

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: December 13, 2016

FILE NO: HPB0716-0049

PROPERTY: 4385 Collins Avenue

APPLICANT: Beach House Owner, LLC

LEGAL: Lot 1, excepting the south seventy-five (75') feet thereof, of Block 39 of Miami Beach improvement Company's Ocean Front Subdivision, according to the Plat thereof, AND the southern 75 feet of that certain tract marked and designated "R.P. Van Camp", on amended Map of Ocean Front Property of the Miami Beach Improvement Company, as recorded in Plat Book 5, pages 7 and 8, of the public records of Dade County, Florida.

IN RE: The application for a an After-the-Fact Certificate of Appropriateness for design modifications within the rear yard, including after-the-fact variances from the required side setback, from the maximum size and required distance separation for structures, from the openness requirements, clear space height, and the required construction materials for structures, from the required open space, and from the maximum width of walkways within the Dune Overlay District in order to allow the retention of existing structures including a retractable roof at the rear of the property facing the Ocean.

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. The subject site is located within the Collins Waterfront Local Historic District.

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:

1. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
2. Is not consistent with Certificate of Appropriateness Criteria 'g' in Section 118-564(a)(2) of the Miami Beach Code.
3. Is not consistent with Certificate of Appropriateness Criteria 'a – e', 'h', 'k' & 'n' in Section 118-564(a)(3) of the Miami Beach Code.

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C. The project would be consistent with the criteria and requirements of section 118-564 if the following conditions are met:

1. Revised elevations, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:

- a. The pergola structures shall be redesigned in a manner consistent with the development regulations set forth in Chapter 142, Article III, Division 2 (Dune Preservation Overlay) of the City Code, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
- b. Final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
- c. The introduction of screening devices along the eastern property line shall not be permitted.

2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:

- a. The landscape plan for the northern and eastern portions of the Dune Preservation Overlay shall be redesigned in a manner substantially consistent with the approved building permit, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
- b. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the final revised landscape plan.
- c. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.

In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.

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II. Variance(s)

A. The applicant filed an application with the Planning Department for the following variance(s), which were either approved by the Board with modifications, or denied (Underlying denotes new language and ~~strikethrough~~ denotes stricken language):

1. An after the fact variance to exceed by 2'-0" the maximum allowed clear space of 8'-0" between the roof covering and finish floor in order to retain and existing tiki hut bar structure with a clear space of 10'-0" measured from finish floor to the roof and located within the Dune Preservation Overlay District.
2. An after the fact variance to reduce by 4'-2" the minimum required side setback of 15'-0" within the Dune Preservation Overlay District in order to retain a deck at 10'-10" and the tiki structure at 13'-6" from the south side property line.
3. ~~An after the fact variance to retain two pergola structures constructed of metal clad in wood where only wood materials are allowed for structures located within the Dune Preservation Overlay District. (Variance withdrawn).~~
4. ~~An after the fact variance to exceed by 13% (657 square feet) the minimum required open space of 80% (4,056 square feet) in order to retain a tiki hut bar, walkways, two pergola structures and provide an open space of 67.0% square feet located within the Dune Preservation Overlay District. (Variance withdrawn).~~
5. ~~An after the fact variance to reduce by 4'-11" the minimum distance separation of 10'-0" between structures located within the Dune Preservation Overlay District in order to retain a tiki hut bar structure, pergolas and retractable roof structures with a distance separation of 5'-4". (Variance withdrawn).~~

B. The applicant has submitted plans and documents with the application that **DO** 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** 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

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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 requests numbers 1 and 2, as noted in II.A. and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. Building permits shall be obtained for the modifications to the existing structures including detailed, dimensioned plans showing materials and shaded diagrams with area calculations, to verify compliance with the required 50% open space within the Oceanfront Overlay District, in a manner to be reviewed and approved by staff.
2. All violations shall be corrected, prior to zoning final approval of the building permits.

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. 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.

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- D. 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.
- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- F. 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 "SOHO BEACH HOUSE – Mandolin Beach" as prepared by NC-office architecture / urbanism, dated October 24, 2016, and as modified and 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. 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 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

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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.

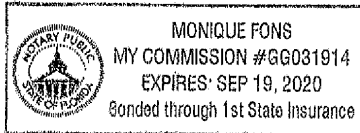
Dated this 15 day of December, 2016.

HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]
DEBORAH TACKETT
CHIEF OF HISTORIC PRESERVATION
FOR THE CHAIR

STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 15th day of December 2016 by Deborah Tackett, Chief of Historic Preservation, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



[Signature]
NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: 9/19/2020

Approved As To Form: [Signature] (12/14/16)
City Attorney's Office: [Signature]

Filed with the Clerk of the Historic Preservation Board on [Signature] (12/15/16)

[Handwritten mark]