

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

IN RE: The application of
KOBA ZAKARIADZE / CHILL & GRILL, INC.
1429 WASHINGTON AVENUE
A SOUTHERLY PART OF THAT CERTAIN
UN-NUMBERED LOT LYING IMMEDIATELY
NORTH OF LOT 16; SAID UN-NUMBERED LOT NOW
KNOWN AS LOT 17, BLOCK 26,
OCEAN BEACH ADDITION NO. 2,
PLAT BOOK 2, PG 56; DADE COUNTY, FLORIDA
(FOR COMPLETE LEGAL DESCRIPTION
PLEASE CONTACT THE PLANNING DEPT.)

MEETING DATE: NOVEMBER 7, 2008
FILE NO. 2578

MODIFICATION ORDER

The applicant, Koba Zakariadze / Chill & Grill, Inc., filed an application with the Planning Department for a modification to a condition of approval for a variance which permitted a restaurant that serves beer and wine in a location less than 300 feet from an educational facility. Condition No. 6 of the June 6, 1997 Order permitted the sale of beer and wine only, and prohibited the establishment from selling hard liquor in any form. The applicant requests to modify this condition to permit the sale of hard liquor.

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-2 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;

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 modification 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 of the original conditions of approval granted by this Board on June 6, 1997, except as modified herein.
2. The sale and or consumption of alcoholic beverages shall not be permitted prior to 5:00 pm Monday thru Friday.
3. 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.
4. The establishment must maintain a minimum of 60 seats inside at all times.
5. The establishment shall not be converted to a stand-alone bar, or dance hall.
6. The full food menu shall be available at all times that the establishment is open.
7. The applicant shall satisfy any City Liens prior to the issuance of a revised Certificate of Use and Occupational License for beer, wine, and liquor.
8. The Board of Adjustment shall retain jurisdiction of this file. The applicant must present a progress report in three months to the Board; the Board shall then determine the necessity and timing of subsequent reports.
9. This approval is granted to Koba Zakariadze only. Any changes in ownership or operator shall require new owner or operator to return to the Board of Adjustment

- and seek a modification to the final Order transferring approval to the new owner or operator.
10. The property owner shall be responsible for compliance with all of the conditions of this variance. The current operator and any subsequent operators of the business shall be specially apprised of all conditions. Subsequent operators shall be required to appear before the Board of Adjustment to affirm their understanding of the conditions listed, herein.
 11. If there is any change in the use or operation of the establishment, including but not limited to the establishment attempting to become a stand-alone bar, or a dance hall and/or entertainment establishment, or in the event the restaurant use ceases to exist for any reason (except for temporary closure during a season or remodeling, both for a period up to six (6) months), the variance shall be subject to Section 118-356, City Code, for revocation or modification of the variance.
 12. The applicant shall comply with all conditions imposed (if applicable) by the Public Works Department.
 13. The applicant shall obtain a liquor license and amend their Certificate of Use within six (6) months of the date of this hearing. If the liquor license 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 these 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.
 14. The conditions on this Order are binding on the applicant, the property's owners and all successors in interest and assigns.
 15. 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.
 16. 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 revised license.

Board of Adjustment of
The City of Miami Beach, Florida

By: _____

Richard G. Lorber, AICP
Planning & Zoning Manager

