

RESOLUTION NO. 80-21

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER REQUEST TO SECTION 4.6.5(C) OF THE LAND DEVELOPMENT REGULATIONS TO ALLOW FOR THE CONSTRUCTION OF A RETAINING WALL SIX FEET IN HEIGHT WITH A DECORATIVE ALUMINUM GUARDRAIL THREE FEET IN HEIGHT, IN EXCESS OF THE HEIGHT LIMITATIONS FOR WALLS, FENCES, AND HEDGES LOCATED IN THE FRONT YARD, STREET SIDE YARD, AND THE INTERIOR SIDE YARD FOR THE PROPERTY LOCATED AT 1031 SEASPRAY AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida (“the City”) received an application for a wall height waiver to the Land Development Regulations (2021-133) for the property located at 1031 Seaspray Avenue (the “Property”), as more particularly described in Exhibit “A”, from 1031 Seaspray, LLC (“Applicant/Property Owner”); and

WHEREAS, the Property is located in the R-1-AAA; and

WHEREAS, Section 4.6.5(C) of the City of Delray Beach Land Development Regulations (“the LDR”), requires that walls, fences, or hedges located in a front yard or street side yard shall not exceed six feet in height and walls, fences, or hedges located in a required interior side yard shall not exceed eight feet in height; and

WHEREAS the proposed waiver requests to construct a retaining wall six feet in height with a decorative aluminum guardrail three feet in height in the front yard, street side yard, and interior side yard, as more particularly described in Exhibit “B”; and

WHEREAS, LDR Section 2.4.7(B)(5), which governs waivers from development regulations, requires the approving body to make a finding the granting of a waiver:

- (a) Shall not adversely affect the neighboring area;
- (b) Shall not significantly diminish the provision of public facilities;
- (c) Shall not create an unsafe situation; and,
- (d) Does not result in the grant of a special privilege in that the same waiver would be granted under a similar circumstance on other property for another applicant or owner; and

WHEREAS, the requested height waiver of relief from LDR Section 4.6.5(C), was presented to the City Commission at a quasi-judicial hearing on June 1, 2021; and

WHEREAS, the City Commission considered the waiver request to LDR Section 4.6.5(C), to allow the retaining wall and decorative guardrail located in a required front yard and street side yard to exceed six feet in height and to exceed eight feet in the interior side yard on the subject property and has considered the respective findings as set forth in the Land Development Regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The forgoing recitals are hereby incorporated herein by this reference and are approved and adopted.

Section 2. The City Commission makes positive findings that the requested waiver (1) does not adversely affect the neighboring area, (2) does not significantly diminish the provision of public facilities, (3) does not create an unsafe situation, and (4) does not result in the grant of a special privilege in that the same waivers would be granted under a similar circumstance on other property for another applicant or owner.

Section 3. The City Commission approves the waiver request to LDR Section 4.6.5(C), to allow the construction of a retaining wall six feet in height with a decorative aluminum guardrail three feet in height in the front yard, street side yard, and interior side yard as depicted in Exhibit "B", for the Property located at 1031 Seaspray Avenue.

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Gary P. Eliopoulos of GE Architecture Inc., 1045 East Atlantic Avenue, Suite 303, Delray Beach, FL 33483.

Section 5. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 6. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

\_\_\_\_\_  
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

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Lynn Gelin, City Attorney

**EXHIBIT A**

Lot 14, Sea Spray Estates, according to the map or plat thereof, as recorded in Plat Book 21, Page 15, of the Public Records of Palm Beach County, Florida.