

ITEM 5

MEMORANDUM

TO: Planning and Zoning Board

DATE: October 27, 2020

PUBLIC HEARING CASE #2020-10-003- 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.

Background:

1. On September 30, 2020, Daniel Barnes submitted a request, application and required paperwork.
2. A Notice of Public Hearing legal advertisement was placed in the Saturday, October 17, 2020, Orlando Sentinel.
3. Letters to the abutting property owners within 300 feet of the subject property were mailed on Thursday, October 15, 2020.

The Board may adopt all, some, or none of these determinations as part of their findings-of-fact. The Board may also add any additional findings-of-fact that are presented at the public hearing. The Board will need to determine if the criteria set forth 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, the criteria of Section SEC. 50-102 (B) (5), SEC. 50-102 (B) (16) AND SEC. 42-64 OF THE Belle Isle Land Development Code having been met **TO APPROVE THE 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.**

SAMPLE MOTION TO DENY:

"I move, the justifying criteria of the Belle Isle Land Development Code Section 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 APPROVE THE 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.**

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.



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

☒ VARIANCE ☐ SPECIAL EXCEPTION ☐ OTHER

DATE OF HEARING: _____

APPLICANT: Daniel Barnes

OWNER: _____

ADDRESS: 6838 Seminole Dr.

Belle Isle Rd 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: 50-102(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
Date Paid Check/Cash

HVP
Rec'd By

Determination _____

Appealed to City Council: ☐ Yes ☐ No

Council Action: _____

Front Yard Fence Variance Request
6838 Seminole Drive
Belle Isle



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.

EXACTA
Land Surveyors, Inc.

1000 P-8

1000 P-11

Serrano D.

Serrano D.

Serrano D.

Serrano D.

1000 P-8

Serrano D.



PROPERTY ADDRESS: 6838 SEMINOLE DRIVE BELLE ISLE, FLORIDA 32812

REVISION DATES: (REV 0 5/19/2016)

O.R.B. 5908, PAGE 4

O.R.B. 08425
PAGE 2522

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 person 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



