#### MEMORANDUM

TO: Planning and Zoning Board

DATE: November 28, 2023

RE: Variance Application – 2913 Cullen Lake Shore Drive

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 86.9 CONTOUR LINE (OR NORMAL HIGH-WATER ELEVATION) OF LAKE CONWAY INSTEAD OF THE REQUIRED 50-FOOT BUILDING SETBACK, 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 86.9 CONTOUR LINE (OR NORMAL HIGH-WATER ELEVATION) OF LAKE CONWAY INSTEAD OF THE REQUIRED 30-FOOT DECK SETBACK, 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.

#### Background:

- 1. On October 4, 2023, the applicant submitted a variance application and the required paperwork.
- 2. A Notice of Public Hearing legal advertisement was placed in the Orlando Sentinel on Sat., Nov 18, 2023.
- 3. Letters to the abutting property owners were mailed within 300 feet of the subject property on Nov 14, 2023.

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 must determine if the criteria outlined 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, PURSUANT TO BELLE ISLE CODE SEC 42-64, 50-73 (A), 50-74 (C) (3), AND 50-102 (A) (7) TO APPROVE A BUILDING SETBACK OF 21 FEET AND THREE INCHES FROM THE 86.9 CONTOUR LINE (OR NORMAL HIGH-WATER ELEVATION) OF LAKE CONWAY INSTEAD OF THE REQUIRED 50-FOOT BUILDING SETBACK, 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 86.9 CONTOUR LINE (OR NORMAL HIGH-WATER ELEVATION) OF LAKE CONWAY INSTEAD OF THE REQUIRED 30-FOOT DECK SETBACK 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.

#### SAMPLE MOTION TO DENY:

"I MOVE, PURSUANT TO BELLE ISLE CODE SEC. 42-64, 50-73 (A), 50-74 (C) (3), AND 50-102 (A) (7), HAVING NOT BEEN MET, TO DENY [use only if NONE of the justifying criteria have been met] the requirements of, Subsections: [state only the subsections below that are not satisfied] having NOT been met; [may be used in addition to above or alone] A BUILDING SETBACK OF 21 FEET AND THREE INCHES FROM THE 86.9 CONTOUR LINE (OR NORMAL HIGH-WATER ELEVATION) OF LAKE CONWAY INSTEAD OF THE REQUIRED 50-FOOT BUILDING SETBACK, 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 86.9 CONTOUR LINE (OR NORMAL HIGH-WATER ELEVATION) OF LAKE CONWAY INSTEAD OF THE REQUIRED 30-FOOT DECK SETBACK 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.

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.

Or the Board can request that it be tabled to a date certain to allow for revisions as discussed.



Variance and Special	Exception Application				
City Code Chapter 42, Art. II, Sec. 41-61 thru 4	11-72 AND Sec 42-64 Land Development Code				
APPLICANT Anthony Gallippi	owner Anthony Gallippi				
ADDRESS 2913 Cullen Lake Shore Dr	PROJECT ADDRESS 2913 Cullen Lake Shore Dr				
CONTACT NUMBER 404-353-3000	OWNER'S CONTACT NUMBER 404-353-3000				
tonygallippi@gmail.com	owner's EMAIL tonygallippi@gmail.com				
PARCEL ID# 18-23-30-4386-03-730	New York State				
LAND USE CLASSIFICATION 0104 Single Fam Class IV	ZONING DISTRICT R-1-AA				
SECTION OF THE CODE VARIANCE REQUESTED ON 50-73(a) and	50-102(a)(7) and 50-74 (c)(3)				
Seeking a setback of 21 feet 3 inches from to extension to the primary structure, a setback deck, and an ISR of 39.3% without creating of the contractions.	of 20 feet 1 inch from the NHWL for a patio consite retention.				
<ul> <li>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 nine (9) months. Further, the requested user does not violate any deed restriction of the property.</li> <li>By applying, I authorize City of Belle isle employees and members of the P&amp;Z Board to enter my property during reasonable hours to inspect the area to which the application applies.</li> <li>The applicant shall provide a minimum of ten (10) sets of three (3) photographs in support of this application as follows: at least one (1) picture of the front of the property and at least two photos (from different angles) of the specific area of the property to which the application applies.</li> </ul>					
APPLICANTS SIGNATURE	OWNER'S SIGNATURE				
VARIANCE SPECIAL OTHER	P&Z CASE NUMBER () ()   DATE OF HEARING				

Sec. 42-64. - Variances. The Board shall have the power to approve, conditionally approve or deny applications for a variance from the terms of the Land Development Code.

Criteria. The Board shall not approve an application for a variance from terms of the Land Development Code unless and until:

- a. A written application for a variance is submitted to the city manager or the city manager's designee on a form provided by the city clerk setting forth all of the special conditions and circumstances that exist in favor of the granting of the variance and addressing the requirements of subsections (1)d—g of this section of the criteria set forth in this section. Upon submission of the properly completed application and the appropriate fee, the city manager or the city manager's designee shall refer the application to the board.
- Notice of public hearing for the variance shall be given as required by the article for hearing before the board.
- c. The public hearing on the application for the variance shall be held. The applicant, the applicant's agent as evidenced by a signed writing or the applicant's attorney shall appear before the board.
- d. It is determined that 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.
- e. It has been determined that 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 Land

# Property Record - 18-23-30-4386-03-730

Orange County Property Appraiser • http://www.ocpafl.org

# Property Summary as of 09/26/2023

## **Property Name**

2913 Cullen Lake Shore Dr

#### **Names**

Gallippi Anthony Alvarez Adriana

#### Municipality

BI - Belle Isle

#### **Property Use**

0104 - Single Fam Class IV

## **Mailing Address**

2913 Cullen Lake Shore Dr Belle Isle, FL 32812-1038

#### **Physical Address**

2913 Cullen Lake Shore Dr Orlando, FL 32812



**QR Code For Mobile Phone** 



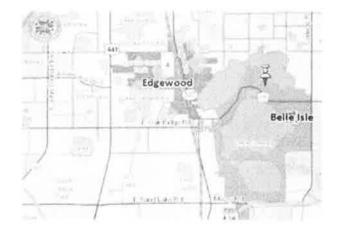
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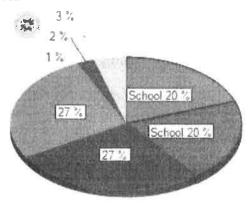


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## Value and Taxes

## 2023 Taxable Value and Estimate of Proposed Taxes

Taxing Authority	Assd Value	Exemption	Tax Value	Millage Rate	Taxes	%
Public Schools: By State Law (Rle)	\$1,766,612	\$25,000	\$1,741,612	3.1730 (-1.28%)	\$5,526.13	20 %
Public Schools: By Local Board	\$1,766,612	\$25,000	\$1,741,612	3.2480 (0.00%)	\$5,656.76	20 %
Orange County (General)	\$1,766,612	\$50,000	\$1,716,612	4.4347 (0.00%)	\$7,612.66	27 %
City Of Belle Isle	\$1,766,612	\$50,000	\$1,716,612	4.4018 (0.00%)	\$7,556.18	27 %
Library - Operating Budget	\$1,766,612	\$50,000	\$1,716,612	0.3748 (0.00%)	\$643.39	2 %
St Johns Water Management District	\$1,766,612	\$50,000	\$1,716,612	0.1793 (-9.17%)	\$307.79	1 %
Lake Conway Mstu	\$1,766,612	\$50,000	\$1,716,612	0.5750 (40.00%)	\$987.05	3 %
				16.3866	\$28,289.96	

# **Property Features**

## **Property Description**

LAKE CONWAY ESTATES SECTION 7 Z/38 LOT 373

## **Total Land Area**

47,184 sqft (+/-)

1.08 acres (+/-)

GIS Calculated

## Land

Land Use Code	Zoning	<b>Land Units</b>	<b>Unit Price</b>	Land Value	<b>Class Unit Price</b>	Class Value
0130 - Sfr - Lake Front	R-1-AA	1 LOT(S)	\$853,000.00	\$853,000	\$0.00	\$853,000

## **Buildings**

<b>Model Code</b>	01 - Single Fam Residence
Type Code	0104 - Single Fam Class IV
<b>Building Value</b>	\$1,533,561
<b>Estimated New Cost</b>	\$2,083,642
<b>Actual Year Built</b>	1975
Beds	6
Baths	7.5
Floors	2
Gross Area	7697 sqft
Living Area	6325 sqft
Exterior Wall	Face.Brick
Interior Wall	Wood Panel

Subarea Description	Sqft	Value
BAS - Base Area	830	\$268,962
BAS - Base Area	2313	\$749,528
FGR - Fin Garage	982	\$159,109
FOP - F/Opn Prch	357	\$28,840
FUS - F/Up Story	1409	\$388,212
FUS - F/Up Story	1773	\$488,343
PTO - Patio	33	\$648



## **Extra Features**

Description	<b>Date Built</b>	Units	<b>Unit Price</b>	<b>XFOB Value</b>
FPL2 - Fireplace 2	01/01/1975	2 Unit(s)	\$2,500.00	\$5,000
PL3 - Pool 3	01/01/1987	1 Unit(s)	\$38,000.00	\$11,400
SKT3 - Summer Kitchen 3	01/01/2008	1 Unit(s)	\$10,000.00	\$10,000
SPA3 - Spa 3	01/01/1987	1 Unit(s)	\$5,000.00	\$5,000
BD3 - Boat Dock 3	12/02/2019	1 Unit(s)	\$10,000.00	\$10,000
BC3 - Boat Cover 3	12/02/2019	1 Unit(s)	\$6,000.00	\$6,000

Anthony Gallippi and Adriana Alvarez 2913 Cullen Lake Shore Dr Belle Isle, FL 32812

Planning and Zoning City of Belle Isle 1600 Nela Ave Belle Isle, FL 32809

## Application for a Variance to Sections 50-73 and 50-102 and 50-74

Property Address: 2913 Cullen Lake Shore Dr

Parcel ID: 18-23-30-4386-03-730

Zoning District: R-1-AA

This property contains an existing outdoor patio deck, swimming pool, and canopy shelter that were all constructed circa 2007-2008. All three of these existing structures were approved by the Planning and Zoning Board, and variances were also approved by the Board for the prior owners related specifically to the location of these structures.

We are seeking to replace the existing outdoor patio deck, swimming pool, and canopy shelter with a new pool, patio deck, and an extension of the principal building. The new structures will be located in nearly the exact same locations, and we are requesting approval for 3 variances, specifically to the requirements in Sections 50-73 and 50-102 and 50-74:

- 50-73 (a) for the extension of the principal building, which states "The setback from Lake Conway shall be 50 feet from normal high-water elevation (86.9 contour line)."
   Applicant is requesting a setback of 21 feet 3 inches, which is farther than the existing canopy structure, which is located 16 feet from the normal high water line.
- 50-102 (a)(7) for the patio deck as an accessory structure, which states "Patios/decks shall be located no closer than five feet from any property line and no closer than 30 feet from the 86.9 contour line of Lake Conway."
  - Applicant is requesting a setback of 20 feet 1 inch, which is farther than the existing patio/deck, which is located 14 feet from the normal high water line.

• 50-74 (c)(3) which states that the base impervious surface ratio (ISR) for R-1-AA is 35 percent.

Applicant is seeking an ISR of 39.3% without creating onsite retention, which is less than the existing ISR of 40.3%.

The existing canopy shelter will be replaced with an extension of the principal building. The existing canopy shelter, classified as an accessory building, is located 16 feet from the lake contour line. Between the lake and the shelter is a concrete seawall, which ranges from 8 to 16 inches thick, is rebar reinforced, and anchored. This concrete seawall extends around the entire 700 ft of shoreline of the property. This seawall also allowed the Board to approve a prior variance for the principal building to be located as close as 25 feet from the lake contour line, closer than the basic requirement of 50 feet.

The existing canopy shelter is not viewable from the closest lake contour line, from any adjacent properties, or from any neighboring properties because the structure is completely obscured by a row of bamboo trees that are taller than the structure. The existing structure is only viewable from the lake.

The existing canopy structure measures approximately 800 square feet, and is aligned with the long edge of the existing swimming pool.

We are seeking to replace the existing patio deck, pool, and canopy shelter for multiple reasons, including, but not limited to:

- 1. The existing canopy shelter has sustained damage from multiple storms, including tears to the canvas roof, broken support cables, and a damaged support pole.
- 2. The pool and spa have developed multiple leaks and water cannot flow correctly from the spa to the pool, making the current spa unusable without a major repair.
- 3. The spa has a poor design as it gravity-feeds to the pool but is built at the same elevation as the pool. We would like to modify the elevation and position of the spa relative to the pool.
- 4. The patio deck has multiple cracks and needs repair.
- 5. The canopy shelter has a canvas roof, which is not consistent with the principal structure. This canvas provides protection from the sun but no protection against rain. We would like to replace this shelter with an extension of the primary building that contains a hardened roof and a design which is consistent with the principal building.

- 6. The existing pool depth ranges from 4 feet to 9 feet and is entirely unusable for our young son. We would like to modify the depth of the pool to range from 0 to 5 feet.
- 7. Canopy shelters are no longer permitted and should be removed.

We plan to rebuild the patio deck in approximately the same location as the existing deck, as shown on the plot plan. The new deck will be 6 feet farther away from the lake than the old deck.

We plan to rebuild the pool in approximately the same location as the existing pool, as shown on the plot plan. We are bringing the pool to current pool/safety standards with the addition of new energy efficient low/flow pumps, and larger plumbing to accommodate current VGB and TDH building standards. The new pool meets all Belle Isle code requirements and does not need any variances.

We plan to build the extension of the primary building in approximately the same location as the existing canopy shelter, also shown on the plot plan, with a slight shift of 5 feet farther away from the lake and closer to the principal building, and a reduction in its footprint.

The extension to the primary building size is planned to be 640 square feet, which is less than the current canopy shelter of 800 square feet. This plan provides a comfortable outdoor living space that maintains alignment and consistency with the pool while not overcrowding the property. This plan upgrades the area to be more visually appealing and inline with the house and community standards.

We can show the Board that the requirements for approving this variance have been met:

## 1. Special Conditions and/or Circumstances Section 42-64 (1) d

The applicant must prove that literal enforcement of the provisions of the zoning ordinances would result in unnecessary hardship. That 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.

Our property has a special condition because of its shape and its location on the lake. The property is a narrow peninsula-shaped lot with a long driveway. While the property is approximately 1 acre in total size, there is a smaller area of buildable land surrounded by Lake Conway on three sides. To optimize the property for buildable land, this property has been developed with a concrete seawall, which is 8-16 inches thick, rebar reinforced, and anchored. This concrete seawall extends around the entire 700 ft of shoreline of the

property. The property elevation has also been raised to 94.0 feet to support the principal structure and current accessory structures.

A literal enforcement of 30 or 50 feet from the lake contour line would not provide enough area for a patio deck and primary building to be rebuilt in their current location, and the property does not contain any other suitable area for these to be located.

The area of buildable land is located near the rear of the property, and this location requires the property to have a very long driveway. The driveway is over 9200 square feet and the driveway alone consumes more than half (56%) of the allowable ISR for the entire property.

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

The applicant must prove that the special conditions and circumstances do not result from the applicant's actions. A personal (self-created) hardship shall not justify a variance; i.e., when the applicant creates the alleged hardship, they are not entitled to relief by their conduct.

The existing patio deck, pool, and canopy shelter were permitted and built in 2007 and 2008, approximately 10 years before the applicant purchased the property. The damage that has resulted from multiple storms, plus the poor design are not the result of any applicant's actions.

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

The applicant must prove that the zoning variance is the minimum variance that will make the reasonable use of the land, building, or structure possible.

Given the unique shape of the property, there is no alternative location for the structures. We believe the prior owners built these structures in their optimal location, and prior variances were granted by the Board for the existing structures in these same locations. The seawall provides adequate assurance that structures can be located closer to the lake contour line without increasing risk to the property or to adjacent properties.

The unique shape of the property requires a long driveway which consumes 56% of the allowable ISR for the property. In all aspects of this variance request, we are seeking more conservative setbacks and allowances than what currently exists on the property today.

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

The applicant must prove that approval of the zoning variance will be in harmony with the general purpose and intent of the Code, and such zoning variance will not

be injurious to the neighborhood, not detrimental to public welfare, and not contrary to the public interest.

Approval of the variance would have no effects on adjacent properties or the surrounding neighborhood. Their views of the existing structures are obscured and their views of the replacement structures would be equally obscured. The structures are not viewable from the street and would have no effect on traffic control or pedestrian safety.

Attached are photos of the property and existing structures, and a concept illustration of the proposed improvements. If you would like to visit the property, we would be happy to show you. Thank you for your consideration of this application.

Sincerely,

Anthony Gallippi

Anthony Gallippi and Adriana Alvarez (404) 353-3000 tonygallippi@gmail.com

