



**CITY OF BELLE ISLE, FL**

## **Planning and Zoning: Staff Report**

September 27, 2022

### **Variance Application: 5428 Parkway Drive, Belle Isle, FL 32809**

Applicant Request: PURSUANT TO BELLE ISLE CODE SEC. 50-102 (B) (5), SEC. 50-102 (B) (6), SEC. 50-102 (B) (16) AND SEC. 42-64, THE BOARD SHALL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO PLACE A FENCE IN THE FRONT YARD OF A RESIDENTIAL PROPERTY AND WITHIN A PORTION OF THE CITY RIGHT-OF-WAY, SUBMITTED BY APPLICANT KEVIN KEENEY LOCATED AT 5428 PARKWAY DRIVE, BELLE ISLE, FL 32809 ALSO KNOWN AS PARCEL # 18-23-30-8856-02-100.

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

### **Background Information**

The applicant was granted a temporary Right-of-Way Utilization Permit to install a nonpermanent fence. The temporary Right-of-Way Utilization Permit expires upon the final decision of this variance request.

### **Review Comments**

This application seeks a variance from Sec. 50-102 (b) (5) (a) to allow a decorative fence in the front yard of the property and a variance from Sec. 50-102 (b) (6) to install a fence within the City right-of-way. The applicant has indicated that this request is for containment of a pet and that there is no backyard. See pictures provided by the property owner enclosed with this agenda item packet.

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.

### **Staff Recommendation**

Based on the applicant's identification that this variance request is for the containment of pets and future consideration of his family, the variance request cannot be supported by staff. These reasons do not meet the criteria established in Sec. 50-102 (b) (16) (3), which the board may consider as justifying criteria according to the Code. Additionally, private fencing of City rights-of-way is not permitted. There are alternative measures to securing pets as well. Therefore, staff recommends denial of this requested variance application.

Should the board recommend approval for this variance request, staff recommends the applicant file for and record a Right of Way Agreement with the city. Then the applicant must apply for a Right of Way Utilization Permit.

### **Additional Notes**

Please note that the Board may approve the proposed variance application as it is presented to them, approve with specific conditions, and continue the application if additional information is being requested for consideration, or deny the application, citing which criteria are not met. A decision by the Board may be appealed by any aggrieved person to the City Council pursuant to Code Sec. 42-64.

## **Variance Application: 2411 Nela Avenue**

Applicant Request: PURSUANT TO BELLE ISLE CODE SEC. 50-102 (B) (5), AND SEC. 42-64, THE BOARD SHALL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO KEEP A FENCE THREE FEET IN HEIGHT IN THE FRONT YARD OF A RESIDENTIAL PROPERTY, SUBMITTED BY APPLICANT PERRY JAMES WILSON LOCATED AT 2411 NELA AVENUE, BELLE ISLE, FL 32809 ALSO KNOWN AS PARCEL # 19-23-30-5888-03-210.

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

### **Background Information**

As of 2021, a new single-family residency was completed at 2411 Nela Avenue. The redevelopment of the land relocated the drain field and septic tank on the property from the rear yard to the front yard. As a result, the construction of the principal building created an elevated earth mound in a portion of the front yard. In December of 2022, a three-sided wall was erected along the perimeter of the earth mound without a permit.

### **Staff Recommendation**

Staff provides an evaluation based on the variance criteria for the application below:

1. Special Conditions and/or Circumstances

The property initially had its drain field and septic tank in the rear, but were relocated approximately two years ago to the front yard to meet building plans for the permitted single-family residency. The certificate of occupancy was issued in 2021. The variance request satisfies the criteria as a special condition.

2. Self-Created

The circumstance of this variance request is self-created as the property owner approved the relocated drain field and septic tank in recent years. The building plans for the SFR permit was approved by the City and Universal Engineering for zoning and building purposes, but the earth mound associated with the land development was left unaddressed until the final product (of the SFR) was complete.

3. Minimum Possible Variance

The applicant examined another option for installing a low front wall, designed specifically to mitigate storm runoff away from the SFR. The front yard wall is three feet tall, meeting the height of the earth mound it was designed to contain.

#### 4. Purpose and Intent

This variance request aims to redirect storm water runoff from channeling towards the principal building. The low vinyl fence is harmonious with the aesthetic of the neighborhood. As of January 13, 2023, no objections or concerns were raised by neighbors.

Staff provides a recommendation to approve the requested variance. The front wall barrier does not exceed its intended use, nor would it drastically alter or deviate from the overall character of the neighborhood.

#### **Additional Notes**

Please note that the Board may approve the proposed variance application as it is presented to them, approve with specific conditions, and continue the application if additional information is being requested for consideration, or deny the application, citing which criteria are not met.

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