



## CITY OF BELLE ISLE, FL

### Planning and Zoning: Staff Report

July 20, 2023

#### Review of Fence Proposal: Ordinance 23-05

On June 25<sup>th</sup>, 2019, the board discussed and reviewed sec. 50-102 (b) for allowing front yard fences specifically for Hoffner Avenue and Seminole Drive. The following code language was presented:

**Fences on Hoffner Avenue or Seminole Drive.** A fence, wall, or other structure in the nature of a fence, up to four feet in height, may be located within the required front yard setback on the residential property having frontage on Hoffner Avenue or Seminole Drive, provided that the fence complies with the following:

- a. Fences shall be located on private property, no closer than five feet from the edge of the sidewalk nearest the house;
- b. Structural and decorative posts or columns, not exceeding six feet in height or eighteen inches in width, and spaced no closer than six feet apart, from the center to center shall be permitted;
- c. The color, material, and design of the fence shall be compatible with the architecture of the dwelling unit on the property;
- d. Any screen landscaping and associated irrigation shall be installed and maintained on the street side of the fence;
- e. Gates, when in an open position, shall not block the sight distance of the abutting public street, walk, or right-of-way.

An additional consideration is that for lots with a depth greater than the specified number of feet (such as 450 feet); the fence must be no closer than sixteen feet from the edge of the sidewalk nearest the house. This could prevent a possible tunnel of wall effect if the fence/wall were to be placed closer to the street.

For the proposed ordinance 23-05, staff recommends including Seminole Drive as an overlay district for permitting front yard fences. Many houses on Seminole Drive currently feature a six-foot front yard fence. Should an existing front yard fence deteriorate or require new panels, the homeowner(s) must undergo a variance approval process to replace their fence. Given the various lot depths along Seminole Drive, staff could create additional code language for the neighborhood with consensus from the Board.

In speaking with legal counsel, Attorney Chumley shared an issue for dictating the funding sources and ownership of walls and fences is between the homeowners and the existing HOA. These are matters that should or normally would be addressed by the HOA's covenants and restrictions and other private contractual arrangements between the HOA and the owners and should not be the subject of legislation. Generally, cities are prohibited from enacting legislation that would impair or otherwise interfere with contracts between private parties.

In a separate attachment, staff created comments to Ordinance 23-05 and provided a chapter from the Florida Department of Transportation Design Manual with reference to the use of a "sight triangle," as mentioned under the proposed ordinance.