

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: November 14, 2017

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: HPB17-0148, **1434 Washington Avenue.**

The applicant, Clay Hotel Partnership, LTD c/o Infinity Real Estate, is requesting modifications of a previously issued Certificate of Appropriateness including a variance to reduce the required rear pedestal setback for the construction of a new FPL vault as part of the renovations to the property.

STAFF RECOMMENDATION

Approval of the variance with conditions.

BACKGROUND

On May 9, 2017, the Board approved a Certificate of Appropriateness for the partial demolition, renovation and restoration of all structures on the site, including an after-the-fact Certificate of Appropriateness for the demolition of interior floor plates and variances to reduce the required rear setback, to relocate a projecting sign and to reduce the minimum size required for hotel units.

EXISTING STRUCTURES

Local Historic District:	Espanola Way
Status:	Contributing
Original Construction Date:	1925
Original Architect:	Robert A. Taylor

ZONING / SITE DATA

Legal Description:	All of Block 3-B, First Addition to Whitman's Subdivision of Espanola Villas, Plat Book 9, Page 147 of the Public Records of Miami-Dade County Florida.
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Zoning:	CD-2, Commercial, medium intensity
Future Land Use Designation:	CD-2, Commercial, medium intensity
Lot Size:	25,399 S.F. / 2.0 Max FAR
FAR:	50,777 S.F. / 1.99
Height:	2 and 3-stories
Existing Use/Condition:	Hotel and commercial

THE PROJECT

The applicant has submitted plans entitled “Espanola Hotel” as prepared by DNB Design Group, signed and dated July 25, 2017.

The applicant is requesting a variance to reduce the required rear pedestal setback for the construction of a new FPL vault as part of the renovations to the property.

The applicant is requesting the following variance(s):

1. A variance to reduce by 4'-10" the minimum required pedestal rear setback of 7'-10" for residential uses in order to construct a new FPL vault at 3'-0" from the rear property line.
 - Variance requested from:

Sec. 142-307. Setback requirements.

The setback requirements for the CD-2 commercial, medium intensity district are as follows:

Pedestal and tower (non-oceanfront), Rear: 5 feet, Residential uses shall follow the RM setbacks.(See sections 142-156, 142-218 and 142-247.)

Sec. 142-156. Setback requirements.

The setback requirements for the RM-1 residential multifamily, low intensity district are as follows:

Pedestal, rear, Non-oceanfront lots—Minimum: 10% of lot depth

The project as previously approved contained a new FPL vault within an existing courtyard that complied with the required rear setback of 7'-10". After starting the permitting process for the hotel renovations and additional review by FPL, it was determined that the location of the vault had to be relocated closer to the rear property line and a variance was required. Staff finds that the preservation and restoration of the existing contributing structures impose difficulties for the additional construction on site. In this case, the FPL requirements, and the location of the existing structure with a non-conforming rear setback create the hardship that result in the variance requested.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents with the application satisfy the following hardship criteria, 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.

COMPLIANCE WITH ZONING CODE

A preliminary review of the project indicates that the application with the exception of the variance requested herein is consistent with the City Code.

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 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 Satisfied

- (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) Where feasible and appropriate, water retention systems shall be provided.

Not Satisfied

VARIANCE ANALYSIS

The subject site contains several buildings constructed in 1925 that have been unified as one property. The lot is located in the Espanola Way Local Historic District and also within the National Register Architectural District. The property includes a hotel, and other commercial businesses. The renovation project was originally approved on May 5, 2017 under HPB16-0068 including three variances to reduce the requirements for unit size in historic hotel rooms, to reduce the required rear setback and to relocate a new sign to the third floor. A rear setback variance previously approved allowed new structures at the roof level at 2'-9" from the rear property line. The new variance request is for the construction of an FPL vault at 3'-0" from the rear property line. The technical requirements from FPL and the retention of the historic buildings, with a non-conforming rear setback, create the practical difficulties that justify the variance requested. This variance is the minimum necessary to facilitate the operation of the hotel and to preserve the historic character and design of the structure. In summary, staff finds that the variance requested satisfies the hardship criteria of the City Code for the granting of a variance.

RECOMMENDATION

In view of the foregoing analysis, staff recommends the application for a variance be **approved** subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Practical Difficulty and Hardship criteria.

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

MEETING DATE: November 14, 2017

FILE NO: HPB17-0148

PROPERTY: 1434 Washington Avenue

APPLICANT: Clay Hotel Partnership, LTD c/o Infinity Real Estate

LEGAL: All of Block 3-B, First Addition to Whitman's Subdivision of Espanola Villas, Plat Book 9, Page 147 of the Public Records of Miami-Dade County Florida.

IN RE: The application for modifications of a previously issued Certificate of Appropriateness including a variance to reduce the required rear pedestal setback for the construction of a new FPL vault as part of the renovations to the property.

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. Certificate of Appropriateness has not been requested as part of this application.

II. Variance(s)

A. The applicant filed an application with the Planning Department for the following variance:

1. A variance to reduce by 4'-10" the minimum required pedestal rear setback of 7'-10" for residential uses in order to construct a new FPL vault at 3'-0" from the rear property line.

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.

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. 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.
- B. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- C. 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.

- D. 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.
- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- F. 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 Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "Española Hotel" as prepared by DNB Design Group, signed and dated July 25, 2017, as amended and 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 _____ day of _____, 20__.

HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
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 _____ day of _____ 20__ 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.

NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: _____

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

Filed with the Clerk of the Historic Preservation Board on _____ ())