

Town of Palm Beach
Planning, Zoning & Building
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Welcome

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PZB RECEIPTS

Payment Tran Code: ARCOM

FEES (ARCOM)

Description: APPEAL FOR

ARC-23-041 FOR 232

COLONIAL LANE

ARCOM FEES (ARCOM)

2023 Item: ARCOM

ARCOM FEES (ARCOM) 2,000.00

001.322.800 2,000.00C

2,000.00

Subtotal 2,000.00

Fee FEE 44.80

Total 2,044.80

PZB CREDIT CARD 2,044.80

American Express *****2032

Ref=AF3A5B71DFBC

Auth=513287

Change due 0.00

Paid by: STEVEN M WOLF

Signature: _____

Thank you for your payment

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DUPLICATE RECEIPT

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JUN 02 2023

**TOWN OF PALM BEACH
PZB DEPARTMENT**

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June 2, 2023

Via e-mail:

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kchurney@townofpalmbeach.com
kdeclaire@townofpalmbeach.com

Pat Gayle-Gordon, Deputy Town Clerk
Kelly Churney, Deputy Town Clerk
Katherine deClaire, Clerk Support Assistant
Town Of Palm Beach
360 South County Road
Palm Beach, FL 33480

**Re: Appeal By Steven & Heather Wolf From ARCOM's May 24,
2023 Approval Of ARC-23-041**
Applicants: George & Zvenka Kleinfeld
Property Address: 232 Colonial Lane

Dear Ms. Gayle-Gordon; Ms. Churney; & Ms. Declaire,

This Firm represents Steven & Heather Wolf (collectively the "Wolfs") who own the property located at 225 Monterey Road in Palm Beach, Florida. The Wolfs hereby appeal, pursuant to §18-177 of the Town's Code, the Palm Beach Architectural Commission's ("ARCOM") May 24, 2023 approval of the revised plans ("Plans") submitted by the above referenced Applicants relating to their property located at 232 Colonial Lane.

I. Overview

ARCOM's role at the May 24th meeting was to consider all of the criteria set forth in §18-205 of the Town's Code (the "Code") and determine whether the Applicants' Plans complied with all such criteria as supported by competent substantial evidence. The criteria is set forth in sub-division (a) which states the following:

The architectural commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction **only after consideration of whether the following criteria are complied with...**

- (1) The plan for the proposed building or structure is in conformity with good taste and design and in general contributes to the image of the town as a place of beauty, spaciousness, balance, taste, fitness, charm and high quality.
- (2) The plan for the proposed building or structure indicates the manner in which the structures are reasonably protected against external and internal noise, vibrations, and other factors that may tend to make the environment less desirable.
- (3) The proposed building or structure is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value.
- (4) The proposed building or structure is in harmony with the proposed developments on land in the general area, with the comprehensive plan for the town, and with any precise plans adopted pursuant to the comprehensive plan.
- (5) The proposed building or structure is not excessively similar to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features of exterior design and appearance:
 - a. Apparently visibly identical front or side elevations;
 - b. Substantially identical size and arrangement of either doors, windows, porticos or other openings or breaks in the elevation facing the street, including reverse arrangement; or
 - c. Other significant identical features of design such as, but not limited to, material, roof line and height of other design elements.
- (6) The proposed building or structure is not excessively dissimilar in relation to any other structure existing or for which a permit has been issued or to any other structure included in the same permit

application within 200 feet of the proposed site in respect to one or more of the following features:

- a. Height of building or height of roof.
 - b. Other significant design features including, but not limited to, materials or quality of architectural design.
 - c. Architectural compatibility.
 - d. Arrangement of the components of the structure.
 - e. Appearance of mass from the street or from any perspective visible to the public or adjoining property owners.
 - f. Diversity of design that is complimentary with size and massing of adjacent properties.
 - g. Design features that will avoid the appearance of mass through improper proportions.
 - h. Design elements that protect the privacy of neighboring property.
- (7) The proposed addition or accessory structure is subservient in style and massing to the principal or main structure.
 - (8) The proposed building or structure is appropriate in relation to the established character of other structures in the immediate area or neighboring areas in respect to significant design features such as material or quality or architectural design as viewed from any public or private way (except alleys).
 - (9) *The proposed development is in conformity with the standards of this Code* and other applicable ordinances *insofar as the location and appearance of the buildings and structures are involved.*
 - (10) *The project's location and design adequately protects unique site characteristics* such as those related to scenic views, rock outcroppings, natural vistas, waterways, and similar features.¹

¹ A copy of §18-205 is attached as **Exhibit #1**.

As the transcript from the proceedings clearly reflects, ARCOM completely failed to consider *any* of the foregoing criteria.² The members of ARCOM never even mentioned a single criteria much less discussed whether the Applicants' Plans satisfied each and every one of the criteria (nor referred to any supporting evidence relating to the criteria). The transcript could not be any clearer that the criteria simply were not the focus of the proceedings **as none of them were ever even mentioned**. ARCOM's approval must be reversed for this reason standing alone.

Even had ARCOM considered all of the criteria (as they were required but failed to do), it would not have even been possible to find that the Plans satisfied all of the criteria as there was no competent substantial evidence establishing that *any* (much less all) of the criteria were satisfied. To the contrary, the evidence in the transcript reflects that the Plans failed to satisfy the criteria and also violate other Code provisions.

By way of example, ARCOM approved the Plans even though the location and design elements fail to adequately protect (and will actually damage if not destroy) the following unique site characteristics:³

- The Wolfs' thirty (30) plus foot high and approximately seventy (70) year old ficus hedge and the significant privacy which it provides;
- The noise barrier protection provided by the Applicants' concrete wall and the Wolfs' concrete wall; and
- The Wolfs' sprinkler/irrigation and low voltage electrical lines located behind their concrete wall.

By way of yet another example, ARCOM approved the Applicants' Plans even though its design elements include tearing down their existing concrete wall and installing a new fence closer towards the boundary of the property line *such that the fence will be within the existing five (5) foot utility easement between the Applicants' and the Wolfs' properties*.

² A copy of the transcript is attached as **Exhibit #2**.

³ See §18-205(a)(10) requiring ARCOM to consider and find that the following criteria has been complied with: "[T]he project's location and design adequately protects unique site characteristics..."

II. The Neighbors Properties

The Wolfs and the Applicants are neighbors and the back of their properties directly abut one another on the south property line. Attached to this letter as **Exhibit #3** is a copy of the slide presentation prepared by the Wolfs and utilized in connection with their presentation at the May 24th meeting. The Wolfs direct the Town Council's attention to Slides #3 - #7 of Exhibit #3 as these visuals will assist the Council members in gaining a clear picture of the unique characteristics of this particular site and how ARCOM's approval of the Applicants' Plans is inconsistent with the mandatory criteria including §18-205(a)(9) and (10).

Slide #3 ("South side of hedges, Wolf backyard")

Both pictures depict the Wolfs' backyard and show the thirty (30) plus foot high ficus hedge which runs along the length of their yard, and which provides significant privacy from the Applicants' property and which also serves as a sound barrier.

Slides #4 & #5 ("5 foot easement area & opposite side of hedges")

The pictures on the left hand side of these slides show how the ficus hedge including its root system is located within a five (5) foot utility easement ("Utility Easement") which is separated by the concrete wall on the left hand side of the picture (owned by the Applicants) and a second concrete wall owned by the Wolfs which (although not visible in these pictures) runs the length of the Wolfs' backyard.

Slide #6 ("Existing Conditions")

The picture on the right hand side depicts both concrete walls and shows how the Wolfs' ficus hedge including its root system and a ficus tree are all located within the Utility Easement and have been there for decades. As all of these pictures also reflect, the only current access point to perform the maintenance required to keep the ficus hedge healthy and alive is within the Utility Easement as that is where its root system is located.

Slide #7 ("2023 design-similar to 2019 denial")

As reflected on the right hand side, the south property line which separates the Applicants' and the Wolfs' respective properties is located in the middle of the Utility Easement (i.e. - 2.5 feet is located on the Applicants' side of the property line and the other 2.5 feet is located on the Wolfs' side of the property line).

Slide #9 (Brasseur & Drobot, Architects Site Plan)

The schematic on the right hand side clearly shows how the Applicants' proposed fence (if permitted) would be located *within the existing Utility Easement*.

III. The Applicants' Plans

A copy of the Applicants Plans are set forth in **Exhibit #4** attached to this letter. As the Scope of Work at the top of the first page reflects, the Applicants seek to demolish most of their concrete wall running the length of their backyard and convert it to a 6 inch drainage curb⁴ and install a black powder aluminum fence close to the south property line (which, to reiterate, would be located *within the Utility Easement* if permitted). The Applicants also seek to plant a new green island ficus hedge within the Utility Easement which would run up against the length of the proposed fence.

IV. ARCOM's May 24, 2023 Meeting

A. The Evidence Established That The Location And Design Elements Of The Plans Failed To Adequately Protect Several Unique Site Characteristics.

The Applicants' Plans were considered by ARCOM at its May 24th meeting. During their presentation, the Wolfs' zoning consultant, Jim Frogman, showed the members of ARCOM pictures of the Utility Easement which exists between the two (2) concrete walls separating the neighbors' properties and pointed out how it "*has been an existing unique [site] characteristic since 1935.*"⁵

In terms of the Wolfs' thirty (30) plus foot high ficus hedges, Mr. Frogman noted that they "*were put in approximately sometime in the '50s.*"⁶ Mr. Frogman further explained how "*if the neighbor puts a hedge in there, too, [within the Utility Easement]...there is no room to maintain Mr. Wolf's hedge*"⁷ and that placement of such a new hedge "*would absolutely destroy Mr. Wolf's hedge.*"⁸ Mr. Frogman then specifically pointed out to the ARCOM members "*Under the Code of Ordinances in Palm Beach and criteria for getting building permit [§18-205] the proposed landscape plan elements would disrupt and destroy the adjacent hedges*" and that the "*design for 232 Colonial*

⁴ The Plans propose to retain only a small portion of the wall located near a generator on the Applicants' property.

⁵ Page 9, lines 11-13 of the transcript.

⁶ Page 9, lines 13-14 of the transcript.

⁷ Page 9, lines 9-11 of the transcript.

⁸ Page 9, lines 15-16 of the transcript.

offers no protection for Mr. Wolf's unique site characteristics..."⁹ Mr. Frogman reiterated that "if they [the Applicants] put a hedge in that easement area, it will make it **totally inaccessible and totally destroy the unique** [site characteristics] **that have been there since the '50s.**" [Emphasis added].

Finally, Mr. Frogman noted that the Applicants' design plan does not adequately protect yet another unique site characteristic in terms of "**the sound barrier which the wall currently provides**"¹⁰ since approval will force the Wolfs to remove their concrete wall in order to gain the new access point for maintenance as discussed above.

Mr. Frogman's testimony was undisputed as the Applicants offered *no evidence* contradicting his relevant, fact-based statements.

The lack of access and destruction of the Wolfs' ficus hedge (and resulting loss of privacy which it provides) was further confirmed in a letter dated May 22, 2023 submitted by the Wolfs' well known and respected Palm Beach landscape contractor, Jesse Casserino.¹¹ Mr. Casserino explained that if the Applicants are permitted to install the proposed fence within the Utility Easement (along with their proposed new hedge):

- No access to the privacy hedge would be available;
- Granular fertilizer could not be applied;
- Whitefly treatment to drench the roots with systematic pesticide could not be accomplished; and
- Sprinkler service could not be accomplished.¹²

In light of the above factors, Mr. Casserino confirmed that the Applicants' Plans "**severely threaten the privacy hedge living and ultimately would cause failure of privacy.**"

Mr. Casserino's testimony was undisputed as the Applicants offered *no evidence* contradicting his relevant, fact-based statements.¹³

⁹ Page 10, lines 9-14 of the transcript.

¹⁰ Page 10, lines 17-19 of the transcript.

¹¹ A copy of Mr. Casserino's letter is set forth on the right hand side in Slide #6 of **Exhibit #3**.

¹² See Paragraphs #1 - #4 of Mr. Casserino's letter.

¹³ To the contrary, the Applicants' own landscape architect, Dustin Mizell, *acknowledged* that planting a new hedge *within the Utility Easement* (as proposed in the Plans) will result in fighting between the root systems of the proposed new hedge and the Wolfs' existing ficus hedge, explaining that: "*we decided that it would be better to not plant the **Clusia, which might fight against the** [Wolfs'] **ficus a little bit more***" and instead "*change that to green island ficus.*" See, Page 5 lines 24-25 and Page 6, lines 1-3 of the transcript.

The ARCOM members were also shown a video prepared by Mr. Wolf showing him taking a walking tour through the Utility Easement so that the members could see the unique site characteristics with their own eyes. Mr. Wolf explained that tearing down the Applicants' concrete wall and putting in the proposed fence near the property line would completely cut off his access to not only maintain his ficus hedge but also other unique site characteristics in that area including his "*electrical equipment back there*"; the "*irrigation equipment*" and the "*landscape lighting*."¹⁴

Mr. Wolf further pointed out to the ARCOM members that if they approved the Applicants' Plans (resulting in his access being cut off to maintain his ficus hedge *within the Utility Easement*) it would require him "*to come back to this Committee to remove our 100-foot cement decorative wall*" (to gain a new access point to maintain the hedge and its root system and make sure it does not get white fly) thereby destroying his concrete wall which is yet another unique site characteristic.¹⁵

Mr. Wolf's testimony was undisputed as the Applicants offered *no evidence* contradicting his relevant, fact-based statements.

B. The Evidence Also Established The Proposed Fence Will Be Located Within The Utility Easement.

During the meeting, the Applicants' landscape architect incorrectly suggested that the installation of the fence would not be located within the Utility Easement. However, Mr. Frogman pointed out this was simply false. Mr. Frogman explained that if permitted, the fence would indeed be located *within the Utility Easement* and he showed the ARCOM members the slides in the Wolfs' presentation which clearly depicted this.¹⁶ (See Slides #7 and #9 in Exhibit #3).

C. ARCOM's Approval Of The Plans.

Despite the overwhelming and undisputed evidence which showed that the location and design elements of the Applicants' Plans failed to adequately protect the unique site characteristics and that the fence would be located within the Utility Easement, ARCOM nonetheless approved the Plans. This was despite comments made by ARCOM's members during their deliberations *acknowledging the Plans fail to provide*

¹⁴ Page 11, lines 24-25 and Page 12, line 1.

¹⁵ Page 12, lines 2-8 of the transcript. Mr. Frogman corroborated the same point during his presentation "*the proposed landscape plan and elements also will result [in] having to take down the concrete wall just so they [the Wolfs] can gain a new access point to maintain the ficus.*" Page 10, lines 14-17 of the transcript.

¹⁶ Page 8, lines 19-24.

the required adequate protection and other comments making clear that ARCOM was concerned about allowing the installation of a new fence within the Utility Easement.

By way of example, clearly recognizing that the Plans are not designed to protect the Wolfs' ficus hedge which has been there since the 1950s, Ms. Catlin inquired "*Is there a way to do that proposed hedge and fence a little bit far – just a little bit more out or a little bit narrower something that allows the neighbor [the Wolfs] to get in and maintain their hedge?*"¹⁷

Mr. Floersheimer similarly recognized that the proposed seven (7) foot fence in the Plans will damage the Wolfs' ficus hedge: "*And then the footings for any kind of fence, he's going to have to, I don't know chop down part of the ficus hedge that exists there.*"¹⁸ Mr. Floersheimer went on to state: "*So I'd like to see whether the two neighbors could get together and come back to us and find a compromise that satisfies both neighbors in terms of Mr. Kleinfeld getting a little bit more space for his backyard, but preserving privacy for both parties **without a diminishment of Mr. Wolf's, you know, 40-foot hedge, which I think would be severely impacted.***"¹⁹

Mr. Floersheimer also acknowledged that with the proposed demolition of the Applicants' concrete wall and installation of the new fence: "***It does not provide any noise protection, either, from splashing or swimming in the pool to the Wolfs that they currently have with the [Applicants] concrete wall.***"²⁰

In terms of the proposed fence, Mr. Corey expressed his concerns about its location having asked for confirmation that the entire Utility Easement was completely on the Wolfs' side of the property line – "*So the easement is on the person's [Wolfs] property to the south completely?*"²¹ While Mr. Mizell (the Applicants' landscape architect) said that it was, **that is simply not the case** as confirmed by Mr. Frogman in his testimony and as reflected in the Slides he showed ARCOM during the meeting which clearly showed the fence would be located right near the very middle of the Utility Easement.

Not a single member of ARCOM ever mentioned §18-205 at the May 24th meeting much less stated that they believed the Applicants' Plans complied with all of its mandatory criteria. Nor, for that matter, did any of the members state that they believed the Plans adequately protected each of the unique site characteristics as required by §18-205(a)(10). Yet, such a determination was required in order to approve the Applicants'

¹⁷ Page 15, lines 10-13 of the transcript.

¹⁸ Page 18, lines 16-19 of the transcript.

¹⁹ Page 19, lines 2-9 of the transcript.

²⁰ Page 21, lines 16-19 of the transcript.

²¹ Page 7, lines 23-25 of the transcript.

Plans. And most importantly, none of the ARCOM members cited *any* competent, substantial evidence in the record supporting their decision approving the Plans. The transcript from the meeting reflects that the members merely made a purely ad hoc and subjective determination. ARCOM gave its approval without regard to either the required criteria or the evidence all of which showed that the Plans were inconsistent and failed to conform with the required criteria.

V. **The Council Must Now Reverse ARCOM's Approval Since The Plans Are Inconsistent With And Do Not Conform With The Criteria In §18-205(a)(9) and (10)**

§18-177 of the Code governs this appeal and states, in pertinent part, "*Appeals shall set forth the alleged inconsistency or nonconformity with procedures or criteria set forth in this article or standards set forth in or pursuant to this Code...*" [Emphasis added].²²

ARCOM's approval must be reversed because it failed to apply the correct law and its decision is not supported by competent, substantial evidence. The transcript clearly reflects that ARCOM did not follow proper procedures as it failed to consider *any* of the mandatory criteria in §18-205 much less find that the Applicants' Plans complied with all such criteria. ARCOM also failed to follow proper procedures which further required that it find that there was substantial competent evidence establishing compliance with all of the criteria. No such determination was made.

Reversal is also required given that there is no substantial competent evidence establishing that the Plans complied with the criteria. To the contrary, the evidence stood uncontradicted that the location and design elements of the Plans are inconsistent with and do not conform with the criteria including §18-205(a)(10). Rather than *adequately protect* each of the unique site characteristics that are involved (as required to obtain approval), the evidence discussed throughout Section IV.A above clearly reflects that the Plans will significantly damage if not destroy the unique site characteristics as discussed throughout this letter.

Reversal is also required given that the proposed fence (if permitted) will be Located ***within the currently existing Utility Easement which has not been abandoned.*** Placement of such a fence would be in violation of §110-128 of the Code which clearly states that – "a minimum of five (5) feet shall be reserved at the rear or side within all platted lots for drainage and utilities..." Consistent with this requirement, the Utility Easement is five (5) feet wide and this Code provisions very purpose in requiring five (5) feet is to provide sufficient access for the utility companies to perform their work in terms of inspections, maintenance, repairs, etc. However, installation of the fence right near the

²² A copy of §18-177 is attached as **Exhibit #5.**

middle of the Utility Easement will literally cut off all access for the utility companies thereby violating the very purpose of §110-128 of the Code. Reversal of ARCOM's approval is required since the criteria in §18-205(a)(9) requires that: "*The proposed development is in conformity with the standards of this Code* and other applicable ordinances *insofar as the location* and appearance of the buildings *and structures are involved.*" The proposed fence clearly is not in conformity with the very purpose of §110-128 of the Code as relating to the location of the fence.

VI. Conclusion

For all of these reasons, the Wolfs respectfully submit that ARCOM's approval of the Applicants' Plans was improper and must now be reversed. We look forward to the Council's consideration of this appeal.²³

Respectfully submitted,

ZASLAV & ARMBRUSTER, P.A.

By: /s/ Scott M. Zaslav
For The Firm

Encls (Exhibits #1 - #6)

cc Steven & Heather Wolf

²³ In light of the filing of this appeal, no permits relating to the Applicants' Plans can be issued. If any such permits have already been mistakenly issued, this appeal operates to automatically suspend them. To that end, §18-177 states the following, in pertinent part, "*The town council shall decide an appeal within 45 days of the filing of such appeal unless an extension of time is consented to by the applicant, and such filing shall suspend any building permit issued pursuant to the ruling of the architectural commission or director of the planning, zoning and building department or his/her designee until the town council has decided the appeal...*" [Emphasis added].

EXHIBIT #1

Sec. 18-205. - Criteria for building permit.

- (a) The architectural commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction only after consideration of whether the following criteria are complied with:
- (1) The plan for the proposed building or structure is in conformity with good taste and design and in general contributes to the image of the town as a place of beauty, spaciousness, balance, taste, fitness, charm and high quality.
 - (2) The plan for the proposed building or structure indicates the manner in which the structures are reasonably protected against external and internal noise, vibrations, and other factors that may tend to make the environment less desirable.
 - (3) The proposed building or structure is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value.
 - (4) The proposed building or structure is in harmony with the proposed developments on land in the general area, with the comprehensive plan for the town, and with any precise plans adopted pursuant to the comprehensive plan.
 - (5) The proposed building or structure is not excessively similar to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features of exterior design and appearance:
 - a. Apparently visibly identical front or side elevations;
 - b. Substantially identical size and arrangement of either doors, windows, porticos or other openings or breaks in the elevation facing the street, including reverse arrangement; or
 - c. Other significant identical features of design such as, but not limited to, material, roof line and height of other design elements.
 - (6) The proposed building or structure is not excessively dissimilar in relation to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features:
 - a. Height of building or height of roof.
 - b. Other significant design features including, but not limited to, materials or quality of architectural design.
 - c. Architectural compatibility.
 - d. Arrangement of the components of the structure.
 - e.

Appearance of mass from the street or from any perspective visible to the public or adjoining property owners.

- f. Diversity of design that is complimentary with size and massing of adjacent properties.
 - g. Design features that will avoid the appearance of mass through improper proportions.
 - h. Design elements that protect the privacy of neighboring property.
- (7) The proposed addition or accessory structure is subservient in style and massing to the principal or main structure.
- (8) The proposed building or structure is appropriate in relation to the established character of other structures in the immediate area or neighboring areas in respect to significant design features such as material or quality or architectural design as viewed from any public or private way (except alleys).
- (9) The proposed development is in conformity with the standards of this Code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved.
- (10) The project's location and design adequately protects unique site characteristics such as those related to scenic views, rock outcroppings, natural vistas, waterways, and similar features.
- (b) If the above criteria are met, the application shall be approved. Conditions may be applied when the proposed building or structure does not comply with the above criteria and shall be such as to bring such building or structure into conformity. If an application is disapproved, the architectural commission shall detail in its findings the criterion or criteria that are not met. The action taken by the architectural commission shall be reduced to writing, and a copy thereof shall be made available to the applicant upon request.
- (c) A decision or order of the commission or the planning, zoning and building department director or his/her designee shall not become effective until the expiration of ten working days after the date upon which a ruling of the commission or the planning, zoning and building department director or his/her designee has been made.

(Ord. No. 11-2015, § 1(Att.), 4-15-15)

EXHIBIT #2

COMMISSION MEETING
TOWN OF PALM BEACH ARCHITECTURAL COMMISSION

May 24, 2023

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TOWN OF PALM BEACH
ARCHITECTURAL COMMISSION

TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD
Palm Beach, Florida 33480

May 24, 2023

9:00 a.m.

Ryan Doyle
Digital Reporter
Commission No. HH 216279



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1 COMMISSION PANEL - PRESENT

2
3 Jeffrey W. Smith, Chairman
4 Richard F. Sammons, Vice Chairman
5 John David Corey, Member
6 Betsy Shiverick, Member
7 Kenn Karakul, Member
8 Thomas Kirchhoff, Member
9 Elizabeth Connaughton, Member
10 Dan Floersheimer, Alternate Member
11 Joshua L. Martin, Alternate Member
12

13 Staff Members Present:

14 Sarah Pardue, Narrarator
15 Kelly Churney, Acting Town Clerk
16

17 Also Present:

18 Dustin Mizell
19 Jim Frogman
20 Steven Wolf
21 George Kleinfeld
22 Jamie Crawley
23

24 (Proceedings recorded by digital sound
25 recording; transcript produced by transcriptionist.)

1 MR. MIZELL: Thank you. We're just waiting
2 for the drawings to come up.

3 CHAIRMAN SMITH: 041: 232 Colonial Lane.

4 MS. PARDUE: Yes. 232 Colonial Lane is a
5 deferred project coming back, seeking modifications to
6 the perimeter and wall of the landscape as well as the
7 additional pergola. At the April meeting, public
8 comment from neighbors resulted in a deferral and the
9 applicant has made revisions to the proposed plans.
10 Two letters of support were received by staff, one
11 from Ms. Sher -- Shera -- and I'm sorry if I
12 mispronounced that -- at 224 Colonial Lane. The
13 second is Ms. Wasserman, also in support.

14 A letter of opposition was received and
15 distributed to the Board as well from a Mr. Wolf.
16 Additionally, Mr. Wolf is here today and would like to
17 ask -- request the Commission for time to speak
18 exceeding the three minutes allowed after the
19 applicant's presentation should the Chairman and the
20 Board accept that.

21 CHAIRMAN SMITH: Thank you.

22 MS. PARDUE: And I will now do ex parte.

23 MS. CHURNEY: Yes. Ms. Connaughton?

24 MS. CONNAUGHTON: No.

25 MR. KARAKUL: I went by the site and I read

1 the correspondence.

2 MR. KIRCHOFF: I read the correspondence.

3 UNIDENTIFIED SPEAKER: Read the
4 correspondence.

5 MR. KIRCHOFF: Read what the town said.

6 MR. COREY: I went by the site, both Colonial
7 and Monterey, but just couldn't see too much.

8 MS. SHIVERICK: I read the correspondence.

9 MR. FLOERSHEIMER: I read the correspondence,
10 went to the site, met with Mr. Kleinfeld, who showed
11 me his backyard, and on the following day met with
12 Mr. Wolf, who showed me the easement area, which I
13 think is the area of concern.

14 MS. CATLIN: I drove by the site and I read
15 the correspondence, and I would just request that when
16 someone wants to meet with us if they give us some
17 contact information so that we can follow through.

18 MS. CONNAUGHTON: Kelly, I also read the
19 correspondence.

20 MR. MIZELL: Thank you. Good morning, Dustin
21 Mizell with the Environment Design Group in Palm
22 Beach. I'm here this morning with my client,
23 Mr. Kleinfeld and also Jamie Crawley, the attorney for
24 the project.

25 There were a few things that came out of our

1 meeting last month that we want to respond to quickly.
2 The first was we had photographs of the backyard but
3 not the front yard. So we did take the pictures of
4 the front and the side, which I think was helpful as
5 well, because we were originally proposing a black
6 aluminum, more contemporary pergola. We're actually
7 now going to a white wood to match the house, and the
8 columns on the second floor were taken as exact
9 proportions and bringing them down. So we appreciate
10 that feedback. I think it helped us land on the right
11 place.

12 Also, too, and I'll jump right to the site
13 plan, which we'll tell you what we changed. Mr. Corey
14 had a comment, and he was correct, about the southwest
15 corner. We were proposing to remove the entire wall
16 but we do have a generator there. So we're going to
17 keep that portion of the wall to screen the generator.
18 And we're actually going to increase it in height. It
19 won't exceed seven feet height, but it will screen the
20 generator, which is a better condition for Mr. Wolf.

21 Also, too, I did have the opportunity to meet
22 with Mr. Wolf at his property and he showed me his
23 backyard and his vista, just so I could look at that.
24 That was very helpful. So we decided that it would be
25 better to not plant the Clusia, which might fight

1 against the ficus a little bit more. And so we're
2 willing to go ahead and change that to green island
3 ficus. It's a six-foot height. It is definitely more
4 expensive. We're more than willing to absorb that
5 cost. I think it's more synergy with his hedge, and
6 if there ever were an encroachment, I mean, they
7 certainly would be more compatible together as opposed
8 to the Clusia versus the ficus. So we made that
9 change as well.

10 So the three changes again -- excuse me --
11 four -- was we included photographs of the front, used
12 inspiration on existing columns to do a new wood
13 trellis. It'll be the same exact proportions. We are
14 keeping the side wall, actually increasing the height
15 for better privacy, getting rid of the Clusia,
16 installing green island ficus instead, and then the
17 fence request remains the same.

18 Just before I end my remarks, as I am going to
19 be brief here -- I do want to remind everybody because
20 this is important for our conversation and there's
21 going to be some follow-up here. Again, just to
22 remind everybody, there was some confusion I think
23 last month.

24 As you see our property line, which is the
25 dark line, our wall, our current wall right now is two

1 and a half feet on the east side, offset. It becomes
2 almost three feet down here, see, 2.9. That's about
3 200 square feet. Our backyard a little less than
4 1,500 square feet. It really translates to about 14
5 percent of a very small backyard. The purpose of my
6 client is not to put a line in the sand, determine,
7 this is my property, that's yours. They really want
8 to reclaim some of the backyard, which is very small
9 to begin with, I mean, almost 14 percent.

10 The easement is south of our property, very
11 clearly. So we're not asking for easement release
12 agreement. We're not asking to do anything unique.
13 We're asking just for a property rights issue that we
14 can solve. Have it go to aluminum fence. Will not be
15 visible. It will be buried in the green island ficus,
16 and allow our client to, you know, reclaim a little
17 bit of backyard, which is very well to begin with.
18 So, again, the easement is not on our property, just
19 for clarity purposes.

20 So those are the things we responded to. And
21 I'm going to end it now and I'll just turn it over to
22 Mr. Wolf, if that's okay.

23 MR. COREY: Can I have a sec quick? So the
24 easement is on the person's property to the south
25 completely?

1 MR. MIZELL: Yes, sir.

2 MR. COREY: Okay. Thank you.

3 MR. CRAWLEY: Mr. Chair, if we can just
4 reserve two minutes to rebut any comments that are
5 made, that would complete our presentation. Thank
6 you.

7 CHAIRMAN SMITH: Anyone from the audience want
8 to speak?

9 MR. FROGMAN: Good morning. My name is Jim
10 Frogman. I'm a zoning consultant for Mr. Wolf, and
11 I've been examining his backyard issues. I recall
12 coming here in 2019 when this Board denied this,
13 basically this same exact design. Let' go through
14 this very quickly.

15 This easement was part of the original plan in
16 1935.

17 CHAIRMAN SMITH: Can you just raise your
18 microphone a little bit? Thank you.

19 MR. FROGMAN: The easement in the properties
20 and the (inaudible) addition were acquired in 1935.
21 The purple area on the screen is basically a blow-up
22 showing the two-and-a-half-foot easement on the south
23 side for Mr. Wolf and two and a half feet on the north
24 side for the Kleinfelds.

25 This is how the existing issue looks today.

1 The concrete wall on the left abuts the Kleinfeld's
2 property. Mr. Wolf's 30-foot ficus hedge. You can
3 see the roots at the bottom and the nice foliage on
4 the top which his backyard pool is shown.

5 This is the existing situation also on
6 Mr. Wolf's side. Here's a complete green screen. On
7 the opposite side is the easement. As you can see,
8 there is very little room between the wall and the
9 roots and the existing hedge material. If the
10 neighbor puts a hedge in there, too, so it stays,
11 there is no room to maintain Mr. Wolf's hedge. This
12 has been an existing unique state characteristic since
13 1935. The hedges were put in approximately sometime
14 in the '50s. So any work done in that easement,
15 especially placement of a new landscape buffer, would
16 absolutely destroy Mr. Wolf's hedge.

17 This is the letter from an inspection of the
18 landscape contractor that's well-known in Palm Beach.
19 He looked at the situation, and he was adamant that
20 any hedge material going in that little space between
21 the wall and the roof will absolutely impact
22 Mr. Wolf's hedge.

23 This is the exact plan in 2019. It was
24 rejected. Again, there's very little room in that
25 easement for a new hedge. We don't have any objection

1 to them keeping the wall as it is and putting a new
2 Clusia hedge on the inside and the north side of the
3 wall. That's not an issue for us. The issue is their
4 proposed landscape buffer inside the easement right up
5 against ours. We have no way to maintain that hedge.
6 This is an architectural rendering showing the limited
7 area. Again, two and a half feet is not going to
8 support a large hedge against Mr. Wolf.

9 Under the Court of Ordinances in Palm Beach
10 and criteria for getting building permit, the proposed
11 landscape plan elements would disrupt and destroy the
12 adjacent hedges. The design for 232 Colonial offers
13 no protection for Mr. Wolf's unique site
14 characteristics, and the proposed landscape plan and
15 elements also will result having to take down the
16 concrete wall just so they can gain a new access point
17 to maintain the ficus. So we maintain that their
18 design plan does not adequately protect the sound
19 barrier the wall currently provides. Again, if they
20 put a hedge in that easement area, it will make it
21 totally inaccessible and totally destroy the unique
22 statistics that have been there since the '50s. Thank
23 you.

24 CHAIRMAN SMITH: Anyone else in the audience
25 want to address the Commission?

1 MR. WOLF: Yes, please.

2 Thank you, everyone. Steven Wolf. I reside
3 at 225 Monterey. Third generation Palm Beacher. I
4 think -- there's a video actually playing right now --
5 sorry -- I should be narrating that.

6 MS. PARDUE: No, I can start over.

7 MR. WOLF: But just -- listen, obviously very
8 difficult for everybody to get there, and you see many
9 things, and it's my job to at least give you as quick
10 a picture as I can.

11 This is the lush backyard. These are 30 to
12 40-foot high. That's the cement wall on our side. So
13 you essentially have a cement wall, a cement wall,
14 five feet. And was able to get -- Dan as able to come
15 by. And I think before any decision could be made,
16 hopefully this gives some clarity as to what we're
17 talking about.

18 The second video, did our best to walk through
19 that easement. As you can see, these are healthy.
20 The roof system is there that tree right there is
21 about an inch from the wall. When you walk through
22 here, it's just simply impractical to knock down that
23 wall, go two and a half feet, to their point, 30
24 inches. And to put a fence, there's electrical
25 equipment back there, there's irrigation equipment,

1 there is landscape lighting.

2 Essentially, we talked about the unique
3 characteristics, but this would require me to maintain
4 it to come back to this Committee to remove our
5 100-foot cement decorative wall so I can access the
6 front of the property, to the front of the roof system
7 to be able to clean it, make sure it doesn't get white
8 fly. Then come back to this Committee and say, we
9 want to put the wall back up in some way. There's not
10 a lot of room, as you can see.

11 We have a 9,000-foot lot. I appreciate that
12 they have, it looks like a 6,000-foot lot, and this is
13 not a lot of room, but we're talking about 24 to 30
14 inches. The complete destruction would be our hedges,
15 our privacy. This is a two-story house on their side.
16 So I just wanted to have you hear from us, and
17 hopefully this gave you a little bit of a picture.

18 I do apologize. There was no telephone number
19 there, but I was able to get one of the ARCOM members
20 to come by. And thank you very much.

21 CHAIRMAN SMITH: Thank you. Any other
22 comments?

23 MR. CRAWLEY: So Jamie Crawley for the record.
24 So this, again, is an abstracted survey. What that
25 means is if you look at Survey Note 1, this was done

1 with a title review. So all of the easements that are
2 recorded in the public records are shown on this
3 survey.

4 We are not showing any easement on our
5 property. There is no right of access on our property
6 to walk behind that hedge to maintain that. This is
7 our client's property. So we're not proposing to do
8 anything with respect to their property or any
9 easement. This is our client's private property.

10 One of the most fundamental rights in property
11 is the right to exclude others. This is our property.
12 We're doing what is allowed under the Code. The
13 supplemental regulations in Chapter 134 allow you to
14 put fences and walls into the rear setbacks as long as
15 you meet the Code criteria for issuance and building
16 permit, which this project does.

17 We have gone back. We have added the
18 screening for the generator, which will protect the
19 sound. We have agreed to replace the hedge material
20 at additional cost in order to be good neighbors. So
21 there is no issue with an access easement. This is
22 100 percent our client's unencumbered property.

23 Now, with respect to the prior rejection of an
24 application at this Board, that was for a chain link
25 fence. And it was said on the record, this is Palm

1 Beach, we don't do chain link fences. So we're not
2 proposing a chain link fence. We're proposing a
3 project which is in keeping with all the requirements
4 in Section 18 to apply for issuance of a building
5 permit. There is no easement here, so we would ask
6 that you grant our application. And my client would
7 like to come up and just say a few words before we
8 close.

9 MR. KLEINFELD: I am George Kleinfeld, and I'm
10 the owner of 232 Colonial Lane. I just want to say
11 that we believe we have a fundamental right to the
12 full use of our backyard. Right now we're not using
13 14 percent of our yard. We just want to make full use
14 of the yard. And I would emphasize that we're as
15 dedicated to maintain our privacy as the Wolfs are to
16 maintaining theirs. There's no disagreement about the
17 desirability of lush privacy, preserving landscaping.

18 One of the problems here is that the ficus
19 that are in the easement, which is on the Wolf's side
20 of the property line, are dying. I can't tell you how
21 many times I've had to spend Saturday morning skimming
22 dead ficus leaves out of my swimming pool. You know,
23 we're going to do our very best to ensure that the
24 landscaping preserves our privacy, which in turn will
25 also preserve the Wolfs' privacy. Thank you.

1 MR. CRAWLEY: Thank you. That concludes our
2 presentation. Thank you.

3 CHAIRMAN SMITH: Thank you. Ms. Catlin?

4 MS. CATLIN: I just have some questions
5 because I want to understand a little about the
6 hedges, Dustin. Because when you look at it from the
7 Colonial wayside, the back of those ficus hedge look
8 pretty ratty. And I appreciate the desire to gain
9 that square footage, because on a small lot, that's a
10 lot. Is there a way to do that proposed hedge and
11 fence a little bit far -- just a little bit more out
12 or a little bit narrower something that allows the
13 neighbor to get in and maintain their hedge?

14 MR. MIZELL: I think the technical answer
15 would be his hedge is in the wrong place. You know,
16 if you look at his exhibit, it shows a dirt path.
17 That dirt path is our private property. So he
18 currently maintains it on our property. If his hedge
19 was not in the two-and-a-half foot easement and was on
20 his property, he would have access in easement, not
21 our property.

22 So I just think it's one of those conditions
23 where it's been there a while and everyone assumes
24 their property is the back of our wall, but it's not.
25 So I think my client would answer that, you know, we

1 really want to reclaim our yard.

2 MR. CRAWLEY: And in addition, if there is no
3 easement there and someone gets injured back there,
4 keeping, you know, maintaining that hedge, our
5 client's going to get sued. And they're going to say,
6 this is your property. So it's not an ideal
7 situation, but it exists all over town. And the
8 people that have hedges against hedges and -- and they
9 do the best to maintain them. So, again, we're just
10 trying to do what we are bound to do under the Code.

11 MS. CATLIN: Thank you.

12 CHAIRMAN SMITH: Mr. Kirchoff?

13 MR. KIRCHOFF: Yeah. I think we're spending
14 way too much time on this, but I would have to agree
15 with the applicant. I mean, I think this situation
16 happens all over town. I mean, there's hedges against
17 hedges. Each person takes care of what's on their
18 side.

19 And I would say the problem here seems to be
20 Mr. Wolf. His hedge is in an easement, and whoever
21 has the right to that easement, the utilities could
22 tear it out at any point in time, and he couldn't say
23 a thing. So I don't know why we're arguing about
24 this. I think the applicant should have a right to a
25 defense on the property line if there was indeed no

1 easement on his side. So I think we just move on.

2 CHAIRMAN SMITH: Mr. Corey?

3 MR. COREY: And I would agree with
4 Mr. Kirchoff, and I actually would argue that you're
5 not rebuilding the wall right on the property line,
6 which would be extremely disruptive to the root
7 system. You're putting in a fence, not a chain link
8 fence, but a skip fence or aluminum fence which
9 seems -- you know, it does the Code, in the four-inch
10 wall, the sphere to keep people out of the pool. And
11 I think the project is fine as presented.

12 CHAIRMAN SMITH: Mr. Floersheimer?

13 MR. FLOERSHEIMER: Yes, thank you. It seems
14 to me like a Solomonesque type of decision that needs
15 to be made here. There are certain existing
16 circumstances. When I went to visit the site, there's
17 a pool equipment that is hard to determine whether
18 it's on Mr. Wolf's property or in the easement. Do
19 you have a site plan of the whole property?

20 MR. WOLF: Second to last page on our PDF.

21 MS. CHURNEY: You need to speak in the
22 microphone if you're going to speak.

23 MR. FLOERSHEIMER: Can we -- can we see the
24 second to last page?

25 MR. WOLF: The PDF (inaudible), the one before

1 that page, right before that page -- right there, and
2 you can expand that.

3 MR. FLOERSHEIMER: Can we blow that up and
4 maybe center it a little bit?

5 So I understand property rights. And
6 Mr. Kleinfeld, you know, should have use of his
7 property. But does that use of his property extend to
8 a diminishment of a neighbor's property's landscape?
9 He's not violating Mr. Wolf's property, but I looked
10 at those trees, and the trunks of the trees, in some
11 cases, are eight to ten inches away from the wall.
12 And the roof structure is probably at the wall or
13 potentially even underneath the wall.

14 So if you were to -- if Mr. Kleinfeld wants to
15 demolish most of the wall, I think he's leaving
16 six-inch curve; is that correct? And then the
17 footings for any kind of fence, he's going to have to,
18 I don't know, chop down part of the ficus hedge that
19 exists there. And it would seem to me that he wants
20 to add ficus to an additional ficus hedge. Perhaps he
21 could just maintain the ficus hedge that is there such
22 that he has to foliage on both sides. I have an
23 existing situation with my neighbor that is the same.
24 We had a double ficus hedge. He removed his ficus
25 hedge, and now it's leafing out on the other side

1 because it's now getting more sunlight.

2 So I'd like to see whether the two neighbors
3 could get together and come back to us and find a
4 compromise that satisfies both neighbors in terms of
5 Mr. Kleinfeld getting a little bit more space for his
6 backyard, but preserving privacy for both parties
7 without a diminishment of Mr. Wolf's, you know,
8 40-foot hedge, which I think would be severely
9 impacted. Alternatively, if, you know, if the hedge
10 is impacted, would Mr. Kleinfeld reimburse Mr. Wolf
11 for any damage done to his hedge? So some of this I
12 think is a legal question that may go beyond our
13 purview and have the lawyers deal with this.

14 MR. COREY: And I think we should stick to the
15 architecture and make a decision like we always do.

16 CHAIRMAN SMITH: Any other comments from
17 Commissioners? Can I go --

18 MR. FLOERSHEIMER: I mean, Dustin, do you want
19 to respond to how -- how do you --

20 MR. WOLF: I can respond.

21 MR. FLOERSHEIMER: You're a landscape person.

22 MR. WOLF: We take the --

23 MR. FLOERSHEIMER: I understand your point of,
24 you know, he's got a legal right to use his property.

25 I wanted to ask Mr. Mizell --

1 MR. WOLF: Without the Code (inaudible) than
2 that.

3 MR. FLOERSHEIMER: How he can -- how he can
4 install ficus and how he can revive the -- how he can
5 revive the hedge. And what about the pool equipment
6 that appears to be in the easement?

7 MR. MIZELL: Yeah. I'll be --

8 MR. FLOERSHEIMER: Which I believe Mr. Wolf
9 has the CO of -- as a pre-existing condition when he
10 bought the house.

11 MR. MIZELL: The issue is, for my client,
12 is -- and I was on Mr. Wolf's property. His hedge
13 faces south. He gets fantastic sun. It is much
14 fuller, for sure, on his side. It actually looks
15 really nice. He's cared for it.

16 The issue is on our side, which is the north
17 side, it actually gets no sun, so the ficus looks
18 terrible. So the only way that we have a backyard
19 that is pleasing is that we have to plant it because
20 it doesn't get the sun over there. So that's the
21 problem.

22 MR. FLOERSHEIMER: So you're saying new
23 smaller ficus to cover the lower portion of the roots.

24 MR. MIZELL: It's all dead. It's all dead.

25 MR. CRAWLEY: And we agreed to change from the

1 Clusia to the ficus because it would work better with
2 his hedge. So we did -- we've already compromised
3 here.

4 MR. KARAKUL: And I just had one more
5 question. The fence on the new property line, what is
6 that fence?

7 MR. MIZELL: It's just a powder-coated
8 aluminum fence, standard picket.

9 MR. KARAKUL: Picket?

10 MR. MIZELL: Yes, sir. Yes, sir, very clean.

11 MR. KARAKUL: But clearly doesn't provide any
12 privacy?

13 MR. MIZELL: No, sir.

14 MR. KARAKUL: -- sound, obviously.

15 MS. CHURNEY: Your microphone, Mr. Karakul.

16 MR. FLOERSHEIMER: It doesn't provide any
17 noise protection, either, from splashing or swimming
18 in the pool to the Wolfs that they currently have with
19 the concrete wall.

20 CHAIRMAN SMITH: Walter Kirchoff?

21 MR. KIRCHOFF: I'd like to make a motion to
22 approve the project as presented.

23 MR. COREY: Second.

24 MR. FLOERSHEIMER: Can I make one more
25 comment? Would Mr. --

1 UNIDENTIFIED SPEAKER: Kleinfeld?

2 MR. FLOERSHEIMER: Oh, replace it with a
3 concrete wall, a cinder block concrete wall like he
4 has now?

5 MR. COREY: With a six-foot footing and
6 destroy all the ficus roots? I think that would
7 destroy the -- yeah, I mean, I don't know -- we have a
8 landscape (inaudible).

9 MR. MIZELL: Yeah, it would kill it.

10 CHAIRMAN SMITH: Okay. I know there was a
11 motion. Was there a second on the motion?

12 MR. COREY: Second.

13 VICE CHAIRMAN SAMMONS: Second.

14 CHAIRMAN SMITH: All in favor?

15 COUNCIL MEMBERS: Aye.

16 CHAIRMAN SMITH: Opposed? So moved. Thank
17 you very much.

18 (Proceedings adjourned at 10:29 a.m.)
19
20
21
22
23
24
25

CERTIFICATE OF DIGITAL REPORTER

I, Ryan Doyle, a Digital Reporter and Notary Public within the State of Florida do hereby certify that on May 24, 2023, in the Town of Palm Beach, State of Florida, I digitally reported the proceedings had and the evidence given, together with the objections of counsel, and that said testimony was accurately captured with annotations by me during the proceeding taken at said time and place.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS THEREOF, I have hereunto set my hand this 26th of May, 2023.



Ryan Doyle
Notary Commission Florida No. HH 216279
Commission Expires: January 12, 2026

CERTIFICATE OF TRANSCRIPTIONIST

I, Phyllis Sullivan, Legal Transcriptionist,
do hereby certify:

That the foregoing is a complete and true
transcription of the original digital audio recording
of the testimony and proceedings captured in the
above-entitled matter. As the transcriptionist, I
have reviewed and transcribed the entirety of the
original digital audio recording of the proceeding to
ensure a verbatim record to the best of my ability.

I further certify that I am neither attorney
for nor a relative or employee of any of the parties
to the action; further, that I am not a relative or
employee of any attorney employed by the parties
hereto, nor financially or otherwise interested in the
outcome of this matter.

IN WITNESS THEREOF, I have hereunto set my
hand this 26th of May, 2023.

Phyllis Sullivan

Phyllis Sullivan
Legal Transcriptionist

EXHIBIT #3

232 Colonial Objection

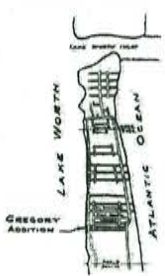
In Part 22, 18, 19, 20 for Report of 27 to 30 incl.

171730 3016

71

RECEIVED
JULY 10 1935
COUNTY CLERK
PALM BEACH COUNTY, FLA.
FILED IN BOOK 20
PAGE 21
JULY 10 1935
J. H. KELLEY
County Clerk

LOCATION SKETCH

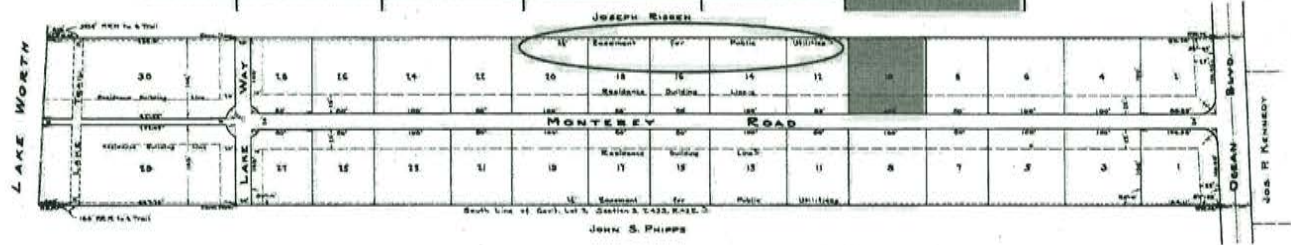


PLAT OF
GREGORY ADDITION
PALM BEACH, FLORIDA.
IN SEC. 3, T.43S., R.43E., PALM BEACH COUNTY, FLA.
JUNE, 1935
FUGATE & DORRWAY, ENGRS.

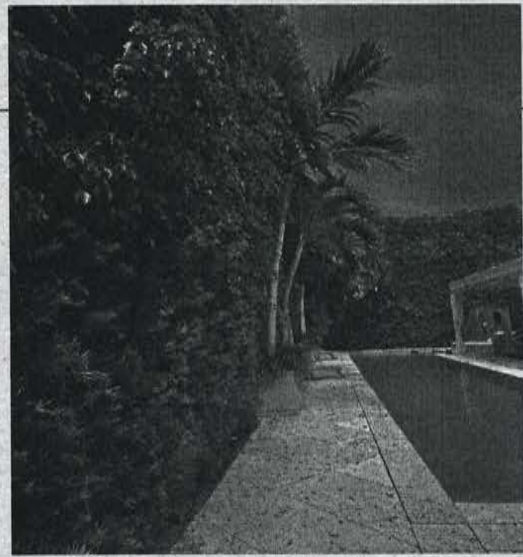
Approved: *[Signature]* A.D. 1935
County Clerk
By: *[Signature]*
County Engineer

Approved: *[Signature]* A.D. 1935
Board of County Commissioners
By: *[Signature]*
County Engineer

24' Easement for Public Utilities



South side of hedges, Wolf backyard



5 foot easement area & opposite side of hedges

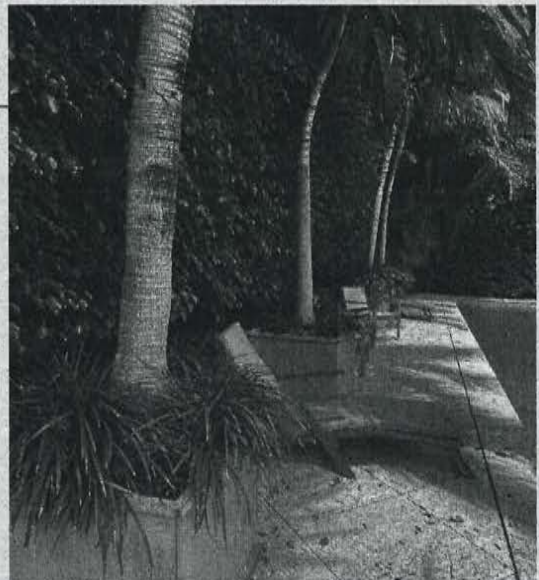
Block wall constructed in 1940, Hedges installed circa 1950's



North side



South/Wolf's side



Existing Conditions



JESSE T. CASSERINO

LANDSCAPE CONTRACTOR

P.O. BOX 2543

PALM BEACH, FL 33480

(561) 758-3236



May 22, 2023

Mr. Steven Wolf
225 Monterey Rd.
Palm Beach, FL 33480

I am providing a professional opinion of how the landscape would be affected if the proposed fence is installed to the north property line of 225 Monterey Rd.

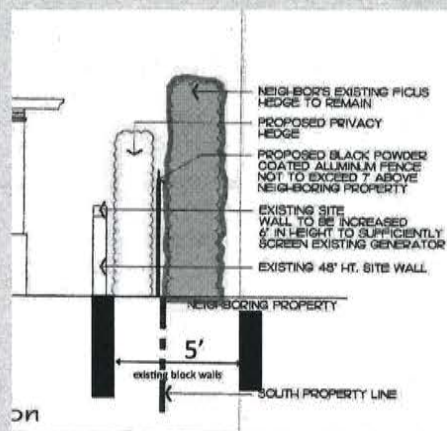
1. No access to the privacy hedge would be available to remove debris.
2. Granular fertilizer could not be applied.
3. Whitely treatment to drench the roots with systemic pesticide could not be accomplished.
4. Sprinkler service could not be accomplished.

For these reasons, this would severely threaten the privacy hedges living, and ultimately would cause failure of privacy.

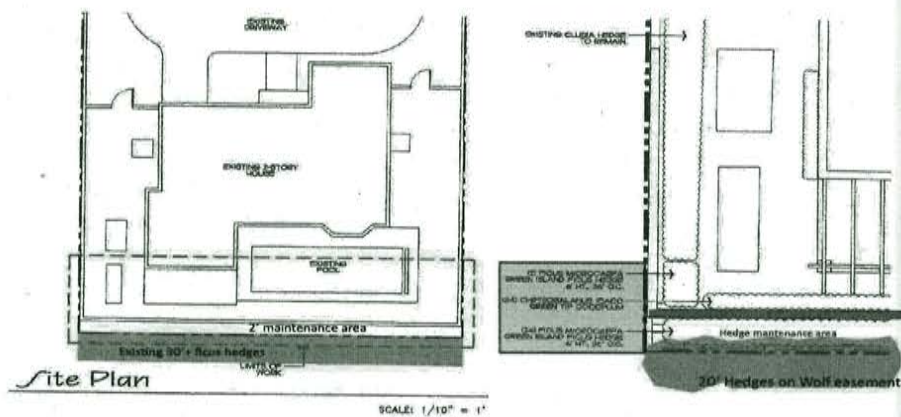
Sincerely,
Jesse T. Casserino

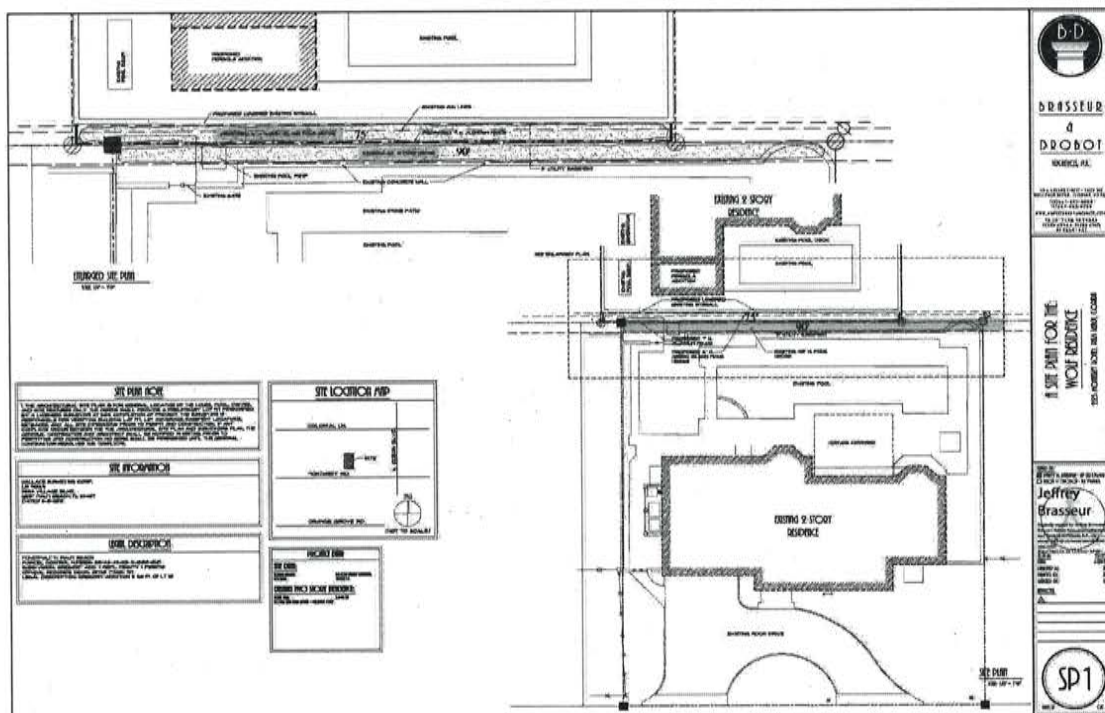


2023 design-similar to 2019 denial



Proposed impact of new design - 232 Colonial





CODE OF ORDINANCES TOWN OF PALM BEACH,

Sec. 18-205. - Criteria for building permit.

The architectural commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction only after consideration of whether the following criteria are complied with:

(10) The project's location and design *adequately protects unique site characteristics* such as those related to scenic views, rock outcroppings, natural vistas, waterways, and similar features.

The proposed landscape plan and elements will disrupt and destroy the adjacent hedges, thus, the design for 232 Colonial offers NO protection for the unique site characteristics. The proposed landscape plan and elements will also result in having to take down the concrete wall (to gain new access point to maintain the ficus) and as a result, their design plan does not adequately protect the sound barrier that the wall currently provides.

EXHIBIT #4

Scope of Work

- Addition of 18'-0" x 9'-9" (174 S.F.) pergola.
- Portion of existing site wall along south property line, to be demolished down to 6" Drainage Curb and replaced with chain-link fence.
- Portion of existing site wall to be raised 6" in height to sufficiently screen existing generator.
- Minor modifications to landscape buffer along south property line.



Design Team/Consultants

Landscape Architects
ENVIRONMENT DESIGN GROUP
139 NORTH COUNTY ROAD SUITE 208
PALM BEACH, FL 33480
561.832.4600
WWW.ENVIRONMENTDESIGNGROUP.COM

Civil Engineer
GRUBER CONSULTING ENGINEERS
2475 MERCER AVE
WEST PALM BEACH, FL 33411
561.312.2041

Application #: ARC-23-041
Final Submittal
Projected Hearing Date: 04.26.2023

Sheet Index

Cover Sheet
Zoning Legend / Vicinity Map
L1.0 - Existing Condition Images
L1.1 - Existing Conditions Inventory / Demolition Plan
L1.2 - Construction Screening & Staging Plan
L1.3 - Truck Logistics Plan
L2.0 - Site Plan
L2.1 - Site Data Calculations
L3.0 - Landscape Plan
Civil Engineering Plan
Survey

NOTES:
PESQUERA IS PROPOSED ON EXISTING DESIGN
SITE DATA. CALCULATIONS WILL NOT BE
AFFECTED BY PROPOSED MODIFICATIONS.
PROPOSED PESQUERA DOES NOT EXCEED W
IN HEIGHT.



T. ENVIRONMENT
 DESIGN
 GROUP
 10000 S.W. 10th Ave. Suite 100
 Fort Lauderdale, FL 33334
 Phone: 954.571.1111
 Fax: 954.571.1112
 Email: info@t-design.com
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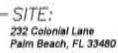
Private Residence
 252 Colonial Lane
 Town of Palm Beach



SHEET L1.0
 15 of 15

2023
 2023
 10000 S.W. 10th Ave. Suite 100
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 Phone: 954.571.1111
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ARC#-23-041
 Existing Condition Images



SCHEDULE:

**MONTH 1: DEMOLITION AND INSTALLATION
(30 DAYS)**

NOTE: SEE SEPARATE "CONSTRUCTION STAGING PLAN" SHEET FOR INFORMATION ON LOCATIONS FOR PARKING, MATERIAL STORAGE, DELIVERIES, DUMPSTER, PORTABLE TOILETS, TIRE CLEANING AREA, SILT FENCE, ETC.

PROPOSED INGRESS TRUCK ROUTE

PROPOSED EGRESS TRUCK ROUTE

Private Residence
232 Colonial Lane
Town of Palm Beach



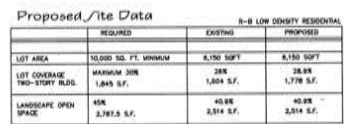
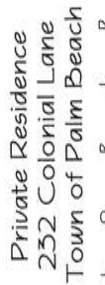
JOB NUMBER: 22288.00 LA
 (DRAWN BY): Jean Yumeng
 DATE: 01.23.2023
 02.27.2023
 05.08.2023

MEET L1.3

ARC#-23-041
Truck Logistics Plan

NOT TO SCALE

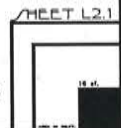
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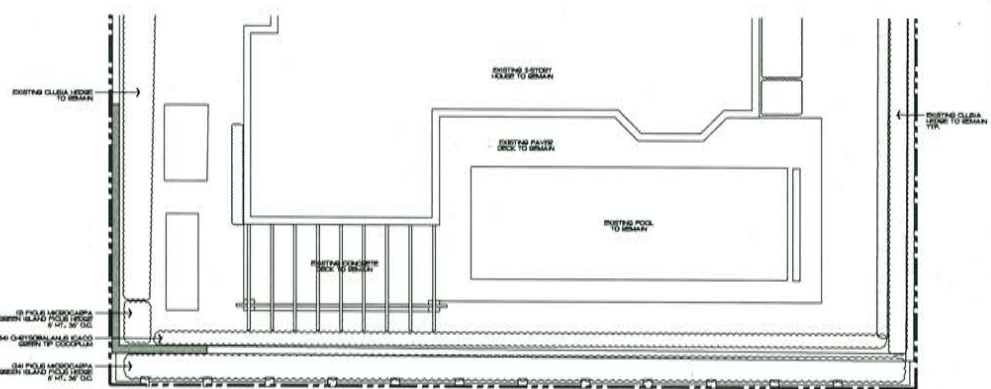


NOTES:
 PROPOSED PERMITS ARE BASED ON EXISTING DEED
 SITE DATA. CALCULATIONS WILL NOT BE
 AFFECTED BY PROPOSED MODIFICATIONS.
 PROPOSED PERMITS ARE UNENCLOSED AND
 DOES NOT EXCEED 9 IN HEIGHT.
 PROPOSED PERMITS ARE NOT MORE THAN 5%
 OF THE OVERALL LOT COVERAGE.





ARC#-23-041
Site Calculation/Lot Coverage Graphics
SCALE: 3/16" = 1'





Private Residence
232 Colonial Lane
Town of Palm Beach

Shrubs				
SYMBOL	PLANT NAME	QTY.	DESCRIPTION	NATIVE
	G-4760BOLANUS ICACO GREEN TP COCOPLUM	34	7 GAL, 24" O.C.	YES
	P105 MICROCARPUS GREEN ISLAND FOLIUS HERB	26	6" HT, 36" O.C.	NO
TOTAL NATIVE SPECIES		60 34 (56.6%)		



SHEET L3.0

ARC#-23-041
Landscape Plan



SCALE IN FEET 0' 4' 8' 12'

SCALE IN FEET 0' 4' 8' 12'

5. TEST INFORMATION

Total Property Area = 2.370 m²

Investigate Area Impervious Surface (excluding driveway) = 0.262 m²

Drainage Area Excludes Surface = 1.767 m²

6. ESTIMATED OVERLAND RETENTION VOLUME

The retention volume is estimated using the Rational Method (per IWA).

$Q = C \cdot I \cdot A$

$I = 1.6$ (impervious surface)

$C = 0.2$ (average runoff)

$A = 1$ (acre)

Investigation Surface Area Volume:

$1.6 \times 1 \text{ acre} \times 0.262 \text{ m}^2 = 0.419 \text{ m}^3 = 77 \text{ ft}^3 \text{ H}_2\text{O}$

Estimated Inflow:

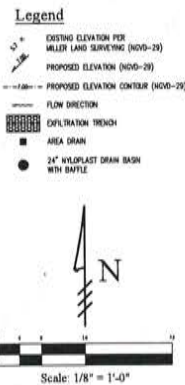
$Q = 1 \text{ m}^3/\text{hr} = 0.783 \text{ m}^3/\text{hr} \times 1.852 \text{ L/hr} = 1.44 \text{ m}^3/\text{hr}$

Total Volume to be Retained = 663 m³

7. AUTOMATIC EXFLOUT TRENCH DESIGN

Item	Total Length of Trench Provided =	Item	
1	10 m	1	Vertical Trench
2	10 m	2	Hydraulic Conductivity
3	10 m	3	Hydraulic Conductivity
4	10 m	4	Hydraulic Conductivity
5	10 m	5	Hydraulic Conductivity
6	10 m	6	Hydraulic Conductivity
7	10 m	7	Hydraulic Conductivity
8	10 m	8	Hydraulic Conductivity
9	10 m	9	Hydraulic Conductivity
10	10 m	10	Hydraulic Conductivity
11	10 m	11	Hydraulic Conductivity
12	10 m	12	Hydraulic Conductivity
13	10 m	13	Hydraulic Conductivity
14	10 m	14	Hydraulic Conductivity
15	10 m	15	Hydraulic Conductivity
16	10 m	16	Hydraulic Conductivity
17	10 m	17	Hydraulic Conductivity
18	10 m	18	Hydraulic Conductivity
19	10 m	19	Hydraulic Conductivity
20	10 m	20	Hydraulic Conductivity
21	10 m	21	Hydraulic Conductivity
22	10 m	22	Hydraulic Conductivity
23	10 m	23	Hydraulic Conductivity
24	10 m	24	Hydraulic Conductivity
25	10 m	25	Hydraulic Conductivity
26	10 m	26	Hydraulic Conductivity
27	10 m	27	Hydraulic Conductivity
28	10 m	28	Hydraulic Conductivity
29	10 m	29	Hydraulic Conductivity
30	10 m	30	Hydraulic Conductivity
31	10 m	31	Hydraulic Conductivity
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93	10 m	93	Hydraulic Conductivity
94	10 m	94	Hydraulic Conductivity
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96	10 m	96	Hydraulic Conductivity
97	10 m	97	Hydraulic Conductivity
98	10 m	98	Hydraulic Conductivity
99	10 m	99	Hydraulic Conductivity
100	10 m	100	Hydraulic Conductivity

- 1) **Exfiltration** trenches and storm piping to be protected from roots with a root barrier.
- 2) **Roof drain downspouts** are to be connected to the proposed drainage system. Contractor to provide engineer with proposed locations prior to installation of drainage system.
- 3) **Exfiltration trench design** uses an assumed value of hydraulic conductivity. Client may obtain a site specific test for hydraulic conductivity prior to exfiltration trench installations.
- 4) **Contractor shall mill and overlay** all roadway cuts a minimum of 10 ft on either side of the excavation the entire width of roadway and lane.
- 5) **Contractor is responsible** for installing and maintaining erosion control measures during construction.
- 6) **Video inspection** of storm drainage system required prior to installation of seal.



THIS RECORD DRAWING IS A COMPILED REPRESENTATION OF A COPY OF THE SEALED ENGINEERING OR SURVEYING DRAWING APPROVED FOR THIS PROJECT, MODIFIED BY ADDENDA, CHANGE ORDERS, AND INFORMATION FURNISHED BY OTHERS. THE INFORMATION SHOWN ON THE RECORD DRAWINGS IS, TO THE BEST OF OUR KNOWLEDGE, CORRECT BASED ON OBSERVATIONS PERFORMED DURING CONSTRUCTION AND OTHER INFORMATION.

- | | | |
|---|----------|--------------------------------------------------------------|
| 1 | 08/17/16 | UPDATE PLAN BACKGROUND; REVISE PROPOSED GRADING AND DRAINAGE |
| 2 | 11/16/16 | UPDATE PLAN BACKGROUND; REVISE PROPOSED GRADING AND DRAINAGE |
| 3 | 02/05/19 | INDICATE EX. WALL ALONG SOUTH PROPERTY LINE TO BE LOWWIDED |
| 4 | 10/07/19 | UPDATE PLAN TO REFLECT AS-BUILT |

Plan Background from Site Plan by
SXA Architect + Planner Received 11/14/16
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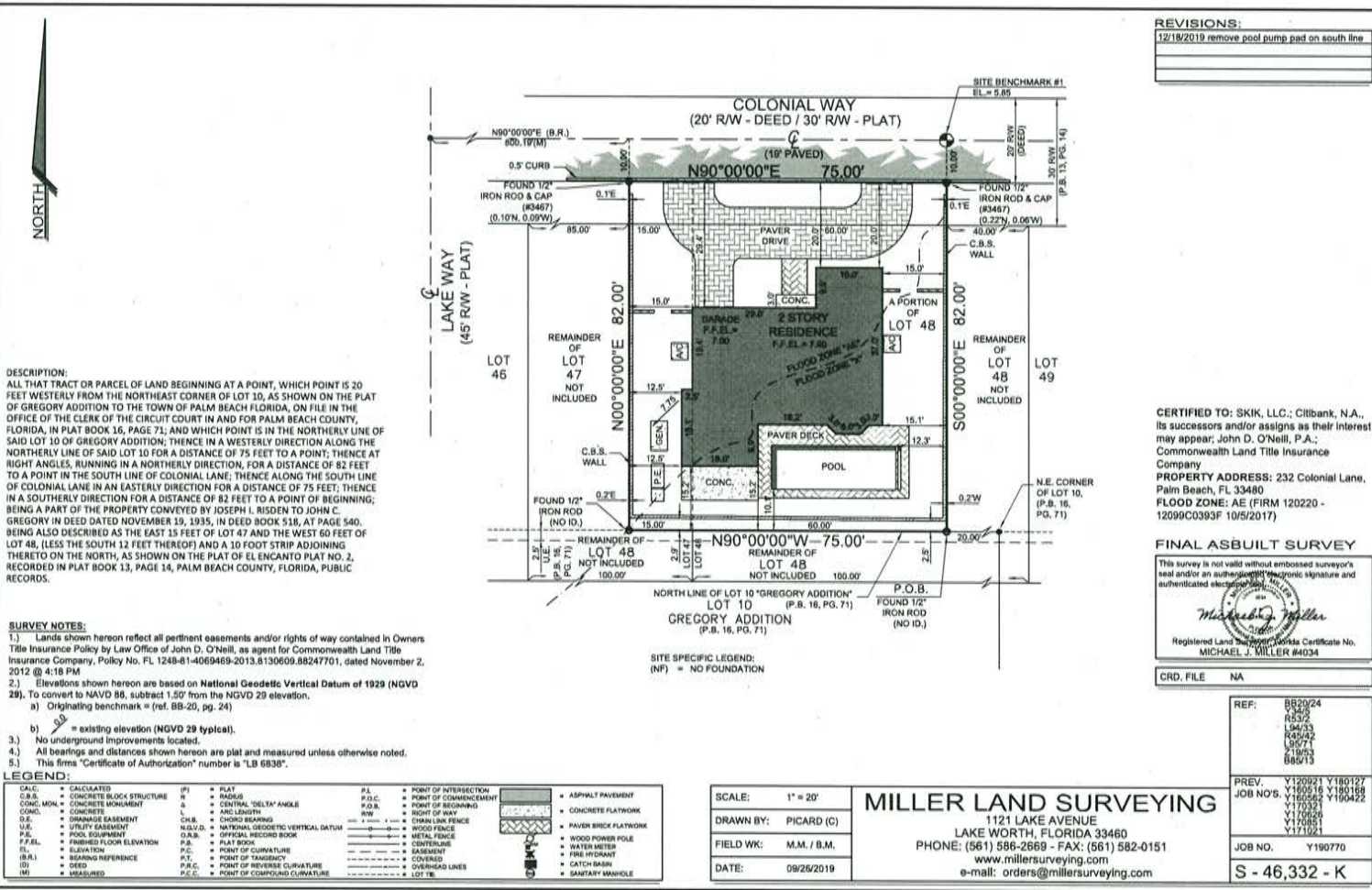


EXHIBIT #5

Sec. 18-177. - Appeals and review.

An applicant or any interested party may file an appeal to the town council on any ruling by the architectural commission or the director of the planning, zoning and building department or his/her designee made pursuant to this article. The appeal shall take the form of a letter addressed to the town clerk. In the case of an appeal from the architectural commission, the appeals shall be filed or made within ten calendar days of the date of the meeting at which the decision of the commission is rendered. In the case of an appeal from the decision of the director of planning, zoning and building, the appeal shall be filed or made within ten calendar days of the date the director of the planning, zoning and building department or his or her designee renders the decision in writing. Appeals shall set forth the alleged inconsistency or nonconformity with procedures or criteria set forth in this article or standards set forth in or pursuant to this Code. The town council shall decide an appeal within 45 days of the filing of such appeal unless an extension of time is consented to by the applicant, and such filing shall suspend any building permit issued pursuant to the ruling of the architectural commission or director of the planning, zoning and building department or his/her designee until the town council has decided the appeal. The town council may review any decision of the architectural commission or the director of the planning, zoning and building department and its disposition of the matter shall be final. In addition to appeals, the town council shall consider major projects as defined in the ARCOM Project Designation Manual at the next regularly scheduled town council meeting, subsequent to the meeting of the commission. The disposition of such matters by the town council shall be final. Appeals filed pursuant to this section shall be based on the record of the proceedings below and shall not be presented de novo. The time allotted for presentation of an appeal shall be determined by the town council president.

(Ord. No. 11-2015, § 1(Att.), 4-15-15)

