



AGENDA  
**CITY OF HOLLY HILL, FLORIDA**  
**BOARD OF PLANNING AND APPEALS MEETING**  
**Monday, November 4, 2013**  
**6:30 PM**

**CITY COMMISSION CHAMBERS**  
1065 Ridgewood Avenue, Holly Hill, Florida 32117-2898  
City Clerk's Office: (386) 248-9441 Fax: (386) 248-9448

**1. CALL TO ORDER**

- A. Roll Call
- B. Invocation
- C. Pledge of Allegiance to the Flag

**2. MINUTES**

Minutes from the Board of Planning and Appeals Meeting – September 11, 2013  
(Admin. Assistant/Zoning Technician)

**3. NEW BUSINESS**

- A. V-2013-06: 1705 Birmingham request for a variance from the required front yard setback to allow a carport to be placed 10 feet from the front property line
- B. Z-2013-09: Administrative request to increase the allowable height of fences on residential lots when they abut commercial and industrial property

**4. OLD BUSINESS**

**5. COMMUNICATIONS**

**6. ADJOURNMENT**

Website Address – [www.hollyhillfl.org](http://www.hollyhillfl.org) (City Clerk)

**NOTICE** – If any person decides to appeal any decision made by said body with respect to any matter considered at such meeting, he/she will need a record of the proceedings and, for that purpose, he/she 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 to be based. The City does not prepare or provide such a record.



For special accommodations, please notify the City Clerk's Office at least 72 hours in advance. (386) 248-9441



Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the City Clerk's Office.

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Commission proceedings should contact the City Clerk's Office no later than three (3) days prior to the proceedings.

**MINUTES**  
**BOARD OF PLANNING AND APPEALS MEETING**  
**CITY OF HOLLY HILL, FLORIDA**

**September 11, 2013**

**1. CALL TO ORDER**

**Roll Call**

Michael Myer called the meeting to order in the Commission Chambers at City Hall, 1065 Ridgewood Avenue at approximately 6:30 p.m. Attending with Michael Myer were Board members Nick Mostert, Art Cappuccio and David Heald.

Absent: Board member J.D. Mellette.

Also attending were the following staff members: City Attorney Scott Simpson, City Planner Thomas Harowski, Zoning Technician Bridget Barton, and City Clerk Valerie Manning.

**A. Invocation**

Mr. Myer delivered the Invocation.

**B. Pledge of Allegiance to the Flag**

Mr. Cappuccio led the Pledge of Allegiance.

**2. MINUTES**

Minutes from the Board of Planning and Appeals Meeting – August 5, 2013 (*City Clerk*)

*Mr. Heald moved APPROVAL for the Minutes, seconded by Mr. Mostert.*

The motion **CARRIED** 4-0 by roll call vote: Heald – Yes, Mostert – Yes, Cappuccio – Yes, and Myer – Yes

**3. NEW BUSINESS**

**A. V-2013-05 – 1322 Riverside Drive Side and Rear Yard Setback – Variance Request**

City Planner Thomas Harowski gave a brief staff report as it pertains to 1322 Riverside Drive Side and Rear Yard Setback – Variance Request. Mr. Harowski informed the Board that this item will go before the City Commission on Tuesday, October 8th for consideration.

Attorney Simpson clarified for the Board the Statute of Limitations.

**Mr. Myer opened public participation. No one spoke.**

*Mr. Mostert moved APPROVAL for V-2013-05 – 1322 Riverside Drive Side and Rear Yard Setback – Variance Request, seconded by Mr. Heald.*

The motion **CARRIED** 4-0 by roll call vote: Mostert – Yes, Heald – Yes, Cappuccio – Yes, and Myer – Yes

#### **4. OLD BUSINESS**

None.

#### **5. COMMUNICATIONS FROM BOARD MEMBERS & STAFF**

Mr. Harowski informed the Board that at this time he has no applications and therefore there will not be a Board meeting in October, 2013.

The City Clerk introduced Bridget Barton to the Board.

#### **6. ADJOURNMENT**

The meeting officially adjourned at approximately 7:10 p.m.

---

Bridget Barton  
Administrative Assistant/Zoning Technician



# STAFF REPORT

City of Holly Hill  
Community Development Department

## Board of Planning and Appeals *Agenda Item*

**DATE:** November 4, 2013  
**SUBJECT:** 1705 Birmingham Avenue Variance Request  
**APPLICANT:** Earl S. Whitt  
**NUMBER:** V-2013-06  
**PLANNER:** Thomas A. Harowski, AICP

### INTRODUCTION:

The applicant is seeking a variance from the required front yard setback of 30 feet to allow construction of a carport over the existing driveway extending to 10 feet from the right-of-way. The applicant has submitted an application addressing the variance criteria, and a copy of the application is attached.

### BACKGROUND:

The subject property is located on the east side of Birmingham Avenue just north of the intersection with Kansas Street. The property is 70 feet by 125 feet which makes it a non-conforming lot in the current R-2 zoning district. The house was built in 1966 according to the property appraiser records. The survey shows the front wall of the house to be 26.5 feet from the front property line and an existing porch projects closer to the road at the south end of the house. Therefore the existing structure is non-conforming as well. The house was likely built prior to the application of the current zoning code.

The overall neighborhood has a very similar character to the house at 1705 Birmingham. A significant portion of the existing homes have a garage, carport, porch or other projection that extends closer to the street than the zoning setback of 30 feet. There are at least two other homes on the street that have carports projecting closer to the street than 30 feet. The proposed request is very similar in character to the existing development in the balance of the neighborhood.

The applicant intends to incorporate the existing porch roof with the carport. This approach shifts the street end of the carport as close to the house as possible. The carport

# STAFF REPORT

City of Holly Hill

## Community Development Department

### DISCUSSION:

A variance is intended to provide relief from the application of zoning regulations that would create a hardship by denying the property owner the right to use his property in a similar manner as other property owners in the same zoning district when the hardship does not result from the direct actions of the property owner. Any variance granted is supposed to be the minimum variance necessary to allow the intended use of the property. In this case the documentation submitted with the application and the field visit has identified the following:

- The existing unit is non-conforming with regard to the building setback, and any carport or garage structure extending toward the street would necessarily encroach into the required front yard.
- The side yard setbacks for the existing structure will make it very difficult to install driveway alongside the house, thus eliminating a detached garage in the rear yard as a feasible option.
- The unit does not appear to have been built with a garage that might have been converted to interior living space. There is no permit record of any garage conversion.
- The character of the neighborhood is such that a projection for the carport into the required front yard would be consistent with the overall character of the area.
- The applicant has stated in his response that there are no special circumstances unique to this property when compared to other properties in the area or the zoning classification.
- The placement of the carport is the approximate minimum space required to accommodate a car and is therefore a minimum variance.
- 

### RECOMMENDATION:

It is clear that many properties in this neighborhood have non-conforming conditions relative to the R-2 zoning that has been applied. Some modification to the overall zoning of the area could be justified, but this solution is a large effort in response to an individual property need. The current variance application meets some, but not all of the tests for granting a variance. The requested variance is the likely minimum amount needed to address the issue, and granting the variance would be consistent with the character of the neighborhood. However, the condition creating the variance is not unique to the parcel and is created by the applicant's desire to provide covered parking.

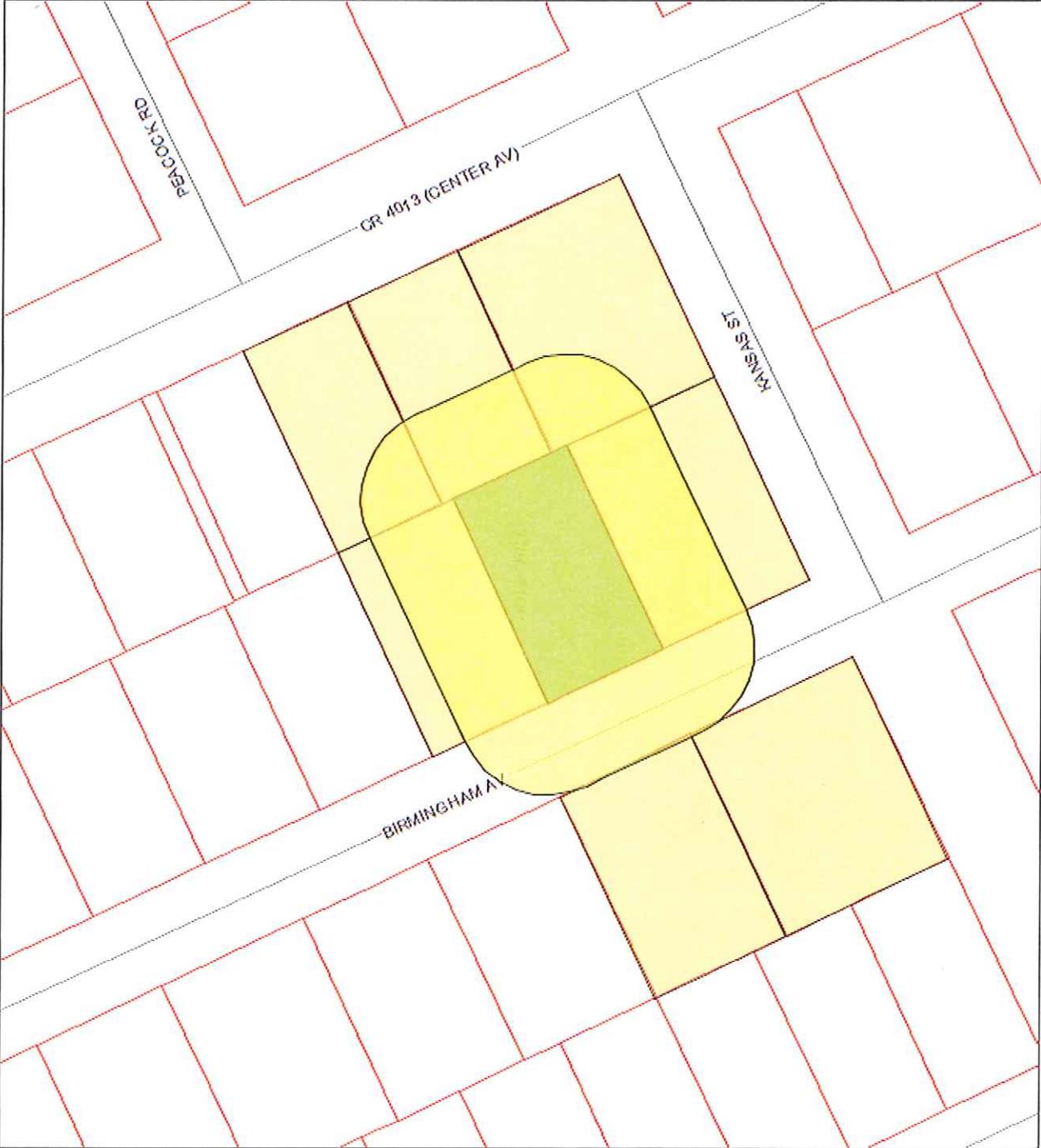
# **STAFF REPORT**

City of Holly Hill

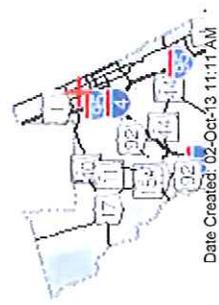
## **Community Development Department**

If the Board believes the granting of the variance consistent with the neighborhood character outweighs the lack of a unique feature of the property, the Board should recommend the City Commission grant the requested variance.

V-2013-06 ADJACENT OWNERS MAP



Scale 1:1,000 - 1 in = 83 ft



Date Created: 02-Oct-13 11:11 AM

DISCLAIMER: This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information SOURCE: PARCEL DATA, VOLUSIA COUNTY PROPERTY APPRAISER





# GENERAL LAND DEVELOPMENT APPLICATION

1065 Ridgewood Avenue, Holly Hill, Florida 32117

Phone: (386) 248-9424

Fax: (386) 248-9498

Date Received: \_\_\_\_\_ Application ID: \_\_\_\_\_ Received By: \_\_\_\_\_

### REQUESTED ACTION

- |  |  |  |  |
|--|--|--|--|
| <input type="checkbox"/> Comp Plan Amend | <input checked="" type="checkbox"/> Variance | <input type="checkbox"/> Site Plan         | <input type="checkbox"/> PUD               |
| <input type="checkbox"/> Rezoning        | <input type="checkbox"/> Special Exception   | <input type="checkbox"/> Subdivision Major | <input type="checkbox"/> Subdivision Minor |
| <input type="checkbox"/> Waiver Request  | <input type="checkbox"/> Other: _____        |  |  |

Describe Request: Variance to front yard setback to allow  
carport at 10' from street vs required 30'

### APPLICANT INFORMATION:

Name: Earl S. Whitt E-Mail: \_\_\_\_\_

Address: 1705 Birmingham Ave Phone: \_\_\_\_\_

Holly Hill, FLA. Fax: \_\_\_\_\_

- Owner       Agent for Owner       Attorney for Owner

### OWNER INFORMATION:

Name: same as above E-Mail: \_\_\_\_\_

Address: S Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

### PROPERTY INFORMATION:

Address: same as above

General Location: Birmingham Ave north of Kansas

Current Zoning: R-2 Current Land Use: SFR

Parcel Size: 40x125 Tax Parcel #: 4242-22-05-0120

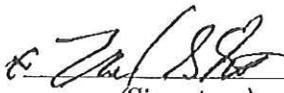
- Legal Description Attached  Yes  No      Survey Attached  Yes  No

Pre-Application Meeting Date: \_\_\_\_\_  
(Attach Pre-Application Form)

Application Fee: \$ \_\_\_\_\_

Applicant's Signature: \_\_\_\_\_  
(Signature) (Date)

\_\_\_\_\_  
(Print)

Owner's Signature:  \_\_\_\_\_  
(Provide letter of Authorization) (Signature)

9-23-13  
(Date)

\_\_\_\_\_  
(Print)

---

**Applications must be complete to initiate the preview process.**

Any questions please contact our City Planner, Tom Harowski at (386) 248-9424, fax (386) 248-9498 or email him at [tharowski@hollyhillfl.org](mailto:tharowski@hollyhillfl.org)



## CITY OF HOLLY HILL VARIANCE CHECKLIST AND REQUIREMENTS

### VARIANCE APPLICATION CHECKLIST

- Pre-Application Meeting Form completed and meeting held prior to completion of application
- Application Fee and Estimated Deposit
- Completed Variance Application
- List of property owners requiring individual notification
- One signed and sealed surveys of the property (no more than 2 years old).
- Legal Description (Digital in MS Word)
- Notarized Authorization of Owner (if applicant is other than owner or attorney for owner).
- A Description of the Variance and how it complies with the City Code, *Sec. 82-317*.

### PUBLIC NOTIFICATION (Sec. 82-314)

- a) The applicant shall provide written notice to property owners regarding his intention to seek a variance and shall pay all costs of providing such notice as follows:
  - 1) An applicant seeking a variance for property located in any single-family or multifamily residential zoning district (R-1 through R-9) shall provide written notice to abutting property owners, as identified in the current tax roll.
  - 2) An applicant seeking a variance for property in any commercial or industrial zoning district (B-1 through B-6, CC-1, I-1 and I-2) shall provide written notice to property owners, as identified in the current tax roll, within 300 feet of the property perimeter which is the subject of a variance request.
  - 3) In addition to written notice provided in accordance with either subsection (1) or (2) of this section, city staff shall also post a notice on the subject property ten days prior to the board of planning and appeals meeting. Two signs shall be posted on corner properties.
- b) A notice letter will be provided to the applicant by the City. The written notices shall be made at least ten days prior to the date of hearing before the board of planning and appeals. The written notice shall be sent by certified mail, return receipt requested.

### BOARD OF PLANNING AND APPEALS (BOPA) PUBLIC HEARING (Section 82-313)

This is an advisory body consisting of five (5) members appointed by the City Commission. A public hearing is held the first Monday of every month, at 6:30 p.m. in the City Commission Chambers, 1065 Ridgewood Avenue, Holly Hill, Florida 32117. Following the public hearing and discussion of each application, the BOPA votes on its recommendation to the City Commission. They may accept, modify, return, or seek additional information.

### CITY COMMISSION (Section 82-315 and 82-316)

The City Commission schedules public hearings the second and fourth Tuesday of each month at 7:00 p.m. p.m. in the City Commission Chambers, 1065 Ridgewood Avenue, Holly Hill, Florida 32117. At this public hearing, the City Commission votes to approve, deny, or continue the application.

VARIANCE REQUIREMENTS

The following items must be completed in sufficient detail to allow the City to determine if the application complies with the criteria for approving a variance.

- 1. What special condition(s) and circumstance(s) exist that are peculiar to your land, structure, building, or sign and are not applicable to other lands, structures, buildings, or signs in the same zoning classification?

No special circumstances, except I wish to use the approved, lawful municipal permitting process to achieve the same property improvement many other have done without permit.

- 2. Were these special condition(s) and circumstance(s) the result of actions by you? [ ] YES [X] NO If Yes, Explain.

Blank lines for explanation of question 2.

- 3. Would literal interpretation of the code deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the City Code? [X] YES [ ] NO If Yes, Explain

Please see response to (1) above

Blank lines for explanation of question 3.

- 4. Will granting the variance requested confer on the applicant any special privilege that is denied by code to other lands, buildings or structures in the same zoning district? [ ] YES [X] NO Explain

To the best of my knowledge, no

Blank lines for explanation of question 4.

5. Explain how the Variance(s) you are requesting is/are the minimum Variance(s) that will make it possible for you to make reasonable use of your land, building, structure or sign.

I merely wish to build a ~~small~~ small structure to protect my vehicles from weather, positively impacting safety, comfort and welfare of my family in an aesthetically pleasing manner

6. Would the granting of the variance be in harmony with the general intent and purpose of the Code and the city's comprehensive plan?  YES  NO Explain

To Best of knowledge, yes. The variance I am ~~requesting~~ requesting is in keeping with plan's spirit of upkeep and improvement

7. Would the granting of the variance be injurious to the area involved or otherwise detrimental to the public welfare?  YES  NO Explain

To Best of my knowledge, no.

8. The general intent and purpose of the Comprehensive Plan Ordinance (Section 78-5) is to foster and preserve public health, safety, comfort and welfare, and aid in the harmonious, orderly, aesthetically pleasing and socially beneficial development of the city. Is your request for Variance(s) consistent with this intent and purpose?  YES  NO Explain

To Best of my knowledge, yes. The small variance request is intended to improve the aesthetics and functionality of my property, in accordance with the Comprehensive Plan Ordinance (78-5 section). I submit this variance with the humble request section 78-5c is taken into ~~consideration~~ consideration specifically for a development review process that is equitable in terms of consistency

Print Applicant Name

Applicant Signature

Print Applicant Name

Applicant Signature

Date

Date





# STAFF REPORT

City of Holly Hill  
Community Development Department

## Board of Planning and Appeals *Agenda Item*

**DATE:** October 21, 2013  
**SUBJECT:** Residential Fence Requirements  
**APPLICANT:** Administrative Request  
**NUMBER:** Z-2013-09  
**PLANNER:** Thomas Harowski, AICP

### INTRODUCTION:

The City Commission has asked the Board of Planning and Appeals review the regulations for fences on residential properties that abut commercial and industrial properties. The Commission is seeking a recommendation on allowing residential properties to have fences in rear or side yards that exceed the current maximum height of six feet.

### BACKGROUND:

There are often land use compatibility issues that arise when residential uses and commercial or industrial uses are placed in close proximity to one another. Noise, lighting, dust and outdoor storage are some of the site activities associated with commercial and industrial uses that can have negative impacts on residential properties. Land development codes typically address these conditions with landscaped buffers, setback requirements and screening walls or fences. The current Holly Hill land development regulations include some of these elements, but the particular character of development in the City mitigates the effectiveness of these traditional techniques in some circumstances. The following discussion will explore these issues in more detail, and it will provide the BOPA with an opportunity to make a recommendation on potential changes to the current codes.

# STAFF REPORT

City of Holly Hill

## Community Development Department

### DISCUSSION:

The Holly Hill land development regulations include a range of requirements intended to mitigate negative impacts that might occur between residential properties and commercial/industrial properties. These techniques include setbacks, landscaped buffers and fences. The current regulations are summarized below.

#### Setbacks:

Residential setbacks for rear yards are typically 20 feet in single-family residential districts and 20 to 30 feet in multi-family districts. Side yard setbacks are typically 7 to 10 feet. In commercial and industrial zoning districts the rear setbacks are typically much smaller at 15 feet or less while side yard setbacks are similar at about 10 feet.

#### Buffers:

Single-family residential development does not have a buffer requirement other than the required yard setbacks. For other development, multi-family development is required to provide a buffer with single-family residential development and commercial/industrial development must provide a buffer with residential sites. Section 98-68 provides the details on the size of the buffers and the content of the buffer in terms of plant material and solid screens. A copy of this section is attached so the Board can review the details. In general terms, smaller buffers require more plant material or a wall.

#### Fences:

Section 114-721 (b) limits fence heights in rear and side yards for residential uses to a maximum of six feet. Section 114-721 (d) allows commercial/industrial property to erect a fence of up to eight feet on side and rear property lines.

There are a couple of points about the way these regulations work in the field that should be noted. With regard to fencing, a commercial/industrial use can erect an 8-foot fence on a joint property line with a residential use where the homeowner can only erect a 6-foot fence on the same property line. In many zoning classifications, a business use or an industrial use can extend much closer to a property line than can an adjacent residential use. Therefore a commercial/industrial use that is more likely to create some nuisance activity can be located closer to the property line.

# STAFF REPORT

City of Holly Hill

## Community Development Department

In theory, buffers should be able to mitigate some of the impacts that would be generated by a non-residential use. With new development or complete site redevelopment a higher level of mitigation is achieved because the current regulations can be fully applied. Note the buffer wall separating the new Family Dollar store on US 1 from the adjacent mobile home park; the buffer wall at the new General Dollar on Nova Road separating the site from single-family homes to the west; and the buffer wall and exterior landscape buffer at 700 Ridgewood separating the new development from single-family homes to the west. Unfortunately, the larger percentage of sites where we have non-residential uses and residential uses abutting were built before these regulations were in place. In these cases we need to rely more on retrofit solutions such as fencing and dense landscape buffers to mitigate negative impacts.

In these cases it may be appropriate to allow a homeowner to construct a fence taller than six feet in a rear or side yard abutting a non-residential use. The non-residential use can construct a fence at this location by right up to a height of eight feet while the residential use is limited to six feet as the maximum height. In many of these cases the incentive to construct a taller fence will lie with the residential use.

### RECOMMENDATION:

Staff recommends that residentially zoned or developed properties adjacent to commercial and industrial uses may construct a fence up to eight feet in height in rear yards and side yards not extending beyond the front of the house.

# STAFF REPORT

City of Holly Hill

## Community Development Department

### **Sec. 98-67. Visual screens.**

(a) A visual screen shall be provided as required by the provisions of this subpart. The required visual screen shall be approved by the board of planning and appeals and shall be maintained in good condition and in conformity with this subpart for as long as the use continues to exist. The required visual screen shall be free of all advertising or other signs. Three types of visual screens shall be defined as follows:

(1) *Type A, masonry wall.* A type A visual screen shall mean a continuous non-perforated and solid masonry wall at least six feet in height, except where a lesser or greater height is required by this subpart. Such required wall shall be constructed of cement block, brick or other similar masonry material. If the wall is constructed of cement block, the side facing the abutting use shall be faced with stucco or another similar decorative finish. In addition, one tree shall be provided every 25 feet along the wall.

(2) *Type B, hedge.* A type B visual screen shall mean a continuous hedge of dense shrub plantings which shall attain a height of at least six feet within 18 months of the time of planting, except where a lesser or greater height is required by this subpart. Such required hedge shall be not less than four feet in height at the time of planting. The maximum distance between shrub foliage at time of planting shall be two feet. A type A visual screen may be utilized in conjunction with a type B visual screen when either type of visual screen is required. In addition, one tree shall be provided every 25 feet along the hedge.

(3) *Type C, shrubs.* A type C visual screen shall mean the required planting of 25 shrubs per 100 linear feet within the required buffer. Type A and type B visual screens may be utilized in conjunction with a type C visual screen. In addition, a type C visual screen shall include the provision of one tree every 50 linear feet.

(a) Earthen berms may be utilized to provide all or a portion of the required height of visual screening. Such berms shall generally be centered within a minimum area of ten feet in width and shall utilize a slope of three to one or less.

(Ord. No. 2352, § 2(8.2.3), 7-13-93)

# STAFF REPORT

City of Holly Hill

## Community Development Department

### Sec. 98-68. Applicability of requirements.

(a) *Side and rear yards.* The following table shall be used to determine the application of alternative land use compatibility requirements along side and rear parcel lines of the proposed use:

#### REQUIRED LAND USE SETBACKS AND BUFFER TYPES

Proposed Use	Abutting Use	Setback(feet)	Buffer(feet)	Visual Screen
Multifamily	Single-family	35	10	A or B
		50	25	C
Commercial	Residential	35	10	A
		50	25	A or B
		75	50	C
Industrial	Residential	50	25	A
		75	50	A or B
		100	75	C

(b) *Front yard buffer and visual screen for commercial or industrial use abutting residential use.* Front yards of commercial or industrial uses abutting residential uses shall provide a ten-foot buffer and a type A or type B visual screen.

(c) *New residential uses abutting existing commercial or industrial use.* When the side or rear parcel line of a proposed residential use abuts an existing commercial or industrial use that does not comply with visual screen requirement provisions of this article, the proposed residential use shall provide a type A visual screen along the parcel line in question.

(Ord. No. 2352,