



CITY OF BELLE ISLE, Florida

Planning and Zoning: Staff Report

August 15, 2024

Variance Request: 2104 Homewood Drive

Application Request: Public Hearing #2024-06-048 - PURSUANT TO BELLE ISLE CODE SEC. 42-64, 50-102 (B) (5) (A), AND 50-102 (B) (5) (B), THE CITY OF BELLE ISLE PLANNING & ZONING BOARD WILL CONSIDER AND TAKE ACTION ON THE REQUESTED VARIANCES TO ALLOW TWO WALLS ALONG EACH SIDE OF THE UNDEVELOPED PROPERTY, AND ALLOW ONE WALL TO BE TEN FEET IN HEIGHT INSTEAD OF THE REQUIRED MAXIMUM HEIGHT OF EIGHT FEET, SUBMITTED BY APPLICANT JOSE PINTO, LOCATED AT 2104 HOMEWOOD DRIVE, BELLE ISLE, FL 32809 ALSO KNOWN AS ORANGE COUNTY TAX PARCEL ID #19-23-30-5888-06-330.

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

Background

The applicant seeks to build two walls along the property's side lot lines. Each proposed wall acts as a barrier from the abutting property owner and the city right-of-way. The property is currently undeveloped, or vacant, except for a predated boat dock structure. Under section 50-102(B)(5), fences and walls are permitted only in the side and rear yards. Front yard fences are not allowed.

The homeowners seek to construct these two walls before or during the construction of their new single-family residence. The applicants have submitted a separate SFR permit application to the City's building department, pending zoning approval. City staff can only determine the lot's applicable front, side, and rear yards with an existing residence located on the property.

The proposed landscape wall abutting Nela Avenue has a peak height of ten feet from the property's grade. The design includes a maximum height of five feet and four inches of masonry wall with a five-foot aluminum railing fence embedded on top of the wall. As detailed on the MRC building sheet, the fence extends 127 feet and four inches abutting the right-of-way. From its peak height, the landscape wall steps down one foot and four inches for every 31 feet and three inches.

The proposed retaining wall abutting 2112 Homewood Drive has a peak height of four feet. In response to the City Engineer comments about the proposed lot grading plan, the applicant provided details for a retaining wall to address stormwater drainage issues that may accumulate on this property. Under section 10-152(D), any property's drainage from roofs and paved areas must not discharge in a manner that negatively impacts another property or creates a nuisance.

Staff Recommendation

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

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

For the requested height variance, the literal enforcement of the code does not result in an unnecessary hardship. The lot features unique physical and topographic conditions and circumstances peculiar to the land. However, the City's maximum height allowance is eight feet with the consent of the neighboring property owners within 50 feet of the wall site.

For the requested two wall installations before or during the construction of the principal building, the literal enforcement of the code results in an unnecessary hardship. The retaining wall impacts the applicant's current SFR building permit application, presenting one type of solution to the proposed lot grading plan for administrative zoning approval, and the landscape wall seeks to address erosion, safety, and privacy concerns.

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

The request to build a landscape wall to exceed the City's maximum height allowance is a personal hardship. A personal hardship is not an allowable basis for granting a variance approval. An unnecessary hardship results from the special conditions or circumstances of the property and structures.

The request to build two walls prior to or during the construction of the principal building is not a self-created hardship. The landscape wall addresses erosion, privacy, and safety concerns from the abutting roadway, and the retaining wall prevents stormwater drainage from negatively affecting the adjacent property owner.

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

The request to build a landscape wall to exceed the City's maximum height allowance makes reasonable use of the land due to the difference in grade between the property and the abutting public sidewalk.

The request to build two walls before the construction of the principal building makes reasonable use of the land, given the site's proximity to a main city roadway and the grade differences between the city right-of-way and the neighboring property.

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

The request to build a wall exceeding the City's maximum height requirement of eight feet is not in harmony with the purpose and intent of the land development code.

The variance request to build two walls before or during the construction of the principal building is not injurious to the neighborhood.

Pursuant to section 50-102(B)(16):

- a. In the event the applicant wishes to construct a fence or wall different from any of the provision of this subsection (b), a variance must be applied for to the planning and zoning board, pursuant to the provisions of chapter 42, article III. The board in granting an application for the variance may consider as justifying criteria, the following:
 1. A difference in grade between the property upon which the fence will be installed and the immediately adjacent property;
 2. The height or construction materials of already existing abutting walls or fences; and/or
 3. Conditions existing upon or occupational use of adjacent property creating an exceptional privacy or security need of applicant.
- b. The requirements of section 42-64(1) except for subsections 42-64(1)d and (1)f shall otherwise be met.

Based on the variance criteria of sections 42-64, city staff recommends that the Board not approve the requested variance to build a wall at a maximum height of ten feet as the request is a self-created hardship and does not meet the purpose and intent of the city code. Staff recommends that the Board approve the requested variance to build a landscape wall and retaining wall four feet in height before or during the construction of the principal building, with the condition that the two walls meet all other zoning requirements per section 50-102(B).

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.