


# MIAMI BEACH

## PLANNING DEPARTMENT

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### BOARD OF ADJUSTMENT STAFF REPORT

FROM: Thomas R. Mooney, AICP   
Planning Director

DATE: October 5, 2018 Meeting

RE: File No. ZBA18-0076  
**1342 Washington Avenue – Jazz Club/Restaurant**

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The applicant, Jazid Entertainment, LLC., is requesting a modification to a previously approved variance to reduce the required 300 foot distance separation between a business that sells alcoholic beverages and an existing educational facility in order to operate a jazz club/restaurant and sell alcoholic beverages for consumption on premises. Specifically the applicant is requesting changes to the conditions of approval, including a change of owner/operator.

#### **RECOMMENDATION:**

Approval of the requested modification.

#### **HISTORY:**

A variance to reduce the minimum distance separation requirements for the sale of alcoholic beverages at this location was approved by the Board on September 8, 2000, pursuant to BOA File No. 2760.

#### **LEGAL DESCRIPTION:**

Lots 6, 7 and 11 Block 21, of "Amended Plat of Re-Subdivision of Block 21, Miami Beach, Florida, Ocean Beach – Addition No. 3" according to the plat thereof, as recorded in Plat Book 6, Page 17 of the Public Records of Miami-Dade County, Florida.

#### **SITE DATA:**

|                              |   |
|------------------------------|---|
| Folio Number -               | 02-3234-011-0030                            |
| Zoning -                     | CD-2 (Commercial, Medium Intensity)         |
| Future Land Use Designation- | Medium Intensity Commercial Category (CD-2) |
| Lot Size -                   | 17,700 S.F.*                                |
| Existing FAR -               | ~21,974 S.F.*                               |
| Existing Use -               | Commercial / Jazz Club/Restaurant           |
| Proposed Use -               | Same  |

\*As per Miami-Dade Property Appraiser.

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**THE PROJECT/REQUEST:**

The applicant has submitted documents and plans titled Jazid, by Kobi Karp, dated August 3, 2018. The applicant is requesting a modification to a previously approved variance granted on September 8, 2000, associated with the sale/service of alcohol within the minimum required distance separation from an educational school and/or place of worship. The club is currently under renovation. The applicant requests to modify Condition 6 of the September 8, 2000 Final Order No. BOA 2760, which granted the approval of the variance to the previous applicant in order to permit the transfer of approval to Jazid Entertainment, LLC. The original approval is attached as "Exhibit A" of the draft order for reference.

**STAFF ANALYSIS:**

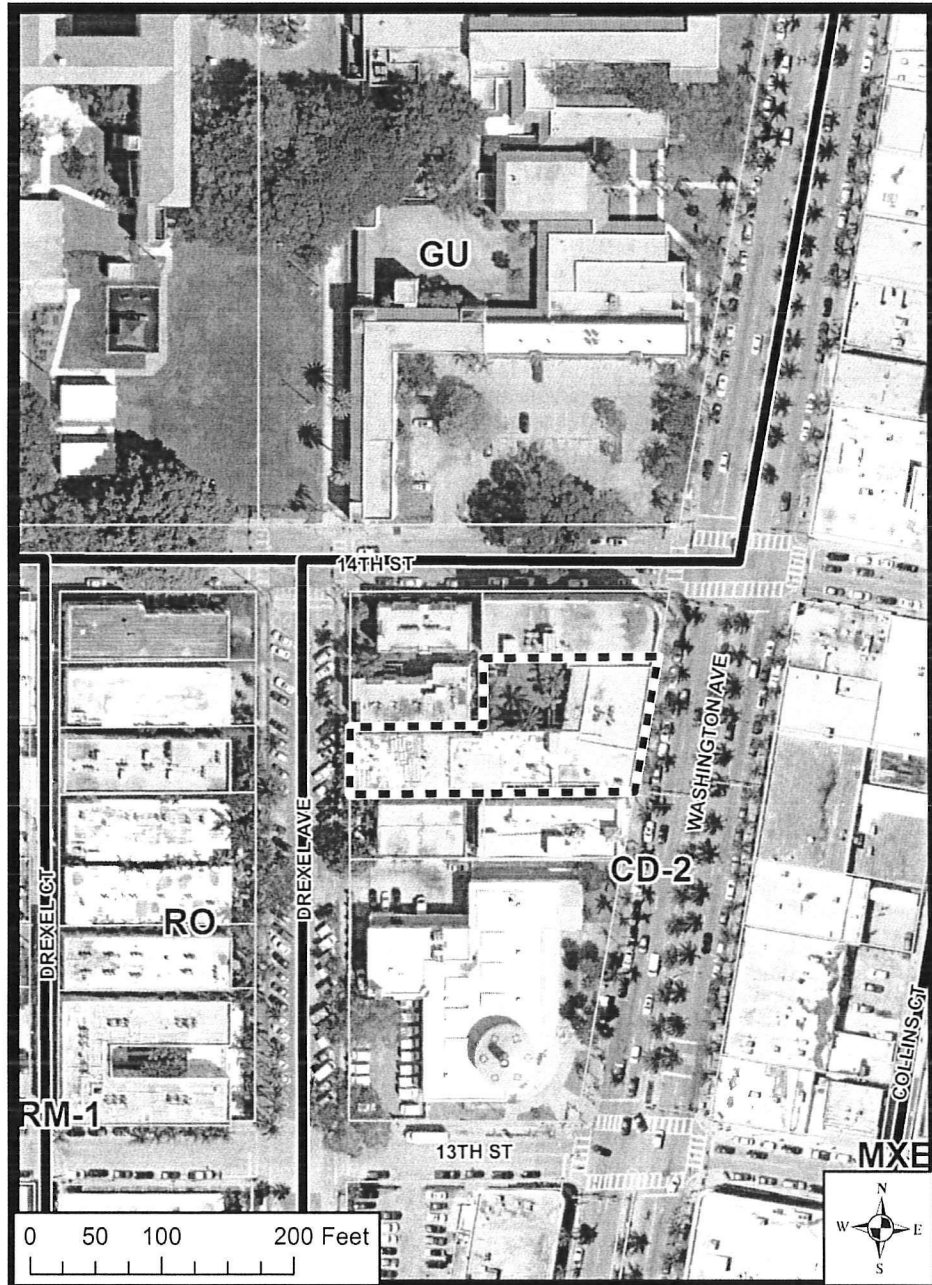
Staff supports the requested modification, allowing the transfer of the original variance to the jazz club's new owner(s)/operator. If approved, the jazz club will be allowed to continue operation, once the renovations are completed.

Staff will note that in addition to the requested modification, additional conditions are being recommended. These conditions, listed in the attached draft final order, are consistent with those imposed on similar variance applications in recent years.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends **approval** of the requested modification, subject to the conditions outlined in the attached final order.

## ZONING/SITE MAP



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

**PROPERTY:** 1342 Washington Avenue

**FILE NO.** ZBA18-0076 f/k/a BOA 2760

**IN RE:** The application for a modification to a previously approved variance to reduce the required 300 foot distance separation between a business that sells alcoholic beverages and an existing educational facility in order to operate a restaurant and sell alcoholic beverages for consumption on premises. Specifically the applicant is requesting changes to the conditions of approval, including a change of owner/operator.

**LEGAL**

**DESCRIPTION:** Lots 6, 7 and 11 Block 21, of "Amended Plat of Re-Subdivision of Block 21, Miami Beach, Florida, Ocean Beach – Addition No. 3" according to the plat thereof, as recorded in Plat Book 6, Page 17 of the Public Records of Miami-Dade County, Florida.

**MEETING DATE:** October 5, 2018

**MODIFIED ORDER**

The applicant, Jazid Entertainment, LLC., filed an application with the Planning Department for modifications to a previously approved variance granted on September 8, 2000, associated with the sale/service of alcohol within the minimum required distance separation from an educational school and/or place of worship:

"A variance to waive 156 feet of the minimum required 300 feet separation between a business that sells/serves alcoholic beverages and an educational facility in order to sell/serve beer, wine, and liquor at a proposed jazz club/restaurant 144 feet from Fisher-Feinberg Elementary School"

The applicant requests to modify Condition 6 of the September 8, 2000 Case No. BOA 2760, which granted the approval of the variance to the previous applicant in order to permit the transfer of approval to Jazid Entertainment, LLC. The original approval is attached as "Exhibit A" for reference. The conditions approved on September 8, 2000 are superseded as follows:

The City of Miami Beach Board of Adjustment 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:

- A. Based on the documents submitted with the application, testimony and information provided by the applicant, and the Planning Department Staff Report, the project as submitted satisfies the requirements of Section 118-353(d) of the Miami Beach Code. Accordingly, the Board of Adjustment has determined the following:

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.

B. The Board imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. During school hours, alcohol shall only be served with meals. There shall be no sale of package goods.
2. 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.
3. The applicant shall satisfy any City Liens prior to the issuance of a revised Certificate of Use and Occupational License for beer and wine.
4. The Board of Adjustment shall retain jurisdiction of this file.
5. This approval is granted to Jazid Entertainment, LLC only. Any changes in ownership or operator shall require the new owner or operator to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owner or operator and acknowledging acceptance of all conditions established herein prior to the issuance of a new Business Tax Receipt.

6. 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.
7. The Operator shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalk on Washington Avenue in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times.
8. If there is any change in the use or operation of the establishment, or in the event the 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.
9. The Board of Adjustment shall retain the right to call the operators back before the Board and modify the hours of operation or the occupant load should the City issue any written warnings and/or notices of violation about loud, excessive, unnecessary, or unusual noise.
10. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Order and subject to the remedies as described in the Code of the City of Miami Beach, Florida.
11. The conditions on this Order are binding on the applicant, the property's owners and all successors in interest and assigns.
12. 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.
13. 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, except to the extent of the variance granted herein.
14. 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.
15. This modified Order shall be recorded, in the Public Records of Miami-Dade County; prior to the issuance of a City Business Tax Receipt.

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 staff recommendations, as modified by the Board of Adjustment, that the application to modify the



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

**MEETING DATE: SEPTEMBER 8 2000  
FILE NO. 2760**

IN RE: The application of  
**JAZID, INC.**  
**1342 WASHINGTON AVENUE**  
**LOTS 6, 7 AND 11; BLOCK 21**  
**H. PRATTS RESUB. OCEAN BEACH NO. 3**  
**PB 6/17; MIAMI-DADE COUNTY, FLORIDA**

**ORDER**

The applicant, Jazid, Inc., filed an application with the Planning Department for a variance in order to sell/serve beer, wine and liquor at a proposed jazz club/restaurant:

1. A variance to waive 156 feet of the minimum required 300 feet separation between a business that sells/serves alcoholic beverages and an educational facility in order to sell/serve beer and wine and liquor at a proposed jazz club/restaurant 144 feet from Fisher-Feinberg Elementary School.

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:

*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;*



File No. 2760

Jazid, Inc.

1342 Washington Avenue

*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 variance as requested and set forth above be APPROVED with the following conditions to which the applicant has agreed:

1. Any signs and exterior renovations of the building in which the establishment is to be located shall be approved by the Historic Preservation Board.
2. The obscuring or blocking of windows with restaurant equipment shall not be permitted, unless otherwise approved by the Historic Preservation Board.
3. During school days (Monday through Friday), the establishment shall not open before 5:00 p.m. There shall be no sale of package goods.
4. The applicant shall satisfy any City Liens before a Certificate of Use and Occupational License is issued.
5. The Board 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. The Miami Beach Police Department and the Dade County School Board shall be notified of these progress reports.
6. 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 specifically apprised of all conditions. Subsequent operators shall be required to appear before the Board to affirm their understanding of the conditions listed, herein.

File No. 2760

Jazid, Inc.

1342 Washington Avenue

7. If the jazz club/bar use ceases to exist for any reason (except for temporary closure during a season or remodeling, both for a period up to six months), the variance shall automatically become null and void.
8. Debris, on the sidewalk and in the gutter in front of the establishment, including that which has been deposited by non-patrons, shall be picked up every day before school opens and before noon on non-school days.
9. The rear terrace shall not have table service or outdoor entertainment. Only passive use by patrons with noise not exceeding normal conversation is permitted in this area.

PROVIDED, the applicant shall build in accordance with the plans submitted as part of this file and as approved by the Board of Adjustment with any applicable modifications. The applicant shall have a building permit for the work contemplated herein issued by the Building Department on or before March 8, 2001 (within six (6) months of the date of this hearing), otherwise this Order shall become null and void, unless the issuance of such permit is stayed by an appeal of this Order to a court of competent jurisdiction. This Order does not constitute a building permit, but upon presentation of a recorded copy of this Order to the Planning Department, a permit shall be processed and approved (subject to compliance with the conditions hereof) in accordance with and pursuant to the ordinances of the City of Miami Beach.

Board of Adjustment of  
The City of Miami Beach, Florida

By:

  
Jorge Gomez

Planning and Zoning Director  
City of Miami Beach

1700 Convention Center Drive  
Miami Beach, Florida 33139

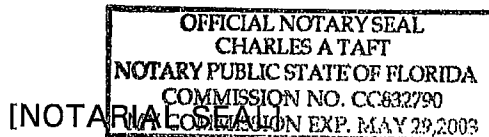
File No. 2760

Jazid, Inc.

1342 Washington Avenue

STATE OF FLORIDA           )  
COUNTY OF MIAMI-DADE   )

The foregoing instrument was acknowledged before me this 10TH day of OCTOBER, 2000, by Jorge Gomez, Planning and Zoning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



Charles A. Taft  
Notary:  
Print Name: CHARLES A. TAFT  
Notary Public, State of Florida  
My Commission Expires:  
Commission Number:

Approved As To Form:  
Legal Department ( Filed 10-10-00 )

Filed with the Clerk of the Board of Adjustment on 10/12/2000 ( AK )

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RECORDED IN OFFICIAL RECORDS BOOK  
OF DADE COUNTY, FLORIDA  
RECORD VERIFIED  
HARVEY RUVIN  
CLERK CIRCUIT COURT