

# MIAMI BEACH

## PLANNING DEPARTMENT

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### BOARD OF ADJUSTMENT STAFF REPORT

FROM: Thomas R. Mooney, AICP   
Planning Director

DATE: January 15, 2016 Meeting

RE: BOA File No. 3795  
**456 West 41<sup>st</sup> Street – Commercial Building**

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The applicant, Tracht Good LLC. d/b/a Miami Beach Chocolates, is requesting variances to relocate an allowable sign for an awning, to exceed the maximum length, maximum area and maximum height for sign letters, in order to place a new sign on the front side of an awning facing 41<sup>st</sup> Street.

#### **STAFF RECOMMENDATION:**

Approval of the variances with conditions.

#### **LEGAL DESCRIPTION:**

Lot 11, Block 54 of "Orchard Subdivision No. 2 and 3", According to the Plat Thereof, as recorded in Plat Book 26 at Page 52 of the Public Records of Miami-Dade County, Florida.

#### **SITE DATA:**

Zoning -	CD-3
Future Zoning-	CD-3
Lot Size -	5,500 SF
Existing Use-	Commercial
Proposed Use-	Same

#### **EXISTING STRUCTURE:**

Year Constructed:	1938
Architect:	V. H. Nellenbogen
Vacant Lot:	No
Demolition:	No

#### **THE PROJECT:**

The applicant has submitted documents entitled "Miami Beach Chocolates Awning Sign" as prepared by Christopher Middleton, P.A. , dated November 2, 2015.

The applicant is requesting variances to place a sign at the front surface of an awning facing 41<sup>st</sup> Street.

The applicant is requesting the following variance(s):

1. A variance to relocate an allowable sign for an awning from the valance to the front face of an awning located at the front of the building.

- Variance requested from:

**Sec. 138-6. - Signs located on the valance and underside of awnings or canopies.**

*In addition to other permitted signs, a non-illuminated sign, not exceeding three square feet in area with letters not exceeding six inches in height, hanging from the underside of an awning or canopy with a minimum height clearance of seven feet six inches is permitted, except in the TC-1 and TC-2 districts which shall be governed by section 138-174. One sign on the valance of an awning or canopy may also be permitted; the length of such sign shall not exceed 25 percent of the length of a single awning, or the length of that portion of the awning or canopy associated with the establishment, up to a maximum of ten square feet and letters shall not exceed eight inches in height. Signs on continuous awnings shall be placed centered on the portion of the valance that corresponds to the individual storefront and be a uniform color. All valance signs shall be subject to the design review process. For purposes of this section, a valance is defined as that vertical portion of the awning that hangs down from the structural brace. Signs on other surface areas of an awning, canopy or roller curtain are not permitted.*

A sign is proposed on the existing awning above the main entrance of the establishment located on the east side of the building. Signs for awnings are allowed on the valance that extends below the main structure. The existing awning, originally installed in 1998, as per Building Department records has a clearance of 7'-6", as indicated on the courtyard plan submitted. The awning does not have a valance. A new valance on the existing awning frame or a sign hanging from the structure would reduce the existing clearance below the awning. Instead, the applicant is proposing to relocate the allowable sign from the valance to the front face of the awning with larger area in order to obtain better identification of the business to potential customers traveling along 41<sup>st</sup> street, as indicated in the hardship letter submitted.

Staff finds that there are several site conditions that create practical difficulties for the applicant in order to have a business sign with similar visibility as other surrounding business. The building was constructed in 1938 with a courtyard in the front. The main entrance of the business is setback 12 to 14 feet from the front property line unlike other commercial establishments with building facades up to the front property line on 41<sup>st</sup> Street. The awning and main entrance of the establishment, located in the one-story volume are partially blocked by other portions of the building that extend to the front property line on the west side and by the adjacent building to the east that also abuts the front property line. The awning is recessed into the property and part of a courtyard. The proposed sign on the awning would allow higher visibility of the sign, as stated by the applicant on his letter of intent. In summary, the existing building and awning create the practical difficulty requiring the variance. For these reasons, staff is supportive of this variance as proposed.

2. A variance to exceed by 45.8% (4'-7") the maximum allowable length of 25% (2'-6") for a sign located in the valance of an awning with 10'-0" in length in order to place a sign in the front surface of the awning with up to 70.8% (7'-1") in length.

- Variance requested from:

**Sec. 138-6. - Signs located on the valance and underside of awnings or canopies.**

*In addition to other permitted signs, a non-illuminated sign, not exceeding three square feet in area with letters not exceeding six inches in height, hanging from the underside of an awning or canopy with a minimum height clearance of seven feet six inches is permitted, except in the TC-1 and TC-2 districts which shall be governed by section 138-174. One sign on the valance of an awning or canopy may also be permitted; the length of such sign shall not exceed 25 percent of the length of a single awning, or the length of that portion of the awning or canopy associated with the establishment, up to a maximum of ten square feet and letters shall not exceed eight inches in height. Signs on continuous awnings shall be placed centered on the portion of the valance that corresponds to the individual storefront and be a uniform color. All valance signs shall be subject to the design review process. For purposes of this section, a valance is defined as that vertical portion of the awning that hangs down from the structural brace. Signs on other surface areas of an awning, canopy or roller curtain are not permitted.*

A sign located on the valance of an awning is not permitted to exceed 25% of its length. The existing awning is 10 feet long in the front which allows for a 2'-6" sign. The applicant is proposing a sign with 7'-1" in length at the front face of the awning. Because the awning and entrance to the business are setback from the front property line and the adjacent building structures partially reduce the visibility of the establishment from the street, staff finds that these existing conditions create the practical difficulties that require this variance request.

3. A variance to exceed by 8" the maximum letter height of 8" for a sign located in the valance of an awning in order to relocate the sign to the front of an awning with letters up to 16" in height.

- Variance requested from:

**Sec. 138-6. - Signs located on the valance and underside of awnings or canopies.**

*In addition to other permitted signs, a non-illuminated sign, not exceeding three square feet in area with letters not exceeding six inches in height, hanging from the underside of an awning or canopy with a minimum height clearance of seven feet six inches is permitted, except in the TC-1 and TC-2 districts which shall be governed by section 138-174. One sign on the valance of an awning or canopy may also be permitted; the length of such sign shall not exceed 25 percent of the length of a single awning, or the length of that portion of the awning or canopy associated with the establishment, up to a maximum of ten square feet and letters shall not exceed eight inches in height. Signs on continuous awnings shall be placed centered on the portion of the valance that corresponds to the individual storefront and be a uniform color. All valance signs shall be subject to the design review process. For purposes of this section, a valance is defined as that vertical portion of the awning that hangs down from the structural brace. Signs on other surface areas of an awning, canopy or roller curtain are not permitted.*

The proposed relocated sign to the front of the awning is 4" and 16" in height exceeding the maximum allowed by 8". In addition to an awning sign, a wall sign with a minimum of 20 s.f.

is permitted on the building walls, as currently existing in other business in the area. However, the visibility of a wall sign in this location would be limited by the existing awning above the main entrance and the front setback of the building walls that would place the sign with a setback from 12 to 14 feet away from the front property line. The awning is also setback more than 7 feet from the front property line and is located in an interior courtyard surrounded by the adjacent building structures. Staff is supportive of the applicant's request as these existing conditions satisfy the practical difficulties criteria for this variance.

4. A variance to exceed by 2 s.f. the maximum sign area of 10 s.f. for a sign located on the valance of an awning in order to place a sign with up to 12 s.f. in the front surface of an awning at the front of the property.

- Variance requested from:

**Sec. 138-6. - Signs located on the valance and underside of awnings or canopies.**

*In addition to other permitted signs, a non-illuminated sign, not exceeding three square feet in area with letters not exceeding six inches in height, hanging from the underside of an awning or canopy with a minimum height clearance of seven feet six inches is permitted, except in the TC-1 and TC-2 districts which shall be governed by section 138-174. One sign on the valance of an awning or canopy may also be permitted; the length of such sign shall not exceed 25 percent of the length of a single awning, or the length of that portion of the awning or canopy associated with the establishment, up to a maximum of ten square feet and letters shall not exceed eight inches in height. Signs on continuous awnings shall be placed centered on the portion of the valance that corresponds to the individual storefront and be a uniform color. All valance signs shall be subject to the design review process. For purposes of this section, a valance is defined as that vertical portion of the awning that hangs down from the structural brace. Signs on other surface areas of an awning, canopy or roller curtain are not permitted.*

As stated by the applicant in the hardship letter, a larger sign is proposed in order to obtain better identification of the business to potential customers using 41<sup>st</sup> Street. The awning and front façade of the establishment are setback from the front property line unlike other surrounding buildings that front on 41 Street, one of the main commercial corridors with highly pedestrian traffic and one of the major entrances to the city. As indicated on the analysis of the previous variances, the existing building conditions meet the requirements of the practical difficulty criteria; therefore staff has no objection to the variance requested.

**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 of Adjustment 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.

**COMPLIANCE WITH ZONING CODE:**

The application, as submitted, 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.

**STAFF ANALYSIS:**

The subject site is an interior lot containing a two-story commercial building constructed in 1938. There are several retail businesses in this location such as a jewelry store, a food store, a beauty saloon and a chocolate candy store, the subject of this application. The applicant has been operating this business for 6 years. Several variances are requested in order to place a sign on the face of an existing awning facing 41<sup>st</sup> Street.

The applicant proposes a relocation of a sign permitted on the valance of the awning to the front surface. The sign also does not comply with the maximum letter height and area. The sign is compatible with the building mass and has an overall area of 12 s.f. smaller than the typical 20 s.f. sign that would be permitted on the building walls. Based on the site conditions, that are not the result of the applicant's actions but created by the existing building, as noted on each variance analysis, staff has concluded that practical difficulties, unique to this property exist and result in the variances requested. In summary, staff has no objections to the applicant's requests and recommends approval of variances number 1, 2, 3 and 4.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends **approval** of the variance(s) as requested, subject to the following conditions:

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 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.
3. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
4. The applicant shall comply with all conditions imposed by the Public Works Department.
5. The conditions on this Order are binding on the applicant, the property's owners and all successors in interest and assigns.
6. This 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.
7. 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, except to the extent of the variance granted herein.
8. This Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

TRM:MAB:IV

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