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RECEIVED

2023 MAY 8 PM 3:27 TOWN CLERK

Saturday, May 6, 2023

Office of the Town Clerk
Town of Palm Beach

Via hand delivery on Monday, May 8, 2023

Re: APPEAL TO THE PALM BEACH TOWN COUNCIL
FROM ACTION OF THE ARCHITECTURAL COMMISSION
AT ITS MEETING OF APRIL 26, 2023 CONCERNING
AGENDA ITEM V. APPROVAL OF THE AGENDA and IX. PROJECT REVIEW:
C. MAJOR PROJECTS-NEW BUSINESS: 6. ARC-23-047 269 JAMAICA LN

Dear Staff of the Office of the Town Clerk:

Pursuant to Town Code, enclosed please find the referenced Appeal, incorporated herein by reference.

Please ensure that the Mayor and Town Council are informed of the Appeal.

Please also ensure that the Building Official is also informed of the Appeal.

Thank you for your attention to these matters.

Very truly yours,



James McC. Wearn

JMcCW:j (135.40.269 Jamaica Lane: Appeal Ltr to TClerk filing of Appeal to TCouncil)
Enclosure

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FROM ACTION OF THE ARCHITECTURAL COMMISSION
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C. MAJOR PROJECTS-NEW BUSINESS:

6 ARC-23-047 269 JAMAICA LN. The applicant, Marrano Holdings 2022 LLC (Maura Ziska) has filed an application requesting Architectural Commission review and approval for the construction of a new two-story single-family residence with related landscape and hardscape improvements.

James McC. Wearn hereby appeals the action of the Architectural Commission (ARCOM) approving the Agenda re the referenced Project without conflict notice, and approving the architecture of the new two-story residence bifurcated from and without approving, but deferring ARCOM review and approval for the related landscape and hardscape improvements of the residence upon the applicant filing new such data.

The grounds for appeal are failing to follow the requirements of the Town Code enacted by the Town Council as elected representatives of Town citizens for the benefit of the Town and its citizens, as follows:

1. Our Code requires:

"The conflict [of interest of ARCOM VC Sammons] will be identified on the commission agenda."
(Sec. 18-170. Conflicts of interest. (b)(1) second sentence.)

The required information notice was not identified on the agenda.

2. Our Code requires:

"The commission shall act on the application within 30 days after the filing of full and complete data unless an extension of time is consented to be the applicant."

(Sec. 18-203. Referral of plans to commission. Third sentence.)

The commission passed a motion to approve the architecture of the new two-story residence. The part of the application for review and approval of the residence "with related landscape and hardscape improvements" was delayed for the application to present new and revised "full and complete data" for the related landscape and hardscape improvements of the residence.

Thus the application has not yet been acted on by the commission, as it should not yet be because its data is not yet complete, and no permit should be issued under the continuing pending status of the application.

3. Our Code also requires:

"Approval of request for permit [issuance]. Unless requests for demolition..., building and landscaping plans, elevations... have been approved by the architectural commission..., no permit shall be issued for any such demolition, building, structure, sign or other development of property, or appurtenances or alterations thereto."

(Sec. 18-175. Issuance of permits (a) Approval of request.)

Landscaping has not been approved by the commission. Thus, no approval of any request for permit issuance for any approved building should be issued.

Taking the forgoing Code provisions quoted in 2. and 3. above, it is clear that the building architecture and the landscaping (and hardscape) should not be separated for consideration. Rather, since "full and complete data" are required for action, and "building and landscaping" are conjoined for approval for permit issuance, it is contrary to these Code provisions for approval of them to be separately made. And consideration of the two parts as one should not be denied to citizens. Building architectural approval

should not be given alone.

4. Our Code requires:

"The architectural commission may approve...the issuance of a building permit in any matter subject to its jurisdiction only after consideration of whether the following criteria are complied with: [ten elaborated criteria follow, along with 7 sub-criteria of criteria (1), 3 of (5), and 8 of (6), a total of 28 criteria]. If the above criteria are met, the application shall be approved..."

(Sec. 18-205. Criteria for building permit. (a) and (b))

There is a record of presentation by the applicant's architectural firm, and comments by commissioners, but no record of consideration on any, much less all of the specific criteria.

If all these criteria need only be considered silently, and not found as fact on the record, then consideration is without meaning, and approval may be made theoretically without any of the criteria being found as fact.

It is the considered intent of the Code criteria identified that all applicable be found before approval is given. Thus, like denial, so should approval "detail in its findings the criterion or criteria that are... met."

Denial requires fact finding. So should approval.

5. Our Code is pending revision in RB Zoning District in the North End based on citizen input on what is "spaciousness, balance, taste, fitness [and] charm", what is "in harmony with the proposed developments on land in the general area [one story next to neighbors and two story allowed in the middle, whereas this is two story next to the neighbors and two story in the middle], and what is "appropriate in relation to the established character of other structures in the immediate area or neighborhood areas in respect to...architectural design." These matters were not once viewed on the record as part of the architectural criteria that they are or should be. Emerging applicable revised criteria should be and should have been considered so as at the outset to not create non-conformity, and so as not to be intentionally violated. (Sec. 18-205, id.)

Respectfully submitted,

James McC. Wearn