



# CITY OF BELLE ISLE, Florida

## Planning and Zoning: Staff Report

November 17, 2023

Variance Request: 2913 CULLEN LAKE SHORE DRIVE

Application Request: Public Hearing #2023-10-009 - PURSUANT TO BELLE ISLE CODE SEC. 42-64, 50-73 (A), 50-74 (C) (3), AND 50-102 (A) (7), THE CITY OF BELLE ISLE PLANNING & ZONING BOARD WILL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO ALLOW A BUILDING SETBACK OF 21 FEET AND THREE INCHES FROM THE 50-FOOT BUILDING SETBACK FROM THE 86.9 CONTOUR LINE (OR NORMAL HIGH-WATER ELEVATION) OF LAKE CONWAY, A VARIANCE TO ALLOW AN IMPERVIOUS SURFACE RATIO OF 39.3 PERCENT WITHOUT PROVIDING FOR ONSITE RETENTION BASED ON THE DIFFERENCE OF THE THIRY FIVE PERCENT BASE IMPERVIOUS AREA FOR THE ZONING DISTRICT, AND A VARIANCE TO ALLOW A DECK SETBACK OF 20 FEET AND ONE INCH FROM THE 30-FOOT DECK SETBACK FROM THE 86.9 CONTOUR LINE (OR NORMAL HIGH-WATER ELEVATION) OF LAKE CONWAY, SUBMITTED BY APPLICANT ANTHONY GALLIPPI, LOCATED AT 2913 CULLEN LAKE SHORE DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS ORANGE COUNTY TAX PARCEL ID #18-23-30-4386-03-730.

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

### **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):

The property is a peninsula surrounded by water along multiple sides of the lot. The configuration of the land and pre-existing structures creates special conditions and circumstances to allow the requested variances for the building and deck areas within the designated setbacks and the property currently exceeds the base impervious surface ratio at 40.3 percent without providing for onsite retention.

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

The request to build a deck within the designated setbacks of the normal high-water elevation of Lake Conway and exceed the base ISR requirement without creating onsite retention are not self-created, as the structures existed before the applicant purchased the property in 2017. Orange County Property Appraiser provides annual aerial views of the site, showing that the lot's structures have not altered inland over the years.

The request to replace the accessory structure with an addition to the principal building is not self-created as the configuration of the lot provides limited building space from the required 50-foot setback.

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

The Variance Application packet includes the existing and proposed setbacks and ISR calculations of the property.

- I. The variance request for the deck setback makes reasonable use of the land. The property survey shows the existing deck encroaches into the required setback one foot west and eight to sixteen feet south of the current deck from the NHWE. The applicant seeks to alter the current deck layout with a one foot and four-inch encroachment to the west and approximately ten-to-fifteen-foot encroachment south of the new deck from the NHWE.
- II. The variance request for the building setback makes reasonable use of the land as the applicant seeks to replace the existing canopy with an attached cabana structure in approximately the same location with a new setback of 21 feet and three inches from the NHWE. The existing and proposed structure provide a similar function; however, the code requires a greater setback for a principal building at 50 feet from the NHWE than an accessory structure at 35 feet from the NHWE.
- III. The variance request for not providing onsite retention makes reasonable use of the land as the lot's configuration would not create adverse runoff impacts to the neighboring residence. Based on the current design layout and the proposed improvements, the ISR percentage would decrease from 40.3 percent to 39.3 percent due to a reduction of the deck size from 3,149 square feet to 2,611 square feet, totaling a difference of 538 square feet.

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

The variance requests to allow a building setback of 21 feet and three inches from the normal-high water elevation of Lake Conway instead of the required 50-foot setback, a deck setback of 20 feet and one inch from the normal-high water elevation of Lake Conway instead of the required 30-foot deck setback, and an actual impervious surface ratio of 39.3 percent without providing onsite retention would not be harmful to the neighborhood. Staff has contacted the city's Code Enforcement Department, Public Works Department, and city engineers to verify reported drainage or flooding issues near the property. Staff found there are no reports or findings regarding these issues. Staff considers the requested variances not detrimental to the public welfare.

Based on the variance criteria under section 42-64 (d-g), Staff recommends that the Board approve the requested variances to allow a building setback of 21 feet and three inches from the required 50-foot setback of the normal-high water elevation of Lake Conway, a deck setback of 20 feet and one inch from the required 30-foot deck setback to the normal-high water elevation of Lake Conway, and an allowable impervious surface ratio of 39.3 percent without creating onsite retention.

**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.



# CITY OF BELLE ISLE, Florida

## Planning and Zoning: Staff Report

November 17, 2023

Variance Request: 3104 Indian Drive

Application Request: Public Hearing #2023-09-028 - PURSUANT TO BELLE ISLE CODE SEC. 42-64 AND 50-102 (A) (1), THE CITY OF BELLE ISLE PLANNING & ZONING BOARD WILL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO ALLOW A DETACHED METAL GARAGE TO BE BUILT ARCHITECTURALLY DIFFERENT TO THE PRINCIPAL BUILDING WITH UNLIKE MATERIALS, SUBMITTED BY APPLICANT MARK ADAMS, LOCATED AT 3104 INDIAN DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS ORANGE COUNTY TAX PARCEL ID #29-23-30-4389-03-040.

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

### **Background**

The applicant seeks to build a detached metal garage in the rear yard.

Section 50-102 (A) (1) defines a garage as: *buildings which are detached from the principal building and are designed or used for the purpose of parking and/or storing motor vehicles, boats, and/or recreational vehicles, and related items, and are architecturally similar to the principal building and of like materials.*

### **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):

The literal enforcement of the code does not result in an unnecessary hardship nor are there any physical or topographic special conditions and circumstances peculiar to the land. The existing principal building accommodates an attached one-car garage.

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

According to the applicant's Narrative Letter, the request to build a garage with architectural materials different than those of the principal building is a financial hardship. A financial hardship is not an allowable basis for granting a variance approval. A hardship results from the conditions of the property.

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

The variance request does make reasonable use of the land as the proposed structure meets all other zoning requirements for a detached garage and would not be visible from the main road as the side yard is ten to thirteen feet and the proposed structure's side setback of eight feet from the nearest lot line.

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

The structure's purpose is to store the owner's motor vehicles. The homeowner does not intend to include a driveway to the proposed structure. Staff found three properties within the neighborhood that possess a detached garage in the front yard architecturally similar to the principal building. The proposed variance request is not in harmony with the purpose and intent of the land development code.

Based on the variance criteria of sections 42-64 (d), (e) and (g), Staff recommends that the Board not approve the requested variance to build a detached garage architecturally different from the principal building with unlike materials as there are no special conditions or circumstances of the land, the request is a self-created hardship, and does not meet the purpose and intent of the city code.

**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.



# CITY OF BELLE ISLE, Florida

## Planning and Zoning: Staff Report

DATE: November 17, 2023

TO: Planning and Zoning Board for Council Review

FROM: Raquel Lozano, City Planner

SUBJECT: Implementation of Senate Bill 102 – Live Local Act

RVi Planning, hired to update the city's comprehensive plan, created a fact sheet (attached to this report) to outline key policies of the Live Local Act and its applicability to the City of Belle Isle. Based on their report, the Act has limited impact on the city as the number of commercial and industrial zoned properties is below the threshold established by state law to approve qualifying affordable housing projects exclusively for residential use. Florida statutes (F.S. 166.04151) provide that municipalities that designate land less than 20 percent of the land area within its jurisdiction for commercial or industrial use must authorize a proposed multifamily development in those designated areas if the proposed development is mixed-use residential. Belle Isle's commercially and industrially zoned areas comprise approximately 12.9 percent of the city's land area and are mostly already developed. F.S. 166.04151(7)(a) defines mixed use residential as at least 65% of the total square footage.

The new statutory provisions indicate that a local government shall not require any rezoning process or comprehensive plan amendment process and that such a multifamily mixed-use project that complies with F.S. 166.04151 affordable housing provisions must be approved administratively (F.S. 166.04151(7)(d)). Such a project would have a by-right ability to be built at the maximum density allowed on any land in the city (the highest density provided for any land in the city currently is Medium Density Residential on the Future Land Use Map at 5.6 to 10 dwelling units per acre); would be able to be as tall as the height currently allowed height for a commercial or residential development located in the city within one mile of the proposed development, or three stories, whichever is higher.

**Staff Recommendation:** There are provisions of F.S. 166.04151 that are self-executing. Some jurisdictions in Florida, particularly larger ones significantly affected by these new laws, are amending their land development code to adopt provisions implementing the Live Local Act.

Staff recommends that the city outline administrative standard operating procedures for multifamily mixed-use projects that qualify under the act. It is incumbent upon the applicant to prove that the mixed-use development meets the state law requirements for an affordable housing project for staff review and approval. Upon consensus from the Board, a recommendation to establish administrative standard operating procedures can be shared with the City Council to address the Live Local Act.