

MIAMI BEACH

PLANNING DEPARTMENT

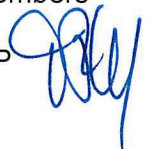
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: July 03, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB18-0240
4144 Chase Avenue—Temple Beth Sholom

The applicant, Temple Beth Sholom, Inc, is requesting Design Review Approval for the installation of an art sculpture on an existing front porte-cochere column including a variance to reduce the required front setback requirements.

RECOMMENDATION:

Continue to a future date

LEGAL DESCRIPTION:

Lots 27 thru 32 and lots 37 and 38 of Block 2 of Nursry Subdivision of Miami Beach Bay SGore Co., according to the Plat thereof as recorded in Plat Book 23 at Page 66 of the Public Records of Miami-Dade County, Florida.

HISTORY:

This item was continued at the June 05, 2018 meeting due to a lack of quorum; an affirmative vote of five / sevenths of all members of the Board is necessary to approve any variance request, only four Board members were available to vote.

SITE DATA:

Zoning:	"Lot A" - RM-1 (Multiple Family, Low Intensity
Future Land Use Designation-	"Lot A" - RM-1 (Multiple Family, Low Intensity)
Lot Size:	+/- 72,193 SF
Existing Use/Condition:	Temple and related facilities

LAND USES:

North: Two-story 1951 residential building
South: Temple Beth Sholom
East: North Beach Elementary School
West: Waterway

THE PROJECT:

The applicant has submitted plans entitled "Temple Beth Sholom, Art Installation" as prepared by **Maestro Faustino Aizkorbe, Designer** signed, sealed and dated April 06, 2018.

The applicant is proposing to install a new artistic sculpture on an existing porte cochere column at the front of the property, along Chase Avenue.

The applicant is requesting the following variance(s):

1. A variance to reduce by 11" the minimum required front pedestal setback for a porte-cochere of 1'-6" in order to construct a sculpture to the existing porte-cochere column at 6" from the front (east) property line.

- Variance requested from:

Sec. 142-156 Setback requirements.

(a) The setback requirements for the RM-1 residential multifamily, low density districts are as follows: Pedestal, front —20'-0".

Sec. 142-1132 Allowable encroachments within required yards.

(n) Porte-cochere. A porte-cochere shall be permitted to extend from an entrance door to the street line of any building except that porte-cocheres shall not be permitted in a single-family or townhome district. Where a sidewalk or curb exist, the porte-cochere may extend to within 18 inches of the sidewalk. The porte-cochere shall not exceed 30 percent of building core frontage in width or 16 feet in height or be screened or enclosed in any manner. It shall provide an unobstructed, clear space of not less than nine feet between the grade and the underside of the roof of the porte-cochere.

Existing 1'-5" | Proposed 6"

The applicant is requesting to install a bundle of ten (10) cylindrical bronze tubes to an existing 13" vertical column of the existing porte-cochere. Of the ten elements, four (4) have a diameter of 11.25', four (4) have a diameter of 9.625' and two have a diameter of 7.625'. The bouquet of elements are proposed to be bundled around an existing column and will increase the width of the column to 3'-6½" at the point of intervention. If the artwork was self-standing and independent of any existing element, the structure would require a setback of 20'-0" from the front (east) property line along Chase Avenue. However, porte-cocheres are permitted to extend from an entrance door of any building to the street line within 18 inches of the sidewalk. As such the existing column is setback 1'-6" from the property line and the applicant is seeking to reduce that distance to 6" at the closest point.

Based upon the submitted letter of intent, staff cannot conclude that practical difficulties associated with the setback of the existing building's porte-cochere have been substantiated. In particular, a justification as to why the sculpture must be located at the front porte-cochere column is needed, as well as an explanation as to why the open area along the front of the property could not accommodate a stand-alone piece of artwork.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded **DO NOT** satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, based on the submitted documents staff has concluded that the plans and documents submitted with the application **DO NOT** indicate the following hardship criteria, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, have been satisfied:

- 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.

CONSISTENCY WITH COMPREHENSIVE PLAN:

A preliminary review of the project indicates that the proposed **educational facility** is **consistent** with the Future Land Use Map of the 2025 Comprehensive Plan.

COMPLIANCE WITH ZONING CODE

The application, as submitted, with the exception of the variances requested herein, appears to be consistent with the applicable requirements of the City Code.

This 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.

CONCURRENCY DETERMINATION:

In accordance with Chapter 122 of the Code of the City of Miami Beach, the Transportation and Concurrency Management Division has conducted a preliminary concurrency evaluation and determined that the project does meet the City's concurrency requirements and level-of-service standards. The City's concurrency requirements can be achieved and satisfied through payment of mitigation fees or by entering into an enforceable development agreement with the City. The Transportation and Concurrency Management Division will make the determination of the project's fair-share mitigation cost.

A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any Building Permit. Without exception, all concurrency fees shall be paid prior to the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy.

ACCESSIBILITY COMPLIANCE

Additional information will be required for a complete review for compliance with the Florida

Building Code 2001 Edition, Section 11 (Florida Accessibility Code for Building Construction.) These and all accessibility matters shall require final review and verification by the Building Department prior to the issuance of a Building Permit.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Not Satisfied; the proposed project requires several variances.
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Not Satisfied; the proposed project requires several variances.
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied; the proposed project requires several variances.
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
Not Satisfied; the proposed project requires several variances.
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.
Not Satisfied; the proposed project requires several variances.
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Satisfied
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Satisfied

8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied
9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Satisfied
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Satisfied
11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Satisfied
13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
Satisfied
14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Not Satisfied; the proposed project requires several variances.
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied

17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Satisfied
18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.
Not Applicable
19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.
Not Applicable

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 Applicable

- (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 Applicable

STAFF ANALYSIS:

DESIGN REVIEW

The applicant is seeking approval to install an outdoor art sculpture on an existing column of the front porte-cochere built in 2004 including a variance to reduce the required front setback requirements. According the applicant's letter of intent, the installation of the artistic sculpture will "serve as a central focal point to the entry way", presumably because it is located on the middle column of five that comprise the streetside vertical components of the porte-cochere along Chase Avenue, and "evoke a sense of community". Generally staff has no outstanding design concerns, with the exception of the lack of details and potential further intrusion of the "gold beaks" that extend from the bronze tubes. It appears as though the protruding elements of the sculpture will be installed at a height that will not pose a conflict for passers-by along the sidewalk of Chase Avenue. However, if approved, the elements should be installed no lower than 8'-6" from sidewalk elevation.

VARIANCE REVIEW

As noted in the 'Project' section of the report, porte-cocheres are allowable encroachments within required yards and may extend up to 18" to the sidewalk. The proposed circular bronze tubes that comprise the sculpture are proposed to be attached to the existing central column of the existing porte-cochere. While the artistic sculpture is more of a decorative intervention to the existing column, staff finds that the variance application has not substantiated the practical difficulties criteria and does not demonstrate hardship. Therefore staff recommends that the variance be **continued**. Staff notes that should the Board not authorize the variances, there are numerous alternate locations that would not require any variances.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be continued to a future date, in order to substantiate the practical difficulty and hardship criteria. In the event the Board find that the variance request satisfies 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, staff recommends that the project be subject to the conditions enumerated in the attached Draft Order which address the inconsistencies with the aforementioned Design Review criteria, Sea Level criteria and Practical Difficulty and Hardship criteria, as applicable.

TRM/JGM

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: July 03, 2018

FILE NO: DRB18-0240

PROPERTY: **4144 Chase Avenue—Temple Beth Sholom**

APPLICANT: Temple Beth Sholom Inc

LEGAL: Lots 27 thru 32 and lots 37 and 38 of Block 2 of Nursry Subdivision of Miami Beach Bay SGore Co., according to the Plat thereof as recorded in Plat Book 23 at Page 66 of the Public Records of Miami-Dade County, Florida

IN RE: The Application for Design Review Approval for the installation of an art sculpture on an existing front porte-cochere column including a variance to reduce the required front setback requirements.

ORDER

The City of Miami Beach Design Review Board makes the following FINDING 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:

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 1, 2, 3, 4, 5, 7, 8, and 19 in Section 118-251 of the Miami Beach Code and the reasons set forth at the June 05, 2018 Design Review Board meeting.

IT IS HEREBY ORDERED, based upon the foregoing finding 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 recommendation, that the Application is **DENIED WITHOUT PREJUDICE** for the above-referenced project.

Dated this _____ day of _____, 20_____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.

Filed with the Clerk of the Design Review Board on _____ ()

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IN RE: The Application for Design Review Approval for the installation of an art sculpture on an existing front porte-cochere column including a variance to reduce the required front setback requirements.

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 118-252(a) of the Miami Beach Code. 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 1, 2, 3, 4, 5, 10, 11 and 19 in Section 118-251 of the Miami Beach Code.
- 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 inconsistent with Sea Level Rise Criteria 4 in Section 133-50(a) of the Miami Beach Code.
- D. The project would remain consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met
 - 1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 4144 Chase Avenue shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. The gold decorative artwork elements shall be installed to be no lower than 8'-6" from sidewalk elevation, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- 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. 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.

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. The applicant filed an application with the Planning Department for the following variance(s):
 1. A variance to reduce by 11" the minimum required front pedestal setback for a porte-cochere of 1'-6" in order to construct a sculpture to the existing porte-cochere column at 6" from the front (east) 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 the variances 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, as it relates to the variances as noted above:

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 **Approves** the Variance request(s), and imposes the following conditions 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. Design Review Approval and 'II. Variances' noted above.

- A. The applicant shall submit a Hold Harmless Covenant Running with the Land to the City Attorney's Office in a form acceptable to the City Attorney indemnifying and holding harmless the city against any claim or loss in the event of an accident involving a motor vehicle, pedestrian, or other instrumentality due to the proximity of the artistic sculpture to the adjacent sidewalk.
- B. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- 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.

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 adopted by the Board, that the Application for Design Review approval 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 approved by the Design Review Board, as determined by staff, entitled "Temple Beth Sholom, Art Installation" as prepared by **Maestro Faustino Aizkorbe, Designer** signed, sealed and dated April 06, 2018, and as approved by the Design Review Board, modified in accordance with the conditions set forth in this Order and staff review and approval.

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 Design Review 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 Design Review Approval was granted, the Design Review Approval will expire and become null and void, unless the applicant makes 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. At the hearing on any such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. If the Full Building Permit 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 Design Review Approval will expire and become null and void.

Dated this _____ day of _____, 20_____.

