
NOTICE OF PUBLIC MEETING

JULY 23, 2019 – 6:30PM

CITY OF BELLE ISLE PLANNING AND ZONING BOARD REGULAR SESSION

ITEM 5 MEMORANDUM

TO: Planning and Zoning Board

DATE: July 23, 2019

PUBLIC HEARING CASE #2019-07-020

PURSUANT TO BELLE ISLE CODE SEC. 50-102 (B) (5), SEC. 50-102 (B) (16) AND SEC. 42-64, THE BOARD SHALL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO PLACE A SIX-FOOT HIGH FENCE WITH GATE IN THE FRONT YARD OF A RESIDENTIAL PROPERTY, SUBMITTED BY APPLICANT PETER CLARKE, LOCATED AT 7600 DAETWYLER DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS PARCEL #29-23-30-8036-02-010.

Background:

1. On July 8, 2019, Peter Clarke submitted the application, fee and required paperwork.
2. A Notice of Public Hearing legal advertisement was placed in the Saturday, July 13, 2019, Orlando Sentinel.
3. Letters to the abutting property owners within 300 feet of the subject property were mailed on Thursday, July 11, 2019.

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 will need to determine if the criteria set forth 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, the criteria of Section 50-102 (B) (5), SEC. 50-102 (B) (16) AND SEC. 42-64 of the Belle Isle Land Development Code having been met TO APPROVE the VARIANCE TO PLACE A SIX-FOOT HIGH FENCE WITH GATE IN THE FRONT YARD OF A RESIDENTIAL PROPERTY, SUBMITTED BY APPLICANT PETER CLARKE, LOCATED AT 7600 DAETWYLER DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS PARCEL #29-23-30-8036-02-010.

SAMPLE MOTION TO DENY:

"I move, the justifying criteria of the Belle Isle Land Development Code, Section 50-102 (B) (5), SEC. 50-102 (B) (16) AND SEC. 42-64, having NOT been met; ***[use only if NONE of the justifying criteria have been met]*** the requirements of section 42-63, Subsections: ***[STATE ONLY THE SUBSECTIONS BELOW THAT ARE NOT SATISFIED]*** **having NOT been met;** *[may be used in addition to above or alone]* **TO DENY** the proposed the VARIANCE TO PLACE A SIX-FOOT HIGH FENCE WITH GATE IN THE FRONT YARD OF A RESIDENTIAL PROPERTY, SUBMITTED BY APPLICANT PETER CLARKE, LOCATED AT 7600 DAETWYLER DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS PARCEL #29-23-30-8036-02-010.

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.

Should any person decide to appeal any decision made regarding any matter considered at this meeting such person may need to ensure that a verbatim record of the proceedings is made to include testimony and evidence upon which the appeal is to be based. Persons with disabilities needing assistance to participate in these proceedings should contact the City Clerk at 407-851-7730 at least 24 hours in advance of the meeting.



April Fisher, AICP
PRESIDENT
407.494.8789
fisherpds@outlook.com

July 12, 2019

Variance Application: 7600 Daetwyler Drive

Applicant Request: PURSUANT TO BELLE ISLE CODE SEC. 50-102 (B) (5), SEC. 50-102 (B) (16) AND SEC. 42-64, THE BOARD SHALL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO PLACE A SIX-FOOT HIGH FENCE WITH GATE IN THE FRONT YARD OF A RESIDENTIAL PROPERTY, SUBMITTED BY APPLICANT PETER CLARKE, LOCATED AT 7600 DAETWYLER DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS PARCEL #29-23-30-8036-02-010.

Existing Zoning/Use: R-1-AA/ single-family home

Review Comments

This variance application seeks a variance from Sec. 50-102 (b) (5) (a) to allow a six-foot high fence with a gate in the front yard of the property. The code expressly prohibits fences or walls in the front yard of a property. A variance is required before the proposed fence can receive a building permit.

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.

The applicant has provided information supporting the variance request. Please see this information enclosed with this agenda item packet.

Staff Recommendation

Based on the applicant's identification that because of the deep lot configuration, security is a primary issue for installing the fence and gate in the front yard, staff recommends approval of the requested variance. This is consistent with meeting the criteria established in Sec. 50-102 (b) (16) (3) which the Board may consider as justifying criteria according to the code.

City of Belle Isle

1600 Nela Avenue, Belle Isle, Florida 32809 * Tel 407-851-7730 * Fax 407-240-2222

APPLICATION FOR VARIANCE / SPECIAL EXCEPTION

DATE: July 8 2019

P&Z CASE #: 2019-07-020

VARIANCE SPECIAL EXCEPTION OTHER

DATE OF HEARING: _____

APPLICANT: Peter Clarke

OWNER: Peter Clarke

ADDRESS: 7600 Daetwyle Dr
Belle Isle 32812

2607 Overlake Ave
Orlando 32808

PHONE: 407-376-5894

PARCEL TAX ID #: 29-23-30-8036-02-010

LAND USE CLASSIFICATION: O130 SFR ZONING DISTRICT: _____

DETAILED VARIANCE REQUEST: Property fronts Daetwyle asking for 6' fence with gate. Fence will be mostly hidden by thick existing vegetation. Will be a combination of Chain Link and Aluminum. Next door has 6' w/ 1 + 4ms w/ 4 fences.

SECTION OF CODE VARIANCE REQUESTED ON: _____

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 a period of nine (9) months prior to the filing of the application. Further that the requested use does not violate any deed restriction of the property.

By submitting the application, I authorize City of Belle Isle employees and members of the P&Z Board to enter my property, during reasonable hours, to inspect the area of my property to which the application applies.

Applicant shall provide a minimum of ten (10) sets of three (3) photographs in support of this application as follows: at least one (1) photograph of the front of the property and at least two photographs (from different angles) of the specific area of the property to which the application applies.

Peter Clarke
APPLICANT'S SIGNATURE

Peter Clarke
OWNER'S SIGNATURE

FOR OFFICE USE ONLY:

FEE: \$150.00

7/9/19
Date Paid

CC61002003
Check/Cash

HHP
Rec'd By

Determination _____

Appealed to City Council: Yes No

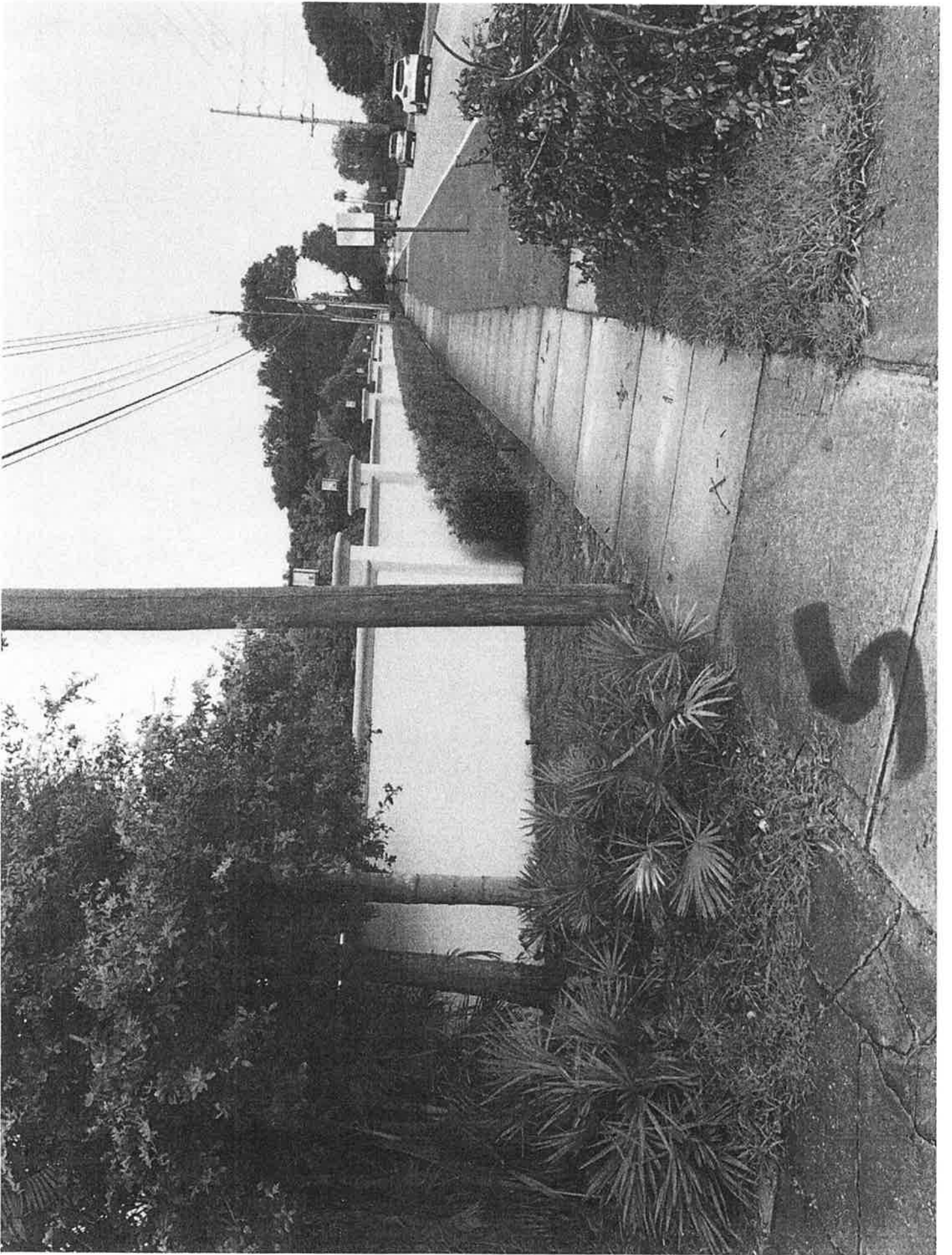
Council Action: _____

Fence Photos

1. Fence area north to south.
 2. Fence area south to north to wall
 3. Vegetation along sidewalk that will block view of fence.
 4. Same as above along sidewalk.
 5. Wall along property to the north. Several properties have fences along Daetwyler.
-







 **Searches**
 **Sales Search**
 **Results**
 **Prop**

7600 Daetwyler Dr < 29-23-30-8036-02-010 >

Name(s)

Clarke Peter D

Physical Street Address

7600 Daetwyler Dr

Mailing Address On File

2607 Overlake Ave

Postal City and Zipcode

Orlando, FL 32812

Orlando, FL 32806-7352

Property Use

Incorrect Mailing Address?

0130 - Sfr - Lake Front

Municipality

Belle Isle

View 2018 Property Record Card



Heidi Peacock <hpeacock@belleislefl.gov>

Fwd: Fence Supplement 7600 Daetwyler

1 message

datsonfence@aol.com <datsonfence@aol.com>
To: hpeacock@belleislefl.gov

Tue, Jul 9, 2019 at 4:20 PM

From: Pete & Cathie Clarke <huntleia@gmail.com>
Date: Tuesday, July 9, 2019
Subject: Fence Supplement 7600 Daetwyler
To: datsonfence <datsonfence@aol.com>
Fence Supplement 7600 Daetwyler

50-102 (b)

1. On grade with adjacent property which is fully fenced and gated.
2. Existing wall to the north with metal gates at 6 ft. High. Wire fence to the south. All properties to the north are fenced. Our request will be consistent with existing fences in the neighborhood.
3. The property is very deep and is located on a major arterial. We have encountered individuals walking down the drive and on occasion leaving stolen property to retrieve later. Security is a major concern.

Variance Request-Application Supplement

42-64- (1) d.. the property is very deep, located on Daetwyler and security is a concern.

42-64 (1) e...Not a self created hardship. Asking to erect a fence along a main arterial consistent with surrounding properties to provide a level of security.

42-64 (1) f there is no alternative to a fence. There is a wall the length of the property to the north and remnants of a short wire fence to the south. This request will improve the look of the property.

42-64 (1) g This is in harmony with the code and surrounding properties. will have no detrimental effects on any property, owners or pedestrians.

Thank you
Pete Clarke

Sent from my iPad

Variance Request – Application Supplement

*Standards of Variance Justification	Section 42-64 of the Land Development Code (LDC) states that no application for a Zoning Variance shall be approved unless the Planning and Zoning Board finds that all of the following standards are met. Please answer each bold-text question in a separate typed or written document and submit it to the City as part of your variance request.
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 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. WHAT ARE THE SPECIAL CONDITIONS AND CIRCUMSTANCES UNIQUE TO YOUR PROPERTY? WHAT WOULD BE THE UNNECESSARY HARDSHIP?
Not Self-Created Section 42-64 (1) e	The applicant must prove that the special conditions and circumstances do not result from the actions of the applicant. A personal (self-created) hardship shall not justify a variance; i.e. when the applicant by their own conduct creates the hardship alleged to exist, they are not entitled to relief. HOW WERE THE SPECIAL CONDITIONS NOTED ABOVE CREATED?
Minimum Possible Variance Section 42-64 (1) f	The applicant must prove that the zoning variance is the minimum variance that will make possible the reasonable use of the land, building or structure. CAN YOU ACCOMPLISH YOUR OBJECTIVE IN ANOTHER WAY? LIST ALTERNATIVES YOU HAVE CONSIDERED AND EVIDENCE AS TO WHY THEY ARE NOT FEASIBLE.
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. WHAT EFFECTS WILL APPROVAL OF THE VARIANCE HAVE ON ADJACENT PROPERTIES OR THE SURROUNDING NEIGHBORHOOD? (FOR EXAMPLE: ADEQUATE LIGHT, AIR, ACCESS, USE OF ADJACENT PROPERTY, DENSITY, COMPATIBILITY WITH SURROUNDING LAND USES, TRAFFIC CONTROL, PEDESTRIAN SAFETY, ETC)

*For a variance application from Sec. 50-102 (b) fences and walls, please also identify how you comply with the variance criteria identified in Sec. 50-102 (b) (16). Please note for a fence variance, you do not have to comply with Sec. 42-64 (1) d and (1) f.

shall anything be placed, planted or allowed to grow in such a manner as to obstruct or impair visibility of oncoming vehicular or pedestrian traffic from any intersecting street, driveway or alley way.

- (14) *Existing fences.* Any fence or wall which is erected and in violation of this chapter at the time of its passage shall be exempt from the requirements of this chapter unless such fence or wall is deemed a traffic or safety hazard.
- (15) *Nonconforming fences.* All fences, walls, or privacy screens in violation of this chapter at the time of its passage shall be governed by the following conditions: Any fence, wall, or privacy screen that is in violation of section and is determined to be a traffic or safety hazard shall be made to conform to this chapter three months from such determination. No nonconforming fence, wall, or privacy screen shall be enlarged, extended or structurally altered except to make it conform to this chapter.
- (16) *Variance criteria.*
- a. In the event the applicant wishes to construct a fence or wall different from any of the provision of this subsection (b), a variance must be applied for to the planning and zoning board, pursuant to the provisions of [chapter 42](#), article III. The board in granting an application for the variance may consider as justifying criteria, the following:
 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.
 - b. The requirements of [section 42-6-4\(1\)](#) except for subsections