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Sender's direct line: 561-721-4002
Sender's e-mail: jeubanks@sniffenlaw.com

February 26, 2024

Via E-mail

James Murphy, Assistant Director
of Planning Zoning & Building
Town of Palm Beach
260 S. County Road
Palm Beach Florida 33480

**Re: 1464 N. Ocean Blvd – Updated LOI/Justification – ARC-24-033
(ZON-24-039) Application for Approval of Artificial Turf
Resulting in Minimal Variance in Landscape Open Space**

Dear Mr. Murphy:

Please accept this correspondence and attachments as an updated LOI/Justification Statement in connection with the above Combination Application (“Application”) for ARCOM approval of the use of artificial turf, due to the failure of grass to grow on the private side and back yards of 1464 N. Ocean Blvd. (“Property”), resulting in the need for a small Landscape Open Space Variance (“Variance”).¹ The Property is located in the R-B Zoning District and is owned by M.J. Castelo and his wife, Evan. The Castelos purchased their Property in September of 2020 as part of their permanent return to the Palm Beach area where they have both previously lived and have close ties. Working with Pat Seagraves of SKA Architects, the Castelos created what they believed was the perfect design for their home on a small, non-conforming (sub-10,000 sf minimum) lot in the north end of Town.

Because of the Property’s sub-standard size and orientation to the curve of N. County Road it took a good bit of work to get the jigsaw pieces of their house, pool, bar, outdoor space, and fireplace to work together and fit on their lot. In light of the very limited sight lines along N. County Road, based upon a traffic engineer’s findings, the Castelos needed a circular driveway to ensure safe ingress and egress. The result was the removal of a significant portion of the landscaped front yard and its replacement with impervious hardscape, thereby drastically reducing the Landscape Open Space. As a result, the Castelos were forced to plant grass and landscaping in their side and back yards that could otherwise have contained hardscape or turf.

¹ ARCOM can approve artificial turf in the rear and side yards and areas not visible from a right of way under Sections 66-313 and 66-314 of the Town Code. However, turf is calculated as impervious surface and cannot be counted towards Landscape Open Space, resulting in the minimal Variance requested.

REPLY TO:

605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL • 33401
PHONE: 561.721.4000
FAX: 561.721.4001

WWW.SNIFFENLAW.COM

123 NORTH MONROE STREET
TALLAHASSEE, FL • 32301
PHONE: 850.205.1996
FAX: 850.205.3004

Complying with ARCOM, the Castelos discovered that much of their Property remained in the shade for extended periods of the day, with certain parts of their side and rear green scape receiving no sunlight at all. This lack of light is the result of a series of issues, including the small, non-conforming size of the Property, the requirement of the circular driveway, the need to push the house to the west to make it fit (resulting in minimum setbacks and open areas), the sun pattern on the western exposed portion on their rear yard, the sunlight disruption from the many existing trees and foliage on neighboring lots, and the sunlight disruption from the landscape privacy buffer required by the Town. The dense foliage on the neighbors and Castelos' Property can be seen in the attached aerial. The result was the grass on the Property had a difficult time surviving while the grass on in the private areas of the side and back yards simply died. Attempts to replant and patch areas of the grass would result in bald and muddy spots which prevented the Castelos from being able let their pets out into the secured areas of their yard without constantly cleaning up muddy paws or prints tracked into the house.

Looking for answers, the Castelos asked the Lopez Group to look at their yard and give them an honest opinion as to their best option(s). A copy of the Lopez Group Report is attached. Not surprisingly, the Lopez Group's assessment was that:

- a. The home is situated on a small, non-conforming lot.
- b. There were "many many trees" and several unavoidable "shade spots" especially in the rear and side yards.
- c. While the trees provided screening and privacy, they (along with a portion of the home's structure) impeded sunlight.
- d. As such, grass will not grow satisfactorily or uniformly in those areas.
- e. Attempts to keep grass will result in continued thin growth, bald spots and mud spots in their yard.
- f. Therefore, natural grass was not a good or sustainable solution, and it would be futile going forward and continue replanting grass.²

As a result, Lopez Group's "professional recommendation, consistent with practices on the island", was "to replace the natural grass with a high quality, purpose developed turf in the higher traffic side and rear yards." The result will be "more attractive and more functional including drainage" and "**will NOT be visible to anyone else.**" (emphasis added) They concluded "[t]his is the best and obvious solution."

Following up on the recommendation, the Castelos installed a high quality, purpose developed turf manufactured by Turf USA (Lush Sport Turf) installed by Turf Girls in the side and rear yards of the Property where grass could not be sustained. The turf is permeable, does not contain harmful chemicals or contaminants, is lead free, is

² The Shade Study included on pages L1.3 and L2.1 supports these observations and conclusions.

perfect for low shade areas, and it saves valuable water. Unfortunately, in installing the turf Castelos didn't know they needed a permit for the private areas of their yard which could not be seen by neighbors or the public.

After being informed by Code enforcement that they either needed to remove and replace the turf with more grass or obtain a permit for their turf, the Castelos decided against killing more grass to temporarily come into "compliance". This Application followed to bring the Castelos into long term compliance. Originally planning to merely leave the turf in the location in which it was installed, the Castelos learned such plan would trigger an approximately a 15% Variance in landscaped open space (30% in lieu of 45%). Endeavoring to move as close as possible to the minimum 45% landscaped open space, the Castelos have decided to remove all of the turf in their side yards and portions of the back yard and replace it with a shade tolerant ground cover, while still leaving enough turf to cover the most frequently used portions of their back yard. The result has been a drastic reduction in the required Variance from 15% to 4.83% (i.e. 40.17% LOS in lieu of 45% required).

In light of the above, the Castelos request ARCOM approve their revised plans with a limited amount of artificial turf remaining only in their back yard which is not visible from the public right of way and for the Town Council to grant the Variance requested for the resulting minimal reduction in Landscape Open Space. In doing so, the Castelos have met the standards for a Variance under Section 134-201(a) of the Town Code in that:

- (1) **Special conditions and circumstances exist which are peculiar to the land, structure or building involved not applicable to other lands in the same zoning district.** As detailed above, and in the Lopez Report, the existing non-conforming small size of the Property, its configuration on the curve of N. County Road, coupled with the need for a circle driveway and location of the home pushed to the west to fit the lot, the small setbacks, western sun, extensive existing sun disruption and shade from the neighbors landscaping, in addition to the further sunlight disruption by the Town required landscape privacy buffer, coupled with failed attempts to grow grass, demonstrate that special circumstances exist that are peculiar to the Property which are not applicable to other land in the district, which are much larger in size.
- (2) **The special conditions and circumstances in this case do not result from the actions of the Applicant.** The special conditions and circumstances are not the result of the actions of the Castelos but existed at the time of their purchase of the Property, including the sub-standard, small lot and its location along the curve of N. County Road, along with the shade from the neighbors dense foliage, and the required landscape privacy buffer, resulting in extensive

existing sun disruption and shade. These circumstances were exacerbated by the safety requirement need for a circular driveway which effectively reduced the available Landscape Open Space on the Property and triggered the minor variance requested.

- (3) **Granting the Variance will not confer on the applicant any special privilege that is denied to other properties in the district and would work and unnecessary and undue hardship on the applicant.** There is no special privilege being granted to the Castelos that is denied to other properties in the district. Other properties in the district have much larger lots and yards which allow sufficient sunlight into their yards to allow grass and landscaping to grow along with neighboring landscaping which is farther away and does not block the sun. The size, shape and configuration of the Property coupled with the need for a circular driveway for safety reasons drastically reduced the LOS, the shade from the neighbor's existing landscaping and the landscaped privacy buffer required by the Town create an undue hardship. The failure to approve the Variance would leave the Castelos, with a never-ending hardship cycle of planting grass watching it die and replacing it or letting the area turn to mud, either of which limits the reasonable use of their yard. In addition, changing out the grass for more hardscape or nonpermeable surface would create more runoff than allowing the installation of the turf which is fully permeable.
- (4) **The literal interpretation of the Code would deprive the Castelos of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter** as they would be unable to use large portions of their yard which other homes are enjoy due to conditions of their non-conforming prior existing small lot, the need for a circular driveway for safe ingress and egress, the dense neighboring landscaping along with the Town required landscaping privacy buffer, all of which are an unnecessary and undue hardship on the applicant as there would be no reasonable use of those areas with dead grass and dirt limiting the Castelos' use of their private rear yard.
- (5) **The Variance requested in the revised plan is the minimum variance to the landscape plan that will make possible the reasonable use of the most used area of the Castelos back yard,** which cannot be seen by the public or the neighbors, along with the buildings, structure, and pool without the requirement of constantly replacing dead grass and being restricted in the use of their yard. While the Lopez Report supports the original turf installation and reduction in LOS, the revised plans focus on the bare minimum Variance required to make use of the most utilized portions of the Castelos private backyard.

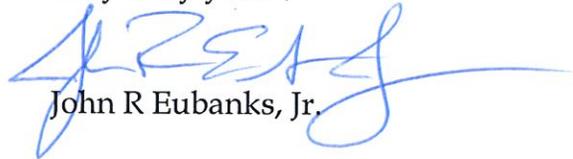
(6) N/A

(7) **The grant of the variance will be in harmony with the general intent and purpose of Chapter 134 and such Variance will not be injurious to the area involved or otherwise detrimental to the public welfare as:** a) the Variance was triggered in large part by the need for a circular driveway for safety reasons; b) has been reduced to a small portion of the private back yard of a home on a small, non-conforming lot; c) the back yard cannot be seen by the public or neighbors; d) the Turf installed is environmentally safe and substantially reduces the amount of water used for landscaping.

In addition to meeting the Code standards for a Variance, the Castelos believe they have obtained the cooperation, consent, and support for the Variance from their abutting neighbor to the north, John Dotterrer the owner of 1470 N Ocean Blvd. Mr. Dotterrer has indicated he would support the requested Variance in return for the Castelos reducing the height of a portion of the north wall which separates the two properties as shown in the submitted plans. The resulting wall would remain in compliance with the Town Code. The Castelos are willing to reduce the wall height, provided Mr. Dotterrer in fact supports the Variance.

As such, the Castelos respectfully request approval by ARCOM of their revised plans with limited areas of turf in their back yard which cannot be seen from the public rights-of-way, along with the Town Council approval of the minimal Variance required for the same.

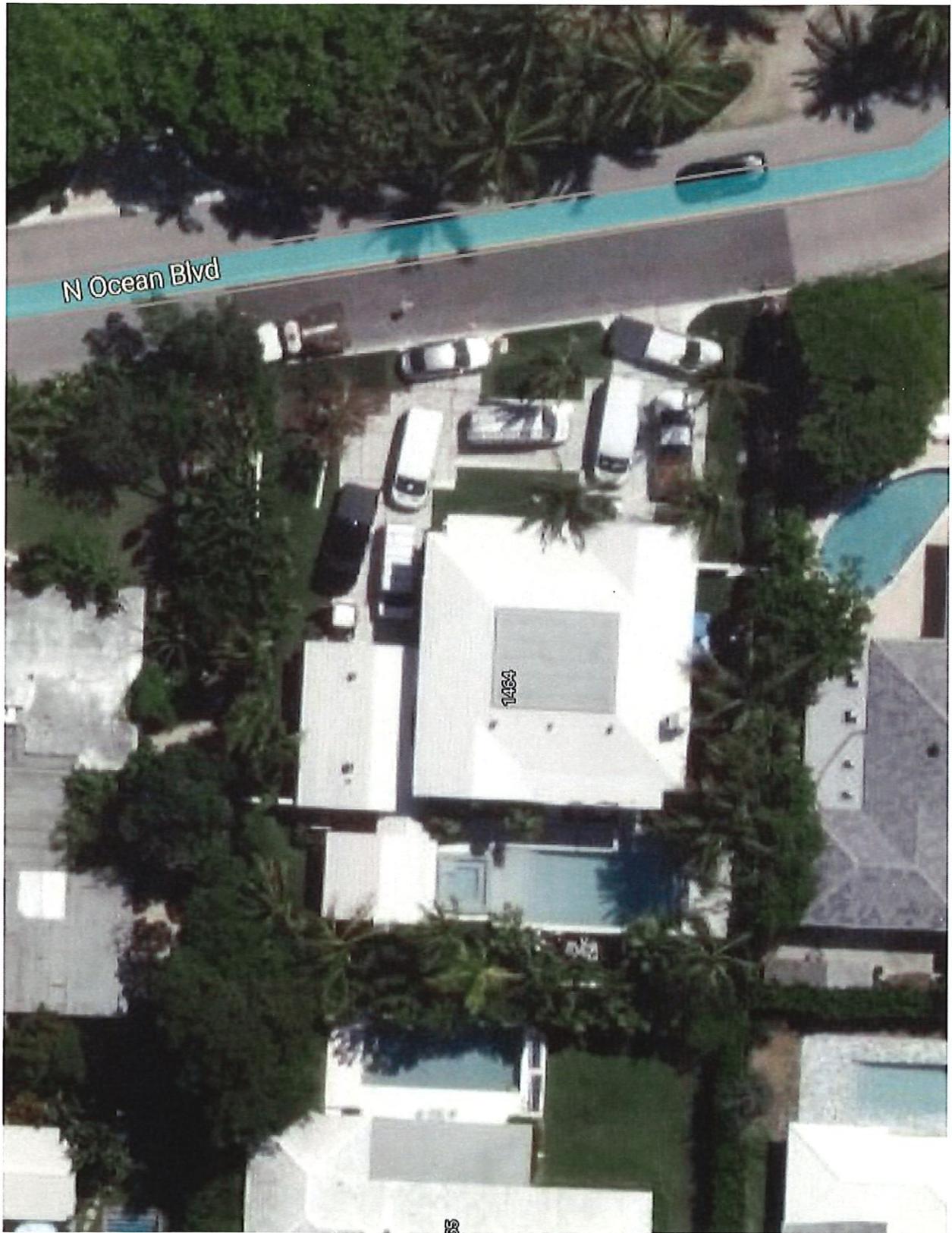
Very truly yours,



John R Eubanks, Jr.

Attachments

cc: ARCOM Chair and Commissioners
Wayne Bergman, Director of Planning, Zoning and Building
Emily Lyn, Planner I
Kelly Churney, Acting Town Clerk
JoAnne O'Conner, Town Attorney





Dear Mr. and Mrs. Castelo,

The purpose of this letter is to outline the conditions related to your rear and side yard grass. As you know, your home is situated on a small lot with many, many trees and several unavoidable "shade spots", most especially in the rear and side yards. The intent of the trees is to provide you and your neighbors screening and privacy. However, the trees also impede sunlight, as do the structures. As such, you will find that grass will not grow satisfactory, and not uniformly. Attempts to keep the grass will result in continued thin growth, bald spots, and mud spots in your yard. In short, natural grass is not a good or sustainable solution for your rear yard. Our replacement of select parts of the grass have proven unsuccessful and will continue to be futile going forward. Simply replanting over-and-over again will not work.

My professional recommendation, consistent with practices on the island, is to replace the natural grass with a high quality, purpose developed turf in the higher traffic side and rear yards. This turf will be both more attractive and more functional, including drainage. In addition, this turf will NOT be visible to anyone else. This is the best and obvious solution.

Please seriously consider this recommendation going forward. Our team at the Lopez Group is always available to assist you. Thank you.

Jobe Lopez

Owner

P.O. Box 2065, Palm Beach, FL 33480
Telephone: 561-727-8944
Email: office@lopezgroupinc.com