



ZONING BOARD OF APPEALS

City of Indian Harbour Beach, Florida

Tuesday, July 28, 2026, at 7:00 PM

City Hall Council Chamber | 2055 South Patrick Drive

AGENDA

Mayor and City Council

Scott Nickle, Mayor

Adam Dyer, Deputy Mayor

Susan Ruimy, Council Member

David Nutt, Council Member

Neil Yorio, Council Member

Administration

John W. Coffey, ICMA-CM -City Manager

Karl Bohne — City Attorney

Nikki Gold — City Clerk

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE FOLLOWED BY A MOMENT OF SILENT MEDITATION**
- 3. ROLL CALL**
- 4. NEW BUSINESS**
 - a. 139 Terry Street: After the fact driveway permit denial appeal
- 5. ADJOURN**

ALL PERSONS WISHING TO BE HEARD SHOULD APPEAR IN PERSON AT THESE HEARINGS OR SEND WRITTEN COMMENTS TO THE CITY CLERK. ALL PERSONS AND PARTIES ARE HEREBY ADVISED THAT IF THEY SHOULD DECIDE TO APPEAL ANY DECISION MADE BY THE CITY COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT THE PUBLIC MEETING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE, HE OR 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. FSS 286.0105. IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), ANYONE WHO NEEDS SPECIAL ACCOMMODATION FOR THIS MEETING SHOULD CONTACT THE CITY CLERK AT 321-773-3181 AT LEAST 48 HOURS IN ADVANCE OF THIS MEETING.



City of Indian Harbour Beach, Florida
Tuesday, July 28, 2026

AGENDA ITEM

139 Terry Street: After the fact driveway permit denial appeal

Cost:

Attachments: Driveway permit application denial notification
Code of Ordinances excerpt
139 Terry St appeal request

Staff Recommendation:

Consider hearing Ms. Maria Diegnan's appeal of Building Official Wiles' denial of her after-the-fact driveway extension permit.

Background Information:

Earlier this year, staff noticed that a recently installed expanded driveway at 139 Terry Street, and the property owner was advised to apply for an after-the-fact permit. Due to the total amount of impervious surface created by the additional concrete, Building Official Wiles denied the permit. On June 16, 2026, the property owner emailed staff requesting an appeal of Mr. Wiles' decision.

Per the attached excerpt from the Code of Ordinances dealing with the Zoning Board of Appeals, a concurring vote of four members of the Board is required to reverse Mr. Wiles' decision.

To: maricusa@aol.com
Cc: Maria Lalonde <mlalonde@indianharbourbeach.gov>
Subject: 139 Terry Street_ Driveway permit application

Owner Builder,

Your driveway permit application cannot be approved as proposed for the following reasons:

Your total required front yard square footage is 2213. The required front yard is not permitted to be covered more than 35 percent (775 sq.ft.) with impervious surface.
Your west side driveway is 550 sq. ft. of impervious surface.
Your east side driveway is 225 sq. ft. of impervious surface.
Your circular driveway cannot be accurately calculated without knowing the exact radii but all of it exceeds the maximum coverage.

This plan will have to be revised to reduce the extra impervious concrete in order to be approved.

Code Reference:

Indian Harbour Beach, Florida - Code of Ordinances

Appendix A - ZONING

ARTICLE XIII. - SUPPLEMENTARY DISTRICT REGULATIONS

Sec. 5. - Yard encroachments.

(10) No more than thirty-five (35) percent of any required front or rear yard shall be paved or covered with any material impervious to drainage in any single-family zoning classification... Provided, however, no portion of a pool that holds water shall be used in the calculation of material impervious to drainage.

Thank you,

David Wiles

Building Official

2055 South Patrick Drive

Indian Harbour Beach, FL. 32937

Email: dwiles@indianharbourbeach.gov

Phone: 321-773-3181

Sec. 2. - Zoning board of appeals.

(A) *[Established;] powers and duties:* There is hereby established a Zoning Board of Appeals which shall have the following powers:

- (1) To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the Planning and Zoning Board or by any administrative official in any enforcement of this Charter or of any ordinance adopted pursuant to this Charter.
- (2) To hear and decide applications for special exceptions to the terms and provisions of any planning and zoning ordinance adopted by the City Council.
- (3) To authorize upon appeal [in] any specific cases such variance from the terms of any planning and zoning ordinance as will not be contrary to the public interest, where as a result of special conditions a literal enforcement of the provisions of the said ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

In exercising the above powers the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be required in order to do justice.

(B) *Composition of zoning board of appeals.* The City Council shall act as the Zoning Board of Appeals until such time as the growth and population of the City warrants appointment of an independent board other than the City Council. At such time, the City Council may by ordinance transfer the duties and responsibilities of the Zoning Board of Appeals from itself to a duly appointed board of five (5) persons. None of the appointed members of the Zoning Board of Appeals shall hold any other public office or position in the government of the City and all members shall be residents of and registered voters within the City. The ordinance establishing the appointed Zoning Board of Appeals shall specify the terms of office of the members, officers of the board and other matters affecting the board not otherwise provided in this Charter.

(C) *Voting requirements for zoning board of appeals.* The concurring vote of four (4) members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Planning and Zoning Board or any administrative official of the City. The concurring vote of four (4) members of the Zoning Board of Appeals shall also be necessary in order for the board to decide in favor of the applicant any matter upon which the board is required to pass pursuant to the provisions of any ordinance or to effect any variation in such ordinance.

(D) *Stay pending appeal to zoning board of appeals.* An appeal shall stay all proceedings of any

further action on the matter appealed from unless the Planning and Zoning Board from whose decision the appeal is taken certifies to the Zoning Board of Appeals, after notice of appeal has been filed, that by reason of facts stated in a certificate filed by the Zoning Board of Appeals that [sic] a stay would, in its opinion, cause imminent peril to life or property. In all cases in which such a certificate is filed with the Zoning Board of Appeals, the decision appealed from shall not be stayed except upon a special order made and entered by the Zoning Board of Appeals or by a restraining order made and entered by a court of competent jurisdiction. The Zoning Board of Appeals shall fix a reasonable time for the hearing of all appeals, giving public notice thereof as well as due notice to the parties at interest, and shall decide all questions presented to it on appeal within a reasonable time.

- (E) *Appeals from decisions from the zoning board of appeals.* Any person or persons jointly or severally aggrieved by any decision of the Zoning Board of Appeals or any taxpayer or officer of the City may present to a court of competent jurisdiction a petition duly verified setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision of the Zoning Board of Appeals in the office of the City Clerk.

From: [Maria Diegnan](#)
To: [David Wiles](#); [John Coffey](#)
Subject: 139 Terry St
Date: Tuesday, June 16, 2026 8:38:10 PM
Attachments: [drive_favicon_2026_32dp.png](#)

To:
Subject: Re: 139 Terry St

Maria Diegnan

139 Terry Street

Indian Harbour Beach, FL 32937

maricusa26@aol.com 321-960-3348

June 16, 2026

David Wiles Building Official City of Indian Harbour Beach 2055
South Patrick Drive Indian Harbour Beach, FL 32937

**RE: Appeal of Driveway Permit Denial — 139 Terry Street
Pursuant to Appendix A, Article XVI, Section 1**

Dear Mr. Wiles,

I respectfully submit this written appeal of the denial of my post driveway permit application dated May 21, 2026. This appeal is filed within the required 20-day period and includes the grounds upon which I request review by the Board of Zoning Appeals.

Grounds for Appeal

1. The denial was based on an incorrect calculation of the “required front yard” area.

The denial letter states that the required front yard is **2,213 sq ft**.

However, the R-1A zoning district requires a **25-ft front setback**. Given a **75-ft lot width**, the required front yard area is:

$$75 \text{ ft} \times 25 \text{ ft} = 1,875 \text{ sq ft}$$

This is **338 sq ft less** than the figure used in the denial. Because the 35% impervious limit applies only to the *required* front yard, the incorrect calculation materially affected the decision.

2. The City denied the post driveway permit without requesting the missing circular-driveway measurements.

The denial states that the circular driveway “cannot be accurately calculated without knowing the exact radii,” yet no written request for these measurements was issued prior to denial.

Under standard permitting procedure, the City must issue a **Request for Corrections** before denying an application for incomplete information. This step did not occur.

3. The denial letter did not include the required elements of a formal administrative denial.

The letter did not include:

- Appeal rights
- Appeal deadline
- Required corrective actions
- A complete calculation of impervious area
- A complete citation of applicable code sections

This constitutes a **procedural defect**.

4. The City provided inconsistent appeal instructions.

On June 9, 2026, the City Manager issued an email stating that it “supersedes the message previously hand-delivered.” This indicates that the City initially provided incorrect appeal instructions, which could have prejudiced my ability to file a timely and proper appeal.

5. The City did not consider reasonable, code-compliant alternatives prior to denial.

The code prohibits **impervious** coverage over 35%, but allows:

- Permeable pavers
- Permeable concrete
- Grass-crete
- Engineered drainage solutions

These alternatives were not evaluated or offered.

6. The City has not demonstrated uniform enforcement of the 35% rule.

Multiple properties in Indian Harbour Beach appear to exceed the 35% impervious limit. The City has not provided evidence of:

- Nonconforming status
- Prior approvals
- Uniform enforcement

Uniform enforcement is required under Florida zoning law.

Good-Faith Compliance Efforts

In addition to the procedural issues above, I am submitting:

- Documentation of comparable properties for selective-enforcement review

Maria - Google Drive
drive.google.com



214 Cynthia Lane

1207 Bay Drive E

115 Marion St

487 Bimini Lane

503 Bahama

516 Bahama

Last picture is 139 Terry St.

These demonstrate my willingness to comply fully with City Code.

Request

I respectfully request that the Board of Zoning Appeals:

1. **Overturn the denial** due to procedural and mathematical errors; or
2. **Grant relief** based on the City's inconsistent application of the 35% rule.

Thank you for your time and consideration. I look forward to presenting this matter at the scheduled hearing.

Sincerely, **Maria Diegnan** 139 Terry Street