

PLANNING AND ZONING BOARD

REGULAR MEETING

May 26, 2021

6:30 pm

247 Edwards Lane / Palm Beach Shores, FL 33404

Jerald Cohn, Chairman
Tim Blash, Vice Chairman
Kevin Banks, Member
Jason Prince, Member
Steven Smith, Member
Tony Lembo, Alternate
Tom Martin, Alternate

Mitty Barnard, Attorney
Josh Nichols, Zoning Official
Rob Rennebaum, Engineer
Evyonne Browning, Town Clerk

PLEASE NOTE:

PUBLIC PARTICIPATION MAY OCCUR REMOTELY

Meeting number: 132 247 7026

Password: 0526

<https://townofpalmbeachshores.my.webex.com/townofpalmbeachshores.my/j.php?MTID=mbc572bfba0c5d7d11caa4f6d6e7289cf>

Join by phone: +1-408-418-9388 United States Access code: 132 247 7026

1. **CALL TO ORDER:**

- a. Roll call.

2. **APPROVAL OF MEETING AGENDA:** (Additions, substitutions, deletions)

3. **CONSENT AGENDA:**

- a. Approval of the April 28, 2021 Planning and Zoning Board Reorganization Meeting Minutes.
- b. Approval of the April 28, 2021 Planning and Zoning Board Meeting Minutes.

4. **ACTION ITEMS:**

- a. **SPR21-2/AAR21-02**, Dimitri Nicholas, Owner of 315 Inlet Way, requests Site Plan and Architectural and Aesthetic Review to install an inground swimming pool with paver deck in the rear of the property.
- b. **SPR21-10/AAR-21-11**, Molly Fleming, Owner of 170 Lake Drive, requests Site Plan Review and Architectural Review to install a new sea wall with construction of a new steel sheet pile wall, concrete batter piles, and a concrete seawall cap on the property.
- c. **SPM21-11/AAR21-12**, Doug Owen, Owner of 222 Edwards Lane, requests Site Plan Modification and Architectural Review to revise the previously approved site plan and landscape plan to reflect revisions to the site and landscaping installed on the property.
- d. **VAR21-01**, 115 Cascade Lane, LLC, Owner of 115 Cascade Lane, requests Variances from: 1) Sec. Pf. 6.9(b) to allow for required parking spaces to be located in the 10' Town Strip where such parking is not allowed; 2) Sec. Pf. 6.7 to allow for the second story addition to have a rear yard setback of 10.35 feet where the Code requires 15 feet; 3) Sec. Pf. 6.8 to allow for the second story addition to have a 6.5 foot side yard setback (west) and 6.92 foot side yard setback (east) where the Code requires 10 foot setbacks; 4) Sec. Pf. 6.12 to allow the 10' Town Strip to be used for required parking spaces where the Code does not allow parking to be counted in the 10' Town Strip; 5) Sec. 78-72(b) to allow the parking lot to be visible where the Code requires it to be effectively screened from public view and adjacent property; and 6) Sec. 78-73(1) to allow zero feet of landscaping abutting the right-of-way and the off-street parking where the Code requires a strip of land 5 feet in depth between the right-of-way and off-street parking area.

5. DISCUSSION ITEMS:

- a. District “B” properties (continuation from previous meeting) (*Josh Nichols, Zoning Official and Mitty Barnard, Town Attorney*)
- b. Draft ordinance governing air conditioning equipment and emergency generators (continuation from previous meeting) (*Josh Nichols, Zoning Official and Mitty Barnard, Town Attorney*)

6. PUBLIC COMMENT:

7. ADJOURNMENT:

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision made by the Town Commission with respect to any matter considered at this meeting or hearing, such interested person will need a record of the proceedings, and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. The meeting/hearing will be continued from day to day, time to time, place to place, as may be found necessary during the aforesaid meeting. IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), THIS DOCUMENT CAN BE MADE AVAILABLE IN AN ALTERNATE FORMAT (LARGE PRINT) UPON REQUEST AND SPECIAL ACCOMODATIONS CAN BE PROVIDED UPON REQUEST WITH THREE (3) DAYS ADVANCE NOTICE. FOR HEARING ASSISTANCE: If any person wishes to use a hearing device, please contact the Town Clerk.

**PLANNING AND ZONING BOARD
REORGANIZATION MEETING MINUTES
April 28, 2021**

1. CALL TO ORDER

The reorganization meeting was called to order at 6:30 p.m. by Member Jerald Cohn. The meeting was held in the commission chambers of Town Hall located at 247 Edwards Lane, Palm Beach Shores, FL 33404.

Town Clerk Browning called the roll and those present were Member Jerald Cohn, Member Timothy Blash, Member Kevin Banks, Member Jason Prince, Member Steven Smith, Alternate Tony Lembo, and Alternate Tom Martin.

2. APPROVAL OF MEETING AGENDA (Additions, substitutions, deletions)

MOTION: Member Kevin Bank moved to approve the meeting agenda.

SECOND AND VOTE: Member Jason Prince seconded the motion, which passed unanimously.

3. INSTALLATION:

- a. All members took the Oath of Office in unison.
- b. Election of Chairman

MOTION: Member Kevin Banks moved to appoint Jerald Cohn as Chairman.

SECOND AND VOTE: Member Tim Blash seconded the motion, which passed unanimously.

- c. Election of Vice Chairman

MOTION: Member Kevin Banks moved to appoint Tim Blash as Vice Chairman.

SECOND AND VOTE: Member Jason Prince seconded the motion, which passed unanimously.

- d. Selection of DRC Member

MOTION: Member Kevin Banks moved to appoint Jerald Cohn as DRC Member.

SECOND AND VOTE: Member Steven Smith seconded the motion, which passed unanimously.

e. Selection of Landscape Approval Member

MOTION: Member Kevin Bank moved to appoint Tim Blash as the Landscape Approval member.

SECOND AND VOTE: Member Jason Prince seconded the motion, which passed unanimously.

4. **ANNUAL LEGAL UPDATE BY TOWN ATTORNEY:**

Town Attorney Mitty Barnard went through the attached legal update to all members of the Board.

5. **BOARD COMMENTS:** No Board Member Comments.

6. **PUBLIC COMMENTS:** There were none

7. **ADJOURNMENT:**

MOTION: Member Kevin Banks moved to adjourn the meeting

SECOND AND VOTE: Member Jason Prince seconded the motion which passed unanimously, and the meeting was adjourned at 6:44 pm.

APPROVED this 26TH day of May 2021.

ATTEST:

Evyonne Browning, Town Clerk

Jerald Cohn, Chairman

(Seal)

**PLANNING AND ZONING BOARD
REGULAR MEETING MINUTES
April 28, 2021**

1. CALL TO ORDER

The regular meeting was called to order at 6:44 p.m. by Chairman Jerald Cohn. The meeting was held in the commission chambers of Town Hall located at 247 Edwards Lane, Palm Beach Shores, FL 33404.

Town Clerk Browning called the roll and those present were Chairman Jerald Cohn, Vice Chairman Timothy Blash, Member Kevin Banks, Member Jason Prince, Member Steven Smith, Alternate Tony Lembo, and Alternate Tom Martin. Town Clerk Browning stated there was a quorum present. Also present were Town Attorney Mitty Barnard, Zoning Official Josh Nichols, and Engineer Rob Rennebaum.

2. APPROVAL OF MEETING AGENDA (Additions, substitutions, deletions)

MOTION: Member Kevin Banks moved to approve the meeting agenda as written.

SECOND AND VOTE: Vice Chairman Tim Blash seconded the motion, which passed unanimously.

3. CONSENT AGENDA

- a. Approval of the March 24, 2021 Planning and Zoning Board Meeting Minutes.

MOTION: Vice Chairman Tim Blash moved to approve the consent agenda as written.

SECOND AND VOTE: Member Jason Prince seconded the motion, which passed unanimously.

4. ACTION ITEMS

- a. **SPR20-14/AAR20-18**, F & A of Singer Island LLC, Owner of 125 Inlet Way 1, requests Site Plan and Architectural and Aesthetic Review to install an aluminum entry gate in the front of the property.

MOTION: Vice Chairman Tim Blash moved to approve SPR20-14/AAR20-18 as submitted.

SECOND AND VOTE: Member Jason Prince seconded the motion, which passed unanimously.

- b. **SPR21-03/AAR21-03**, Nicholis Heine, Owner 300 Linda Lane, requests Site Plan and Architectural and Aesthetic Review to demolish the existing home and build a new 1-story single-family home with pool and pool deck.

MOTION: Member Kevin Banks moved to approve SPR21-03/AAR21-03 as submitted.

SECOND AND VOTE: Vice Chairman Tim Blash seconded the motion, which passed unanimously.

- c. **SPR21-07/AAR21-08**, Icon Development Holdings I, LLC, Owner of 200 Inlet Way, requests Site Plan and Architectural and Aesthetic Review to allow for demolition of the existing improvements and construction of a three-story multi-family residential building with surface level parking, pool and pool deck and associated landscaping.

MOTION: Member Kevin Banks moved to approve SPR21-07/AAR21-08 with the following conditions:

1. The Applicant is permitted to locate the central air conditioning equipment in the side yard as approved by this Board in accordance with Section Pf. 12.7 of the Town Code.
2. The Applicant shall submit a cross access easement for the shared ADA pathway to the Town Attorney for approval and recording in the public record prior to issuance of a Certificate of Occupancy.
3. The Applicant shall provide a drainage plan for review and approval by the Town Engineer.
4. The Applicant shall depict a 4' fence on the Site Plan around the property not in conflict with approved landscaping on the property; and
5. The Applicant shall submit a construction schedule reflecting completion of the project in within twenty-four (24) months.

SECOND AND VOTE: Member Steven Smith seconded the motion, which passed unanimously.

- d. **SPR21-08/AAR21-09**, Icon Development Holdings I, LLC, Owner of 150 Inlet Way, requests Site Plan and Architectural and Aesthetic Review to allow for demolition of the existing improvements and construction of a three-story multi-family residential building with surface level parking, pool and pool deck and associated landscaping.

MOTION: Member Kevin Banks moved to approve SPR21-08/AAR21-09 with the following conditions:

1. The Applicant is permitted to locate the central air conditioning equipment in the side yard as approved by this Board in accordance with Section Pf. 12.7 of the Town Code.
2. The Applicant shall provide a drainage plan for review and approval by the Town Engineer.
3. The Applicant shall depict a 4' fence on the Site Plan around the property not in conflict with approved landscaping on the property; and
4. The Applicant shall submit a construction schedule reflecting completion of the project in within twenty-four (24) months.

SECOND AND VOTE: Member Steven Smith seconded the motion, which passed unanimously.

- e. **SPR21-09/AAR21-10**, Icon Development Holdings I, LLC, Owner of 206 Inlet Way, requests Site Plan and Architectural and Aesthetic Review to allow for demolition of the existing improvements and construction of a three-story multi-family residential building with surface level parking, pool and pool deck and associated landscaping.

MOTION: Member Kevin Banks moved to approve SPR21-09/AAR21-10 with the following conditions:

1. The Applicant is permitted to locate the central air conditioning equipment in the side yard as approved by this Board in accordance with Section Pf. 12.7 of the Town Code.
2. The Applicant shall submit a cross access easement for the shared ADA pathway to the Town Attorney for approval and recording in the public record prior to issuance of a Certificate of Occupancy.
3. The Applicant shall provide a drainage plan for review and approval by the Town Engineer.
4. The Applicant shall depict a 4' fence on the Site Plan around the property not in conflict with approved landscaping on the property; and
5. The Applicant shall submit a construction schedule reflecting completion of the project in within twenty-four (24) months.

SECOND AND VOTE: Member Steven Smith seconded the motion, which passed unanimously.

5. **PUBLIC COMMENT**

There were no public comments.

6. **ADJOURNMENT**

MOTION: Member Kevin Banks moved to adjourn the meeting

SECOND AND VOTE: Member Tim Blash seconded the motion which passed unanimously, and the meeting was adjourned at 7:51 pm.

APPROVED this 26th day of May 2021.

ATTEST:

Evyonne Browning, Town Clerk

Jerald Cohn, Chairman

(Seal)

**SECTION VI. DISTRICT B
REGULATIONS¹**

Pf. 6.1. Permitted and special exception uses.

- (a) *Permitted uses.* Permitted uses in District B shall be only the following:
- (1) Any use permitted in District A.
 - (2) Multiple-family dwellings and two-family or duplex dwellings.
 - (3) Accessory buildings and uses, including private garages when located on the same building site.
 - (4) Group home facilities as defined in Section II must be confined to a single lot of record existing as of May 17, 1999; and must be separated from any lot located in Zoning District "A" by a minimum of three hundred fifty (350) feet and from any other lot on which another such facility is located by a minimum of five hundred (500) feet. Distance requirements shall be measured from property line to property line along the public streets.
- (b) *Special exception uses.* Parking lots connected with a hotel located adjacent thereto or immediately across the street therefrom may be allowed as an off site accessory use by special exception only. Application for this special exception Use may be allowed only if no property adjacent thereto is being utilized as a single-family detached dwelling unit. All standards as set forth in Section XV. Pf. 15.7. must be met.
- (c) *[Boarding houses and/or rooming houses.]* Boarding houses and/or rooming houses, as defined at Pf. 2.7. are prohibited as a use in this zoning district.
- (Ord. No. O-07-99; Ord. No. O-05-99, § 1, 6-7-99; Ord. No. O-9-06, § 4, 3-19-07; Ord. No. O-2-11, § 1, 9-19-11)

Pf. 6.2. Building height.

- a. The maximum height of any building in this district that does not utilize underground/depressed parking pursuant to Pf. 12.6 to contain all required parking for residents of the structure shall be twenty-nine (29) feet and the top of the beam shall not exceed twenty-four (24) feet measured from the grade elevation.
- b. The maximum height of any building in this district that utilizes underground/depressed parking pursuant to Pf. 12.6 to contain all required parking for residents of the structure shall be thirty (30) feet and the top of the beam shall not exceed twenty-five (25) feet measured from the grade elevation.
- c. No building shall have more than two (2) stories.
- d. The maximum height of any accessory building in this district shall be fifteen (15) feet.

¹Cross reference(s)—Satellite dish antenna regulations and requirements for this district, § 14-312Cross reference(s)—; restrictions on location and type of sign, § 58-51Cross reference(s)—; temporary signs permitted in certain zoning districts, § 58-53Cross reference(s)—.

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- e. No roof structures shall be permitted above the applicable height limit except as set forth herein. Working chimneys shall be allowed to exceed the maximum permitted height, but shall not be greater in height than required for compliance with any other applicable code.
 - f. The minimum roof pitch shall be 4/12 and maximum roof pitch shall be 12/12. All structures with a flat roof shall also contain a visible roof pitch along the roof perimeter in order to conceal the flat roof.

(Ord. No. 218, § 1, 12-9-85; Ord. No. O-1-05, § 4, 6-20-05; Ord. No. O-4-07, § 2, 3-19-07)

Pf. 6.3. Building site area.

The minimum building site area shall be one (1) platted lot. The maximum building site area shall be two (2) adjoining platted lots as set out on the plat of Palm Beach Shores, as amended.

(Ord. No. O-07-01, § 2, 9-17-01)

Pf. 6.4. Maximum lot coverage; lot coverage calculation.

- (a) *Lot coverage.* The maximum percentage of coverage of a lot by buildings as set forth in Pf. 2.13., including all accessory buildings and garages that are not underground or depressed shall be forty (40) percent for one (1) story buildings and thirty-six (36) percent for two (2) story buildings. However, any two-story building that utilizes underground/depressed parking pursuant to Pf. 12.6, or a combination of underground/depressed parking pursuant to Pf. 12.6 and surface level enclosed private garage parking, to contain all required parking for residents of the structure, and that contains dwelling units with a minimum floor area of one thousand seven hundred (1,700) square feet, may increase its maximum percentage of coverage of a lot by buildings to forty-five (45) percent.
- (b) *District specific calculation requirements.* A maximum square footage equal to seven (7) percent of the floor area total per dwelling unit may be utilized as uncovered cantilevered balconies above the first floor, or as uninhabitable architectural features on any floor projecting beyond the exterior face of exterior walls or supporting columns without being included in the calculation for lot coverage, up to a maximum dwelling unit size of two thousand (2,000) square feet.

(Ord. No. O-1-05, § 4, 6-20-05; Ord. No. O-5-10, § 1, 6-21-10)

Pf. 6.5. Dwelling unit density.

Maximum dwelling unit density shall not be greater than twenty-one (21) units per acre. In the calculation of number of dwelling units permitted on a specific lot, determination shall be made by dividing the total square footage of the lot by a factor of 2074.28. A remaining fraction of one-half or greater shall entitle the developer to one additional dwelling unit, but there shall be no additional entitlement for a remaining fraction of less than one-half.

Pf. 6.6. Front yard.

There shall be a front yard not less than fifteen (15) feet in depth. No building or part of a building hereinafter erected or structurally altered shall project beyond the front building line except architectural features as set forth at Pf. 6.8.1 and eaves, which may project two (2) feet beyond this line. Parking on the adjacent street is strictly prohibited as set forth in section 70-52 of the Town Code. Additionally, parking in the adjacent ten (10) foot strip of Town property shall be prohibited as set forth in Pf. 6.9 below.

(Ord. No. O-1-05, § 4, 6-20-05; Ord. No. O-5-10, § 1, 6-21-10)

Pf. 6.7. Rear yard.

There shall be a rear yard not less than fifteen (15) feet in depth. No building or any part of a building shall project beyond the rear building line, except architectural features as set forth at Pf. 6.8.1 and eaves, which may project two (2) feet beyond the rear building line.

(Ord. No. O-1-05, § 4, 6-20-05)

Pf. 6.8. Side yard.

- (a) On both sides of every building site there shall be a side yard having a minimum width of ten (10) feet, except on corner lots where the side yard along the outer side lot lines shall have a minimum width of fifteen (15) feet. Width of the side yards shall be measured at right angles to the side lines. No building or part of a building shall project beyond the side building lines except architectural features as set forth at Pf. 6.8.1 and eaves, which may project a maximum of two (2) feet beyond this line.
- (b) Any two story building that utilizes underground/depressed parking pursuant to Pf. 12.6, or a combination of underground/depressed parking pursuant to Pf. 12.6 and surface level enclosed private garage parking, to contain all required parking for residents of the structure, and that contains dwelling units with a minimum floor area of one thousand seven hundred (1,700) square feet, may reduce the side yard setback abutting either Lake Avenue or Ocean Avenue by a maximum of five (5) feet when a licensed engineer has certified in writing that such setback reduction is needed to accommodate vehicle access from the front of the property into a rear entry depressed parking level. The engineer's report shall address the use of the depressed parking level, the access to same from the rear of the building and the necessity of adequate turning radii for vehicle ingress from and egress to the front of the property. Parking on the adjacent street (Lake Avenue or Ocean Avenue) is strictly prohibited as set forth in section 70-52 of the Town Code. Additionally, parking in the ten-foot strip of Town property adjacent to Lake Avenue or Ocean Avenue shall be prohibited as set forth in Pf. 6.9 below.

(Ord. No. O-1-05, § 4, 6-20-05; Ord. No. O-5-10, § 1, 6-21-10)

Pf. 6.9. Town property.

- (a) The ten-foot strip of Town property on both sides of the streets may be used by the owner of the abutting property with the same restrictions as to use for front yards in this district; provided, however, that no fences, walls, or other structures above or below ground may be placed in this ten-foot strip of Town property. Pavement for driveways and parking area approaches (including driveway pavers subject to the requirements of subsection (c) below) may be placed in this ten-foot strip, which may also be used for temporary parking but may not be counted as a part of the required minimum off-street parking area. If, in the future, this ten-foot strip shall be needed by the Town for any purpose, any improvement placed in this area may be removed by the Town without liability to the Town.
- (b) Except as hereinafter permitted, parking in this ten-foot strip is prohibited, unless within the permitted driveway and parking area approach located in this ten-foot strip as permitted in subsection (a), above.
- (c) Lots that have, as of the adoption of the ordinance from which this section is derived, a parking area adjacent to the street within this ten-foot strip may continue to use said parking area, subject to the provisions of this section. However, no double parking shall be permitted thereon (see also section 70-32(4) of this Code), and no alteration of any such parking areas shall be permitted, except that such parking areas may be improved by replacing existing asphalt or concrete with driveway pavers, or otherwise as required by law or ordinance. To install pavers within the ten-foot Town strip, a limited agreement for construction in

road right-of-way must be executed by both the property owner and the Town and recorded in the public records. Such agreement shall be executed and recorded prior to building permit issuance.

- (d) The parking areas to which subsection (c) above applies, shall terminate and such parking areas shall be removed and replaced with approved pavement for driveways and parking area approaches, and landscaping pursuant to chapter 78, vegetation, at the lot owner's expense, in accordance with the occurrences set forth at Pf. 5.98.d.l. through 4. for any property whose principal building is a single family structure; and upon the construction of a new principal (meaning non-accessory) building or upon a change in use for all other properties.
- (e) In order to provide all current lot owners, and any other parties who have or may acquire an interest in property in District "B" with proper notice of these regulations, the Town shall provide each current lot owner in District "B", as listed in the Tax Collector's Office for tax notices, with written notice of same, and shall record a copy of this ordinance in the Public Records of Palm Beach County, Florida.

(Ord. No. O-1-05, § 4, 6-20-05; Ord. No. O-11-18, § 1, 12-17-18)

Pf. 6.11. Easement use.

Any improvement in the area placed in the area of the utility easement shall be so arranged that it permits unhindered access to utility installations in this area. Such improvements in the area may, if necessary for repair, maintenance and service of utility installations, be removed by the utility company without any liability to said company.

Pf. 6.12. Off-street parking.

Multiple-family residences shall have a minimum of one and one-quarter ($1\frac{1}{4}$) off-street parking spaces for each hotel and motel room, one bedroom or efficiency apartment. One and one-half ($1\frac{1}{2}$) parking spaces for two-bedroom apartments and one-half ($\frac{1}{2}$) space for each additional bedroom. Off-street parking spaces shall be paved and marked with a minimum size of nine by twenty (9×20) feet, and so arranged that any vehicle may be parked and removed without moving any other vehicle. Parking area and arrangement of spaces shall be shown on the original building plans submitted to the Planning and Zoning Board. The ten-foot strip of Town property may be paved for driveways and parking area approaches and used for temporary parking, but may not be counted as a part of the required minimum off-street parking area.

No parking is permitted in any yard area except in approved parking spaces, and except as allowed by the Town Code at chapter 70, traffic and vehicles.

(Ord. No. 201, § 1, 8-8-83; Ord. No. O-06-03, § 2, 10-20-03)

Cross reference(s)—Offstreet parking lot layout, § 70-101Cross reference(s)— et seq.

Sec. 78-72. Parking lots.

- (a) One of the basic uses of landscaping will be to screen. It is masking out or concealing a particular unattractive area, accessory use of an otherwise acceptable space or structure. Screening shall be employed particularly on parking lots and parking lots are to be designed as an aesthetic asset to a neighborhood and to the building, group of buildings, or facility it serves. The responsibility toward beautification and design of the parking lot is the same as that which the homeowner has to his residential lot.
- (b) Parking lots and their parked vehicles are to be effectively screened from the public view and from adjacent property in a manner that is attractive and compatible with safety, the neighborhood and the facilities served.

(Code 1977, § 15-5)

Cross reference(s)—Parking lot plans, § 70-101Cross reference(s)— et seq.

Sec. 78-73. Required landscaping adjacent to public rights-of-way.

On the site of a building or structure or open lot use providing an off-street parking area or other vehicular use area, where such area will not be entirely screened visually by an intervening building or structure from any abutting right-of-way, excluding dedicated alleys, there shall be provided landscaping between such area and right-of-way, as follows:

- (1) A strip of land at least five feet in depth located between the abutting right-of-way and the off-street parking area or other vehicular use area which is exposed to an abutting right-of-way shall be landscaped, such landscaping to include at least one tree for each 50 lineal feet or fraction thereof. Such trees shall be located between the abutting right-of-way and off-street parking area or other vehicular use area and shall be planted in a planting area of at least 25 square feet with a minimum dimension of at least five feet. In addition, a hedge or other durable landscape barrier of at least two feet in height shall be placed along only the perimeter of such landscaped strip. If such durable barrier is of nonliving material, for each five feet thereof, one shrub or vine shall be planted abutting such barrier, but need not be spaced five feet apart. Such shrubs or vines shall be planted along the street side of such barrier unless they are of sufficient height at the time of planting to be readily visible over the top of such barrier. The remainder of the required landscaped areas shall be landscaped with grass, ground cover or other landscape treatment excluding paving; provided, however, that a nonliving durable wall may be erected on the perimeter of the required landscaped area opposite the sidewalk or at any point at least three feet from the sidewalk within this landscaped area. No such landscape barrier wherever located under this subsection shall exceed three feet in height or be less than two feet in height.
- (2) All property other than the required landscaped strip lying between the right-of-way and off-street parking area or other vehicular use area shall be landscaped with at least grass or other ground cover.

(Code 1977, § 15-6)

Cross reference(s)—Streets, sidewalks and other public places, ch. 62Cross reference(s)—.

ORDINANCE NO. O-X-21

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, AMENDING APPENDIX A. ZONING. SECTION XII. GENERAL PROVISIONS. AT PF.12.7. CENTRAL AIR CONDITIONING EQUIPMENT. TO CLARIFY THE PERMISSIBLE LOCATION OF SUCH EQUIPMENT AND AT PF.12.8. EMERGENCY ELECTRICAL GENERATORS. TO CLARIFY THE LOCATION OF SUCH EQUIPMENT AND PROVIDE ADDITIONAL REGULATIONS TO MINIMIZE THE IMPACT OF THIS EQUIPMENT TO ADJACENT PROPERTIES. PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF APPENDIX A. ZONING. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Town of Palm Beach Shores currently regulates the location and screening (both sight and noise) of emergency electrical generators and air conditioning equipment; and

WHEREAS, the Town Commission desires to clarify existing regulations with regard to placement of each and to provide additional regulations applicable to emergency electrical generators to minimize the impact of such equipment on adjacent properties; and

WHEREAS, the Town Commission finds that these regulations are in the best interests of the citizens of the Town of Palm Beach Shores, and will serve to promote the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, THAT:

Section 1. Appendix A. Zoning. of the Code of Ordinances of the Town of Palm Beach Shores is hereby amended at Section XII. General Provisions. to amend Pf. 12.7. Central air conditioning equipment. to clarify the permissible location of such equipment; providing that Pf. 12.7. shall hereafter read as follows:

Pf. 12.7. - Central air conditioning equipment.

All exterior central air conditioning equipment hereinafter installed shall be located between the mid-point of the principal structure and the rear lot line. This equipment shall not be located in any easements, utility or otherwise. in or to the rear of the structure. ~~The Planning and Zoning Board may approve the relocation of this equipment under special conditions.~~

Section 2. Appendix A. Zoning. of the Code of Ordinances of the Town of Palm Beach Shores is hereby amended at Section XII. General Provisions. to amend Pf. 12.8. Emergency electrical generators. to clarify the permissible location of such equipment and provide additional regulations to minimize the impact of such equipment on adjacent properties; providing that Pf. 12.8. shall hereafter read as follows:

Pf. 12.8. - Emergency electrical generators.

- (a) All permanently installed (non-portable) emergency electrical generators installed to the exterior of any principal or accessory structure shall hereinafter be located between the mid-point of the principal structure and the rear lot line, subject to subpart (b) below and shall be installed on the same side of the principal structure as the central air conditioning equipment. ~~in or to the rear of the structure. However, in accordance with its application review, the Planning and Zoning Board may approve the relocation of this equipment under special conditions. In no case shall such equipment be installed in any "front yard" as that term is defined in this Zoning Code, except for those corner lots situated along Lake Drive, Atlantic Avenue or Ocean Avenue which have the house facing Lake Drive, Atlantic Avenue or Ocean Avenue but which have the front property line designated on the east-west streets pursuant to the definition set forth at Pf. 2.24. Frontage, lot, of the Zoning Ordinance. For such lots, the emergency electrical generator may be installed in the "front yard" as defined at Pf. 2.39. Yard, front. of the Zoning Ordinance upon specific approval by the Planning and Zoning Board as set forth above.~~

- (b) All permanently installed (non-portable) emergency electrical generators shall be set back a minimum of five (5) feet from the property line.
- (c) Emergency electrical generators, whether permanently installed (non-portable) or temporary (portable), shall not, at any time or for any purpose, exceed the maximum decibels allowed at the property line as set forth in section 42-43.
- (d) The exhaust from emergency electrical generators, whether permanently installed (non-portable) or temporary (portable), shall be vented upward and directed away from neighboring properties, as much as is practically feasible.
- (be) All emergency electrical generators shall be placed so as to minimize the visual impact on adjacent properties with the use of appropriate sight screening.
- (ef) All emergency electrical generators shall be placed so as to minimize and contain the sound emitting from the equipment. The use of sound attenuating materials to screen the equipment shall be required ~~if practicable.~~ to meet the decibel levels required by section 42-43 and can include the following techniques:
 - 1) A professionally made custom enclosure specifically made to reduce the noise level to a level that meets Town code;
 - 2) A noise barrier wall constructed of concrete or similar material with a minimum height equal to that of the generator plus six (6) inches, completely obscuring the visibility of the generator from the street and abutting neighbors. All walls/screening shall be able to safely withstand any heat produced by the generator for an indefinite amount of time.
 - 3) The professional installation of rock wool insulation or a similar heat resistant acoustical insulation to either the interior of the generator's enclosure, or lining the interior side of the noise barrier wall is recommended.
- (dg) Maintenance and "exercise" of emergency electrical generators shall be limited to once per week, Monday through Saturday, between the hours of 10:00 a.m. and 5:00 p.m. with such period not to exceed thirty (30)~~60~~ minutes in duration. Otherwise, emergency electrical generators may only be used during periods when electrical service to the property they service has been lost.

Section 3. Each and every other article, section, and subsection of Appendix A. Zoning Ordinance. of the Code of Ordinances of the Town of Palm Beach Shores shall remain in full force and effect as previously enacted.

Section 4. All ordinances or parts of ordinances in conflict with this ordinance are repealed.

Section 5. If any section or provision of this ordinance, any paragraph, sentence or word is declared invalid by a court of competent jurisdiction, the decision shall not affect the validity of the remainder of this ordinance.

Section 6. Specific authority is hereby given to codify this ordinance into the Code of Ordinances of the Town of Palm Beach Shores, Florida.

Section 7. This ordinance will take effect immediately upon adoption.

FIRST READING this ____ day of _____, 2021.

SECOND AND FINAL READING this ____ day of _____, 2021.

TOWN OF PALM BEACH SHORES

Alan Fiers, Mayor

ATTEST:

Evyonne Browning, Town Clerk

(Seal)

Approved as to form and legal sufficiency.

Keith Davis, Town Attorney