

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

MEETING DATE: January 2, 2024

PROPERTY/FOLIO: **415 West 41<sup>st</sup> Street** 02-3222-001-0530

FILE NO: DRB23-0913

IN RE: An application for Design Review Approval for the construction of a new 2-story building, to replace an existing 2-story building.

LEGAL: Lot 15, Block 4 of "Orchard Subdivision 4", according to the Plat thereof, as recorded in Plat Book 25, at Page 30, of the Public Records of Miami-Dade County, Florida.

APPLICANTS: The Balogh Company 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 2.1.3.1 of the Land Development Regulations. 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 in Section 2.5.3.1 of the Land Development Regulations.
- 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 7.1.2.4(a)(i) of the Land Development Regulations.
- D. The project would remain consistent with the criteria and requirements 2.5.3.1 and/ or Section 7.1.2.4(a)(i) if the following conditions are met:
  1. Revised elevation, site plan, and floor plan drawings for the proposed new commercial building at 415 West 41<sup>st</sup> Street shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. The south (front) façade shall be further developed to increase visual interest which may include the addition of horizontal elements, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
  - b. (An enclosed trash room shall be incorporated into the ground floor plan at the rear of the building.
  - c. A security gate system shall be added to ensure safety at the front entrance, in a manner to be reviewed and approved by staff.
  - d. The final design details of any 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.
  - e. 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 plans 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 plans shall comply with Chapter 4-Landscape Requirements of the Miami Beach Code and shall incorporate the following:
- a. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
  - b. 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.
  - c. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
  - d. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, 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.
  - e. 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 wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.

- f. 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. No variance(s) were filed as part of this application.

**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. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
- B. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- C. The contractor(s) shall ensure that the street and the swale directly abutting the construction site remains free of debris and refuse at all times; at a minimum, the contractor(s) shall inspect and clear the street and swale areas before leaving at the end of each day.
- D. This order shall be enforced by the Building, Planning, Parking and Code Compliance Departments.
- E. 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.

- F. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- G. 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.
- H. 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.
- I. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- J. 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, "Balogh Renovation", as prepared by N25, signed, sealed, and dated 10/25/2023, 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 Section 2.2.4.6 of the Land Development

Page 5 of 6  
 DRB23-0913 – 415 W 41<sup>st</sup> Street  
 January 2, 2024

Regulations; 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 2 of the Land Development Regulations, 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 2 of the Land Development Regulations, for revocation or modification of the application.

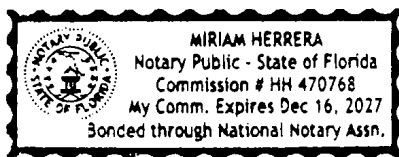
Dated 1/8/2024 | 9:12 AM EST.

DESIGN REVIEW BOARD  
 THE CITY OF MIAMI BEACH, FLORIDA

BY: Deborah Tackett  
 Deborah Tackett  
 Historic Preservation & Architecture Officer  
 For Chairman

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

The foregoing instrument was acknowledged before me this 10 day of January, 2024 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}

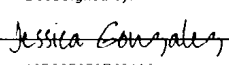
Notary: Miriam Herrera  
 Print Name Miriam Herrera  
 Notary Public, State of Florida  
 My Commission Expires: 12-16-27  
 Commission Number: HH 470768

Approved As To Form: Farooq Andashewa  
 City Attorney's Office: Farooq Andashewa ( )

Page 6 of 6  
DRB23-0913 – 415 W 41<sup>st</sup> Street  
January 2, 2024

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Filed with the Clerk of  
the Design Review Board on

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 ( 1/8/2024 | 2:25 PM EST )  
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