

PLANNING DEPARTMENT

BOARD OF ADJUSTMENT STAFF REPORT

FROM: Thomas R. Mooney, AICP
Planning Director

DATE: March 3, 2017 Meeting

RE: File No. ZBA16-0023
1239 Washington Avenue – Commercial Building

The applicant, Sushi Song - Wijai Ketsuwan, is requesting a variance from the minimum required number of seats for a restaurant serving beer and wine for consumption on the premises.

STAFF RECOMMENDATION:

Approval of the variance with conditions.

LEGAL DESCRIPTION:

Lots 11 through 16, inclusive, in Block 28 of "Ocean Beach Addition No. 2", According to the Plat Thereof, as recorded in Plat Book 2 at Page 56 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning -	CD-2
Future Zoning-	CD-2
Lot Size -	39,000 SF
Existing Use-	Commercial
Proposed Use-	Same

EXISTING STRUCTURE:

Year Constructed:	1934
Architect:	Unknown
Vacant Lot:	No
Demolition:	None

THE PROJECT:

The applicant has submitted documents and plans entitled "Sushi Song" as prepared by Carl G. Forbes, P.E., dated February 22, 2017.

The applicant is requesting a variance to reduce the minimum required number of seats for a restaurant to sell beer and wine for consumption on the premises.

The applicant is requesting the following variance:

1. A variance to reduce by twenty (20) seats the minimum required thirty (30) seats for a restaurant selling beer and wine in order to operate a ten (10) seat restaurant serving beer and wine for consumption on the premises.

- Variance requested from:

Sec. 142-1302. Permitted main and accessory uses.

Vendors shall be permitted to sell alcoholic beverages within the zoning districts listed in section 142-1301 if such district permits as a permitted main use or accessory use one of the following: Restaurant, bar, alcoholic beverage establishment, outdoor cafe, private club, or golf clubhouse pursuant to the following standards:

(1) Permitted main uses.

a. Restaurants, alcoholic beverage establishments, and private clubs shall be permitted to sell alcoholic beverages for consumption on the premises based upon the following: when beer and wine are served a minimum of 30 seats shall be provided; and when, beer, wine and liquor are served, a minimum of 60 seats shall be provided.

The Code requires a minimum of thirty (30) seats for a restaurant in order to sell beer and wine for consumption on the premises. The applicant proposes ten (10) seats in the space previously occupied by a retailer. As shown on the plans submitted, the available seating area for the restaurant does not appear to accommodate the required 30 seats. There is one (1) unisex bathroom, preparation and counter area, storage and kitchen area in addition to egress and accessible clearances required for the safety of the customers. The applicant has an approved building permit under B1601037 for the interior renovation of the space and as a small business operator, seeks to operate effectively and remain competitive with other nearby restaurants that offer alcoholic beverages with meals. The space has an area of approximately 625 s.f.

Staff finds that the business space located within an existing Contributing building in the Flamingo Park Historic District, creates practical difficulties for the applicant that result in the request of this variance. Based on the space limitation within a historic building, staff recommends approval of the applicant's request.

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 of Adjustment 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:

The application, as submitted, appears to be consistent with the applicable requirements of the City Code, with the exception of the variance(s) requests herein. 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.

STAFF ANALYSIS:

The site is located in the CD-2 commercial district at the corner of Washington Avenue and 13th Street. The existing "Contributing" structure constructed in 1934 is a commercial building with several retail bays, restaurants and a night club. The applicant, as the new operator of the space previously occupied by a retailer, is seeking to sell beer and wine with meals. At least 30 seats are required for a restaurant to sell beer and wine. The existing space appears to accommodate a maximum of 10 seats indoors which triggers the request for a variance. The business hours of operations are Friday thru Wednesday from 11:30 am to 5 am.

Staff believes that with proper operating conditions imposed by the Board, the reduction of the minimum required number of seats should not be detrimental to the surrounding neighborhood, which is surrounded primarily by other restaurants and retail establishments.

The area limitations of the existing space creates practical difficulties that staff has concluded meet the criteria established for the granting of this variance. In summary, staff recommends approval of the variance requested.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends **approval** of the variance(s) as requested, subject to the conditions enumerated in the attached Draft Order which address the inconsistencies with the aforementioned Practical Difficulty and Hardship criteria, as applicable.

TRM:MAB:IV

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