Subdivision No. 2 & 3, according to the Plat thereof, as recorded in Plat Book 8, at Page 116 of the Public Records of Dade County, Florida.

APPLICANT: Jehovah's Witnesses Congregation of South Miami Beach, Inc.

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 118-252(a) of the Miami Beach Code. 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 in consistent with Design Review Criteria 4, 9, 10 and 19 in Section 118-251 of the Miami Beach Code.
- 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 133-50(a) of the Miami Beach Code.
- D. The project would remain consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
 - 1. Revised elevation, site plan, and floor plan drawings for 300 West 40th Street shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. The parking lot and spaces cannot be approved as proposed. The parking lots and associated parking spaces shall be reconfigured to comply with code requirements.
 - b. Any light poles located on the interior side shall be setback 7'-6" from the interior side property line.
 - c. The proposed drive lanes shall be not wider than 12'-0" and the proposed drop-off area shall be no wider than 22'-0".
 - d. The proposed detached building shall comply with the required setbacks per code.
 - e. URBAN HEAT ISLAND ORDINANCE Sec. 142-106(b) 6. Driveways. (d) 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 114-1 of this Code. (e) Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in section 114- 1 of this Code, shall be prohibited.
 - f. The proposed design for the religious facility shall be refined to incorporate more fenestration that 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.
 - g. The site plan shall be revised to include parking lots that comply with code and a more refined landscape plan that includes additional plantings that 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 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.
 - i. 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.
 - j. 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 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 landscape plan shall be refined and shall include more canopy trees, hedges and ground cover and 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.
- b. The existing belvedere walls overlooking Sheridan Avenue and Pine Tree Drive, shall be retained.
- 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 proposal, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
- f. A landscape plan for the entire site prepared by a licensed Landscape Architect registered in the State of Florida shall be submitted as part of the building permit for the project. The landscape plan shall further enhance current landscape conditions while reducing non-conformity related to landscape code requirements as prescribed by CMB Chapter 126, particularly as it relates to native tree and shrub requirements subject, to the review and approval of staff.
- g. 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.
- h. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventers and all other related devices and fixtures. The location of backflow preventers, Siamese pipes or other related devices and fixtures, if any, and how they are screened with

landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.

- i. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right-of-way shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- j. 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 118-262, the applicant, or the city manager on behalf of the City Administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
 - 1. A variance to reduce by 9'-4" the minimum required interior side setback of 19'-6" to retain the existing structure and construct a one story detached addition at 10'-2" from the interior south side property line.
- B. The applicant has submitted plans and documents with the application that the Board has concluded 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.

The applicant has submitted plans and documents with the application that the Board has concluded comply with the following hardship criteria, 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 Variance request(s) and imposes the following conditions 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. Design Review Approval and ‘II. Variances’ noted above.

- A. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- B. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- C. 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.
- D. 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.

- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- F. 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 "Kingdom Hall of Jehovah's witnesses" as designed by **Mark A. Ugowski**, P.A., signed, sealed, and dated, October 11, 2021, and as approved by the Design Review Board, as determined by staff.

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 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 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 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 _____.

Filed with the Clerk of the
Design Review Board on _____ ()