



BOARD OF ADJUSTMENT

AFTER ACTION REPORT

FRIDAY, JUNE 5, 2009

9:00 A.M.

CITY COMMISSION CHAMBERS, THIRD FLOOR
1700 CONVENTION CENTER DR., MIAMI BEACH, FLORIDA

A. ITEM TO BE CONTINUED

1. **FILE NO. 3417** **SOUTH BEACH RESORT DEVELOPMENT, LLC.
1458 OCEAN DRIVE AND 1437 COLLINS AVENUE
LOTS 5 AND 6, HARRISON &
HAYES SUBDIVISION,
PLAT BOOK 9, PG 73;
MIAMI-DADE COUNTY, FLORIDA**

The applicant is requesting the following variance in order to operate an accessory outdoor bar counter with extended hours of operation:

1. A variance to exceed the allowable hours of operation of an accessory outdoor bar counter until 2:00 am.

THIS CASE WAS CONTINUED BY STAFF TO THE JULY 10, 2009 MEETING.

B. MODIFICATION

2. **FILE NO. 2684** **ELOHIM JIREH INVESTMENTS, INC.
1436 DREXEL AVENUE
ESPANOLA VILLAS FIRST ADDITION
LOT 1 LESS N3FT FOR ST AND
LOT 2 LESS N3FT FOR ST; BLOCK 4 B,
PLAT BOOK 9 PG 147;
MIAMI-DADE COUNTY, FLORIDA**

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The applicant is requesting the following modification to the BOA Order File No. 2684, dated November 5, 2004:

1. The subject establishment shall operate as a restaurant only, with only background music permitted. License approval for Entertainment Establishment and/or Dance Hall shall not be permitted (*as per Section 114-1 of the City Code, definitions are as follows: Entertainment establishment means a commercial establishment with any live or recorded, amplified or non-amplified performance, (excepting television, radio and/or recorded background music, played at a volume that does not interfere with normal conversation, and indoor movie theater operations). Dance hall means a commercial establishment where dancing by patrons is allowed, including, but not limited to, restaurants, alcoholic beverage establishments and entertainment establishments.*). The applicant may, in future, request that this condition be modified by the Board of Adjustment by applying for a modification to the variance order.

THIS CASE WAS WITHDRAWN BY THE APPLICANT.

C. NEW CASES

3. **FILE NO. 3418** **HOSPITALITY VENTURES, INC.
1413-1415 WASHINGTON AVENUE
LOT 13; BLOCK 26 OF
OCEAN BEACH ADDITION NO 2,
PLAT BOOK 2 PG 56;
MIAMI-DADE COUNTY, FLORIDA**

The applicant is requesting the following variance in order to sell alcoholic beverages at a proposed restaurant:

1. A variance to waive 196 feet of the minimum required 300 foot separation between a business that sells alcoholic beverages for consumption and an existing educational facility, Fisher-Feinberg Elementary School in order to sell alcoholic beverages for consumption on the premises with a distance of 104 feet to the school.

BIFURCATED: VARIANCE REQUEST APPROVED, RESTRICTIONS ON HOURS OF ALCOHOL SALES CONTINUED TO THE JULY 10, 2009 MEETING.

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4. **FILE NO. 3419** **CREA CAFÉ, LLC.**
D/B/A MATTARELLO BAKERY CAFE
1450 WASHINGTON AVENUE
ESPANOLA VILLAS 1ST ADDITION
LOTS 1-2-3-4-5-6 EACH LESS S3FT FOR ST
BLOCK 3A
PLAT BOOK 9 PG 147;
MIAMI-DADE COUNTY, FLORIDA

The applicant is requesting the following variances in order to sell beer and wine at an existing café:

1. A variance to waive 143 feet of the minimum required 300 foot separation between a business that sells alcoholic beverages for consumption and an existing educational facility, Fisher-Feinberg Elementary School in order to sell beer and wine for consumption on the premises with a distance of 157 feet to the school.
2. A variance to waive twenty-two (22) seats of the minimum requirement of thirty (30) seats for an eight (8) seat cafe to serve beer and wine for consumption on the premises.

BIFURCATED: VARIANCE REQUEST APPROVED, RESTRICTIONS ON HOURS OF ALCOHOL SALES CONTINUED TO THE JULY 10, 2009 MEETING.

5. **FILE NO. 3420** **SCOTT ROBINS AS PRESIDENT OF**
8TH STREET WASHINGTON HOLDINGS, INC.
743 WASHINGTON AVENUE
LOT 14, BLOCK 33 OF OCEAN
BEACH ADDITION # 1
PLAT BOOK 3, PG 11;
MIAMI-DADE COUNTY, FLORIDA

The applicant is requesting the following variance in order to operate a dance hall / entertainment establishment not also operating as a restaurant at the subject location:

1. A variance to waive the minimum distance separation of 300 feet required between dance hall/entertainment establishments licensed to sell alcoholic beverages, and not also operating as a restaurant with full kitchen and serving full meals:

APPROVED WITH CONDITION NO. 19 MODIFIED.

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6. **FILE NO. 3421** **PESTANA MIAMI, LLC.**
1817, 1831, 1835-37-39 JAMES AVENUE
LOTS 10, 11, 12 and NORTH ½ OF LOT 13 AND
WEST 25 FT. OF LOT 4; BLOCK 2, OF
FISHER'S FIRST ADDITION OF ALTON BEACH
PLAT BOOK 2, PG 77;
MIAMI-DADE COUNTY, FLORIDA

The applicant is requesting the following variance in order to permit the rehabilitation of three existing structures (under Unity of Title):

1. A variance to waive the required minimum hotel unit size as follows:

1817 James Avenue:

31% of the proposed units to be under 300 s.f. (17 units) (254 s.f. to 290 s.f.)

36% of the proposed units to be between 300-334 s.f. (20 units)

33% of the units proposed to be 335 s.f. and above (18 units)

1835-37-39 James Avenue:

38% of the units proposed to be between 300-334 s.f.

62% of the proposed units to be 335 s.f. and above

APPROVED WITH ADDITIONAL CONDITIONS.

7. **FILE NO. 3422** **RALPH SACCO AND SCOTT DUTCHER**
405 EAST SAN MARINO DRIVE
LOT 11, IN BLOCK 3, OF SAN MARINO
PLAT BOOK 9, PG 22;
MIAMI-DADE COUNTY, FLORIDA

The applicant is requesting an after-the-fact variance in order to retain an existing pool and its deck at the rear of the existing single family residence:

1. An after-the-fact variance to waive 1'-2" and 1'-11" of the required interior side yard setback of 7'-6" from the pool deck and 9'-0" from the water's edge to an interior property line in order to retain the existing pool deck at 6'-4" and the water's edge at 7'-1" from the north property line.

APPROVED.

8. **FILE NO. 3423** **OSCAR AND ELENA FELDENKREIS**

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**5222 -5224 NORTH BAY ROAD
LOTS 19 AND 20, IN BLOCK 14
OF "LA GORCE GOLF SUBDIVISION"
PLAT BOOK 14, PG 43;
MIAMI-DADE COUNTY, FLORIDA**

The applicant is requesting the following variance in order to place an emergency generator within the required south interior side yard setback:

1. A variance to waive 2'-8 1/2" of the minimum required interior side yard setback of 16'-6 1/2" in order to place an emergency generator at 13'-10" from the south property line.

APPROVED.

D. APPEAL

9. **FILE NO. 3415** **THE RONEY PALACE CONDOMINIUM ASSOC.
2301-2399 COLLINS AVENUE
MIAMI BEACH, FLORIDA
(FOR LEGAL DESCRIPTION PLEASE CONTACT
THE PLANNING DEPT.)**

This case was continued by staff at the May 8, 2009 meeting.

The applicant, The Roney Palace Condominium Association, Inc., is appealing the January 26, 2009 administrative decision of the City of Miami Beach Planning Director concerning the operating hours of the outdoor bar counter on the rooftop of the north tower containing the Gansevoort Hotel at the above referenced address. The appeal challenges the Director's determination as to the applicability of certain regulations on the hours of the subject outdoor bar counter, specifically how City Code Section 142-244, which contains certain locational criteria, applies to the hours of operation of the outdoor bar counter.

THIS CASE WAS CONTINUED TO THE JULY 10, 2009 MEETING.

E. DISCUSSION

RESOLUTION BY THE BOARD OF ADJUSTMENT TO THE CITY COMMISSION:

***"IN LIGHT OF THE EVOLVING HISTORY OF MIAMI BEACH AND ITS
LANDSCAPE, THE BOARD OF ADJUSTMENT RESPECTULLY***

BOARD OF ADJUSTMENT AFTER ACTION REPORT
JUNE 5, 2009

REQUESTS THAT THE CITY COMMISSION OF THE CITY OF MIAMI BEACH RE-VISITS THE 300 FEET DISTANCE SEPARATION REQUIREMENT FROM ESTABLISHMENTS SERVING AND SELLING ALCOHOL FROM SCHOOLS, AND CONSIDERS THE FOLLOWING FOUR (4) COURSES OF ACTION:

- 1. WHETHER WE SHALL ABANDON THE STANDARD.**
- 2. WHETHER THE REQUIREMENT SHALL BE KEPT AND BE CONSIDERED BY ANOTHER BOARD.**
- 3. EXEMPT THE WASHINGTON AVENUE /ESPANOLA WAY CORRIDOR.**
- 4. CONTINUE WITH THE CURRENT STANDARD...**

...IN A LARGER SENSE, CONSIDER THE QUESTION OF WHETHER THE BOARD OF ADJUSTMENT SHOULD CONTINUE TO EVALUATE DISTANCE SEPARATION APPLICATIONS."

A motion to adapt the resolution as read was moved by Ms. Sherry Roberts and seconded by Mr. Lior Leser. All five Board members voted in favor. Larry Herrup, the Chairman, and Brian Ehrlich were absent.

F. NEXT MEETING DATE

July 10, 2009

In accordance with the Americans With Disabilities Act of 1990, persons needing special accommodation to participate in this proceeding, persons with disabilities, or to request material in accessible format, contact the Board's administrator at (305)673-7550 no later than four (4) days prior to the proceeding. If hearing impaired or for sign language interpreters, telephone (305)673-7219 (TDD) five (5) days prior to the proceeding.

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MIAMI BEACH

PLANNING DEPARTMENT

FLOOD PLAIN MANAGEMENT BOARD
AFTER ACTION REPORT

FRIDAY, JUNE 5, 2009

HEARD AT THE CONCLUSION OF THE BOARD OF ADJUSTMENT MEETING

City Hall - 1700 Convention Center Drive, Commission Chambers - Third Floor

BOARD OF ADJUSTMENT AFTER ACTION REPORT
JUNE 5, 2009

Miami Beach, Florida 33139

1. **FILE NO. FP09-01** **FONTAINEBLEAU FLORIDA HOTEL, LLC**
4441 COLLINS AVENUE
MIAMI BEACH, FLORIDA
(FOR COMPLETE LEGAL DESCRIPTION,
PLEASE CONTACT THE PLANNING DEPT.)

The applicant is requesting a variance to waive the minimum required base flood plain elevation for the renovated existing basement level of the Fontainebleau Hotel.

APPLICATION INCOMPLETE. CASE CONTINUED TO THE JULY 10, 2009 MEETING.

2. **FILE NO. FP09-03** **PESTANA MIAMI, LLC.**
1817, 1831, 1835-37-39 JAMES AVENUE
LOTS 10, 11, 12 and NORTH ½ OF LOT 13
AND WEST 25 FT. OF LOT 4; BLOCK 2, OF
FISHER'S FIRST ADDITION OF ALTON
BEACH PLAT BOOK 2, PG 77;
MIAMI-DADE COUNTY, FLORIDA

The applicant is requesting a variance to waive the minimum required base flood plain elevation to allow the renovation and restoration of three existing structures.

APPROVED.

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