

TOWN OF MALABAR

PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY, JANUARY 28, 2009
7:30 PM
MALABAR COUNCIL CHAMBER
2725 MALABAR ROAD
MALABAR, FLORIDA

AGENDA

A. CALL TO ORDER, PRAYER AND PLEDGE

B. ROLL CALL

C. ADDITIONS/DELETIONS/CHANGES

D. CONSENT AGENDA

1. Approval of Minutes

Regular Planning and Zoning Meeting – 12/10/08

Exhibit: Agenda Report No. 1

Recommendation: Motion to Approve

E. PUBLIC HEARING: None

F. ACTION:

2. Fence Height Ordinance 2009-99

Exhibit: Agenda Report No. 2

Recommendation: Recommendation to Council

G. PUBLIC:

H. OLD BUSINESS/NEW BUSINESS:

3. Driveway turnouts

Exhibit: Agenda Report No. 3

Recommendation: Discussion

I. ADJOURN:

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to insure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105). The Town does not provide this service.

In compliance with the Americans With Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 1
Meeting Date: January 28, 2009

Prepared By: Denine Fusco-Scarbro, Planning Zoning Secretary

SUBJECT: Approval of minutes

BACKGROUND/HISTORY:

The DRAFT minutes from 12/10/08 are ready for Board review.

The minutes must reflect the actions taken by the Board:

- Who made the Motion
- What is the motion
- Who seconded the motion
- What was the vote

Malabar has historically included discussion to provide the reader the understanding of how the Board came to their vote. It is not verbatim and some editing is done to convey the thought. People do not speak the way they write.

ATTACHMENTS:

- Draft minutes of 12/10/08

ACTION OPTIONS:

Motion to Approve

"The following draft minutes are subject to changes and/or revisions by the Planning and Zoning Board and shall not be considered the official minutes until approved by the P&Z Board."

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
DECEMBER 10TH, 2008 7:30 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

A. CALL TO ORDER, PRAYER AND PLEDGE:

Meeting called to order at 7:30 P.M. Prayer and Pledge led by Chair Bob Wilbur.

B. ROLL CALL:

CHAIR:	BOB WILBUR,
VICE-CHAIR:	PATRICK REILLY
BOARD MEMBERS:	DON KRIEGER
	BUD RYAN
	LIZ RITTER
ALTERNATE:	CINDY ZINDEL
ALTERNATE:	BRIDGET PORTS
SECRETARY:	DENINE FUSCO-SCARBRO

Also present: Mayor Eschenberg.
Roger Cloutier- Building Official

C. ADDITIONS/DELETIONS/CHANGES:

Reilly would like to add to "H", number 5(five), a video of Pool Safety and Drains per our Building Official Roger Cloutier.

DFS explains that Item number 3 (three) under ACTION, the request for approval for Tree Farm in RR-65 Zoning, has been withdrawn. The Building Official Cloutier will explain.

Cloutier explains about the state statute, "Right to Farm Act" this supersedes our Town ordinance. This is in the proper zoning RR-65.

Ryan states the tree farm was already there.

Wilbur explains he has the right to use for agricultural use; it is a lower intense use then what it is intended for, good for the air.

D. CONSENT AGENDA

1. Approval of Minutes

Regular Planning and Zoning Meeting- 11/12/08
Regular Planning and Zoning Meeting- 11/19/08

MOTION: Reilly/Ryan to approve P&Z minutes of 11/12/08 as corrected. **Vote:**

All Ayes.

Correction: Krieger, Page 2, replace filling = filing all necessary paper work.

MOTION: Reilly /Krieger to approve P & Z minutes of 11/19/08 as corrected. **Vote:** All Ayes.

Corrections: Reilly, Item A. the prayer and pledge was lead by Pat Reilly, Vice Chair. Bob Wilbur was excused.

E. PUBLIC HEARING: None

F. ACTION:

2. Request for Fence Columns to 6'- Dennis and Amelia Mallory, 2555 Cason Lane, Malabar

Exhibit: Agenda Report No. 2
Recommendation: Discussion

Cloutier explained this item should be tabled, due to the fact there are other residences in our town with the same situation. Council is still reviewing this Ordinance. Letters have gone out to the residences; until this is resolved we need to put this on hold. Acting Chair Reilly asked for a motion to table this item.

Motion: Ryan/ Ritter to table this item about 6' Foot high fence.

Discussion:

Reilly, I think we can approve to 6' ht column height. I think we should move forward with the 6'foot column height.

Ryan explains everyone wants 6ft columns.

Cloutier tells board that these columns are actually higher than 6' feet. That is why I requested this item be tabled until Council is complete with reviewing and going over Ordinance.

Wilbur asked about fence height. Cloutier explains that there is not a fence, just columns.

Ryan asked if homeowner was aware of Town Code.

Wilbur asked about when Town Council is going to make a decision about these height Ordinances, Cloutier responded it is in draft form right now from the Town Attorney.

Krieger brings point up, point of order, and motion to table.

Vote: All Ayes

3. Request for Approval for Tree Farm in RR- 65 Zoning- Josh Reidenauer, 1750 Shiflett Lane, Malabar

Exhibit: Agenda Report No. 3
Recommendation: Discussion

Withdrawn by applicant Mr. Reidenauer 12/10/08

G. PUBLIC:

Wilbur opens the floor to the public:

Bill Buckman introduces himself; and explains he is working with the contractor that has gotten the contract for Brevard County to restore the south beach restoration project. I am the person trying to find sand and re locate sand. I have noticed that there is a sand ridge in the town of Malabar that runs along the railroad tracks. I do understand that Malabar has regulations about sand mining. Last year we mined the borrow pits in the Montecito project, by Patrick's Air Force, in Satellite Beach. They worked with us due to the nature of the project restoring sand to the beaches in Satellite Beach. Moore Smith is here with me, he is the engineer person for Mercedes Homes that did the design for the Montecito project. I just thought I would present this to the board to see if there is a possibility that we could mine sand from the town of Malabar. Discussion among the board with Mr. Buckman and the process of the sand mining and what would need to be done as far as clearing and removing debris. Mr. Buckman is explaining that a lot of the areas are bare as far as trees and brush. Things would have to meet approval, We did talk to SJWM, part of process and some sights have already been approved, I did talk to the Hessey's, but do not have permission from the Hessey's, in reference to their property possibly some assets that may come out of the whole thing.

Ritter asks if they had people in mind if they had a sand area, if they would dig out there sand. Mr. Buckman stated he had talked to the Hessey's. Mr. Buckman is explaining to the board that they would go back toward the railroad tracks, the typical top's the elevation is 30 down to 12, 20 feet of elevation on the back of the property to the front before you even get to the level of the front of the property. The sand would be on the east side of the railroad tracks and the west side of the properties.

Also, I have talked to Mike Mac Geary out at the County; he is in charge of the beach restoration. He said he was going to get a letter, just stating that we have contract with the county, but I did not get back with him today.

Mr. Morris, the Engineer for Montecito in Satellite Beach Community development. Explained how the Montecito development got involved with the sand, their Community Development District (CDD) is just like they are a municipality but no elective officials, own engineer and attorney. They have to treat that dirt as if it were municipal dirt. So it was brought up to move dirt/sand to public sight for the benefit of the public with in the Town of Satellite Beach.

Mr. Morris is explaining to the board that SJWM will let them take up to 120 acre feet of dirt, one foot deep prior to it becoming a sand mining program.

Wilbur brings discussion back to the Board. Wilbur stated that Malabar should keep every bit of sand that we have so when the ocean is at our door we have a nice sand dune. This is why we put no mining in our Ordinances to prevent mining issues. Reilly agrees with Wilbur about no mining in the Town of Malabar.

Discussion among the Board and Mr. Buckman about the process of pumping sand from the ocean and finding sand around the county for renovating the beaches. Wilbur explained that there is a sand hill half way between Bethel Shoal and Sebastian Inlet called Thomas Shoal, biggest pile of sand. Ryan, replacing sand doesn't benefit the beach only the homeowners that have built in the wrong location. It is in our Town Ordinances that there is no mining of sand; it is no reason to make an exception in this case. Zindel agrees with the consensus of the Board about no mining in Malabar, and that is why an Ordinance was put in place. Krieger, discusses that beach renourishment does not function and does not work, doesn't have to do with this Town and we are too small of a Town to entertain a mining operation. It is great that you have come in before paperwork was done to discuss the idea. Ports feel that the traffic of large trucks does not deserve to be in the Town either, mining does not need to be in our Town.

Wilbur opens back to the public.

Tom Eschenberg, 2835 Beran Lane, referenced the gate and entrance ways on Eva Lane, a stone entrance way, and north end with the gate. He took pictures all over Town of different entrance ways that are over 6 feet in height. I think it really restricts people's creativity to have nice entrance ways into their driveways. Both entrance ways on Eva lane that have been in controversy are very attractive.

The fence code defines gate as part of the fence but he would like Board to consider to separate the fence code and leave it the way it is and addition to that code to take gates ways out of the fences and come up with a new description and limits for an entrances way or a gate way.

Wilbur, it was discussed with the pictures that you had presented about giving people a way of express creativity where they sit way back off the road. As long as you can get emergency vehicles in the driveway, and the driveway and the sweep is wide enough, it is set back off the road far enough so that the vehicles are not setting out in the road while you are waiting for the gate to open. There was no problem with this. I think it was stopped short of suggesting whether we should modify the Ordinance or add something to specify gateways or entry ways.

Eschenburg discussed that the issue with Mr. Martinez had come to Council; Council tabled it so that we could look into the gateway idea. As a practical matter you need some limits, I am sure Council will want to see some limits.

Krieger, discussed another issue which is entry way for vehicles, the other issue if it was outside the setbacks, if it was something that was so far back on the driveway, about 40 feet back it falls under a separate issue.

Krieger expressed there are more violations than compliances in this Town with people doing the work and not pulling permits. Why can't we just add a line to the fence Ordinance that gates outside the venue of the limitations have to come to the Board as an architectural board to take a look at the issue at hand?

Discussion among the Board about height relative to the existing Ordinance for fences that has to be a certain width and a certain radius for a vehicle to turn into entrance way. The problem is not the height it is how far back it is set in from the road.

Cloutier, If you put gate within 40 feet of the front property line then the height is regulated, if it is 40 feet or back it is not regulated. A gate can be approved at the property line, I encourage for gates to be pushed back.

Ritter, expresses if there is a width between the columns for access of vehicles I do not see what difference the height of the gate makes.

Has to do with the radius- if wide enough

Krieger, you can work within the existing Ordinance all you have to do is cleverly add a line that says the average height. There other ways to address this problem if you want to have a nice line in the fence Ordinance without making a separate gate Ordinance.

Discussion between Ritter and Wilbur about adding a form to the permit package that the entrance way has to be approved by the Fire Department for access to that particular property. If the Fire Department signs off after reviewing the property then it can be approved, this is just a suggestion.

Cloutier explained that there are certain specification for the Fire Department access so many feet wide and 13'.6" in height minimum to go under.

Ryan and Krieger discuss the radius for entry ways and 40 feet from the center of the road for setbacks. Cloutier requires a five (5) foot flare on all driveways to compensate for the 30 degrees that the State requires.

Krieger expresses to use or show the form from DOT.

Ports, the other cases it that what about pre existing culverts, a fire truck is not going to be able to go over it, it will smash it. The fire truck is going to be on the road, the ladder truck is not going to be able to go on a dirt road driveway.

Krieger explains about pre existing structures, if a person comes into build something, if they have a pre existing structure they have to comply before a permit is issued for the new structure.

Cloutier, explaining about the contractors. They do not know about the rules.

Krieger, we should do our homework and standardize to a form from DOT for entrance ways

Ryan, unfortunately our Town is reactive not proactive, so that is why a lot of things nothing is done about it. Wilbur says there should be more stringent fines and to follow rules.

Ryan talking about that homeowners are responsible for making sure a permit is pulled for work being done

Board is discussing Eva Lane fence/gate issues.

Reilly believes this is a four part issue:

- 1.) Fence - ok
- 2.) Gates- add number 6 to our fence Ordinance strictly on gates.
- 3.) Over head entrance ways (13'.6") limit or add to gate to make #7
- 4.) Driveways widths & radius- add #8 to follow Dot rules

Reilly says we should not do anything at all or try to fix it. If we try to fix it we need to look at the four parts listed above.

Ritter suggests, simplifying one for fences and one for entrances instead of four.

Recommendation: Discussion about Draft from town attorney, add more to this and look at DOT form

Reilly to add as Agenda item about Draft on Fence/ Gate.

Ports, questions about (1) entrance gate what about a circular driveway it has entrance and exit. Wilbur, about limiting gates? More access to property for fire protection. Ryan we should establish limits on the height of anything on the entrance ways. Ryan a minimum width of a gate, find out from MVFD to review, NFPA to require limitations. If rules are not followed fines should be put in place.

Agenda Item on the next meeting & definitions

Wilbur, asks Cloutier about what the MVFD, Ryan asks how far from center line for the fire truck to turn.

Wilbur discussion about ROW 25' should be some stipulation about building a road and regulation to standards.

Ritter states the radius is to determine, not the road.

Reilly use center line of road, Wilbur asks attorney opinion of what other municipality use and his opinion.

Discussion on roads and ROW, with Cloutier, states this is the only municipality that works using the center line of the road.

Cloutier to research with the fire department about radius and get a copy of DOT standards and form.

H. OLD BUSINESS/NEW BUSINESS:

4. Fence Height Ordinance- (See Draft)

Exhibit: Agenda Report No. 4

Recommendation: Discussion

5. Show video for Swim safety

Cloutier explains about pool drains and pool safety issues,

Playing video about pool safety drains. Approximately 2:14 minutes.

Discussion about pools and drain issues, to let people be aware of this matter of the proper drain covers.

Wilbur suggests putting information in the mail boat our town paper.

Zindel asks about pool companies and are they required to put proper drains. Cloutier explains building codes and states that police can be involved due to state laws are enforced.

Discussion within the board members about the uninhabited residences due to foreclosures and abandoned homes that do have pools and hot tubs accessible to children due to fences or screens being destroyed and vandalized,

Ports, discusses about house on Corey Rd, which is in foreclosure and gate open and screen door torn off, safety issue.

Wilbur says that it is a code enforcement issue; he suggests that the town of Malabar should go out and inspect the safety issue part of an abandoned home with pool and spa access.

Cloutier looking at security issues,

Wilbur explaining how Palm Bay does code enforcement and how things are conducted in these cases.

Discussion among board about above ground pools.

I. ADJOURN:

There being no further business to discuss, **MOTION:** Reilly / Ryan to adjourn this meeting.

Vote: All Ayes. The meeting adjourned at 9:02 PM.

BY:

Bob Wilbur, Chair

Denine Fusco-Scarbro, Secretary

Date Approved

DRAFT

**TOWN OF MALABAR
PLANNING AND ZONING**

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: January 28, 2009

Prepared By: Denine Fusco-Scarbro, Planning Zoning Secretary

SUBJECT: Fence Height Ordinance 2009-99

BACKGROUND/HISTORY:

During the last meeting on December 10, 2008 a draft Ordinance No. 2009-99 was given for you to review from the Town Attorney. The revised Ordinance No. 2009-99 shows changes recommended by P & Z Board.

ATTACHMENTS:

- Draft Ordinance No. 2009-99 (12-10-08)
- Draft Ordinance No. 2009-99 Revised
- Memo 08-TC-104 from Debby Franklin- Town- Clerk Treasurer

ACTION OPTIONS:

Staff requests action in the form of a MOTION to recommend Council approve Ordinance 2009-99 as revised.

ORDINANCE NO. 2009-99

DRAFT 1
12-10-08

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE V OF THE MALABAR LAND DEVELOPMENT CODE; AMENDING SECTION 1-5.8 (e) RELATING TO THE HEIGHT OF FENCES AND WALLS IN RESIDENTIAL DISTRICTS; ADDING A NEW SUBSECTION 6; PROVIDING FOR AN EXCEPTION TO THE HEIGHT RESTRICTION FOR CERTAIN GATES ATTACHED TO WALLS OF FENCES IN THE RR-65 ZONING DISTRICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article V of the Land development regulations of the Town provides in part for the regulation and location of fences and wall in residential districts; and,

WHEREAS, Currently, the maximum height of a fence or wall in the RR-65 zoning district is limited to four feet which may be increased to six feet with council approval; and

WHEREAS, The Town Council recognizes that in some instances the first aesthetic improvement that can be seen on a person's property is the entry gate located across the primary ingress and egress to the property; and

WHEREAS, Allowing a larger entry gate will benefit property values, property desirability, and security.

WHEREAS,

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, THAT:

SECTION 1. ARTICLE V Section 1-5.8 (e) of the Malabar Land Development Code is hereby amended by adding a new subsection 6 to read as follows:

"6. Subject to the requirements in this subsection the owner of any lot or parcel located in the RR-65 District may install one (1) entry gate and gate supporting structures within the required front yard. The gate, as well as the support structures for the gate, shall not exceed ___ feet above the fence or wall to which such gate and support structures are attached. The gate and support structures must be located across the primary means of ingress and egress serving the property and shall be set back at least ___ feet from the front lot line."

SECTION 2. CODIFICATION. It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the town of Malabar, Florida; that the sections of their Ordinance may be renumbered or re-lettered to accomplish such intention; and the word "Ordinance" may be changed to "Section," "Article" or other appropriate designations.

DRAFT 2
12-10-08

SECTION 3. SEVERABILITY. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of the ordinance shall not be affected and it shall be presumed that the Town Council of the Town of Malabar did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the Town Council would have enacted the remainder of this ordinance without said invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

SECTION 4. CONFLICT. All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

SECTION 5. EFFECTIVE DATE. The ordinance shall take effect immediately upon its adoption.

The foregoing Ordinance was moved for adoption by council member _____ The motion was seconded by Council member _____ and, upon being put to a vote, the vote was as follows:

Council Member Nancy Borton	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member Jeffrey (Jeff) McKnight	_____
Council Member Patricia (Pat) Dezman	_____

This ordinance was then declared to be duly passed and adopted this ____ day of _____, 2008.

BY: TOWN OF MALABAR

Mayor Thomas M. Eschenberg

First Reading: _____
Second Reading: _____

ATTEST:

Debby Franklin
Town Clerk/Treasurer

Approved as to form and
legal sufficiency by:

Karl W. Bohne, Jr., Town Attorney

ORDINANCE NO. 2009-99 *Revised*

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE V OF THE MALABAR LAND DEVELOPMENT CODE; AMENDING SECTION 1-5.8 (a) BY ADDING A DEFINITION OF THE TERM *ENTRANCE GATE*; AMENDING SECTION 1-5.8 (e) RELATING TO THE HEIGHT OF FENCES AND WALLS IN RESIDENTIAL DISTRICTS; ADDING A NEW SUBSECTION 6; PROVIDING FOR AN EXCEPTION TO THE HEIGHT RESTRICTION FOR CERTAIN GATES ATTACHED TO WALLS OF FENCES IN THE RR-65 ZONING DISTRICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article V of the Land development regulations of the Town provides in part for the regulation and location of fences and wall in residential districts; and,

WHEREAS, Currently, the maximum height of a fence or wall in the RR-65 zoning district is limited to four feet which may be increased to six feet with council approval; and

WHEREAS, The Town Council recognizes that in some instances the first aesthetic improvement that can be seen on a person's property is the entry gate located across the primary ingress and egress to the property; and

WHEREAS, Allowing a larger entry gate will benefit property values, property desirability, and security.

WHEREAS,

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, THAT:

SECTION 1. ARTICLE V Section 1-5.8 (A) of the Malabar Land Development Code is hereby amended by adding a definition of the term *Entrance Gate* to read as follows:

"*Entrance Gate* means that portion of a fence installed for the purpose of controlling passage to and from the property upon which it is located. Entrance gates may be constructed of any material approved by the Town Building Official and may be opened manually or by motorized operation and may be guided by hinges or by tracks"

SECTION 2. ARTICLE V Section 1-5.8 (e) of the Malabar Land Development Code is hereby amended by adding a new subsection 6 to read as follows:

"6. Subject to the requirements in this subsection the owner of any lot or parcel located in the RR-65 District may install one (1) entrance gate and supporting structures within the required front yard. The entrance gate, as well as its support structures, shall not be lower than the fence or wall to which such entrance gate and support structures are attached nor exceed ___ feet above the fence or wall to which such gate and support structures are attached. Entrance gates may be supplemented by an arch or other decorative feature above the entrance gate as long as the arch or decorative feature meets the height requirements herein and is approved by the Town Fire Department for safe passage of emergency vehicles. The entrance gate and

support structures must be located across the primary means of ingress and egress serving the property and shall be set back at least ___ feet from the front property lot line."

SECTION 3. CODIFICATION. It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the town of Malabar, Florida; that the sections of their Ordinance may be renumbered or re-lettered to accomplish such intention; and the word "Ordinance" may be changed to "Section," "Article" or other appropriate designations.

SECTION 4. SEVERABILITY. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of the ordinance shall not be affected and it shall be presumed that the Town Council of the Town of Malabar did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the Town Council would have enacted the remainder of this ordinance without said invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

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Council Member Nancy Borton	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member Jeffrey (Jeff) McKnight	_____
Council Member Patricia (Pat) Dezman	_____

This ordinance was then declared to be duly passed and adopted this ___ day of _____, 2008.

BY: TOWN OF MALABAR

Mayor Thomas M. Eschenberg

First Reading: _____
Second Reading: _____

ATTEST:

Debby Franklin
Town Clerk/Treasurer

Approved as to form and
legal sufficiency by:

Karl W. Bohne, Jr., Town Attorney

TOWN OF MALABAR

MEMORANDUM

Date: December 15, 2008 08-TC-104
To: Roger Cloutier, Building Official
From: Debby K. Franklin, Town Clerk-Treasurer
Ref: Setback Requirements, Article III, Table 1-3.3.A. and E.

Roger, I sent the following request to the Attorney last week:

Karl, I need you to review the setback regulations in Article III, Table 1-3.3A and Table E. The Building Official Roger Cloutier says there is confusion. In his experience he has never used the center of the road, because the road could be crooked. He talked about this at P&Z and now they are all confused. Can you provide an easy explanation of the two types of measurements or propose we change the code.

This morning, Karl replied:

I am of the opinion that the two tables are not in conflict. Whichever set back is more restrictive applies. I see Roger's concern; however, he does not have to be the one to determine where the edge of ROW is or where the centerline of the ROW is. That must be depicted on a survey which the applicant must present. This is because the improved road may not be located in the center of the ROW and the edge of the improved road may not be the edge of the public ROW. If there is any doubt a survey should for the most part show where the ROW is.

TOWN OF MALABAR
PLANNING AND ZONING
AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: January 28, 2009

Prepared By: Denine Fusco-Scarbro, Planning Zoning Secretary

SUBJECT: Driveway turnouts

BACKGROUND/HISTORY:

Discussion was conducted at the last P & Z meeting (12-10-08) about the area needed for the Fire Trucks to access properties in our Town, this information is for your review. Roger Cloutier (Building Official) has researched the options for discussion.

ATTACHMENTS:

- FDOT Application for Driveway/ connection for review.
- Email from Chief Joe about area needed for Fire truck to access properties
- FDOT – Summary of Geometric Requirements for Turnouts

ACTION OPTIONS:

Discussion with recommendation to Town Administrator to direct staff to revise code.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**DRIVEWAY/CONNECTION APPLICATION
FOR ALL CATEGORIES**

850-040-15
SYSTEMS PLANNING
04/05
Page 1 of 3

OFFICE USE ONLY

Application Number: _____ Received By: _____
Category: _____ Date: _____
Section/Mile Post: _____ State Road: _____
Section/Mile Post: _____ State Road: _____

Instructions - To Applicant

- Contact the Department of Transportation to determine what plans and other documents you are required to submit with your application.
- Complete this form (some questions may not apply to you) and attach all necessary documents and submit it to the Department of Transportation.
- For help with this form contact your local Maintenance or District Office.
 - Or visit our website at www.dot.state.fl.us/onestoppemitting for the contact person and phone number in your area.
 - You may also email - driveways@dot.state.fl.us
 - Or call your District or local Florida Department of Transportation Office and ask for Driveway Permits.

Please print or type

APPLICANT:

Check one:

Owner Lessee Contract to Purchase

Name: _____

Responsible Officer or Person: _____

If the Applicant is a Company or Organization, Name: _____

Address: _____

City, State: _____

Zip: _____ Phone: _____ Fax: _____

Email: _____

LAND OWNER:(if not applicant)

Name: _____

If the Applicant is a Company or Organization, Name: _____

Address: _____

City, State: _____

Zip: _____ Phone: _____ Fax: _____

Email: _____

AUTHORIZED REPRESENTATIVE: If specified by Applicant to handle, represent, sign, and file the application -
NOTE: A notarized letter of authorization must be provided with the Application

Name: _____
Company Name: _____
Address: _____
City, State: _____
Zip: _____ Phone: _____ Fax: _____
Email: _____

Address of property to be served by permit (if known):

If address is not known, provide distance from nearest intersecting public street (such as, 500 feet south of Main St.)

Check here if you are requesting a

- new driveway temporary driveway modification to existing driveway safety upgrade

Does the property owner own or have any interests in any adjacent property?

- No Yes, if yes - please describe:

Are there other existing or dedicated public streets, roads, highways or access easements bordering or within the property?

- No Yes, if yes - list them on your plans and indicate the proposed and existing access points.

Local Government Development Review or Approval Information:

Local Government Contact: _____
Name: _____
Government Agency: _____
Phone #: _____

If you are requesting commercial or industrial access, please indicate the types and number of businesses and provide the floor area square footage of each. Use additional sheets if necessary.

Business (Name and Type)	Square Footage	Business (Name and Type)	Square Footage
1.		3.	
2.		4.	

If you are requesting a residential development access, what is the type (single family, apartment, townhouse) and number of units?

Type	Number of Units

Provide an estimate of the daily traffic volume anticipated for the entire property at build out. (An individual single family home, duplex, or quad-plex is not required to complete this section).

Daily Traffic Estimate = _____ (Use the latest Institute of Transportation Engineers (ITE) Trip Generation Report)

If you used the ITE Trip Generation Report, provide the land use code, independent variable, and reference page number.

ITE Land Use Code	Independent Variable	ITE Report page number reference

Check with the Florida DOT Office where you will return this form to determine which of the following documents are required to complete the review of your application.

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Plans should be 11" x 17" (scale 1" x 50')
Note: No plans larger than 24" x 36" will be accepted
a) Highway and driveway plan profile
b) Drainage plan showing impact to the highway right-of-way
c) Map and letters detailing utility locations before and after Development in and along the right of way
d) Subdivision, zoning, or development plans
e) Property map indicating other access, bordering roads and streets | f) Proposed access design
g) Parcel and ownership maps including easements (Boundary Survey)
h) Signing and striping plans
i) Traffic Control/Maintenance of Traffic plan
j) Proof of liability insurance
k) Traffic Impact Study
l) Cross section of roadway every 100' if exclusive turn lanes are required |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Important Notices to Applicant Before Signing Application

The Department Reserves The Right To Change Traffic Features And Devices In Right Of Way At Any Time
 Proposed traffic control features and devices in the right of way, such as median openings and other traffic control devices, are not part of the connection(s) to be authorized by a connection permit. The Department reserves the right to change these features and devices in the future in order to promote safety in the right of way or efficient traffic operations on the highway. Expenditure by the applicant of monies for installation or maintenance of such features or devices shall not create any interest in the maintenance of such features or devices.

Significant Changes In Property Use Must Undergo Further Review
 If an access permit is issued to you it will state the terms and conditions for its use. Significant changes in the use as defined in Section 335.182(3), Florida Statutes, of the permitted access not consistent with the terms and conditions listed on the permit may be considered a violation of the permit.

All Information I Give Is Accurate
 I certify that I am familiar with the information contained in this application and that to the best of my knowledge and belief, such information is true, complete and accurate.

Starting Work On The Driveway Connection After I Get My Permit Means I Accept All the Conditions In My Permit
 I will not begin work on the connection until I receive my Permit and I understand all the conditions of the Permit. When I begin work on the connection, I am accepting all conditions listed in my Permit.

Applicant Name (Printed): _____

Applicant's signature: _____ Date _____

Building Official

From: Joe Gianantonio [JGianantonio@malabarfiredepartment.org]
Sent: Friday, December 12, 2008 4:04 PM
To: Building Official
Cc: Denine Fusco-Scarbro
Subject: FW: culvert pipe and trucks

Importance: High

Mr. Roger,

I'm still working on providing you with the information regarding the culverts. We also need to get the Town Engineer involved to have him put in a change or new ordinance or an amendment that covers residual homes. Please read below what Mr. Cameron "who puts in culverts" has to say. I realize none of our code's cover this ever will. But fire trucks must have access to the structure during times of emergency situations.

Brother Roger, I continue to look for information regarding this subject.

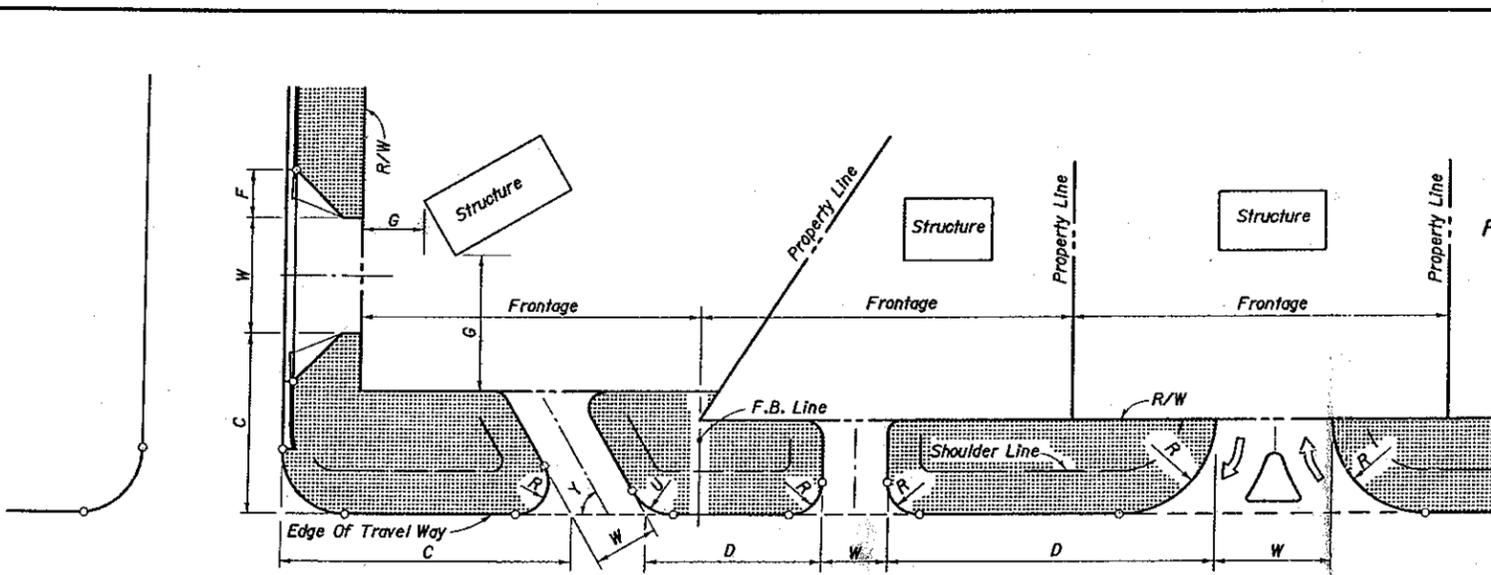
Here's some additional information from our Town Codes:

Sec. 8-47. Required access for fire apparatus.

(a) **All premises**, including existing premises, that the fire department may be called on to protect in case of fire and are not readily accessible from public roads shall be provided with suitable gates, access roads, and fire lanes so that **all buildings on the premises are accessible to fire apparatus.**

(1) Where automatic gate openers are used, a minimum of two (2) opening frequencies shall be provided: One (1) dedicated to fire department use. This shall be a master frequency whereby the fire department shall be able to open any gate within its jurisdiction with one opener. This frequency shall be available and used exclusively by the fire department. The remaining frequency(s) shall be for owner use.

(2) **Fire lane access** shall be provided on a minimum of two (2) sides of a building. This access shall be at least twenty (20) feet wide, and no further than ten (10) feet from the building, free and clear of all obstructions and constructed of a stabilized base to support firefighting apparatus. **The access shall also be provided with an adequate roadway turning radius capable of supporting the imposed load of fire apparatus as required by the authority having jurisdiction and shall have a minimum vertical clearance of thirteen (13) feet, six (6) inches.**



LEGEND

- Return Radius Point Or Flare Point
- Buffer Areas
- F.B. Line Frontage Boundary Line
- W Driveway Width
- Y Driveway Angle
- C Corner Clearance
- G Setback
- R Outside Radius
- U Inside Radius
- D Distance Between Connections
- F Flare

GENERAL NOTES

1. For definitions and descriptions of access connection "Categories" and access "Classifications" of highway segments, and for other detailed information on access to the State Highway System, refer to FDOT Rule Chapter 14-96, "State Highway Connection Permits Administrative Process" and Rule Chapter 14-97, "State Highway System Access Management Classification System And Standards."
2. For this Index the term 'turnout' applies to that portion of driveways, roads or streets adjoining the outer roadway. For this index the term 'connection' encompasses a driveway, street or road and their appurtenant islands, separators, transition tapers, auxiliary lanes, travelway flares, drainage pipes and structures, crossovers, sidewalks, curb cut ramps, signing, pavement marking, required signalization, maintenance of traffic or other means of access to or from controlled access facilities. The turnout requirements set forth in this Index do not provide complete intersection design, construction or maintenance requirements.
3. The location, positioning, orientation, spacing and number of connections and median openings shall be in conformance with FDOT Rule Chapter 14-97.
4. On Department construction projects all driveways not shown on the plans are to be reconstructed at their existing location in conformance to these standards, or, in conformance to permits issued during the construction project.
 Driveways shall have sufficient length and size for all vehicular queuing, stacking, maneuvering, standing and parking to be carried out completely beyond the right of way line. Except for vehicles stopping to enter the highway, the turnout areas and drives within the right of way shall be used only for moving vehicles entering or leaving the highway.
6. Connections with expected daily traffic over 4000 vpd are to be constructed as intersecting streets or roads. The design requirement of this Index and that of the local government will be used to select appropriate connection widths, radii and intersection design, subject to the approval of the Department.
 For connections with expected daily traffic less than 4000 vpd, the Department will determine if drop curbs or radius returns are required in accordance with existing or planned connections. Where radius returns apply, the design requirements of this Index and that of the local government will be used to select appropriate connection widths, radii and intersection design, subject to the approval of the Department.
 For connections that are intended to daily accommodate either multi-unit vehicles or single unit vehicles exceeding 30' in length, returns with 50' radii are to be used, unless otherwise called for in the plans or otherwise stipulated by permit. Where large numbers of multi-unit vehicles will use the connection, the connection width and radii are to be increased and auxiliary lanes, tapers, lane flares, separators and/or islands constructed, as determined by the Department to be necessary for safe turning movements.
7. Any connection requiring or having a specified median opening with left turn storage and served directly by that opening shall have radial returns.
8. Where a connection is intended to align with a connection across the highway, the through lanes are to align directly with the corresponding through lanes.
9. For new connections and for connections on all new construction and reconstruction projects, pavement materials and thicknesses shall meet the requirements applicable to either that detailed for "Urban Flared Turnouts", or, that described in "Table 515-1" for connections with radial returns and/or auxiliary lanes.
10. The responsibility for the cost of construction or alteration to an access connection shall be in accordance with FDOT Rule Chapter 14-96.

For Additional Information Refer To FDOT Rules Chapters 14-96 And 14-97.

SKETCH ILLUSTRATING DEFINITIONS

ELEMENT DESCRIPTION	URBAN (CURB & GUTTER)			RURAL		
	1-20 Trips/Day or 1-5 Trips/Hour	21-600 Trips/Day or 6-60 Trips/Hour	601-4000 Trips/Day ² or 61-400 Trips/Hour	1-20 Trips/Day or 1-5 Trips/Hour	21-600 Trips/Day or 6-60 Trips/Hour	601-4000 Trips/Day ² or 61-400 Trips/Hour
CONNECTION WIDTH W	12' Min. 24' Max.	24' Min. 36' Max. ☆	24' Min. 36' Max. ☆		24' Min. 36' Max. ☆	24' Min. 36' Max. ☆
FLARE (Drop Curb) F	10' Min.	10' Min.	N/A	N/A	N/A	N/A
RETURNS (Radius) R & U	N/A	Δ	25' Min. 50' Std. 75' Max.	15' Min. 25' Std. 50' Max.	25' Min. 50' Std. 75' Max.	25' Min. 50' Std. (Or 3-Centered Curves)
ANGLE OF DRIVE Y		60°-90°	60°-90°		60°-90°	60°-90°
DIVISIONAL ISLAND (Throat Median)		4'-22' Wide	4'-22' Wide		4'-22' Wide	4'-22' Wide
SETBACK G	12' Min. (See General Note No. 2)					

DESIGN NOTES

1. Prior to the adoption of FDOT Rules Chapters 14-96 and 14-97, connections to the State Highway System were defined and permitted by Classes. Connections have been redefined by Categories under Rule 14-96, and, the term "Class" has been applied to highway segments of the State Highway System as defined under Rule 14-97.

■ Street or road intersection design, with possible auxiliary lanes and channelization, may be necessary. Intersection design, with possible auxiliary lanes and channelization, should be considered for connections with more than 4000 trips/days.
 □ "2-Way" refers to one "in" movement and one "out" movement i.e., not exclusive left or right turn lanes on the connection.
 ☆ When more than 2 lanes in the turnout connection are required, the 36' max. width may be increased to relieve interference between entering and exiting traffic which adversely affects traffic flow. These cases require documented site specific study and design.
 Δ Small radii may be used in lieu of flares as approved by the Department.
 DESIGN NOTE: 1-Way connections will be designed to effectively eliminate unpermitted movements.

NOT INTENDED FOR FULL INTERSECTION DESIGN
SUMMARY OF GEOMETRIC REQUIREMENTS FOR TURNOUTS



2008 FDOT Design Standards

TURNOUTS

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