

MIAMI BEACH

PLANNING DEPARTMENT

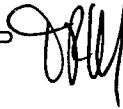
Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: October 9, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: HPB18-0199, **100 Lincoln Road – Beachtown**.

The applicant, GFI Investments, Inc., is requesting a Certificate of Appropriateness for the construction of an outdoor elevated dining terrace with bar counter above the existing surface parking area on the north side of the property, including variances to reduce the required pedestal interior side and rear setbacks, to reduce the required open space, rear and side setbacks within the Dune Preservation Overlay District, to reduce the required view corridor, side and rear setbacks, to exceed the maximum height for a deck within the Oceanfront Overlay District, to eliminate the residential or commercial use required facing the water at the ground level containing parking spaces, to reduce the required width for a two-way driveway and required width of a drive aisle for perpendicular parking.

STAFF RECOMMENDATION

Continuance to a future date

EXISTING STRUCTURE

Local Historic District:	Ocean Drive/Collins Avenue
Status:	Non-Contributing
Architect:	Melvin Grossman
Construction Date:	1965

SITE DATA

Legal Description:	Lots 6 to 13 and riparian rights and beginning northeast corner of Lot 9 north 50 feet east to ocean HWM south 50 feet w to point of beginning, Block 55 and portion lying east and adjacent west of the erosion control line, Fishers 1 st Subdivision of Alton Beach, according to the plat thereof recorded in Plat Book 105, Page 62 of the public records of Miami Dade County, Florida.
--------------------	--

Zoning:	RM-3, Residential Multifamily, High Intensity
Future Land Use Designation:	RM-3, Residential Multifamily, High Intensity

Existing Use/Condition: Surface Parking
Proposed Use: Outdoor Café and Surface Parking

HISTORY/ZONING SUMMARY RELATED TO PARKING

According to the building card, 100 Lincoln Road was constructed in 1965 and originally contained 620 residential units and 620 parking spaces.

On September 11, 1987 variances were approved related to the conversion of some parking spaces into offices, including a variance to waive 81 off-street parking spaces.

On July 8, 1988 a variance to waive 30 off-street parking spaces was approved for the operation of a restaurant with 120 seats.

There currently are no parking requirements for the building, as per Section 130-31(b) of the City Code, as the subject structure, although classified as 'non-contributing', is located within the architectural district and was constructed prior to 1993.:

Sec. 130-31. - Parking districts established.

* * *

(b) There shall be no off-street parking requirement for main or accessory uses associated with buildings that existed prior to October 1, 1993, which are:

- (1) Located within the architectural district,*
- (2) A contributing building within a local historic district, or*
- (3) Individually designated historic building.*

This provision shall not apply to renovations and new additions to existing buildings which create or add floor area, or to new construction which has a parking requirement.

The existing parking lot (which is the subject of this application) is legal non-conforming, as it does not comply with setback requirements, and the parking spaces and back-up areas do not comply with minimum required dimensions.

Even if the parking spaces were required, because they are non-conforming they would be allowed to be removed, based upon recent amendments to the City Code in 2016:

Sec. 130-35. - Removal of existing parking spaces.

Except as provided for within subsection 130-132(c), no existing required parking space, which is legally conforming, may be eliminated for any use. However, notwithstanding the forgoing, the elimination of any such legal conforming, required parking space for the purposes of addressing Americans with Disabilities Act (ADA) compliance or for the creation of an enclosed dumpster/trash area when there has been a determination by the planning and zoning director of no feasible alternate location shall be permitted without the need to replace such space or payment of in lieu of required parking.

There is no parking requirement for the proposed outdoor café, as it is associated with a building constructed prior to October 1, 1993 and is located within the architectural district.

If constructed as proposed, the use of the parking spaces under the new dining terrace would have to be used exclusively by the residential units in the building and the applicant would need

to substantiate that the total number of covered parking spaces on the site does not exceed 2 spaces per residential unit. Non-required parking must be included as floor area (FAR), unless otherwise exempted from such requirements.

Sec. 114-1. - Definitions.

* * *

Floor area means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls or from the exterior face of an architectural projection, from the centerline of walls separating two attached buildings. However, the floor area of a building shall not include the following unless otherwise provided for in these land development regulations.

* * *

(5) Floor space used for required accessory off-street parking spaces. However, up to a maximum of two spaces per residential unit may be provided without being included in the calculation of the floor area ratio

* * *

Section 130-32(44), allows an exception to inclusion of such parking as floor area for Contributing buildings on oceanfront lots. However, the building that is part of the subject site is classified as Non-Contributing.

Sec. 130-32. - Off-street parking requirements for parking district no. 1.

* * *

(44) [Contributing building on oceanfront lot:] Any contributing building on an oceanfront lot, located within a local historic district, or individually designated historic site, which is located in parking district no. 1, may provide parking on the site for any use listed in subsections (2A), (6), (7), (8), (9), (11), (12), (13), (16A), (17), (17A), (22), (26), (28), (31), (36), (37) and (41) above. Such parking, if provided, shall be exempt from FAR, in accordance with the regulations specified in chapter 114 of these land development regulations. Any such parking shall be for the exclusive use of the contributing building or designated site and shall not be in excess of the parking required under the provisions of paragraphs (2A), (6), (7), (8), (9), (11), (12), (13), (16A), (17), (17A), (22), (26), (28), (31), (36), (37) and (41) above.

THE PROJECT

The applicant has submitted plans entitled “Beachtown”, as prepared by Urban Robot Associates, dated August 3, 2018.

The applicant is requesting the following variances:

1. A variance to eliminate all required pedestal interior side setback of 16'-4" in order to construct an elevated dining terrace, stairways and loading space at zero setback from the north side property line.
2. A variance to eliminate all required pedestal rear setback of 116'-10" from the rear property line in order to construct an elevated dining terrace with zero setback from the rear property line.
 - Variances requested from:

Sec. 142-247. - Setback requirements.

(a) The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:

Subterranean and Pedestal, Side Interior: Sum of the side yards shall equal 16% of lot width. Minimum — 7.5 feet or 8% of lot width, whichever is greater.

Subterranean and Pedestal, Rear, Oceanfront lots: — 20% of lot depth, 50 feet from the bulkhead line whichever is greater.

A new elevated deck with kiosks and trellis structures as part of an outdoor dining venue is proposed over an existing non-conforming surface parking area on the northern side of the property. As it is attached to the existing structure, the pedestal setbacks of the main structure apply. Based on the lot width of 204.3' of the property, a setback of 16'-4" (8% of the lot width of 204.3') is required from the north side and based on the lot depth of 584.3' of the property, a setback of 116'-10" is required from the rear side. The applicant is proposing a stair and elevated deck at zero setback from the side and rear property lines. The project also encroaches into the Dune Preservation and Oceanfront Overlay Districts and substantially reduces landscape and view corridors, which are already minimal on the property at the rear. Staff is not supportive of the reduced setback as special conditions or hardships are not demonstrated. In addition, a variance to reduce the required north side setback would limit the possibility of expansion, now or in the future, of the beach access. Based on the lack of practical difficulties, staff cannot recommend approval of variances #1 and #2.

3. A variance to eliminate the required setback of 11'-0" from the Erosion Control Line in order to construct a ramp and elevated dining terrace at 17.0' NGVD and zero setback from the Erosion Control Line on the Dune Preservation Overlay District.
4. A variance to eliminate the required setback of 15'-0" from the side property line in order to construct an elevated dining terrace at zero setback from the north side property line on the Dune Preservation Overlay District.
5. A variance to reduce by 12.2% (654 sf) the minimum 80% (4,300 sf) open space required in order to construct an elevated dining terrace and provide 67.8% (3,646 sf) of open space within the Dune Preservation Overlay District.
6. A variance to exceed by 1'-1" the maximum height of 15'-11" NGVD (2'-6" above the dune height of 13'-5" NGVD) for the finish floor of structures located in the Oceanfront Overlay District in order to construct an elevated dining terrace at 17'-0" NGVD.

- Variances requested from:

Sec. 142-775. - Development regulations

(a) Minimum open space requirements. At least 80 percent of the site shall remain open to the sky, landscaped or maintained as sand beach. All areas covered by the uses permitted above, other than portable beach furniture, shall be considered in the lot coverage calculation.

(d) Minimum yards. Minimum yards in the dune preservation district shall be as follows:

(2) Fifteen feet adjacent to any side property line, municipal park, street end, or right-of-way.

(3) Ten feet from the erosion control line when any structure has a finished floor elevation of three feet or less than the elevation of the top of the dune. For every additional one foot increase in the finished floor elevation of the structure an additional one foot of setback is required, to a maximum of 15 feet.

(e) Finished floor elevation. The finished floor elevation shall have a maximum height of 2½ feet above the dune.

These variances pertain to the encroachment of the structure on the area between the bulkhead line and the erosion control line designated as Dune Preservation Overlay District, as well as within the Oceanfront Overlay. The Code allows certain structures in this area to promote recreational uses that would also function as a transitional zone between the main structure and the dune and beach. Staff has concerns with the compatibility of the proposed structure and the intent of the Code for the Overlay District. The maximum area for individual structures is 400 sf, however, the area of the proposed structure proposed at zero setback is more than 1500 sf within this area. The structure eliminates existing landscape, exceeds the maximum elevation for a deck and contributes to the reduction of the view corridors and open space in the Overlay District. As there are commercial uses on the property as well as a high occupancy multifamily building, staff could not find practical difficulties related to variances #3, #4, #5 and #6 and recommends that the structure be redesigned to comply with the required side setback and increase the proposed rear setback. Eliminating the parking would allow the entire structure to be lowered to comply with the maximum height requirements.

7. A variance to eliminate the required side setback of 15'-0" from the property line in order to construct an elevated dining terrace at zero setback from the north side property line within the Oceanfront Overlay District.
8. A variance to eliminate the required rear setback of 10'-0" from the Bulkhead Line in order to construct an elevated dining terrace at zero from the Bulkhead Line within the Oceanfront Overlay District.
9. A variance to eliminate all required lot coverage of 50% (6,400 square feet) in order to construct an elevated dining terrace and not provide open space within the Oceanfront Overlay District.
10. A variance to eliminate the required view corridor of 50% (6,400 square feet) within the Oceanfront Overlay District in order to construct an elevated dining terrace at the northern side of the property.
11. A variance to exceed by 1'-1" the maximum height of 15'-11" NGVD (2'-6" above the dune height of 13'-5" NGVD) for the finish floor of structures located in the Dune preservation Overlay District in order to construct an elevated dining terrace at 17'-0" NGVD.

- Variances requested from:

Sec. 142-802. - Additional regulations for oceanfront lots.

These regulations apply to buildings and structures located west of the bulkhead line. Oceanfront lots shall have a minimum required rear yard setback of 50 feet at grade and subterranean levels measured from the bulkhead line in which there shall be no construction of any dwelling, hotel, apartment building, commercial building, seawall,

parking areas, revetment or other structure incidental to or related to such structure except in accordance with the following provisions:

(3) There shall be a minimum required 15-foot setback from a side lot line and a minimum required ten-foot setback from the bulkhead line.

(5) The finished floor elevation of decks, patios, platforms, shall have a maximum height of 2½ feet above the top of the dune.

(7) Lot coverage shall be at least 50 percent of the required rear yard setback, open to the sky and landscaped. All areas covered by permitted uses, other than portable beach furniture, shall be considered in the lot coverage calculation.

These variances pertain to the new raised deck and trellis within the Oceanfront Overlay district that includes the easternmost 50' from the Bulkhead Line. The structure encroaches 100% into this area in all directions and exceeds the maximum height allowed for the finished floor above the height of the dune. As with the previous variances #1- #6, staff is concerned with the negative impact of the structures in this Overlay District. The property is already non-conforming with respect to the setbacks, lot coverage and view corridors in this area and the proposed new structure contributes to the elimination of the 50% view corridor and 50% lot coverage required which deviates from the intent of the district. Staff finds that the variances requested do not satisfy the practical difficulties or hardship criteria. Therefore, staff is not supportive of the variances and recommends that the structure be redesigned to comply with the side setback and increase the rear setback to mitigate the impact of the structure along the beach side.

12. A variance to reduce 9'-8" from the minimum required width of 22'-0" interior drive aisle for 90° parking in order to retain parking spaces at 90° with an interior drive aisle of 12'-4".

- Variance requested from:

Sec. 130-63. Interior aisles.

Interior aisles shall meet or exceed the following minimum dimensions permitted:
90° parking—22'-0"

13. A variance to reduce 9'-8" from the minimum required width of 22'-0" for a two-way driveway, in order to retain a driveway for twenty-nine (29) parking spaces with a minimum driveway width of 12'-4".

- Variance requested from:

Sec. 130-64. Drives.

Drives shall have a minimum width of 22 feet for two-way traffic and 11 feet for one-way traffic. For those grade level parking areas with less than ten parking spaces, inclusive of those parking areas underneath a building or structure, the curb-cut and driveway entrance shall have a minimum width of 12 feet.

The existing parking area is currently legal-non-conforming regarding location and setbacks. Aerial photographs and Building Department records show that the property contained an at grade parking lot before the construction of the existing multifamily building. The existing parking has remained in the same location over the years.

The applicant is proposing a reduction in the number of parking spaces, with a slight reconfiguration including the addition of a loading space. While improvements to this area are welcome, as the lot, which has been owned by the applicant since 1992, has been an eyesore for decades, its elimination and construction of the proposed outdoor café within the confines of the City Code, would be the most appropriate solution for one of the most highly visible beachfront access points in the City. As the applicant has not demonstrated a hardship, nor identified practical difficulties, staff cannot recommend in favor of the variances associated with what is essentially a new parking garage.

14. A variance to eliminate the required residential or commercial use required at the first level containing parking spaces facing the street, sidewalk or waterway.

- Variance requested from:

Sec. 142-248. Additional regulations for new construction.

In the RM-3, residential district, all floors of a building containing parking spaces shall incorporate the following:

1) Residential or commercial uses, as applicable, at the first level along every facade facing a street, sidewalk or waterway. For properties not having access to an alley, the required residential space shall accommodate entrance and exit drives

Commercial or residential uses are required to buffer parking areas from public view. The existing surface parking area is legal-non-conforming and has existed for many years, as noted above. In this instance, the applicant is proposing to exacerbate the non-conforming use by converting it to a non-conforming garage. Additionally, a hardship has not been demonstrated, nor have practical difficulties been identified. As such, staff cannot recommend in favor of this variance.

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, 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 DO NOT 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.

COMPLIANCE WITH ZONING CODE

The application, as submitted, with the exception of the variances requested herein, appears to be inconsistent with the following requirements of the City Code:

1. **Sec. 142-1109**: Accessory outdoor bar counters shall not be visible from any point along the property line adjacent to a public right-of-way.
2. Additional information will be required to confirm that that the operation satisfies the definition of an outdoor café, as defined in Section 114 of the City Code:

Cafe, outdoor means a use characterized by outdoor table service of food and beverages prepared for service in an adjacent or attached main structure for consumption on the premises. This definition does not include an accessory outdoor bar counter, which is considered to be a separate accessory use to an outdoor cafe or a hotel pool deck, as described in section 142-1109.

3. **FAR**. The applicant must substantiate that the covered parking created by the proposed elevated deck does not count in the FAR. Additionally, details of the mobile food vendor kiosks and other bar apparatus must be provided. These may also constitute FAR.

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.

CONSISTENCY WITH 2025 COMPREHENSIVE PLAN

A preliminary review of the project indicates that the proposed **outdoor cafe use** appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA

A decision on an application for a Certificate of Appropriateness shall be based upon the following:

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to

Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.
Not Applicable
- b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.
Satisfied

II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. Exterior architectural features.
Satisfied
- b. General design, scale, massing and arrangement.
Satisfied
- c. Texture and material and color.
Satisfied
- d. The relationship of a, b, c, above, to other structures and features of the district.
Satisfied
- e. The purpose for which the district was created.
Satisfied
- f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.
Satisfied
- g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.
Not Applicable
- h. The original architectural design or any subsequent modifications that have acquired significance.
Satisfied

III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. 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.

Satisfied

- b. 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 applicant has requested variances.

- c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.

Satisfied

- d. The proposed structure, and/or additions to an existing structure is appropriate to and compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties, or the purposes for which the district was created.

Not Satisfied

The site plan would respond more successfully to the character of the neighborhood if the setback and overlay variances were eliminated and the elevated deck was lowered and surface parking lot was removed.

- e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces 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 preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.

Not Satisfied

The site plan would respond more successfully to the character of the neighborhood if the elevated deck was lowered and surface parking lot was removed.

- f. 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 any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.

Satisfied

- g. 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 and consistent with a City master plan, where applicable.
Satisfied
All exterior lighting located east of the Coastal Construction Line will be required to meet state Department of Environmental Protection regulations.
- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.
Satisfied
- i. 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
- j. Any proposed new structure shall have 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
- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, 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 sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.
Satisfied
- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
- m. Any 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).
Satisfied
- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.
Satisfied
- o. 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

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.
Satisfied
- (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.
Satisfied
- (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.
Satisfied
- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.
Satisfied
- (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

The applicant is proposing to construct an elevated deck structure with outdoor seating including a bar counter above the existing surface parking lot located at the north side of the property, immediately adjacent to a major pedestrian walkway leading to the beach and ocean.

The existing surface parking lot has been in place since the construction of the existing Non-Contributing building in 1965 and has had an increasingly negative impact on the abutting pedestrian walkway.

The proposed elevated deck, bar counter, canopy shade structures and mobile food kiosks are intended to create a more successful transition from the urban environment to the casual beach front. While staff is supportive of the general concept of an outdoor café in this area, which could, potentially, be an improvement over the existing parking lot, the most appropriate option would be the removal of the non-required, non-conforming parking, and the construction of an outdoor café at a lower level.

Additionally, such a café should be designed in a manner that allows for the widening of the public beach easement, provided by the property owner to the immediate north.

VARIANCE ANALYSIS

As indicated in the History/Zoning summary section of this report, the subject parking lot has been in existence in some form even before the building was constructed and is non-conforming. Although it may have been part of the required parking at some point in the past, it is not currently required parking for the building.

As designed, the proposed structure requires 14 variances as it essentially occupies the entire northernmost portion of the site and includes two Overlay Districts. Although, the parking area already extends up to the side property line, it is set back more than 10' from the rear property line. The proposed structure would extend up to the rear property line increasing the non-conformity of the area for a property with a building that is non-conforming regarding rear setbacks and current regulations in the Oceanfront Overlay and Dune Preservation Overlay Districts. In addition, an open bar counter is proposed, which the Code requires not be visible from a public right-of-way. Due to the inaccurate elevation drawings and the openness of the proposed structure, staff is unable to determine whether the bar counter is visible or not from the right of way. Neither a hardship nor practical difficulties for all variances related to the elevated terrace and parking structure have been demonstrated in the letter of intent; therefore, staff cannot support any of the variances in the proposed configuration.

Consequently, staff would recommend the removal of the non-required, non-conforming parking, and the construction of an outdoor café that complies with the requirements of the City Code. Lowering the entire terrace to at or just above ground level will create better connectivity between Lincoln Road and the beachwalk and would create a significantly improved pedestrian experience. Staff is confident that with the elimination of the parking area, the above recommendations can be accomplished, including elimination of the requested variances.

Finally, as noted herein, significant FAR issues have been generated by the proposal, including the design of the outdoor bar and kiosks (mobile food vendors), required enclosures for cooking facilities, and, most important, the inclusion of the proposed covered parking area within the required FAR for the property. These FAR issues must be fully resolved, prior to an approval by a Land Use Board. As such, the Board may discuss the item and provide feedback, but cannot take any action until the FAR issues are resolved.

RECOMMENDATION

In view of the foregoing analysis and until all applicable FAR issues are resolved, staff recommends the Certificate of Appropriateness and all requested variances be **continued** to a future date.