



## CITY OF BELLE ISLE, FL PLANNING & ZONING BOARD MEETING

Tuesday, May 25, 2021, \* 6:30 pm

### MINUTES

The Belle Isle Planning & Zoning Board met in a regular session on May 25, 2021, at 6:30 pm at the City Hall Chambers located at 1600 Nela Avenue, Belle Isle, FL 32809.

Present was:

Chairman Holihan  
Board member Woods  
Board member Statham  
Board member Lane  
Board member Shenefelt  
Board member Thompson  
Board member Hobbs

Absent was:

Also present was City Manager Bob Francis, City Planner April Fisher, Attorney Dan Langley, and City Clerk Yolanda Quiceno.

**1. Welcome New Board Member - Michael Statham, District 3**

**2. Call to Order and Confirmation of Quorum**

Chairman Holihan called the meeting to order at 6:30 pm. City Clerk confirmed quorum.

**3. Invocation and Pledge to Flag – Board Member Hobbs**

Board member Hobbs gave the invocation and led the Pledge to the Flag.

**4. Approval of Minutes**

- a. Approval of the March 23, 2021 minutes
- b. Approval of the April 27, 2021 minutes

**Board member Woods moved to approve the minutes as presented**

**Board member Lane seconded the motion, which passed unanimously 7:0**

**5. Public Hearings**

- a. PUBLIC HEARING CASE #2021-04-016- 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 IN THE FRONT YARD OF A RESIDENTIAL PROPERTY AND WITHIN A PORTION OF CITY RIGHT-OF-WAY, SUBMITTED BY APPLICANT KEVIN KEENEY LOCATED AT 5428 PARKWAY DRIVE, BELLE ISLE, FL 32809 ALSO KNOWN AS PARCEL # 18-23-30-8856-02-100.

April Fisher, City Planner, presented the staff report and said the applicant seeks a variance to allow a four-foot-high aluminum decorative fence in the front yard for the safety and containment of a pet. However, there are two single-family homes on one lot, predating the current code, and there is no space in the back or side yard to have a fence.

Based on the applicant's identification that this variance request is for the containment of a pet, the staff is requesting denial of the variance. These reasons are not 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.

Mr. Keeney, the property owner of 5428 parkway Drive, said he asks for permission to allow the fence and keep his pets contained. Board member Woods said it had been eight years since he has lived on the property and asked why the

request for the variance. If the applicant just recently purchased a dog, then he should have considered the concern. Mr. Keeney said he has wanted a fence for quite some time but could not afford it.

Board member Woods also asked if the applicant is aware that the fence will encroach on the City right-of-way. The Board asked if the applicant would be able to install alternative measures such as an electronic fence. Mr. Keeney said he does not feel that it is fail-proof, and the right-of-way sits 17 feet away from the side of the house. Discussion ensued on the purpose and setback of a City right-of-way.

Attorney Langley said the Board could condition the variance on the modification of the perimeter of the fence or modify the applicant's request and reschedule the hearing. He does not believe the Board's granting of the variance would allow a fence to be constructed on a City right-of-way; that is a Council level decision. The request would probably be one that the City Attorney would not recommend because public right-a-ways are not be used for personal private use and could be deemed an act of vacating the public use. If the City Council were opened to the idea, the City Attorney would opt to enter into an agreement between the City and the property owner and clarify that it can be removed at any time to the City and utility provider.

After discussion, the Board suggested the following options,

- Install an electronic fence; or
- Change the drawings to restrict to only the front yard and not the right-of-way, or
- Pursue the current applicant

Board member Woods said the applicant does not cite all the requested variances, including Section 50-102 c-6 (right-of-way), and should be re-advertised. Additionally, the Board does not have the authority to approve as advertised.

April Fisher said it might be beneficial to speak with staff and the City Manager and discuss other options before pursuing a modified request. Mr. Keeney agreed to meet with staff before the next hearing. Ms. Fisher noted that at this time, the City Manager is not in favor of having a fence on the City right-of-way and recommends denial of the variance.

**After discussion, Board member Statham moved to table the Public Hearing to July 27 or 60-days to modify the application for consideration. Board member Lane seconded the motion, which passed unanimously 7:0**

## **6. Other Business**

### **a. Discussion definition on Artificial Turf - Land Development Code language change**

April Fisher said there are issues in the code that should be addressed, and one of the issues is artificial turf, which continues to be more widely used, both commercially and residentially. The Belle Isle Code is currently silent on this and does not provide any regulation or standards for application. Board member Woods provided a handout with some of his edits for discussion.

The staff has researched regulatory language that could be incorporated into the code to address this use. Therefore, we are asking that the Board consider discussing a draft ordinance to incorporate regulations into the code regarding the use of artificial turf.

Board member Statham spoke briefly on the installation of artificial turf, positives, and negatives. For a resident, there should be a standard that is detailed in the code.

Chairman Holihan shared his concern, including

- Drawbacks – Residents laying down cheap products in place of artificial turf due to cost.
- Section 2 – Defining Landscaping. Ms. Fisher said there is a cross-reference in the Ordinance that clarifies further.
- How will staff enforce it?

Attorney Langley said one of the items for discussion is whether artificial turf classifies at 100% impervious because, over time, it may not. Ms. Fisher said one of the changes made by Board member Woods is to create a particular set of standards and insert "Artificial turf meeting these standards shall be considered as 100% impervious area." to item (f) Pervious area.

Board member Woods shared his concerns with installing artificial turf and said initially, it looks great. However, over five years, the areas will experience pockets/divets, dust collection, permeability, and flooding. Additionally, if the artificial turf is used as an athletic field, it must have a hard border, which does not seem appropriate for the Wallace field. Discussion ensued.

Board member Statham said he would bring forward information on installation and types of turf to define what is acceptable for review at the next meeting.

Following the Board discussion, the Board agreed to table the discussion and reconvene talks at the next meeting.

b. Discussion definition on ISR - Land Development Code language change

April Fisher said the City receives applications for improvements to residential properties that sometimes trip the impervious surface ratio (ISR) threshold of 35%. The code allows mitigation up to 65% without needing to seek a variance from the Board. One out of four of the applications received requires mitigation. Ms. Fisher provided supporting documentation for the Board's review and consideration before taking formal action.

April Fisher said when mitigation is required, if there is no master stormwater pond system for the overall subdivision, each property must mitigate to compensate for stormwater runoff that must be maintained over 35%. There are jurisdictions in the surrounding area that have a base ISR of 45% or 50%. This seems to be standard. The staff has not been able to identify why the ISR was set at 35% for the City.

Ms. Fisher asked the Board if they would like to consider raising the City ISR maximum for residential properties to 50%. The mitigation is usually achieved through swales, drain systems, rain barrels, or rain gardens. If a property is already over 35%, then the code provides that the property owner is only required to mitigate the newly created percentage increase.

Chairman Holihan asked if the City is at 50% aren't we hurting the lake. Board member Woods said yes, we would be hurting it less, staying at 35%. If development is designed correctly, the runoff from all of the houses goes to the retention pond. Ms. Fisher said the subdivision standards would be reviewed and modified under a separate process if the ISR is increased.

**After discussion, Board member Woods moved to recommend that the 35% impervious ratio be maintained. Board member Hobbs seconded the motion, which passed 6:1 with Comm Statham, nay.**

c. Discussion definition of Kitchen and Wet Bar

The City receives applications for new single-family residential development with "wet bars" and sometimes proposes a second kitchen internal to the primary house, which the code prohibits. It is a safeguard against accessory dwelling units. Guest Cottages cannot have a kitchen, and you cannot have a guest cottage without the approval of a special exception.

To provide a clear, objective definition in the Land Development Code of what constitutes a kitchen, the staff proposes the following code definitions, as defined in Orange County, for discussion.

- Proposed Kitchen definition: Kitchen shall mean the facilities and equipment or rough in facilities used to prepare and serve food. This may include, but is not limited to, stoves, microwave ovens, hot plates, sinks, refrigerators, cabinets and pantry-like shelves, a 220 V outlet or any gas lines (natural gas or propane), a dishwasher, or other food preparation equipment, or any combination thereof; this may not include wet bars, outside grilling facilities, outside sinks or refrigerators, or other items determined by the zoning division manager as not constituting a kitchen.

- Proposed Wet Bar definition: Wet bar shall mean a hand sink and under-the-counter refrigerator with no overhead cabinets.

Ms. Fisher noted that the difference with a summer kitchen is that it does not have walls.

Board member Woods asked, what is the reason to avoid a second kitchen in a single-family home. Ms. Fisher said because single-family homes allow only one primary residence and not a secondary living unit.

Mr. Woods said another trend to consider is Elder Care for family members. He believes the focus should be not on what a kitchen is but on a secondary kitchen.

In an accessory structure, board member Shenefelt said he would agree with a second kitchen in the main dwelling.

Ms. Fisher said the City Council took up the discussion a couple of years ago and was not in favor of allowing the use because of the possibility of having a rental/secondary living unit. However, suppose the Board would like to incorporate these definitions into the code and open discussion on Elder Care at another meeting. In that case, staff will prepare a draft ordinance for formal consideration in a scheduled public hearing.

Ms. Fisher said she could provide a revised definition that pulls the sections of code that identify where it prohibits the scenarios discussed to allow for the opportunity for in-law suites or eldercare amenities.

#### **6. Other Business**

The Board discussed canceling the July meeting due to vacation schedules. Ms. Fisher said she had not received any application to date.

**Board member Hobbs moved to cancel the meeting on June 22, 2021, and have the next meeting on July 27, 2021.**

**Board member Shenefelt seconded the motion, which passed unanimously 7:0.**

#### **7. Adjournment**

There being no further business, Chairman Holihan called for a motion to adjourn the meeting, unanimously approved at 8:00 pm.