

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: **File No. 7582, 660 Washington Avenue.**

The applicant, Angler's Boutique Resort, LLC, is requesting variances to exceed the maximum permitted building height and to exceed the maximum projection into the front and side yards for a deck facing the streets.

STAFF RECOMMENDATION

Approval with conditions.

BACKGROUND

On June 10, 2014, the Board reviewed and approved a Certificate of Appropriateness for the construction of a new 5-story ground level addition, as part of a new hotel development.

On December 5, 2014, The Board of Adjustment granted variances from the required subterranean, pedestal and sum of the side setbacks, and to exceed the maximum spaces for tandem parking for the construction of the new building addition.

On May, 2015, a full building permit for the project was issued under B1500350.

On June 9, 2015 the Historic Preservation Board approved variances to reduce the required street side setback for subterranean parking and to reduce the required separation from a driveway to the structural columns for the construction of the new 5 story hotel addition.

EXISTING STRUCTURES

Local Historic District:	Flamingo Park
Classification:	Contributing
Date of Construction:	1930 / 2005 (annex structures)
Original Architect:	Henry J. Maloney

The subject site consists of 2 parcels along the west side of Washington Avenue between 6th and 7th Streets. Parcel 1, contains two Contributing structures including the 3-story Angler's Hotel building and a 2-story hotel building located at the northern portion of the parcel. Two

ground level additions were constructed in 2005, including a 5-story annex structure on the south side of the parcel and a 2-story annex structure on the west side of the parcel.

ZONING / SITE DATA

Parcel 1

Legal Description: Lots 3, 4 and 5, Block 47, "Ocean Beach Addition No. 3", according to the Plat thereof recorded in Plat Book 2, page 81 of the Public Records of Miami-Dade County, Florida.

Zoning: RM-2 (Multifamily, Medium Intensity)
Lot Size - 21,000 S.F. (Max FAR = 2.0)
Existing FAR - 32, 312 S.F.
Existing Height: 2, 3 & 5-stories
Existing Use/Condition: Hotel

Parcel 2:

Legal Description: Lots 6, 7 and 8, Block 47, "Ocean Beach Addition No. 3", according to the Plat thereof recorded in Plat Book 2, page 81 of the Public Records of Miami-Dade County, Florida.

Zoning: RM-2 (Multifamily, Medium Intensity)
Lot Size: 20,193 S.F. (Max FAR = 2.0)
Approved FAR: 49,803 S.F.
Proposed FAR: 49,932 S.F. (As per submitted plans)
Previously Approved Height: 5-stories / 50'-0"
Proposed Height: 5-stories / 53'-0"
Approved Use: Hotel (80 units)
Proposed Use: Hotel (85 units)

THE PROJECT

The applicant has submitted plans entitled "The Angler's Hotel" as prepared by Nichols Brosch Wurst Wolfe & Associates, Inc. signed, sealed and dated September 17, 2015.

The applicant is requesting variances to exceed the maximum permitted building height and to exceed the maximum projection into the front and side yards for a deck facing the streets in order to construct a new hotel addition in association with the existing Angler's hotel.

The applicant is requesting the following variance(s):

1. A variance to exceed 3'-0" the maximum building height of 50'-0" in order to construct a new hotel addition up to 53'-0" from elevation +6'-6" NGVD to the main roof at 59'-6" NGVD.

- Variance requested from:

Sec. 142-217. Area requirements.

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

Maximum Building Height (Feet): Historic district—50.

The applicant is proposing modifications to the original ground floor permit plans to change the use of 5 meeting room/boardrooms to 5 hotel rooms. Because of this change of use, the elevation of the floor has been increased from 6'-6" to 9'-0" NGVD. As indicated by the applicant in the hardship letter, the height increase is required by the Engineering Section of the Building Department. Because the established base flood elevation is established at +8.00 NGVD, the increase in height would allow the hotel room area to be located one foot above flood elevation. The project has an approved building permit and is currently under construction. For this reason, staff does not object to the 3 feet increase in height to accommodate any structural, or mechanical work that might conflict with the approved building permits. The granting of this variance would not be injurious to the adjacent properties and is not in conflict with the character of the surrounding area along Washington Avenue.

2. A variance to exceed by 75% (15'-0") the maximum allowable projection of 25% (5'-0") of the required front yard of 20'-0" in order to extend the pavement up to the front property line facing Washington Avenue.

- 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).

Although the the applicant obtained a building permit for the project, which did show paving that required a variance, it was noted that the landscape and hardscape plan would be submitted for review and approval under a separate permit. The current application increases the area from that which was previously indicated on the building permit. The pavement is proposed with a setback that ranges from 6'-2" up to the property line. The hardship letter provided by the applicant, indicates that the increase in paving is necessary to allow for successful ground floor retail at the hotel.

As indicated in the zoning map below (Figure 1) , the subject site, which is zoned RM-2 (Residential Multifamily Medium Intensity), is bordered by the commercial zoning districts of CD-2 on the east side of Washington Avenue and CPS-2 on the south side of 6th Street. The lower density residential district of RM-1 is located to the west of the subject site. In addition to residential uses, the RM-2 district allows for a main permitted use of a hotel, along with accessory uses that are customarily associated with the operation of a hotel or apartment building, except for dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments or open air entertainment establishments. As planned by the applicant, a retail use is proposed along Washington Avenue, which is consistent with existing retail uses located on the east side of Washington

Avenue. Because of the isolated nature of this RM-2 zoning district, with the front and south sides of the property facing commercial zoning districts (which allow for a zero setback), this requested variance is in keeping with the overall character of the neighborhood as an appropriate transition from the RM-2 district to the CD-2 and CPS-2 districts. Such variance will also aide in the viability of an active retail use along this portion of Washington Avenue.

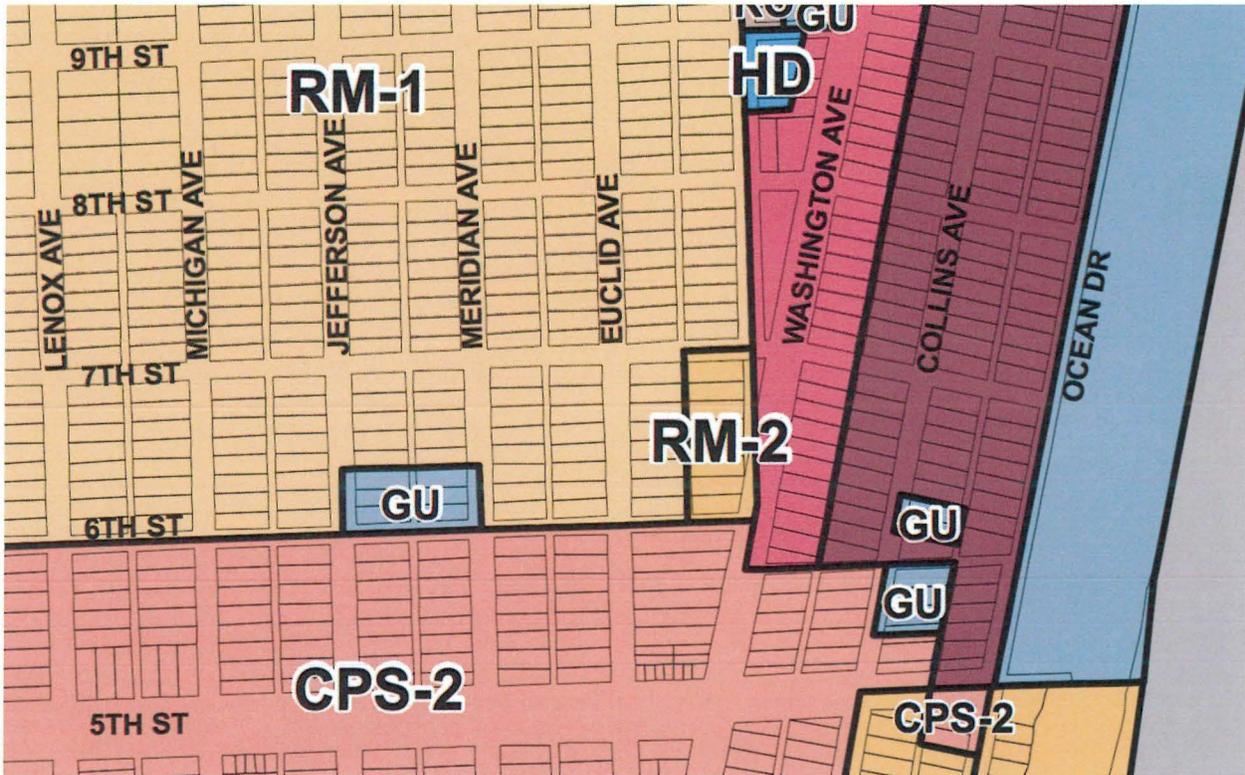


Figure 1. Zoning Map surrounding subject site.

3. A variance to exceed by 75% (5'-7") the maximum allowable projection of 25% (1'-11") of the proposed side facing a street yard of 7'-6" in order to extend the pavement up to the property line facing 6th Street.

- 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).

Again, although the the applicant obtained a building permit for the project, which did show paving that required a variance, it was noted that the landscape and hardscape plan would be

submitted for review and approval under a separate permit. Staff would note that the project obtained variances approved by the Board of Adjustment to reduce the required side setback from the required 24 feet to a range from 13' to 7'-6", a substantial reduction of the required side yard setback. However, because most of the proposed side yard is landscaped, in addition to this side of the property facing the commercial zoning district of CPS-2 to the south, staff finds a practical a practical difficulty within this historic district to ensure sufficient and consistent pedestrian pathways.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that staff has concluded satisfy Article 1, Section 2 of the Related Special Acts.

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

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 variance(s):

1. Concurrency mitigation fees and parking impact fees will be required for the change of use of 5 boardrooms/meeting rooms at the ground level to 5 hotel rooms at the time of the building permit.

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.

VARIANCE ANALYSIS

The project was originally approved by the Board on June 10, 2014. Soon after, the Board of Adjustment granted variances for triple stacking of vehicles, variances from the minimum required front and side facing a street subterranean, rear pedestal and sum of the side pedestal setbacks. A building permit was approved for the project in May 2015. Additional variances were subsequently approved by the Historic Preservation Board in June 2015 for the reduction of the required subterranean setback for parking and to reduce the required clearance from the driveway to structural columns. The applicant is currently requesting additional variances to increase the overall building height and to extend the pavement in the front and side facing a street yards beyond the maximum allowed.

Staff has no objections to the variance requests for the height increase due to the change in the location of the hotel units, and for the additional paving for the reasons previously noted in this report. However, staff would note that the plans submitted to the Board in the original application in 2014 had a considerable amount of pavement in the front. Staff noted in the original staff report HPB File 7419, that the pavement exceeded the maximum projection allowed. Furthermore, condition C3c of the final order stated that *“The proposed paving within the required front yard along Washington Avenue shall be substantially reduced and replaced with landscape material including the introduction of shade trees, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.”* The applicant reduced the pavement in these areas at the time of the building permit; but still exceeded the maximum projection. Although the the applicant obtained a building permit for the project, which did show paving that required a variance, it was noted that the landscape and hardscape plan would be subitted for review and approval under a separate permit.

It must further be noted that there were substantial shade trees along the property that have been removed in order to allow for the new construction. Staff would strongly recommend that any variance approval be conditioned upon the removal of the proposed medjool date palms from the plans and their replacement with substantial canopy shade trees along both Washington Avenue and 6th Street within the applicant’s property.

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.

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: November 10, 2015

FILE NO: 7582

PROPERTY: 660 Washington Avenue

APPLICANT: Angler's Boutique Resort, LLC

LEGAL: Lots 3, 4, 5, 6, 7 and 8, Block 47, "Ocean Beach Addition No. 3", according to the Plat thereof recorded in Plat Book 2, page 81 of the Public Records of Records of Miami-Dade County.

IN RE: The application for variances to exceed the maximum permitted building height and to exceed the maximum projection into the front and side yards for a deck facing the streets.

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

1. No Certificate of Appropriateness was filed as part of this application.

In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
 1. A variance to exceed 3'-0" the maximum building height of 50'-0" in order to construct a new hotel addition up to 53'-0" from elevation +6'-6" NGVD to the main roof at 59'-6" NGVD.

2. A variance to exceed by 75% (15'-0") the maximum allowable projection of 25% (5'-0") of the required front yard of 20'-0" in order to extend the pavement up to the front property line facing Washington Avenue.
3. A variance to exceed by 75% (5'-7") the maximum allowable projection of 25% (1'-11") of the proposed side facing a street yard of 7'-6" in order to extend the pavement up to the property line facing 6th Street.

- 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 grants the requested variance(s) and imposes the following condition based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the

applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
 - a. The proposed understory planting shall be replaced with specie that would naturally grow no more than 36" in height at maturity.
 - b. All medjool date palms shall be replaced with canopy shade trees.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

III. General Terms and Conditions applying to both 'I. Certificate of Appropriateness' and 'II. Variances' noted above.

- A. A 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.
- B. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- C. 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.
- D. 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.
- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- F. 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 "The Angler's Hotel" as prepared by Nichols Brosch Wurst Wolfe & Associates, Inc. signed, sealed and dated September 17, 2015 and modified to match the approved building permit plans B1500350 as approved by the Historic Preservation Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order. No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required. When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code; the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project should expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this Order shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this _____ day of _____, 20__.

HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
DEBORAH TACKETT
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 _____ ())

