

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: February 02, 2016

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: Design Review File No. 23240
7902 Carlyle Avenue – Yeshiva Elementary School Fence

The applicant, Yeshiva Elementary School Inc, is requesting Design Review Approval for the construction of a new perimeter fence including a variance to exceed the maximum allowed height for a fence within the front yards.

RECOMMENDATION:

Approval of the variance with modifications.

LEGAL DESCRIPTION:

All of Block 4 less the northwesterly 2.5', "Tatum Waterway Subdivision", according to Plat thereof as recorded in Plat Book 46, Page 2, of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning: RM-1
Future Land Use: RM-1
Lot Size: 44,500 SF

Grade: +3.75' NGVD
Base Flood Elevation (BFE): +8.00' NGVD
Difference: 4.25'
Adjusted Grade: +5.875' NGVD

EXISTING STRUCTURE:

Two-story educational building
Architect: J. Richard Ogden Jr.
Year of Construction: 1957
Demolition: None

Surrounding Properties:

East: 2-story MiMo Multi-Family Building
North: 2-story MiMo Multi-Family Building
South: 2-story MiMo Multi-Family Building
West: 2-story MiMo Multi-Family Building

THE PROJECT:

The applicant has submitted plans entitled "Fence Egress for Yeshiva Elementary", as prepared by **USR Design Group** dated, signed, and sealed 12/08/2015.

The applicant is proposing to construct a new perimeter fence around the triangular shaped parcel in order to secure the educational facility that occupies the entire block.

The following variance is requested for the project:

1. A. A variance to exceed by 3'-0" the maximum allowed height of 5'-0" for a fence located adjacent to the front property line in order to construct a fence up to 8'-0" (11.75' NGVD) in height measured from the average grade of 3.75' NGVD.

B. A variance to exceed by 2'-8" the maximum allowed height of 7'-0" for a fence located at 4 feet from the front property line in order to construct a fence over entry steps up to 9'-8" (13.41' NGVD) in height measured from the average grade of 3.75' NGVD.

- Variance requested from:

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

(h) Fences, walls, and gates. Regulations pertaining to materials and heights for fences, walls and gates are as follows:

(1) All districts except I-1:

- a. Within the required front yard, fences, walls and gates shall not exceed 5'-0". The height may be increased up to a maximum total height of 7'-0" if the fence, wall or gate is setback from the front property line. Height may be increased 1'-0" for every 2'-0" of setback.*

The requested variance is to exceed by 3'-0" the maximum permitted height of 5'-0" for a fence located adjacent to the front property line and to exceed 2'-8" the maximum height of a fence located at 4'-0" from the front property line over existing steps. The proposal includes a new picket-style perimeter fence around the triangular shaped property at a maximum height of 8'-0" with a 2' high portion on top of the existing concrete wall to unify the height. The fencing returns to the building walls and continue over steps leading to the entrance on the west and east side of the building which increases the height of the fence up to 9'-8" as measured from grade elevation. Due to variations in the elevation of the sidewalk on the three fronts, an average grade of 3.75' NGVD has been determined for the property.

Based on the documentation provided, the applicant states that the fence is a necessary security measurement in order to ensure the safety of the adolescent students in attendance at the educational facility and that a 5' high fence would fail to effectively exclude unwanted entrants and also to keep the school children inside. The facility is a two-story MiMo building that occupies almost the entirety of the block. It was built in 1957 with nonconforming setbacks at many of its sides. The surrounding area is a dense urban area, predominantly residential in nature that may pose some security and access control issues.

Most interior properties can install a 7' high fence on the sides and rear. However, in this case 5' is the maximum height allowed for a fence located adjacent to the property line because the property is facing a right-of-way on its three sides. A 7' height fence is permitted when setback 4' from the front property line. Staff finds that the triangular shape of the property, the irregular size of the building and the fact that it is surrounded by three streets are practical difficulties that create the reasons for the variance requested. In addition, the existing use of the building for a school poses additional security concerns. For this reasons, staff is supportive of the variance 1A requested. However, staff would recommend that the variance 1B be eliminated as it increases the height of the fence when seen from the street and detracts from the residential nature of the neighborhood. Most of the surrounding properties either have no fences or they are low in height. The proposed fence can return to the building walls on both sides of the steps and the access restriction to the site still can be accomplished by securing the doors. Staff finds that practical difficulties exist for the request of variance 1A only.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

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

Additionally, staff has concluded that the plans and documents with the application 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;

Satisfied for variance request 1A;
Not Satisfied for variance request 1B;

- That the special conditions and circumstances do not result from the action of the applicant;

Satisfied for variance request 1A;
Not Satisfied for variance request 1B;

- 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;

Satisfied for variance request 1A;
Not Satisfied for variance request 1B;

- 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;

Satisfied for variance request 1A;
Not Satisfied for variance request 1B;

- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

Satisfied for variance request 1A;
Not Satisfied for variance request 1B;

- 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

Satisfied for variance request 1A;

Not Satisfied for variance request 1B;

- 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.

Satisfied.

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the City Code, aside from the requested variance(s). 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.

CONSISTENCY WITH COMPREHENSIVE PLAN:

A preliminary review of the project indicates that the proposed **educational use** appears to be **consistent** with the Future Land Use Map of the 2025 Comprehensive Plan.

ACCESSIBILITY COMPLIANCE

Additional information will be required for a complete review for compliance with the Florida Building Code 2001 Edition, Section 11 (Florida Accessibility Code for Building Construction). These and all accessibility matters shall require final review and verification by the Building Department 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.
Satisfied
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 proposed project requires a variance from the Design Review Board.
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 proposed project requires a variance from the Design Review Board.

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.
Satisfied
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 proposed project requires a variance from the Design Review Board.
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 proposed project requires a variance from the Design Review Board.
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.
Satisfied; the perimeter fence will offer an additional level of security for the students.
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.
Not Applicable
10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.
Satisfied
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.

Not Applicable

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).
Satisfied; the proposed fence is a transparent picket style design.
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 Applicable
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).
Satisfied
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; the proposed fence is a transparent picket style design.
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 subject site is located within the North Shore National Register Historic District, it is a triangular parcel occupied solely by the Yeshiva Elementary School. The two-story MiMo building was built in 1957 and has historically been utilized as an academic institution.

The applicant is proposing an 8'-0" high perimeter picket-style fence that will trace the majority of the eastern and southern property lines. Along the western portion of the site is an existing open-air playground that is currently secured by a zig-zagging 6'-0" concrete wall. Here, the applicant proposes the fence to continue, but only at 2'-0" above the concrete the wall, to maintain a continuous 8'-0" high security feature. As the property is located in the RM-1 district and facing a street on three sides, fences are restricted in height to 5' at the property line. If the site was zoned "GU"—not unlike many similar public school campuses—the applicant would have greater liberty with the height and location of the

fence. Fences, such as those proposed, are not atypical for surrounding and securing institutional and educational uses; if approved, staff recommends that the tops of the vertical pickets of the fence not be finished with “arrowhead” or “spearhead” toppers and the color of which be limited to natural aluminum or silver.

VARIANCE REVIEW

Staff is supportive of the variance 1A based on the existing site conditions and use of the building as the increase in height would introduce the most logical form of territorial reinforcement to the site. Staff is not supportive of the variance 1B for the fence portion that rises above the steps to the main entrance area along Tatum Waterway Drive. The variance 1B should be eliminated and the fence be modified to terminate perpendicular to the building façade on the east and west side of the building next to the steps. This design reconfiguration would satisfy the safety and security concerns expressed by the applicant and provide with a design solution that would be more compatible with the surrounding context. With this modification, staff is supportive of the variance 1A requested.

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 Design Review criteria and Practical Difficulty and Hardship criteria.

TRM/JGM/IV

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

MEETING DATE: February 02, 2016

FILE NO: 23240

PROPERTY: **7902 Carlyle Avenue**

APPLICANT: Yeshiva Elementary School Inc

LEGAL: All of Block 4 less the northwesterly 2.5', "Tatum Waterway Subdivision", according to Plat thereof as recorded in Plat Book 46, Page 2, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new perimeter fence including a variance to exceed the maximum allowed height for a fence within the front yards.

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 a 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 2, 3, 5, and 6 contained in Section 118-251 of the Miami Beach Code.
- C. The project would be consistent with the criteria and requirements contained in section 118-251 if the following conditions are met:

1. Revised elevation, site plan and floor plan drawings for the proposed fencing at 7902 Carlyle Avenue shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:
 - a. The placement of the fence on top of the entry steps shall be eliminated and replaced with the fence terminating perpendicular to the building façade on the southwest corner of the building next to the steps, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - b. The final finished color of the fence shall be limited to natural aluminum or silver.
 - c. Final details of all fencing shall be required, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - d. Any new exterior handrails and support posts shall incorporate a flat profile. The final design details, dimensions material and color of all exterior handrails shall be made part of the building permit plans and shall be subject to the review and approval of staff.
 - e. 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.
 - f. 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.

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):
 1. A. A variance to exceed by 3'-0" the maximum allowed height of 5'-0" for a fence located adjacent to the front property line in order to construct a fence up to 8'-0" (11.75' NGVD) in height measured from the average grade of 3.75' NGVD.
 - B. ~~A variance to exceed by 2'-8" the maximum allowed height of 7'-0" for a fence located at 4 feet from the front property line in order to construct a fence over entry steps up to 9'-8" (13.41' NGVD) in height measured from the average grade of 3.75' NGVD. (Variance denied).~~

- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, only as it relates to Variance II.A.1A 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, as it relates to Variance II.A.1A as noted above:

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 as noted in II.A1B and grants the requested variance as noted in II.A.1A 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. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- 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 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 "Fence Egress for Yeshiva Elementary", as prepared by **USR Design Group** dated, signed, and sealed 12/08/2015, 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 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

