

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: August 9, 2016

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: HPB0616-0036, **126 8th Street a/k/a 763 Collins Avenue.**

The applicant, H & M Hennes & Mauritz, L.P, is requesting variances for the location of a building identification sign, for the location of flat signs above the ground floor, and to exceed the maximum aggregate area for signage.

STAFF RECOMMENDATION

Approval of the variances with conditions.

EXISTING STRUCTURE

Local Historic District:	Ocean Drive / Collins Avenue
Status:	Non-Contributing
Original Architect:	Les Beilinson
Construction Date:	1995

ZONING / SITE DATA

Legal Description:	Lot 16, Block 12, of Ocean Beach Florida Addition No. 1, According to the Plat Thereof, as Recorded in Plat Book 3, Page 11, of the Public Records of Miami-Dade County, Florida.
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Zoning:	MXE (Mixed Use Entertainment)
Future Land Use Designation:	MXE (Mixed Use Entertainment)
Existing Use:	Commercial/Retail
Proposed Use:	Same

THE PROJECT

The applicant has submitted plans entitled "126 8th Street" as prepared by Jeffrey Taylor Architect, dated June 27, 2016.

The applicant is requesting variances for the location of a building identification sign, variances for the location of flat signs above the ground floor and to exceed the maximum area permitted for signage.

The applicant is requesting the following variances:

1. A variance to relocate an allowable flat sign from the ground floor to the 2nd floor of a multistory building, fronting 8th Street.

- Variance requested from:

Sec. 138-171. General provisions.

(g) Signs located above the ground floor shall be limited to the name of the building or the use that encompasses the largest amount of floor area on the building.

The building will be occupied by H & M retail store and a new signage plan for the site is proposed. The building has a unique design with a variety of architectural details, large glass storefront and limited solid concrete surface at the ground floor that restricts the available area to place a sign. Three signs varying in size are proposed along 8th Street and which have been well integrated into the building's architecture. One of these signs is located on a wall surface at the second floor of the northeast corner of the building where flat signs are not permitted. Based on the length of the building on this street side, a 30-s.f. sign is allowed without a variance. However, it would probably require modifications of the existing facade and the storefront, which may negatively impact the building's architecture. The sign location on a recessed blank wall at the second floor complements the overall design of this façade and staff finds that the existing building's architectural features limit the signage options and create practical difficulties that result in the variance requested.

2. A variance to relocate an allowable flat sign from the ground floor to the 2nd floor of a multistory building, fronting Collins Avenue.

- Variance requested from:

Sec. 138-171. General provisions.

(g) Signs located above the ground floor shall be limited to the name of the building or the use that encompasses the largest amount of floor area on the building.

This variance is similar to variance number 1 as it pertains to a sign located on the second floor. In this case the sign is set back from the building envelope and parallel to the angled façade at the northwest corner fronting Collins Avenue. The sign is compatible in size with the building mass and architecture. It is the only visible sign of the store for customers traveling south on Collins Avenue. The building features large glass windows that extend from floor to slab and a wrapping glass block band which restricts the location of the sign at the corner, where the maximum exposure of the business can be reached. Staff finds that this existing condition creates the practical difficulties that result in the variance requested.

3. A variance to relocate an allowable building identification sign facing a street to the parapet of the south facade of the building.

- Variance requested from:

Sec. 138-171. General provisions.

(d) All signs shall front on a street or waterfront unless as set forth in subsection (e) of this section.

A building identification sign is proposed at the parapet of the south façade of the building at the southwest corner. The building has no setback from the front property line and it is closer to the street than the adjacent buildings to the south. This condition allows visibility of a portion of the

south façade as seen from the street. A 4-story solid concrete plane is the most prominent element on the south side and the applicant is proposing to add the sign at the top as a strategic marketing tool for increasing the visibility to potential customers on Collins Avenue. As the adjacent buildings to the south are two-story structures, the location of the sign provides a more successful identification of the store on Collins Avenue and also adds a point of interest on the otherwise blank façade. However, the sign in this location is not allowed, as this side of the building is not fronting on a street. The sign would not require a variance if placed on 8th Street, but because the majority of traffic activity is on Collins Avenue, the applicant wishes to relocate the allowable sign on the north to the south side to allow customers driving north to clearly identify the store. The other sign at the corner of the building on Collins Avenue is not visible to customers going northbound as it is in an angled position and recessed from the building walls. The ID sign is the only sign visible to drivers or pedestrians traveling northbound. Staff would note that signs located at the highest architectural element of buildings are common in the historic district. In summary, staff supports the variance as proposed, as the existing architecture and the surrounding context create practical difficulties that justify the variance requested.

4. A variance to exceed by 6 s.f. the maximum allowable area of 30 s.f. for flat signs in order to permit one sign with 24 s.f. and two (2) signs with 6 s.f. each, fronting 8th Street with a total area of 36 s.f.
 - Variance requested from:

Section 138-172. Schedule of sign regulations for principal and accessory use signs.

Zoning District, MXE – Flat:

20 square feet for the first 25 feet of linear frontage, plus one square foot for every three feet of linear frontage over 25 feet up to a maximum of 30 square feet.

The signage plan includes a 24-s.f. sign at the northeast corner and two 6-s.f. signs along the façade fronting 8th Street. The total aggregate area of the signs exceeds the maximum 30 SF allowed for a single business. The building façade is approximately 135' in length and considering that the maximum sign area is based on the length of the building facing a street, it is conceivable that up to 5 tenants could reasonably occupy the building, and in that case, five (5) 20 SF signs would be permitted facing 8th Street. The applicant's request for an aggregate area of 36 SF is a reduction compared to what would be permitted on this façade, based on the length of the building if occupied by multiple tenants. Staff finds that because only one business occupies the entire first through third floors and the sign area is limited per business, practical difficulties exists that result in the need for the variance requested.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

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.

COMPLIANCE WITH ZONING CODE

A preliminary review of the project indicates that the application, as proposed, is consistent with the City Code, with the exception of the variances requested herein.

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.

VARIANCE ANALYSIS

The property is located in a prominent corner location containing a 4-story commercial building constructed in 1995. The non-contributing building features angled walls, glass blocks and windows in a variety of shapes and sizes throughout. The ground floor façades are mostly floor to ceiling glass storefront along the streets and have limited solid, concrete surfaces. The building is fronting Collins Avenue with traffic running in both directions. With this context, the applicant is proposing a sign program that allows the exposure of the business as much as possible and successfully integrates with the existing building. The unique architecture of the building and the fact that the first, second and third floors will be occupied by a single tenant, "H & M" create challenges to develop a successful sign program, based on the sign ordinance. The City Code restricts flat signs to a maximum area of 30 SF (based on the length of the wall) per single tenant. This requirement imposes limitations for a business that occupies an entire building or several floors of a building as the subject application. This situation has been previously recognized as practical difficulty for other similar variance applications.

The purpose of the signage ordinance, as stated in section 138-1 of the City Code, is "to permit signs that will not by their size, location, construction, number or manner of display, endanger

the health, safety and general welfare of the public or the appearance of the city. It is also the purpose of this chapter to encourage signs that are architecturally aesthetic and compatible with the buildings they are placed on, to reduce traffic hazards and to preserve the right of free speech exercised through the use of signs.”

The City is currently in the process of amending the signage section of the Code to allow larger main business signs in commercial districts, which could result in signage that is more proportionate to the size of the façade in which they are installed upon

Article 1, Section 2 of the Related Special Acts authorizes the granting of variances by the Board where there are practical difficulties in the way of carrying out the strict letter of the zoning Ordinance, to modify the regulations so that the spirit of the zoning Ordinance is observed, public safety and welfare secured, and substantial justice done. Due to the size, location and unique architectural features of the building, staff believes that the variances requested are consistent with the spirit of the current and proposed amendments of the signage ordinance.

In summary staff recommends that the variances requested be approved.

RECOMMENDATION

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

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: August 9, 2016

FILE NO: HPB0616-0036

PROPERTY: 126 8th Street a/k/a/ 763 Collins Avenue

APPLICANT: H & M Hennes & Mauritz, L.P

LEGAL: Lot 16, Block 12, of Ocean Beach Florida Addition No. 1, According to the Plat Thereof, as Recorded in Plat Book 3, Page 11, of the Public Records of Miami-Dade County, Florida.

IN RE: The application for variances for the location of a building identification sign, for the location of flat signs above the ground floor, and to exceed the maximum aggregate area for signage.

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(s):

1. A variance to relocate an allowable flat sign from the ground floor to the 2nd floor of a multistory building, fronting 8th Street.
2. A variance to relocate an allowable flat sign from the ground floor to the 2nd floor of a multistory building, fronting Collins Avenue.
3. A variance to relocate an allowable building identification sign facing a street to the parapet of the south facade of the building.
4. A variance to exceed by 6 s.f. the maximum allowable area of 30 s.f. for flat signs in order to permit one sign with 24 s.f. and two (2) signs with 6 s.f. each, fronting 8th Street with a total area of 36 s.f.

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, within 30 days of the Board approval.
- C. Applicant shall submit revised plans pursuant to Board conditions no later than 60 days after Board approval, as required.
- 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 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 "126 8th Street" as prepared by Jeffrey Taylor Architect, dated June 27, 2016, as 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. 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
PRESERVATION AND DESIGN MANAGER
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, Preservation and Design Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

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

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HPB0616-0036
Meeting Date: August 9, 2016

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

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

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