

**HISTORIC PRESERVATION BOARD  
City of Miami Beach, Florida**

MEETING DATE: July 11, 2017

FILE NO: HPB17-0118

PROPERTY: 1024 Lenox Avenue - Unit 6

APPLICANT: Frederic Khalil

LEGAL: Lots 4 & 5, Block 124, Lenox Manor Subdivision, According to the Plat Thereof, as Recorded in Plat Book 7, Page 15, of the Public Records of Miami-Dade County, Florida.

IN RE: The application for variances to exceed the maximum area allowed for a deck within the rear yard, to reduce the required rear pedestal setback for a new covered terrace, and an after-the-fact variance to reduce the required rear pedestal setback for the retention of a bathroom structure.

**ORDER**

The City of Miami Beach Historic Preservation 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. Certificate of Appropriateness**

- A. No request for a Certificate of Appropriateness has been filed as a part of this application.

**In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.**

**II. Variance(s)**

- A. The applicant filed an application with the Planning Department for the following variance(s):

1. A variance to exceed by 23.1% (462.6 sf) the maximum area of 30% (600 sf) allowed for a deck within the required rear yard of the property (16'-0") in order to construct a covered terrace and provide a total deck area of 53.1% (1,062.6 sf) at the rear yard of the property.

2. A. An after the fact variance to reduce by 5'-3" the required rear setback of 16'-0" in order to retain a bathroom addition at 10'-9" from the rear property line.

B. A variance to reduce by 9'-4" the required rear setback of 16'-0" in order to construct a new covered terrace with columns at 6'-8" from the rear property line.



Page 2 of 5

HPB17-0118

Meeting Date: July 11, 2017

- B. The applicant has submitted plans and documents with the application that 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 also 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.

- C. The Board hereby grants the requested variance(s) and imposes the following condition 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.
  2. A landscape plan 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.

Page 3 of 5  
HPB17-0118  
Meeting Date: July 11, 2017

3. The existing landscape material adjacent to the rear fence shall be maintained at a minimum height of 20'-0". Any replacement landscaping shall include material which would naturally grow to a height in excess of 20'-0", and shall be planted with a minimum height of 15'-0" at the time of planting, subject to the review and approval of staff.
4. Except for a raised planter curb along on the southernmost boundary of the subject townhome, the proposed raised planter curb shall not encroach into the existing raised landscape area, subject to the review and approval of staff.
5. Approved building permits shall be obtained for the bathroom addition prior to the issuance of a CO for the construction of the covered terrace.

**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. Certificate of Appropriateness' and 'II. Variances' noted above.**

- A. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- 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.
- C. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- D. 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.
- E. 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.
- F. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- G. 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.

Page 4 of 5  
HPB17-0118  
Meeting Date: July 11, 2017

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 Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "Mr. Frederic Khalil New Deck & Bathroom Addition" as prepared by Richard Cortes, P.A., signed and sealed May 18, 2017, as approved by the Historic Preservation 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 set forth in this Order. No building permit may be issued unless and until all 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 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 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 should 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 this 17 day of July, 2017.



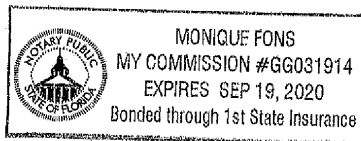
Page 5 of 5  
HPB17-0118  
Meeting Date: July 11, 2017

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]  
DEBORAH TACKETT  
CHIEF OF HISTORIC PRESERVATION  
FOR THE CHAIR

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

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of July 2017 by Deborah Tackett, Chief of Historic Preservation, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.



[Signature]  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: 9/19/20

Approved As To Form: [Signature] ( 7/17/17 )  
City Attorney's Office:

Filed with the Clerk of the Historic Preservation Board on [Signature] ( 7/17/17 )