JUNE 07, 2024
Town of Palm Beach
Planning, Zoning & Building Dept.
360 South County Road
Palm Beach, FL 33480

RE: Letter of Intent

346 Seaspray Ave.

To whom it may concern,

Please find enclosed drawings illustrating the existing 2 story residence previously approved by Arcom, Lamdmarks, and Town Council. During the construction phase the owner found the need to make some changes to her home.

These include:

- The Coquina on the pool loggia will be replaced by stucco with sprawling vines-Bougainvillea growing on a wired system.
- The colors of the house changed to: Trims, windows & doors now black iron. The shutters Vanilla green and the stucco color BM-AF-20/Mascarpone
- The shutters above the main loggia were removed for more natural light.
- The front balcony railings and railings to the studio were re-designed as per owner.
- Some shutters were removed at the south & west elevations along with minor configuration of windows and doors.

Landscape changes were made throughout the construction phase. These changes were submitted to Staff approval and were approved.

These changes include:

- Design changes of driveway gate, main courtyard gate and columns, service gate and transformer gate.
- The pool was moved towards the north side of the property.

The landscape architect, NIEVERA WILLIAMS DESIGN, is requesting a variance (Z-24-0022) for a curved low wall designed by the owner located at the west side of the property. The low wall is 7'9" height and has a curvy section that goes up to 9-4' in height. Refer to detail sheet D7 (landscape drawings).

We are requesting a variance (Z-24-0022) for the mechanical equipment located on the west side, encroaching the setback.

The proposed changes to the existing residence are designed to be in keeping with the criteria outlined in sections 18-306 and 134-201 of the Town of Palm Beach Code of Ordinances, and criteria listed as follows:

Sec. 18-306. - Alterations to historically significant buildings.

Any historically significant building, excepting those that are landmarked or located within a historic district in accordance with chapter 54, Historical Preservation, that undergoes an alteration, as defined above in section 18-302, shall be reviewed by a town expert in historic preservation, to be qualified as a historically significant building, based upon the criteria contained in this section. If qualified as such, the application will be processed and permitted in accordance with chapter 54, article III, Certificate of Appropriateness.

Alterations to historically significant buildings are subject to the regulations found in chapter 50, Floods, and specifically, section 50-114. If a historically significant building is completely demolished, the regulations in chapter 50, section 50-114, will no longer be applicable.

Sec. 134-201. - Findings prior to authorization.

- (a) The town council may authorize upon appeal such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this chapter will result in unnecessary and undue hardship. In order to authorize any variance from the terms of this chapter, the town council must and shall find the following:
 - (1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
 - (2) The special conditions and circumstances do not result from the actions of the applicant.
 - (3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in this same zoning district.
 - (4) Literal interpretation of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
 - (5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
 - (6) For granting of a variance to <u>sections 134-387</u> or <u>134-390</u> through <u>134-392</u>, pertaining to the regulation of nonconforming uses, the following additional findings shall be made pertaining to the nonconforming use for which the variance is requested:

- A. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
- B. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area and, further, such variance shall:
 - 1. Be granted only for the continuation of the same hotel or residential use; and
 - 2. Require the applicant to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.
- (7) The grant of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. In granting any variance, the town council may prescribe appropriate conditions and safeguards in conformity with this chapter. Upon granting a variance the town council may require the landowner to provide a declaration of use agreement which shall be recorded in the public records to ensure continuing compliance with town council imposed conditions of such grants. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.
- (b) The town council may prescribe a reasonable time limit within which the action for which the variance is required shall begin or be completed or both. Under no circumstances, except as permitted in subsection (a) of this section, shall the town council grant a variance to permit a use not generally or by special exception permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of this chapter in the zoning district. No nonconforming use of neighboring lands, structures or buildings in the same zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

Respectfully,

Rafael Portuondo Principal

Variance Request ZON-24-0022 LETTER OF INTENT

Wall Variance

This alteration does not fully comply with current zoning regulations under the Town of Palm Beach Code of Ordinances, but the modified wall will be below the height of an existing structure on the property, ensuring minimal impact on the surrounding area. According to *Per Section 134-1669:* All walls and/or fences located within ten feet of the side or rear property line shall not exceed seven feet in height except walls and/or fences located in a required street side yard setback of a corner lot and the required rear street yard setback for a through lot where they shall conform to the provisions of section 134-1667.

This presents a hardship, as the failing trellis structure compromises both the safety and privacy of the home. To address this issue and maintain the privacy shared by both the owner and the neighboring property, we are replacing the failing trellis with a more durable stucco wall.

The previous trellis spanned a height greater than the proposed wall. While the proposed wall alteration exceeds the 7-foot height restriction, it remains below the height of the pre-existing trellis structure. Specifically, the highest point of the proposed wall is 9 feet 8 inches from the lowest adjacent grade.

Attached to this request are detailed elevation (see D7) and section drawings that outline the proposed wall's dimensions and structure. These documents provide a comprehensive view of the modifications and support the necessity for this variance.

We believe that the proposed wall alteration, while exceeding the standard height restrictions, is a reasonable and necessary adjustment to address the unique conditions and maintain the integrity and privacy of our property. We kindly request your consideration for granting this variance.

Equipment Location Variance

Due to the unique constraints of our property and the preservation requirements for its historic status, there are no suitable alternative locations for the AC pads. According to *Section 134-1728(A)(1)* the equipment shall have a minimum five-foot side and rear yard setback. However, our property configuration and existing structures necessitate the placement of additional AC units beyond these limitations.

The west and south areas of our property are approximately five feet from the property line, which complies with the minimum five-foot distance requirement. The south elevation has multiple door openings and a utility easement running along the property line, making it unsuitable for AC unit installation. The west area of the property is the most viable location for two of the AC units.

Given these constraints, we are requesting a variance to allow the installation of the additional two AC units within the setback area on the west side of the property. This request is based on the hardship presented by the existing space and property lines, as well as the need to maintain the historical integrity of the home. We appreciate your understanding and consideration of this request.

Please feel free to contact us with any questions or concerns.

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