

TOWN OF PALM BEACH

Planning, Zoning & Building Department

MINUTES

BUILDING BOARD OF ADJUSTMENTS AND APPEALS

2:00 P.M., DECEMBER 7, 1993

AT THE TOWN HALL, PLANNING, ZONING & BUILDING DEPARTMENT
CONFERENCE ROOM, 360 SOUTH COUNTY ROAD, PALM BEACH

I. Call to order: The meeting was called to order at 2:04 p.m.
by Mr. Ames Bennett, Chairman.

II. Roll Call:

PRESENT: Ames Bennett, Chairman
John Nora Jr., Vice Chairman
Jeffery W. Smith, Member
John C. Cassidy, Member
Scott Sloane, Member
Hugh C. Davis, Member
James B. Williams, Alternate Member

STAFF PRESENT: John C. Randolph, Town Attorney (at 2:06 p.m.)
Robert L. Moore, Director of Planning, Zoning &
Building (at 2:10 p.m.)
Harry P. Ackerman, Chief Building Inspector
Richard E. Barber, Chief Plumbing/Mechanical
Inspector
Cynthia M. Delp, Recording Secretary

OTHERS PRESENT: James S. Martindale, Worth Builders, General
Contractor for project
Randy Weissbach, John C. Cassidy Air
Conditioning

ABSENT: Vance Carpenter, Member

Mr. Bennett noted, for the record, that Mr. Williams will vote today
in place of Mr. Vance Carpenter.

Mr. Cassidy stated his conflict with respect to this matter. He is
the mechanical subcontractor for the project, and is retained by Worth
Builders, General Contractor. (Voting Conflict form on file.)

III. Approval of the Minutes of the September 9, 1993 Meeting:

MOTION BY MR. SLOANE TO APPROVE THE MINUTES AS MAILED.

MOTION SECONDED BY MR. SMITH.

PLEASE NOTE THAT AT THIS POINT, THE CHAIR MOVED ON TO "ITEMS FOR DISCUSSION" WITHOUT CALLING THE QUESTION. IT IS ASSUMED THAT THE MINUTES WERE APPROVED AS MAILED, AS NO ONE VOICED ANY OBJECTIONS, ADDITIONS OR CORRECTIONS TO SAME.

IV. Items for Discussion: 1063 North Ocean Boulevard

Item 1: Requested by: John C. Cassidy Air Conditioning Inc.
Regarding: 1063 North Ocean Boulevard
Subject: Variance to Town of Palm Beach Addendum to
the Standard Mechanical Code, Attic
Installation, Section 303.4.1

(Requiring that "Every attic or furred space in which mechanical equipment is installed shall be accessible by an opening and passage as large as the largest piece of the equipment and in no case less than twenty-two (22) inches wide times thirty-six (36) inches high continuous from the opening to the equipment and its controls".)

Mr. Randy Weissbach read a prepared statement to the Board summarizing the appellant's position relative to upgrading the air conditioning system at the residence at 1063 North Ocean Boulevard. This statement shall remain a part of the record. Portions of said statement are as follows:

"The existing sytem did not allow for any zoning capability and the extremely long duct runs from basement to attic resulted in high friction loss, inefficient operation and lack of any control"

"Since we were dealing with an existing residence we had to locate the equipment as closely as possible to the zones to be served. There was a good sized attic over the center of the 2nd floor of the residence and we chose this area as the best choice for our equipment location."

"The center area of the attic was then chosen since it provided the best situation if we were to be required to build a room on later." (Due to requirements of the Florida Energy Code)

"The error in judgement that put us in this predicament was mine. (Mr. Weissbach) I had gone through the ceiling opening and into the equipment area so many times and so easily that I did not take time to accurately measure the clear opening."

"I also did not realize that the code had been modified to require the 36"

dimension to be the vertical one. More importantly, once I found out about the code change it seemed we offered a better solution. To meet the letter of the code the equipment would have to be turned on its side if the new rule was applied. In our situation the machines can be removed through the opening without the danger of turning the refrigerant circuit on its side. We believe that our appeal can be accepted based on Paragraph 105.4 (c). To wit "c. That an equally good or more desirable form of installation can be employed in any specific case." We believe that in this specific case we have provided accessibility to meet the desire of the code. In addition we believe that our solution is a better one in the specific case."

"The consulting engineer provided two alternative courses of action. The first is to put the access in the sitting room ceiling and the second is to provide a roof hatch. Mr. Martindale's client was not pleased with an access panel installed in his sitting room. From a service point of view we do not like the the roof hatch since accessibility is difficult and a bit dangerous when strong winds are blowing."

For the record, it should be noted that the access panel is located in a closet, for access into the attic space above.

Mr. James Martindale, qualifier for Worth Builders, General Contractor, furthered Mr. Weissbach's comments. He explained that this project, which started out to be a minor renovation, escalated into a sizeable project. The existing air conditioning system was already set and was highly inefficient. Like Mr. Weissbach, he maintained that, despite the very small 5" x 4.25" intrusion into the three membered girder truss that would be necessary, the access panel, as it exists, is in the best location available. The two pieces of installed equipment, (19.25" high by 22.5" wide, and 21.25" high by 25.5" wide) move in and out of the access panel with ease.

Mr. Smith stated, from his experience, that ideal situations do not always exist when renovating old homes. He felt that the Board must be practical in this case. He stated that safety is not an issue in this matter. He agreed, aesthetically speaking, that the panel should not be placed in the sitting room.

Mr. Sloane asked if there is any harm done in this case other than the fact that it does not meet the Town's code, and he asked if service or replacement is a problem.

Mr. Ackerman stated that Mr. Barber had called the Code Congress regarding this matter. The code, recognizing that present day equipment may, in fact, fit through such openings, is written to provide for larger units in the future. Mr. Barber maintained that the code has been in effect for some time, and the system should have been designed to the code. As stated earlier, however, the contractor has already admitted to error in knowing and/or following these specific provisions of the code.

Mr. Sloane questioned whether the Board would be setting a precedent for ignoring the code, if relief from the code is

granted in this case. Mr. Randolph felt that no precedent would be set, as this is a particular case with a particular set of circumstances.

Mr. Smith stated that the appellant has demonstrated, to his satisfaction, that the equipment can move in and out of the access panel without difficulty.

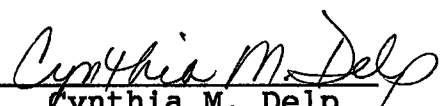
MOTION BY MR. SMITH TO WAIVE THE TRIANGLE CUT OUT (THE 5" X 4.25" INTRUSION INTO THE GIRDER) AND PERMIT THE USE OF THE EXISTING CONDITION, WITH A 22" HORIZONTAL AND 36" VERTICAL OPENING, PROVIDED THE EQUIPMENT CAN BE TAKEN IN AND OUT OF THE ACCESS PANEL WITH EASE, AS STATED BY THE APPELLANT, AND AS THE CONDITION IS NOT DETRIMENTAL TO THE OWNER OR A FUTURE PURCHASER OF THE HOME.

MOTION SECONDED BY MR. SLOANE.

MOTION CARRIED UNANIMOUSLY.

V. Adjournment:

MOTION BY MR. SMITH TO ADJOURN THE MEETING AT 2:28 P.M
MOTION SECONDED BY MR. SLOANE.
MOTION CARRIED UNANIMOUSLY.

		
Ames Bennett	Harry P. Ackerman	Cynthia M. Delp
Chairman	Chief Building Inspector	Recording Secretary

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FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Cassidy, John C.		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Building Board of Adjustments & Appeal	
MAILING ADDRESS P.O. Box 2716		THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☐ CITY ☐ COUNTY ☒ OTHER LOCAL AGENCY Town	
CITY W. Palm Beach, FL	COUNTY Palm Beach	NAME OF POLITICAL SUBDIVISION: Town of Palm Beach	
DATE ON WHICH VOTE OCCURRED 12/7/93		MY POSITION IS: ☐ ELECTIVE ☒ APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes. The requirements of this law are mandatory; although the use of this particular form is not required by law, you are encouraged to use it in making the disclosure required by law.

Your responsibilities under the law when faced with a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

ELECTED OFFICERS:

A person holding elective county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his special private gain. Each local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained.

In either case, you should disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

A person holding appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his special private gain. Each local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained.

A person holding an appointive local office otherwise may participate in a matter in which he has a conflict of interest, but must disclose the nature of the conflict before making any attempt to influence the decision by oral or written communication, whether made by the officer or at his direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You should complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form should be provided immediately to the other members of the agency.
- The form should be read publicly at the meeting prior to consideration of the matter in which you have a conflict of interest.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION OR VOTE AT THE MEETING:

- You should disclose orally the nature of your conflict in the measure before participating.
- You should complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

DISCLOSURE OF STATE OFFICER'S INTEREST

I, JOHN C CASSIDY, hereby disclose that on 7 DECEMBER, 19 93:

(a) A measure came or will come before my agency which (check one)

☒ inured to my special private gain; or

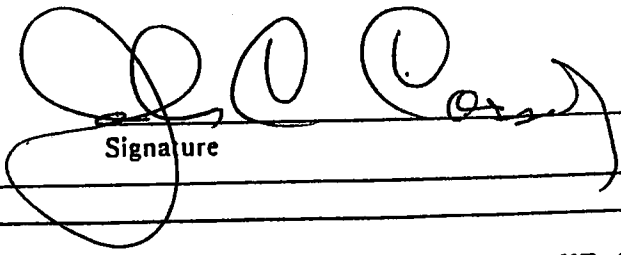
☐ inured to the special gain of _____, by whom I am retained.

(b) The measure before my agency and the nature of my interest in the measure is as follows:

I AM THE MECHANICAL SUBCONTRACTOR
ON THE MANDEL PROJECT. I WAS RETAINED BY
WORTH BUILDERS ON THIS PROJECT.

Related to Building Board of Adjustments and Appeals Meeting held
December 7, 1993 relative to 1063 North Ocean Boulevard.

12/7/93
Date Filed


Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317 (1985), A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$5,000.