

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

PROPERTY: 2000 Collins Avenue

FILE NO. ZBA19-0102 f/k/a BOA 3554

IN RE: The application for a modification to a previously approved variance that reduced the required 300-foot distance separation between dance hall/entertainment establishments licensed to sell alcoholic beverages, and not also operating as a restaurant. Specifically, the applicant is requesting changes to the conditions of approval, including a change of owner/operator.

LEGAL

DESCRIPTION: Lots 1, 2, 3, 4 and the East 25.5 feet of Lot 6, Block C, of "Amended map of ocean front property of Miami Beach Improvement Company Subdivision", According to the Plat Thereof, as recorded in Plat Book 5 at Page 7 of the Public Records of Miami-Dade County, Florida.

FOLIO NUMBER: 02-3226-001-0060

MEETING DATE: February 7, 2020

ORDER

The applicant, MC GA Collins Realty, LLC, as the new owner and operator of the subject property, has filed an application with the Planning Department for modifications to the following previously approved variance, pursuant to condition B(4) of the Modified Final Order, issued September 11, 2015:

"A variance to waive a range between 81 feet and 48 feet of 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 in order to operate within 219 feet from Mynt Lounge and 252 feet from Rokbar Nightclub."

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;

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~~ denotes language stricken from the original Order, and underlining denotes language added to the original Order:

1. The applicant shall comply with all conditions of approval imposed by the Planning Board Conditional Use Permit. A violation of that Order shall be considered a violation of this Order, subjecting the Applicant to appear for a progress report, and possible revocation or modification of the variance pursuant to section 118-356.
2. All performances shall be limited to the interior of the premise; no speakers shall be permitted on any exterior wall of the building.
3. Business identification signs shall be limited to sign copy indicating the name of the establishment only subject to staff review and approval. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
4. ~~Any change of operator or ownership shall require review and approval by the Board as a modification to this variance. This approval is granted to MC GA Collins Realty, LLC only. Any changes in ownership or operator shall require the new owner or operator to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owner or operator and acknowledging acceptance of all conditions established herein prior to the issuance of a new Business Tax Receipt. Said affidavit shall be recorded in the Public Records of Miami-Dade County prior to the issuance of a City Business Tax Receipt or Certificate of Use.~~
5. The hours of operation shall be as proposed by the applicant, Sunday through Saturday from 10:00 p.m. to 5:00 a.m. However, the establishment shall close at 5:00 a.m. and keep closed the place of business and not allow any patron or other persons,

other than those employed by the establishment, to remain therein between the hours of 5:00 a.m. and 8:00 a.m.

6. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Order and subject to the remedies as described in section 118-356, Code of the City of Miami Beach, Florida.
7. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalk and the areas of the street adjacent to the property. 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.
8. In the event that there is queuing of people on 20th Street restricting the free-flow of pedestrians, stanchions shall be placed to control crowds and allow for the free-flow of pedestrian on public sidewalks, and manned by the establishment's security personnel. The placement of the stanchions shall be shown on a site plan that shall be submitted to staff for review and approval.
9. 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.
10. The applicant shall comply with all conditions imposed by the Public Works Department.
11. The applicant shall obtain a full building permit within eighteen months (18) months from the date of this hearing. If the full building permit is not obtained within the specified time limits, the applicant shall, prior to expiration of such period, apply to the Board for an extension of time. At the hearing on such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. Failure to comply with this order shall subject the variance to Section 118-356, City Code, for revocation or modification of the variance.
12. The conditions on this Order are binding on the applicant, the property's owners and all successors in interest and assigns.
13. 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.
14. 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.

Meeting Date: February 7, 2020

ZBA19-0102 f/k/a BOA 3554

15. This Order shall be recorded, in the Public Records of Miami-Dade County prior to the issuance of a ~~Building Permit~~ City Business Tax Receipt or Certificate of Use.

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 to modify the previously approved Variance(s) Approval is GRANTED for the above-referenced project, subject to those certain conditions specified in Paragraph B hereof, to which the applicant has agreed.

Dated this 19th day of February, 2020.

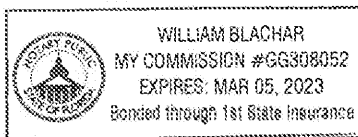
BOARD OF ADJUSTMENT
CITY OF MIAMI BEACH, FLORIDA

BY: 

Rogelio Madan, AICP
Chief of Community Planning & Sustainability
For the Chair

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 25th day of February, 2020, by Rogelio Madan, Chief of Community Planning and Sustainability 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: William Blachar

Notary Public, State of Florida

My Commission Expires:

Commission Number: March 5th, 2023

Approved As To Form: Nick Pellegrin 2/25/2020
City Attorney's Office

Filed with the Clerk of the Board of Adjustment on Jessie Gentry (2/25/2020)

EXHIBIT A

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

IN RE: The application of
OCEAN FIRST GROUP, LLC
2000 COLLINS AVENUE
LOTS 1, 2, 3, AND 4 AND THE E 25.5 FEET OF LOT 6
OF BLOCK C OF THE PLAT OF "MIAMI BEACH
IMPROVEMENT COMPANY", PLAT BOOK 5, PG 7;
MIAMI-DADE COUNTY, FLORIDA

MEETING DATE: FEBRUARY 3, 2012
FILE NO. 3564

ORDER

The applicant, Ocean First Group, LLC, filed an application with the Planning Department for a variance in order to dance hall / entertainment establishment not also operating as a restaurant at the subject location, as follows:

1. A variance to waive a range between 81 feet and 48 feet of 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 in order to operate within 219 feet from Mynt Lounge and 252 feet from Rokbar Nightclub.

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-3 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 variance 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;

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2000 Collins Avenue Miami Beach
Page 2 of 3

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

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 conditions of approval imposed by the Planning Board Conditional Use Permit. A violation of that Order shall be considered a violation of this Order, subjecting the Applicant to appear for a progress report, and possible revocation or modification of the variance pursuant to section 118-356
2. All performances shall be limited to the interior of the premise; no speakers shall be permitted on any exterior wall of the building.
3. Business identification signs shall be limited to sign copy indicating the name of the establishment only subject to staff review and approval. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
4. Any change of operator or ownership shall require review and approval by the Board as a modification to this variance.
5. The hours of operation shall be as proposed by the applicant, Sunday through Saturday from 10:00 p.m. to 5:00 a.m. However, the establishment shall close at 5:00 a.m. and keep closed the place of business and not allow any patron or other persons, other than those employed by the establishment, to remain therein between the hours of 5:00 a.m. and 8:00 a.m.
6. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Order and subject to the remedies as described in section 118-356, Code of the City of Miami Beach, Florida.

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File No. 3554 Ocean First Group, LLC
3000 Collins Avenue, Miami Beach
Page 3 of 6*

7. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalk and the areas of the street adjacent to the property. 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.
8. In the event that there is queuing of people on 20th Street restricting the free-flow of pedestrians, stanchions shall be placed to control crowds and allow for the free-flow of pedestrian on public sidewalks, and manned by the establishment's security personnel. The placement of the stanchions shall be shown on a site plan that shall be submitted to staff for review and approval.
9. 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.
10. The applicant shall comply with all conditions imposed by the Public Works Department.
11. The applicant shall obtain a full building permit within eighteen months (18) months from the date of this hearing. If the full building permit is not obtained within the specified time limits, the applicant shall, prior to expiration of such period, apply to the Board for an extension of time. At the hearing on such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. Failure to comply with this order shall subject the variance to Section 118-356, City Code, for revocation or modification of the variance.
12. The conditions on this Order are binding on the applicant, the property's owners and all successors in interest and assigns.
13. 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.
14. 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.
15. 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.

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 File No. 2054, Ocean First Group, LLC
 2000 Collins Avenue, Miami Beach
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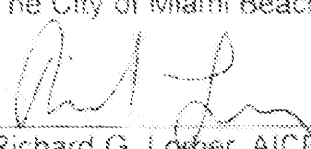
PROVIDED, the applicant shall build substantially in accordance with the plans approved by the Board of Adjustment, as determined by staff, entitled "Ocean First Group Lounge", as prepared by M3 Design + Development, dated November 2, 2011, modified in accordance with the conditions set forth in this 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 August 3, 2013 (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 of
 The City of Miami Beach, Florida

By


 Richard G. Lorber, AICP, LEED AP
 Acting Planning Director
 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 8th day of March, 2012, by Richard G. Lorber, Acting Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



TERESA MARIA
 MY COMMISSION # 00329140
 EXPIRES, December 7, 2013
 Licensed Florida Notary Public

Notary:

Print Name:

Notary Public, State of Florida

[NOTARIAL SEAL]

My Commission Expires:

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DR BK 28055 PG 1865
LAST PAGE

Board of Adjustment Order, Meeting of February 1, 2012
File No. 3554 Ocean First Group, LLC
7000 Collins Avenue, Miami Beach
Page 5 of 5

Approved As To Form:

Legal Department (g/ked 2-10-12)

Filed with the Clerk of the Board of Adjustment on

3/8/12 JST

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EXHIBIT B**BOARD OF ADJUSTMENT
CITY OF MIAMI BEACH, FLORIDA****PROPERTY:** 2000 Collins Avenue**FILE NO.** 3554**IN RE:** The application for modifications as to owner/operator under the 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.**LEGAL****DESCRIPTION:** Lots 1, 2, 3, 4 and the East 25.5 feet of Lot 6, Block C, of "Amended map of ocean front property of Miami Beach Improvement Company Subdivision", According to the Plat Thereof, as recorded in Plat Book 5 at Page 7 of the Public Records of Miami-Dade County, Florida**MEETING DATE:** September 11, 2015**MODIFIED ORDER**

The applicant, Zilkatur, LLC, filed an application with the Planning Department for modifications to the following previously approved variance as to new owner/operator 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:

1. A variance to waive a range between 81 feet and 48 feet of 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 in order to operate within 219 feet from Mynt Lounge and 252 feet from Rokbar Nightclub.

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 of approval imposed by the Planning Board Conditional Use Permit. A violation of that Order shall be considered a violation of this Order, subjecting the Applicant to appear for a progress report, and possible revocation or modification of the variance pursuant to section 118-356.
2. All performances shall be limited to the interior of the premise; no speakers shall be permitted on any exterior wall of the building.
3. Business identification signs shall be limited to sign copy indicating the name of the establishment only subject to staff review and approval. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
4. Any change of operator or ownership shall require review and approval by the Board as a modification to this variance.
5. The hours of operation shall be as proposed by the applicant, Sunday through Saturday from 10:00 p.m. to 5:00 a.m. However, the establishment shall close at 5:00 a.m. and keep closed the place of business and not allow any patron or other persons, other than those employed by the establishment, to remain therein between the hours of 5:00 a.m. and 8:00 a.m.
6. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time,

shall be deemed a violation of this Order and subject to the remedies as described in section 118-356, Code of the City of Miami Beach, Florida.

7. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalk and the areas of the street adjacent to the property. 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.
8. In the event that there is queuing of people on 20th Street restricting the free-flow of pedestrians, stanchions shall be placed to control crowds and allow for the free-flow of pedestrian on public sidewalks, and manned by the establishment's security personnel. The placement of the stanchions shall be shown on a site plan that shall be submitted to staff for review and approval.
9. 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.
10. The applicant shall comply with all conditions imposed by the Public Works Department.
11. The applicant shall obtain a full building permit within eighteen months (18) months from the date of this hearing. If the full building permit is not obtained within the specified time limits, the applicant shall, prior to expiration of such period, apply to the Board for an extension of time. At the hearing on such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. Failure to comply with this order shall subject the variance to Section 118-356, City Code, for revocation or modification of the variance.
12. The conditions on this Order are binding on the applicant, the property's owners and all successors in interest and assigns.
13. 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.
14. 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.
15. 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.~~

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 specified in Paragraph B (Condition Nos. 1-15, inclusive) hereof, to which the applicant has agreed.

Dated this 19th day of November, 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 19th day of November, 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]



Notary: [Signature]
Print Name: STEVEN GREENE
Notary Public, State of Florida
My Commission Expires: 07-26-2017
Commission Number:

Approved As To Form:
City Attorney's Office

Filed with the Clerk of the Board of Adjustment on 11/20/2015, [Signature]

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