



**City of Belle Isle**  
**Planning & Zoning Board Regular Session Minutes**  
**October 22, 2019 – 6:30 pm**

Dan Langley City Attorney	David Woods Vice-Chairman District 1	Chris Shenefelt District 2	Shawn Jervis District 3	Randy Holihan Chairman District 4	Rainey Lane District 5	Andrew Thompson District 6	Leonard Hobbs District 7
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On Tuesday, October 22, 2019, the Belle Isle Planning & Zoning Board met in a regular session at 6:30 pm in the Belle Isle City Hall Council Chambers.

Present was Chairman Holihan, Vice Chairman Woods, Board member Lane, Board member Shenefelt, Board member Thompson and Board member Hobbs. Also present was Attorney Geller, City Manager Francis, City Planner April Fisher, and City Clerk Yolanda Quiceno.

Absent was Board Member Jervis.

1. Call to Order

Chairman Holihan called the meeting to order at 6:30 pm and opened with the Pledge of Allegiance.

2. Approval of the Minutes

City Clerk said the minutes would be presented at the next Board meeting for approval.

3. PUBLIC HEARING CASE #2019-10-006 - Pursuant to Belle Isle Code Sec. 50-102 (A) (4), (7), and (8) and Sec. 42-64, the Board shall consider and take action on a requested variance to allow a roof extension and summer kitchen addition on an existing patio within 50 feet of the 86.9 Contour Line or Normal High Water Elevation of Lake Conway, submitted by applicant Kurt Weber located at 1426 Belle Vista Drive, Belle Isle, FL 32809 also known as Parcel #24-23-29-5306-01-110.

April Fisher read the Public Hearing by Title.

April Fisher provided a brief overview of the proposed variance along with a Staff report dated October 11, 2019. Ms. Fisher said the variance is the minimum possible variance to make reasonable use of the land. The application does not seek to extend the existing patio closer to the water for the summer kitchen, but because the rear property line is at an angle, taking the covered area wider across the back of the house is how the 50-foot setback encroaches. Ms. Fisher said the staff provides a recommendation to approve the proposed variance based on meeting all the criteria.

Board member Shenefelt asked how close will the patio be at the closest point. Kurt Weber applicant and homeowner of 1426 Belle Vista Drive said the covered areas cover a narrow portion of the patio of approximately 35 feet.

Ms. Fisher recommended since the distance is hard to identify, the Board can approve the variance only if the proposed variance is consistent with the plans provided for approval; any modifications will have to be submitted to the Board for approval. Discussion ensued.

Chairman Holihan opened for public comment. There being none, he closed public comment and opened for Board discussion.

Board member Woods stated the original house was built far enough back to allow for a patio/pool structure that could have been built easily within the code setbacks. In 2006, the owners at the time pushed the envelope to the very edge of the 50-foot setback. On that basis, the land was maximized by the size of the house. He is concerned, from the standpoint, that covered patios typically end up as closed patios with air-conditioned space without any interaction with the City, and approval of the variance can make that possible. Board member Woods said the applicant could build the patio kitchen within the limits of the current code and by not doing so, has created a self-imposed hardship. He further noted that the plan shows the square footage of 2,000 sq ft; however, the tax records indicate that the home is approximately 6,000+ sq feet. Discussion ensued.

**Board member Lane moved, the criteria of Sec. 50-102 (A) (4), (7), and (8) and Sec. 42-64, of the Belle Isle Land Development Code having been met to approve the variance to allow a roof extension and summer kitchen addition on an existing patio within 50 feet of the 86.9 Contour Line or Normal High Water Elevation of Lake Conway, submitted by applicant Kurt Weber located at 1426 Belle Vista Drive, Belle Isle, FL 32809 also known as Parcel #24-23-29-5306-01-110.**

**Board member Hobbs seconded the motion with passed 4:2 with Board member Woods and Board member Shenefelt, nay.**

April Fisher said the applicant should wait for 15-days from approval for any appeals before submitting for a permit.

4. PUBLIC HEARING CASE #2019-10-007 - Pursuant to Belle Isle Code Sec. 50-102 (A) (4), (7), and (8) and Sec. 42-64, the Board shall consider and take action on a requested variance to allow an open, roofed porch within 50 feet of the 86.9 Contour Line or Normal High Water Elevation of Lake Conway, submitted by applicants Joel and Sarah Richwagen located at 3520 Country Lakes Drive, Belle Isle, FL 32812 also known as Parcel #20-23-30-4980-00-060.

April Fisher read the Public Hearing by Title.

April Fisher provided a brief overview of the proposed variance along with a Staff report dated October 11, 2019.

Ms. Fisher said the request is for a variance from the 50-foot building setback from the Normal High Water Elevation. The special condition with the subject property is that the property is located on a canal and has a shorter backyard distance from the building to the Normal High Water Elevation than other similar properties. There is nothing in the code that releases canal front properties from the 50 ft setback. Additionally, many of the properties along the canal have a shorter depth. The applicant is looking to build an open porch roof structure aligned with the pool that already encroaches into the set backline. The applicant does not seek to extend the existing patio closer to the canal, is the minimum variance and does not negatively impact the view that neighbors have of the canal. The staff recommendation is to approve the variance as submitted.

Board member Woods asked if, in 2017, the extended patio was permitted. April Fisher noted that she is not aware of a permit review in 2017. Board member Woods said, as a point of reference, looking at the Orange County aerial, this home is similar to the neighboring home who enclosed an open patio and have since then enclosed the patio creating additional living space. He said this is an example of when an open patio then becomes living space after the fact.

Joel Richwagen, the applicant, said when he purchased the home, the patio was a Florida room that was removed after it suffered water damage. The open roof will cover from the east to the end of the screen porch. They are planning to place a retractable awning in front of the door to catch the rain.

Chairman Holihan opened for public comment. There being none, he closed public comment and opened for Board discussion.

Without researching if the patio or the pool has been permitted, the staff can only move forward with what the code current requires and use the pool as the established setback unless it predates the current code. If something were grandfathered in, it would not include adding structure. Discussion ensued.

The Clerk said the City had not received any response (for or against) from the neighbors.

**Board member Lane moved, the criteria of Sec. 50-102 (A) (4), (7), and (8) and Sec. 42-64, of the Belle Isle Land Development Code having been met to approve the variance to allow an open, roofed porch within 50 feet of the 86.9 Contour Line or Normal High Water Elevation of Lake Conway, submitted by applicants Joel and Sarah Richwagen located at 3520 Country Lakes Drive, Belle Isle, FL 32812 also known as Parcel #20-23-30-4980-00-060.**

**Board member Shenefelt seconded the motion with passed 5:1 with Board member Woods, nay.**

April Fisher said the applicant should wait for 15-days from approval for any appeals before submitting for a permit.

5. PUBLIC HEARING CASE #2019-07-043 – Pursuant to Belle Isle Code Sec. 42-64, the Board shall consider and take action on a requested variance from Sec. 50-36, SEC. 54-82 (e), and sec. 54-82 (f) (3) to allow a building and site development of a Parking Business without being required to go through the site plan and development review process, and take action on a requested variance from Sec. 50-72 (A) (1) to not require a separate parking stall requirement for the office use on the property but to include the required number as part of the overall parking count on the site, and take action on a requested variance from Sec. 50-72 (d) (1), not requiring the off-street parking areas to be surfaced with a hard, dustless material; allow the widths of interior driveways to be less than 25 feet; and, allow parking stalls to be less than the required 9 feet by 20 feet, and take action on a requested variance from Sec. 50-76 to not require the development to meet Landscaping standards of the Code, and take action on a requested variance from Sec. 54-82(e) and Sec. 50-73 (a) for relief from building setback requirements, submitted by applicant William R. Hockensmith, Florida Engineering Group, Inc., located at 1900 Jetport Road, Belle Isle FL 32809, also known as Parcel # 31-23-30-0000-00-015.

April Fisher said there was a non-substantive scrivener's error in the address of the Public Hearing Ad which reads, 1900 Jetport Road; should read, 1900 Jetport Drive.

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

- a) Variance Request from Sec. 50-36, Sec. 54-82 (e), and Sec. 54-82 (f) (3) for the entire City Site Plan review process.
- b) Variance Request from Sec. 50-72 (a) (1) to not meet the required number of parking spaces required for office use, not meet the minimum parking stall size, and not meet the required drive aisle width.
- c) Variance Request from Sec. 50-76, to not provide any landscaping for the property.
- d) Variance Request 54-82 (e) and Sec. 50-73 (a) for relief from building setback requirements.

The application requests variances from the Site Plan review process. The conditions that apply to this property apply to all commercial properties in the City that seek to develop a business or install commercial buildings through the building permit process. On November 7, 2016, the City approved for a temporary construction trailer which is to be used for no longer than 180 days, according to Sec. 54-151, unless extended one-time for 90 days by the City Manager. An extension request was not made.

Ms. Fisher informed the applicant that they would be required to go through the Site Plan process to develop the site. During that time, the applicant submitted a subsequent application for a carport. Since that time, they have been working with the owner and tenant. The variance application has not presented any supporting information that explains special conditions or circumstances peculiar to the land, structure, or building, that need relief from the Code required site plan for new buildings and development, and commercial business uses, or the other specified code requirements.

The request for a variance is self-created as the application is seeking to continue to use what was approved as a temporary construction trailer as a permanent office building for a parking business. The request to circumvent a site plan review process for this and the entire site development, and not meeting standard development criteria are self-created. Nothing is barring the applicant from going through the process and meeting the Code requirements, and they are seeking complete relief.

Economic hardship is not grounds for a variance. The application seeks to use mulch for parking areas on the site and states "considerable expense" as to why they are seeking not to pave the parking stalls of the parking lot area. City staff has indicated millings for the entire parking lot would be acceptable but not mulch as a permanent solution. To grant this, it would grant a right to this property not enjoyed by any other property in the City through the Code. Single-family residential properties are required to have hard, dustless parking surfaces as well.

Temporary construction trailers are not required to meet the building setbacks established for a zoning district as they are not permanent buildings. Since this building was only permitted as a temporary construction trailer and not a permanent building, it may be possible to reposition it to meet the required setbacks. If it was built as a permanent building instead of a temporary construction trailer, this may be a further code violation that would need to be addressed.

The requested variance is not in harmony with the general purpose and intent of the Land Development Code and therefore is injurious to the neighborhood, detrimental to the public welfare, and will be contrary to the Public interest. The City's Land Development Code serves to protect the entitlement rights of all properties in the City, establishing standards and regulations applicable to every property with the same zoning designation. This variance application seeks development rights that subvert the Land Development Code.

Staff provides a recommendation not to approve the requested variances based on not meeting the criteria. There are no special conditions/ circumstances; it is self-created, not the minimum possible variance to make reasonable use of the land; and does not meet the Purpose and Intent of the Code. The Land Development Code provides that unless all criteria are met, a variance should not be approved.

Attorney Langley asked what the current use of the trailer is. Ms. Fisher said it is currently being used as an office for the Park and Ride since 2016.

Board member Lane left the meeting to attend a previous engagement.

Tim Kuck, owner, and applicant, representing Regal Boats. He gave a summary of the history and expansion of the property. He said the family is looking to develop the property but have not been able to get a clear picture. Ultimately they would like to build something that would make a difference to the community. The property was sitting empty for quite some time until they came across the proposed Park & Fly. At the time, the park and fly was a better fit for the community than the many other offers they received for consideration.

Sam Rahim owner of the Park & Fly said he was originally stationed in Tampa, Orlando and Narcoose Road and did not experience as many of the challenges parking their vehicles on the grassy land. He obtained a business license from the City of Belle Isle and was not aware that the trailer was temporary. They currently service customers with valet parking at an economical price with low overhead. He does not own the property, and with a short term lease of two years, the code violations to correct will be very expensive and not be in the best interest of his business. Discussion ensued.

The Board shared their philosophical concern with the variance and the request to waive all Site Plan requirements.

William Hockensmith, Engineer representing the applicant, gave a summary of the proposed Park & Fly. He stated that the area was designed for impervious use and the applicant has submitted an application to Water Manager for storm runoff. He said they have met with staff and it was mentioned that mulch could be placed in the interim as a temporary use. The Board was in agreement that temporarily does not mean two-years.

Attorney Langley said the extent and nature of the request to deviate drastically from the process and to utilize and operate a temporary construction trailer for a business is improper use. A variance can be approved with conditions, and approval of the variance is under the Board's purview; however, the variance is not an appropriate request.

City Manager Bob Francis said the pie shape area on the site plan is not the only place they are parking. They are also utilizing the area across the road which brought us here today. There was no lighting regardless that it is valet parking and safety security issues. A few years ago, the owners of 2635 McCoy asked for approval of a Park & Ride; the Board turned down the variance because they wanted to park on the grass and it did not meet code, which is the same situation we have with this location.

Mr. Francis asked the Board for a motion to prohibit parking on the opposite side of the street.

Mr. Kuck acknowledged the overflow and was not aware that it was a concern at the time. He said during certain times of the year, and they also allow Park & Fly to park overflow in their employee parking because the plant is closed for the Holidays. Mr. Rahim further said he believed the trailer was approved by Universal Engineering Services (UES).

April Fisher, City Planner said she and Staff had had several conversations with the applicant on making the temporary trailer as a permanent office they will need to have UES look at the building from a structural standpoint. UES did review the temporary trailer and provided documentation that it can be used permanently; however, there was no other submittal, no setback, or zoning review. Nothing, to date, has been approved for a permanent building.

Chairman Holihan opened for public comment. There being none, he closed public comment and opened for Board discussion.

Board member Woods shared numerous codes that allow temporary areas on grass surfaces, such as stadiums, churches and areas downtown. It is debatable but, a grass parking lot is a lot more environmentally friendly than a concrete lot. He does not believe the Board has the authority to approve this request; however, there is an opportunity to create something useful. The applicant may want to resubmit the application as a PUD.

Mr. Rahim said he is willing to work with the City and submitted a plan to place mulch in most of the parking area, which has worked very well to address the drainage concern. Ms. Fisher said the proposal was for temporary use and not a solution. One of the problems with mulch is that it cannot be stripped. Discussion ensued.

Chairman Holihan request the Board move to deny the "Carte Blanche" variance and go through the site plan process.

Mr. Francis said the City has withheld issuing citations and notices of violation for about a year. With the recent parking changes, there is a process to issue citations and with the holiday season around the corner, the concerns are going to resurface. This has been a very long process.

**After discussion, Board member Woods moved the justifying criteria of the Belle Isle Land Development Code, having not been met to deny the variance from Sec. 50-36, SEC. 54-82 (e), and sec. 54-82 (f) (3) to allow a building and site development of a Parking Business without being required to go through the site plan and development review process, to deny the variance from Sec. 50-72 (A) (1) to not require a separate parking stall requirement for the office use on the property but to include the required number as part of the overall parking count on the site, and to deny the variance from Sec. 50-72 (d) (1), not requiring the off-street parking areas to be surfaced with a hard, dustless material; allow the widths of interior driveways to be less than 25 feet; and, allow parking stalls to be less than the required 9 feet by 20 feet, and to deny the variance from Sec. 50-76 not to require the development to meet Landscaping standards of the Code, and to deny the variance from Sec. 54-82(e) and Sec. 50-73 (a) for relief from building setback requirements, submitted by applicant William R. Hockensmith, Florida Engineering Group, Inc., located at 1900 Jetport Road, Belle Isle FL 32809, also known as Parcel # 31-23-30-0000-00-015.**

**Board member Hobbs seconded the motion, which passed unanimously 5:0.**

**Attorney Langley said the applicant has 15 days to appeal the decision to City Council.**

6. OTHER BUSINESS

Chairman Holihan opened the discussion to reschedule November's meeting which falls on Thanksgiving week and December 23<sup>rd</sup> which falls on Christmas week.

**After discussion, Chairman Holihan motioned to cancel the November 26<sup>th</sup> and December 23<sup>rd</sup> meeting due to the holiday schedule.**

**Board member Thompson seconded the motion, which passed unanimously 5:0.**

**Chairman Holihan motioned to schedule the combined Planning and Zoning meeting on Monday, December 9<sup>th</sup>, 2019, at 6:30 pm and post accordingly.**

**Board member Shenefelt seconded the motion, which passed unanimously 5:0.**

7. ADJOURNMENT

There being no further business, Chairman Holihan adjourned the meeting at 8:30 pm.

Yolanda Quiceno  
City Clerk, CMC