



**CITY OF BELLE ISLE, FLORIDA
CITY COUNCIL AGENDA ITEM COVER SHEET**

Meeting Date: November 17, 2020

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Appeal of Fence Variance for 6838 Seminole Drive

Background: The property owner of 6904 Seminole (Debbie Donham) is appealing the decision of the P&Z Board to grant a variance for the installation of a fence at the next-door property 6838 Seminole (Daniel Barnes).

Prior to the P&Z Board meeting, Ms. Donham submitted concerns that she had regarding the installation of the fence. Her concerns were acknowledged by the P&Z Board at their meeting; however they did not discuss any of the issues raised by Ms. Donham that pertained to the fence. Ms. Donham attended the meeting via Zoom; however when it came time for public comment and testimony, she could not be identified on the virtual meeting list of participants.

Ms. Donham's justification for the appeal is included here. I took the liberty of contacting Mr. Barnes after the P&Z meeting to let him know that Ms. Donham might appeal because her concerns were not addressed, and I posed those questions to him. The email between Mr. Barnes and me is also included.

The variance application seeks a variance from Sec. 50-102 (b) (5) (a) to allow a six-foot high fence with interior walk gates in the front yard (east side) of the property. The proposed fence addition on the front, east side is consistent with the existing fence. The code expressly prohibits fences or walls in the front yard of a property. The variance is required before the proposed fence can receive a building permit.

The bottom line is that Ms. Donham wants to keep her fence. Mr. Barnes has no objection with her fence as long as it's on her property.

Staff Recommendation: Mr. Barnes should be allowed to install the fence according to his application. The staff recommends the following: Deny the appeal of Debbie Donham with the following conditions:

1. That Mr. Barnes layout the property line based on the surveys submitted.
2. That any of Ms. Donham's fence that may have encroached on Mr. Barnes property be moved within seven days to her property line under the supervision of a third party or with Mr. Barnes present.

3. Mr. Barnes gives Ms. Donham, or her representative, permission to be on his property to move the fence and only when it is coordinated so Mr. Barnes can be present.

Suggested Motion: I move that we deny the appeal of Debbie Donham with the conditions recommended by the City Staff.

Alternatives: Approve the appeal, or deny the appeal without conditions.

Fiscal Impact: None to the City

Attachments:

- Donham Appeal Letter
- Donham Survey
- Email between Mr. Francis and Mr. Barnes
- Donham letter to P&Z Board
- P&Z Packet with staff report and application for variance

11-5-2020

TO THE CITY OF BELLE ISLE, BOB FRANCIS,

RE: APPEAL P&Z VARIANCE

I move, the justifying criteria of the Belle Isle Land Development Code Sec. 50-102 (B)(5), Sec. 50-102 (B) (16) and Sec. 42-64 and Subsections: having NOT been met TO DENY the requested VARIANCE TO PLACE A FENCE WITH GATES IN THE FRONT YARD AND SIDE YARD OF PROPERTY OF A RESIDENTIAL PROPERTY, SUBMITTED BY DANIEL BARNES LOCATED AT 6838 SEMINOLE DRIVE ORLANDO FL. 32812 ALSO KNOWN AS PARCEL # 29-23-30-4389-02-090

① I WASN'T RECOGNIZED AT THE ZOOM MEETING I DIDN'T GET TO SPEAK. MY LETTER TO THE BOARD WAS NOT READ ALOUD IN THE MEETING.

② NO WHERE IN THE PLAN IS THERE INFORMATION AS TO WHERE THE PROPOSED FRONT AND SIDE GATES ARE TO BE INSTALLED. PROPERTY LINE IS NOT CLEARLY MARKED AND WHERE FENCE IS TO BE PLACED.

③ THERE IS A BIG DIFFERENCE IN THE GRADE OF THE YARD SINCE THE HOME WAS BUILT AT 6838 SEMINOLE DR. THE SWAIL HAS BEEN FILLED IN WITH DIRT AND PAVERS PLACED ON TOP BETWEEN HIS PROPERTY AND MINE CAUSING FLOODING IN MY YARD

④ MY WOOD PRIVACY FENCE WILL NOT BE IMPACTED BY PROPOSED FENCE. MY FENCE WILL NOT BE MOVED, REMOVED OR TOUCHED BY HIS PROPOSED FENCE
DEBORAH DONHAM 6904 SEMINOLE DR.

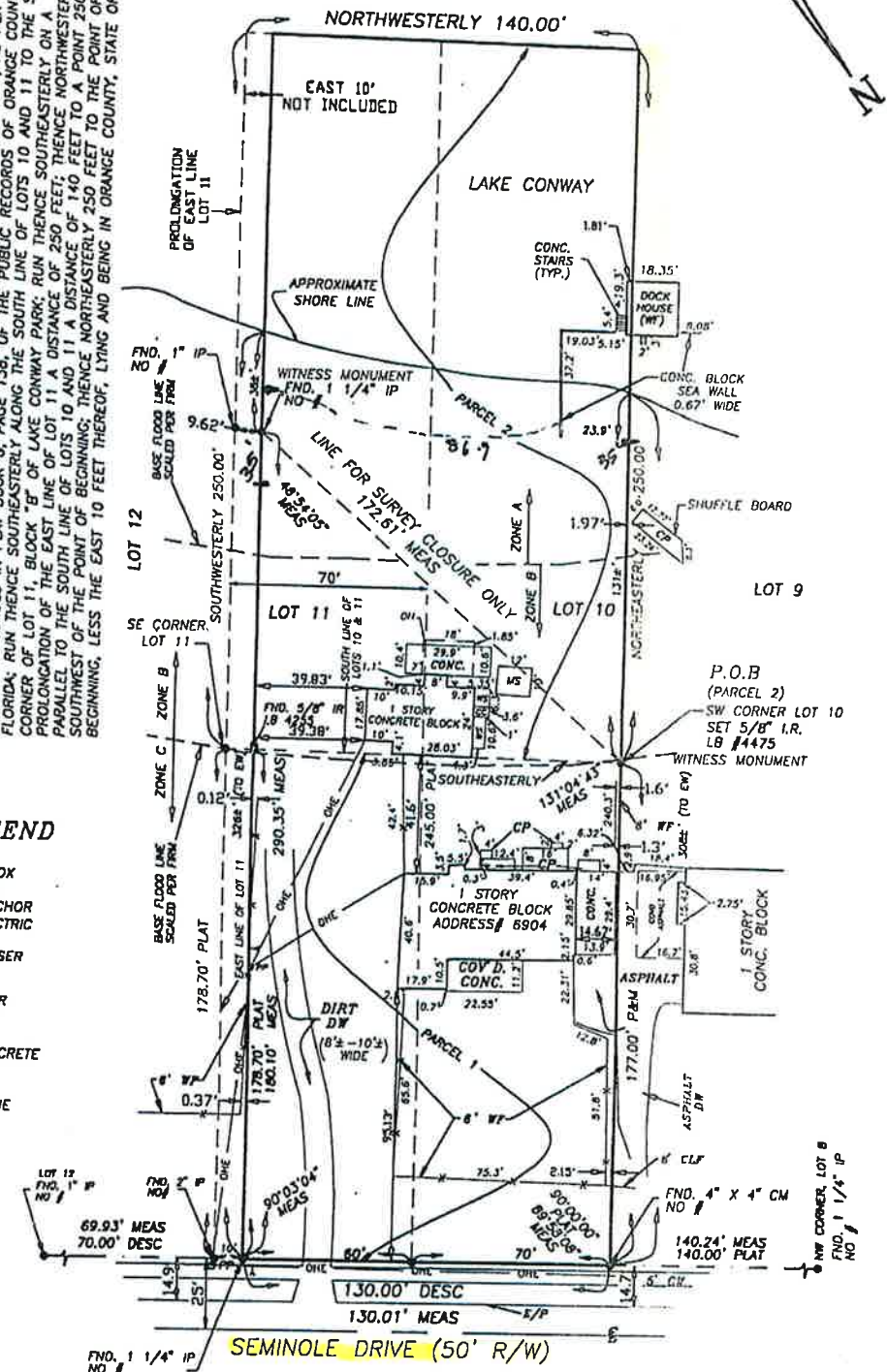
PLAT OF SURVEY

DESCRIPTION

PARCEL 1:
 LOTS 10 AND 11, BLOCK "B", LAKE CONWAY PARK, AS RECORDED IN PLAT BOOK G, PAGE 138, PUBL. RECORDS OF ORANGE COUNTY, FLORIDA, LESS THE EAST 10 FEET OF LOT 11;
 PARCEL 2:
 AND:
 BEGINNING AT THE SOUTHWEST CORNER OF LOT 10, BLOCK "B", LAKE CONWAY PARK, AS PER PLAT THEREOF RECORDED IN PLAT BOOK G, PAGE 138, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; RUN THENCE SOUTHEASTERLY ALONG THE SOUTH LINE OF LOTS 10 AND 11 TO THE SOUTHEAST CORNER OF LOT 11, BLOCK "B" OF LAKE CONWAY PARK; RUN THENCE SOUTHEASTERLY ON A PROLONGATION OF THE EAST LINE OF LOT 11 A DISTANCE OF 250 FEET; THENCE NORTHWESTERLY PARALLEL TO THE SOUTH LINE OF LOTS 10 AND 11 A DISTANCE OF 250 FEET; THENCE NORTHWESTERLY SOUTHWEST OF THE POINT OF BEGINNING; THENCE NORTHWESTERLY 250 FEET TO THE POINT OF BEGINNING, LESS THE EAST 10 FEET THEREOF, LYING AND BEING IN ORANGE COUNTY, STATE OF FLORIDA.

SYMBOLS LEGEND

- CO - CLEAN OUT
- EB - ELECTRICAL BOX
- FH - FIRE HYDRANT
- Y - GUY WIRE ANCHOR
- OHE - OVERHEAD ELECTRIC
- PP - POWER POLE
- TR - TELEPHONE RISER
- [T] - TRANSFORMER
- TV - CABLE TV RISER
- ⊕ - WATER METER
- ⊕ - WATER VALVE
- CC - COVERED CONCRETE
- MS - METAL SHED
- WS - WOOD SHED
- POL - POINT ON LINE
- WF - WOOD FRAME
- OF - OVER HANG



CF#: DCG-138 LOTS 10&11 BLOCK "B" NOTE: BUILDING TIES SHOWN ON THIS SURVEY SHOULD NOT BE USED TO RECONSTRUCT PROPERTY LINES.
 BOUNDARY SURVEY CERTIFIED TO: DEBORAH LYNN DONHAM

DATE: NOV. 30, 1999	THIS BUILDING/LOT IS NOT IN A FLOOD PRONE AREA, ZONE A, B, & C, BASED ON FLOOD INSURANCE RATE MAP NO. 120181 0002R, CITY OF BELLE ISLE, FLORIDA.	REVISIONS:
SCALE: 1" = 50'	DRAWN BY: DVZ/RLD	
THIS SURVEY MEETS THE "MINIMUM TECHNICAL STANDARDS" AS REQUIRED BY CHAPTER 61G17-6 FLORIDA BOARD OF LAND SURVEYORS PURSUANT TO SECTION 472.027 FLORIDA STATUTES.		

Frank A. Raymond
 FRANK A. RAYMOND PLS. 4097
 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RESSD SEAL OF THIS FLORIDA LICENSED SURVEYOR AND MAPPER.

ACCURIGHT SURVEYS
 of Orlando Inc., LB 4475
 2012 E. Robinson St.
 Orlando, Florida 32803
 PHONE (407) 894-6314
 FAX (407) 897-3777

<ul style="list-style-type: none"> CALC - CALCULATED CL - CENTERLINE CLF - CHAIN LINK FENCE CONC - CONCRETE CP - CONCRETE PAD ∠ - CENTRAL ANGLE DESC - DESCRIPTION DW - DRIVEWAY E/P - EDGE OF PAVEMENT FND - FOUND IR - IRON ROD MEAS - MEASURED M&D - MARK & DISK PC - POINT OF CURVATURE POB - POINT OF BEGINNING R - RADIUS TR - TYPICAL UC - UTILITY EASEMENT 	<ul style="list-style-type: none"> C/BW - CONCRETE BLOCK WALL CM - CONCRETE MONUMENT COVD - COVERED CR - CONCRETE CURB DE - DRAINAGE EASEMENT ESMT - EASEMENT FF - FINISHED FLOOR ELEVATION IP - IRON PIPE L - ARC LENGTH MS - METAL SHED OL - ON LINE P/M - PLAT & MEASURED P/C - POINT OF COMMENCEMENT R/W - RIGHT OF WAY UB - UTILITY BOX W - WOOD FENCE WF - WOOD FRAME EW - EDGE OF WATER
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To: Planning and Zoning Board members

From: Deborah Donham – Neighbor on East side of 6838 Seminole Drive

Re: Fence and Gate variance for 6838 Seminole Drive

I would like to request that the fence and gate variance requested for 6838 Seminole Drive be pulled from the agenda to give the City and board time to investigate some problems associated with that residence as described below which are damaging to my property and the lake.

- The swale that was originally along the side of the property that adjoins with my property has been filled in with dirt and built up plus pavers around the house and garage.
- Walkways were added to the dock and pool areas.
- Seawall with steps were added to the lake and built up with sand.
- Piping was added to the downspouts on the house and garage to direct the water into my yard which has caused flooding. Even after putting down many sandbags to keep the water out, the summer rains along with my land grade being lower, continues to cause my property to be flooded.
- With the additional paving that has been done on the property, is it over the allowed percentage of impervious land? The City should require the original swale to be returned to the side. Runoff to my property and the lake is a concern for me, the environment, and the lake.
- The watering directed at my fence with his sprinklers damages the wooden fence and directs more water on my property.

Should the board continue to consider the variance at the Tuesday meeting, then I would like the members to make sure of the following.

- The grade of the land where the fence is being built will not impact my property
- Markers showing the property line will be clearly marked
- My fence will not be touched or removed by the installation of the new fence nor will it be attached to mine in any way.
- Nowhere is there information as to where the front gate is to be placed (front or side?).

Thank you for your attention to my concerns.

Fence

Bob Francis <bfrancis@belleislefl.gov>
To: Dan Barns <danbospd@yahoo.com>

Wed, Oct 28, 2020 at 3:54 PM

Dan - Good Afternoon. Congratulations on getting your variance last night. I think your fence will look very nice along the front side of the property and compliment your gate. I see Dan Colpitts is doing the work and he does an exceptional job.

The reason for this email is to ask you to answer the questions posed to the P&Z in Debbie Donham's letter. She was in on the meeting last night but could not figure out how to be heard. Yolanda could not identify her either, so she did not have the opportunity to address the Board. When her letter first came to the City, I responded that the first part of her letter was not germane to the variance and would not be considered, but her other questions did apply to the variance.

I know that you and I have had our differences in the past but, as I said, I have no issues with your fence and think it's a good project. I just want to try to avoid an appeal by Debbie Donham or to save time and aggravation for everyone once the fence starts going in. So if you would consider taking the time to answer these questions, I would appreciate it. If not, no problem, we will take things as they come.

Will the grade of the land affect her property?

Will the property line be clearly marked according to the survey you submitted?

Will you be doing anything to her fence (removing or attaching your fence to hers)?

Where will the man-gate be placed?

One other thing to consider, depending on her finances: Would you consider putting up a combination of the aluminum fence out front and a vinyl fence for the remainder of the property and ask for a variance to go to 8-feet? That would protect the privacy of each of you. Depending on her finances, she could pay you the difference between what you want to put up now and what an 8-foot vinyl fence would cost.

Thank you for considering this matter.

Sincerely,

Bob

Bob Francis, ICMA-CM
City Manager
City of Belle Isle, FL

1600 Nela Ave.
Belle Isle, FL 32809
(407) 851-7730 (O)
(407) 450-6272 (C)
bfrancis@belleislefl.gov



Bob Francis <bfrancis@belleislefl.gov>

Fence

danbospd@yahoo.com <danbospd@yahoo.com>
To: Bob Francis <bfrancis@belleislefl.gov>

Thu, Oct 29, 2020 at 12:41 PM

Thank you for reaching out and we are excited about our new fence project. I think this addresses the questions.

No grade change.

There will be a property survey completed prior to any work commencing.

No part of our fence will touch the fence located at 6904 Seminole Drive.

There are no plans to add a gate to access the exterior of the property.

Our new fence will be installed per ordinance compliance. Should it be discovered according to the lot survey that there are obstructions or encroachments, those matters will be addressed.

Aesthetically, we are committed to maintaining consistency throughout the property and will install the current proposed fence and are not prepared to consider any adaptations.

Sent from my iPhone

On Oct 28, 2020, at 15:54, Bob Francis <bfrancis@belleislefl.gov> wrote:

[Quoted text hidden]



5.

April Fisher, AICP
PRESIDENT
407.494.8789
fisherpds@outlook.com

October 15, 2020

Variance Application: 6838 Seminole Drive

Applicant Request: PURSUANT TO BELLE ISLE CODE SEC. 50-102 (B) (5), SEC. 50-102 (B) (16) AND SEC. 42-64, THE BOARD SHALL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO PLACE A FENCE WITH GATES IN THE FRONT YARD AND SIDE YARD OF PROPERTY OF A RESIDENTIAL PROPERTY, SUBMITTED BY APPLICANT DANIEL BARNES LOCATED AT 6838 SEMINOLE DRIVE, ORLANDO, FL 32812 ALSO KNOWN AS PARCEL #29-23-30-4389-02-090.

Existing Zoning/Use: R-1-AA/ single-family home

Review Comments

This variance application seeks a variance from Sec. 50-102 (b) (5) (a) to allow a six-foot high fence with interior walk gates in the front yard (east side) of the property. The property received a variance from the Board in 2017 for an existing fence and access gates in the front of the property. The proposed fence addition on the front, east side is consistent with the existing fence. The code expressly prohibits fences or walls in the front yard of a property. A variance is required before the proposed fence can receive a building permit.

The board in granting an application for the variance may consider as justifying criteria, the following from Sec. 50-102 (b) (16):

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.

The requirements of Sec. 42-64 (1) except for subsections 42-64 (1) (d) and (1) (f) shall otherwise be met.

The applicant has provided information supporting the variance request. Please see this information enclosed with this agenda item packet.

Staff Recommendation

Based on the applicant's identification that because of the "L" shaped lot configuration with a long narrower front, security is a primary issue for installing the fence and gates in the front yard, staff recommends approval of the requested variance. This is consistent with meeting the criteria established in Sec. 50-102 (b) (16) (3) which the Board may consider as justifying criteria according to the code.

City of Belle Isle

1600 Nela Avenue, Belle Isle, Florida 32809 * Tel 407-851-7730 * Fax 407-240-2222

APPLICATION FOR VARIANCE / SPECIAL EXCEPTION

DATE: 9/30/2020

P&Z CASE #: 2020-10-003

X VARIANCE SPECIAL EXCEPTION OTHER

DATE OF HEARING: _____

APPLICANT: Daniel Barnes

OWNER: _____

ADDRESS: 6838 Seminole Dr.
Belle Isle FL 32912

PHONE: 630-675-0356

PARCEL TAX ID #: 29-23-30-4389-02-090

LAND USE CLASSIFICATION: _____ ZONING DISTRICT: _____

DETAILED VARIANCE REQUEST: FRONT YARD (East Property) Fence

SECTION OF CODE VARIANCE REQUESTED ON: 55-102(b)

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 a period of nine (9) months prior to the filing of the application. Further that the requested use does not violate any deed restriction of the property.

By submitting the application, 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 of my property to which the application applies.

Applicant shall provide a minimum of ten (10) sets of three (3) photographs in support of this application as follows: at least one (1) photograph of the front of the property and at least two photographs (from different angles) of the specific area of the property to which the application applies.

APPLICANT'S SIGNATURE

OWNER'S SIGNATURE

FOR OFFICE USE ONLY:	FEE: \$150.00	10/01/2020	# 1907	HVP
		Date Paid	Check/Cash	Rec'd By
Determination _____				
Appealed to City Council: <input type="checkbox"/> Yes <input type="checkbox"/> No		Council Action: _____		



Special Conditions/Circumstances

The Property located at 6838 Seminole Drive was approved to bear an "L" shaped pattern resulting in numerous conditions unique to this property and creating several situations in which an approved front yard gate and fence would help alleviate.

- * The front of the property at the street intersect of Seminole Drive is narrow while at the rear of the property it is wider. This creates a blockage of view at the street of the home and surrounding property due to the dwelling is set 300 feet from the street and offset on the lot.
- * Since the owner took occupancy in June of 2016, two incidents of theft have occurred in areas at the front of the home. The thefts were in areas to the front of the dwelling and not visible from the street.
- * Property is located within 6 houses from highly utilized Warren Park and a new canoe/paddle board launch dock.
- * The owner is issued an unmarked Orange County Sheriffs vehicle containing secured equipment vulnerable to damage and theft.

Creation of Special Conditions

The above special conditions are a direct result of the lot characteristics and construction location of the dwelling on the lot.

The owner has removed 8-12 foot shrubbery at the east side of the lot due to damage it was creating to the irrigation system. The east side shrubbery provided a visible barrier, however does not provide adequate security to the property. The continuation of existing fence will secure the property.

The owner has completed a front yard fence and gate (permit #2017-07-021) and needs this final fence approval for completion of project and securing of premises.

Minimum Possible Variance/Alternative Methods Considered

Securing the property from vandalism and theft is best attained by securing the perimeter of the property hence forbidding entry. Crime prevention practitioners widely recognize that in order for crime to occur one would need a desire and opportunity. While we cannot control the desire we have all the control of opportunity.

68 % (13 of 19) of current established lakefront homes on Seminole Drive possess a front yard gate and fence.

Increases the homeowner security and overall value of home.

Sets the bar for future similar construction projects in the area as current owners consider improvements.

Pending approval of the front yard fence, the homeowner has installed a camera and Alarm system.

Purpose and Intent

The fence (currently pictured on document front page) is esthetically pleasing and consistent with adjacent neighboring fence. The east side front yard fence will complete the process of securing the property.

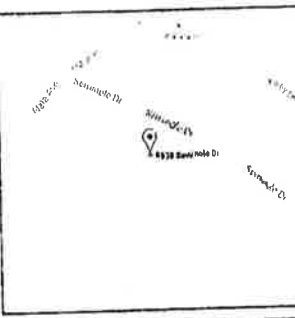
Fence allows clear visibility to pedestrians and vehicular traffic while exiting property while allowing clear visibility into the property for police patrols.

PREPARED BY:

EXACTIA

Land Surveyors, Inc.

www.exactland.com
Toll Free 866-735-1916 • F 866-744-2882



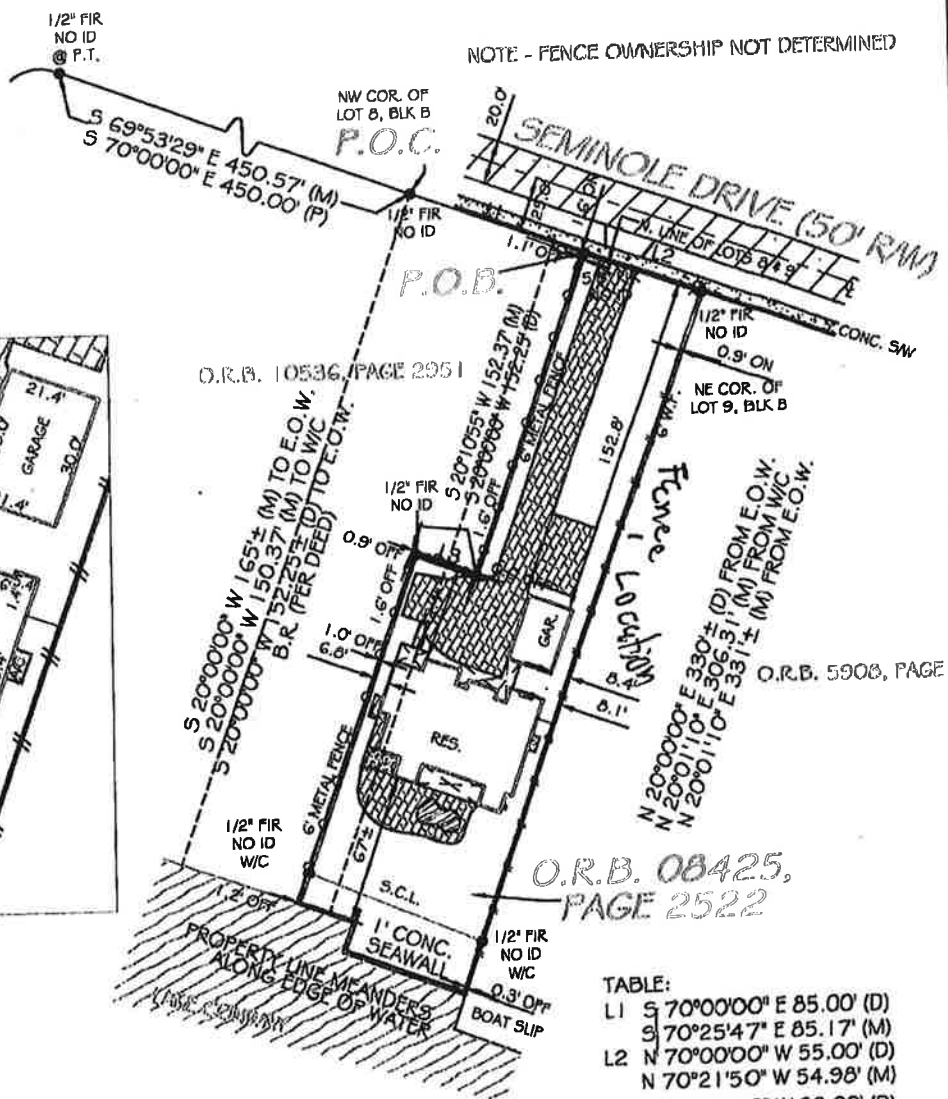
5.

PROPERTY ADDRESS: 6838 SEMINOLE DRIVE BELLE ISLE, FLORIDA 32812

SURVEY NUMBER: 1605.2817

FIELD WORK DATE: 5/18/2016 REVISION DATES: (REV 0 5/19/2016)

1605.2817
BOUNDARY SURVEY
ORANGE COUNTY



NOTE - FENCE OWNERSHIP NOT DETERMINED

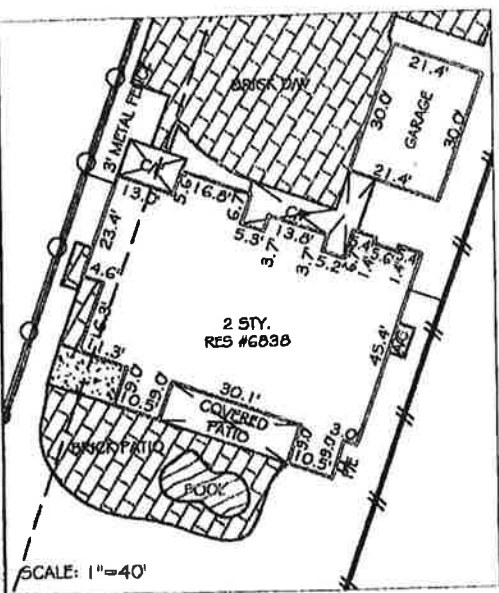
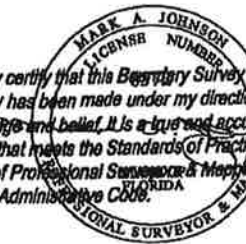


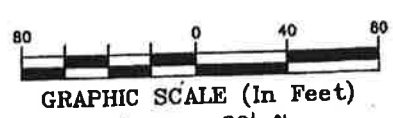
TABLE:

L1	S 70°00'00" E 85.00' (D)
	S 70°25'47" E 85.17' (M)
L2	N 70°00'00" W 55.00' (D)
	N 70°21'50" W 54.98' (M)
L3	N 70°00'00" W 30.00' (D)
	N 69°38'51" W 29.63' (M)
S.C.L.	N 67°42'33" W 85.06' (M)

I hereby certify that this Boundary Survey of the herein described property has been made under my direction, and to the best of my knowledge and belief, it is a true and accurate representation of a survey that meets the Standards of Practice set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 6J-17 of the Florida Administrative Code.



Mark A. Johnson
State of Florida Professional Surveyor and Mapper





Proposal - Contract

PO Box 592157 • Orlando, FL 32859-2157
Office: 407-297-8329 • Fax: 407-297-0188

Website: www.datsonfence.com • Email: datsonfence@aol.com

DAN BOSPD @YAHOO.COM

<input type="checkbox"/> GALV OPERATOR	<input checked="" type="checkbox"/> ALUMINUM
<input type="checkbox"/> WOOD	<input type="checkbox"/> VINYL
<input type="checkbox"/> CHAIN LINK	<input type="checkbox"/> PVC
<input type="checkbox"/> REPAIR	<input type="checkbox"/>

CUSTOMER DAN BARNES				* Datson Fence Company is not liable for any sprinkler systems.	
STREET 6836 SEMINOLE DR.					
CITY Belle Isle		STATE FL	ZIP 32812		
JOBSITE LOCATION		STREET	CITY	PHONE	CONTACT
HOME PHONE	OFFICE	FAX	407-675-0356		

POSTS
IN/OULT (IN/OUT)

WALK GATE	DRIVE GATE
1-3 1-5	N/A
WALK GATE	DRIVE GATE
N/A	Lock later

<input type="checkbox"/> WOOD	<input type="checkbox"/> PVC
TENSILE	MIN 47
TYPE	TYPE
PISTONS	STRINGS

TYPE CLIP

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

CHAIN LINK

TYPE	HEIGHT
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GARAGE

TYPE	TYPE
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TYPE LINE

TYPE	TYPE
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TYPE LINE

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TYPE FRAMEWORK

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TYPE WIRE

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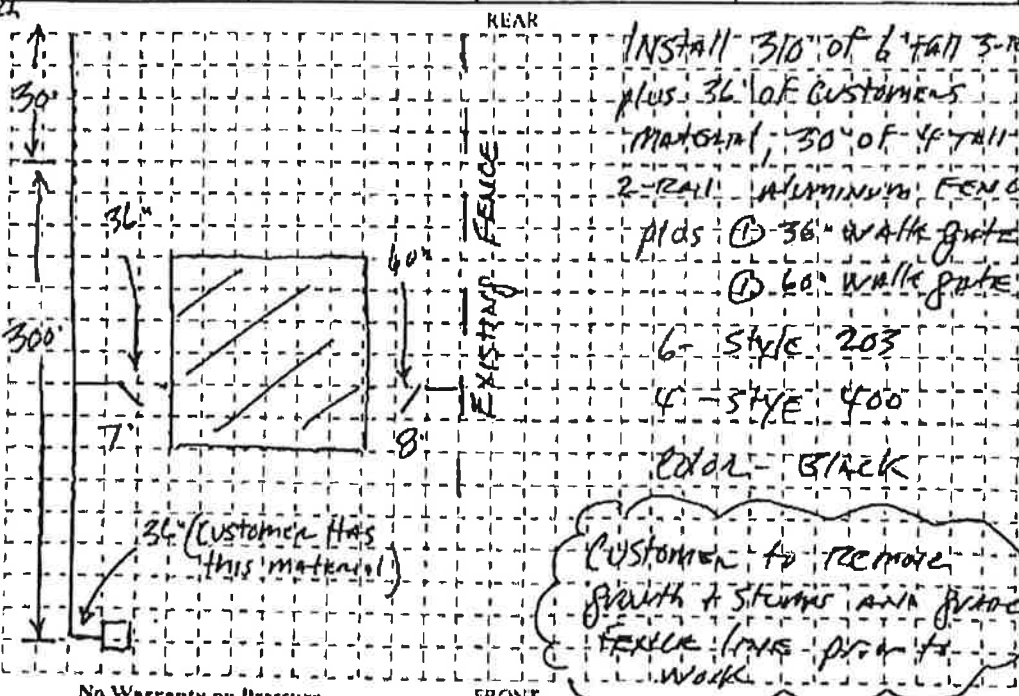
TYPE	TYPE
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TYPE WIRE

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TYPE WIRE

TYPE	TYPE
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No Warranty on Pressure Treated Pine from Warping

TOTAL PRICE INCLUDES:
 MATERIAL TEAR-OUT & HAUL
 LABOR PERMIT

Total	\$9834.00
50% Deposit	
Balance	

CHECK HERE IF CUSTOMER IS ACCEPTING RESPONSIBILITY FOR GETTING PERMITS AND ANY RELATED FEES, FINES, ETC.

BALANCE MUST BE PAID TO CREW WHEN JOB IS COMPLETE

PLEASE READ AND BE SURE YOU UNDERSTAND THE TERMS AND CONDITIONS ON THE REVERSE SIDE BEFORE SIGNING THIS CONTRACT. MANY OF THEM WILL BE IMPORTANT TO YOU.

By signing this proposal, Customer is authorizing Datson Fence to do the proposed work, and is accepting the prices and specifications shown above, and Datson Fence's standard terms 1-15 which may be on the reverse side, attached, or not attached. Customer may request a copy of terms 1-15 by calling Datson Fence. Upon acceptance and signing by Customer, this becomes a binding contract.

Note: This proposal is valid for 30 days.

Authorized Signature: Dan Barnes Date: 9/24/20

Customer Signature X _____ Date _____

DID YOU RECEIVE WARRANTY PAPERWORK?

Print Name _____
Clearly _____

Repeat Customer Yellow Pages Referral Other _____

Note: Company not responsible for any underground sprinkler lines.