

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: January 10, 2023

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: HPB22-0521, **803 2nd Street.**

An application has been filed requesting a Certificate of Appropriateness for the total demolition of an existing building and the construction of a new single-family home, including variances from the minimum required setbacks, lot width and lot area.

RECOMMENDATION

Approval of the Certificate of Appropriateness with conditions.

Approval of the variances with conditions.

BACKGROUND

On December 13, 2022 the Historic Preservation Board reviewed and continued the subject application to a date certain of January 10, 2023.

EXISTING STRUCTURE

Local Historic District:	Ocean Beach
Classification:	Contributing
Construction Date:	1923
Architect:	Unknown

ZONING / SITE DATA

Folio:	02-4203-009-5373
Legal Description:	The south 6 feet of the east 44.63 feet, Lot 7 & the east 44.63 feet of Lot 8, Block 77 of the Ocean Beach Addition No. 3, According to the Plat Thereof, as Recorded in Plat Book 2, Page 81, of the Public Records of Miami-Dade County, Florida.
Zoning:	RPS-2, Residential performance standard, medium density
Future Land Use Designation:	RPS-2, Residential performance standard, medium density
Lot Size:	2,499 S.F. / 1.5 Max FAR
Existing FAR:	1,080 S.F. / 0.43 FAR
Proposed FAR:	3,717 S.F. / 1.48 FAR
Existing Height:	~12'-0"
Proposed Height:	36'-8"

Existing Use/Condition: Multi-family residential
Proposed Use: Single-family residential

THE PROJECT

The applicant has submitted plans entitled “Private Residence 803 Second Street”, as prepared by Studio McG Architecture, dated December 19, 2022.

COMPLIANCE WITH ZONING CODE

The application, as submitted, appears to be consistent with the requirements of the City Code, with the exception of the variances requested 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.

CONSISTENCY WITH 2040 COMPREHENSIVE PLAN

A preliminary review of the project indicates that the existing single-family residential use is **consistent** with the Future Land Use Map of the Comprehensive Plan.

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 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 SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.
Not Satisfied
A recycling or salvage plan has not been submitted.
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Not Applicable
No existing windows are proposed to be replaced.
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Satisfied
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.
Satisfied
- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.
Satisfied
The land elevation of the site is consistent with the surrounding properties.
- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.
Satisfied
- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.
Satisfied
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.
Satisfied
According to the structural engineering report, it is not feasible to elevate the existing building to base flood elevation +1'-0" without its demolition and reconstruction.

- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.
Not Applicable
Habitable space is not proposed below base flood elevation plus freeboard within the proposed rear addition.
- (10) In all new projects, water retention systems shall be provided.
Satisfied
Additional information shall be provided at the time of building permit review.
- (11) Cool pavement materials or porous pavement materials shall be utilized.
Satisfied
Additional information shall be provided at the time of building permit review.
- (12) The project design shall minimize the potential for a project causing a heat island effect on site.
Satisfied

COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA

A decision on an application for a Certificate of Appropriateness shall be based upon the following:

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
- a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.
Satisfied
 - b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.
Satisfied
- II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
- a. Exterior architectural features.
Satisfied
 - b. General design, scale, massing and arrangement.
Satisfied
 - c. Texture and material and color.
Satisfied

- d. The relationship of a, b, c, above, to other structures and features of the district.
Satisfied
 - e. The purpose for which the district was created.
Satisfied
 - f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.
Satisfied
 - g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.
Satisfied
 - h. The original architectural design or any subsequent modifications that have acquired significance.
Not Applicable
- III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
- a. 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.
Satisfied
 - b. 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 applicant has requested variances to reduce the minimum required lot size and lot width.
 - c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.
Satisfied
 - d. The proposed structure, and/or additions to an existing structure is appropriate to and compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties, or the purposes for which the district was created.
Satisfied

The proposed vehicular entrance has been located on 2nd Street in order to mitigate potential adverse impacts to the existing specimen Calophyllum tree located within the Meridian Avenue right-of-way.

- e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces 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 preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.

Satisfied

- f. 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 any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.

Satisfied

- g. 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 and consistent with a City master plan, where applicable.

Satisfied

- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

Satisfied

- i. 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.

Satisfied

- j. Any proposed new structure shall have 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

- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, 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 sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the

appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.

Satisfied

- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

Satisfied

- m. Any 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

- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.

Satisfied

- o. 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.

Satisfied

CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION EVALUATION CRITERIA

Section 118-564 (f)(4) of the Land Development Regulations of the Miami Beach Code provides criteria by which the Historic Preservation Board evaluates requests for a Certificate of Appropriateness for Demolition. The following is an analysis of the request based upon these criteria:

- a. The Building, Structure, Improvement, or Site is designated on either a national or state level as a part of an Historic Preservation District or as a Historic Architectural Landmark or Site, or is designated pursuant to Division 4, Article X, Chapter 118 of the Miami Beach Code as a Historic Building, Historic Structure or Historic Site, Historic Improvement, Historic Landscape Feature, historic interior or the Structure is of such historic/architectural interest or quality that it would reasonably meet national, state or local criteria for such designation.

Satisfied

The existing building is designated as part of the Ocean Beach Local Historic District.

- b. The Building, Structure, Improvement, or Site is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.

Not Satisfied

The existing building is not of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense. Exact reproduction of the original design would not be possible due to current Building Code requirements.

- c. The Building, Structure, Improvement, or Site is one of the last remaining examples of its kind in the neighborhood, the country, or the region, or is a distinctive example of an architectural or design style which contributes to the character of the district.

Satisfied

The existing building is one of the last remaining examples of its kind in the neighborhood.

- d. The building, structure, improvement, or site is a Contributing building, structure, improvement, site or landscape feature rather than a Non-Contributing building, structure, improvement, site or landscape feature in a historic district as defined in section 114-1, or is an architecturally significant feature of a public area of the interior of a historic or Contributing building.

Satisfied

The building is classified as a Contributing building in the Miami Beach Historic Properties Database.

- e. Retention of the Building, Structure, Improvement, Landscape Feature or Site promotes the general welfare of the City by providing an opportunity for study of local history, architecture and design or by developing an understanding of the importance and value of a particular culture and heritage.

Satisfied

The retention of structure is critical to developing an understanding of an important early Miami Beach architectural style.

- f. If the proposed demolition is for the purpose of constructing a parking garage, the Board shall consider it if the parking garage is designed in a manner that is consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, U.S. Department of the Interior (1983), as amended, and/or the design review guidelines for that particular district.

Not Applicable

The demolition proposed in the subject application is not for the purpose of constructing a parking garage.

- g. In the event an applicant or property owner proposes the total demolition of a Contributing structure, historic structure or architecturally significant feature, there shall be definite plans presented to the board for the reuse of the property if the proposed demolition is approved and carried out.

Satisfied

The applicant has presented plans for the reuse of the property as part of this application.

- h. The Dade County Unsafe Structures Board has ordered the demolition of a Structure without option.

Not Applicable

The Miami Dade County Unsafe Structures Board has not ordered the demolition of the structure.

ANALYSIS

The applicant is proposing to construct a new single-family residential structure on the site. In order to construct the new building, the applicant is proposing the total demolition of the existing 1-story Contributing building.

Update

On December 13, 2022, the Board reviewed and continued the subject application to give the applicant additional time to address concerns expressed by the Board. Since the December meeting, the applicant has submitted revised plans including the following modifications:

- The design of the ground level façade along 2nd Street has been revised including the replacement of the previously proposed gate within the garage opening with a garage door clad in stone.
- The design of the ground level façade along Meridian Avenue has been revised including removal of the previously proposed reinterpreted site wall (which eliminates the associated setback variance) and the introduction of additional areas of solid wall.

The introduction of additional solid areas at the ground level is generally consistent with direction given by several Board members. The Meridian Avenue elevation recalls the ratio of solid wall area of the existing Contributing building. The 2nd Street elevation, however, is composed of what appears to be a single solid stone clad wall due to the proposed match garage door cladding. Staff believes this elevation is less successful and recommends further development in order to break down the scale and massing of this portion of the building. This could include the introduction of glazing or decorative metal screening similar to the previously proposed design within the garage door. Further, in order to break down the scale of the building as a whole and to more appropriately recall the character of the Contributing building, staff would recommend that the stone cladding at the ground level from Meridian Avenue to the garage on 2nd Street, be replaced with a contrasting material such as a smooth or textured stucco finish.

Notwithstanding the recommendations noted above, staff is supportive of the currently proposed design which staff believes adequately addresses the comments issued by the Board, including the elimination of the setback variance. As such, staff recommends approval subject to the conditions outlined in the draft Order attached.

VARIANCE ANALYSIS

The applicant is requesting the following variances:

1. A variance to reduce by 3,250.72 sq. ft. the minimum required lot area of 5,750 sq. ft. within the RPS-2 zoning district in order to construct a single-family residential building on a property with a lot area of 2,499.28 sq. ft. Variance requested from:

Sec. 142-696. Residential performance standard area requirements.

The residential performance standard area requirements are as follows:

Minimum lot area, RPS2: 5,750 square feet

2. A variance to reduce by 5.37' the minimum required lot width of 50.0' within the RPS-2 district in order to construct a single-family residential building on a property with a lot width of 44.63'. Variance requested from:

Sec. 142-696. Residential performance standard area requirements.

The residential performance standard area requirements are as follows:

Minimum lot width, RPS2: 50 feet

The subject property was originally platted with the two adjacent sites to the west as part of Lot 8, Block 77 and later subdivided as three separate properties, including 6 feet of Lot 7 to the north. All three properties fronting 2nd Street are non-conforming with regard to lot area and lot width in their current configurations. The subject lots size is 2,499.28 sq. ft., where the minimum required is 5,750 sq. ft. within the RPS-2 district. The existing lot width of 47.63' is also non-conforming, as the minimum required lot width is 50.0'.

Without the granting of these variances, the construction of the proposed residential building, or any new structure for that matter, would not be permitted. Staff finds that the existing size of the lot and existing lot width, establishes the hardship that justifies the variances requested.

3. A variance to reduce by 2'-8" the minimum required side facing a street setback of 5'-0" in order to construct a portion of the building with a setback of 2'-4" from the east side property line. **Variance not required for currently proposed design.**

RECOMMENDATION

In view of the foregoing analysis, staff recommends the application, inclusive of the requested variances, be **approved** subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Certificate of Appropriateness and Practical Difficulty and Hardship criteria, as applicable.

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: January 10, 2023

PROPERTY/FOLIO: 803 2nd Street / 02-4203-009-5373

FILE NO: HPB22-0521

APPLICANT: Victor A. Bared

IN RE: An application has been filed requesting a Certificate of Appropriateness for the total demolition of an existing building and the construction of a new single-family home, including variances from the minimum required setbacks, lot width and lot area.

LEGAL: The south 6 feet of the east 44.63 feet, Lot 7 & the east 44.63 feet of Lot 8, Block 77 of the Ocean Beach Addition No. 3, According to the Plat Thereof, as Recorded in Plat Book 2, Page 81, of the Public Records of Miami-Dade County, Florida.

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. The subject site is located within the Ocean Beach Local Historic District.
- 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:
 - 1. Is not consistent with Sea Level Rise and Resiliency Review Criteria (1) in Section 133-50(a) of the Miami Beach Code.
 - 2. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
 - 3. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(2) of the Miami Beach Code.
 - 4. Is not consistent with Certificate of Appropriateness Criteria 'b' in Section 118-564(a)(3) of the Miami Beach Code.
 - 5. Is not consistent with Certificate of Appropriateness Criteria 'b' in Section 118-564(f)(4) of the Miami Beach Code.

C. The project would be consistent with the criteria and requirements of section 118-564 and 133-50(a) if the following conditions are met:

1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
 - a. The garage door design shall be further developed and shall incorporate additional fenestration which may include glazing, openings or decorative screens, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - b. The stone cladding at the ground level from Meridian Avenue to the garage on 2nd Street shall be replaced with a contrasting material such as a smooth or textured stucco finish, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - c. The north and west facades shall be further developed, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - d. A plaque or historic display describing the history and evolution of the original building shall be placed on the reinterpreted facade in a manner visible from the right of way, prior to the issuance of a Certificate of Occupancy for the building, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - e. Final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - f. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and elevation drawings and shall be screened from view, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from 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. In the event the City's Building Official issues an Emergency Demolition Order for the structure, following demolition the entire site shall be thoroughly cleaned, evenly leveled, and landscaped in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. An aluminum picket fence shall be required surrounding the entire property. Such fence shall be black or dark green, and shall contain a vehicular access gate adjacent to the alley, in a manner to be reviewed and approved by

staff. The grass and landscape materials shall remain properly maintained, irrigated, and trimmed at all times, subject to periodic staff review, until such time as the entire site is redeveloped.

- b. A comprehensive Tree Report prepared by a ISA Certified Arborist shall be submitted for the specimen Calophyllum tree located within the Meridian Avenue right-of-way and shall include special instructions on how to preserve the tree through all phases of construction. Additionally, a three-dimensional diagram shall be provided of the proposed building and the existing Calophyllum tree located within the Meridian Avenue right-of-way in order to determine any potential adverse impacts the new building may have on the specimen tree. Should the City of Miami Beach Urban Forester determined that the new construction would have a significant adverse impact on the health of the tree, then the proposed plan should subject to the review and approval of the Board.
- c. The proposed landscape plan shall satisfy minimum landscape code requirements as prescribed by CMB Code Chapter 126.
- d. All hedge and ground cover plantings within the street facing yards shall not exceed 42" in height at maturity.
- e. 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.
- f. The project design shall minimize the potential for a project causing a heat island effect on site.
- g. Cool pavement materials or porous pavement materials shall be utilized.

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 reduce by 3,250.72 sq. ft. the minimum required lot area of 5,750 sq. ft. within the RPS-2 district in order to construct a single-family residential building on a property with a lot area of 2,499.28 sq. ft.
 - 2. A variance to reduce by 5.37' the minimum required lot width of 50.0' within the RPS-2 district in order to construct a single-family residential building on a property with a lot width of 44.63'.

3. ~~A variance to reduce by 2' 8" the minimum required side facing a street setback of 5' 0" in order to construct a portion of the building with a setback of 2' 4" from the east side property line.~~ **Variance not required for plans dated December 19, 2022.**

- 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.

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. The applicant agrees and shall be required to provide access to areas subject to this approval (not including private residences or hotel rooms) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the plans approved by the Board and conditions of this order.
- B. The issuance of a building permit is contingent upon meeting Public School Concurrency requirements, if applicable. 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. No building permit may be issued unless and until the applicant obtains a written finding from Miami-Dade County Public Schools that the applicant has satisfied school concurrency.
- C. The relocation of any tree shall be subject to the approval of the Environment & Sustainability Director and/or Urban Forester, as applicable.
- D. 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.
- E. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- F. 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.
- G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- H. 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.
- I. 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.

- J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- K. 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.
- L. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

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 entitled **"Private Residence 803 Second Street", as prepared by Studio McG Architecture, dated December 19, 2022**, 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
HISTORIC PRESERVATION & ARCHITECTURE OFFICER
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, Historic Preservation & Architecture Officer, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She 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 _____ ()