



CITY OF BELLE ISLE, FL
PLANNING & ZONING BOARD MEETING

Held in City Hall Chambers 1600 Nela Avenue

Tuesday, January 26, 2021 * 6:30 pm

MINUTES

The Belle Isle City Council met in a regular session on January 26, 2021, at 6:30 pm at the City Hall Chambers located at 1600 Nela Avenue, Belle Isle, FL 32809.

Present was:

Chairman Holihan
Board member Woods
Board member Lane
Board member Shenefelt
Board member Hobbs

Absent was:

Board member Thompson
District 3 - OPEN

1. Call to Order, Confirmation of Quorum
Chairman Holihan called the meeting to order at 6:30 pm. City Clerk confirmed quorum.
2. Invocation and Pledge to the Flag
Board member Hobbs gave the invocation and led the Pledge to the Flag.
3. Approval of P&Z Meeting minutes - December 22, 2020
Chairman Holihan called for a motion to approve the minutes of December 22, 2020.

Board member Woods moved to approve the minutes as presented.

Board member Shenefelt seconded the motion, which passed unanimously 6:0.

4. PUBLIC HEARING CASE #2021-01-002 - PURSUANT TO BELLE ISLE CODE SEC. 54-79 (F) (4), THE BOARD SHALL REVIEW AND TAKE ACTION ON A PROPOSED AMENDMENT TO A PREVIOUSLY APPROVED SITE PLAN, SUBMITTED BY APPLICANT LECHONERA SAJOMA, LOCATED AT 1919 MCCOY ROAD, BELLE ISLE FL 32809, ALSO KNOWN AS PARCEL # 30-23-30-0000-00-017.

April Fisher, City Planner, said the Board approved a site plan for 1919 McCoy. One of the Board's conditions of approval was that there are no alcohol sales on the property. Since then, they have been open. They would like to serve beer and wine at the restaurant and seek a 2COP License from the State. The 2COP permit allows the consumption of beer and wine for sale. The Code does not prohibit beer and wine sale at this location, and staff recommends approval.

Chairman Holihan called for public comment. There being none, he closed public comment.

Board member Woods asked why they did not apply for the permit during the Site Plan approval. Ms. Fisher said she believes they were trying to be amiable to the Board to get it approved, and things have changed since its opening. Ms. Fisher spoke briefly on the definitions of a 4COP License and a 2COP License.

Rick Florh, with offices at 79 Parkway, Orlando, FL, representing the applicant, said they did not apply because they were not focused in that direction and were led in a different path.

Board member Lane moved, pursuant to Belle Isle Code SEC. SEC. 54-79 (F) (4) of the Belle Isle Land Development Code having been met TO APPROVE THE REQUESTED VARIANCE ON A PROPOSED AMENDMENT TO A PREVIOUSLY APPROVED SITE PLAN, SUBMITTED BY APPLICANT LECHONERA SAJOMA, LOCATED AT 1919 MCCOY ROAD, BELLE ISLE FL 32809, ALSO KNOWN AS PARCEL # 30-23-30-0000-00-017.

Board member Hobbs seconded the motion, which passed unanimously 5:0.

5. PUBLIC HEARING CASE #2021-01-005 - PURSUANT TO BELLE ISLE CODE SEC. 50-102 (A) (6), (7), AND (D) (1) AND SEC. 42-64, THE BOARD SHALL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO ALLOW A STRUCTURE TO BE LOCATED WITHIN THE REQUIRED SETBACKS FROM THE 86.9 CONTOUR LINE OR NORMAL HIGH WATER ELEVATION OF LAKE CONWAY, SUBMITTED BY APPLICANT RICHARD ANDERSON, LOCATED AT 3625 WATERS EDGE DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS PARCEL #20-23-30-1678-00-370.

April Fisher, City Planner, said the application seeks a variance that would allow a structure to be located nearer to the Normal High Water Elevation (NHWE) than reviewed by code. The work on the property has already been done, and the applicant is trying to bring it into compliance. She did find, based on the code definition of a structure that it is part of the primary domain, it must meet the 50-foot building setback.

Based on meeting all the criteria, staff recommends approval on the applicant's submittal, identifying that they are in harmony with the rest of the neighborhood and not seeking to go closer to the water.

With offices at 732 Cheviot, Apopka, FL, Richard Anderson said the construction was completed approximately 10-years ago. Mr. Anderson said the homeowner is in the process of aligning his estate for his heirs and making sure all permits comply. The house was built as far forward as it was allowed. The canal has created a uniquely configured lot resulting in a portion of the rear yard being closer to the NHWE than the code allows. Mr. Anderson provided photos of the home as well as an overview of the adjacent properties.

Comm Woods said the Survey shows NHWE of 86.9. The City is using the 88 Datum, which is a foot different, 86.48. The Survey was completed last year, and the error should give the applicant some extra distance.

Board member Woods spoke of a technical issue. He said he was under the impression that the set back line from the water is perpendicular to the water and not the property line. On that basis, then the setback is much shorter than what is being requested. Ms. Fisher said she is not aware of delineation in the Code on that issue. Board member Woods said water setback encroachments are a common issue with the homes on canals.

Board member Woods said the drawing is not very clear on the setback to the roof structure that is an open porch. Ms. Fisher said the house itself meets the setback requirements. She subtracted and verified the difference of the encroachment from the variance needed.

Attorney Langley said the Code is a restriction on the property's rights. If the Code can have two interpretations and is not clear, it is the norm that the Board give the applicant the benefit of the doubt.

Chairman Holihan called for public comment. There being none, he closed public comment.

Board member Woods moved, the criteria of SEC. 50-102 (A) (6), (7), AND (D) (1) AND SEC. 42-64 of the Belle Isle Land Development Code having been met TO APPROVE A STRUCTURE TO BE LOCATED WITHIN THE REQUIRED SETBACKS FROM THE 86.9 CONTOUR LINE OR NORMAL HIGH WATER ELEVATION OF LAKE CONWAY, SUBMITTED BY APPLICANT RICHARD ANDERSON, LOCATED AT 3625 WATERS EDGE DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS PARCEL #20-23-30-1678-00-370.

Board member Lane seconded the motion, which passed unanimously 5:0.

6. PUBLIC HEARING CASE #2021-01-010 - PURSUANT TO BELLE ISLE CODE SEC. 42-64 THE BOARD SHALL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE FROM SEC. 50-73 (A) TO ALLOW A VARIANCE FROM THE REQUIRED BUILDING SETBACKS, SUBMITTED BY APPLICANT MARK BRIDEWELL, LOCATED AT 1632 OVERLOOK ROAD, BELLE ISLE FL 32809, ALSO KNOWN AS PARCEL # 25-23-29-5884-11-021.

April Fisher, City Planner, said the applicant seeks a variance from the rear building setback. The homeowners need an ADA accessible bathroom. Their current home does not have one, and the best place to place this bathroom is in the property's rear. Staff recommends approval of the request based on the applicant's application. If the applicant was to put the proposed bathroom on the other side, they will encroach on the setback and be closer to their neighbors. They are not asking for a variance for more than what is needed.

Jane Labbe residing at 1632 Overlook Road, said her husband would need an ADA bathroom for wheelchair access.

Board member Woods asked why the other corner of the house was not an option for the bathroom. Ms. Labbe said because that area is next to the kitchen and septic tank and not convenient. The proposed location is attached to the bedroom.

Chairman Holihan called for public comment. There being none, he closed public comment.

Board member Hobbs moved pursuant to Belle Isle Code SEC. 42-64 and FROM SEC. 50-73 (A) of the Belle Isle Land Development Code having been met TO APPROVE THE REQUIRED BUILDING SETBACKS, SUBMITTED BY APPLICANT MARK BRIDEWELL, LOCATED AT 1632 OVERLOOK ROAD, BELLE ISLE FL 32809, ALSO KNOWN AS PARCEL # 25-23-29-5884-11-021.

Board member Lane seconded the motion, which passed unanimously 5:0.

7. PUBLIC HEARING CASE #2021-01-011- PURSUANT TO BELLE ISLE CODE SEC. 50-102 (B) (5), SEC. 50-102 (B) (7), SEC. 50-102 (B) (16) AND SEC. 42-64, THE BOARD SHALL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO PLACE A FENCE IN THE FRONT YARD AND SIDE YARD OF A RESIDENTIAL PROPERTY, ALLOW A FENCE TALLER THAN SIX FEET AND ALLOW A FENCE TALLER THAN FOUR FEET WITHIN 35 FEET OF THE 86.9 CONTOUR LINE OR NORMAL HIGH WATER ELEVATION OF LAKE CONWAY SUBMITTED BY APPLICANT DEBORAH DONHAM LOCATED AT 6904 SEMINOLE DRIVE, ORLANDO, FL 32812 ALSO KNOWN AS PARCEL #29-23-30-4389-02-100.

City Planner April Fisher said the variance seeks approval of a 1) fence taller than six-feet within 35 feet of the NHWE, 2) to allow an eight-foot section after that, and 3) allow replacement of an existing fence that is in the front of the property. This is a neighbor of the front yard fence approved a few months ago.

Based on the applicant's information there is a difference in grade between the property upon which the fence will be installed and the immediately adjacent property and that conditions exist on adjacent property creating privacy concerns, staff recommends approval of the requested variance. The proposed variance does conform to the surrounding community.

The linear feet of the proposed variance is as follows,

- 6-foot fence – 35 feet in the rear of the property to the sea wall
- 6-foot fence - 66 feet towards the front (along the side) of the property
- 8-foot fence – 199 feet for the portion in the middle of the two houses
- 6-foot fence – Replacement expands the front and the side of the property

Debra Donham, the property owner of 6904 Seminole Drive, said she is asking for approval to replace an existing 6-foot and 8-foot fence along the length of the west side of the property. When the neighbor began construction, his property was built up several feet, and large home was constructed with a swimming pool. This has created a personal hardship and a privacy issue. My 6-foot fence now appears to be like a 4-foot fence. Ms. Donham further shared her concerns and personal hardships regarding the removal of privacy bushes, security cameras, and sensor lights

Ms. Donham requested approval of her request for her privacy and security. The new fence would provide privacy with the height and look so much nicer in keeping with the neighborhood's character.

Discussion ensued on several items that were noticeable in the pictures provided for the record by Daniel Barnes. Ms. Donham gave a summary of the findings.

Carol and Daniel Barnes residing at 6838 Seminole Drive, spoke in objection to the nature and section of the 8-foot fence. Carol Barnes said she has no objection relative to a 6-foot fence across the entire lot line between the two residential locations. She noted Ms. Donham's rationale is twofold, 1) related to privacy, and 2) alleged 25-year existence of the fence.

Daniel Barnes said it has been well established that the only portion of the fence in its current state which is near 25-years old is the rear five sections. Mr. Barnes gave a brief history of the fence and lot lines from 1999 to the present. He shared his concern with the portion of the fence encroaching on his property and the unpermitted work.

They are concerned about the habitual and lack of upkeep of the current fence. The fence they are proposing has a 10-year life and eventually will be in the same lack of repair. They have discussed these issues with the City, and nothing has been

done. Mr. Barnes further added that the fence is not on a higher grade, and no matter what height fence is installed, they will continue to place umbrellas and tarps up for the sake of privacy.

Carol Barnes said a desirable outcome is a 6-foot fence front to back with the condition of not allowing attachments (within 2-3 feet) to the fence will make for a better environment.

Greg Oscarson residing at 6904 Seminole Drive, said he was erecting an 8-foot wall on the east and center of the property. He said he would like to finish the job on the west side, and the neighbor is making it very difficult. He shared his frustration with the neighbor's cameras and sensor lights.

Chairman Holihan opened for public comment. There being none, he closed public comment.

Chairman Holihan asked for clarification of the 9-foot fence on the east side and the 8-foot concrete wall. April Fisher said the Survey doesn't show the height for the block wall on the southwesterly portion. She is also not aware of the 8-foot concrete wall on the east side. The staff will have to research for more information. It is her understanding that there are two different surveys. The Survey used for the variance is the same that was used for the Barnes family. Discussion ensued on review of the submitted Survey.

Chairman Holihan said elevations were not provided on the surveys submitted with the packet.

Board member Woods asked if a fence belongs to whoever property it is on. Attorney Langley said not necessary; if there is a long-standing fence, they can claim adverse possession and claim it as their own. That would also be a private dispute amongst the neighbors. There should be requirements that if a fence is removed; they would have to replace it on their own property and have a survey establishing the property line.

Chairman Holihan said he is not comfortable granting a 6-foot fence down to the water. Chairman Holihan recommended the following,

- the area marked in yellow on the site plan by the water will be 4-feet
- the area marked in orange Jumps to 6-feet and run to the edge of the house
- the area from the house to the garage will be 8-feet
- everything else back to 6-feet

If not permitted, city Manager Bob Frances noted that the shade cloth on the 9-foot fence to the east must be taken down.

Attorney Langley said the Board could consider a condition not to allow personal property a certain distance from a fence. Discussion ensued. Enforcement may be an issue because of the limitations on access. City Manager Francis gave a brief overview of the existing challenges with this proposed variance.

Chairman Holihan said everyone is entitled to privacy; however, maintenance is an essential factor. He asked if Code Enforcement can go out to ensure that these fences are maintained.

Chairman Holihan moved, pursuant to Belle Isle Code SEC. 50-102 (B) (5), SEC. 50-102 (B) (7), SEC. 50-102 (B) (16) AND SEC. 42-64, of the Belle Isle Land Development Code having been met TO APPROVE the variance with the following changes,

- **8-foot fence at the front corner of the principal building (Barnes) to the rear corner at the principal building (Barnes)**
- **6-foot fence to the water**
- **Replace existing fence on correct property lines (6-foot maximum height in front of the 8-foot section detailed above).**
- **Ensure there are no encroachments on either neighbor's property.**
- **Both parties accept the Survey provided by Daniel Barnes.**

Board member Shenefelt seconded the motion, which passed 4:1 with Board member Woods, nay.

April Fisher said there is a 15-day appeal period, and permits can not be pulled during that time.

8. PUBLIC HEARING CASE #2021-01--009 - AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA; AMENDING THE CITY'S SIGN REGULATIONS UNDER CHAPTER 52 OF THE CITY CODE; PROVIDING DEFINITIONS; AMENDING AND ADDING REGULATIONS RELATED TO TEMPORARY SIGNS, PROTECTION OF FIRST AMENDMENT RIGHTS, AND OTHER MATTERS RELATED TO SIGNS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

April Fisher, City Planner, said the variance was brought forward because the City issued notices of violation to property owners regarding political signs that remained on properties longer after an election. These notices were challenged, and the City reviewed the regulations with the City Attorney.

The City Attorney said the city code is outdated. He advised the Code should be amended so that the size, location, number of signs, and the duration of posting are regulated, but not the sign's content.

Board member Woods had a question on Sec 52-34 – Temporary signs. He asked for clarification/definitions on temporary sign size, election banners, and flags, and time frame for posting of political signs. Attorney Langley said the ordinance is not amending the entire sign code (52-31); it is only amending the temporary sign portion (52-34).

Chairman Holihan moved to table the discussion to the following meeting to allow the Board to submit concerns to the City Manager for review.

Board member Lane seconded the motion, which passed unanimously.

9. Other Business

Chairman Holihan called for a motion to excuse Andrew Thompson from the meeting.

Board member Lane moved to excuse Board member Thompson's absence from the meeting.

Board member Shenefelt seconded the motion, which passed unanimously.

10. Adjournment

There being no further business, Chairman Holihan moved to adjourn the meeting, unanimously approved 8:30 pm.