

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: January 4, 2022

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: DRB21-0688  
**49 Collins Avenue**

An application has been filed requesting Design Review Approval for tenant signage that includes variances for size, location, and design.

#### **RECOMMENDATION:**

Approval of the main sign.

Denial of the variances requested for the proposed painted sign.

#### **LEGAL DESCRIPTION:**

Lots 14 and 15, Block 1, of Ocean Beach Fl., according to the Plat Thereof, as recorded in Plat Book 2 at Page 38, of the Public Records of Miami-Dade County, Florida.

#### **BACKGROUND:**

On August 6, 2013, the Design Review Board reviewed and approved an application for the construction of a new 4-story parking garage with accessory ground floor commercial uses, (DRB File No. 22841).

#### **SITE DATA:**

Zoning:	CPS-1 (Limited Mixed-Use Commercial)
Future Land Use:	CPS-1 (Limited Mixed-Use Commercial)
Lot Size:	13,000 SF

#### **SURROUNDING PROPERTIES:**

North:	5-story residential building with ground floor parking
South:	7-story residential building with ground floor commercial uses
East:	Single story restaurant
West:	3-story Nursing Facility

#### **THE PROJECT:**

The applicant has submitted plans entitled "49 Collins Avenue", as prepared by **Todd B. Tragash**, dated November 4, 2021.

The subject application includes the review of two signs. The first is a neon wall sign facing Collins Avenue, located above the main entrance to the restaurant "CARBONE". The sign measures approximately 3.5' x 7 feet for an overall area of 24 square feet. The sign complies with the maximum area allowed for wall signs, however due to its height and overall design, staff could not approve the sign administratively.

The second sign is a painted sign located on the south wall of the parking structure, spanning from above the first floor to the roof, approximately 24 feet tall x 9.5 feet wide with an overall area of 228 square feet.

The applicant is requesting the following after-the-fact variance(s):

1. A variance for the placement of a sign on a non-street facing elevation.
2. A variance to exceed by 228 SF the maximum sign area of zero (0) SF for the installation of the painted sign on a non-street facing elevation.
3. A variance from the minimum design standards of Section 138-21, for the installation of a painted wall sign.

The aforementioned variances are requested from:

**Sec. 138-13. General sign requirements and design standards.**

*The following standards shall apply to all signs unless otherwise exempted in this chapter or these land development regulations:*

- (1) *Direct access to the street or waterway from the licensed establishment is required for a sign that faces a public right-of-way or waterway.*
- (2) **Signs shall front a street or waterway.** *Signs may be permitted to front alleys where the alley frontage provides a means of public entrance, or is adjacent to a parking lot or garage.*

\* \* \*

**Sec. 138-21. Minimum design standards and guidelines.**

*All signs permissible within this article shall comply with the following minimum design standards:*

- (a) **The framework and body of all signs shall consist of aluminum or similar alloy material.**
- (b) **Wall signs shall consist of individual letters, or routed out aluminum panels offset a minimum of four inches from the wall.**
- (c) **Wall sign individual letters shall have a minimum depth of four inches.**
- (d) **Wall sign individual letters shall be pin-mounted or flush-mounted. Raceway or wireway mounting shall only be permitted where the structural conditions of the wall do not allow for the direct mounting of letters. Raceways or wireways, if permitted, shall not exceed the width or height of the sign proposed and shall be subject to the design review process.**
- (e) *The placement and location of all signs shall be compatible with the architecture of the building, and shall not cover or obscure architectural features, finishes or elements.*

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that DO NOT satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of the requested variances 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 DO NOT indicate the following, 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 consistent with the City Code, aside from the requested variance(s). The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

**COMPLIANCE WITH DESIGN REVIEW CRITERIA:**

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 is 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**
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 applicant is requesting multiple variances for the proposed painted wall sign.**
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**
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; the painted wall sign, as proposed is grossly oversized in relation to the size of the building, far exceeding the maximum area even allowed for a street front elevation. Further, there is no hardship or practical difficulty for the installation of a painted wall on a side elevation facing a building with residential uses. Other opportunities exist, within the allowances of the City Code, to enhance signage and visibility of the restaurant.**
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.  
**Not Satisfied; See No. 4 above.**
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.  
**Not Satisfied; See No. 4 above.**
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.

**Not Applicable**

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.

**Not Applicable**

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.

**No Applicable**

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

**Not Applicable**

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.

**Not Applicable**

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).

**Not Applicable**

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.

**Not Applicable**

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

**Not Applicable**

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.  
**Not Applicable**
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.  
**Not Applicable**
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 Applicable**

**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 Applicable**
- (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) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.  
**Not Applicable**
- (5) Whether 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, including a study of land elevation and elevation of surrounding properties were considered.  
**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.

**Not Applicable**

- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.

**Not Applicable**

- (8) Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.

**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.

**Not Applicable**

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

**Not Applicable**

#### **STAFF ANALYSIS:**

The subject application includes the review of two signs. The first is a neon wall sign facing Collins Avenue, located above the main entrance to the restaurant "CARBONE". The sign measures approximately 3.5' x 7 feet for an overall area of 24 square feet. The sign complies with the maximum area allowed for wall signs, however due to its height and overall design, staff could not approve the sign administratively. Although taller than the typical wall sign, Carbone is the only tenant on the ground floor and the size and location of the sign is proportional to the size of the building. As such, staff recommends approval of this sign.

The second sign is a painted sign located on the south wall of the parking structure, spanning from above the first floor to the roof, approximately 24 feet tall x 9.5 feet wide with an overall area of 228 square feet.

The applicant is requesting the following after-the-fact variance(s):

1. A variance for the placement of a sign on a non-street facing elevation.
2. A variance to exceed by 228 SF the maximum sign area of zero (0) SF for the installation of the painted sign on a non-street facing elevation.

3. A variance from the minimum design standards of Section 138-21, for the installation of a painted wall sign.

The City Code requires that all signage must front a street or waterway, and the applicant is requesting a variance from this requirement. Also, because no sign is allowed on a non-street facing façade, the applicant is seeking a variance from the zero SF allowed. In addition, a painted wall sign does not comply with the design standards outlined in Section 138-21.

Staff has not identified any practical difficulties or hardship that would support the granting of the requested variances. The size of the sign is excessive, even exceeding the maximum 100 SF allowed for the largest of store fronts. The painted sign (which has already been installed) is also highly visible to the residential units of the abutting building to the south, which negatively impacts views from the units with excess signage that, absent approval of the requested variances, is not allowed anywhere on the south elevation.

Staff would also note that the City Code allows a sign on the underside of a canopy or awning, not to exceed 3 SF, and recommends that the applicant install such sign on the south side of the property, perpendicular to the storefront, to increase visibility from the south, as allowed by the City Code.

In summary, staff recommends approval of the design for the neon sign "CARBONE", and denial of the requested variances for the painted sign.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the application be **APPROVED** for the illuminated sign, and the variance requests for the painted sign be **DENIED**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria and Practical Difficulty and Hardship criteria, as applicable.



**DESIGN REVIEW BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: January 4, 2022

PROPERTY/ FOLIO: **49 Collins Avenue 02-4203-003-0130**

FILE NO: DRB21-0688

IN RE: An application has been filed requesting Design Review Approval for tenant signage that includes variances for size, location, and design.

LEGAL: Lots 14 and 15, Block 1, of Ocean Beach Fl., according to the Plat Thereof, as recorded in Plat Book 2 at Page 38, of the Public Records of Miami-Dade County, Florida.

APPLICANT: 49 Collins Avenue Restaurant LLC

**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 inconsistent with Design Review Criteria 2, 4, 5, & 6 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 consistent with Sea Level Rise Criteria in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
  - 1. Revised drawings shall be submitted, at a minimum, such drawings shall incorporate the following:
    - a. The design of the restaurant signage facing Collins Avenue shall be approved as proposed.

- b. 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.

**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), which were either approved by the Board or denied:
  1. A variance for the placement of a sign on a non-street facing elevation. **(Variance Denied)**
  2. A variance to exceed by 228 SF the maximum sign area of zero (0) SF for the installation of the painted sign on a non-street facing elevation. **(Variance Denied)**
  3. A variance from the minimum design standards of Section 138-21, for the installation of a painted wall sign. **(Variance Denied)**
- B. The applicant has submitted plans and documents with the application that DO NOT satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of the requested variances 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 DO NOT indicate the following, 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

B. The Board hereby **DENIES** the variance requests.

**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 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.
- B. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- C. 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 "49 Collins Avenue", as prepared by **Todd B. Tragash**, dated November 4, 2021, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of 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 \_\_\_\_\_.

DESIGN REVIEW BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
Michael Belush, AICP  
Chief of Planning and Zoning  
For Chairman

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by Michael Belush, Chief of Planning and Zoning of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.

{NOTARIAL SEAL}

\_\_\_\_\_  
Notary:  
Print Name  
Notary Public, State of Florida  
My Commission Expires:  
Commission Number:

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

Filed with the Clerk of the  
Design Review Board on \_\_\_\_\_ ( )