

**CITY OF BELLE ISLE
PLANNING AND ZONING BOARD
REGULAR SESSION
TUESDAY, OCTOBER 24, 2006
7:00 P.M.**

The City of Belle Isle Planning and Zoning Board met on Tuesday, October 24, 2006 at 7:00 P.M. at Belle Isle City Hall Council Chambers, 1600 Nela Avenue, Belle Isle, Florida 32809 for Regular Session.

Chairman Rodgers called the regular Planning and Zoning Board meeting to order at 7:02 P.M.

The following members were present:

Chairman Rodgers,	District 2
Boardmember McGee,	District 1
Boardmember McDonald,	District 3
Boardmember Trimble,	District 4
Boardmember Bruning,	District 5
Boardmember McLeod,	District 6

Not present was Boardmember Stalder, District 7

Also present were Gayle Owens, City Attorney, Be Bateman, City Clerk and Miriam Rodriguez, Administrative Assistant.

APPROVAL OF MINUTES OF SEPTEMBER 26, 2006

Boardmember Trimble moved to approve the minutes of September 26, 2006. Boardmember McLeod seconded the motion which passed unanimously.

PUBLIC HEARING Case #06-10-001

Consideration of a request by Patricia Dyson, (represented by David Sherard), owner of 3507 Cullen Lake Shore Dr., Orlando, FL 32812, also described as Parcel I.D. #17-23-30-4380- 04-160, requests the following variances:

- 1) Rear setback from Lake Conway from 30 feet (30') to 25 feet (25'), for an addition to the existing residence.
- 2) Side setback on the west side from 7 ½ feet (7 ½') to 5 feet (5'), for an addition to the existing residence.

Chairman Rodgers said that there is a correction on the first request, it should read" (1) rear setback from Lake Conway from fifty feet (50') to twenty five (25') feet which is the rear set back of Lake Conway and not 30' to 25' as it reads in the request.

Mr. David Sherard, represented Patricia Dyson, his mother in law stated that they are trying to build an addition so she can still live in the same house with her daughter and the rest of the family. He said he would need twenty five (25') feet to accommodate the living quarter that she needs which is going to be attached with a breezeway. We looked at trying to expand the building out twelve (12') feet but that would be too expensive. He said they are twenty five feet (25') off the normal high water level. There are pictures of the site plan in your packet that shows the roof line and then you should be able to see a floor plan.

Chairman Rodgers opened the public hearing. There being no public comments, Chairman Rodgers closed the public hearing and opened it to the Board for comments and discussion.

Chairman Rodgers said that the report from Boyle Engineering says it exceeds the maximum allowable ISR.

Mrs. Bateman said that is an issue that will have to show in the plans when asking for a permit.

Mr. Sherard said there is an area open on the right hand corner of about 38 square feet, it does not require a big swale.

Chairman Rodgers asked when they create the swale, Boyle has to review it.

City Attorney Owens said yes.

Chairman Rodgers said you have a pretty large residence g.s.f. 4,000, why would you want to add an addition?

Mr. Sherard said it is only 2700 living s.f. the 4,000 include garage and enclosed porch. We tried to enclose the porch and turn it into a family room, the price tag was just too expensive.

Chairman Rodgers said you are looking at a house and an apartment. He said to staff, is this construction a detached apartment?

Mrs. Bateman said as long as it does not have a kitchen, a stove with 220 electrics, they are allowed to have an in-law suite.

Boardmember Trimble said when I looked at this, it looks like we are turning a single family residence into a duplex.

Chairman Rodgers said as long as they don't have a full kitchen, is not considered an apartment.

Mrs. Bateman said our code allows a single family residence with an in-law suite or an apartment that does not have a full kitchen, which is permitted.

Chairman Rodgers asked why the detachment with a breezeway?

Mr. Sherard said if it's going to be more than 300 sq. ft, you can make it bigger if you attach a breezeway.

Boardmember McGee asked if he had reviewed the criteria to grant a variance. Some of these criteria, I am having difficult with, subsection (f) the minimum variance that will make possible the reasonable use of the land, building or structure and 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.

In looking at this situation, it looks like there is a reasonable use of the property. Why would this variance be necessary to make the use of the property the minimum variance that would make it possible?

Mr. Sherard said they looked at it several different ways. I would like my Mother in law to still live there with us.

Boardmember McGee said you already have a single family residence, subsection (e) personal hardship is not being considered as grounds for a variance. It would seem that your specific circumstance is something that we would not grant you a variance.

Mr. Sherard said we are trying to build a master suite for her.

Boardmember McLeod said you are doing a mother in law suite in reverse.

Mr. Sherard said, we would live in the primary home, she would live in the mother in law suite.

Boardmember Trimble felt it was not in character with the neighborhood.

Chairman Rodgers said he understood the situation and he felt that given the circumstances, he doesn't find anything that supports the variance.

Boardmember Trimble agreed.

Boardmember McLeod said after the initial request went in, Boyle needed more information, and then they resubmitted and Boyle says it's ok. Everything else, according to the engineers appear to be in line and that is something they would have to check when the building is completed and make sure that the swale criteria is met.

Chairman Rodgers asked if there were any other questions or comments or if anybody wanted to make a motion.

Boardmember McLeod moved that the criteria of Chapter 42, Article III, and Section 42-64 (1) of the Belle Isle Land Development Code having been met, to approve this request for the following variances:

- 1) Rear setback from Lake Conway from 50 feet (50') to 25 feet (25'), for an addition to the existing residence.
- 2) Side setback on the west side from 7 ½ feet (7 ½') to 5 feet (5'), for an addition to the existing residence.

on the property described as 3507 Cullen Lake Shore Dr., Orlando, FL 32812, also described as Parcel I.D. #17-23-30-4380-04-160, Belle Isle, Orange County, Florida.

Boardmember McDonald seconded the motion.

Chairman Rodgers asked for roll call

Boardmember McGee –	Nay
Boardmember Trimble –	Nay
Boardmember McLeod –	Aye
Chairman Rodgers –	Nay
Boardmember Bruning –	Nay
Boardmmbner McDonald -	Aye

Upon roll call, motion failed four to two.

Attorney Owens said in the instance on this case, a motion to deny would be in order so we can have a determination of the criteria that has not been met.

Boardmember McGee said I move, the criteria of the Belle Isle Land Development Code, Chapter 42, Article III, and Section 42-64 (1), Subsection F & G having NOT been met, to deny this request for the following variances:

- 1) Rear setback from Lake Conway from 50 feet (50') to 25 feet (25'), for an addition to the existing residence.
- 2) Side setback on the west side from 7 ½ feet (7 ½') to 5 feet (5'), for an addition to the existing residence.

on the property described as 3507 Cullen Lake Shore Dr., Orlando, FL 32812, also described as Parcel I.D. #17-23-30-4380-04-160, Belle Isle, Orange County, Florida."

Boardmember Trimble seconded the motion. Chairman Rodgers asked for roll call:

Boardmember McGee –	Aye
Boardmember Trimble –	Aye
Boardmember McLeod –	Nay
Chairman Rodgers –	Aye
Boardmember Bruning –	Aye
Boardmember McDonald -	Nay

Motion was passed 4:2 in favor to deny.

Chairman Rodgers advised Mr. Sherard that they have the right to appeal. See Staff for the process.

Attorney Owens said, you will get a written notice on the denial.

PUBLIC HEARING – Case No. 06-10-002

Consideration of a request by Vincent & Katherine DeFilippo, property owner of 3501 Cullen Lake Shore Dr., Orlando, FL 32812, also described as Parcel I.D. #29-23-30-1876-02-160, requests a variance in total area of a boat dock from 500 square feet to 786 square feet in size.

Mrs. DeFilippo said due to building delays going on for about two years, I apologize for upsetting the neighbors. We need a minimum variance to cover a 21 feet boat and two jet skis. One concern is we have a big outboard motor, to address the safety issue, rather than have a loose jet ski, we think under cover they will see the dock from a distance. Yes, the addition is built. We didn't think about it, when we found someone to do the work, we found out after the fact that we needed a permit. The code said all construction refers to Orange County code, so I went to Orange County code and met all the requirements; however, I found out that Belle Isle code is different and Belle Isle is the only place we are in violation because of square footage. We do meet all criteria.

We believe that we are actually making it safer. The addition does not protrude into the lake, it provides a boat slip and place for the jet skis. It is compatible with other boat docks, you can see by the picture our dock is isolated. We don't believe we are encroaching on our neighbor's space.

Chairman Rodgers opened the public hearing.

1. Patty Johnson of 3433 Cullen Lake Shore Drive said she lives next door to the DeFilippo's. She said she has lived next to the vacant property for 2-1/2 years. She brought a sample of the nail from the construction site that she has pulled out of her pool.

Chairman Rodgers said we are here just to look at the variance request.

Mrs. Johnson went on to say that any reputable dock builder is aware that a permit is required. I am concerned that the construction may be unsafe.

Chairman Rodgers said once that is permitted, the inspectors will make sure that it is built safely.

Mrs. Johnson said it is a very large dock, it takes away from the view. The other issue I have is the precedent that it would be setting. We did pull a permit in 1999 and we made sure to keep within the laws and guidelines of the city.

2. Donald and Ohilda Washburn of 3407 Cullen Lake Shore Drive said, they have a similar concern. When we built our dock we also wanted to cover our jet skis, we were not allowed. If you grant this variance, then all these other people want to apply for a variance. It will block views.

Mrs. Washburn said this dock is not within code or the flavor of the neighborhood. We ask that you do not approve this variance.

Mr. Washburn said one of our concerns is that it was built before it was approved.

Chairman Rodgers said when we find out about these things, we take the necessary steps.

There being no further public comments, Chairman Rodgers closed the public hearing and opened it to the Board for discussion.

Boardmember Trimble said these dock builders know of the requirements. We need to stick to our ordinance on this.

Boardmember McLeod agreed with Boardmember Trimble.

Chairman Rodgers said, I think the Board has been very consistent on these issues. I feel 500 S.F. is adequate to enjoy the shore. I personally feel, we need to stay consistent with the code.

Boardmember McGee asked Mrs. DeFilippo if she had another comment.

Mrs. DeFilippo said she received a call from Miriam at City Hall telling her permit was approved, although it was an honest mistake, she called me back to tell me it was a mistake, but I did begin construction.

Chairman Rodgers said your contractor should have never started without a permit

Boardmember Trimble moved that the criteria of the Belle Isle Land Development Code, Chapter 42, Article III, and Section 42-64 (1), Subsection (F) and (G) having NOT been met, to deny this request for a variance in total area of a boat dock from 500 square feet to 786 square feet in size on the property described as 3501 Cullen Lake Shore Dr., Orlando, FL 32812, also described as Parcel I.D. #29-23-30-1876-02-160, Belle Isle, Orange County, Florida.

Boardmember McLeod seconded the motion which passed unanimously.

Chairman Rodgers advised Mrs. DeFilippo that she had fifteen days to appeal to the City Council and they can over turn our decision, to check with staff.

PUBLIC HEARING Case # 06-10-003

Consideration of a request by Dorothy & George Nadar, property owner of 1455 Conway Isle Cr., Orlando, FL 32809, also described as Parcel I.D. #24-23-29-3490-00-250, requests a variance in side setback on the west side of a boat dock from 5 feet (5') to 0 feet (0').

Mr. Nadar, property owner said he was hearing impaired, he asked the Board to speak loud. He presented his request by stating that the background on this is that he bought the lot about four years ago, we didn't realize the lot angled and we extended the line. The drought after the hurricanes were over, make it difficult to meet the setbacks on both sides. We are not asking for any more than 500 s.f. We meet the requirement for the catwalk. Our neighbors to the west voice no objection to our application. It would give us enough water depth to use it. We don't have much alternative.

Chairman Rodgers opened the public hearing. There being no comments, he closed the public hearing and opened it to the Board for discussion.

Attorney Owens said the length of the dock is not a variance issue here tonight, how far out he can go is determined by the surrounding docks.

Chairman Rodgers said I think the applicant is keeping the dock within the length. The shape of the property is the hardship. We are a lake community, I would support his request. Any other questions or comments, would somebody like to make a motion?

Boardmember McDonald moved that the criteria of Chapter 42, Article III, and Section 42-64 (1) of the Belle Isle Land Development Code having been met, to approve this request for a variance in side setback on the west side of a boat dock from 5 feet (5') to 0 feet (0'), on the property described as 1455 Conway Isle Cr., Orlando, FL 32809, also described as Parcel I.D. #24-23-29-3490-00-250, Belle Isle, Orange County, Florida.

Boardmember Bruning seconded the motion which passed unanimously.

Attorney Owens advised Mr. Nadar, to not do any work for fifteen (15) days in case someone would like to appeal the case.

There being no further business to come before the Board, Boardmember McGee motioned to adjourn. Boardmember McDonald seconded the motion, which passed unanimously.

Meeting was adjourned

Miriam Rodriguez
Administrative Assistant

