

TOWN OF PALM BEACH

Building and Zoning Department

MINUTES

BUILDING BOARD OF ADJUSTMENTS AND APPEALS
2:00 p.m., THURSDAY, NOVEMBER 29, 1990
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 by
Chairman E. Ben Walton Jr. at 2:07 p.m.

II. Roll Call:

PRESENT: E. Ben Walton Jr., Chairman
Ames Bennett, Member
John Nora, Member
John C. Cassidy, Member
Jeffrey W. Smith, Member

STAFF PRESENT: John C. Randolph, Town Attorney
Harry P. Ackerman, Chief Building
John Wandell, Fire Marshal
Cynthia M. Delp, Recording Secretary

III. Approval of the Minutes of the November 9, 1990 Meeting

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

MOTION SECONDED BY MR. BENNETT.

MOTION CARRIED UNANIMOUSLY.

Mr. Bennett questioned whether the Town paid the normal \$ 250.00 review fee for today's meeting of the Board. Mr. Ackerman replied that similar to building permits for Town work where no permit fee is charged, no fee would be applicable in this matter either. Mr. Randolph concurred that it was appropriate for the Town to be "fee waived" in this matter.

IV. Items for Discussion

Item 1: Requested by: Smith Architectural Group
Regarding: Casa Bendita - Gazebo
Subject: Appeal of Standard Building Code, Sections 1112.5 and 1121 (Handrails required for all stairways having more than three risers and guardrails minimum 36" high for porches more than 30 inches above grade.

Mr. Smith declared his conflict with respect to this matter, as he is the architect for the project. He did state, however, that he donated his services to the Town in this regard.

This item concerns the gazebo in the cul de sac of Casa Bendita which had deteriorated greatly. At present, the gazebo has been demolished down to the slab level, leaving only the slab and the steps. The intention of the Town and the architect is to restore it exactly as it was...to duplicate it. Mr. Smith referred to the gazebo as a "landmark", although it has never been formally designated as such. It is pictured in the 1974 book Landmark Architecture of Palm Beach, which Mr. Smith showed to the Commission.

The height of the gazebo slab is 47" above grade. The Code provides that if a height of 30" or more inches above grade is reached, a railing at a height of 36", or 42" in public areas, is required. Further, when there are more than three risers at the stairs, a handrail is required.

In the case of the gazebo, there has never been a handrail at the steps. As for the railing, it had been at a height of 2'-5.5" or 29.5", which is 6.5" short of the required height as per current Building Codes.

Mr. Smith maintained that the gazebo is used very little, and that since its original placement there, no incidences of accidents or injuries have been reported. Therefore, the request is being put forth for relief from the provisions of the Code to allow an exact duplicative restoration.

Mr. Bennett questioned the liability to the Town regarding this matter. Mr. Randolph stated that liability is a factor here, of course, but the Board must consider what the likelihood of mishap is to users of the gazebo.

MOTION BY MR. BENNETT TO APPROVE THE REQUEST FOR RELIEF FROM THE

PROVISIONS OF THE CODE REGARDING HEIGHT OF THE RAILING AND THE NECESSITY FOR A HANDRAIL AT THE STEPS, THEREBY ALLOWING AN EXACT DUPLICATIVE RESTORATION OF THE GAZEBO.

MOTION SECONDED BY MR. CASSIDY.

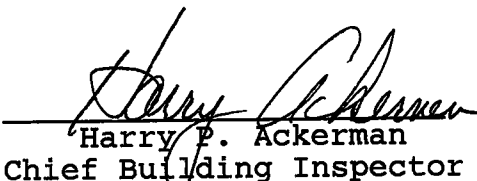
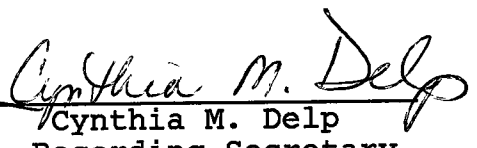
MOTION CARRIED UNANIMOUSLY.

V. Adjournment:

MOTION TO ADJOURN BY MR. CASSIDY AT 2:22 P.M.

MOTION SECONDED BY MR. BENNETT.

MOTION CARRIED UNANIMOUSLY.

 _____ E. Ben Walton Jr. Chairman	 _____ Harry P. Ackerman Chief Building Inspector	 _____ Cynthia M. Delp Recording Secretary
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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.

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, JEFFERY W. SMITH, hereby disclose that on 11/29, 19 90:

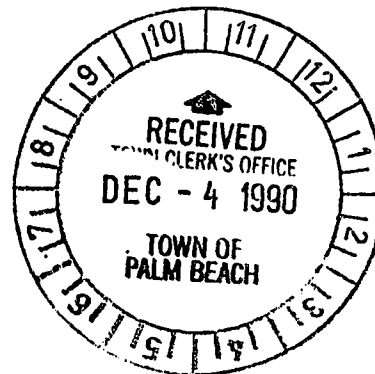
(a) A measure came or will come before my agency which (check one)

☐ inured to my special private gain; or

☒ inured to the special gain of TOWN OF PALM BEACH, by whom I am retained.

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

CASA BENDITA GAZEBO designed by Smith
Architectural Group



11/29/90
Date Filed

Jeffery W. Smith
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.

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

LAST NAME—FIRST NAME—MIDDLE NAME SMITH JEFFERY		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE BLDG BD OF ADJ & APPEALS	
MAILING ADDRESS 119 SEAGATE ROAD		THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
CITY PALM BEACH	FL. COUNTY P.B.	NAME OF POLITICAL SUBDIVISION: TOWN OF PALM BEACH	
DATE ON WHICH VOTE OCCURRED		MY POSITION IS: ☐ ELECTIVE ☒ APPOINTIVE	

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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, JEFFERY W. SMITH, hereby disclose that on 11/29, 19 90:

(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 TOWN OF PALM BEACH, by whom I am retained.

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

11/29
Date Filed

Jeffery W. Smith
Signature

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