

## MEMORANDUM

TO: Planning and Zoning Board

DATE: October 24, 2023

RE: Variance Application – 1432 Belle Vista Drive

Public Hearing #2023-08-023 - PURSUANT TO BELLE ISLE CODE SEC. 42-64 AND 50-102 (A) (7) AND 50-102 (D) (1), THE CITY OF BELLE ISLE PLANNING & ZONING BOARD WILL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO ALLOW A DECK SETBACK OF SEVENTEEN FEET FROM THE CONTOUR LINE OF LAKE CONWAY AND A VARIANCE TO ALLOW A SWIMMING POOL SETBACK OF TWENTY FEET FROM THE NORMAL HIGH-WATER ELEVATION OF LAKE CONWAY, SUBMITTED BY APPLICANTS ELIO AND ANNETTE M FLORIN, LOCATED AT 1432 BELLE VISTA DRIVE, BELLE ISLE, FL 32809 ALSO KNOWN AS ORANGE COUNTY TAX PARCEL ID #24-23-29-5306-01-120.

### Background:

1. On August 18, 2023, the applicant submitted a variance application and required paperwork.
2. A Notice of Public Hearing legal advertisement was placed in the Orlando Sentinel on Sat., Oct. 14, 2023.
3. Letters to the abutting property owners were mailed within 300 feet of the subject property on Oct. 9, 2023.

The Board may adopt all, some, or none of these determinations as part of their findings-of-fact. The Board may also add any additional findings of fact that are presented at the public hearing. The Board must determine if the criteria outlined in Chapter 42, Article III, Section 42-64(1) of the Land Development Code have been met and approve, approve with conditions, or deny this request.

### SAMPLE MOTION TO APPROVE:

"I MOVE, PURSUANT TO BELLE ISLE CODE SEC. 42-64 AND 50-102 (A) (7) AND 50-102 (D) (1), TO A DECK SETBACK OF SEVENTEEN FEET FROM THE CONTOUR LINE OF LAKE CONWAY AND A VARIANCE TO ALLOW A SWIMMING POOL SETBACK OF TWENTY FEET FROM THE NORMAL HIGH-WATER ELEVATION OF LAKE CONWAY, SUBMITTED BY APPLICANTS ELIO AND ANNETTE M FLORIN, LOCATED AT 1432 BELLE VISTA DRIVE, BELLE ISLE, FL 32809 ALSO KNOWN AS ORANGE COUNTY TAX PARCEL ID #24-23-29-5306-01-120.

### SAMPLE MOTION TO DENY:

"I MOVE, PURSUANT TO BELLE ISLE CODE SEC. 42-64 AND 50-102 (A) (7) AND 50-102 (D) (1), HAVING NOT BEEN MET, **TO DENY** *[use only if NONE of the justifying criteria have been met] the requirements of, Subsections: [state only the subsections below that are not satisfied] having NOT been met; [may be used in addition to above or alone]* A DECK SETBACK OF SEVENTEEN FEET FROM THE CONTOUR LINE OF LAKE CONWAY AND A VARIANCE TO ALLOW A SWIMMING POOL SETBACK OF TWENTY FEET FROM THE NORMAL HIGH-WATER ELEVATION OF LAKE CONWAY, SUBMITTED BY APPLICANTS ELIO AND ANNETTE M FLORIN, LOCATED AT 1432 BELLE VISTA DRIVE, BELLE ISLE, FL 32809 ALSO KNOWN AS ORANGE COUNTY TAX PARCEL ID #24-23-29-5306-01-120.

Or the Board can request that it be tabled to a date certain to allow for revisions as discussed.

**SUBSECTION (D)**, a literal enforcement of the provisions of the zoning ordinances would result in unnecessary hardship and that said hardship is created by special conditions and circumstances peculiar to the land, structure or building involved, including but not limited to dimensions, topography or soil conditions.

**SUBSECTION (E)**, personal hardship is not being considered as grounds for a variance since the variance will continue to affect the character of the neighborhood after title to the property has passed and that the special conditions and circumstances were not created in order to circumvent the Code or for the purpose of obtaining a variance.

**SUBSECTION (F)**, the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

**SUBSECTION (G)**, the granting of the variance will be in harmony with the general purpose and intent of the Code, will not be injurious to the neighborhood, will not be detrimental to the public welfare, and will not be contrary to the public interest.



# City of Belle Isle

1600 Nela Avenue, Belle Isle, FL 32809

Tel 407-851-7730 \* Fax 407-240-2222 \* www.belleislefl.gov



## Variance and Special Exception Application

City Code Chapter 42, Art. II, Sec. 41-61 thru 41-72 AND Sec 42-64 Land Development Code

APPLICANT <u>ELIO &amp; ANNETTE FLORIN</u>	OWNER <u>ELIO &amp; ANNETTE FLORIN</u>
ADDRESS <u>1432 BELLEVISTA DRIVE</u>	PROJECT ADDRESS <u>1432 BELLEVISTA DRIVE</u>
CONTACT NUMBER <u>407-758-0710</u>	OWNER'S CONTACT NUMBER <u>407-758-0710</u>
EMAIL <u>ELIN@SI956@AOL.COM</u>	OWNER'S EMAIL <u>ELIN@SI956@AOL.COM</u>
PARCEL ID# <u>24-23-29-5306-01-120</u>	
LAND USE CLASSIFICATION <u>0130-SFR-LAKE FRONT</u>	ZONING DISTRICT
SECTION OF THE CODE VARIANCE REQUESTED ON <u>NORMAL HIGH WATER SET BACK</u>	
DETAILED VARIANCE REQUEST <u>1) ASKING FOR A POOL VARIANCE OF 20' FROM THE 35' HIGH WATER SET BACK.</u> <u>2) ASKING FOR A DECK VARIANCE OF 17' FROM THE 30' HIGH WATER SET BACK.</u>	
<ul style="list-style-type: none"><li>The applicant hereby states that the property for which this hearing is requested has not been the subject of a hearing before the Planning and Zoning Board of the kind and type requested in the application within nine (9) months. Further, the requested user does not violate any deed restriction of the property.</li><li>By applying, I authorize City of Belle Isle employees and members of the P&amp;Z Board to enter my property during reasonable hours to inspect the area to which the application applies.</li><li>The applicant shall provide a minimum of ten (10) sets of three (3) photographs in support of this application as follows: at least one (1) picture of the front of the property and at least two photos (from different angles) of the specific area of the property to which the application applies.</li></ul>	
APPLICANT'S SIGNATURE <u>Elio Florin</u>	OWNER'S SIGNATURE <u>Elio Florin</u>
<input checked="" type="checkbox"/> VARIANCE	<input type="checkbox"/> SPECIAL EXCEPTION
<input type="checkbox"/> OTHER	P&Z CASE NUMBER <u>0610475</u> <u>2023-08-023</u>
	DATE OF HEARING

**Sec. 42-64. - Variances.** The Board shall have the power to approve, conditionally approve or deny applications for a variance from the terms of the Land Development Code.

Criteria. The Board shall not approve an application for a variance from terms of the Land Development Code unless and until:

- A written application for a variance is submitted to the city manager or the city manager's designee on a form provided by the city clerk setting forth all of the special conditions and circumstances that exist in favor of the granting of the variance and addressing the requirements of subsections (1)d—g of this section of the criteria set forth in this section. Upon submission of the properly completed application and the appropriate fee, the city manager or the city manager's designee shall refer the application to the board.

- Notice of public hearing for the variance shall be given as required by the article for hearing before the board.
- The public hearing on the application for the variance shall be held. The applicant, the applicant's agent as evidenced by a signed writing or the applicant's attorney shall appear before the board.
- It is determined that literal enforcement of the provisions of the zoning ordinances would result in unnecessary hardship and that said hardship is created by special conditions and circumstances peculiar to the land, structure or building involved, including but not limited to dimensions, topography or soil conditions.
- It has been determined that personal hardship is not being considered as grounds for a variance since the variance will continue to affect the character of the neighborhood after title to the property has passed and that the special conditions and circumstances were not created in order to circumvent the Land



City of Belle Isle  
1600 Nela Avenue, Belle Isle, FL 32809  
Tel 407-851-7730 \* Fax 407-240-2222 \* [www.belleislefl.gov](http://www.belleislefl.gov)  
**Variance and Special Exception Application**

## ABOUT YOUR PUBLIC HEARING

The following information is provided to assist applicants in applying for a variance, special exception, or use determination. Please familiarize yourself with the process by visiting

The City of Belle Isle's Planning and Zoning Board, which comprises seven (7) non-paid volunteer residents, meets on the fourth Tuesday of the month to hear various planning and zoning issues, including variances, special exceptions, and use determinations. In recommending approval or denial of a request, the Board looks at each application individually to determine if the request meets the following criteria:

A written application for a variance must be submitted to City Hall no later than 4:00 p.m. on the first Thursday of the previous month. The application **MUST** include:

- the \$300 filing fee,
- a completed application form,
- proof of ownership of the property, or a notarized statement from the owner with the representative's information,
- Ten (10) copies of a plot plan or survey showing all improvements to the property, ten copies of a scale drawing of the planned construction, illustrated on the survey, and digital format for large-scale documents is required.
- For boat dock variances, the survey must clearly illustrate the Normal High Water Line elevation (NHWL) of Lake Conway.
- A narrative addressing how the variance complies with the following:

*Standards of Variance Justification	Section 42-64 of the Land Development Code (LDC) states that no application for a Zoning Variance shall be approved unless the Planning and Zoning Board finds that all of the following standards are met. Please answer each bold-text question in a separate typed or a written document and submit it to the City as part of your variance request.
Special Conditions and/or Circumstances Section 42-64 (1) d	The applicant must prove that literal enforcement of the provisions of the zoning ordinances would result in unnecessary hardship. That hardship is created by special conditions and circumstances peculiar to the land, structure, or building involved, including but not limited to dimensions, topography, or soil conditions. <b>WHAT ARE THE SPECIAL CONDITIONS AND CIRCUMSTANCES UNIQUE TO YOUR PROPERTY?</b> <b>WHAT WOULD BE THE UNNECESSARY HARDSHIP?</b>
Not-Self- Created Section 42-64 (1) e	The applicant must prove that the special conditions and circumstances do not result from the applicant's actions. A personal (self-created) hardship shall not justify a variance; i.e., when the applicant creates the alleged hardship, they are not entitled to relief by their conduct. <b>HOW WERE THE SPECIAL CONDITIONS NOTED ABOVE CREATED?</b>
Minimum Possible Variance Section 42-64 (1) f	The applicant must prove that the zoning variance is the minimum variance that will make the reasonable use of the land, building, or structure possible. <b>CAN YOU ACCOMPLISH YOUR OBJECTIVE IN ANOTHER WAY?</b> <b>LIST ALTERNATIVES YOU HAVE CONSIDERED AND EVIDENCE AS TO WHY THEY ARE NOT FEASIBLE.</b>
Purpose and Intent Section 42-64 (1) g	The applicant must prove that approval of the zoning variance will be in harmony with the general purpose and intent of the Code, and such zoning variance will not be injurious to the neighborhood, not detrimental to public welfare, and not contrary to the public interest. <b>WHAT EFFECTS WILL APPROVAL OF THE VARIANCE HAVE ON ADJACENT PROPERTIES OR THE SURROUNDING NEIGHBORHOOD? (FOR EXAMPLE, ADEQUATE LIGHT, AIR, ACCESS, USE OF ADJACENT PROPERTY, DENSITY, COMPATIBILITY WITH SURROUNDING LAND USES, TRAFFIC CONTROL, PEDESTRIAN SAFETY, ETC).</b>

\*For a variance application from Sec. 50-102 (b) fences and walls, please also identify how you comply with the variance criteria identified in Sec. 50-102 (b) (16). Please note for a fence variance, and you do not have to comply with Sec. 42-64 (1) d and (1) f.





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**Variance and Special Exception Application**

- Development Code or for the purpose of obtaining a variance.
- f. It is determined that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
- g. It is determined that the granting of the variance will be in harmony with the general purpose and intent of the Land Development Code, will not be injurious to the neighborhood, will not be detrimental to the public welfare, and will not be contrary to the public interest.
- h. The board shall find that the preceding requirements have been met by the applicant for a variance.
- b. The Board may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed. Under no circumstances, except as permitted above, shall the Board grant a variance to allow a use not generally or by special exception allowed in the zoning district involved, or any use expressly or by implication prohibited by the terms of the Land Development Code in the zoning district. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district, and no permitted use of land, structures, or buildings in other zoning districts, shall be considered grounds for the authorization of a variance.
- The Board shall find that the preceding requirements have been met by the applicant for a variance.
- (2) *Violations of conditions.*
- a. In granting any variance, the Board may prescribe appropriate conditions and safeguards to comply with the Land Development Code. Violation of such conditions and safeguards, when made a part of the terms under which

**Applications submitted must meet all of the above criteria before the Board can grant a variance.** The burden of proof is on the applicant to comply with the criteria.

A special exception addresses the compatibility of uses, differing slightly from a variance. The approval of a special exception depends on how the request affects the surrounding area. All uses allowed as special exceptions are listed within the individual zoning districts. Before the Board can approve a special exception, the request must meet all of the following criteria:

1. A written application for a special exception must be submitted to City Hall no later than 4:00 p.m. on the first Thursday of the previous month. (See Above)
2. The Board shall find that it is empowered under the section of the zoning ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest.
3. It is determined that public health, safety, comfort, order, convenience, prosperity, morals, or general welfare is promoted, protected, or improved.

#### General Information

1. Certain conditions may be prescribed on the special exception or variance approved by the Board.
2. The applicant must be present at all hearings.
3. Decisions rendered by the Board do not become final until fifteen (15) days after the hearing. The fifteen-day waiting period allows all aggrieved parties to appeal the decision. Any person filing an appeal will submit, within fifteen (15) days of the decision, a notice stating where they feel the Planning and Zoning Board erred in their decision. Belle Isle's City Council will then hold an appeal hearing.
4. Sec 42-61 thru 41-72 - Variances and special exceptions granted by the Board will become void if a permit necessary for utilization of the variance or special exception is not issued within six (6) months of the date approved by the Planning and Zoning Board.

FOR OFFICE USE ONLY:

FEE: \$300

received 8.18.23  
Date Paid

10475  
Check/Cash

Rec'd By

Elio & Annette Florin  
1432 Belle Vista Drive  
Belle Isle, FL. 32809

To: City of Belle Isle  
Zoning Board Members

Re: Variance Application

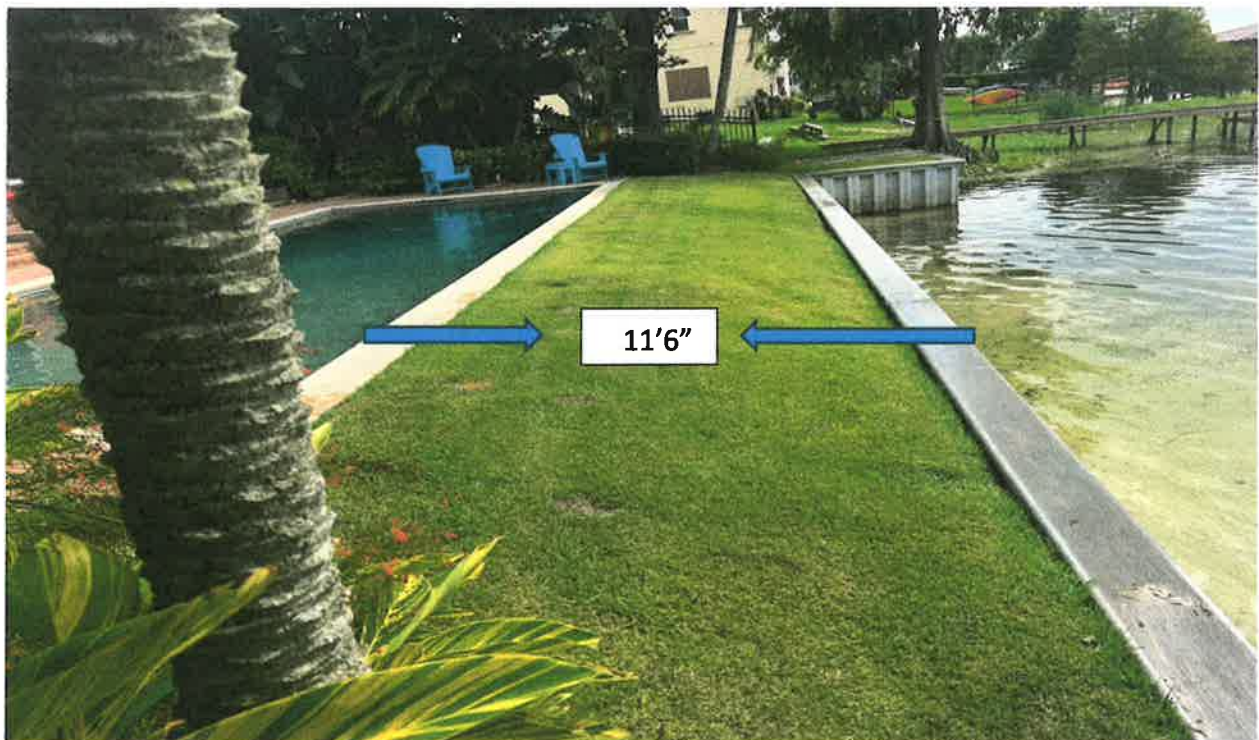
We are in the process of wanting to build a pool in our backyard. In our research, it has come to our attention that due to the Normal High Water Line Elevation per Orange County Water Atlas on the west side of our property that jots back into our yard, approximately 27'.6". This is creating a hardship in getting our pool plans to meet the City of Belle Isle setback criteria.



As you can see, by looking at the survey, the normal high-water line elevation goes north unto my property for approximately 27'6", and then back Southeast to our neighbor's seawall and then the normal high-water elevation line travels west along his seawall.



Just within 300 feet from our home there are two pools that were granted variances (35' from the normal high-water line) in order to permit and build these pools. I have attached pictures for your review.



Please, consider approving the variance request on the Southwest corner of our property, as you can see the remainder of our project falls within the setbacks in place by the City of Belle Isle. Thank you so much for your time on this matter.



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Elio Florin



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Annette Florin

Prepared by and return to:

**Krista Kellough**

**Innovative Title Services I, LLC**

**217 N. Westmonte Dr. Suite 1006**

**Altamonte Springs, FL 32714**

File Number: **ITS-6130**

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(Space Above This Line For Recording Data)

## **Warranty Deed**

**This Warranty Deed** made this 17<sup>TH</sup> day of JULY, 2020, between **Joan E. Hickman, A Single Woman**, whose post office address is 5855 Midnight Pass Rd. #411, Sarasota, Florida 34242, grantor, to **Elio Florin and Annette M. Florin, Husband and Wife**, whose post office address is 1432 Belle Vista Drive, Orlando, Florida 32809, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

**Witnesseth**, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in the **Orange County, Florida**, to-wit:

**Lot 12, Block A, Lynnwood Shores, according to the Plat thereof, recorded in Plat Book Z, Page(s) 62, of the Public Records of Orange County, Florida.**

**Parcel Identification Number: 24-23-29-5306-01120**

**SUBJECT TO TAXES FOR THE YEAR 2020 AND SUBSEQUENT YEARS, RESTRICTIONS, RESERVATIONS, COVENANTS AND EASEMENTS OF RECORD, IF ANY.**

**Together** with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

**To Have and to Hold**, the same in fee simple forever.

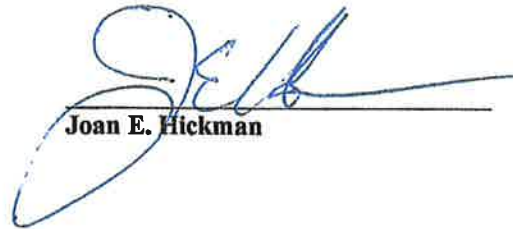
**And** the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2019.


**In Witness Whereof**, grantor has hereunto set grantor's hand and seal the day and year first above written.



Signed, sealed and delivered in our presence:

  
Witness Name: KRISTA KELLOKYL

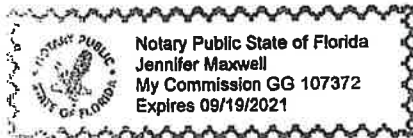
  
Joan E. Hickman

  
Witness Name: Jennifer Maxwell

State of Florida

County of Seminole

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 16 day of July, 2020 by Joan E. Hickman, A Single Woman, who is/are personally known to me or have produced a valid government ID as identification.



  
Notary Public

Printed Name: Jennifer Maxwell

My Commission Expires: 9-19-2021

Elio & Annette Florin  
1432 Belle Vista Drive  
Belle Isle 32809

## Front Yard







Elio & Annette Florin  
1432 Belle Vista Drive  
Belle Isle 32809

## Proposed Request





**LEGAL DESCRIPTION:**  
LOT 12, BLOCK A, LYNNWOOD SHORES, ACCORDING TO THE PLAT THEREOF RECORDED IN  
PLAT BOOK 2, PAGE(S) 62, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

BY PERFORMING A SEARCH WITH THE LOCAL GOVERNING MUNICIPALITY OR [WWW.FEMA.GOV](http://WWW.FEMA.GOV), THE PROPERTY APPEARS TO BE LOCATED IN ZONE XA500/AE. THIS PROPERTY WAS FOUND IN CITY OF BELLE ISLE, COMMUNITY NUMBER 120181, DATED 09/25/2009.

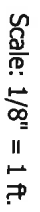
**ELLO AND ANNETTE FLORIN**



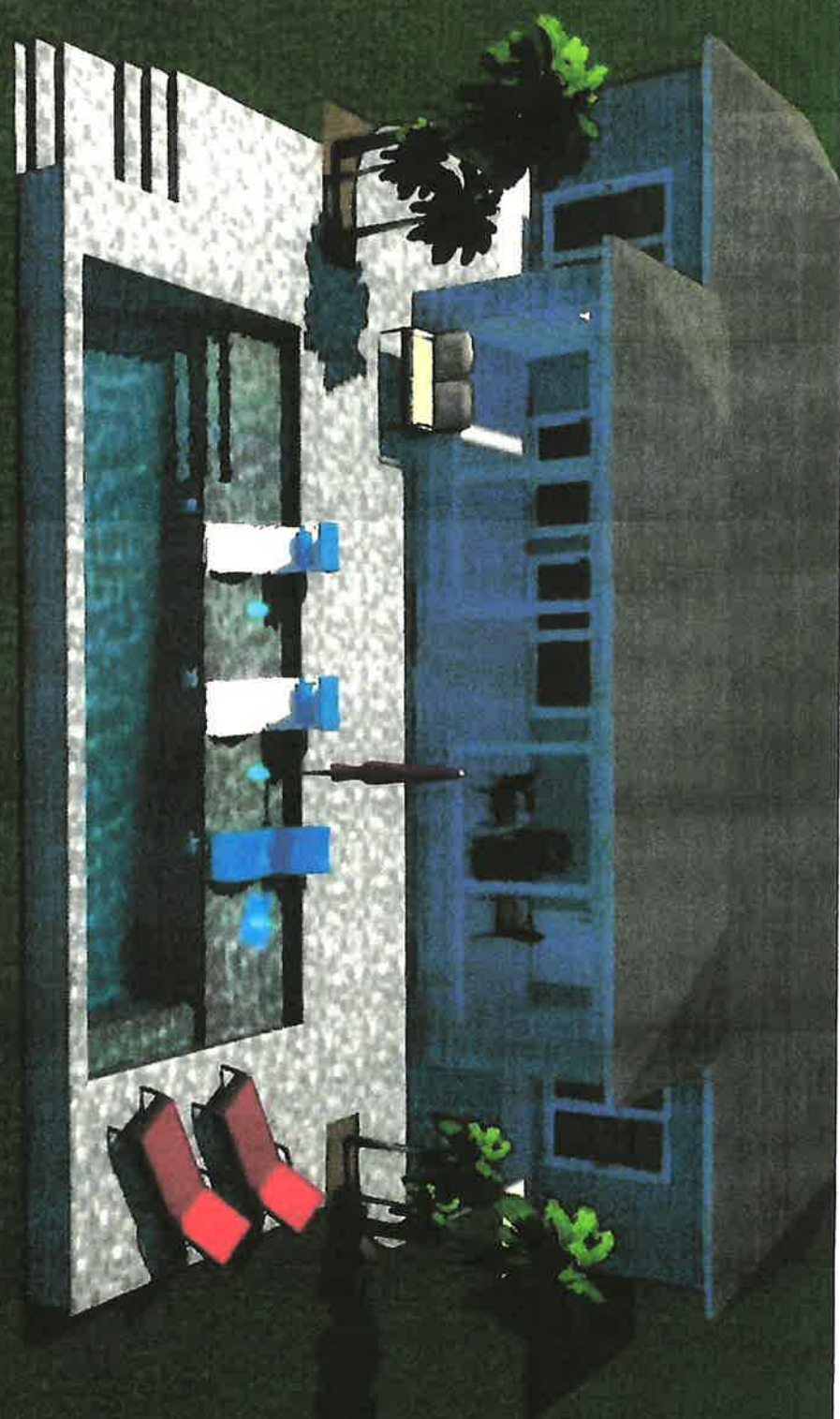
Revision: Updated Survey, Added NINE A 100r - 100m20 - MK3  
Revision: Updated Survey - 07/27/20 - TCK

N 47°15'00" E	60.93'(P)	$R = 268.91'(P)$ $L = 24.11'(P)$ $\Delta = 04^{\circ}48'53"(C)$	$\text{Chord Bearing} =$ $N 49^{\circ}38'59" E \ 24.09'(P)$ $N 49^{\circ}39'34" E \ 24.11'(M)$
N 47°16'26" E	60.83'(M)		
N 47°15'00" E	85.00'(P)	$L_1$	$L_2$
N 47°25'40" E	84.68'(M)		

[illegible][illegible][illegible]











From: Jozanne Andrada-Weber jozannea31@yahoo.com  
Subject: Letter!  
Date: Aug 15, 2023 at 2:57:38 PM  
To: elin851956@gmail.com

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August 15, 2023

To Whom It May Concern,

We, Kurt & Jozanne Weber, residing at 1426 Belle Vista Dr. Belle Isle, FL have no issues with Elio & Annette Florin building a pool in their backyard.

Please feel free to contact us with any questions or concerns.

Sincerely,  
Kurt & Jozanne Weber  
[407-230-0124](tel:407-230-0124)  
[407-947-8746](tel:407-947-8746)



From: Alexander Muszynski III alorl2009@yahoo.com  
Subject: Elio Florin and Annette Florin - 1432 Belle Vista Drive -  
Variance Request - Normal Highwater Setback - Pool  
Construction  
Date: Aug 17, 2023 at 8:02:34 PM  
To: elin851956@aol.com

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Elio and Anette,

We have no objection to your request for a variance of the normal high water set back from the City of Belle Isle for your planned construction of your pool at your home located at 1432 Belle Vista Drive. As you know, our residence is located adjacent to and east of your home.

This email document may be submitted to the City of Belle Isle with your Variance and Special Exception Application.

Regards,

Alexander Muszynski III - Cell -407-496-7303  
Andrea Ribeiro  
1438 Belle Vista Drive  
Belle Isle, Florida 32809