

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 15, 2025

To: Mayor and Town Council

From: Wayne Bergman, Director of Planning, Zoning & Building

Cc: Kirk Blouin, Town Manager & James Murphy, Asst. Director of PZB

Re: Construction That Deviates From The Approved Permit Plans – Round Two

Date: December 13, 2024

DISCUSSION:

One of the continuing and problematic issues for the Planning, Zoning & Building Department occurs when a construction project deviates from the approved design plan. Arcom and Landmarks often spend a great deal of time and effort to approve construction projects, many times with significant neighbor input. Projects are approved and permitted with specific plans. But the owners often deviate from the approved plans and install unapproved and unpermitted features or exceed the scope of the approved work. Often these deviations are not noticed until it is after the fact or at the end of the project (if the owner or contractor are using private providers) when the now-mandatory design inspections are called for. The unapproved and unpermitted work creates the need for further design review by staff, involvement with the Chairs of Arcom or Landmarks, and sometimes by the full design Commissions. Staff cannot issue the final inspections and the certificate of occupancy until the Town formally approves the deviations. At times even zoning variances are required at the end of a project for height or setback encroachments resulting from the unpermitted construction work.

Most of the these “After the Fact” approvals relate to the placement of mechanical equipment, site walls, screening walls around equipment, pool and water feature locations, changes to roofs, changes to windows and doors, driveway materials and layout, and building and structure setbacks.

Staff has tried various remedies to stop these unapproved construction projects without much success. Contractors often cave to the pressure of an owner’s request to make a construction change without going through the proper zoning and design review process. Private providers generally inspect to code but do not hold their clients to strict plan compliance. Arcom, Landmarks and Town Council have all seen these types of projects over the past several years. Currently there is no penalty for these deviations, only a delay in obtaining a final inspection or certificate of occupancy.

During a recent staff discussion, the concept of making construction that deviates from the approved permit plans a “Strike” under the “3 Strike” program. The idea would be once our inspection staff determines that a portion of the project was built in violation of the approved permit set of plans, that a “strike” would be issued. The “3 Strike” program has proven to be a very effective tool at controlling construction site problems, as no contractor or owner would want their project shut down for a period of time and require Town Council relief to restart the project.

At your Development Review Meeting on December 11, 2024 Town Council discussed this matter and requested staff to return with more options to address this problem. Options include, but are not limited to:

- Making After the Fact situations, once discovered, a single “Strike” under the “3 Strike” Program.
- Mandating the immediate removal of any discovered unpermitted construction.
- Mandating a visit to the Town Council for their consideration of whether the After the Fact construction can move forward to either Arcom or LPC.
- Penalty fees (double fees) charged on any and every required application.
- Automatic “3 Strikes” immediately upon discovery and all work stops until adjudicated by the Town Council.
- Automatic 300’ mailing notice to neighbors of the unpermitted work.
- Complete work stoppage on the entire project upon discovery.
- No ability of staff to issue a Temporary Certificate of Occupancy until the unpermitted work is resolved.
- Any combination of the above options.

This matter is before you again for discussion and consideration. Staff will draft any ordinance or resolution required to implement the new regulations once the options are considered and determined by the Town Council.