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## NOTICE OF PUBLIC MEETING

JANUARY 22, 2019 – 6:30PM

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### CITY OF BELLE ISLE PLANNING AND ZONING BOARD REGULAR SESSION

#### ITEM 3

#### MEMORANDUM

**TO:** Planning and Zoning Board

**DATE:** January 11, 2019

PUBLIC HEARING CASE #2019-01-005- 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 REPLACE AN EXISTING FENCE ACROSS THE FRONT YARD AND ADD A GATE BETWEEN TWO EXISTING COLUMNS IN THE FRONT YARD AND SIDES OF PROPERTY OF A RESIDENTIAL PROPERTY, SUBMITTED BY APPLICANT KEVIN AND CAROLINE LEE LOCATED AT 7612 DAETWYLER DRIVE, ORLANDO, FL 32812 ALSO KNOWN AS PARCEL #29-23-30-8036-02-050.

#### Background:

1. On January 3, 2019, Kevin Lee submitted the application, fee, and required paperwork.
2. A Notice of Public Hearing legal advertisement was placed in the Saturday, January 12, 2019, Orlando Sentinel.
3. Letters to the abutting property owners within 300 feet of the subject property were mailed on Thursday, January 10, 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.

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#### SAMPLE MOTION TO APPROVE:

"I move, the criteria of Chapter 42, Article III, Sections 50-102 (b) (5), Sec. 50-102 (b) (16) and 42-64 of the Belle Isle Land Development Code having been met **TO APPROVE** this request for a variance to replace an existing fence across the front yard and add a gate between two existing columns in the front yard and sides of property of a residential property, submitted by applicant Kevin and Caroline Lee located at 7612 Daetwyler Drive, Orlando, FL 32812 also known as Parcel #29-23-30-8036-02-050.

#### SAMPLE MOTION TO DENY:

"I move, the justifying criteria of the Belle Isle Land Development Code, Chapter 42, Article III, Section 42-64(1), having NOT been met; ***[use only if NONE of the justifying criteria have been met]*** the requirements of section 42-64(1) 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** this request for a variance to replace an existing fence across the front yard and add a gate between two existing columns in the front yard and sides of property of a residential property, submitted by applicant Kevin and Caroline Lee located at 7612 Daetwyler Drive, Orlando, FL 32812 also known as Parcel #29-23-30-8036-02-050.

**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.

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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

January 10, 2019

**Variance Application: 7612 Daetwyler Drive**

Applicant Request: VARIANCE TO REPLACE AN EXISTING FENCE ACROSS THE FRONT YARD AND ADD A GATE BETWEEN TWO EXISTING COLUMNS IN THE FRONT YARD AND SIDES OF PROPERTY OF A RESIDENTIAL PROPERTY, SUBMITTED BY APPLICANT KEVIN AND CAROLINE LEE LOCATED AT 7612 DAETWYLER DRIVE, ORLANDO, FL 32812 ALSO KNOWN AS PARCEL #29-23-30-8036-02-050.

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 fence with a gate between two existing columns in the front yard and sides of the property. The code expressly prohibits fences or walls in the front yard of a property. The applicant indicates that there is an existing fence that is in disrepair. 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 security and safety for their children's and pet's play area are primary issues for installing the fence and gate in the front yard, staff recommends approval of the requested variance. These items identified are 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: January 3, 2019

P&Z CASE #: 2019-01-005

VARIANCE    SPECIAL EXCEPTION    OTHER

DATE OF HEARING: \_\_\_\_\_

APPLICANT: Kevin and Caroline Lee

OWNER: Same

ADDRESS: 7612 Daetywler Drive

Kevin Lee pt @ outlook.com

PHONE: 407-383-8384

PARCEL TAX ID #: 29-23-30-8036-02-050

LAND USE CLASSIFICATION: Residential      ZONING DISTRICT: \_\_\_\_\_

DETAILED VARIANCE REQUEST: Replace existing fence across front yard and add gate  
between two existing columns. *2 sides of property*

SECTION OF CODE VARIANCE REQUESTED ON: 50-102 (b) (16)

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.

[Signature]  
APPLICANT'S SIGNATURE

[Signature]  
OWNER'S SIGNATURE

|   |                      |                              |                           |                        |
|---|----------------------|------------------------------|---------------------------|------------------------|
| <b>FOR OFFICE USE ONLY:</b>   | <b>FEE: \$150.00</b> | <u>01/03/19</u><br>Date Paid | <u>#273</u><br>Check/Cash | <u>Hep</u><br>Rec'd By |
| Determination _____   |                      |                              |                           |                        |
| Appealed to City Council: <input type="checkbox"/> Yes <input type="checkbox"/> No      Council Action: _____ |                      |                              |                           |                        |

PREPARED BY:

# EXACTA

Land Surveyors, Inc.

www.exactland.com  
 Toll Free 866-735-1916 • F 866-744-2882



PROPERTY ADDRESS: 7612 DAETWYLER DRIVE, ORLANDO, FLORIDA 32812

SURVEY NUMBER: FL1801.0346

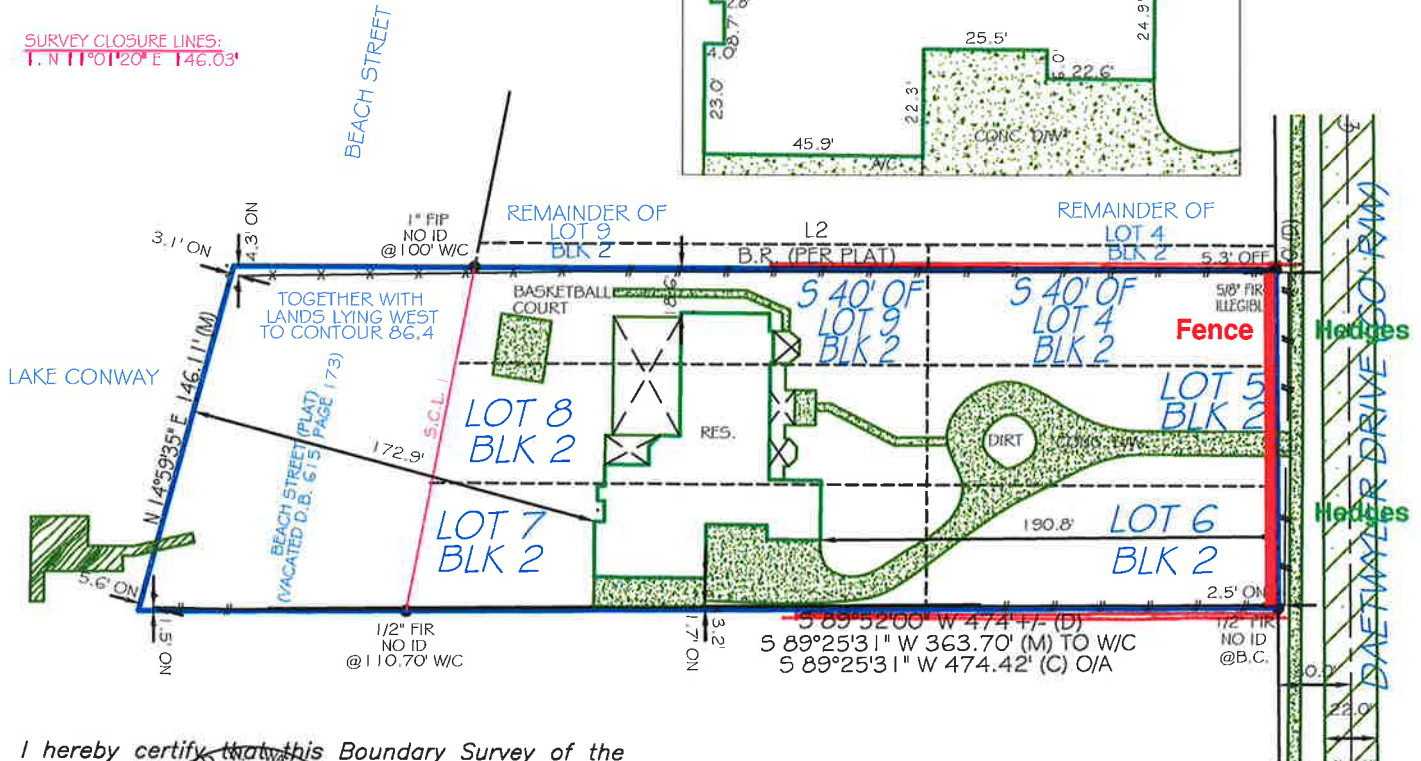
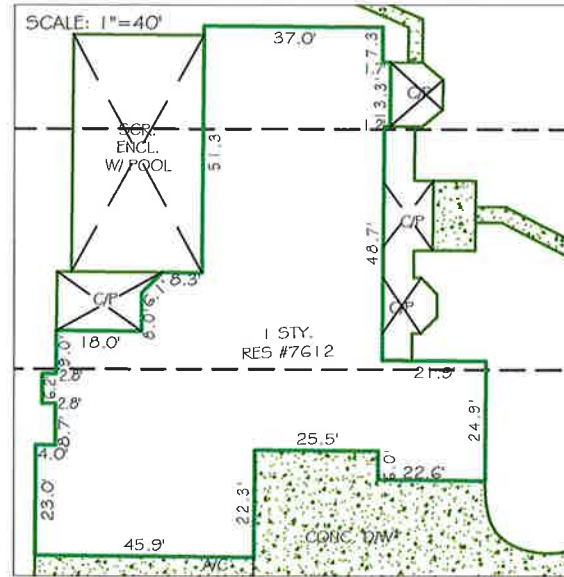
FIELD WORK DATE: 1/18/2018 REVISION DATES: (REV.0 1/19/2018)

18010346  
 BOUNDARY SURVEY  
 ORANGE COUNTY

TABLE:

- L1 S 0°00'51" W 141.05' (D)  
 S 0°47'11" E 140.48' (M)
- L2 N 89°52'00" E 333.83' (M) TO W/C  
 N 89°52'00" E 434'+/- (D)  
 N 89°52'00" E 433.85' (C) O/A

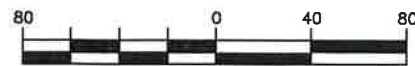
SURVEY CLOSURE LINES:  
 T. N 11°01'20" E 146.03'



I hereby certify that this Boundary Survey of the hereon described property has been made under my direction, and to the best of my knowledge and belief, it is a true and accurate representation of a survey made in accordance with the Standards of Practice set forth in the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17 of the Florida Administrative Code.

RONALD W. WALLING  
 State of Florida Professional Surveyor and Mapper  
 License No. 6473

NOTES:  
 FENCE, WOOD DOCK AND WALL OWNERSHIP NOT DETERMINED



GRAPHIC SCALE (In Feet)  
 1 inch = 80' ft.



Prepared by and Return to:  
SUSAN K. BROWN, C.L.C.  
AMERICAS TITLE CORP  
1521 S. Crystal Lake Drive  
Orlando, Florida 32806

FILE NO.: 78-171161

DOC # 20180077627  
02/08/2018 10:04 AM . Page 1 of 1  
Rec Fee: \$10.00  
Deed Doc Tax: \$5,775.00  
Mortgage Doc Tax: \$0.00  
Intangible Tax: \$0.00  
Phil Diamond, Comptroller  
Orange County, FL  
Ret To: SIMPLIFILE LC

## WARRANTY DEED

Made this February 1, 2018 A.D. By **BRAD W. ARENZ AND PAULA R. ARENZ, HIS WIFE**, whose post office address is 2610 Raehn St, Orlando, Florida 32806, hereinafter called the grantor, to **KEVIN LEE AND CAROLINE R. LEE, HIS WIFE**, whose post office address is: 7612 Daetwyler Drive - Belle Isle, FL 32812, hereinafter called the grantee:

(Whenever used herein the term "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

**Witnesseth**, that the grantor, for and in consideration of the sum of \$825,000.00 Eight Hundred Twenty Five Thousand dollars & no cents and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Orange County, Florida, viz:

**Lots 5, 6, 7, 8, and the South 40 feet of Lots 4 and 9, Block 2, SILVER BEACH SUBDIVISION, as recorded in Plat Book L, Page 72, Public Records of Orange County, Florida, and that property lying West of said Lots 5, 6, 7, 8 and the South 40 feet of Lot 9, bounded on the North by the Westerly extension of the North boundary of the South 40 feet of said lot 9, bounded on the South by the Westerly extension of the South line of Lot 7, and bounded on the West by the 86.4 foot contour line of Lake Conway as established by the US Coast and Geodetic Survey.**

Parcel ID Number: 29-23-30-8036-02050

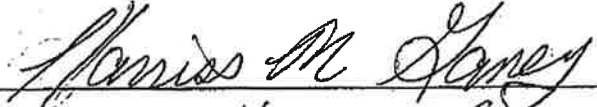
**Together** with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.


**To Have and to Hold**, the same in fee simple forever.

**And** the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2017.

**In Witness Whereof**, the said grantor has signed and sealed these presents the day and year first above written.

*Signed, sealed and delivered in our presence:*

  
Witness Printed Name HARISS M. GANEY

 (Seal)  
BRAD W. ARENZ

A. n/a



Dear members of the Planning and Zoning Board of Belle Isle and residents,

We are writing to request a fence/gate zoning variance for our property at 7612 Daetwyler Drive to replace a pre-existing fence. We would respectfully put in this request based on the following:

Our house is on the edge of Belle Isle and adjoins some areas with higher crime. On multiple occasions random uninvited individuals have come onto our property and into our backyard.

1. Daetwyler is an incredibly busy road. It has a very high number of daily drivers, many of which travel well above the posted speed limit and in some cases cars drag racing. We have a young child and are concerned about the potential dangers and safety issues being adjacent to the road. A gated and fenced yard would help keep our family safe.
2. Daetwyler is an incredibly busy road. It has a very high number of daily drivers, many of which travel well above the posted speed limit and in some cases cars drag racing. We have a young child and are concerned about the potential dangers and safety issues being adjacent to the road. A gated and fenced yard would help keep our family safe.
3. Unfortunately it is not possible for us to keep our children inside of the house at all times and at the chance that they were to get outside we could not prevent them from accidentally running into the road, which is why we'd like a preventative measure of having a fence to separate them from the road. The same is true for our dogs; while we do keep them confined to our backyard we are concerned about them accidentally making their way to the front and in-turn the road.
4. The variance will have no adverse effects upon adjacent properties as there is currently already a fence. We are only looking to replace the current fence which is in disrepair. Ultimately this will only have a positive impact on the adjacent properties as it will be built in a high quality manner and not be prone to breaking apart into the sidewalks.