

**MALABAR JOINT TOWN COUNCIL / PLANNING AND ZONING WORKSHOP**

**May 27, 2009**

**7:00 PM**

This joint meeting of the Malabar Town Council and the P&Z Board was held at Town Hall at 2725 Malabar Road.

**A. CALL TO ORDER:**

The meeting was called to order at 7:00 pm by Chair Thomas Eschenberg. The prayer and pledge were led by Mayor.

**B. ROLL CALL: COUNCIL**

MAYOR/CHAIR

VICE-CHAIR:

COUNCIL MEMBERS:

TOM ESCHENBERG

PATRICIA DEZMAN, excused

NANCY BORTON

BRIAN VAIL

STEVE RIVET

JEFF MCKNIGHT

TOWN ADMINISTRATOR:

BONILYN WILBANKS-FREE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

**ROLL CALL: P&Z**

CHAIR

VICE-CHAIR:

BOARD MEMBERS:

BOB WILBUR

PAT REILLY

BUD RYAN

LIZ RITTER

DON KRIEGER

CINDY ZINDEL, ALT

BRIDGET PORTS, ALT

BOARD SECRETARY:

DENINE FUSCO-SCARBRO

**C. DISCUSSION: FENCE REGULATIONS**

Mayor opened with explanation that Council thought a joint meeting would help resolve all issues regarding fences and gates. Rivet explained the need for a gate definition and width of opening for fire response vehicles. Vail said he didn't want it to keep going back and forth between P&Z and Council. There have been gates that are higher and they are very nice, but the width and depth should be stated in the code. Wilbur stated that some individuals wanted to make individual statements with their gates and there are no rules in place to provide for fire dept to get into the gate – how far back from the road. The decorative arches should be 13'6" for the fire dept equipment to get through without damaging the entrance. Cloutier state the FDOT criteria met most of those criteria. Vail said if we make it too far back then we are taking. Rivet said we should have different regulations for local roads and another for major collectors like Corey Road. Wilbur said the setback for the gate is so they don't block traffic on any road. Wilbur said if you are going to re-do your fences then comply with new regulations. Ritter said that they didn't want to be so specific that everything that doesn't conform is out of compliance. Ritter said BO knows what is required and they can use FDOT guidance. Vail said we don't have a standard. Gate is fence. Ritter said a gate can be moved and a fence can't. She thinks they should be different. Rivet said we can change code to make it different. McKnight said he agreed with Rivet. He has seen gates that have guy wires. We should be careful. Borton sees the need for the fire dept. Ports said there are other issues like the culvert and brush that also would prevent fire equipment to get into a property. Ryan said is would behoove neighbor to make sure fire dept can get into neighboring property.

BWF said that she has two issues and stated the two pieces of fence at Rocky Point Road that is held up by a pile of dirt. She was told there is no requirement for fences to meet or for posts to be cemented.

They did reverse the fence upon notice. It can become a hazard. Franklin showed the Malabar code on fence materials and maintenance – it is in our code. We showed code in Malabar and discussed the heights and the requirements. Borton didn't want a million stipulations. Vail said he has seen fences that are 4 feet high and the gates were huge. Some looked completely out of place. Ritter said we could allow a certain percentage of the height of the fence for the gate. Ryan said we could allow a 1.5 times the height of the fence. Cloutier did not want to have to use calculator to determine if the percentage was met or exceeded while out doing inspections. He said the FDOT provide the minimum height should be 13.6 for fire equipment to enter. Cloutier said he has authority to say if it's over ten feet then he can require engineering on the entrance. Mayor cautioned group on linking gate height to a percentage of the height of the fence. He said the gate on Eva Lane had a gate but no fence. If you let him put in a fence it would have to be limited to that formula. Ritter said that Cloutier had told them that FDOT. Wilbur said create a definition for fence entranceways and gates. Allow emergency vehicles through it, under and a definition for entranceway or gate. Ryan said the allowable height of gate can be a percentage up from the fence.

Vail likes the curved design of the fence/wall on Eva Lane. He would like to prohibit a 4-foot fence with a box 8-foot gate. Can they require a sloped increase? Cloutier said if you are back 12-feet you can go up higher. Vail said one of his fences has been bumped back 10 feet so he can get his truck off the road. Ports can't do that. Wilbur said we are talking about one main entry gate that the fire dept would use; we aren't referring to pedestrian gates. Wilbur said we run into this because we are rural. The problems we have encountered aren't found in other cities. The other codes didn't apply to us. McKnight said that during the fires he did not see any fire trucks on property. They were on the roads. He did not like to complicate it with slopes. They discussed using FDOT standards. Cloutier said that would be sufficient.

Franklin said we are looking for specific guidance in code – construction requirements to comply with Building Code wind code of 130 mph. Cloutier said that there is no requirement in Building Code for fences. BWF said we don't require the posts to be concreted in. Cloutier said then every fence would require engineering. BWF said in South Florida they had an inspection requirement of the concrete for the posts. They discussed the complaint between the neighbors on Rocky Point Road. McKnight said it should be up to HOA and we should not change code to settle dispute between neighbors.

Ryan asked about wind codes for fences in FDOT regulations. They don't reference them. Rivet said we don't want them flying off in hurricane. BWF said to require concrete in post holes and type of material. Ryan stated that during the hurricane the wind caught the Ivey growing on his fence and broke it. They discussed posts rotting and the problem with wood posts in concrete. They also deteriorate.

Regarding surveys, Ritter said when a new fence comes in, let Roger state where the fence goes. Wilbur said to require a survey and if a survey is in the file let them use it.

Ryan said the two properties on Eva Lane should not be allowed to benefit under the new rules. Franklin stated on the record that both had responded to the code violation letters, applied for permits, paid the double fee and are waiting for town resolution on fence height issue to resolve their violations.

Borton said getting something in the code is better than nothing; we need to establish basic requirements. Ryan said if the State standards are enforceable, then why don't we just adopt them. Entrance ways at least 13.6 and not to exceed 16 feet for emblem is what Cloutier recommended. We have to have something for them to refer to. We need a standard.

Vail asked about the height of columns?

Franklin said that none of the other cities had a separate definition for gates.

addressed gates and entranceways. McKnight said there is a word missing. Ritter said gates should be compatible with fence. Separate gate and entranceways from fences. Vail asked if there was a state building code. Roger said FDOT does not apply to local streets. Borton said we should adopt their standards. Reilly said in section 2 - we eliminated some of that wording and added other. We don't have then rewritten ordinance. Franklin and Scarbro found the notes from Krieger with language for entrance gates.


Consensus to change code to entranceways. Then add language for gates, fence columns, gate columns and provide definition. For both entranceway and fence line. Include the light fixtures above the columns. Ryan asked Cloutier to come up with appropriate language for ordinance. McKnight is happy with the changes suggested by Krieger and P&Z. Staff will make the additions and present to P&Z for a review and then send to Council.

Vail asked if columns going to addressed separately if they are within the fence line or holding up the gate. We will provide for fence columns, gates, entrance columns. Mayor said to be careful. He said there was a house on Cason that had high columns one week and the next week they were cut down. Cloutier said the home owner was here. Owner said in order to get CO he had to cut them down. He is interested in hearing if the height will be increased before he finishes the fence. Right now there are just two columns.

#### D. ADJOURNMENT

There being no further business to discuss, **MOTION:** McKnight / Rivet to adjourn this meeting.  
**VOTE:** All Ayes. The meeting adjourned at 8:30 PM.

BY:

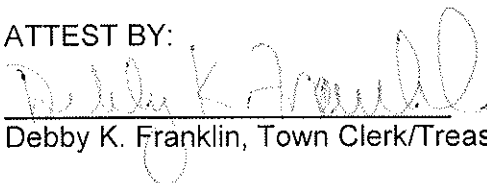
  
Mayor Thomas M. Eschenberg

Minutes by:

  
Denine Fusco-Scarbro, Secretary

Date Approved: 06/15/09

ATTEST BY:

  
Debby K. Franklin, Town Clerk/Treasurer