

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: September 26, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **File No. 2012 – 444 West 40th Street – Religious Institution Progress Report**

BACKGROUND

June 28, 2011 The applicant, Congregation Anshei Gezah V'Chasidey Lubavitch, Inc., (aka Bais Menachem), obtained approval for a Conditional Use Permit (see Attached) to operate a religious institution located in the new 40th Street Overlay District, which has been operating there as a nonconforming use for many years.

January 24, 2017 The Board discussed the progress report and continued the Item to a date certain of February 28, 2017.

February 28, 2017 The Board discussed the progress report, made modifications to the CUP, and continued the Item to a date certain of April 25, 2017.

April 25, 2017 The Board discussed the progress report, and continued the Item to a date certain of June 27, 2017.

June 27, 2017 The Board discussed the progress report, and continued the Item to a date certain of September 26, 2017.

PROGRESS REPORT

The Religious Institution approved in the CUP was subsequently approved under TCO0916-0055 on September 19, 2016. The applicant is before the Board pursuant to Condition #1 of the CUP as follows:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall come back to the Board, at the discretion of the Planning Director, following the issuance of a notice of violation related to this conditional use permit and provide a progress report. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).

A permit (BCO716-1175) for a 5 foot wall issued on August 3, 2016. However per CUP condition # 8:

8. The applicant shall construct a 7 foot concrete wall and get the necessary variances in order to minimize any negative impact to the neighbor to the west at 3771 Royal Palm Avenue.

A site inspection was performed and a recent survey was provided indicating that the top of the wall in question along the property line is at 8.87' and the side walk elevation (Center of the lot) is at 3.94' resulting in a total height of 4.93', which is less than the 7 foot height required by the CUP.

In order to address the concerns of the neighbor, and taking into consideration the height of the wall as constructed, on February 28, 2017 the Board modified condition No. 8 as indicated below:

8. The applicant shall construct a 7 five (5') foot concrete wall with a two (2') foot solid wood or metal fence on top of the concrete wall, and get the necessary variances in order to minimize any negative impact to the neighbor to the west at 3771 Royal Palm Avenue. Subject to the approval of the property owner located at 3771 Royal Palm Avenue, a hedge, eight (8') feet tall at the time of planting, shall be installed on the 3771 Royal Palm Avenue property, along the portion directly abutting the property line of 444 West 40th Street. A permit application for the fence shall be submitted to the City within 30 days of the February 28th, 2017 meeting. A permit for the acoustic mitigation of the air conditioning equipment shall be submitted within 60 days of the February 28, 2017 meeting, and all such construction shall be completed within 90 days of the February 28, 2017 meeting.

The hedge material has been installed as required on the 3771 Royal Palm Avenue property.

The permit for the fence addition was issued on April 21, 2017 (BR1701177) and the fence addition has been installed.

As of the June 27, 2017 meeting, the installation of the sound barrier was still pending. As stated by the applicant, the sound barrier for the mechanical equipment will be installed before the September 26th, 2017 meeting.

STAFF RECOMMENDATION

Staff recommends that the Board discuss the progress report and schedule a follow-up progress report if necessary.

TRM/MB/AG

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