

# SNIFFEN & SPELLMAN, P.A.

Sender's direct line: 561-721-4004  
Sender's e-mail: [flynch@sniffenlaw.com](mailto:flynch@sniffenlaw.com)

February 7, 2022

Town of Palm Beach  
Architectural Review Commission  
360 South County Road  
Palm Beach, FL 33480

Exhibit D

Re: ARC-21-101; CE# 21-511 / 425 Chilean Avenue, Palm Beach, FL 33480

Dear Chairman Small, Ladies and Gentlemen of the Architectural Review Commission and town staff:

With regard to the above, please be advised that I represent Lorraine Charman, the property owner.

We come before you seeking approval of Application ARC 21-101, which arises out of Code Enforcement Case CE-21-511, which arises out of the removal of two (2) trees which were a portion of the landscape plan approved under ARCOM #A-027-2017.

Mrs. Charman's home received a certificate of occupancy from the Town in January, 2020. That certificate of occupancy confirmed that the house was built to code, in accordance with all permits and pursuant to the approvals granted by the town, including ARCOM.

During the ARCOM approval process, the issue was raised as to a front loading garage, specifically, a garage with its door facing Chilean Avenue. As far as my client was concerned, this was the only way that a garage could be placed on the property without a large expanse of driveway adjacent to Chilean Avenue, as this lot is actually a double lot on which two homes existed previously. The resulting Unity of Title on the property serves to reduce the density in the Town, consistent with the Town's Comprehensive Plan. Nothing in the Town's ordinances or zoning code requires sight screening for front loading garages. Despite this, ARCOM wanted the street-facing garage to be sight-screened including these trees as a part of that approval.

The trees at issue were removed by my client not in contravention of the approvals granted by ARCOM and the Town but to address a serious potential traffic hazard that became apparent after same had been installed and were in use. This removal was consistent with Code Section 66-236(b)(1), which provides, in relevant part:

"(b) Circumstances justifying issuance.

Vegetation removal permits shall be issued in the following circumstances:

(1) where a tree, due to natural circumstances, . . . creates unsafe vision clearances . . ."  
(emphasis added)

Unfortunately, my client was not aware of the need to seek the necessary vegetation removal permit prior to removing the trees. We have no doubt that this permit would have been granted had it been applied for, and my client acknowledges this error. However, Mrs. Charman believes that the potentially dangerous condition these trees created should supersede her oversight in not obtaining this permit. Her position in this is that the overriding safety issue these trees created should be of paramount importance.

**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

In the 400 block of Chilean Avenue, there are seven (7) homes on the north side of Chilean Avenue, of which five (5) have front loading garages in addition to 425 Chilean. None of these homes have any significant sight screening for their respective front loading garages. A five (5) story condominium at 434 Chilean, directly opposite Mrs. Charman's home, has little, if any, landscape material to sight screen the parking lot beneath the building. Photos of the foregoing are attached to this letter.

Chilean is a one-way street with parking permitted on both sides of the street. There are parking spaces within approximately ten feet (10.0') of either side of the curb cut into Mrs. Charman's driveway.

All of the other single family properties with front-facing garages appear to have the approximate minimum twenty-five foot (25.0') setbacks from Chilean Avenue, as does Mrs. Charman's home. In addition, Mrs. Charman's home also has:

1. a dense mature hedge on the adjacent neighbor's property to the west approximately twenty feet (20.0') tall,
2. a site wall on Mrs. Charman's property approved by ARCOM with an opening of approximately fourteen feet (14.0'), narrower than the width of the garage doors, which also does not align with the garage doors, forcing one backing out of the garage to navigate within the small driveway area before then backing out onto Chilean Avenue and
3. an incline to navigate before reaching Chilean Avenue. This incline results from the need to raise the finished floor of the house to eight feet (8.0') NAVD, to comply with FEMA requirements.

All of the foregoing, when combined with mature landscaping, while sight screening the front loading garage, also serve to obscure the sidewalk and street from view while backing out of the driveway. This creates a very dangerous situation for both Mrs. Charman, her guests and anyone using Chilean Avenue, whether it be driving or walking.

The placement and location of trees may have satisfied ARCOM's design concerns but in function, it did not take long for my client to learn that these trees created a dangerous condition, not only for my client and her guests exiting the property, but also for those driving along Chilean Avenue and also those walking on the sidewalk along Chilean Avenue. Mrs. Charman was backing out, from a height above the sidewalk, with her vision of the sidewalk and street impaired by a tall dense hedge to the west and trees on either side of a narrow driveway, leaving little, if any, margin for error if someone using the sidewalk or street was to appear. The trees were removed solely to temporarily address what was in operation a potential traffic hazard and avoid any possible damage to person or property (or worse) until such time as my client and her landscape architects could come up with a solution acceptable to the town and ARCOM.

The trees were removed to address what was, in operation, a potential traffic hazard and to avoid any possible damage to persons or property (or worse). As there is no sight screening requirement in the Code and these trees create an 'unsafe visual impairment' under the Code, we ask that ARCOM acknowledge the importance of safety in the community and accept the property landscaping without the

forementioned trees. This can be at the next ARCOM meeting. In addition, Mrs. Charman has planted bougainvillea in 3 areas of the garage face, which will continue to grow and soften the garage view from the street. This too can be approved at the next ARCOM meeting.

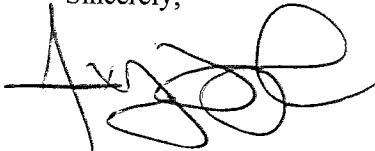
Mrs. Charman is prepared to use additional vines or similar plant material on the garage and the house above it to further soften its appearance from the street. She asks that she be held to the same standard as her neighbors, especially along the north side of Chilean Avenue, who are able to more clearly view the street and sidewalk when backing out of their garages.

We will present support for this request at the ARCOM meeting from neighbors who have similar concerns backing out onto Chilean Avenue.

We ask you to consider the situation that sight screening the garage creates and that you not choose appearance over the safety of Mrs. Charman and those using Chilean Avenue.

Please approve our application as filed in the best interest not only of Mrs. Charman but all those using Chilean Avenue, as well as the Town.

Sincerely,

A handwritten signature in black ink, appearing to read 'FXJL', with a large, stylized flourish extending from the end of the signature.

FRANCIS X. J. LYNCH

FXJL/kh  
Attachments

cc: Code Enforcement  
Town Council



