



TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

MEETING TYPE: Planning Board Meeting

MEETING DATE May 14, 2026

SUBMITTED BY: Ingrid Allen, Town Planner, Building Department

SUBJECT: AN ORDINANCE OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING ARTICLE III, "DEVELOPMENT REVIEW," OF CHAPTER 30, "ZONING CODE," OF THE TOWN CODE OF ORDINANCES BY AMENDING SECTION 30-66, "OTHER REQUIREMENTS" TO ALLOW A HARD SURFACE TO ENCROACH BEYOND THE PROPERTY LINE FOR PROPERTIES ABUTTING A WATERWAY, CANAL OR LAKE IN ORDER TO PROVIDE ACCESS TO A SEAWALL, DOCK, OR ABUTTING INTRACOASTAL WATERWAY BEACH AREA AND AMENDING SECTION 30-68, "SUPPLEMENTAL DISTRICT REGULATIONS," TO CLARIFY THE MEASUREMENT OF THE WIDTH OR LENGTH OF A DOCK WHEN COMBINED WITH A SEAWALL CAP;

SUMMARY:

At the August 14, 2025 Planning Board ("Board") meeting, the Board made a motion to propose to the Town Commission an amendment to Section 30-66(c)(1)a. of the Town Code of Ordinances ("Town Code") to allow for hard surfaces past the property line to a dock and to put forth Greg Babij as the sponsor of the amendment (motion carried 6-0). *Note that Board Member Babij suggests in his narrative (see Attachment No. 1) to widen the scope of the Board motion to allow (for properties located on the Intracoastal Waterway) hard surfaces to a beach edge located outside the rear property line.* At this same Planning Board meeting, the Board approved a special exception request (see Attachment No. 2) to install a 105 linear foot seawall and seawall cap, a 275 square foot concrete dock, and a 33,000 pound capacity elevator boat lift for the property located at 2564 South Ocean Boulevard (Development Order No. PZ-25-28). The Board approved the request with the condition that sod or artificial turf shall be placed from the property line to the seawall cap. As a proactive effort, staff recommended the latter condition given Section 30-66(c)(1)a of the Town Code provides the following regulation:

(c)Encroachments into setbacks in the RE, RS, RML, RMM and RMH zoning districts:

(1)Unless otherwise provided in the Code, the following structures are allowed in the side or rear required setbacks as set forth herein.

*a. Walkways, patios **and other hard surfaces for walking, gathering, and sitting** shall be constructed of porous/pervious based materials, no closer than four (4) feet to the closest property line provided the height of the areas does not extend more than four (4) inches above the finished grade. **Notwithstanding the foregoing**, when such walkways, patios **and other hard surfaces abut a waterway, canal or lake, such hard surfaces may be constructed of nonporous/nonpervious based materials (although porous/pervious based materials are encouraged) and may encroach up to the property line or seawall abutting the water, whichever is further landward**, so long as adequate onsite drainage, as prepared by a registered design professional, is provided for such hard surfaces.*

The approved special exception, noted above, included a seawall cap located approximately two (2) feet from the rear property line . According to the Applicant's plans, existing rip rap was to be removed, and an existing retaining wall (located adjacent to an existing pool) would remain (see Attachment No. 2). During the development review process, staff comments to the Applicant included why the proposed seawall didn't commence at the rear property line given there is no existing seawall at the property, and the rip rap will be removed. The Applicant responded that the proposed seawall location is "consistent with preexisting, hurricane-damaged rock wall." It is worth noting that the Town Code requires a maximum combined seawall cap and dock width at eight (8) feet; however, the Code does not regulate the location of a seawall/seawall cap as it relates to the property line.

While there are various types of seawall designs existing in the Town, it is common to find older seawalls/seawall caps abutting their respective rear property lines while many newer seawalls installations are located within 18 inches of existing seawalls that remain (see Attachment No. 3). The Florida Department of Environmental Protection and the Army Corps of Engineers have been authorizing this 18-inch limit for new seawall installations. When the 18-inch limit is applied between remaining and new seawalls, typically a hard surface is provided at grade from the remaining seawall to the new seawall. It is reasonable to allow a hard surface for such cases where there is a minimal gap between seawalls.

The proposed amendment to Chapter 30 (Zoning Code) would allow a hard surface waterward of the property line (for properties abutting a waterway, canal or lake) in order to provide access to a seawall cap, corresponding dock or abutting Intracoastal Waterway beach area as follows (deleting is ~~stricken through~~ and adding is underlined):

Sec. 30-66 - Other requirements

* * *

(c)Encroachments into setbacks in the RE, RS, RML, RMM and RMH zoning districts:

(1)Unless otherwise provided in the Code, the following structures are allowed in the side or rear required setbacks as set forth herein.

a.Walkways, patios and other hard surfaces for walking, gathering, and sitting shall be constructed of porous/pervious based materials, no closer than four (4) feet to the closest property line provided the height of the areas does not extend more than four (4) inches above the finished grade. Notwithstanding the foregoing, when such walkways, patios and

other hard surfaces abut a waterway, canal or lake, such hard surfaces may be constructed of nonporous/nonpervious based materials (although porous/pervious based materials are encouraged) and may encroach up to the property line or seawall abutting the water, whichever is further landward, so long as adequate onsite drainage, as prepared by a registered design professional, is provided for such hard surfaces. Notwithstanding the foregoing, such hard surfaces may encroach waterward of the property line for properties immediately adjacent to a waterway, canal, or lake for the sole purpose of providing access to a seawall, dock, or abutting Intracoastal Waterway beach area so long as: (i) the hard surface is compliant with all applicable provisions of this Chapter; and (ii) the governmental agency that regulates the waterway, canal, or lake approves said encroachment. The property owner shall be responsible for the maintenance of all encroaching hard surfaces extending waterward of the property line.

* * *

The proposed amendment also revises Section 30-68(g)(6)c. of the Town Code as a means to clarify how the width or length of a dock is measured when access to a dock is via a hard surface located waterward of the property line. As noted above, Section 30-68(g)(6)b. of the Town Code allows a maximum combined seawall cap and dock width at eight (8) feet. Note that this provision intentionally does not provide where the eight (8) feet is measured from (Town Ordinance No. 2025-002, approved on January 21, 2025). Given the proposed amendment to Section 30-66(c)(1).a., as noted above, the following revisions to Section 30-68(g)(6)c. regarding how a dock is measured are proposed (deleting is ~~stricken through~~ and adding is underlined):

Section 30-68(g)(6)c. Measurement of the width or length of a dock, ~~as applicable~~, shall be made from the property line or, when combined with a seawall cap, from the landward edge of the seawall cap, as applicable.

ADDITIONAL ITEM HISTORY:

At the February 3, 2026 Town Commission meeting, an introduction to the proposed amendment (in concept), which included the above information, was considered by the Commission. The Commission made a motion to have the Planning Board take up the issue, to study and review it (motion carried 5-0).

FISCAL IMPACT:

N/A

ATTACHMENTS:

Ordinance

Attachment No. 1 – Narrative provided by Greg Babij

Attachment No. 2 - Planning Board approved plan set (2564 S. Ocean Blvd.) – August 14, 2026

Attachment No. 3 – Sample seawall details

Town Commission minutes – February 3, 2026

Business Impact Estimate (BIE)

Ordinance Process flowchart

RECOMMENDATION:

At the discretion of the Planning Board.