

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: March 14, 2023

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: HPB22-0557, **251 Washington Avenue.**

An application has been filed requesting variances from the required setbacks for mechanical equipment rooms, plumbing equipment, electrical equipment, signage and a flagpole and variances from the maximum area and height of a monument sign.

RECOMMENDATION

Denial of Variance No. 1.

Approval of Variance No. 2 with modifications.

Approval of Variances Nos. 3, 4, 5 and 6 with modifications.

BACKGROUND

On July 12, 2022, the Historic Preservation Board reviewed and approved a Certificate of Appropriateness for the construction of new educational facility on a vacant site and variances from the minimum required interior side yard setbacks for a school.

ZONING / SITE DATA

Legal Description:

Parcel 1 (245 Washington Avenue)

Folio: 02-4203-003-1080

Lot 14, Block 8, of the Ocean Beach Fla Subdivision, according to the plat thereof, recorded in Plat Book 2, Page 38 of the public records of Miami Dade County, Florida.

Parcel 2 (251 Washington Avenue)

Folio: 02-4203-003-1090

Lot 15, Block 8, of the Ocean Beach Fla Subdivision, according to the plat thereof, recorded in Plat Book 2, Page 38 of the public records of Miami Dade County, Florida.

Zoning: RPS-3 (Residential Performance Standard, medium-high density)

Future Land Use Designation: RPS-3 (Residential Performance Standard, medium-high density)

Existing Use/Condition: Vacant lot

Proposed Use: Private school

THE PROJECT

The applicant has submitted plans entitled “Basecamp305”, as prepared by Arquitectonica, dated January 10, 2023.

COMPLIANCE WITH ZONING CODE

The applicant is requesting variances from the 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.

CONSISTENCY WITH 2040 COMPREHENSIVE PLAN

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

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) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.
Not Applicable
- (5) The project applicant shall consider the 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. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.
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 and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.
Not Applicable
- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever

practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.

Satisfied

- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.

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) In all new projects, water retention systems shall be provided.

Not Applicable

- (11) Cool pavement materials or porous pavement materials shall be utilized.

Not Applicable

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

Satisfied

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

Except for Variance No. 1, 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.
- The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

VARIANCE ANALYSIS

The applicant is requesting the following variances:

1. A variance to exceed by ~~6'-0"~~3'-0" the maximum permitted height of 10'-0" for a detached (monument) sign in order to provide a monument sign with a height of ~~16'-0"~~13'-0". **(Per Section 118-353(a) of the City Code, and the City Charter, a height variance of greater than 3'-0" is prohibited. As such, the applicant's request has been reduced to a maximum height of 13'-0' for the proposed monument sign).**
2. A variance to exceed by 75 sq. ft. the maximum the maximum permitted area of 15 sq. ft. for a detached (monument) sign in to provide a monument sign with an area of 90 sq. ft.
3. A variance to reduce by 4'-0" the minimum required front setback for a detached (monument) sign of 5'-0" in order to locate a monument sign at a setback of 1'-0" from the west property line. Variances requested from:

Section 138-19. – Detached sign.

Maximum Area (R-PS3): 15 square feet

Height Restrictions (R-PS3): Five feet maximum; Height may be permitted to exceed the maximum through the design review process. However at no time shall height exceed ten feet.

Setback Requirements (R-PS3): Front yard: Five feet

As noted in the background section of this report, on July 12, 2022, the Board reviewed and approval a Certificate of Appropriateness for the construction of new educational facility on a vacant site. Since that time, the applicant has developed a signage plan for the school and is proposing to introduce a detached monument sign at the northwest corner of the property, along Washington Avenue. Section 138-19 of the City Code provides a maximum height of 5'-0" for a monument sign through staff level approval and a maximum height of 10'-0" if approved by the Board. The applicant is proposing a monument sign that consists of a 4'-0" tall base and a 12'-0" tall sign, resulting in an overall height of 16'-0". However, per Section 118-353(a) of the City Code, and the City Charter, a height variance of greater than 3'-0" is prohibited. As such, the applicant's request has been reduced to a maximum height of 13'-0'. Additionally, the applicant is requesting a variance to exceed the maximum allowable area for a monument sign. Section 138-19 of the City Code provides a maximum monument sign area of 15 sq. ft. and the applicant is proposing 90 sq. ft., exceeding the area requirement by 75 sq. ft.

Staff does not believe that the height variance requested satisfies the practical difficulties or hardship criteria. The height of the sign and/or base could be easily reduced in order to comply with a maximum height of 10'-0". Further, a reduction in height of the sign would result in a smaller sign area. As such, staff recommends that the Board approve a maximum height of 10'-0" as

permitted by the sign regulations and that the variance for area be modified to not exceed 45 sq. ft.

Variance 3 is related to the location of the monument sign. Per Section 138-19 of the City Code, a monument sign shall have a minimum setback of 5'-0" from a front property line. However, the R-PS3 zoning district requires a minimum and maximum 5'-0" front yard setback for a building (essentially requiring that the building have a 5'-0" front setback). Due to the regulations of the R-PS3 zoning district, it would be challenging to locate a monument sign within the required front yard. As such, the mandatory 5'-0" building front setback creates a practical difficulty justifying the granting of the variance.

4. A variance to reduce by 9'-0" the minimum required setback of 10'-0" for a flagpole located in a street facing yard in order to located a flag pole at a setback of 1'-0" from the west property line. Variance requested from:

Section 138-60. – Flags and flagpoles.

(c) Detached flagpoles shall have the following setback requirements:

(1) Any yard facing a street: Ten feet.

Variance 4 is related to the location of a flagpole within the front of the property along Washington Avenue. Per Section 138-60 of the City Code, a flagpole shall have a minimum setback of 10'-0" from a street facing property line. As was indicated in the analysis for Variance 3, the R-PS3 zoning district requires that a building be constructed with a 5'-0" front setback. Consequently, it is exceedingly difficult for any flagpole to be located within the front yard in the R-PS3 district. As such, staff believes that the conflicting code requirements justify the granting of the variance.

5. A variance to reduce by 11'-0" the minimum required rear yard setback of 13'-0" in order to locate a portion of the building, fire and domestic water backflow preventers and an FPL transformer and associated concrete pad at a setback of 2'-0" from the east property line. Variance requested from:

Section 142-697. – Setback requirements in the R-PS1, 2, 3, 4, districts.

(a) The setback requirements in the R-PS1, 2, 3, 4 districts are as follows:

Pedestal and subterranean: Rear: Nonoceanfront lots – 5 feet

6. A variance to reduce by 50'-0" the minimum required side interior setback for a school of 50'-0" in order located an FPL transformer and associated concrete pad at a setback of 0'-0" from the south property line. Variance requested from:

Section 142-1131. - Generally.

(d) Minimum side yards, public and semi-public buildings. The minimum depth of interior side yards for schools, libraries, religious institutions, and other public buildings and private structures which are publicly used for meetings in residential districts shall be 50 feet, except where a side yard is adjacent to a business district, a public street, bay, erosion control line or golf course, and except for properties that have received conditional use approval as a religious institution located in the 40th Street Overlay, in which cases the depth of that yard shall be as required for the district in which the building is located. In all other cases, the side yard facing a street shall be the same as that which is required for the district in which the lot is located.

Variances 5 and 6 are related to setbacks for mechanical, electrical, and plumbing rooms and equipment within the side and rear yards. The architect is proposing to introduce a 1-story addition, extending from the elevated recreation court at the first level of the building. This addition is proposed to contain service areas including a generator, a fire pump and electrical equipment. Additionally, at the alley level, the applicant is proposing to introduce backflow preventer equipment and an FPL transformer, all at a setback of 2'-0" from the rear property line. Further, the FPL transformer is proposed to be located at a zero setback along the south side property line.

The building program and amount mandatory utilities required create practical difficulties in terms of meeting minimum setback requirements. As such, staff has no objection to the variance requests as they are primarily related to the introduction of utility and life safety equipment essential to the operation of an education facility. While staff routinely encourages architects to overestimate the area required for these types of building services, it is sometimes difficult to anticipate such requirements and staff believes that the locations proposed for this equipment along the alley is the most appropriate solution.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that Variance 1 be denied, Variance 2 be approved with modifications, and Variances 3 through 6 be approved, subject to the conditions enumerated in the attached draft Order.

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: March 14, 2023

PROPERTY/FOLIO: 245 Washington Avenue / 02-4203-003-1080
251 Washington Avenue / 02-4203-003-1090

FILE NO: HPB22-0557

APPLICANT: BaseCamp305, Inc.

IN RE: An application has been filed requesting variances from the required setbacks for mechanical equipment rooms, plumbing equipment, electrical equipment, signage and a flagpole and variances from the maximum area and height of a monument sign.

LEGAL: Parcel 1 (245 Washington Avenue)
Lot 14, Block 8, of the Ocean Beach Fla Subdivision, according to the plat thereof, recorded in Plat Book 2, Page 38 of the public records of Miami Dade County, Florida.

Parcel 2 (251 Washington Avenue)
Lot 15, Block 8, of the Ocean Beach Fla Subdivision, according to the plat thereof, recorded in Plat Book 2, Page 38 of the public records of Miami Dade County, Florida.

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. A Certificate of Appropriateness has not been filed as part of this application.

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.

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:

The following variance(s) was **approved** by the Board:

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2. A variance to exceed by up to ~~75~~ 30 sq. ft. the maximum the maximum permitted area of 15 sq. ft. for a detached (monument) sign in to provide a monument sign with an area no to exceed ~~90~~ 45 sq. ft.
3. A variance to reduce by 4'-0" the minimum required front setback for a detached (monument) sign of 5'-0" in order to locate a monument sign at a setback of 1'-0" from the west property line.
4. A variance to reduce by 9'-0" the minimum required setback of 10'-0" for a flagpole located in a street facing yard in order to located a flag pole at a setback of 1'-0" from the west property line.
5. A variance to reduce by 11'-0" the minimum required rear yard setback of 13'-0" in order to locate a portion of the building, fire and domestic water backflow preventers and an FPL transformer and associated concrete pad at a setback of 2'-0" from the east property line.
6. A variance to reduce by 50'-0" the minimum required side interior setback for a school of 50'-0" in order located an FPL transformer and associated concrete pad at a setback of 0'-0" from the south property line.

The following variance(s) was **denied** by the Board:

1. A variance to exceed by 3'-0" the maximum permitted height of 10'-0" for a detached (monument) sign in order to provide a monument sign with a height of 13'-0".
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts with respect to variances 2 through 6 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 indicate the following with respect to variances 2 through 6, 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;

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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.

The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

C. The Board hereby **Approves** variances 2 through 6 and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. The height of the detached monument sign shall not exceed 10'-0".
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.

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. The applicant agrees and shall be required to provide access to areas subject to this approval (not including private residences or hotel rooms) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the plans approved by the Board and conditions of this order.
- B. The issuance of a building permit is contingent upon meeting Public School Concurrency requirements, if applicable. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed. No building permit may be issued unless and until the applicant obtains a written finding from Miami-Dade County Public Schools that the applicant has satisfied school concurrency.

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- C. The relocation of any tree shall be subject to the approval of the Environment & Sustainability Director and/or Urban Forester, as applicable.
- D. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- E. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- F. 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.
- G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- H. 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.
- I. 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.
- J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- K. 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.
- L. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and 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 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.

The foregoing instrument was acknowledged before me this _____ day of _____ 20__ by Deborah Tackett, Historic Preservation & Architecture Officer, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.

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

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

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

