

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: November 10, 2015

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: HPB File No. 7393, a.k.a. BOA File 3673, **929 Alton Road.**

The applicant, Alton Sobe, LLC, is requesting a one (1) year Extension of Time for previously approved variances to reduce the required front pedestal setback, to exceed the maximum permitted projection into the front setback, and to not provide the required parking for off-street loading space in order to build a new 5-story mixed use building.

### **STAFF RECOMMENDATION**

Approval with conditions

### **BACKGROUND**

The application was approved by the Board of Adjustment on April 4, 2014 subject to conditions set forth in the Final Order. Since that time, the applicant has not yet obtained the required building permit for the reasons set forth in the submitted letter of request.

Original Approval date: April 4, 2014  
Order expiration date: October 4, 2015  
New expiration date: October 4, 2016

### **THE PROJECT**

The applicant obtained variances approved by the Board of Adjustment associated with the construction of a new 5-story building addition as part of a new mixed-use development.

The following variance(s) were previously approved under BOA File number 3673:

1. A variance to waive 6'-4" of the minimum required front pedestal setback of 20'-0" for residential uses in order to build a new five (5) story mixed-use building at 13'-8" from the front property line, facing Alton Road.
2. A variance to exceed by 18.9% (2'-7") the maximum allowable projection of 25% (3'-5") of the proposed front pedestal setback of 13'-8" in order to build balconies with 43.9% (6'-0") of encroachment into the front yard, facing Alton Road.
3. A variance to waive the parking requirement for an off-street loading space in order to build a new 5-story mixed use building with no off-street loading space.

## **REQUEST**

The applicant is requesting a one (1) year extension of time to obtain a full building permit for variances associated with the construction of a new building addition as per the following section of the code:

### **Sec. 118-355. Variance time limits; decisions.**

(a) *The applicable board may prescribe a reasonable time limit within which the action for which the variance is required shall begin or be completed or both. The applicant shall have up to 18 months, or such lesser time as may be specified by the board, from the date of the board meeting at which a variance was granted to obtain a full building permit. The foregoing 18-month time period, or such lesser time as may be specified by the board, includes the time period during which an appeal of the decision of the board may be filed. If the applicant fails to obtain a full building permit within 18 months, or such lesser time as is specified, of the board meeting date at which a variance was granted and/or construction does not commence and proceed in accordance with such permit and the requirements of the applicable Florida Building Code, the variance shall be deemed null and void. Extensions for good cause, not to exceed a total of one year for all extensions, may be granted by the applicable board, provided the applicant submits a request in writing to the planning and zoning director no later than 90 calendar days after the expiration of the original variance(s) showing good cause for such an extension. At the discretion of the planning director, an applicant may have up to 30 days (not to extend beyond 30 months from the date of original approval) to complete the building permit review process and obtain a full building permit, provided that within the time provided by the board to obtain a full building permit a valid full building permit application and plans have been filed with the building department, a building permit process number has been issued and the planning department has reviewed the plans and provided initial comments. Notwithstanding the foregoing, in the event the decision of the board, with respect to a the original variance request, is timely appealed, the applicant shall have 18 months, or such lesser time as may be specified by the board, from the date of final resolution of all administrative and/or court proceedings to obtain a full building permit. This tolling provision shall only be applicable to the original approval of the board and shall not apply to any subsequent requests for revisions or requests for extensions of time.*

### **STAFF ANALYSIS:**

Since the original approval of the application, no changes to the Land Development Regulations of the Miami Beach Code have been recommended or approved which would preclude the construction of this project if it were proposed today. The applicant has encountered delays in the permitting of the project, as expressed in the letter of intent submitted.

Section 118-355 of the City Code allows extensions for good cause, to be granted by the applicable Board provided the applicant submits a request in writing to the Planning Director no

later than 90 calendar days after the expiration of the original variance(s). Staff recommends approval of the extension of time until October 4, 2016. All of the original conditions of approval imposed by the Board (BOA File Number 3673) shall remain in effect.

### **RECOMMENDATION**

In view of the foregoing, staff recommends the request for an extension of time be **approved** for a period not to exceed one (1) year from the original approval, which expired on October 4, 2015, subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Practical Difficulty and Hardship criteria, as applicable.

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

MEETING DATE: November 10, 2015

FILE NO: 7393 a.k.a. BOA File 3673

PROPERTY: 929 Alton Road

APPLICANT: Alton Sobe, LLC

LEGAL: Lots 9 and 10, Block 123 "Lenox Manor", according to the Plat thereof recorded in Plat Book 7, page 15 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for a one (1) year Extension of Time for previously approved variances to reduce the required front pedestal setback, to exceed the maximum permitted projection into the front setback, and to not provide the required parking for off-street loading space in order to construct a new 5-story mixed use building.

**EXTENSION OF TIME ORDER**

The applicant filed an application with the City of Miami Beach Planning Department to request a one (1) year Extension of Time to obtain a full building permit for previously approved variances to reduce the required front pedestal setback, to exceed the maximum permitted projection into the front setback, and to not provide the required parking for off-street loading space in order to construct a new 5-story mixed use building.

The City of Miami Beach's Historic Preservation Board makes the following FINDING 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:

The applicant stated, among other things, that there were delays encountered in the permitting process. The foregoing constitutes good cause for granting a one (1) year extension of time to the requirement that a Full Building Permit be obtained within eighteen (18) months of the original hearing date of April 4, 2014.

IT IS HEREBY ORDERED, based upon the foregoing finding of fact and the staff report and

analysis, which is adopted herein, including the recommendation, that a one (1) year extension of time to obtain a full building permit (such one year period shall run from the expiration date of the original approval, which is October 4, 2015) is GRANTED for the above-referenced project conditioned upon the following, to which the applicant has agreed:

1. A full building permit, not a foundation, shell permit or phased building permit, for the project shall be obtained by October 4, 2016.
2. Construction shall commence and continue in accordance with the applicable Building Code.
3. This extension of time shall run concurrent with any other extensions of time that may be provided to the property owner as a result of actions of non-City authorities with jurisdiction over such matters.
4. The subject site and existing site shall be maintained in good, clean, and secure conditions at all times.
5. 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.
6. 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.
7. 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.

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 and the Order for the April 4, 2014, approval have been met. The issuance of a Certificate of Appropriateness 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 and the Final Order for the April 4, 2014 meeting. If the Full Building Permit is not issued by October 4, 2016, this Order will expire and become null and void. If the Full Building Permit 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), this Order will expire and become null and void.

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 \_\_\_\_\_ (            ) )