



# CITY OF BELLE ISLE, Florida

## Planning and Zoning: Staff Report

November 20, 2024

**Variance Request:** 5208 Driscoll Court

**Application Request:** P&Z Case Number 2024-09-008: Continuance - PURSUANT TO SECTION 50-102 (B) (5), 50-102 (B) (16), 30-133 (D) (3), 30- 133 (E) (3), AND 42-64, THE CITY OF BELLE ISLE PLANNING AND ZONING BOARD SHALL REVIEW AND TAKE ACTION ON A REQUESTED VARIANCE TO ALLOW A FENCE EIGHT FEET IN HEIGHT ALONG THE NORTHERNLY SIDE YARD LOT LINE WITHOUT THE WRITTEN CONSENT OF ALL THE PROPERTY OWNERS WITHIN 50 FEET OF THE PROPOSED FENCE INSTALLATION, AND A REQUESTED VARIANCE TO ALLOW A FRONT YARD DRIVEWAY WITHIN THREE FEET OF THE NORTHERNLY SIDE LOT LINE AND ALLOW THE FRONT EDGE OF THE PREPARED SURFACE LESS THAN FIVE FEET FROM THE PAVED SIDEWALK CONTRARY TO THE CITY CRITERIA FOR PARKING ON A PREPARED SURFACE IN A RESIDENTIAL AREA, SUBMITTED BY APPLICANT CLAUDIA MUSTAFA, LOCATED AT 5208 DRISCOLL COURT, BELLE ISLE, FLORIDA 32812, ALSO KNOWN AS PARCEL ID # 20-23-30-1222-00-020

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

### **Background**

The applicant requests to construct a fence eight feet in height along the residential property's northerly side yard. The city's land development code allows fences eight feet in height with the written consent of the abutting property owners within 50 feet of the proposed site. The applicant seeks to expedite the fence permit process by requesting a variance.

The applicant also requests to expand their driveway layout, as shown on the site plan. The proposed driveway improvement is approximately 9.5 feet by 29.5 feet in the designated front yard and is located three feet from the Driscoll right-of-way and three feet from the side lot line. The proposed driveway extends into the side yard entirely with zero setbacks from the side lot line. The Narrative Letter details that the proposed driveway is designed to accommodate their boat and trailer.

At the Planning and Zoning Board meeting on October 22<sup>nd</sup>, 2024, the Board voted to continue the variance hearing to December 11<sup>th</sup>, 2024, for further discussion at the request that the applicant provide any letters of consent from the abutting property owners within 50 feet of the proposed fence site, written letter(s) of consent from the local utility companies allowing the applicant to build on the existing five-foot utility easement, and a written acknowledgment from the property owners regarding the use of the utility easement for their consideration.

### **Staff Recommendation**

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

Pursuant to section 50-102(B)(16), regarding the requested fence height:

- a. In the event the applicant wishes to construct a fence or wall different from any of the provisions of this subsection (b), a variance must be applied 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 the 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 and 50-102(B)(16), staff recommends that the Board approve the requested variance to construct a fence eight feet in height as the proposal is the minimal possible variance from the city code and demonstrates existing conditions for privacy need.

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Pursuant to sections 30-133 (D) (3), 30-133 (E) (3), and 42-62:

The following criteria must be met for approval of the prepared surface:

- 1) The location of the surface must be adjacent to the existing driveway or placed in line with either outside edge of the existing structure.
- 2) The surface must be placed such that the vehicle, when parked, is perpendicular to the existing structure.
- 3) The front edge of the surface must be not less than five feet from the front property line.

Any vehicle parked in a front yard must be parked:

- (1) Completely on an approved prepared surface as described in this section.
- (2) At least three feet from any existing sidewalk.
- (3) At least three feet from any side lot line.
- (4) At least three feet from a non-sidewalk curb or roadway if no curb.

The applicant requests to encroach within three feet of the side lot line in the front yard, extend the driveway in the side yard with no setbacks to the side lot line, and create the front edge of the prepared surface within five of the front property line. The site plan notes that the property maintains a five-foot utility easement along the side and rear lot lines, typical for residential properties.

Staff recommends that the Board deny the requested variance to expand the driveway within three feet of the side lot line in the front yard, and not allow the front edge of the surface to be less than five feet from the front property line. Utility easements are dedicated to other entities in perpetuity unless the easement is abandoned or consent is granted to utilize the area.

Should the Board approve the requested variance for the driveway, staff recommends that a condition of approval be placed on the request to ensure that the applicant receives written consent from the utility company to allow pavers within the five-foot utility easement.

### **Additional Notes**

Please note that the Board may approve the proposed special exception 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.