

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 11, 2019

To: Mayor and Town Council

From: Josh Martin, Director of Planning, Zoning & Building

Re: Appeal of Administrative Decision that a Unity of Title Agreement is Not Required to Build a Single-Family Dwelling at 1485 Via Manana

Date: August 30, 2019

STAFF RECOMMENDATION

Staff recommends that the Town Council uphold Staff's administrative decision that the proposed new single-family dwelling at 1485 Via Manana is not required to be unified by a unity of title agreement with 1480 North Ocean Boulevard.

BACKGROUND

On July 23, 2019, Paul Castro, Zoning Manager, was asked to contact Julie Araskog, a neighboring property owner, relative to an Architectural Commission project for a new residence being proposed at 1485 Via Manana. Among other zoning related questions, she asked if the property owner needed a unity of title agreement with his house to the east (1480 North Ocean Boulevard). She was advised that while the applicant (Jason Kalisman) owned both lots, he was building 1485 Via Manana as an independent single-family dwelling that met all zoning code lot, yard and area requirements on a conforming platted lot. As such, a unity of title agreement was not required. Mr. Castro put that verbal zoning determination in writing via email on that same day (copy attached).

On August 21, 2019, Mr. John Eubanks, attorney representing, Julie Araskog, filed an appeal of Staff's administrative determination. His justification is provided in the attached appeal. Mr. Eubanks contends that this proposed house, as a "guest house", is an accessory use and building to the principal single-family dwelling to the east (1480 North Ocean Way). John Eubanks contends that a "guest house" is not a permitted, accessory or special exception use in the R-B Low Density Residential zoning district and only an accessory structure (without kitchen facilities) to the main house of the owner property directly to the east can be built if it is intended to be used by the family.

ANALYSIS

The proposed development is a single-family dwelling that the owner intends to use as a new two-story residence to serve as a "guest house/pavilion to the main house." It is a family compound. The single-family dwelling is designed as an independent residence to be used by the

family. The house meets all the R-B zoning district lot yard and area requirements in Section 134-893 in the Code of Ordinances including the front, street side, side and rear setbacks, landscape open space, lot coverage and cubic content ratio requirements. It has a two-car garage, kitchen, three and a half bathrooms, a dining room, living room, exercise room, loggia, roof deck and front sliding door facing Via Manana. The proposed house is also on a conforming platted lot (Lot 4 Via Manana) and has its own separate address. This raises the question. If the owner decides to keep the existing house, does the owner have to tear out the kitchen and enter into a unity of title agreement to make it an accessory building?

It is important to also point out that Section 134-891 of the Code of Ordinances related to accessory structures does specifically address a “guest house.” The references throughout that section of the Code are to accessory structures or buildings, with or without kitchens, and/or enclosed buildings with bedrooms and bathroom facilities in connection with, and as a part of, the main residence within the building lines. The Code does allow kitchen facilities in an “enclosed accessory building.” In addition, an “accessory use, building or structure” is defined in Section 134-2 of the Code as, “a subordinate use or structure customarily incident to the principal use or structure located on the lot or located on a contiguous lot when a unity of title has been provided.” This proposed house meets all code requirements for a single-family dwelling and therefore does not trigger a requirement for a unity of title agreement. It is not intended to be subordinate to the neighboring house and is intended to be a house just like the house that exists there today.

Staff recommends that the Council uphold Staff’s administrative zoning determination that a unity of title agreement not be required for the subject property. If you have any questions, please do not hesitate to contact Paul Castro, Zoning Administrator, at 227-6406.

Attachments

cc: Kirk Blouin, Town Manager
Jay Boodheshwar, Deputy Town Manager
Wayne Bergman, Asst. Director of Planning, Zoning & Bldg.
Paul Castro, Zoning Manager
John Randolph, Town Attorney
John Eubanks, Esq.
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