

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: June 19, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: HPB17-0108, **1701 Washington Avenue, 1716 James Avenue.**

The applicant, LEV Montessori, is requesting variances to reduce the required front and side setbacks for at grade parking and to reduce the required width for a two-way driveway in order to construct a new parking area on the east side of the property facing James Avenue.

STAFF RECOMENDATION

Approval of the variances.

EXISTING STRUCTURE: (Main building on Washington Avenue)

Local Historic District:	Museum Historic District
Classification:	Contributing
Original Architect:	Charles Greco & Albert Anis
Construction Date:	1947

EXISTING STRUCTURE: Two-story addition on James Avenue)

Local Historic District:	Museum Historic District
Classification:	Contributing
Original Architect:	Gilbert Fein
Construction Date:	1976

ZONING / SITE DATA

Legal Description:	Lots 2, 3 and the South ½ of Lot 4, and Lots 16, 17, 18, 19 and 20, Block 26 of "Fishers First Subdivision of Alton Beach", According to the Plat Thereof, as Recorded in Plat Book 2, at Page 77 of the Public Records of Miami-Dade County, Florida.
Zoning:	RM-2 (Residential, Medium Intensity)
Future Land Use:	RM-2 (Residential, Medium Intensity)
Existing Use/Condition:	Religious Use
Proposed Use:	Religious Use / Daycare Educational

THE PROJECT

The applicant has submitted plans entitled “Muss Montessori School”, as prepared by RGE Consulting Services, Inc. and Luis Rosas-Guyon, P.E., signed, sealed and dated April 19, 2017.

The applicant is proposing new parking spaces and driveway that requires several variances in order to operate a new daycare within the east portion of the main building and an existing detached two-story building facing James Avenue.

The applicant is requesting the following variances:

1. A variance to reduce by a range from 13'-9" to 8'-2" the minimum required front setback of 20'-0" in order to construct a new driveway ranging 6'-3 to 11'-10" from the front property line facing James Avenue.
 - Variance requested from:

Sec. 142-218. Setback requirements.

The setback requirements in the RM-2 residential multifamily, medium intensity district are as follows:

At-grade parking lot on the same lot except where (c) below is applicable, Front: 20 feet

New parking spaces and a driveway are proposed on the east side of the property facing James Avenue for the operation of a new daycare that will occupy a portion of the existing buildings on the east side. The area is part of the latest addition to the temple in 1976 and for which a variance was obtained to not provide required parking. There are no current parking spaces on site except for a loading area at the northeast side. The building front setback on James Avenue is approximately 27', which cannot accommodate a driveway with the required 20' setback. Due to the configuration of the existing buildings and the detached two-story addition, constructed in 1976, the available area to construct the parking is very limited which result in the need for the variance requested. The new parking and driveway accomodates 5 spaces for the daycare and 2 spaces for loading.

Staff finds that the retention of the Contributing buildings and the front setback on James Avenue satisfy the criteria for the granting of the variance requested, and as such staff recommends its approval.

2. A variance to reduce by 1'-3" the required interior side setback of 6'-3" in order to construct a new driveway and parking spaces at 5'-0" from the south side property line.
 - Variance requested from:

Sec. 142-218. Setback requirements.

The setback requirements in the RM-2 residential multifamily, medium intensity district are as follows:

At-grade parking lot on the same lot except where (c) below is applicable, Side Interior: 5 feet, or 5% of lot width, whichever is greater.

The new parking spaces are proposed in an internal area between the main temple and a detached two-story structure. A one-way driveway leads to the 5 parking spaces that encroach

into the required side yard of 6'-3" based on the five percent of the lot width calculation. The location and configuration of the structures on site, with space limitations by the existing south side setback result in the side setback variance required for the driveway and parking. Staff finds that the restrictions on site and preservation of the historic buildings create the practical difficulties that justify the variance. Staff does not anticipate any negative impact on the adjacent commercial property to the south, due to the low intensity use of the vehicular circulation for five (5) cars and the limitation in hours of use for the daycare. Based on this analysis, staff recommends approval of the variance.

3. A variance to reduce 13'-0" from the minimum required width of 22'-0" for a two-way driveway, in order to construct a two-way driveway with a width of 9'-0".

- Variance requested from:

Sec. 130-64. Drives.

Drives shall have a minimum width of 22 feet for two-way traffic and 11 feet for one-way traffic. For those grade level parking areas with less than ten parking spaces, inclusive of those parking areas underneath a building or structure, the curb-cut and driveway entrance shall have a minimum width of 12 feet.

It appears that the available area on site and building setback from the south property line cannot accommodate a driveway with 22' in width and required side setback. As the parking spaces will be mainly for the use of the daycare employees, staff believes that with the appropriate operating conditions no negative impact should result from the reduced driveway width. On May 23, 2017, the Planning Board approved the operation and traffic circulation as part of the conditional use permit required for the daycare use.

Staff finds that the existing site conditions impose practical difficulties to design the parking while retaining the historic structures and setbacks. Staff has no objections to the variance request for the reduction of the driveway width and recommends approval of the variance.

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.

Additionally, staff has concluded that the plans and documents with the application 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 with the following sections of the City Code, in addition to the requested variances:

1. Section 142-874(b) There are several mechanical equipment that shall be screened from street view.

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

VARIANCE ANALYSIS

The site, composed of several lots located in the Museum Historic District, contains the Temple Emanu-El constructed in 1947. The main entrance to the temple is on Washington Avenue and a secondary vehicular access is proposed on James Avenue. A new child care facility is proposed within the detached building and portions of the main structure fronting James Avenue. A new parking area associated with the daycare is also proposed which requires variances from the front and side setbacks for parking and a variance from the required width for the two-way driveway. The Planning Board approved a conditional use permit for the Daycare operation on May 23, 2017 under PB17-0096.

In the analysis of the existing structures and history of the property, staff has concluded that the configuration and setbacks of the existing buildings contribute to the variances requested. The available space on site cannot accommodate the proposed parking area without a variance. In 1975, as part of the latest addition to the site, a variance to eliminate the parking requirements was approved by the Board of Adjustment, as noted in the building cad provided. The property has no parking requirements for the existing religious use or for the daycare facility proposed due to its location in the historic district. The addition of the parking spaces would benefit the daycare operation and alleviate the current on-street parking demands. Staff finds that the existing setbacks of the Contributing buildings, the need to provide parking spaces and a safe drop-off area for the children, create practical difficulties that justify the variances requested.

Staff has no objections to the requested variances and recommends additional improvements to the site including concrete repairs to the exterior of the buildings, removal of all interior elements blocking windows and the addition of screening of several air conditioning equipment.

In summary, staff recommends that the variances #1, #2 and #3 be approved.

RECOMMENDATION

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

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HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: June 19, 2017

FILE NO: HPB17-0108

PROPERTY: 1701 Washington Avenue - 1716 James Avenue

APPLICANT: LEV Montessori

LEGAL: Lots 2, 3 and the South ½ of Lot 4, and Lots 16, 17, 18, 19 and 20, Block 26 of "Fishers First Subdivision of Alton Beach", According to the Plat Thereof, as Recorded in Plat Book 2, at Page 77 of the public records of Miami Dade County, Florida.

IN RE: The application for variances to reduce the required front and side setbacks for at grade parking and to reduce the required width for a two-way driveway in order to construct a new parking area on the east side of the property facing James Avenue.

ORDER

The City of Miami Beach Historic Preservation Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

I. Certificate of Appropriateness

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

II. Variance(s)

A. The applicant filed an application with the Planning Department for the following variance(s):

1. A variance to reduce by a range from 13'-9" to 8'-2" the minimum required front setback of 20'-0" in order to construct a new driveway ranging 6'-3" to 11'-10" from the front property line facing James Avenue.
2. A variance to reduce by 1'-3" the required interior side setback of 6'-3" in order to construct a new driveway and parking spaces at 5'-0" from the south side property line.
3. A variance to reduce 13'-0" from the minimum required width of 22'-0" for a two-way driveway, in order to construct a two-way driveway with a width of 9'-0".

B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board

finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

C. The Board hereby **approves** the variance request(s) and imposes the following conditions 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.
2. Revised elevation, site plan and roof plan drawings shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. All mechanical equipment on site shall be screened from view in a manner to be reviewed and approved by staff.
 - b. The details of the new playground area facing James Avenue shall be provided in a manner to be reviewed and approved by staff.

- c. The building exterior details facing James Avenue shall be repaired as part of the renovations to the site.
- d. The insulation and interior framing blocking the windows of the temple building along 17th Street shall be removed.

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. Where one or more parcels are unified for a single development, the property owner shall execute and record an unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- B. The applicant shall submit a Hold Harmless Covenant Running with the Land to the City Attorney's Office in a form acceptable to the City Attorney indemnifying and holding harmless the city against any claim or loss in the event of an accident involving a motor vehicle or other instrumentality due to the proximity of the driveway to the south property line and to the proximity of the front driveway to the public right-of-way.
- C. 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.
- D. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- E. 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.
- F. 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.
- G. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- H. 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 "Muss Montessori School", as prepared by RGE Consulting Services, Inc. and Luis Rosas-Guyon, P.E., signed, sealed and dated April 19, 2017, 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 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

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HPB17-0108
Meeting Date: June 19, 2017

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. 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 _____ ()