

MEMORANDUM

TO: Planning and Zoning Board

DATE: February 25, 2025

RE: Variance Application – 3538 Country Lakes Drive

[Planning and Zoning Case Number 2025-01-002:](#)

PURSUANT TO SECTION 48-33, THE CITY OF BELLE ISLE PLANNING AND ZONING BOARD SHALL REVIEW AND TAKE ACTION ON A REQUESTED VARIANCE FROM SECTION 48-32 (C) (1) TO ALLOW A DOCK AND WORK FOR AND ON A DOCK WITHIN A DRAINAGE AND UTILITY EASEMENT, SUBMITTED BY APPLICANT SHEILA CICHRA, ON BEHALF OF THE PROPERTY OWNER DANIEL JOSEPH MCCARTIN, LOCATED AT 3538 COUNTRY LAKES DRIVE, BELLE ISLE, FLORIDA 32812, ALSO KNOWN AS PARCEL ID #20-23-30-4980-00-030.

Background:

1. On January 2, 2025 the applicant submitted a Variance application and the required paperwork.
2. On February 12, 2025, letters to the abutting property owners were mailed within 300 feet of the subject property, and a Notice of Public Hearing legal advertisement was placed in the Orlando Sentinel on February 15, 2025.

The Board may adopt all, some, or none of these determinations as part of its findings of fact and add any additional findings of fact 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 48-33 AND 48-32(C)(1), TO ALLOW A DOCK AND WORK FOR AND ON A DOCK WITHIN A DRAINAGE AND UTILITY EASEMENT, SUBMITTED BY APPLICANT SHEILA CICHRA, ON BEHALF OF THE PROPERTY OWNER DANIEL JOSEPH MCCARTIN, LOCATED AT 3538 COUNTRY LAKES DRIVE, BELLE ISLE, FLORIDA 32812, ALSO KNOWN AS PARCEL ID #20-23-30-4980-00-030.

SAMPLE MOTION TO DENY:

"I MOVE, PURSUANT TO BELLE ISLE CODE 48-33 AND 48-32(C)(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] TO ALLOW A DOCK AND WORK FOR AND ON A DOCK WITHIN A DRAINAGE AND UTILITY EASEMENT, SUBMITTED BY APPLICANT SHEILA CICHRA, ON BEHALF OF THE PROPERTY OWNER DANIEL JOSEPH MCCARTIN, LOCATED AT 3538 COUNTRY LAKES DRIVE, BELLE ISLE, FLORIDA 32812, ALSO KNOWN AS PARCEL ID #20-23-30-4980-00-030.*

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, Florida

Planning and Zoning: Staff Report

February 13, 2025

Variance Request: 3538 Country Lakes Drive

Application Request: Planning and Zoning Case Number 2025-01-002: PURSUANT TO SECTION 48-33, THE CITY OF BELLE ISLE PLANNING AND ZONING BOARD SHALL REVIEW AND TAKE ACTION ON A REQUESTED VARIANCE FROM SECTION 48-32 (C) (1) TO ALLOW A DOCK AND WORK FOR AND ON A DOCK WITHIN A DRAINAGE AND UTILITY EASEMENT, SUBMITTED BY APPLICANT SHEILA CICHRA, ON BEHALF OF THE PROPERTY OWNER DANIEL JOSEPH MCCARTIN, LOCATED AT 3538 COUNTRY LAKES DRIVE, BELLE ISLE, FLORIDA 32812, ALSO KNOWN AS PARCEL ID #20-23-30-4980-00-030.

Existing Zoning/Use: R-1-AA / Single-Family Home

Background

The property owner submitted a boat dock permit to the City's Building Department for permit issuance. Under zoning review, city staff determined that the proposed dock would be located entirely within a dedicated 37-foot drainage and utility easement along the private property's rear lot line, projecting into the abutting canal channel. Under section 48-32 (C) (1), no dock or work for or on a dock shall be within areas that constitute easements for ingress, egress, or drainage held by individuals or the general public.

As a result, the applicant must seek variance approval from the Planning Board to build a dock along the canal front of the residential property. The subdivision plat for The Landings of Lake Conway details that the 37-foot drainage and utility easement is dedicated to the public, which provides that the local government has jurisdiction over the property and owns the easement. The City can require an easement encroachment agreement between the owner and the City to grant the variance sought as a condition of approval to allow the dock into and onto the easement.

City staff have also contacted Orange County's Public Works Department, as the County is responsible for maintaining Lake Conway and the connecting channels, to verify the existence of any underground infrastructure. As of February 13, 2025, Orange County's Chief Engineer with Orange County Stormwater Management, Daniel Negroni, confirmed that Stormwater Management has no infrastructure in the area.

City staff has requested the City Attorney create an easement agreement for the applicant to sign as a condition of approval for the requested variance, should the Board approve the requested variance to build a dock within the existing drainage and utility easement.

Criteria for Dock Variance Cases

Pursuant to section 48-33, the board shall not approve an application for a variance unless and until each of the following criteria have been met:

- (1) The dock shall not create conditions hazardous to navigation nor any safety hazards;
- (2) The location and placement of the dock shall be compatible with other docks in the area, and the NHWC of the lake;
- (3) The current level of the lake shall not be a factor in deciding whether to approve or deny a variance;
- (4) The application does not confer a special benefit to the landowner over and above the adjoining landowners and does not interfere with the rights of the adjoining property owner to enjoy reasonable use of their property; and
- (5) The requirements of subsection 42-64(1), except for subsection 42-64(1)d.

Staff Recommendation

Staff provides an evaluation based on the variance criteria for the application below.

- (1) The requested variance for the dock location does not create conditions hazardous to navigation nor any safety hazards as proposed. The applicant's submitted site plan notes that the proposed dock would maintain a 20-foot distance from an existing dock across the canal axis (center). The code requires a minimum navigable travel way of 15 feet width along the center of the canal between all docks and potential docks.
- (2) The proposed location and placement of the new dock would be compatible with the other docks in the area.
- (3) The lake's current level is not a factor in the requested variance as they do not seek to augment the lake level or gain additional dock length based on the lake level.
- (4) The application does not confer a special benefit to the landowner over and above the adjoining landowners. The requested variance does not interfere with the rights of the adjoining property owner to enjoy reasonable use of their property as it is consistent with other similar docks on the canal and will not impede boat travel in the canal as the configuration proposes.
- (5) The requirements of subsection 42-64 (1), except for subsection 42-64 (1) (d):

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

Per section 48-33 (b) (5), the criterion is not applicable for consideration of a dock variance.

B. Not Self-Created (Section 42-64 (1) e):

The requested variance is not self-created, as the applicant seeks to build a conforming boat dock per the design standards established in the city code.

C. Minimum Possible Variance (Section 42-64 (1) f):

The requested variance seeks the minimal possible variance to make reasonable of the land as the applicant meets all other code requirements for constructing a boat dock.

D. Purpose and Intent (Section 42-64 (1) g):

The requested variance could be construed to be in harmony with the general purpose and is compatible with the surrounding land uses as other residences.

Based on consideration of the review criteria, staff recommends approval of the requested variance application with the condition that the applicant signs and submits an easement agreement with the city for the request to build a permanent structure within the city's dedicated drainage and utility easement.

Additional Notes

Please note that the Board may approve the proposed variance application as it is presented to them, approve with specific conditions, continue the application if additional information is being requested for consideration, or deny the application, citing which variance criteria are not met. A decision by the Board may be appealed by an aggrieved person to the City Council pursuant to Code Sec. 42-71.



City of Belle Isle

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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	Sheila Cichra	OWNER	Daniel McCartin
ADDRESS	1002 Fort Mason Drive, Eustis, FL 32726	PROJECT ADDRESS	3538 Country Lakes Drive
CONTACT NUMBER	(407) 450-4241	OWNER'S CONTACT NUMBER	(503) 358-2679
EMAIL	sheilacichra@gmail.com	OWNER'S EMAIL	pvtan03@yahoo.com
PARCEL ID#	20-23-30-4980-00-030		
LAND USE CLASSIFICATION	0131 - Sfr - Canal Front	ZONING DISTRICT	BI-R-1-AA
SECTION OF THE CODE VARIANCE REQUESTED ON	48-32 (C) (1)		
DETAILED VARIANCE REQUEST			
Requesting permission to construct a dock and seawall in an easement.			
<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"/>	
<input checked="" type="checkbox"/> VARIANCE	<input type="checkbox"/> SPECIAL EXCEPTION	<input type="checkbox"/> OTHER	P&Z CASE NUMBER 2025-01-002
		DATE OF HEARING 02/28/2025	

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

Variance Criteria for a Boat Dock at 3538 Country Lakes Drive

This variance request is for permission to remove and rebuild a boat dock and seawall in a drainage and utility easement.

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.

This subdivision was platted in 1980 and there is a drainage and utility easement running along the shoreline of the canal. There are no utilities in the easement, but the Belle Isle ordinance – that was written long after the subdivision was platted – disallows docks to be constructed in an easement.

Without a variance, the property owner cannot rebuild their existing dock, which was severely storm damaged.

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.

The existing dock was there decades before the owner purchased the property. No one knew about the easement until we applied for a permit to replace the dock.

f. It is determined that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

Since the code states that **no** dock work can be done in the easement, a variance is required, no matter what the size of the proposed dock.

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.

Approval of the variance will be in harmony with the neighborhood, since the adjacent parcels also have docks. The proposed dock meets all of the other ordinance criteria, except 48-32 (C)(1).



AERIAL PHOTOGRAPH



FRONT OF HOUSE



VIEW FROM PROPOSED LOCATION LOOKING WEST



VIEW FROM PROPOSED LOCATION LOOKING EAST



VIEW OF PROPOSED LOCATION FROM ACROSS THE CANAL