

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: April 10, 2017

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: HPB17-0095, **1045 Pennsylvania Avenue.**

The applicant, Kaiser Cars and Real Estate, LLC, is requesting a Certificate of Appropriateness for the partial demolition, renovation and restoration of the two 2-story structures on the site including variances to reduce the required side yard setback and to exceed the maximum allowed fence height.

### **STAFF RECOMMENDATION**

Approval of the Certificate of Appropriateness with conditions  
**Denial** of the variances.

### **EXISTING STRUCTURES**

Local Historic District: Flamingo Park

#### **Front 2-story structure**

Classification: Contributing  
Original Architect: Henry Moloney  
Construction Date: 1929

#### **Rear 2-story structure**

Classification: Not classified  
Original Architect: N/A  
Construction Date: 1930, 1933 addition

### **ZONING / SITE DATA**

Legal Description: Lot 14, Block 36 of "Ocean Beach Addition No. 3", According to the Plat Thereof, as Recorded in Plat Book 2, at Page 81 of the Public Records of Miami-Dade County, Florida.

Zoning: RO (Residential/Office)  
Future Land Use: RO (Residential/Office)

Lot Size:	7,500 S.F. (Max FAR = 0.75)
Existing FAR:	6,765.2 S.F. / <b>0.9 FAR</b>
Proposed FAR:	No change
Existing Height:	2-stories / 19'-10" (28'-4" to highest projection)
Proposed Height:	2-stories / 21'-8" (28'-4" to highest projection)
Existing Use/Condition:	Multi-Family Residential
Proposed Use:	No Change

### **THE PROJECT**

The applicant has submitted plans entitled "1045 Pennsylvania Ave.", as prepared by The Webber Studio, dated February 27, 2017.

**The applicant is proposing the partial demolition, renovation and restoration of the two 2-story structures on the site including variances to reduce the required side yard setback and to exceed the maximum allowed fence height.**

1. A variance to reduce all minimum interior side setback of 5'-0" in order to construct a new wall at zero setback from the south property line.
  - Variance requested from:

#### **Sec. 142-577. Setback requirements.**

*The setback requirements in the RO residential/office district are as follows:*

*(2) Side yard, interior: The sum of each side yard shall be at least 25 percent of the lot width, not to exceed 50 feet, any one side yard shall have a minimum of 7.5 feet. When an existing building has a minimum five-foot side yard the setback may be allowed to follow the existing building line*

The variance request is related to a new wall with an arched entry on the south side yard of the building similar to an original existing wall on the north side yard at the front façade. The building originally had a different decorative vase shape element in this location as noted on the original front façade on page A2.3. The proposed wall requires a side setback variance as it is more than 10'-0" in height as measured from grade which makes it a structure rather than a fence for zoning analysis. The new wall and gate do not contribute to the preservation of the original architecture. It is part of a new perimeter enclosure for the property that exceeds the maximum height allowed by the City code. The height of this element is not associated with the preservation of the contributing building. It is a self-imposed variance related to the design and height of the new perimeter fence. Staff finds that the variance request does not meet the practical difficulty or hardship criteria for the granting of the side setback variance. As such, staff recommends that the side setback variance be denied and that the wooden gate behind the wall not exceed the maximum height allowed of 7'-0" from grade.

2. A variance to exceed by 3'-0" the maximum height of 7'-0" for a fence located within the interior side yards in order to construct a perimeter wall along the north side yard with a height of 10'-0" as measured from grade (6.41' NGVD).
3. A variance to exceed by 3'-0" the maximum height of 7'-0" for a fence located within the interior side yards in order to construct a perimeter wall along the south side yard with a height of 10'-0" as measured from grade (6.41' NGVD).

4. A variance to exceed by 3'-0" the maximum height of 7'-0" for a fence located within the rear yard in order to construct gates and walls with a height of 10'-0" as measured from grade (6.41' NGVD).

- Variances requested from:

**Sec. 142-1132. Allowable encroachments within required yards.**

**(h) Fences, walls, and gates. Regulations pertaining to materials and heights for fences, walls and gates are as follows:**

**(1) All districts except I-1:**

**b. Within the required rear or side yard, fences, walls and gates shall not exceed seven feet, as measured from grade, except when such yard abuts a public right-of-way, waterway or golf course, the maximum height shall not exceed five feet.**

New perimeter walls are proposed along the rear and both side property lines. The walls, as proposed are up to 10'-0" in height as measured from grade. The Code allows up to 7'-0" in height for perimeter side walls and the applicant is proposing to increase the maximum height by 3'-0", resulting in the requested variances. The proposed fence would extend up to the second floor slab of the existing buildings and substantially block the first floor side façades. The fence height proposed is not compatible with side fences in the historic district nor with the height of the existing fences in the property. Further, such tall walls will have a negative impact on the adjacent properties. Staff finds that the applicant has not satisfied the practical difficulty or hardship criteria for the granting of the requested variances. As per letter of intent submitted, the variances seek to provide privacy and security for the property. Staff has concluded the fence height allowed by the Code provides reasonable privacy and security for the property and that the granting of these variances would be completely out of character with the historic district. Staff recommends that the fences be lowered to comply with the maximum height allowed.

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that staff has concluded **DO NOT** satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents submitted with the application **DO NOT** satisfy the following hardship criteria, 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, appears to be inconsistent sections of the City Code related to fence heights, for which the noted variances are being requested.

All zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

#### **CONSISTENCY WITH 2025 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the proposed **multi-family residential** use appears to be **consistent** with the Future Land Use Map of the Comprehensive Plan.

#### **COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA**

A decision on an application for a Certificate of Appropriateness shall be based upon the following:

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
  - a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.  
**Not Satisfied**  
**The enlargement of the window openings and demolition of the original decorative low wall and urn at the southeast corner of the building will have an adverse impact on the architectural integrity of the original design.**
  - b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.  
**Satisfied**

- II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
- a. Exterior architectural features.  
**Not Satisfied**  
**The enlargement of the window openings and demolition of the original decorative low wall and urn at the southeast corner of the building will have an adverse impact on the architectural integrity of the original design.**
  - b. General design, scale, massing and arrangement.  
**Satisfied**
  - c. Texture and material and color.  
**Satisfied**
  - d. The relationship of a, b, c, above, to other structures and features of the district.  
**Satisfied**
  - e. The purpose for which the district was created.  
**Satisfied**
  - f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.  
**Satisfied**
  - g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.  
**Satisfied**
  - h. The original architectural design or any subsequent modifications that have acquired significance.  
**Not Satisfied**  
**The enlargement of the window openings and demolition of the original decorative low wall and urn at the southeast corner of the building will have an adverse impact on the architectural integrity of the original design.**
- III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
- a. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.

**Satisfied**

- b. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.  
**Not Satisfied**  
**Variances have been requested.**
- c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.  
**Not Satisfied**  
**The enlargement of the window openings and demolition of the original decorative low wall and urn at the southeast corner of the building will have an adverse impact on the architectural integrity of the original design.**
- d. The proposed structure, and/or additions to an existing structure is appropriate to and compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties, or the purposes for which the district was created.  
**Not Applicable**
- e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.  
**Not Satisfied**  
**The design of the front property wall overwhelms and distracts from the historic architecture.**
- f. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.  
**Satisfied**
- g. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties and consistent with a City master plan, where applicable.

**Satisfied**

- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

**Satisfied**

- i. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from Structures are adequately shielded from public view, adjacent properties and pedestrian areas.

**Satisfied**

- j. Any proposed new structure shall have an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

**Not Applicable**

- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.

**Satisfied**

- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

**Satisfied**

- m. Any addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

**Not Applicable**

- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.

**Satisfied**

- o. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

**Satisfied**

**CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION EVALUATION CRITERIA**

Section 118-564 (f)(4) of the Land Development Regulations of the Miami Beach Code provides criteria by which the Historic Preservation Board evaluates requests for a Certificate of Appropriateness for Demolition. The following is an analysis of the request based upon these criteria:

- a. The Building, Structure, Improvement, or Site is designated on either a national or state level as a part of an Historic Preservation District or as a Historic Architectural Landmark or Site, or is designated pursuant to Division 4, Article X, Chapter 118 of the Miami Beach Code as a Historic Building, Historic Structure or Historic Site, Historic Improvement, Historic Landscape Feature, historic interior or the Structure is of such historic/architectural interest or quality that it would reasonably meet national, state or local criteria for such designation.

**Satisfied**

**The existing structure is located within the Flamingo Park Local Historic District.**

- b. The Building, Structure, Improvement, or Site is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.

**Satisfied**

**The structure is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.**

- c. The Building, Structure, Improvement, or Site is one of the last remaining examples of its kind in the neighborhood, the country, or the region, or is a distinctive example of an architectural or design style which contributes to the character of the district.

**Satisfied**

**The structure is one of the last remaining examples of its kind and contributes to the character of the district.**

- d. The building, structure, improvement, or site is a contributing building, structure, improvement, site or landscape feature rather than a noncontributing building, structure, improvement, site or landscape feature in a historic district as defined in section 114-1, or is an architecturally significant feature of a public area of the interior of a historic or contributing building.

**Satisfied**

**The structure is classified as 'Contributing' in the Miami Beach Historic Properties Database.**

- e. Retention of the Building, Structure, Improvement, Landscape Feature or Site promotes the general welfare of the City by providing an opportunity for study of local history, architecture, and design or by developing an understanding of the importance and value of a particular culture and heritage.

**Satisfied**

**The retention of structure is critical to developing an understanding of an important early Miami Beach architectural style.**

- f. If the proposed demolition is for the purpose of constructing a parking garage, the Board shall consider it if the parking garage is designed in a manner that is consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, U.S. Department of the Interior (1983), as amended, and/or the design review guidelines for that particular district.

**Not Applicable**

**The demolition proposed is not for the purpose of constructing a main use parking garage.**



- g. In the event an applicant or property owner proposes the total demolition of a contributing structure, historic structure or architecturally significant feature, there shall be definite plans presented to the board for the reuse of the property if the proposed demolition is approved and carried out.

**Not Applicable**

**Total demolition is not proposed.**

- h. The Dade County Unsafe Structures Board has ordered the demolition of a Structure without option.

**Not Applicable**

**The Miami-Dade County Unsafe Structures Board has not ordered the demolition of the structure.**

**ANALYSIS**

The applicant is proposing to retain, restore and renovate two 2-story structures on the site.

**Front 2-story ‘Contributing’ structure**

The existing building located at the front of the lot, was originally constructed in 1929 as a 4-unit apartment building and designed by architect Henry Moloney in the Mediterranean Revival style of architecture. Examination of the original plans located on microfilm #3079 indicates that the subject structure is largely intact with few alterations. The most significant modification occurred in 2005 when a building permit was issued for the construction of a new 2-story concrete terrace structure at the rear of the building.

The applicant is proposing to renovate and restore the existing building including significant interior modifications in order to combine the four existing residential units into a single residence. While staff commends the applicant for proposing to restore and reintroduce several significant architectural elements on the primary façade including the rope column details, decorative parapet and window surrounds, staff has several concerns with the regard to modifications proposed for the front façade. First, staff believes that the enlargement of the window openings has an adverse impact on the architectural integrity of the original design and would recommend that the window openings be retained and restored in their original locations and proportion. Second, staff would recommend that the original decorative low wall and urn at the southeast corner of the building be restored as this element creates a subtle asymmetry, characteristic of the Mediterranean Revival style of architecture. Finally, staff would recommend that the design of the balconette railing be further developed and simplified in a manner more consistent with the period of architecture.

Interior modifications include the demolition of the wood frame floor plates and roof structure in order to reconfigure the existing plan and introduce a new rooftop terrace. Additionally, the applicant is proposing to reconstruct the ground floor approximately 1'-0" lower than the existing floor and to reconstruct the roof approximately 2'-0" higher than the existing roof level in order to create a greater floor to ceiling height on both levels. It is important to note that the existing first finish floor level is 10.41' NGVD, approximately 2'-0" above the required base flood elevation. Further, the existing decorative parapet conceals the proposed higher roof level. The applicant has submitted a report prepared by Optimus Structural Design LLC, Consulting Engineers outlining the existing structural conditions and a recommended shoring and bracing plan demonstrating how the exterior walls will be maintained during demolition and construction.

Staff would note that the amount of demolition proposed exceeds 25% of the first floor slab and the building would not be permitted to retain the existing parking credits. However, if the Board finds that the project satisfies the criteria for the retention and restoration of the 'Contributing' building, as outlined in Section 118-395 of the City Code below, a waiver can be granted.

**Sec. 118-395. - Repair and/or rehabilitation of nonconforming buildings and uses.**

\* \* \*

(b) *Nonconforming buildings.*

\* \* \*

- (2) Nonconforming buildings which are repaired or rehabilitated by more than 50 percent of the value of the building as determined by the building official shall be subject to the following conditions:

\* \* \*

d. Development regulations for buildings located within a designated historic district or for an historic site:

1. The existing structure's floor area, height, setbacks and any existing parking credits may remain, if the following portions of the building remain substantially intact, and are retained, preserved and restored:
  - i. At least 75 percent of the front and street side facades;
  - ii. At least 75 percent of the original first floor slab;
  - iii. For structures that are set back two or more feet from interior side property lines, at least 66 percent of the remaining interior side walls; and
  - iv. All architecturally significant public interiors.
2. For the replication or restoration of contributing buildings, but not for noncontributing buildings, the historic preservation board may, at their discretion, waive the requirements of subsection(b)(2)d.1. above, and allow for the retention of the existing structure's floor area, height, setbacks or parking credits, if at least one of the following criteria is satisfied, as determined by the historic preservation board:
  - i. The structure is architecturally significant in terms of design, scale, or massing;
  - ii. The structure embodies a distinctive style that is unique to Miami Beach or the historic district in which it is located;
  - iii. The structure is associated with the life or events of significant persons in the City;
  - iv. The structure represents the outstanding work of a master designer, architect or builder who contributed to our historical, aesthetic or architectural heritage;
  - v. The structure has yielded or is likely to yield information important in prehistory or history; or
  - vi. The structure is listed in the National Register of Historic Places.

Staff has found that Criteria i., ii., v. & vi, above are satisfied and recommends approval as outlined below.

While staff does not believe that the modifications to the ground floor and roof heights will have any adverse visual impact on the Contributing structure, staff does have a concern with regard to the resulting window opening modifications as noted above.

### **Rear 2-story structure**

The applicant is proposing minor exterior and interior modifications to this structure which was originally constructed as a garage in 1930. A three car garage and residential unit are proposed to be located on the ground floor and two residential units are proposed for the second level. Although no original plans have been located, examination of Building Department records indicates several alterations have been made over time including the construction of an addition in 1933. Staff has no objection to the requested modifications as they are consistent with the historic character of the property and will not require the demolition of any significant architectural features.

### **Site Improvements**

The applicant is proposing several site modifications including the replacement of the existing property wall, the introduction of new fencing and gate and modifications to the existing pool deck. Staff is generally supportive of the proposed site improvements, with the exception of the design for the front property wall, which as currently designed overwhelms and distracts from the historic architecture. Consequently, staff would recommend that the decorative metal fencing above the masonry wall be further developed and simplified.

### **VARIANCE ANALYSIS**

As part of the proposed improvements to the site, variances are requested for the construction of walls, fence and gates around the property. Staff does not support the variances requested as they are not the minimum variances to preserve and use the contributing buildings on site. The granting of these variances would negatively impact the character of the surrounding Flamingo Park historic district. Variance #1 for the walls setback is not associated with an original architectural feature or the retention of the structure; and the new fences, which are part of variances #2, #3 and #4 are self-imposed variances that would substantially enclose the first floor side facades of the buildings up to the second floor slab, and negatively impact the adjacent properties.

In reference to variances #2, #3 and #4, staff would note that height variances for perimeter fences have been granted before for properties where there is a substantial difference in height between the City of Miami Beach grade measured at the sidewalk in the center of the property and the natural grade at the fence location, where in most cases the grade slopes up to a height that would impede the construction of a fence at the maximum height allowed. In this case, the existing grade along the sides and rear allows for a 6' high fence, which is a reasonable height to provide privacy and at the same time allow some transparency for views and breeze corridors between properties. Staff recommends that all variances requested (#1, #2, #3, and #4) be denied due to a lack of hardship or practical difficulties in complying with the code requirements.

### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the Certificate of Appropriateness be **approved**, and that the variance requests #1, #2, #3 and #4 be **denied**; subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria and Practical Difficulty and Hardship criteria, as applicable.

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**HISTORIC PRESERVATION BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: April 10, 2017

FILE NO: HPB17-0095

PROPERTY: 1045 Pennsylvania Avenue

APPLICANT: Kaiser Cars and Real Estate, LLC

LEGAL: Lot 14, Block 36 of "Ocean Beach Addition No. 3", According to the Plat Thereof, as Recorded in Plat Book 2, at Page 81 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for a Certificate of Appropriateness for the partial demolition, renovation and restoration of the two 2-story structures on the site including variances to reduce the required side yard setback and to exceed the maximum allowed fence height.

**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 Flamingo Park 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 not consistent with the Certificate of Appropriateness Criteria 'a' in Section 118-564(a)(1) of the Miami Beach Code.
  - 2. Is not consistent with Certificate of Appropriateness Criteria 'a' & 'h' in Section 118-564(a)(2) of the Miami Beach Code.
  - 3. Is not consistent with Certificate of Appropriateness Criteria 'b', 'c' & 'e' in Section 118-564(a)(3) of the Miami Beach Code.
  - 4. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(f)(4) of the Miami Beach Code.
- C. The project would be consistent with the criteria and requirements of section 118-564 if the following conditions are met:

1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
  - a. The original decorative low wall and urn at the southeast corner of the building shall be restored, 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 existing window openings located on the front (west) façade shall be restored to their original size and design. Impact resistant casement windows shall be provided and shall incorporate a muntin configuration that is consistent as possible to the original design according to available historical documentation, 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 design of the front property wall and fencing shall be further developed and simplified in a manner that does not detract from or overwhelm the 'Contributing' structure, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - d. The design of the balconette railing at the second floor of the west elevation shall be further developed and simplified, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
  - e. 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.
2. In accordance with Section 118-395(b)(2) of the City Code, the requirement pertaining to an existing structure's floor area, setbacks and parking credits, is hereby waived, to allow for the reconstruction of the original floor slabs.
3. 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. Tall hedges shall not be permitted within the front yard. Any hedge type landscaping proposed within the front yard, shall consist of plant material that does not exceed 36" in height at maturity. The final selection of perimeter landscaping 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.**

## **II. Variance(s)**

- A. The applicant filed an application with the Planning Department for the following variance(s), the following variance(s) which were either approved by the Board with modifications, or denied:

The following variances were denied by the Board:

1. A variance to reduce all minimum interior side setback of 5'-0" in order to construct a new wall at zero setback from the south property line.
  2. A variance to exceed by 3'-0" the maximum height of 7'-0" for a fence located within the interior side yards in order to construct a perimeter wall along the north side yard with a height of 10'-0" as measured from grade (6.41' NGVD).
  3. A variance to exceed by 3'-0" the maximum height of 7'-0" for a fence located within the interior side yards in order to construct a perimeter wall along the south side yard with a height of 10'-0" as measured from grade (6.41' NGVD).
  4. A variance to exceed by 3'-0" the maximum height of 7'-0" for a fence located within the rear yard in order to construct gates and walls with a height of 10'-0" as measured from grade (6.41' NGVD).
- B. The applicant has submitted plans and documents with the application that DO NOT satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to variance(s) II.A.3, and II.A.5, as noted above 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 NOT indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code, only as it relates to variance(s) II.A.3, and II.A.5, as noted above:

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 **Denies** the requested variance(s) #1, #2, #3 and #4, as noted 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 Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- B. 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.
- C. All new construction over 7,000 square feet shall be required to be, at a minimum, certified as LEED Gold by USGBC. In lieu of achieving LEED Gold certification,



properties can elect to pay a sustainability fee, pursuant to Chapter 133 of the City Code. This fee is set as a percentage of the cost of construction.

- D. 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.
- E. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- F. 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.
- G. Applicant agrees that in the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
- 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

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 "1045 Pennsylvania Ave.", as prepared by The Webber Studio, dated February 27, 2017, and 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. 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 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  
CHIEF OF HISTORIC PRESERVATION  
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, 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.

\_\_\_\_\_  
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 \_\_\_\_\_ ( )

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