

From: [Paul Castro](#)
To: [Kelly Churney](#); [Bradley Falco](#)
Subject: FW: Variance Application # Z-19-00236 / 70 Middle Road
Date: Tuesday, October 13, 2020 11:20:37 AM
Attachments: [#FP.EASEMENT.4A OPTION A-EASEMENT ALTERNATIVE.pdf](#)
[#FP.EASEMENT.4B OPTION B-EASEMENT ALTERNATIVE.pdf](#)
[Scan Jul 8, 2020, 7.54 PM.pdf](#)
[202007090913.pdf](#)

FYI

From: Francis Lynch <flynch@sniffenlaw.com>
Sent: Monday, October 12, 2020 2:32 PM
To: Gail Coniglio <GConiglio@TownofPalmBeach.com>; Danielle Hickox Moore <DMoore@TownofPalmBeach.com>; Bobbie Lindsay <BLindsay@TownofPalmBeach.com>; Julie Araskog <jaraskog@TownOfPalmBeach.com>; Margaret Zeidman <MZeidman@TownofPalmBeach.com>; Lew Crampton <lcrampton@TownOfPalmBeach.com>
Cc: Wayne Bergman <wbergman@TownOfPalmBeach.com>; Paul Castro <PCastro@TownofPalmBeach.com>; John (Skip) C. Randolph <JRandolph@jonesfoster.com>
Subject: Variance Application # Z-19-00236 / 70 Middle Road

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Dear Madam Mayor, Ladies and Gentleman of the Town Council and Town Staff:

Once again, I am contacting you on behalf of my clients, who are the owners of the property at 195 Via Marina. My chronology of objections to the Application as well as to the chicane to house the equipment for the town's underground utility program is set forth in my emails below.

At this point, the Applicant seeks yet another deferral of her Application. This follows deferrals from the July, 2020 town council meeting, by the Applicant's right, and also a deferral by vote of the council at its August, 2020 meeting based upon the Applicant's inability to use technology to participate in that meeting via zoom and also for COVID-related concerns.

My clients have been forced to expend fees to track this Application and have me prepare to present their objections unnecessarily given the last minute nature of the Applicant's deferral requests. The continued deferrals are not fair to the neighbors who are not in favor of the Application or the chicane.

It has become apparent that the Applicant is seeking to defer her Application until the Town is compelled to either establish the chicane or compel another property owner (who is not seeking an ARCOM or zoning approval) to accept onto their property an easement for this equipment because of the Town's timeline for the undergrounding project. The Applicant has stated in no uncertain terms that she is unwilling to allow an easement to be placed upon her property for this equipment. Further, the proposed equipment will benefit only the Applicant's property.

As this town council indicated, the establishment of a chicane creates a potentially dangerous condition, has rarely been used during this undergrounding process and, in the very limited instances in which it has been used, has not been used on a street as busy as Via Marina.

My clients' and their property are most affected by this as it is their driveway that has its visibility diminished by the location of the chicane approximately twenty feet (20') from it. This will obscure the driveway, and the visibility of those exiting from it, onto Via Marina from vehicles traveling west along Via Marina. Ironically, it was this driveway onto Via Marina that was created when my clients' built their home to in order to reduce the number of curb cuts onto South County Road, as Public Works saw that access as a potentially dangerous situation.

The actions of the Applicant have placed my clients in the untenable position of accepting the chicane (thereby creating a dangerous condition acknowledged by the Town for themselves and their guests) or being forced to place an easement on their property (which will not benefit their property) to avoid the chicane, only to have the Application (to which my clients have objected as it relates to their property) remain pending. If certain aspects of that Application are subsequently granted, those approvals will diminish my clients' ability to the quiet enjoyment of their home by invading their privacy.

Based upon the foregoing, my clients request that you deny the deferral and deny the Application.

Thank you.
Frank Lynch

Francis X. J. Lynch, Esquire

SNIFFEN & SPELLMAN, P.A.

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AS OF OCTOBER 1, 2019, WE HAVE JOINED THE FIRM OF SNIFFEN & SPELLMAN, P.A. PLEASE NOTE THE CHANGE OF E-MAIL ADDRESS. OUR TELEPHONE NUMBER, FACSIMILE NUMBER AND ADDRESS REMAIN THE SAME.

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BEWARE OF CYBER FRAUD – BEFORE WIRING ANY FUNDS, CALL THE INTENDED RECIPIENT AT A NUMBER YOU KNOW IS VALID TO CONFIRM THE INSTRUCTIONS – AND BE VERY WARY OF ANY REQUEST TO CHANGE WIRE INSTRUCTIONS YOU ALREADY RECEIVED.

From: Francis Lynch

Sent: Thursday, July 09, 2020 4:47 PM

To: mayor@townofpalmbeach.com; dmoore@townofpalmbeach.com; jaraskog@townofpalmbeach.com; lcrampton@townofpalmbeach.com; blindsay@townofpalmbeach.com; mzeidman@townofpalmbeach.com

Cc: Wayne Bergman <wbergman@TownOfPalmBeach.com>; Paul Castro <PCastro@TownofPalmBeach.com>; Steven Stern <sstern@TownOfPalmBeach.com>; jrandolph@jonesfoster.com; Kelly Churney <KChurney@TownofPalmBeach.com>

Subject: Variance Application # Z-19-00236 / 70 Middle Road

Dear Madam Mayor, Ladies and Gentleman of the Town Council and Town Staff:

Please be advised that I represent Avram and Jill Glazer, the owners of the property located at 195 Via Marina, the property located immediately to the west of the Applicant's property. As a point of information, the Glazers' home was awarded the 2020 Elizabeth and John Schuler Award for excellence in new architecture. The Glazers have also owned and renovated a landmarked home on Middle Road in the past.

We have received the application along with the Applicant's request that either the sidewalk on the north side of Via Marina be removed or that a chicane be created within Via Marina so that the Applicant, who is seeking the following variances:

1. To allow a generator to be placed in a street side yard with a setback of 8.5' in lieu of 25' required (this is closest to the Glazers' front door and bedroom side of their house),
2. A variance for lot coverage (which is already exceeded by more than 10% above that allowed by code) to allow for the construction of a laundry room,
3. To allow the already-exceeded cubic content ratio to be expanded even further (the existing cubic content ration is now more than twice that permitted by code, prior to the filing of this application),
4. To allow for a north side setback of 7.6' in lieu of 15' required to allow for the

aforementioned laundry room and

5. To convert an existing flat roof to a covered balcony with a side yard setback of 7.6' in lieu of 15', which will loom over the Glazers' property.

As you are all aware, this house and its seemingly never-ending construction has been the subject of expired permits prior to the Applicant filing this Application.

As you are also well aware, the request by the town of an owner/applicant (and the consent of that owner/applicant) for a utility easement on an applicant's property has been a part of the zoning process since the town began considering the utility undergrounding program. The town's request for an easement should come as no surprise to this particular Applicant, however, in addition to the numerous variances requested, the Applicant also seeks that her property not be subjected to easements on her property required by the town's current utility undergrounding project.

Last but not least, you are aware that Middle Road was, at one point, under consideration for landmarking as a district, given the significant number of landmarked homes located on that street. But this Applicant, despite the number of requests in her zoning Application, is unwilling to accept an easement on her property to allow the undergrounding to be shielded from view on her property, as many other property owners in the town have been asked, and agreed, to do.

Instead of doing this, the Applicant would like you to locate the utilities near the Glazers' property, either by removing a sidewalk or by placing a chicane in Via Marina, allowing the Glazers to bear the full brunt of the Applicant's zoning request. In the interest of being good neighbors, the Glazers have already submitted a letter consenting to the placement of the generator in the street side yard setback, an area closest to their front door and bedroom areas of their home. This consent was given prior to the Applicant's request related to the utilities and, should the Applicant continue to refuse to grant an easement on her property, the Glazers may elect to rescind this consent, as the Glazers are unwilling to bear the full brunt of these requests. The Glazers are extremely concerned that either the elimination of the sidewalk on the north side of Via Marina or the creation of a chicane on the north side of Via Marina, approximately 20' from the Glazers' driveway onto Via Marina, will create a dangerous condition for the Glazers and their guests.

I am attaching to this email Options A, B and the chicane, which I believe were prepared by the Applicant's representatives (although there is no block indicating that these were prepared by a licensed professional) and circulated to the neighbors. At the very least, I would hope that the town would prepare (or require that a professional prepare) the visual aids for these proposals, appropriated scaled and dimensioned, so that those potentially affected by these options can all see an unbiased presentation of what this will look like and exactly where it will be located before town council votes on something which could affect the neighbors' homes.

Both Options A and B involve removing the sidewalk on the north side of Via Marina. For those of you who may not know, there is no street light on either side of this block of Via Marina. As a result, at night, the street is very dark. Recently, the police directed the protesters from the recent march down Via Marina. One of them peered into the Glazers' security camera. As you can imagine, both the re-direction of the protest and the situation with the security camera were unsettling. This, coupled with a tall hedge to shield the equipment from view, creates not only a security issue for the Glazers, their property and their guests, but also creates a safety issue, impairing the visibility of those exiting the Glazers' driveway onto Middle Road as well as impairing the visibility of the Glazers' driveway for those traveling west along Via Marina. This would literally create an accident waiting to happen.

Eliminating the sidewalk on the north side of Via Marina would also mean that the contiguous sidewalks in this area would be eliminated. At present, the neighbors can walk along Middle Road, Via Marina, South County Road and Gulfstream Road without the need to cross a street.

The third option proposed by the Applicant, and only recently presented by the town (see Steven Steven's letter dated June 26, 2020), is the chicane. It is my understanding that a chicane is in use in only one other location in town- on Laurie Lane, adjacent to a property owned by a client of mine. In this particular instance, none of the neighbors was willing to grant an easement on their property. At the same time, none of the property owners in this area sought an ARCOM, LPC or zoning approval at the time the easement was requested. Subsequently, a property was sold to my client, that property required zoning approvals to build, and despite the chicane already existing, the approval granted required that an easement be placed on the property prior to a building permit being issued. Please see a copy of the zoning approval letter attached to this email. This would lead me to believe that even the town does not believe a chicane to be a desired method of placing the necessary equipment, but only as a last resort. In this particular instance, this Applicant is seeking a number of variances, the legal hardship for which may or may not exist, but is refusing to consent to an easement on her property. Additionally, Laurie Lane is a significantly less traveled street than is Via Marina. Many use Via Marina as a connector between South County Road and South Ocean Boulevard. In contrast, there are a total of six houses on Laurie Lane and only two have Laurie Lane addresses, according to the Palm Beach County Property Appraiser's website.

The Glazers' landscapers and other service providers already have difficulty parking and accessing their property; they cannot park on South County Road, so Via Marina is the only parking they have. In addition, landscape material from the Glazers' property is placed in this area for pick up. By the same token, the service providers for the Glazers' neighbors on South County Road providers also park on Via Marina as they cannot park on South County Road. The chicane will all but eliminate use of this area for parking or to allow the town to pick up landscape material.

The chicane appears to have a curb surrounding it. There is no curb on the north side of Via Marina in this block. Installing a curb around the chicane will create a tripping hazard, especially in a block that is very dark at night.

Via Marina is approximately thirty feet wide. The chicane, as painted in the street, appears to be about ten feet wide by thirty feet long. If the chicane is installed, that will narrow Via Marina in this area such that it will be difficult for two cars to safely pass one another.

It is interesting that the Applicant's chicane plan and the photograph in Mr. Stern's letter shows the FPL equipment surrounded by poles to protect it. This all but acknowledges that this chicane will create a dangerous condition for vehicles driving on Via Marina. But what about the Glazers and their guests using the Glazers' driveway and backing out onto Via Marina? This also creates a dangerous condition for those who drive or walk along this portion of Via Marina as the Glazers' driveway will be obscured to those traveling west along Via Marina. As I said earlier, this would create an accident waiting to happen.

Last, but not least, a chicane would not be the most attractive addition to a neighborhood that includes landmarked and award winning homes.

If you are inclined to agree to a chicane, we would like to see it moved much further east adjacent to 70 Middle Road, closer to the intersection of Via Marina and Middle Road, with a street light placed on the north side of Via Marina. As Ms. Naegele indicates in her series of vitriolic emails, she will not see this as it will be on the other side of her '30 foot wall of green hedges'.

The Glazers want to be good neighbors and want to see that this house gets finished once and for all, but they do not want to create a safety or security risk for themselves or their guests or to be overburdened by this project, while the Applicant receives the full benefit from all of the approvals sought and bears none of the burden for any of this.

Thank you for your consideration of this matter.

Sincerely,
Frank Lynch

Francis X. J. Lynch, Esquire

<image001.jpg>

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From: Francis Lynch

Sent: Monday, July 13, 2020 12:43 PM

To: mayor@townofpalmbeach.com; dmoore@townofpalmbeach.com; jaraskog@townofpalmbeach.com; lcrampton@townofpalmbeach.com; blindsay@townofpalmbeach.com; mzeidman@townofpalmbeach.com

Cc: Wayne Bergman <wbergman@TownOfPalmBeach.com>; Paul Castro <PCastro@TownofPalmBeach.com>; Steven Stern <sstern@TownOfPalmBeach.com>; jrandolph@jonesfoster.com; Kelly Churney <KChurney@TownofPalmBeach.com>

Subject: RE: Variance Application # Z-19-00236 / 70 Middle Road

In the event there is any confusion as to my clients' position in this, please be advised that the Glazers are withdrawing their letter of support for this application and request that the Applicant prove her hardship as to the variances requested.

Thank you.

Frank Lynch

Francis X. J. Lynch, Esquire

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From: Francis Lynch

Sent: Saturday, August 08, 2020 9:07 AM

To: 'mayor@townofpalmbeach.com' <mayor@townofpalmbeach.com>; 'dmoore@townofpalmbeach.com' <dmoore@townofpalmbeach.com>; Lew Crampton <lcrampton@TownOfPalmBeach.com>; Julie Araskog <jaraskog@TownOfPalmBeach.com>; Bobbie Lindsay <BLindsay@TownofPalmBeach.com>; Margaret Zeidman <MZeidman@TownofPalmBeach.com>

Cc: Wayne Bergman <wbergman@TownOfPalmBeach.com>; 'Paul Castro' <PCastro@TownofPalmBeach.com>

Subject: Variance Application # Z-19-00236 / 70 Middle Road

Dear Madam Mayor, Ladies and Gentleman of the Town Council and Town Staff:

To follow up my previous email to you of July 9, 2020, please be advised that my clients object to the above Application.

The objections are based on the already non-conforming nature of the improvements which the Application seeks not only to expand but add to in its five (5) variance requests.

The Application acknowledges that the property is "non-conforming to today's code". The existing improvements are non-conforming at least as to the following prior to filing this Application:

PERMITTED

EXISTING

A. Building height

22.0' maximum

30.0' (estimated)

B. Building Overall Height	30.0' maximum	35.4'
C. Lot coverage	30.0% maximum	33.5%
D. Landscaped open space	45.0% minimum	32.2%
E. CCR	3.96 maximum	8.32

yet the Applicant seeks to expand the non-conformities set forth in items C, D and E above while creating additional non-conformities by way of variances as to the street side yard (the generator) and the north side yard setback (the laundry room and covered balcony). In each of the above instances, the existing condition significantly exceeds that permitted by code, prior to filing the Application. The variances as to the generator, laundry room and covered porch are also significant, rather than de minimus, variances.

We are left to ask "Where does this end?"

The Applicant already has a house that is taller than permitted by code, with a greater lot coverage than permitted by code, with less landscaping than required by code, yet seeks additional variances to allow her to expand even further on those non-conformities.

My clients are opposed to the Application, as submitted, for the reasons indicated above and ask that you deny each request.

Thank you for your consideration of this matter.

Sincerely,

Frank Lynch

Francis X. J. Lynch, Esquire

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West Palm Beach, Florida 33401

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