

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: November 03, 2015

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: Design Review File No. 23211
424 West 40th Street – Religious Institution

The applicant, Ahavas Torah Congregation, Inc., is requesting Design Review Approval for the construction of a new one-story religious institution in a single-family neighborhood to replace an existing pre-1942 architecturally significant one-story home, including variances to exceed the maximum allowable encroachment into required yards, to reduce the required rear setback and to exceed the maximum height of the rooftop curb. This item will require a Conditional Use (religious institution) application to be reviewed and approved by the Planning Board.

RECOMMENDATION:

Approval of the modifications

Denial of the variances.

LEGAL DESCRIPTION:

Western 75 ft of Lot 10 and of Lot 11 of Block 51 of the Orchard Park Subdivision 2 and 3, according to Plat thereof as recorded in Plat Book 8, Page 116 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RS-4
Future Land Use: RS
Overlay District: 40th Street Overlay
Lot Size: 9,142.5SF
(75'x121.9')

Lot Coverage:

Existing: ±3,183 SF / 35%
Proposed: 4,569 SF / **49.9%**
Maximum: 4,575 SF / 50%

Unit size:

Existing: ±3,298 SF / 36%
Proposed: 4,380 SF / **48%***
Maximum: 4,575 SF / 50%

***As represented by the applicant
for the use proposed**

Height:

Proposed: **19'-0" flat roof ***
Permitted: 18'-0" flat roof

Grade: +4.35' NGVD (approx.)

Flood: +7.00' NGVD

Difference: +1.32' (approx.)

Adjusted Grade: +5.67' NGVD (approx.)

Finished Floor Elevation: +8.00' NGVD

EXISTING STRUCTURE:

Year Constructed: 1935

Architect: Paist & Steward

Vacant: No

Demolition Proposed: Full

Surrounding Properties:

East: One-story 1950 residence

North: Two-story FPL building

South: Two-story 1941 residence

West: Surface parking lot

THE PROJECT:

The applicant has submitted plans entitled "Ahavas Torah Synagogue", as prepared by k|z architecture signed and sealed 09/14/2015.

The applicant is proposing a new one-story religious institution in a single-family neighborhood.

The applicant is requesting the following variance(s):

1. A variance to exceed by 51.6% (5'-9 ¾") the maximum allowable projection of 25% (2'-9 ¾") of the required interior side yard of 11'-3" in order to construct access stairs and ramp with 76.6% (8'-7 ½") of encroachment into the required side yard on the west.

- Variance requested from:

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

(o) Projections: In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25% of the required yard up to a maximum projection of 6'-0", unless otherwise noted.

(6) Porches, platforms and terraces (up to 30" above the elevation of the lot).

The main access to the building is proposed on the west side yard, including an open stair and ramp. The maximum projection permitted to extend within the setback area for this structure is 25% of the required yard. The width of the side yards are based on the lot width of the property and commonly the side setbacks are less than the front and rear setbacks. Although the west side yard is the larger side setback, the access stairs and ramp exceed the maximum allowable projection by more than 50%. Because the finished floor of the building is proposed 1'-0" higher above the BFE, additional steps and ramp area are required in order to transition from the grade elevation to the higher finished floor. This will increase the amount of non-pervious area within the required side yard—effectively paving the entirety of this area.

Staff believes that this variance request is self-imposed, and recommends that this variance request be **denied** as it would confer to the applicant a privilege not granted to other single-family properties. There are no hardship or special circumstances that render the applicant unable to comply with the requirement of the Code pertaining projections in required yards. The stairs and ramp can be shifted to be adjacent to the building to be outside of the required side setback, or a portion of the structure lowered and the entrance further recessed along the side elevation so that the ramp and railings do not exceed the maximum permitted by the City Code.

2. A variance to reduce by 16'-0" the minimum required rear setback of 20'-0" in order to construct a new religious institution on a single family property at 4'-0" from the rear property line.

- Variance requested from:

Sec. 142-106. Setback requirements for a single-family detached dwelling.

The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(3) Rear: The rear setback requirement shall be 15 percent of the lot depth, 20 feet minimum, 50 feet maximum. At least 70 percent of the required rear yard shall be sodded or landscaped pervious open space; the water portion of a swimming pool may count toward this requirement.

An open terrace with trellis roof is proposed with posts setback 4'-0" from the rear property line where 20'-0" is required. This substantial reduction of the rear setback is not consistent with the rear setback in single family properties and its approval might set a precedent for future developments in the district. The existing family home building on site is currently setback 30'-0" from the rear property line and will be demolished. The new building is designed close to the maximum unit size allowed of 50% while incorporating the additional open space with vertical supports is not allowed within the required yards. No special conditions exist that restrict the compliance with the required main building setbacks as other single family projects. A cantilevered roof is permitted to encroach into the rear yard up to 5'-0" without a variance and staff recommends that the applicant redesign the rear of the building to setback the vertical supports 20'-0" from the property line and carve into the building the open area.

Furthermore, the proposed structural support of the trellis extends up to 2'-0" from the rear property line which may have a negative impact on the adjacent properties to the south as this configuration is not consistent with the character of the single family neighborhoods and generally not supportive by staff. The overhang of the trellis would also exceed the maximum 25% of projection would the 4'-0" of setback be approved.

Section 142-859 of the Code, Compliance with regulations for the 40th Street Overlay District, clearly notes that all new construction or additions to existing structures shall be compatible with the scale of the surrounding residential neighborhood and shall be designed to maintain a residential character. The proposed 4'-0" rear setback and 2'-0" setback for the roof overhang are not in keeping with the rear setback for new construction or existing buildings in residential districts. Staff recommends **denial** of this variance request due to a lack of hardship.

3. A variance to exceed by 25% (1'-0") the maximum allowable projection of 25% (1'-0") of the proposed rear yard of 4'-0" in order to construct a trellis structure with a roof overhang with 50% (2'-0") of encroachment into the proposed rear yard.

- Variance requested from:

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

(o) Projections. In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet, unless otherwise noted.

(7) Roof overhangs

This variance request is associated with variance #2. The roof overhang of the trellis

structure is setback 2'-0" from the rear property line. The vertical supports for the trellis are setback 4'-0" from the rear property line, which would allow a 25% allowable overhang projection, or 1'-0", where the applicant is proposing 2'-0". Staff is very concerned with these variances as it would place the structure extremely close to the single family residential property abutting the rear. As the proposed religious use of the property would have an occupant load larger than the typical single family properties, the rear open terrace with open trellis roof may negatively affect the adjacent neighbors with the proposed rear setbacks. No hardship or special circumstances are related to this variance request. It would confer a special privilege for the applicant. As such, staff recommends **denial** of the variance request.

4. A variance to exceed by 1'-0" the maximum height allowed of 1'-0" for rooftop curbs in order to construct portions of a parapet up to 2'-0" in height from the main roof for a new religious institution on a single family property.

- Variance requested from:

Sec. 142-105. - Development regulations and area requirements.

(b)The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(7) Height exceptions: e. Rooftop curbs, not to exceed 1'-0" in height.

A flat roof with a cantilevered slab is proposed for the front and portions of the east side of the roof. A 1'-0" curb is proposed at the rear and partial sides of the building, which is a permissible height exception. The applicant is requesting a variance to construct a section of the parapet on the west side at 2'-0" over the main roof. This design-based variance does not comply with the majority of the hardship criteria established in the Code for the granting of a variance. There are no special circumstances related to this variance other than it is a result from the actions of the applicant. The applicant states in the hardship letter that the intent of the 2'-0" parapet is to screen the mechanical equipment on the roof. However, the mechanical equipment located on the roof is already proposed to be screened with a 5'-0" enclosure noted on page Z-103 of the submitted plans. Staff does have some design concerns regarding this screening mechanism.

Although the applicant could have proposed a two-story structure, at 24'-0", which would have had a much greater impact on the adjacent properties pertaining to volume and elevation, a two-story building would be contained on site with a smaller footprint area since lot coverage would be restricted to 30%. Further, the second floor volume would be restricted to 70% of first floor (unless waived by the DRB).

Staff recommends **denial** of this variance because this request is unrelated to any hardship or circumstances on site, other than the applicant's choice to exceed the maximum parapet height allowed. The proposed project with a lot coverage and unit size, both close to 50% is established as a reasonable use of the land.

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** comply with 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:

The application, as proposed, may be inconsistent with the following requirements of the City Code, in addition to the variances requested:

1. **Sec. 142-858.** For The purpose of this overlay district is to provide pedestrian-friendly religious institutional uses through the conditional use permit process at the properties to serve the surrounding residential uses. Expansion of the district shall only be permitted by amendment to these regulations. **Application has been filed for Conditional Use (religious institution) review and approval by the Planning Board and is scheduled for the October 27, 2015 Planning Board meeting (PB File No. 2285).**
2. The area called out as 'attic space' shall be counted in the unit size calculations, as it does not meet the traditional definition of an attic, therefore the proposed building shall be reduced in size to comply with the maximum unit size permitted of 50%:

'Attic' is not defined in Chapter 114 of the City's Land Development Regulations.

'Attic' as defined in the 2014 of the Florida Building Code, is '*The space between the ceiling beams of the top story and the roof rafters.*'

The area where the 'attic space' is called out on the plans is not located above the top story, as the ceiling height of the top story is 17 feet in height. Traditionally attic spaces are leftover areas located between the top floor of the building and a sloped roof. The 'attic space' noted on the plans is a stretch of the term for purposes of gaining additional floor space, that is not otherwise permitted.

3. The rear yard does not comply with the minimum 70% landscape or open space required. **Variance was NOT requested as part of this application.**
4. The deck area adjacent to the stair access at the rear of the property exceeds the maximum 25% of projection into the required 20'-0" rear setback. **Variance was requested as part of this application.**
5. The roof overhang on the west side of the property exceeds the maximum 25% of the side yard. The roof overhang shall be reduced from 5'-8 ½" to 2'-10". **Variance was requested as part of this application.**
6. Proposed lighting on the sides and rear is not allowed to project into the adjacent properties.

The above noted comments 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.

COMPLIANCE WITH DESIGN REVIEW CRITERIA:

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.
Not Satisfied; the applicant is requesting several variances.
2. 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.
Not Satisfied; the applicant is requesting several variances.
3. 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; the applicant is requesting several variances.

4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.
Not Satisfied; the applicant is requesting several variances.
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.
Not Satisfied; the applicant is requesting several variances.
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.
Not Satisfied; the applicant is requesting several variances.
7. The design and layout of the proposed site plan, as well as all new and existing buildings 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 contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.
Not Satisfied; the applicant is requesting several variances.
8. 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 all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.
Satisfied
9. 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. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.
Satisfied
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Not Satisfied; the applicant is requesting several variances.
11. 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

12. The proposed structure has 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 Satisfied; the applicant is requesting several variances.
13. The building has, where feasible, space in that part of the ground floor fronting a 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 street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.
Satisfied
14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Not Satisfied; the proposed screening may not sufficiently screen the rooftop mechanical equipment.
15. An 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
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.
Satisfied
17. 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.
Not Applicable

STAFF ANALYSIS:

DESIGN REVIEW

The applicant is proposing a new one-story synagogue to replace a one-story single-family home originally built in 1935 by Paist & Steward. The existing structure falls within the 40th Street Overlay District, which permits pedestrian-friendly, religious institutional uses through the Conditional Use review and approval by the Planning Board. This application for the Conditional Use (religious institution) is scheduled to be heard by the Planning Board at the October 27, 2015 Planning Board meeting.

The applicant is proposing a contemporary one-story structure, with a side-access entrance. The design of the structure is generally consistent with the massing and general height of the established neighborhood, which is the intent of the Overlay Ordinance. The architecture of the facility has been designed in a current contemporary style of architecture, commonly seen in many single-family residences in the City. The neighboring properties consist of a private surface parking lot to the west and a one-story single-family home to the east and

the south. The architect has designed the main entrance oriented towards the parking lot with a secondary entrance on the east which leads to the private offices and bathrooms of the facility. The property is located south of the CD-1 zoning district which serves as a buffer to the higher intensity CD-3 commercial thoroughfare of West 41 Street.

Because of the proposed religious use, the minimum floor elevation for the structure is the base flood elevation plus 1'-0", as indicated by the applicant. In single family districts the maximum height for a single story single family home is eighteen feet above the base flood elevation. Because of this discrepancy, staff would recommend the height of the structure be reduced by 1'-0", in order to be consistent with the maximum 18'-0" height for a one-story single family home. The intent of the overlay Ordinance is to ensure that any new construction is consistent and compatible with single family home construction, and reducing the proposed height by one foot would ensure that the overall massing for the proposed religious use would not be any larger than that which could be constructed for a new single family home. The 40th Street Overlay district at Section 142-859 (b) of the City Code indicates that "*All new construction or additions to existing structures shall be compatible with the scale of the surrounding residential neighborhood and shall be designed to maintain a residential character.*"

Additionally, the applicant is proposing an "attic" level that, by the Florida Building Code, is not an attic. As indicated in the zoning analysis, this area will need to be removed or redesigned to comply with Section 142-105(b)(5) which allows for a portion of a one-story home to exceed the maximum height up to 24'-0" provided that any wall associated with this higher height does not exceed 25'-0" in length. As presently designed, the 'second floor area' does not meet this requirement and will have to be reduced or eliminated. These modifications can be reviewed and approved administratively since the plans can easily be modified with no substantial effect on the exterior architecture.

Overall, staff recommends that the design of the new synagogue be approved with the modifications suggested herein.

VARIANCE REVIEW

The new one-story synagogue is proposed with near maximum lot coverage and unit size including variances to exceed the maximum projection for a stair and ramp in the west side yard, to extend the structure up to 4'-0" from the rear property line with a roof overhang setback only 2'-0" from the rear property line, and to exceed the maximum height of a parapet. The building footprint and roof overhang in the rear and the access on the side encroach excessively close to the abutting properties in order to obtain maximum lot coverage. The variances requested do not satisfy the hardship criteria established for the granting of a variance. Staff maintains that the religious facility can easily be redesigned to eliminate the need for any of the variances.

In summary, staff recommends that the requested variances #1—#4 be **denied**, for the reasons identified and detailed in the variances description portion of this report.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application for design review approval be **approved**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria and/or

Practical Difficulty and Hardship criteria. Additionally, in view of the foregoing analysis and the inconsistencies with the aforementioned Design Review criteria and/or Practical Difficulty and Hardship criteria, staff recommends the variance portion of the application, variances #1—#4 be **denied without prejudice**.

TRM/JGM/IV

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**DESIGN REVIEW BOARD
City of Miami Beach, Florida**

MEETING DATE: November 03, 2015

FILE NO.: 23211

PROPERTY: 424 West 40th Street

APPLICANTS: Ahavas Torah Congregation, Inc.

LEGAL: Western 75 ft of Lot 10 and of Lot 11 of Block 51 of the Orchard Park Subdivision 2 and 3, according to Plat thereof as recorded in Plat Book 8, Page 116 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new one-story religious institution in a single-family neighborhood to replace an existing pre-1942 architecturally significant one-story home, including variances to exceed the maximum allowable encroachment into required yards, to reduce the required rear setback and to exceed the maximum height of the rooftop curb.

ORDER

The City of Miami Beach Design Review 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. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- 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 is inconsistent with Design Review Criteria 1—7, 10, 12, and 14 in Section 118-251 of the Miami Beach Code.

- C. The project would be consistent with the criteria and requirements of Section 118-251 if the following conditions are met:
1. Revised elevation, site plan, and floor plan drawings for the proposed new religious institution at 424 West 40th Street shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The height of the structure be reduced by 1'-0", in order to be consistent with the maximum 18'-0" height for a one-story single family home measured from BFE.
 - b. The proposed 'attic space' shall be eliminated in its entirety. Alternatively, the applicant may redesign a 'second-floor area' that complies with Section 142-105(b)(5) which allows for a portion of a one-story home to exceed the maximum height up to 24'-0" provided that any wall associated with this higher height does not exceed 25'-0" in length, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board .
 - c. The proposed screening design for the rooftop mechanical equipment shall be further refined to sufficiently obscure the equipment from view on all sides, in a manner to be approved by staff.
 - d. At least 70% of the required rear yard shall be sodded or landscaped pervious open space.
 - e. The final design details of the exterior materials and finishes shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - f. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
 - g. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
 2. A revised landscape plan, 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. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
- b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
- c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
- d. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
- e. The amount of hardscape proposed within the Public Right of Way and within the site shall be substantially reduced, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- f. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- g. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- h. 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.
- i. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- j. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and

fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.

- k. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right of wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- l. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the city administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s) which were either approved by the Board with modifications, or denied (Underlying denotes new language and ~~strikethrough~~ denotes stricken language):
 1. ~~A variance to exceed by 51.6% (5' 9 3/4") the maximum allowable projection of 25% (2' 9 3/4") of the required interior side yard of 11' 3" in order to construct access stairs and ramp with 76.6% (8' 7 1/2") of encroachment into the required side yard on the west. (Variance denied).~~
 2. ~~A variance to reduce by 16' 0" the minimum required rear setback of 20' 0" in order to construct a new religious institution on a single family property at 4' 0" from the rear property line. (Variance denied).~~
 3. ~~A variance to exceed by 25% (1' 0") the maximum allowable projection of 25% (1' 0") of the proposed rear yard of 4' 0" in order to construct a trellis structure with a roof overhang with 50% (2' 0") of encroachment into the proposed rear yard. (Variance denied).~~
 4. ~~A variance to exceed by 1' 0" the maximum height allowed of 1' 0" for rooftop curbs in order to construct portions of a parapet up to 2' 0" in height from the main roof for a new religious institution on a single family property. (Variance denied).~~

- B. The applicant has submitted plans and documents with the application that the Board has concluded do not satisfy Article 1, Section 2 of the Related Special Acts.

The applicant has submitted plans and documents with the application that the Board has concluded do not comply with 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.

- C. The Board hereby **Denies** the Variance requests, 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.

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. Design Review Approval and II. Variances' noted above.**

- A. During Construction of the new building, the Applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles existing and entering the site and with an 8'-0" high fence with a wind resistant green mesh material along the front of the property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The Applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- 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 a Building Permit.
- C. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- 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 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 for Design Review approval is GRANTED and that the Application for Variances is DENIED 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 "Ahavas Torah Synagogue", as prepared by **k|z architecture**, signed, sealed and dated September 14, 2015, and as approved by the Design Review 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 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 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 shall 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_____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

