



CITY OF BELLE ISLE, FL PLANNING & ZONING BOARD MEETING

Tuesday, October 26, 2021, * 6:30 pm
MINUTES

The Belle Isle Planning & Zoning Board met in a regular session on October 26, 2021, at 6:30 pm at the City Hall Chambers located at 1600 Nela Avenue, Belle Isle, FL 32809.

Present was:

Board member Lane
Board member Thompson
Board member Statham
Board member Shenefelt
Board member Hobbs
Board member Squires

Absent was:

Board member Woods

Also present were City Planner April Fisher, Attorney Dan Langley, and City Clerk Yolanda Quiceno.

1. Call to Order and Confirmation of Quorum

Due to the absence of the Vice-Chair, Attorney Langley called the meeting to order at 6:30 pm. The clerk confirmed the quorum.

2. Invocation and Pledge to Flag – Board Member Hobbs

Board member Hobbs gave the invocation and led the Pledge to the Flag.

3. New Business

- a. Appointment of Chairman – Board member Shenefelt said he would like to postpone the election of a Chairman. Board consensus was to postpone the nomination to allow all members to be present for the vote.

Board consensus was to appoint Board member Lane as acting Chair.

4. Approval of Minutes

- a. Approval of the P&Z Board Meeting minutes - August 24, 2021
- b. P&Z Meeting - September 29, 2021 - No Meeting

Board member Statham moved to approve the minutes as presented.

Board member Hobbs seconded the motion, which passed unanimously 6:0

5. Public Hearings

- a. **PUBLIC HEARING CASE #2021-09-031** – Pursuant to Belle Isle Code Sec. 50-102 (B) (16) and Sec. 42-64, the Board shall consider and take action on a requested variance to place a fence (replace existing) in the front yard of a residential property, submitted by applicant Michael Rice, located at 5115 La Croix Avenue, Belle Isle, FL 32812 also known as Parcel # 17-23-30-4379-02-120

Acting Chair Lane read the Public Hearing by Title.

City Planner April Fisher gave an overview of the proposed variance. She stated that the application has not met the criteria Sec 50-102 (b)(16) and Sec 42-64(1)(e) as noted in the Staff Report dated October 15, 2021. She said this variance application seeks a variance from Sec. 50-102 (b) (5) (a) to allow the replacement of an existing fence in the front yard of the subject property. The Code expressly prohibits fences or walls in the front yard. A variance is required before the proposed fence can receive a building permit – the front is the plane that projects beyond the front of the house alongside

or front of the property line off of McCoy & Hoffner. If the applicant moves the fence back to the property line setback at 29.5, they will not need a variance.

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
3. Conditions existing upon or occupational use of adjacent property creating an exceptional privacy or security need for the applicant.

April Fisher said the application has not identified justifying criteria that meet Sec. 50-102 (b) (16), as provided above. Additionally, the variance request does not meet the requirements of Sec. 42-64 (1) (e), which states: "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 to circumvent the Land Development Code or to obtain a variance."

The application states that the property owner has determined that it is not financially viable to utilize off-site storage for recreational vehicles and watercraft and that the configuration of the fence makes it possible for them to be stored on-site, which is a personal, financial hardship that cannot be considered. Allowing this fence variance would create a special condition that is not enjoyed by other properties in the City. The nature of non-conformity (the existing fence) is that once it is destroyed or removed, it is not allowed to be built back in the exact non-conforming location to achieve code compliance. Based on these findings, staff recommends the requested variance not be approved.

The applicant, Michael Rice, and Angela Dellelava, residing at 5115 LaCroix Avenue said the fence is 8-10 feet back from the property line and has been established for the last 40-years in the same configuration. The proposed fence will safeguard their home and property.

Board member Lane opened for public comment.

- Zach Cummings residing at 5103 LaCroix spoke in favor of the proposed variance. He asked for clarification between repair and replacement.

The Board discussed the difference between replacement and repair of a fence. Ms. Fisher said the Code allows maintenance of an existing fence. The difference with this application is that the fence is really old and doesn't serve its purposes. Repairing one panel at a time can be interpreted as a total replacement and may be considered a code violation and will be reviewed individually. Discussion ensued.

Board member Statham asked if the applicant, as opposed to changing the geometry of the fence to comply with the Code. The applicant said an existing shed by the property line would not allow the change, and they will lose at least 15 feet of frontage. Discussion ensued on options to be consistent with the Code.

Attorney Langley asked if the applicant was willing to compromise with the configuration so that it is not so far off from the property line. The applicant said they need as much of the yard as possible to accommodate their family, storage, and pets. Discussion ensued on the property configurations.

The Board can consider a variance less than what is being requested. The measurement can be made from the front of the house. The Board at this time cannot accept a compromise to meet Code but will be able to repost a requested change to the variance for a future meeting in January. Discussion ensued on an appeal to City Council.

- Gary Touche, residing at 5128 LaCroix, said the fence has been in the exact location since 1960 and asked whether or not the fence is already grandfathered-in. He further added the zip code for the property 32812, not 32809. He spoke in favor of the variance.

Acting Chair Lane called for public comment.

There being none, she closed public comment and called for a motion.

Board member Thompson moved pursuant to Belle Isle Code Sec. 50-102 (B) (16) and Sec. 42-64, the justifying criteria of the Belle Isle Land Development Code, having NOT been met; the requirements of, Subsections: D, E & F to deny a fence (replace existing) in the front yard of a residential property, submitted by applicant Michael Rice, located at 5115 La Croix Avenue, Belle Isle, FL 32812 also known as Parcel # 17-23-30-4379-02-120.

Board member Hobbs seconded the motion, which passed 5:1 with Board member Lane, nay.

April Fisher stated that the applicant has 15-days to appeal the Board's decision to the City Clerk.

6. Other Business

- a. Discussion of Accessory Dwelling Unit Regulation: Staff recommends the Planning and Zoning Board pause developing code language regarding accessory dwelling units until the Board decides if it wants to seek City Council's direction to develop such regulations for consideration.

After discussions with staff, April Fisher recommended pausing discussion at this time on accessory dwelling units and asking that a designated Board member would like to discuss any interest by City Council before moving forward with a recommendation.

**Board member Thompson moved to pause any discussion on accessory dwelling units and appoint Board member Lane to discuss with City Council at a future meeting before moving forward with a Code change.
Board member Squires seconded the motion, which passed unanimously 6:0.**

April Fisher said traditionally, P&Z Board meetings are not held during the holidays and asked if the Board would like to cancel the November and December meetings.

**Board member Thompson moved to cancel the November and December P&Z Board meetings.
Board member Shenefelt seconded the motion, which passed unanimously 6:0.**

7. Adjournment

There being no further business, Acting Chairman Lane called for a motion to adjourn the meeting, unanimously approved at 7:30 pm.