

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: September 08, 2015

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: HPB File No. 7545. **1717 Collins Avenue.**

The applicant, Chisholm Properties South Beach, Inc., is requesting variances to reduce the required side and rear setbacks within the oceanfront overlay district for a deck, and variances to reduce the minimum required rear setbacks for a new access gate within the existing fence.

#### **STAFF RECOMMENDATION**

Approval of the variance with conditions.

#### **BACKGROUND**

On June 9, 2015, the Board approved the setback variances for the deck within the Oceanfront Overlay district and continued the variance related to the fence and gate to a date certain of September 8, 2015 in order to clarify concerns regarding ownership of the area where the gate and fence is located.

#### **EXISTING STRUCTURE:**

Local Historic District:	Ocean Drive/Collins Avenue
Classification:	Contributing
Date of Construction:	1948
Original Architect:	Mackay & Gibbs

#### **ZONING / SITE DATA**

Legal Description:	Lot 3 & South 40 ft of Lots 4-17 & 18' & Strip of Land Between LOT 3 & South 40ft of Lot 4, Block 28 of the ALTON BEACH 1ST SUBDIVISION According to the Plat Thereof, as Recorded in Plat Book 2, Page 77, of the Public Records of Miami-Dade County, Florida.
Zoning:	RM-3 (Multifamily, High Intensity)
Future Zoning:	RM-3 (Multifamily, High Intensity)
Existing Use/Condition:	Hotel

#### **THE PROJECT**

The applicant has submitted plans entitled "Surfcomber Hotel Gate & Deck Variance" as prepared by Moino / Fernandez Architects, dated April 24, 2015.

**The applicant is requesting a variance for the construction of a new access within the perimeter fence and variances for the construction of a deck and trellis structure in the rear of the property.**

The applicant is requesting the following variance(s):

1. A variance to reduce by 9'-10" the minimum required setback of 11'-0" from the Erosion Control Line in order to construct columns and access gate within the Dune Preservation Overlay District at 1'-2" from the Erosion Control Line and at a height of 14.7' NGVD.

- Variance requested from:

**Sec. 142-775. - Development regulations**

*(d) Minimum yards. Minimum yards in the dune preservation district shall be as follows:*

*(3) Ten feet from the erosion control line when any structure has a finished floor elevation of three feet or less than the elevation of the top of the dune. For every additional one foot increase in the finished floor elevation of the structure an additional one foot of setback is required, to a maximum of 15 feet.*

The property has a perimeter fence along the east side within the Dune Preservation Overlay District. A new access gate is proposed as part of the fence. Because the existing grade along the rear is approximately 9.5' NGVD and the established grade for the site is 5.16' NGVD, a permitted 5 foot-high fence, measured from grade would be impossible to construct as it would exceed the maximum height the Board can approve for a variance. Therefore, the applicant is requesting a setback variance.

The minimum required setback for a structure within this area is 10'-0" from the Erosion Control Line with a height not to exceed three feet above the top of the dune. The top of the structure is proposed at 14.7' NGVD and the top of the dune is at 10.6' NGVD as indicated in the survey. The proposed height is 4.1 feet above the highest point of the dune and another foot of setback is required for the additional height above three feet. The required setback in this case is 11'-0" from the Erosion Control Line and the proposed columns and gate fence is setback 1'-2". Due to the increase in height of the grade elevations on the Dune Preservation Overlay, the height of the proposed fence is approximately 5'-0" at the specific location, from the adjacent grade.

2. A variance to reduce 7'-2" of the minimum required setback of 15'-0" from the side property line in order to construct a deck in the Oceanfront Overlay District at 7'-10" from the south property line at a height of 12.50' NGVD. (Variance previously approved by the Board on June 9, 2015).
3. A variance to reduce all minimum required setback of 10'-0" from the Bulkhead Line in order to construct a deck in the Oceanfront Overlay District up to the Bulkhead line at a height of 12.50' NGVD. (Variance previously approved by the Board on June 9, 2015).

**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 finds that practical difficulties exist with respect to implementing the proposed project at the subject property. In this case, the requested variance is necessary in order to satisfy the Certificate of Appropriateness criteria and not to adversely impact the existing historic buildings.

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 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.

#### **VARIANCE ANALYSIS**

The subject property is an oceanfront lot located within the Ocean Drive/Collins Avenue Local Historic District. The site contains the Surfcomber Hotel constructed in 1948. The applicant has completed numerous projects for the renovation of the site and is proposing new improvements to the rear of the property, including a trellis and deck associated with an existing covered bar and a new access gate within the perimeter fence.

Due to the specific conditions of the site, the height of grade at the rear of the property is considerably higher than the established grade for the property as measured at the center of the property on Collins Avenue. As such, staff has no objections to Variance Number 1 for the columns and gate as they are consistent with the height of fences in other properties located within the same district and will be 5 feet in height when viewed from the adjacent grade at the rear of the property.

Staff has no objection to the applicant's request and recommends approval of the variance as proposed.

**RECOMMENDATION**

In view of the foregoing analysis, staff recommends the application 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.

TRM:DJT:MAB:IV  
F:\PLAN\HHPB\15HPB\09-08-2015\HPB 7545\_1717 Collins Av.Sep15.docx

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

MEETING DATE: September 8, 2015

FILE NO: 7545

PROPERTY: 1717 Collins Ave

APPLICANT: Chisholm Properties South Beach, Inc.

LEGAL: Lot 3 & South 40ft of Lots 4-17 & 18' & Strip of Land Between LOT 3 & South 40ft of Lot 4, Block 28 of the ALTON BEACH 1ST SUBDIVISION According to the Plat Thereof, as Recorded in Plat Book 2, Page 77, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for a variance to reduce the minimum required rear setback for a new access gate within the existing fence.

**SUPPLEMENTAL 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 9'-10" the minimum required setback of 11'-0" from the Erosion Control Line in order to construct columns and access gate within the Dune Preservation Overlay District at 1'-2" from the Erosion Control Line and at a height of 14.7' NGVD.

- 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 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.

**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 previous Final Order dated June 9, 2015 shall remain in full force and effect, except to the extent modified herein.
- B. 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 the Board Order.
- C. The Applicant agrees that a project manager will be retained to ensure that all aspects of the development permitting and licensing processes are coordinated and consistent with the approved plans. The applicant agrees to submit the name and contact information for the project manager to the Planning Department within 90 days of the June 9, 2015 meeting. Failure to comply with this condition within the specified time shall result in notice and a hearing before the Board to extend the timeframe.
- D. A copy of all pages of the recorded Supplemental 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 Supplemental Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- F. 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.
- G. The Supplemental 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.
- H. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- I. 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.

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 Certificate of Appropriateness and Variances are 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 approved by the Historic Preservation Board, as determined by staff, entitled "Surfcomber Hotel Gate & Deck Variance" as prepared by Moino / Fernandez Architects, dated April 24, 2015.

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 a Certificate of Appropriateness and Variances 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 Certificate of Appropriateness and Variances were granted, the Certificate of Appropriateness will expire and become null and void. 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 Certificate of Appropriateness will expire and become null and void.

In accordance with Section 118-561 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 Certificate of Appropriateness to Section 118-564, City Code, for revocation or modification of the Certificate of Appropriateness.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
DEBORAH TACKETT  
PRESERVATION AND DESIGN MANAGER  
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, Preservation and Design Manager, 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 \_\_\_\_\_ (                    )