



Legislation Details (With Text)

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**File created:** 4/26/2021      **In control:** City Commission  
**On agenda:** 6/1/2021      **Final action:** 6/1/2021

**Title:** 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 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. (QUASI JUDICIAL)

**Sponsors:** Development Services Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Agenda Cover Report, 2. Res No 80-21 Waiver Retaining Wall and Guardrail, 3. Res. No. 80-21 Exhibit B.pdf, 4. Justification Statement 1031 Seaspray Ave, 5. Applicant-EXHIBIT A Survey.pdf, 6. Applicant-EXHIBIT B-Proposed Site Plan.pdf, 7. Applicant-EXHIBIT C North Elevation.pdf, 8. Applicant-EXHIBIT D Proposed Retaining Wall Sections.pdf, 9. Applicant-EXHIBIT E North Elevation Rendering.pdf, 10. Future FEMA Flood Map, 11. Current FEMA Flood Map, 12. Legal Review Res 80-21 Waiver to fence height for 1031 Seaspray Ave

Date	Ver.	Action By	Action	Result
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**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Department  
**THROUGH:** Jennifer Alvarez, Interim City Manager  
**DATE:** June 1, 2021

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 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. (QUASI JUDICIAL)

**Recommended Action:**

Review and Consider Resolution No. 80-21 to allow the construction of a tall retaining wall six feet in height with a decorative guardrail three feet in height, in excess of the height limitations for walls located in the front yard, street side yard and interior side yard.

**Background:**

The subject property is zoned R-1-AAA (Single Family Residential) with a LUM of (LD) Low Density. The property is described as 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. The configuration of the property is unique in that the front is the cul de sac on Seaspray Avenue, the rear is along the Intracoastal Waterway, Beach Drive is a side street (north); and the west and south are side interior lot lines.

The property is in the North Beach Overlay District and is subject to both the Land Development Regulations (LDRs) for R-1-AAA in Section 4.3.4(K) and the provisions of the adopted Beach Property Owners Design Manual for the North Beach and Seagate Neighborhoods, which include visual compatibility standards relating to building height, width, mass, scale, materials, color, style, form, and square footage. The proposed new single-family house was approved for compliance with the Beach Property Owners Design Manual on September 16, 2019 and is currently under construction.

The new home has to be constructed higher than the elevation of the previous home to meet current Federal Emergency Management Agency (FEMA) State regulation standards. The (FEMA) Flood Plain designation for the subject property is the AE-6 Special Flood Hazard Area (SFHA). The Florida Building Code (FBC) Section R322.2.1 requires: *"buildings and structures in flood hazard areas designated as Coastal A Zones, shall have the lowest floors elevated to or above the base flood elevation plus one foot, or the design flood elevation, which ever is greater."* For this property, the finished floor must be elevated to 7.0 feet. The future or pending FEMA Maps have the Base Floor Elevation at 8.0 feet SFHA; which is anticipated to require an elevation of 9.0 feet (with the additional foot required by the FBC); therefore the property owner opted to build the new home in compliance with the pending flood plain elevation of 9.0 feet.

To meet the flood elevation requirements, the new construction uses a combination of fill and terracing of the lot with steps to access the house. A retaining wall is needed to prevent the ground from eroding during heavy rain or flood conditions. Neither the code nor the Design Manual provide guidance on retaining wall height limits within or beyond required setbacks. The request is to allow a retaining wall six feet in height within the front and side street setback.

Since the yard is located over feet higher than the adjacent grade in some locations, a decorative aluminum guard rail three feet in height is proposed on top of the retaining wall to ensure safe use of the yard, though the applicant should be sure the request is tall enough to contain potential pets. The result is a wall/fence that is up to nine feet in height in the front and side street yards (Seaspray Avenue and Beach Drive); and the side interior on the south side.

Pursuant to LDR Section 4.6.5(C) Height restrictions. *Walls, fences, or hedges located in a required front yard or street side yard shall not exceed six feet in height and walls, fences, or hedges located in a required interior side or rear yard shall not exceed eight feet in height.*

LDR Section 4.6.5(E) Masonry walls. *Masonry walls located in the front and street side yards shall be screened by landscape material that is to be maintained at a minimum height equal to half of the height of the wall. Landscape materials must be of the type that will reach the required height within two years of planting.*

The applicant's renderings indicates that landscaping will be provided between the retaining wall and

the public right of way to soften the appearance of the retaining wall in a manner consistent with the requirements for a masonry wall.

Always Delray Comprehensive Plan, Policy HOU 4.2.2 of the Housing Element *"incorporate quality design compatible with character of the city, sustainable/green incentives, flood zone area and base flood elevation compliance in housing design standard."*

Pursuant to LDR Section 2.4.7(B)(5), prior to granting a waiver, the approving body shall make a finding that 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 the same waiver would be granted under a similar circumstance on other property for another applicant or owner.

**City Attorney Review:**

City Attorney approves as to form and sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

As the home is under construction, a decision is needed to complete construction.