

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: March 8, 2016

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: File No. 7603 a/k/a/ BOA File No. 3760, **3425 Collins Avenue.**

The applicant, 3425 Collins, LLC., is requesting modifications to previously approved variances to reduce the Dune Overlay and Oceanfront Overlay required setbacks; to reduce the minimum required subterranean, pedestal and tower setbacks, to reduce the required sum of the side pedestal and tower setbacks, to exceed the maximum building and fence height and to exceed the maximum projection of balconies. Additionally, new variances are requested to leave underground sheet piles within the required front, side and rear setbacks, to reduce the required front setback for a driveway, to exceed the maximum allowed height for a porte-cochere and to exceed its maximum length, all as part of the renovation of an existing historic building and the construction of a new 16-story residential building.

STAFF RECOMENDATION

Approval of the variances

EXISTING STRUCTURES/SITE

Local Historic District:	Collins Waterfront
Status:	Contributing
Original Construction Date:	1940
Original Architect:	Roy France

ZONING / SITE DATA

Legal Description:	Lots 1 through 8, inclusive, and the 16.00 foot alley, all in block 21, of the amended map of the Ocean Front Property of Miami Beach Improvement Company, according to the plat thereof, recorded in plat book 5, pages 7 & 8 of the Public Records of Miami-Dade County, Florida.
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Zoning:	RM-3 (Residential Multifamily, Medium Intensity)
Future Land Use:	RM-3 (Residential Multifamily, Medium Intensity)

Lot Size:	73,812 S.F. (Max FAR = 3.0)
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Proposed FAR: 221,426 S.F. / 2.99 (Max FAR = 3.0), as represented by the applicant.
Proposed Height: 16-stories / 203'-0"
Proposed Use: Multi-Family Residential / 22 units + 42 units= 63 units

BACKGROUND

On November 14, 2014, the Board approved a Certificate of Appropriateness for the partial demolition, renovation and restoration of the existing 16-story hotel building, including the total demolition of the 1955 south addition, and the construction of a new 16-story detached ground level addition, as part of a new residential development.

On December 5, 2014, the Board of Adjustment granted variances for the new project under BOA File No. 3760.

THE PROJECT

The applicant has submitted plans entitled "Versailles", as prepared by Nichols Brosch Wurst Wolfe & Associates, Inc., dated January 20, 2016.

The applicant is proposing modifications to the previously approved project including modifications to the variances granted and the request for new variances, as part of the renovation of an existing historic building and the construction of a new 16-story residential building.

The following variances are requested/modified/granted for the project:

1. A variance to ~~waive~~ reduce 6'-0" ~~of~~ from the minimum required setback of 11'-0" from the Erosion Control Line in order to construct a perimeter fence* in the Dune Preservation Overlay District at 5'-0" from the Erosion Control Line and a height up to 16.50 NGVD. (Variance granted by the Board of Adjustment on December 5, 2014 and modified as noted herein).

- Variance requested from:

Sec. 142-775. - Development regulations

(d) Minimum yards. Minimum yards in the dune preservation district shall be as follows:

(3) Ten feet from the erosion control line when any structure has a finished floor elevation of three feet or less than the elevation of the top of the dune. For every additional one foot increase in the finished floor elevation of the structure an additional one foot of setback is required, to a maximum of 15 feet.

2. A. A variance to ~~waive~~ reduce 10'-0" ~~of~~ from the minimum required setback of 15'-0" from the side property line in order to construct a perimeter fence* in the Oceanfront Overlay District at 5'- 0" from the north property line and a height up to 16.50 NGVD. (Variance granted by the Board of Adjustment on December 5, 2014 and modified as noted herein).
- B. A variance to ~~waive~~ reduce 10'-0" ~~of~~ from the minimum required setback of 15'-0" from the side property line in order to construct a perimeter fence* in the Oceanfront Overlay District at 5'- 0" from the south property line and a height up to 16.50 NGVD.

(Variance granted by the Board of Adjustment on December 5, 2014 and modified as noted herein).

- Variance requested from:

Sec. 142-802. - Additional regulations for oceanfront lots.

These regulations apply to buildings and structures located west of the bulkhead line. Oceanfront lots shall have a minimum required rear yard setback of 50 feet at grade and subterranean levels measured from the bulkhead line in which there shall be no construction of any dwelling, hotel, apartment building, commercial building, seawall, parking areas, revetment or other structure incidental to or related to such structure except in accordance with the following provisions:

(3) There shall be a minimum required 15-foot setback from a side lot line and a minimum required ten-foot setback from the bulkhead line.

3. A. A variance to ~~waive~~ reduce all of the minimum required pedestal street side setback of 16'-0" in order to construct a new stairwell enclosure, elevated terrace and retaining wall stairs up to the north property line facing 35th Street. (Variance granted by the Board of Adjustment on December 5, 2014 and modified as noted herein.)
- B. A variance to ~~waive~~ reduce 5'-7" ~~of~~ from the minimum required pedestal street side setback of 16'-0" in order to construct a column in the elevated terrace at 10'-5" from the north property line facing 35th Street. (Variance granted by the Board of Adjustment on December 5, 2014 and modified as noted herein).

- Variance requested from:

Sec. 142-247. - Setback requirements.

The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:

Pedestal, side facing a street: Minimum—7.5 feet or 8% of lot width, whichever is greater

4. A. A variance to ~~waive~~ reduce by a range from 13'-2" to 5'-2" ~~8'-4"~~ of the minimum required pedestal street side setback of 16'-0" in order to construct the first and second floor columns at a setback ranging from 2'-10" to 10'-10" 7'-11" from the south property line facing 34th Street. (Variance granted by the Board of Adjustment on December 5, 2014 and modified as noted herein.)
- B. A variance to ~~waive~~ 8'-10" of the minimum required pedestal street side setback of 16'-0" in order to construct the generator room at 7'-2" from the south property line facing 34th Street. (Variance granted by the Board of Adjustment on December 5, 2014) and withdrawn in this application.)
- C. A variance to ~~waive~~ 13'-6" of the minimum required pedestal street side setback of 16'-0" in order to construct the lobby at 2'-6" from the south property line facing 34th Street. (Variance granted by the Board of Adjustment on December 5, 2014 and withdrawn in this application.)

~~B. D.~~ A variance to waive ~~reduce~~ a range from ~~15'-6 1/2"~~ 15'-4" to ~~3"~~ 7" the minimum required pedestal street side setback of 16'-0" in order to construct the ~~second~~, third and fourth floors of the new 16 story addition at a range from ~~5 1/2"~~ 8" to ~~15'-9"~~ 15'-5" from the south property line facing 34th Street. (Variance granted by the Board of Adjustment on December 5, 2014 and modified as noted herein.)

~~C. E.~~ A variance to waive ~~reduce~~ 11'-0" ~~of from~~ the minimum required pedestal street side setback of 16'-0" in order to construct a perimeter fence* at 5'-0" from the south property line facing 34th Street and a maximum height of 16.50 NGVD. (Variance granted by the Board of Adjustment on December 5, 2014 and modified as noted herein.)

- Variance requested from:

Sec. 142-247. - Setback requirements.

The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:

Pedestal, side facing a street: Minimum—7.5 feet or 8% of lot width, whichever is greater

5. A variance to waive ~~reduce~~ 31'-4" ~~31'-6 1/2"~~ ~~of from~~ the minimum required pedestal sum of the side setbacks of 32'-0" in order to provide a sum of the side yards of ~~5 1/2"~~ 8". (Variance granted by the Board of Adjustment on December 5, 2014 and modified as noted herein.)

- Variance requested from:

Sec. 142-247. - Setback requirements.

The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:

Pedestal, sum of the side yards shall equal 16% of lot width.

6. A. A variance to waive ~~8'-2"~~ of the minimum required subterranean street side setback of ~~10'-0"~~ in order to construct a portion of the retaining walls at ~~1'-10"~~ from the south property line facing 34th Street. (Variance granted by the Board of Adjustment on December 5, 2014 and withdrawn in this application.)

B. A variance to waive ~~reduce~~ 1'-10" ~~2'-1"~~ ~~of from~~ the minimum required subterranean street side setback of 10'-0" in order to construct columns at ~~7'-11"~~ 8'-2" from the south property line facing 34th Street. (Variance granted by the Board of Adjustment on December 5, 2014 and modified as noted herein.)

- Variance requested from:

Sec. 142-247. - Setback requirements.

The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:

Subterranean, Side facing a Street: 5 feet or 5% of the lot width, whichever is greater.

7. A. A variance to waive reduce a range from ~~45'-6-1/2"~~ 15'-4" to 3" 7" the minimum required tower street side setback of 16'-0" in order to construct the fourth through sixteen floors of the new 16 story addition at a range from ~~5-1/2" 8"~~ to 15'-9" 15'-5" from the south property line facing 34th Street. (Variance granted by the Board of Adjustment on December 5, 2014 and modified as noted herein.)
- B. A variance to waive reduce ~~7'-2" 7'-4"~~ of from the minimum required tower street side setback of 16'-0" in order to construct the pool and pool deck at 8'-10" 8'-11" from the south property line facing 34th Street. (Variance granted by the Board of Adjustment on December 5, 2014 and modified as noted herein.)

- Variance requested from:

Sec. 142-247. - Setback requirements.

The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:

Tower, Side Facing a Street: Minimum-7.5 feet or 8% of lot width, whichever is greater

8. A variance to waive reduce ~~25'-9" 26'-0-1/8"~~ of from the minimum required tower sum of the side setbacks of 32'-0" in order to provide a sum of the side yards of 6'-3" 5'-11-7/8". (Variance granted by the Board of Adjustment on December 5, 2014 and modified as noted herein.)

- Variance requested from:

Sec. 142-247. - Setback requirements.

The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:

Tower, sum of the side yards shall equal 16% of lot width.

9. ~~A variance to exceed by a range from 21% to 72% (4'-7" to 11'-7") the maximum allowable projection of 25% (4'-0") into the required street side setback of 16'-0" in order to construct balconies and roof overhangs with encroachments ranging from 46% to 97% (8'-7" to 15'-7") into the required street setback facing 34th Street. (Variance granted by the Board of Adjustment on December 5, 2014) and withdrawn in this application.)~~

- 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.

(4) Exterior unenclosed private balconies.

(7) Roof overhangs.

10. 9 A variance to exceed by 3'-0" the maximum permitted building height of 200'-0" in order to construct a new 16 story residential addition on the southwest side of the property with a maximum height of 203'-0" measured from base flood elevation plus 1'-0" (9.00'

NGVD) to the top of the roof kitchen counter. (Variance granted by the Board of Adjustment on December 5, 2014 and modified as noted herein.)

- Variance requested from:

Sec. 142-246. - Development regulations and area requirements.

(b) The lot area, lot width, unit size and building height requirements for the RM-3 residential multifamily, high intensity district are as follows:

Maximum Building Height (Feet): Oceanfront lots—200

The following are new variances:

10. A. A variance to reduce 4'-0" from the minimum required subterranean street side setback of 10'-0" in order to leave underground sheet piles for the construction of the basement retaining walls at 6'-0" from the north property line facing 35th Street.
- B. A variance to reduce a range from 10'-0" to 6'-0" from the minimum required subterranean street side setback of 10'-0" in order to leave underground sheet piles for the construction of the basement retaining walls at a range from 0'-0" to 4'-0" from the south property line facing 34th Street.

- Variance requested from:

Sec. 142-247. - Setback requirements.

The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:

Subterranean, Side facing a Street: 5 feet or 5% of the lot width, whichever is greater.

The expansion of the historic tower basement to a deeper level may create conflicts with the existing basement, which is partially below grade. The sheet piles to construct the basement retaining walls are proposed to be left underground in order to cause minimum disturbance to the surrounding utilities and to the existing structure of the historic tower, as expressed by the applicant in the hardship letter. Staff finds that these conditions and the existing historic building create practical difficulties that justify the need for the requested variance.

11. A variance to reduce 4'-0" from the minimum required subterranean rear setback of 50'-0" in order to leave underground sheet piles for the construction of the basement retaining walls at 46'-0" from the rear property line.

- Variance requested from:

Sec. 142-247. - Setback requirements.

The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:

Subterranean, Rear: Oceanfront lots—50 feet from bulkhead line.

The new basement addition is proposed with a reduction of 4'-0" from the required rear setback for subterranean structures. This request responds to the applicant's intent to minimize the disturbance of the existing historic tower structure and surrounding utilities that may be affected

with the extension of the basement to a lower level, as expressed by the applicant in the hardship letter. Staff finds that these are practical difficulties that justify the variance requested.

12. A variance to reduce 4'-0" from the minimum required subterranean front setback of 20'-0" in order to leave underground sheet piles for the construction of the basement retaining walls at 16'-0" from the front property line facing Collins Avenue.

- Variance requested from:

Sec. 142-247. - Setback requirements.

The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:

Subterranean, Front: 20 feet.

The new basement addition is proposed with a reduction of 4'-0" from the required front setback for subterranean structures. This request is similar to the sides and rear reduction of the required setbacks in order to minimize the disturbance of the existing historic tower structure and surrounding utilities that may be affected with the extension of the basement to a lower level than the existing basement, as expressed by the applicant in the hardship letter. Staff finds that these are practical difficulties that justify the variance requested.

13. A variance to exceed by 10.6% (9'-5") the maximum permitted width of 30% (26'-7") of the building's core front (88'-8") in order to construct a new porte-cochere with a width of 40.6% (36'-0") of the building's front, facing Collins Ave.

- Variance requested from:

Sec. 142-1132. Allowable encroachments within required yards

(n)Porte-cochere. A porte-cochere shall be permitted to extend from an entrance door to the street line of any building except that porte-cocheres shall not be permitted in a single-family or townhome district. Where a sidewalk or curb exist, the porte-cochere may extend to within 18 inches of the sidewalk. The porte-cochere shall not exceed 30 percent of building core frontage in width or 16 feet in height or be screened or enclosed in any manner. It shall provide an unobstructed, clear space of not less than nine feet between the grade and the underside of the roof of the porte-cochere.

The existing concrete porte-cochere will be replaced with a new structure that exceeds by 9'-5" the maximum width allowed within the existing building frontage. Although the width of the portion attached to the building is smaller than the width of the current porte-cochere, it does not comply with the maximum width permitted in today's code. The proposed structure consists of lightweight materials, and it is compatible with the massing of the building. Based on the existing configuration of the front of the historic building, the requested variance is the minimum required in order to construct the new porte-cochere, comply with the certificate of appropriateness criteria and to not adversely affect the existing front façade. Staff finds that this condition justifies the variance requested.

14. A variance to exceed by 2'-0" the maximum permitted height of 16'-0" for a porte-cochere in order to construct a new porte-cochere in front of the property up to 18'-0" in height, facing Collins Ave.

- Variance requested from:

Sec. 142-1132. Allowable encroachments within required yards

(n)Porte-cochere. A porte-cochere shall be permitted to extend from an entrance door to the street line of any building except that porte-cocheres shall not be permitted in a single-family or townhome district. Where a sidewalk or curb exist, the porte-cochere may extend to within 18 inches of the sidewalk. The porte-cochere shall not exceed 30 percent of building core frontage in width or 16 feet in height or be screened or enclosed in any manner. It shall provide an unobstructed, clear space of not less than nine feet between the grade and the underside of the roof of the porte-cochere.

The new porte-cochere exceeds the maximum height permitted within the front yard. The roof structure has a height of 14'-8" closer to the sidewalk and slopes up to 19' in height at the 20 feet front setback line. The existing difference between the sidewalk elevation of 3'-7" and the entry lobby finish floor elevation of 10'-0" is approximately 6'-5". This condition creates practical difficulties for the design of the new porte-cochere in order to comply with the certificate of appropriateness criteria and be compatible with the existing context. Staff finds that the historic building justify this variance request.

15. A variance to reduce 4'-0" from the minimum required front setback of 20'-0" for at grade parking in order to construct a new driveway at 7'-6" from the front property line facing Collins Avenue.

- Variance requested from:

Sec. 142-247. - Setback requirements.

The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:

At-grade parking lot on the same lot, Front: 20 feet.

A new front driveway is also proposed to replace the existing non-conforming driveway. In the residential multifamily districts driveway and parking surfaces are required to be setback 20 feet from the front property line. In this case, the driveway, is associated with the porte-cochere located within the front yard. The driveway and porte-cochere are existing historic structures associated with the main building. Staff finds that the proposed driveway is in keeping with the character of the historic building which create practical difficulties that justify this variance request.

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. **In this case the requested variances are necessary in order to satisfy the Certificate of Appropriateness criteria and to not adversely impact the existing contributing building.**

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. The conversion of the existing hotel building to residential multifamily would require that each unit comply with a minimum area of 400 s.f.

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 subject property is an oceanfront lot located within the Collins Waterfront Local Historic District. The site contains the Versailles Hotel constructed in 1940 and designed by Roy France. The building is classified as 'Contributing' in the Miami Beach Historic Properties Database. The application for the renovation and restoration of the original building, demolition of the 8-story south addition constructed in 1955 and the construction of a new 16-story, 200-foot residential tower on the southwest corner of the site was approved by the Historic Preservation Board on November 14, 2014. Consequently, on December 5, 2014, the Board of Adjustment granted variances for the new project under BOA File No. 3760.

The applicant has since changed some aspects of the project including modifications to the previously approved variances and the request for new variances which now are under the jurisdiction of the Historic preservation Board and will be subject to the Board's site plan review and approval. Staff finds that the applicant's requests satisfy the practical difficulties that justify the variances requested, as noted under the Project Description section of this report.

Staff is very supportive of the overall project, and commends the applicant for the much needed renovation of the subject structure, which has remained vacant for several years.

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: March 8, 2016

FILE NO: 7603

PROPERTY: 3425 Collins Avenue

APPLICANT: 3425 Collins, LLC.

LEGAL: Lots 1 through 8, inclusive, and the 16.00 foot alley, all in block 21, of the amended map of the Ocean Front Property of Miami Beach Improvement Company, according to the plat thereof, recorded in plat book 5, pages 7 & 8 of the Public Records of Miami-Dade County, Florida.

IN RE: The application for modifications to previously approved variances to reduce the Dune Overlay and Oceanfront Overlay required setbacks; to reduce the minimum required subterranean, pedestal and tower setbacks, to reduce the required sum of the side pedestal and tower setbacks, to exceed the maximum building and fence height and to exceed the maximum projection of balconies. Additionally, new variances are requested to leave underground sheet piles within the required front, side and rear setbacks, to reduce the required front setback for a driveway, to exceed the maximum allowed height for a porte-cochere and to exceed its maximum length, all as part of the renovation of an existing historic building and the construction of a new 16-story residential building.

CONSOLIDATED 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

A. Certificate of Appropriateness has not been requested as part of this application.

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
1. A variance to reduce 6'-0" from the minimum required setback of 11'-0" from the Erosion Control Line in order to construct a perimeter fence in the Dune Preservation Overlay District at 5'-0" from the Erosion Control Line and a height up to 16.50 NGVD.
 2. A. A variance to reduce 10'-0" from the minimum required setback of 15'-0" from the side property line in order to construct a perimeter fence in the Oceanfront Overlay District at 5'-0" from the north property line and a height up to 16.50 NGVD.

B. A variance to reduce 10'-0" from the minimum required setback of 15'-0" from the side property line in order to construct a perimeter fence in the Oceanfront Overlay District at 5'-0" from the south property line and a height up to 16.50 NGVD.
 3. A. A variance to reduce all minimum required pedestal street side setback of 16'-0" in order to construct new stairs up to the north property line facing 35th Street.

B. A variance to reduce 5'-7" from the minimum required pedestal street side setback of 16'-0" in order to construct a column in the elevated terrace at 10'-5" from the north property line facing 35th Street.
 4. A. A variance to reduce by a range from 13'-2" to 5'-2" the minimum required pedestal street side setback of 16'-0" in order to construct the first and second floor at a setback ranging from 2'-10" to 10'-10" from the south property line facing 34th Street.

B. A variance to reduce a range from 15'-4" to 3" the minimum required pedestal street side setback of 16'-0" in order to construct the third and fourth floors of the new 16 story addition at a range from 8" to 15'-9" from the south property line facing 34th Street.

C. A variance to reduce 11'-0" from the minimum required pedestal street side setback of 16'-0" in order to construct a perimeter fence at 5'-0" from the south property line facing 34th Street and a maximum height of 16.50 NGVD.
 5. A variance to reduce 31'-4" from the minimum required pedestal sum of the side setbacks of 32'-0" in order to provide a sum of the side yards of 8".
 6. A variance to reduce 1'-10" from the minimum required subterranean street side setback of 10'-0" in order to construct columns at 8'-2" from the south property line facing 34th Street.

7. A. A variance to reduce a range from 15'-4" to 3" the minimum required tower street side setback of 16'-0" in order to construct the fourth through sixteen floors of the new 16 story addition at a range from 8" to 15'-9" from the south property line facing 34th Street.

B. A variance to reduce 7'-2" from the minimum required tower street side setback of 16'-0" in order to construct the pool and pool deck at 8'-10" from the south property line facing 34th Street.
8. A variance to reduce 25'-9" from the minimum required tower sum of the side setbacks of 32'-0" in order to provide a sum of the side yards of 6'-3".
9. A variance to exceed by 3'-0" the maximum permitted building height of 200'-0" in order to construct a new 16 story residential addition on the southwest side of the property with a maximum height of 203'-0" measured from base flood elevation plus 1'-0" (9.00' NGVD) to the top of the roof kitchen counter.
10. A. A variance to reduce 4'-0" from the minimum required subterranean street side setback of 10'-0" in order to leave underground sheet piles for the construction of the basement retaining walls at 6'-0" from the north property line facing 35th Street.

B. A variance to reduce a range from 10'-0" to 6'-0" from the minimum required subterranean street side setback of 10'-0" in order to leave underground sheet piles for the construction of the basement retaining walls at a range from 0'-0" to 4'-0" from the south property line facing 34th Street.
11. A variance to reduce 4'-0" from the minimum required subterranean rear setback of 50'-0" in order to leave underground sheet piles for the construction of the basement retaining walls at 46'-0" from the rear property line.
12. A variance to reduce 4'-0" from the minimum required subterranean front setback of 20'-0" in order to leave underground sheet piles for the construction of the basement retaining walls at 16'-0" from the front property line facing Collins Avenue.
13. A variance to exceed by 10.6% (9'-5") the maximum permitted width of 30% (26'-7") of the building's core front (88'-8") in order to construct a new porte-cochere with a width of 40.6% (36'-0") of the building's front, facing Collins Ave.
14. A variance to exceed by 2'-0" the maximum permitted height of 16'-0" for a porte-cochere in order to construct a new porte-cochere in front of the property up to 18'-0" in height, facing Collins Ave.
15. A variance to reduce 4'-0" from the minimum required front setback of 20'-0" for at grade parking in order to construct a new driveway at 7'-6" from the front property line facing Collins Avenue.

- 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. Revised detailed drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:

- a. The top of the foundation of any structure and the top of underground sheet piles shall be at least 3' below the grade elevation (3.58' NGVD) established for the property in order to provide enough rooting space for the proposed landscape.
3. 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.
 4. 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. 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.
 - f. Any existing plant material within the public right-of-way may be required to be removed, at the discretion of the Public Works Department.

- g. 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.
- h. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- i. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms; such transformers and vault rooms, and all other related devices and fixtures, shall not be permitted within any required yard or any area fronting a street or sidewalk. The location of any exterior transformers, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- j. 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.

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. 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.
- 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 the Board Order.
- C. Site plan approval is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed prior to the issuance of a Building Permit.
- D. The Applicant agrees that a project manager will be retained to ensure that all aspects of the development permitting and licensing processes are coordinated and consistent with the approved plans. The applicant agrees to submit the name and contact information for the project manager to the Planning Department within 90 days of the March 8, 2016

meeting. Failure to comply with this condition within the specified time shall result in notice and a hearing before the Board to extend the timeframe.

- E. All costs associated with the design, construction and maintenance of all improvements required within the public right-of-way shall be the responsibility of the applicant.
- F. This Final Order consolidates all conditions and requirements for Variance approvals as same are contained herein, in the original BOA Final Order dated December 5, 2014. Accordingly, this Order shall serve as the Final Order for the proposed project and, in the event of conflict between the provisions hereof and those of the December 5, 2014 Order, the provisions hereof shall control.
- G. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- H. The applicant shall comply with all conditions imposed by the Public Works Department.
- I. The applicant shall submit a Hold Harmless Covenant Running with the Land to the City Attorney's Office in a form acceptable to the City Attorney indemnifying and holding harmless the city against any claim or loss in the event of an accident involving a motor vehicle or other instrumentality due to the proximity of the new building to the public right-of-way
- J. 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.
- K. 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.
- L. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- M. 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.
- N. 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.
- O. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.

P. 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 December 5, 2014 Board of Adjustment public hearing and the March 16, 2016 Historic Preservation Board 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 "Versailles", as prepared by Nichols Brosch Wurst Wolfe & Associates, Inc., dated January 20, 2016, as approved by the Historic Preservation Board, as determined by staff.

This Final Order consolidates all conditions and requirements for variance approval as same are contained herein, in the original Order of December 5, 2014 and in the Consolidated Order of March 16, 2016. Accordingly, this Order shall serve as the Final Order for the proposed project and, in the event of conflict between the provisions hereof and those of the December 5, 2014 and March 16, 2016 Orders, the provisions hereof shall control.

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 (December 5, 2014), 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 _____ ())