

MINUTES  
TOWN OF JUNO BEACH  
**PLANNING AND ZONING BOARD MEETING**

**July 5, 2023**

Council Chambers/YouTube  
340 Ocean Drive

PRESENT:           DIANA DAVIS, CHAIR (*VIA ZOOM*)  
                      JIM FERGUSON, VICE CHAIR  
                      MICHAEL STERN, BOARDMEMBER  
                      LAURE SHEARER, BOARDMEMBER  
                      NANCY WOLF, BOARDMEMBER (*VIA ZOOM*)  
                      JANE LE CLAINCHE, ALTERNATE BOARDMEMBER

ALSO PRESENT:   FRANK DAVILA, DIRECTOR OF PLANNING & ZONING  
                      CURT THOMPSON, PRINCIPAL PLANNER  
                      ISABELLA HICKEY, PLANNING TECHNICIAN  
                      YASMIN F. HAMEL, ADMINISTRATIVE SECRETARY  
                      LEONARD RUBIN, TOWN ATTORNEY

ABSENT:

Vice Chair Ferguson called the Planning and Zoning Board Meeting to order at 4:00pm.

Audience: 4

CALL TO ORDER

PLEDGE OF ALLEGIANCE TO THE FLAG

ADDITIONS, DELETIONS, SUBSTITUTIONS TO THE AGENDA

*(Time Stamp is based off of [YouTube video](#)) (Time: 1:26 – 3:34)*

Chair Davis requested to add a discussion on SB 250 and SB 1604; and she also provided handouts for the Board to review and discuss (*see attached*).

*The Board unanimously gave consensus to add Senate Bill 250 and Senate Bill 1604 as discussion items on the agenda.*

**PUBLIC COMMENTS** *(Time: 2:03 – 2:20)*

***All Non-Agenda items are limited to three (3) minutes.*** *Anyone wishing to speak is asked to complete a comment card with their name and address prior to the start of the meeting as well as state their name and address for the record when called upon to speak (prior to addressing the Board). **The Planning & Zoning Board will not discuss these items this evening.** Any issues will be referred to Staff for investigation; a report will be forwarded to the Planning & Zoning Board; and citizens may be contacted.*

Public Comments Opened at 4:01pm.

Public Comments Closed at 4:01pm.

**CONSENT AGENDA** (Time: 3:35 – 4:54)

*All matters listed under the Consent Agenda are considered to be routine by the Planning & Zoning Board and will be enacted by one motion in the form listed below. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

1. Approval of Planning & Zoning Board Workshop Meeting Minutes for June 1, 2023.
2. Approval of Planning & Zoning Board Meeting Minutes for June 5, 2023

***MOTION:*** Stern/Shearer made a Motion to Approve the Consent Agenda.

***ACTION:*** The motion passed unanimously.

**BOARD ACTION/DISCUSSION ITEMS** (Time: 4:55 – 1:42:05)

3. Discussion on Setback Criteria for the Commercial General Zoning District

***The Board unanimously gave consensus to have Staff write a memo addressing the interpretation of Sec. 34-631 in the Town's Code of Ordinance.***

4. Discussion on the Code Section 34-905.- Wall and Fences

***MOTION:*** Davis/Wolf made a motion to observe Sec. 34-905 maximum height of walls and fences without a series of walls being allowed.

***ACTION:*** The motion was withdrawn.

***The Board unanimously gave consensus to have Staff write a memo addressing the interpretation of Sec. 34-905 to observe maximum height of walls and fences without a series of walls being allowed.***

5. Discussion on Clarifying the Topic of Topographical Features for Council

***The Board unanimously gave consensus to have Staff come back to Town Council with clarification on this item.***

6. Discussion on SB 250 – No Action

7. Discussion on SB 1604 – No Action

**COMMENTS FROM THE BOARD** (Time: 1:42:06 – 1:49:09) – No Action

**ADJOURNMENT** (Time: 1:49:10 – 1:49:15)

Vice Chair Ferguson adjourned the meeting at 5:49pm.

***Minutes Approved on August 7, 2023.***

TO: Planning and Zoning Board

FROM: Diana Davis

DATE: 5-1-2023

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**Problem Statement:**

1. Town of Juno Beach Comprehensive Plan (“Comp Plan”) Conservation Element requires the preservation of our Dunes and topographic features.
  - a. Policy 6.3: Maintain and enforce land development regulations so that development is planned in accordance with natural characteristics of the land such as slope, elevation, drainage patterns and native vegetation.
  - b. Policy 6.5: Require all future development in the Town to accommodate the natural environment, giving special attention to topographic characteristics.
  
2. Conflicts with the Juno Beach Municipal Code Sec. 6-23. “The Florida Building Code, as adopted by the state legislature, is hereby incorporated by reference as the building code for the town, subject to the administrative amendments set forth in section 6-24, and other requirements of the Town of Juno Beach such as the requirements to preserve topographical features and other environmental protections.”
  - a. Under the Florida Building Code provisions are included to build on slopes that allows the alteration of the topographical features in conflict with the Comp Plan.
  - b. Additionally, the preservation of topographical features conflicts with addition of fill on dune properties when the Comp Plan requires building into the dune, and preservation of the slope or other topographical features.

**Proposed Ordinance Language create a new Section 34-913.**

Section 34-913. Topography Preservation

- (1) Prohibit addition of fill and use of retaining walls used to subvert the existing requirements and raise the build grade above what is required for Flood Resistant Design.
- (2) Where fill is added to meet the Flood Resistant Design Standards, the allowed building height is measured from the existing grade prior to the addition of fill required to meet the Flood Resistant Design requirements.
- (3) Retaining Walls or a series of retaining walls or fences maximum height cannot exceed the heights provided within the Fence and Wall portion of our existing code 34-905, with the exceptions provided therein for the properties adjacent to U.S. Highway one.
- (4) Appropriate build on the ridge, or secondary dune system of Juno Beach is to build into the dune and not to flatten and build on top, nor to add fill and use retaining walls to bring the property up to the height of the adjacent property owner, which is considered an adverse impact to the natural characteristics of the land.
- (5) Prohibit addition or removal of fill that will adversely affect natural characteristics of the land such as slope, elevation, or drainage patterns.
- (6) The builder/developer/ responsible land owner in order to obtain land preparation, grading, or any building permits must demonstrate through sealed engineering drawings that the proposed build and proposed land grading, will not adversely affect natural characteristics of the land; and will not adversely impact neighboring properties to cause their land to be less stable, or to cause erosion, or to cause additional stormwater flow, or seepage-induced instability, or soil wash-out, or any other nuisance type condition for the neighboring properties.
- (7) The use of fill for structural support is prohibited.
- (8) Minor grading, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.

## Town of Palm Beach

- **Sec. 106-38. - Height of walls, fences and hedges at intersections.**

(a)It shall be unlawful to maintain any wall, fence, hedge or shrubbery at any street intersection, except as provided in [section 134-1637](#).

(b)If any property owner shall fail or refuse to comply with the terms of this section, the town manager or director of public works shall cause the wall, fence or hedge to be reduced in height to comply with the terms of this section, at the cost of the property owner.

(Code 1982, § 19-8)

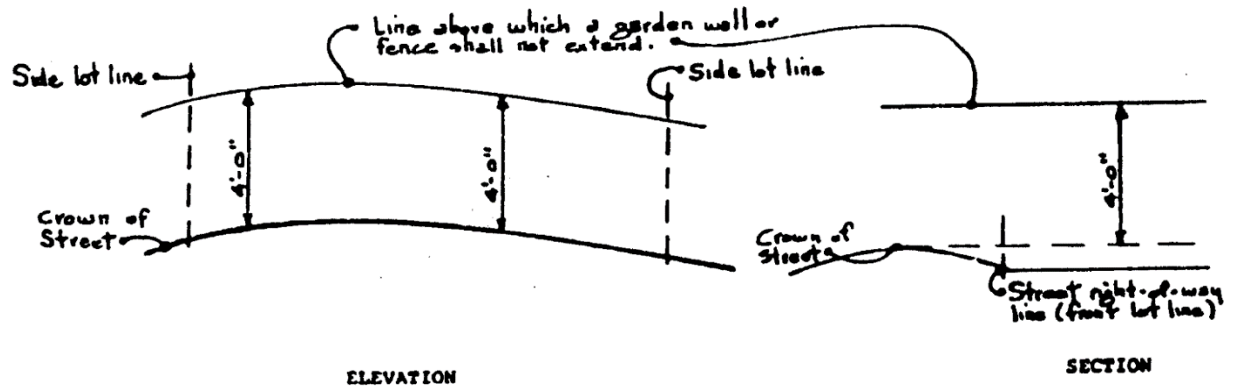
- **DIVISION 5. - WALLS AND FENCES**
- **Sec. 134-1666. - Location generally; compliance.**

Except as otherwise provided herein, walls or fences may be located or constructed within the required yard areas and shall conform to the following regulations except where special requirements are set forth for specific screening purposes elsewhere in this ordinance:

(Ord. No. 2-74, § 5.36, 3-26-74; Ord. No. 1-84, § 3(b), 3-1-84; Ord. No. 1-86, § 3(c), 2-10-86; Ord. No. 1-87, § 3(c), 2-9-87; Ord. No. 1-90, § 3(e), 2-5-90; Ord. No. 1-93, § 3(c)—(e), 2-8-93; Ord. No. 1-98, § 8, 2-9-98; Ord. No. 1-00, § 4, 2-22-00)

- **Sec. 134-1667. - Front, street side or street rear yards.**

(a)All walls and/or fences located in a front, street side or street rear setback areas shall not exceed six feet in height. The height of a wall or fence located in a front, street side or street rear set back areas, fronting on a street, shall be measured on the street side of the wall or fence from the top of the wall or fence and shall not exceed six feet in height above the crown of the street at a point directly opposite such points of measurement. (See following illustration.) If the wall or fence in a front, street side or street rear setback area is not fronting on a street, said wall or fence shall be measured from the lowest grade on either side of the property line adjacent to said wall or fence. The natural grade along the side property line within the front setback area may not be artificially changed to raise the height of said wall.



(b) Walls and fences in a required front yard, street side yard, or rear street yard more than four feet in height shall be set back three feet from the street property line and have landscaping on the street side of the wall or fence consisting of a continuous hedge at least three feet in height at the time of planting.

(Ord. No. 2-74, § 5.36(a), 3-26-74; Ord. No. 2-83, § 4(b), 2-23-83; Ord. No. 1-84, § 3(b), 3-1-84; Ord. No. 1-86, § 3(c), 2-10-86; Ord. No. 1-87, § 3(c), 2-9-87; Ord. No. 1-90, § 3(e), 2-5-90; Ord. No. 1-93, § 3(c)—(e), 2-8-93; Ord. No. 1-98, § 8, 2-9-98; Ord. No. 1-00, § 4, 2-22-00)

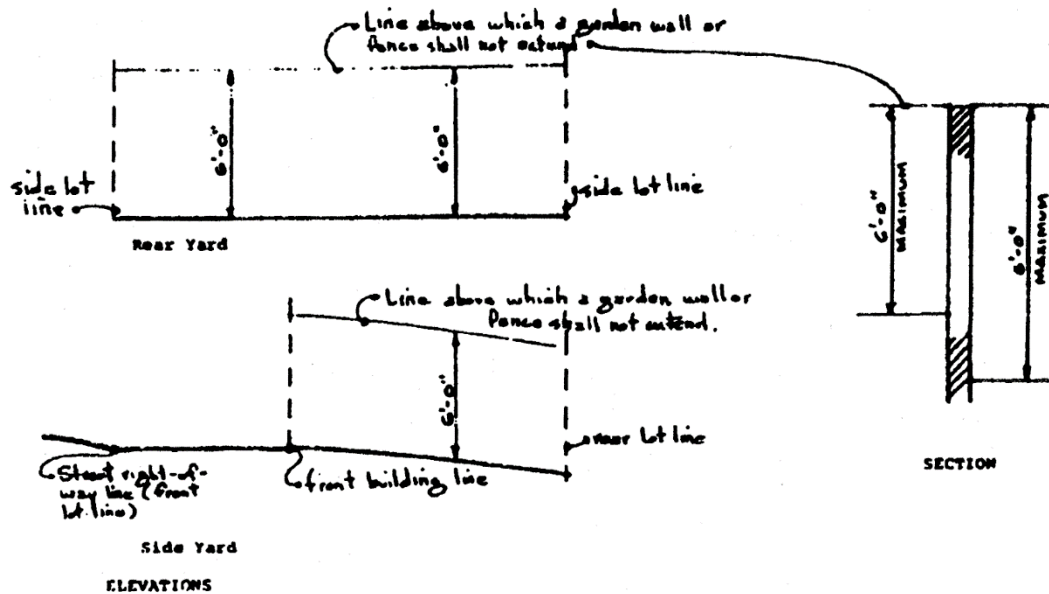
- **Sec. 134-1668. - Gateposts and gates located in front, street side and rear street yard areas.**

Gateposts not exceeding three feet in any horizontal dimension may be erected and/or constructed in connection with the erection and/or construction of a wall, fence, or in connection with an existing or proposed hedge. Such gateposts and gates shall not exceed a height of two feet above the maximum wall height permitted in this division. If gates are to be erected at driveway entrances, the gates must be provided with a minimum driveway area in front of and perpendicular to the gates of nine feet wide by 18 feet deep, as measured from the street pavement. For a property with a driveway located on a cul-de-sac or dead-end street, the required setback may be reduced provided it is approved as a special exception by the town council under the standards of sections [134-227](#) through [134-233](#).

(Ord. No. 2-74, § 5.36(b), 3-26-74; Ord. No. 1-84, § 3(b), 3-1-84; Ord. No. 1-86, § 3(c), 2-10-86; Ord. No. 1-87, § 3(c), 2-9-87; Ord. No. 1-90, § 3(e), 2-5-90; Ord. No. 1-93, § 3(c)—(e), 2-8-93; Ord. No. 1-97, § 2, 2-17-97)

- **Sec. 134-1669. - Side and rear yards.**

All walls and/or fences located within ten feet of the side or rear property line shall not exceed seven feet in height except walls and/or fences located in a required street side yard setback of a corner lot and the required rear street yard setback for a through lot where they shall conform to the provisions of [section 134-1667](#). The height of a wall or fence located in a side or rear yard shall be measured from the lowest grade on either side of the side or rear property line adjacent to said wall or fence to the top of the wall or fence and shall not exceed seven feet in height. This section prohibits an artificial change in the natural grade in any way to raise the height of said wall. (See the following illustration.)



**HEIGHT MEASUREMENT OF GARDEN WALLS, SIDE OR REAR YARD**

(Ord. No. 2-74, § 5.36(c), 3-26-74; Ord. No. 1-84, § 3(b), 3-1-84; Ord. No. 1-86, § 3(c), 2-10-86; Ord. No. 1-87, § 3(c), 2-9-87; Ord. No. 1-90, § 3(e), 2-5-90; Ord. No. 1-93, § 3(c)—(e), 2-8-93; Ord. No. 1-98, § 8, 2-9-98; Ord. No. 1-00, § 4, 2-22-00)

• **Sec. 134-1670. - Retaining walls.**

(a) Retaining walls which front on a street and which are located in the street front, street side or street rear setback shall not exceed a maximum height of six feet as measured from the lowest grade on either side of the retaining wall to the top of said wall at that location in that setback. In addition, if a retaining wall is within ten feet of a wall and/or fence in the same front, street side or street rear yard setback, said retaining wall and wall and/or fence shall not exceed a total combined height of nine feet as measured from the lowest grade adjacent to said retaining wall to the top of said wall and/or fence at that same location in that setback. However, in no instance

shall a retaining wall, wall, fence or combination thereof exceed, or be contrary to, the maximum and minimum requirements in [section 134-1667](#).

(b) If a retaining wall in the front setback area is not fronting on a street, said retaining wall shall not exceed a maximum height of six feet as measured from the lowest grade on either side of the retaining wall to the top of said retaining wall at any location in that setback. In addition, if a retaining wall is within ten feet of a wall and/or fence in the same front setback not fronting a street, said retaining wall and wall and/or fence shall not exceed a total combined height of nine feet as measured from the lowest grade adjacent to the retaining wall to the top of the wall or fence at that same location in that setback nor six feet in height as measured from the abutting property. In addition, if said retaining wall, and wall and/or fence within the front setback area are within ten feet of each other and their combined height exceeds six feet, said retaining wall shall have a minimum four foot high hedge located on the inside portion of the retaining wall.

(c) A retaining wall within ten feet of the side or rear property line shall not exceed a maximum height of seven feet from the lowest grade on either side of the retaining wall to the top of said retaining wall. In addition, if a retaining wall, and wall and/or fence is within ten feet of the side or rear property line, they shall not exceed a total combined height of ten feet as measured from the lowest grade adjacent to the retaining wall to the top of the wall or fence at that same location nor seven feet in height as measured from the abutting property.

(Ord. No. 1-00, § 4, 2-22-00; Ord. No. 1-02, § 17, 3-12-02; Ord. No. 1-04, § 44, 3-9-04)

- **Sec. 134-1671. - Restrictions.**

In addition to the other requirements in this division, a wall or fence shall conform with [section 134-1637](#) and shall in no case be located closer than 2½ feet of the rear lot line unless previously approved by the town engineer, and execution and recordation of an acceptable removal agreement. In addition, no fence or wall shall be located within the street right-of-way or streetward of the front lot line as provided for in [section 134-1636](#).

(Ord. No. 2-74, § 5.36(d), 3-26-74; Ord. No. 1-84, § 3(b), 3-1-84; Ord. No. 1-86, § 3(c), 2-10-86; Ord. No. 1-87, § 3(c), 2-9-87; Ord. No. 1-90, § 3(e), 2-5-90; Ord. No. 1-93, § 3(c)—(e), 2-8-93; Ord. No. 1-00, § 4, 2-22-00; Ord. No. 1-02, § 17, 3-12-02)

- **Secs. 134-1672—134-1695. - Reserved.**



To: Planning and Zoning Board Members

From: Diana Davis, Chair

Date: 6-1-2023

### **Florida Legislative Session 2022 – 2023**

**SB 250** Prohibits requirements that are more restrictive or that require more procedure for land development regulation approvals compared to what existed September 28, 2022, which was the landfall date for Hurricane Ian. Applies to any County or Municipality that is all or part within 100 miles of landfall for Hurricane Ian (Ft Myers) or Nicole (South Jenson Beach)

- Town of Juno Beach Planning and Zoning Board prior to September 28, 2022, sat as the Architectural Review Board reviewing single and two family homes for appearance review and site plan requirements.

**SB 1604** Removes “building design elements” from the appearance review from Planning and Zoning Board review for single family and two family homes, if that Board did not exist before July 1, 2023.

- At the Town Council meeting May 24, 2023, Architectural Review Board – Site plan review for single family and two-family homes was rejected by Council members Wheeler, Halpern, and Cotronakis.
- Town Staff should be asked by Council to redraft the ordinance so that it complies with the new law SB 1604 by excluding the items specifically called out in the bill language: *“Building design elements” means the external building color; the type or style of exterior cladding material; the style or material of roof structures or porches; the exterior nonstructural architectural ornamentation; the location or architectural styling of windows or doors; the location or orientation of the garage; the number and type of rooms; and the interior layout of rooms. The term does not include the height, bulk, orientation, or location of a dwelling on a zoning lot; or the use of buffering or screening to minimize potential adverse physical or visual impacts or to protect the privacy of neighbors.”*

## **Town of Lake Worth R322.3.2 Elevation requirements.**

1.All buildings and structures erected within coastal high-hazard areas shall be elevated so that the lowest portion of all structural members supporting the lowest floor, with the exception of mat or raft foundations, piling, pile caps, columns, **grade** beams and bracing, is:

1.1 Located at or above the base flood elevation plus 1 foot or the design flood elevation, whichever is higher, if the lowest horizontal structural member is oriented parallel to the direction of wave approach, where parallel shall mean less than or equal to 20 degrees (0.35 rad) from the direction of approach, or

1.2 Located at the base flood elevation plus 2 feet, or the design flood elevation, whichever is higher, if the lowest horizontal structural member is oriented perpendicular to the direction of wave approach, where perpendicular shall mean greater than 20 degrees (0.35 rad) from the direction of approach.

2. Basement floors that are below **grade** on all sides are prohibited.

3. The use of fill for structural support is prohibited.

4. Minor **grading**, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.

**Exception:** Walls and partitions enclosing areas below the design flood elevation shall meet the requirements of Sections R322.3.4 and R322.3.5.

(Ord. No. 2012-21, § 1, 5-1-12; Ord. No. 2016-17, § 2, 5-17-16)

**Editor's note**— Prior to the reenactment of section 9-3 by Ord. No. 2012-21, § 1, Ord. No. 2007-14, § 3, adopted February 20, 2007, repealed section 9-3 in its entirety. Former section 9-3 pertained to permit fees and derived from Ord. No. 88-42, § 2, adopted February 6, 1989; Ord. No. 90-56, § 1, adopted December 17, 1990; Ord. No. 91-3, § 1, adopted February 18, 1991; Ord. No. 91-14, § 1, adopted July 1, 1991; Ord. No. 97-1, § 1, adopted February 4, 1997, and Ord. No. 2004-28, § 1, adopted July 20, 2004.