



**CITY OF BELLE ISLE, FLORIDA
CITY COUNCIL AGENDA ITEM COVER SHEET**

Meeting Date: February 21, 2023

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Discuss Changes to BIMC for Fences

Background: Commissioner Carugno, with approval from Council, requested a discussion take place on possible changes to the municipal code for fencing. The Planning and Zoning Commission previously discussed changes to the code and looked at a possible zoning overlay for fences and walls on Hoffner Avenue. No action was taken by the Commission.

If the Council directs changes to the code for fencing, then it will have to go to the Planning and Zoning Commission for review and action as fencing is part of the Land Development Code.

Staff Recommendation: Discuss what changes are being requested and move this to the Planning Commission for further review and action.

Suggested Motion: None needed, but direct that the changes be reviewed by the Planning Commission at their March meeting.

Alternatives: Do not make any changes

Fiscal Impact: N/A

Attachments: P&Z Meeting minutes

Belle Isle Planning and
Zoning Board Meeting
March 26, 2019

FENCES AND WALLS



**DEVELOPMENT CODE, CHAPTER IV, ARTICLE C,
SECTION 1 (B) FENCES: PROVIDING SEVERABILITY;
AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Belle Isle City Council has determined it is necessary to amend Chapter IV, Article C, Section 1 – Fences:

WHEREAS, the City of Belle Isle encourages visual openness and the preservation of the natural environment and although fences and walls are inconsistent with this intent they may be desired by residents for safety, noise abatement, and/or security; and

NOW, THEREFORE, BE IT ORDAINED THAT Chapter IV, Article C, Section 1(B) shall be amended as follows:

Section 1.

(B) *Fences and Walls:*

(1) For the purpose of this Ordinance, certain words used herein are defined as follows:

“Fence” shall mean a barrier erected upon, or immediately adjacent to, a property line for the purpose of separating properties, or for screening, enclosing and/or protecting the property within its perimeter. A fence may be constructed of materials including, but not limited to metal, wood, plastic, or other synthetic material. A fence shall not include construction site barriers, landscape treatments or privacy screens as defined herein.

“Wall” shall mean a barrier erected upon, or immediately adjacent to, a property line for the purpose of separating properties, or for screening, enclosing and/or protecting the property within its perimeter. A wall may be constructed of finished materials including, but not limited to concrete masonry units, precast concrete panels, bricks, concrete, stucco, or stone.

“Privacy Screen” shall mean a barrier erected within the interior of a parcel of property and not upon, or immediately adjacent to, a property line for the purpose of obscuring patios, decks, courtyards, swimming pools and other similar outdoor features, from observation by persons outside the perimeter of the property. Privacy screens shall not include landscape treatments.

(2) Scope

IN 2005, CITY
COUNCIL
CHANGED THE
CODE TO
PROHIBIT
FENCES AND
WALLS IN THE
FRONT YARD.

THE LANGUAGE IN THE
CODE STATES NO FENCES
OR WALLS SHALL BE
PERMITTED IN FRONT YARDS.



7484 DAETWYLER DR, ORLANDO, FL 32812 2/16/2016 9:24 AM

there is conflict, the provisions of Chapter IV, Article A, Section 5(J) and Chapter IV, Article B, Section 3(D), shall prevail over this section 1(B).

(3) General Requirements for Fences, Walls, and Privacy Screens:

No fence, wall or privacy screen shall be installed, erected or maintained except in strict compliance with the following requirements:

- (a) Metal Fences - shall consist of new materials manufactured and/or treated in a manner to prevent rust and corrosion.
- (b) Wood Fences - shall be constructed of new materials and painted, stained or preserved in a manner to maintain the fence in good structural condition.
- (c) Plastic or other Synthetic Material Fences - shall be constructed of material specifically manufactured as fencing, only new such materials shall be used and they shall be treated and maintained in a manner to maintain the fence in good structural condition and with an appearance that is aesthetically compatible with the type of fence it represents.
- (d) Masonry Walls - shall be constructed of finished materials including, but not limited to concrete masonry units, precast concrete panels, bricks, concrete, stucco, or stone.
- (e) Privacy Screens - shall be an integral part of the design of and have an architectural texture, color, and material compatible with the residence on the property.

(4) Conformity, Permit Required:

No person shall erect, build, construct, or reconstruct any fence, wall, or privacy screen or any section or portion thereof unless the same shall conform to these requirements and specifications. No person shall erect or construct any fence, wall, or privacy screen, or dig, auger or otherwise prepare post holes without first obtaining a permit for zoning approval.

(5) Maximum Height and Permitted Locations of Fences, Walls and Privacy Screens:

- (a) Except as provided in (b), below, fences and walls shall be limited to a maximum height of six (6) feet above natural grade in the rear and side yards. No fences or walls shall be permitted in front yards.
- (b) A maximum fence height of 8 feet shall be permitted in the following situations:
 - i The property line along which the fence will be installed abuts a boat ramp



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MINOLE DR, ORLANDO, FL 32812 9/27/2017 8:00



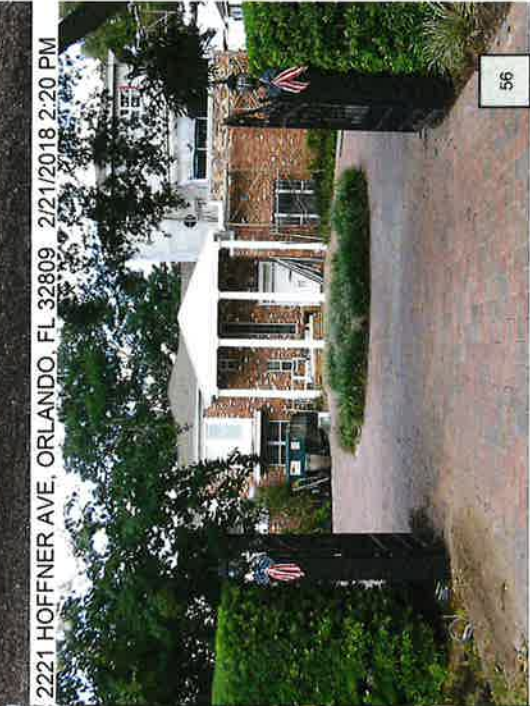
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FENCES AND WALLS ON SEMINOLE AND DAETWYLER

FENCES AND WALLS ON HOFFNER AND OAK ISLAND



2235 HOFFNER AVE, ORLANDO, FL 32809 12/1/2015 2:21 PM



2221 HOFFNER AVE, ORLANDO, FL 32809 2/21/2018 2:20 PM

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OPTIONS FOR CONSIDERATION

Keep

Keep the code as it is and process variance requests

Create

Create an overlay that allows fences and wall along specified streets with specific criteria established in the code such as maximum height, design standards, and materials

Remove

Remove the prohibition on fences and walls in the front yard

- Since P&Z seems to be granting variances for fences. Concerns have been brought up previously on whether or not all of the variance criteria has been met. Since the front fence variances continue to be issued, I would like the following comments to be considered for applications for fence variances and the discussions the board is having about fences since it appears these applications will be approved in almost all cases. I have a concern that granting variances for front fences do not have minimum requirements like other applications for structures. Some of the variance applications have no plans where the fence will go.

Concerns about fences

- 6 ft high allowance is a concern. Homes in the Seminole Dr area that had “grandfathered” fences prior to the ordinance prohibiting front yard fences that were 4ft high. One grandfathered fence is 5 ft high concrete block. The only two 6 ft high fences on the street were granted a variance and an after the fact variance for illegal construction, respectively. The comments regarding the fences mostly being 4ft high can also be extended to the surrounding streets. A maximum front yard height of 4 ft would be more consistent with existing fences prior to ordinance enactment
- While the metal decorative fences can be aesthetically pleasing, a 6 ft high fence looks like a prison and does not provide the open views intended by the existing ordinance prohibiting front yard fences. It does not promote a look a neighborhood and community.
- Fences whether 4ft or 6ft only deter those who do not intend to commit crimes.
- Section 50-102 in the Code requires maximum fence height for back and side yards to be no more than 6 ft tall (with certain exceptions). A front yard fence should have different considerations since it will be viewed from the street and be front and center.
- Request that the P&Z board consider allowing fences limited to 4 ft high.
- Request P&Z consider minimum setbacks from sidewalks and roads, specify car parking allowance in front of fence so as not to interfere with sidewalk or road way traffic. Possibly minimum 1.5 - 2 feet from sidewalk. Frequently homeowners plant vegetation very close to the sidewalk which then inhibits pedestrians from fully utilizing the sidewalk and can create line of sight issues for taller vegetation (walk down Seminole Drive for example).

CITY OF BELLE ISLE, FLORIDA

b.

CITY COUNCIL AGENDA ITEM COVER SHEET

Meeting Date: April 4, 2023
To: Honorable Mayor and City Council Members
From: T. Grimm, Interim City Manager
Subject: Discuss Changes to BIMC for Fences

Background: Commissioner Carugno, with approval from Council, requested a discussion take place on possible changes to the municipal code for fencing. The Planning and Zoning Commission previously discussed changes to the code and looked at a possible zoning overlay for fences and walls on Hoffner Avenue. The Commission took no action. The agenda item was postponed at the March 21 CC meeting.

If the Council directs changes to the fencing code, it will have to go to the Planning and Zoning Commission for review and action, as fencing is part of the Land Development Code.

Staff Recommendation: Discuss the requested changes and move this to the Planning Commission for further review and action.

Suggested Motion: None needed, but direct that the Planning Commission review the changes at their April meeting.

Alternatives: Do not make any changes or table discussion until a permanent City Manager is appointed.

Fiscal Impact: N/A

Attachments: P&Z Meeting minutes

It is the intent of this Section to allow the continuation of such non-conforming fences and walls until they are discontinued as provided herein. However, it is not the intent of this Section to encourage the survival of non-conforming fences and walls and such fences and walls that are declared to be incompatible with permitted fences and walls within the City.

An existing fence or wall not allowed by this Section, except when required by law or ordinance, shall not be enlarged, extended, reconstructed, or structurally altered unless such fence is changed to comply with the requirements of this Section. Maintenance of a non-conforming fence will be allowed when this includes necessary repair and incidental alterations which do not expand or intensify the non-conformity.

Fences or walls that are currently in the City's right-of-way (ROW) may remain in place if the property owner executes a ROW agreement with the City.

Fences or walls, other than decorative fences and walls, may be erected, placed, or located in front yards not to exceed four (4) feet in height; except that fences and walls up to six (6) feet in height are permissible in front yards having a depth of at least seventy-five (75) feet or more, or where a fence or wall forms a logical connection, or is in-line, with a wall or fence on either side of an existing wall or fence on the adjacent property.

This section does not apply to fences in existence before the effective date of this Ordinance, except that on sale or transfer of the property on which a non-conforming fence is located, or except when the fence is declared a nuisance or hazard as determined by the City Manager, or the Manager's designee, such fence may be made to conform with the requirements of this chapter, or removed within 90 days of the closing or transfer or declaration of the fence as a nuisance or hazard.

Any non-conforming fence may be repaired like-for-like in height, location and material, up to 75% of the overall linear footage of any the total non-conforming section. A section shall be defined as that portion of the fence or wall located on a given property line. The City Manager, or the Manager's designee, can approve repair to a non-conforming fence under that criteria.

Maintenance

- Maintenance of fences and walls shall comply with the following:
 - Fences and walls shall be maintained in good order and repair.
 - Painted surfaces of fences, walls, and other surfaces associated with fences and/or walls shall not be faded and shall be free of discoloration, staining, or peeling.
 - Surfaces of a wall or fence shall be cleaned or repainted if either of the following occurs:
 - When 20% or more of the surface is stained or discolored; or
 - When 15% or more of the paint is peeling off the surface.
- All fences, walls or other similar structures erected in any residential district shall be maintained by the property owner. Property owners shall be responsible for maintaining the appearance of the fence, wall, or other similar structure in a manner that there are no missing boards or slats, cracks, open gaps, leaning sections, crooked

posts, missing blocks or bricks, cracked or crumbling blocks or bricks and to maintain the structural integrity of the fence, wall or similar structure. Any broken, missing, deteriorated, dilapidated, or otherwise damaged portion of a fence, including boards, posts, slats, rails, stiles, structural members or elements, or fittings and any broken, chipped, missing, deteriorated, dilapidated, or otherwise damaged portion of walls shall be replaced.

- Fences and walls shall be maintained in an upright and vertical position, shall not be allowed to lean or to otherwise be out of plumb, and not have the hedge and vegetation material support the fencing. Fence rails and posts shall be structurally sound and shall not be bent, twisted, warped, or otherwise misshaped. Fences shall not be propped up to prevent the fence from falling.
- A building permit shall be required for repair to a fence or wall when the damage exceeds 25%, or more, of the length of the fence or wall section. A section shall be defined as that portion of the fence or wall located on a given property line. The replaced section of the fence or wall shall match the color and material of the existing fence or wall.
- The finished side of all fences shall face the street or adjacent property.

Fence height shall be measured from highest elevation of the ground on either side of the fence. There shall be no more than a 2-inch gap between the ground and the bottom of the fence section.

Civil disputes over the location of a fence or wall at adjoining private properties are not within the enforcement authority of the City to resolve.

Front Yard Types and Materials

1. Front yard fences shall be see-through type fence to avoid vision obstructions. The maximum opacity for fencing in the front yard is 75% (25% of fence must be open, meaning the gaps between boards)
2. Fences may be wood, vinyl or decorative metal
3. Chain-link fences are not permitted in the front yard
4. Front yard fences and walls shall not exceed a height of four feet, except as described in Section ____ above.
5. Fences, if located on a side yard line in the front yard, shall be no more than 4 feet high.

If the changes are adopted, recommend that diagrams be added to the code for clarity, such as:

