

MEMORANDUM

TO: Planning and Zoning Board

DATE: July 25, 2023

RE: Variance Application – 3025 Indian Drive

PUBLIC HEARING CASE #2023-06-009 - PURSUANT TO BELLE ISLE CODE SEC. 48-32 (A) (3), AND (A) (6) (A) AND SEC. 42-64, THE CITY OF BELLE ISLE PLANNING AND ZONING BOARD WILL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO ALLOW A DOCK TO EXCEED THE ALLOWABLE TOTAL AREA FOR A TERMINAL PLATFORM AND TO ALLOW A BOAT DOCK TO EXTEND GREATER THAN 15 FEET LAKEWARD OF AN EXISTING DOCK WITHIN 300 FEET OF THE PROPOSED LOCATION, SUBMITTED BY APPLICANT JASON LOUCHE REPRESENTING HOMEOWNER ALAN TWICHELL LOCATED AT 3025 INDIAN DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS ORANGE COUNTY TAX PARCEL ID #29-23-30-4389-01-080.

Background:

1. On June 5, 2023, the applicant, Alan Twichell, submitted a request, application, and required paperwork.
2. A Notice of Public Hearing legal advertisement was placed on Saturday, July 15, 2023, in Orlando Sentinel.
3. Letters to the abutting property owners were mailed within 300 feet of the subject property on July 11, 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. 48-32 (A) (3), AND (A) (6) (A) AND SEC. 42-64, **TO ALLOW** A DOCK TO EXCEED THE ALLOWABLE TOTAL AREA FOR A TERMINAL PLATFORM AND TO ALLOW A BOAT DOCK TO EXTEND GREATER THAN 15 FEET LAKEWARD OF AN EXISTING DOCK WITHIN 300 FEET OF THE PROPOSED LOCATION, SUBMITTED BY APPLICANT JASON LOUCHE REPRESENTING HOMEOWNER ALAN TWICHELL LOCATED AT 3025 INDIAN DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS ORANGE COUNTY TAX PARCEL ID #29-23-30-4389-01-080.

SAMPLE MOTION TO DENY:

"I MOVE, PURSUANT TO BELLE ISLE CODE CODE SEC. 48-32 (A) (3), AND (A) (6) (A) AND SEC. 42-64, 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 DOCK TO EXCEED THE ALLOWABLE TOTAL AREA FOR A TERMINAL PLATFORM AND TO ALLOW A BOAT DOCK TO EXTEND GREATER THAN 15 FEET LAKEWARD OF AN EXISTING DOCK WITHIN 300 FEET OF THE PROPOSED LOCATION, SUBMITTED BY APPLICANT JASON LOUCHE REPRESENTING HOMEOWNER ALAN TWICHELL LOCATED AT 3025 INDIAN DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS ORANGE COUNTY TAX PARCEL ID #29-23-30-4389-01-080.

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 Jason Louche	OWNER Alan Twichell
ADDRESS 1204 Gallant Fox Way Chuluota FL 32766	PROJECT ADDRESS 3025 Indian Dr
CONTACT NUMBER 407-761-9775	OWNER'S CONTACT NUMBER 407-376-2332
EMAIL jlouche@ccsboatdocks.com	OWNER'S EMAIL alantwichell@gmail.com
PARCEL ID# 29-23-30-4389-01-080	
LAND USE CLASSIFICATION 0130 - Sfr - Lake Front	ZONING DISTRICT R-1-AA
SECTION OF THE CODE VARIANCE REQUESTED ON 48-32.(a) (3) and 48-32.(a) (6)	
DETAILED VARIANCE REQUEST <p>We would like to extend the new boat dock 24' longer in to the water so we can have water depth to get the boat in and out the boat slip and get to the lake floor elevation of 79.5 NAVD88. Also we would like to increase the docks square footage from 700sf to 720st to accommodate the property owners large pontoon boat.</p>	
<ul style="list-style-type: none"> 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. By applying, I authorize City of Belle Isle employees and members of the P&Z Board to enter my property during reasonable hours to inspect the area to which the application applies. 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. 	
APPLICANTS SIGNATURE 	OWNER'S SIGNATURE
<input checked="" type="checkbox"/> VARIANCE <input type="checkbox"/> SPECIAL EXCEPTION <input type="checkbox"/> OTHER	P&Z CASE NUMBER 2023-06-009 DATE OF HEARING 07/25/23

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. 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.

- b. Notice of public hearing for the variance shall be given as required by the article for hearing before the board.
- c. 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.
- d. 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.
- e. 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







- 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.

the variance is granted, shall be deemed a violation of this Land Development Code and punishable in accordance with this article. At the Board's discretion, such variance may be revoked for violation of the condition and safeguards.

- 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

6/5/23 CKD09537 *Roger D. Lewis*
 Date Paid Check/Cash Rec'd By



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

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:

- a. the \$300 filing fee,
- b. a completed application form,
- c. proof of ownership of the property, or a notarized statement from the owner with the representative's information,
- d. 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.
- e. For boat dock variances, the survey must clearly illustrate the Normal High Water Line elevation (NHWL) of Lake Conway.
- f. **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. WHAT ARE THE SPECIAL CONDITIONS AND CIRCUMSTANCES UNIQUE TO YOUR PROPERTY? WHAT WOULD BE THE UNNECESSARY HARDSHIP?
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. HOW WERE THE SPECIAL CONDITIONS NOTED ABOVE CREATED?
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. CAN YOU ACCOMPLISH YOUR OBJECTIVE IN ANOTHER WAY? LIST ALTERNATIVES YOU HAVE CONSIDERED AND EVIDENCE AS TO WHY THEY ARE NOT FEASIBLE.
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. 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).

*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.



THIS INSTRUMENT WAS PREPARED BY
AND SHOULD BE RETURNED TO:

INSTR 20040523826
OR BK 07574 PG 0187 PGS=4
MARTHA O. HAYNIE, COMPTROLLER
ORANGE COUNTY, FL
08/12/2004 01:19:21 PM
DEED DOC TAX 3,500.00
REC FEE 35.50

RUSSELL W. DIVINE, ESQUIRE
Divine & Estes, P.A.
24 South Orange Avenue, Suite 203
Orlando, Florida 32801
1944-1

WARRANTY DEED

THIS WARRANTY DEED is executed this 11th day of August, 2004, by

JOHN L. VENABLE and MARY E. CLINGAN-VENABLE,
husband and wife
2875 South Orange Avenue, Suite 500-2525
Orlando, FL 32806
hereinafter called the Grantor

to

ALAN F. TWICHELL, JR.,
a single man
3025 Indian Drive
Orlando, FL 32812
hereinafter called the Grantee

(Wherever 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)

WITNESSETH: That the Grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee, all that certain land situate in Orange County, Florida, described as follows:

See Exhibit "A" attached hereto and incorporated herein

Tax Parcel ID Number: 29-23-30-4389-01080

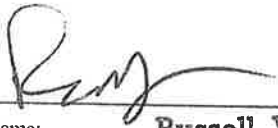
TOGETHER WITH all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

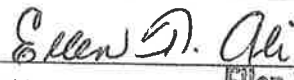
TO HAVE AND TO HOLD, the same in fee simple forever.

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 the matters set forth in Exhibit "B" attached hereto.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the day and year first above written.

Witnesses:


Print Name: Russell W. Divine

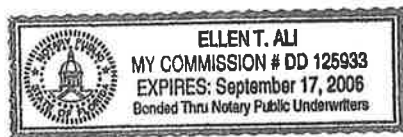

Print Name: Ellen T. Ali



JOHN L. VENABLE


MARY E. CLINGAN-VENABLE

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 11th day of August, 2004, by **John L. Venable and Mary E. Clingan-Venable**, husband and wife, who are personally known to me or have produced Florida driver's licenses as identification.





NOTARY PUBLIC
Print Name: Ellen T. Ali

My Commission Expires:

Commission #:

LEGAL DESCRIPTION

Lot 8, Block A, LAKE CONWAY PARK, as per plat thereof, recorded in Plat Book G, Page 138, Public Records of Orange County, Florida.

ALSO: Begin at the point of intersection of the easterly side line of Lot 8, Block A, Lake Conway Park, according to plat thereof recorded in Plat Book G, Page 138, Public Records of Orange County, Florida, with the U.S. Government Traverse line, run thence northwesterly along the easterly side line of Lot 8, and the extension thereof 66.5 feet to the waters of Lake Conway; thence southwesterly along the waters of Lake Conway to point of intersection with a northerly extension of the westerly side line of said Lot 8; thence southeasterly along said extension and the westerly side line of said Lot 8 a distance of 69 feet to point of intersection with said traverse line; thence northeasterly along traverse line to Point of Beginning; lying and being in Section 30, Township 23 South, Range 30 East, Orange County, Florida.

PERMITTED EXCEPTIONS

1. Taxes and assessments for the year 2004 and subsequent years, which taxes are not yet due and payable.
2. Riparian and littoral rights are not insured.
3. Rights of others to use that portion of the insured land lying within the waters of Lake Conway, shown on Plat Book G, Page 138, Public Records of Orange County, Florida.
4. Restrictions, conditions, reservations, easements and other matters contained on the Plat of Lake Conway Park, as recorded in Plat Book G, Page 138, Public Records of Orange County, Florida.
5. Reservations in favor of the State of Florida, as set forth in the Deed from the Trustees of the Internal Improvement Fund of the State of Florida, recorded June 28, 1954, in Deed Book 986, Page 258, Public Records of Orange County, Florida.
6. Ordinance No. 74-6 by the City Council of the City of Belle Isle, Florida, recorded in OR Book 2582, Page 596, Public Records of Orange County, Florida.
7. Easement in favor of Florida Power Corporation, recorded April 11, 1977, in OR Book 2774, Page 1477, Public Records of Orange County, Florida.



Creative Construction Solutions

1204 Gallant Fox Way
Chuluota, FL 32766
(407) 761-9775
jlouche@ccsboatdocks.com

June 5, 2023

To: City of Belle Isle

Re: Variance Application Narrative for 3025 Indian Drive

The attached application package is a request for a variance from Belle Isle's boat dock ordinance section 48-32(3) and (6) regarding a request to extend the length of the dock approximately 24 ft longer than existing structures, which may be greater than 15 ft lakeward of an existing dock within 300 feet to reach lake bottom elevation 79.5 ft, as allowed under the code, and authorize a 425 sq ft roof over a 653 sq ft terminal platform of the dock to allow for a one (1.25) ft roof overhang.

Special Conditions and/or Circumstances Section 42-64 (1) d

The location of the subject property is in an area of the lake that tends to be shallower. For reference, it is close to the "sandbar" which is known to have shallow water extending further lakeward than other areas of the lake. Many of the docks, including the existing dock, are older and were built at a time of potentially higher water levels and shallower drafting older boats. The current code was updated to allow for a modern boat and functional dock depth of three (3) ft to prevent bottom scouring and allow for dock useability 80% of the time based on historical water level records. I am requesting a variance to construct the dock in accordance with the City Code to reach a lake bottom elevation of 79.5 ft to allow for a water depth conducive to boating and prevent scouring of the lake bottom. In addition, a 653 sq ft terminal platform with a 425 sq ft roof is proposed. This lot and the neighboring lots on this street tend to be narrower at around 70 ft wide, which allows for a maximum terminal platform of 700 sq ft. For comparison, when calculating the square footage of a house, the roof overhang is not included in the square footage calculations. As such, the useable square

footage of the terminal platform is less than the allowable about under the City Code. The addition of a roof with one (1.25) ft overhang over the terminal platform is requested.

Not-Self- Created Section 42-64 (1) e

The request for variance is not self-created in that I am seeking to rebuild the dock at a length with a water depth conducive to boating with lake bottom elevations consistent with what is allowable under the current code. It is not self-created in that I do not have a say in the construction decisions the neighbors had to construct docks closer to the shoreline. My clients dock and the next three existing docks within 300 ft have existing docks more than 15 ft lakeward of neighboring docks and one dock within 300 ft will extend further lakeward than my clients proposed dock. Additionally, the proposed terminal platform is 653 sq ft, which is less than the 700 sq ft allowed in code. I am requesting a variance to allow for an additional 21 sq ft to allow for a small roof overhang. The addition of a roof over the structure with a one (1.25) ft overhang brings the dock square footage to 721 sq ft, which is less than 5% over the allowable square footage. For reference, the County dock ordinance allows for a terminal platform 12 times the linear shoreline footage, not to exceed 1,000 sq ft, which would allow for an 840 sq ft dock. According to Orange County's presentation regarding the changes to the dock code, between 2017 - 2021, 37 waivers were requested to the boat dock terminal platform size and 100% of those waivers were approved. The County realized the need for allowing the smaller lots to construct a useable dock to incorporate a boat lift and small deck without applying for a variance.

Minimum Possible Variance Section 42-64 (1) f

The requested extension is the minimum possible variance to allow for the dock to be constructed in accordance with the City Code to reach a bottom lake elevation of 79.5 ft to allow for a water depth conducive to boating and consistent with the code. In addition, the proposed terminal platform is 653 sq ft, which is less than the allowable 700 sq ft. This is a minimally sized dock to allow for single boat lift and a small deck to enjoy the water. The roof overhang will allow for weather protection for the boat/engine, weather protection for the edges of the wood on the dock, and additional sun/weather protection while using the dock in the heat of summer. Removal of roof overhang to align directly with the dock will cause more rain to hit the deck and cause premature deterioration in more areas. In addition, the roof

overhang allows for use of the dock during a rain by keeping the occupants drier. The roof covering the deck with the overhang allows for greater usability of the dock year around since Florida summer and sun can be dangerous without protection.

Purpose and Intent Section 42-64 (1) g

Existing docks in the vicinity, including my clients existing dock, already extend 15 ft beyond the neighboring docks. A neighboring dock within 300 ft of my clients proposed dock will extend more than 40 ft beyond my proposed dock to reach lake bottom elevations consistent with the code due to the shallower waters in this area of the lake (sandbar). There are several examples since 2019 where new docks extend more than 15 ft lakeward beyond docks within 300 ft were permitted and approved without a variance. Neighboring docks within 300 ft of my proposed dock will extend further than my proposed dock extension. In addition to length, some existing dock platforms on the street are over 700 sq ft. My clients proposed terminal platform is less than 700 sq ft and the requested variance to allow for the roof overhang is less than 5% over the allowable square footage. The proposed size of the dock is compatible with the neighborhood and with the general purpose and intent of the code. Granting the variance will be in harmony with the general purpose and intent of the ordinance, will not be detrimental to the public welfare, and will not be contrary to the public interest.

No hazardous conditions to navigation nor safety hazards will be created with the proposed variance. The location and placement of the dock is compatible with other docks in the area in that this will be neither the closest to shore nor the furthest lakeward dock within 300 ft. The requested variance is not based on the current level of the lake; it is to allow for the construction of the dock at a depth consistent with the code. No special benefit is derived from the variance. 1) The extension of the dock will allow the dock to be constructed at a depth allowed under current code, 2) the terminal platform of the dock is smaller than the maximum allowable, and 3) the total square footage of the dock with the roof is neither the smallest or the largest dock nearby neighboring docks within 300 ft. Again, granting of this variance will be in harmony with the general purpose and intent of the zoning ordinances, will not be detrimental to the public welfare, and will not be contrary to the public interest.

Sincerely,

Jason Louche

CGC1523728