



## CITY OF BELLE ISLE, FL

### PLANNING & ZONING BOARD MEETING

Held in City Hall Chambers 1600 Nela Ave Belle Isle FL

Held the 4th Tuesday of Every Month

Tuesday, June 28, 2022 \* 6:30 PM

### AGENDA

#### Planning and Zoning Board Members

District 5 member – Rainey Lane, Chairman

District 1 member – David Woods, VChair

District 2 member – Christopher Shenefelt | District 3 member – Michael Statham

District 4 member – Vinton Squires | | District 6 member – Andrew Thompson | District 7 member – Dr. Leonard Hobbs

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Welcome to the City of Belle Isle Planning & Zoning meeting. Agendas and all backup material supporting each agenda item are available in the City Clerk's office or on the city's website at [cityofbelleislefl.org](http://cityofbelleislefl.org). Any person desiring to appeal a recommended action of the Board should observe the notice regarding appeals below. CAUTION: Untimely filing by any appellant shall result in an automatic denial of the appeal.

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1. **Call to Order and Confirmation of Quorum**
2. **Invocation and Pledge to Flag – Board Member Hobbs**
3. **Approval of Minutes**
  - a. April 26, 2022 Meeting Minutes
4. **Public Hearings**
  - a. PUBLIC HEARING CASE #2022-05-011-PURSUANT TO BELLE ISLE CODE SEC. 42-64, AND SEC. 50-102 (B) (5) THE BOARD SHALL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO ALLOW THE CURRENT FENCE INSTALLATION IN THE FRONT YARD, SUBMITTED BY APPLICANT STEVE HESSON, LOCATED AT 2323 CROSS LAKE ROAD, BELLE ISLE, FL 32809 ALSO KNOWN AS PARCEL #18-23-30-7164-00-420.
5. **Other Business**
6. **Adjournment**

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APPEALS: "If a person decides to appeal (Belle Isle's City Code Section 42-71) any decision made by the Board with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." (F. S. 286.0105). A notice of appeal to the City Clerk should be submitted within fifteen (15) days after such recommendation or decision is made "Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office (407-851-7730) at least 48 hours in advance of the meeting. --Page 1 of 1



**CITY OF BELLE ISLE, FL**  
**PLANNING & ZONING BOARD MEETING**  
Held in City Hall Chambers 1600 Nela Ave Belle Isle FL

Tuesday, April 26, 2022 \* 6:30 PM  
**MINUTES**

The Belle Isle Planning & Zoning Board met on April 26, 2022, 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 Squires
- Board member Hobbs

Absent was:

- Board member Woods
- Board member Statham
- Board member Shenefelt

Also present were City Manager Bob Francis, Attorney Dan Langley, City Planner Raquel Lozano, and City Clerk Yolanda Quiceno.

**1. Call to Order and Confirmation of Quorum**

Chairman Lane opened the meeting at 6:30pm. City Clerk confirmed quorum.

**2. Invocation and Pledge to Flag**

Board Member Hobbs gave the invocation and led the pledge to the flag.

**3. Approval of Minutes**

- a. Approval of the March 22, 2022 minutes  
**Board member Squires moved to approve the minutes as presented.**  
**Board member Thompson seconded the motion which passed unanimously.**

**4. Public Hearings**

- a. PUBLIC HEARING CASE #2022-03-051 - PURSUANT TO BELLE ISLE CODE SEC. 42-64, SEC. 50-102 (B)(5), SEC. 50-102 (B)(7), AND SEC. 50-102 (B)(8), THE BOARD SHALL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO ALLOW THE CURRENT FENCE INSTALLATION IN THE FRONT YARD, MAINTAIN THE BACKYARD FENCE BY THE CANAL AT 6 FEET HIGH CONTRARY TO THE CODE STATING NO FENCE LOCATED WITHIN 35 FEET OF THE NORMAL HIGH WATER ELEVATION SHALL EXCEED FOUR FEET IN HEIGHT, AND ALLOW THE STRUCTURAL SMOOTH SIDE OF THE FENCE TO FACE THE PROPERTY OWNER AS THE ROUGH SIDE FACES THE NEIGHBOR IN OPPOSITION TO THE CODE STATING ALL SUPPORTING STRUCTURES OF THE FENCE AND POSTS FACE THE PROPERTY OWNER, SUBMITTED BY APPLICANTS CRAIG AND RACHELLE HUFF, LOCATED AT 6805 BARBY LANE, BELLE ISLE, FL 32812 ALSO KNOWN AS PARCEL # 20-23-30-8860-00-010.

Chairman Lane read the Public Hearing Case number by title.

City Planner Lozano gave a brief background on the application.

Upon reviewing the variance criteria provided, the staff finds the applicant's supplemental report does not address the variance criteria. The variance request is self-created as the property owners did not apply for a permit; the applicant did not list alternative methods to attain the minimum possible variance. The unpermitted installation of the fence has disrupted the whole neighborhood's character, harmony, and public welfare. While the applicant identifies concern for safety, security, and privacy, a barrier can still be maintained by a four-foot-high fence near the canal. The fence can create navigational issues for incoming/outgoing residents with canal access as the fence stands. As a result, the staff recommends denial of this requested variance application.

If the Board decides to approve the fence, the staff recommends that the applicant submit a survey showing the property boundaries to identify fence installation because the current fence abuts the neighbor's fence and may cause some challenges to make it smooth and add panels without having to adjust or remove the installed fence.

Attorney Langley said the Board has limited time and would like to remind the audience to keep their comments brief. Chairman Lane reminded attendees that all comments would have a 3-minute limit.

The applicant, Craig Huff, residing at 6805 Barby Lane, spoke on his variance and provided a copy of an email from EPD dated April 25, 2022, and a copy of the minutes from a P&Z meeting on January 26, 2021. He noted that EPD determined that the fence is not encroaching into the water's surface and is not causing navigational issues; however, they do not have jurisdiction in regards to the fence.

Mr. Huff said with this variance, he is seeking safety and security for his family and has endured extreme hardship. He shared his frustrations and gave examples of the continued problems with his neighbor. He stated that his property is unique in shape and is the only area where they can place a fence for privacy.

Mr. Huff further added that his neighbor's fence is 7 ½ feet into the ROW and will they have to remove their fence as well even if it is grandfathered in before he attempts to make their side smooth per code.

Chairman Lane opened for public comment.

- Rebecca Ellington residing at 6904 Barby Lane shared her concerns and spoke briefly of Mr. Huff's behavior to the residents.
- Francis Rabbitt residing at 3212 Indian Drive shared his concerns about the situation between his neighbors. He said Mr. Huff is either ignorant of the rules or doesn't care.
- He spoke of the ROW and entrance to the canal at the end of the street and Mr. Huff's lack of respect for the rules and the neighborhood.
- Doris Hanna residing at 6811 Barby Lane shared her concerns and said she would like to fence to be removed because it is a sight hazard along with his landscaping. She recently submitted a variance to allow her to replace a chain-link fence in the front/side yard.
- Jeff Rhodes residing at 3135 Indian Drive said he wasn't aware that the fence was not permitted. He is in attendance to understand the variance process for a future application.
- Robert Langholtz residing at 3116 Indian Drive shared his concerns with the events that have occurred with the fence. There is some frustration walking to the canal and he was not aware that the road and the right-of-way were deeded to anyone.
- Michelle Huff residing at 6805 Barby Lane spoke in reference to her variance. She noted that they are brand new homeowners and trusted the fence company to know the rules and regulations. She apologizes for their mistake in not researching the permit process. Many have addressed her husband's behavior however have not addressed the fence installation. Her windows face their neighbors and the fence was installed for safety and security for her family.

There being no further comments, Chairman Lane closed public comments.

City Manager Francis stated the following,

- The applicant is looking a variance for a front yard fence that was placed without a permit;
- The fence was installed smooth side in and is responding to a Code Violation.
- Rear yard fence is 6ft within the 35ft of the shore and was installed without a permit or variance. In addition the neighbor is not in favor of the installation.

The applicant Mr. Huff attended a meeting with the Mayor and City staff regarding landscaping in the right of way. The City staff stated that he was not allowed to place any landscaping and he ignored the discussion and placed them anyway. He later had to remove them at the request of the City. On a separate note, Mr. Huff pulled a mechanical permit in 2019 which was not inspected for a final. Mr. Francis recommends that Mr. Huff close the permit because it can cause a hold on future permits.

The applicant does have the option to appeal the denial of the variance to City Council or correct the violations to comply with the Code. Discussion ensued on Work-Without-A-Permit and After-the-Fact-Permit fees.

After discussion, Board member Squires moved to:

- (A) approve the requested variance to allow fence installation in the front yard subject to the following conditions:
  - (i) have a professional boundary survey conducted and submitted to the City evidencing that all fences installed by the applicant are solely on the applicant’s property, (ii) if any part of the fences are not on applicant’s property, applicant must relocate portions of such fences back onto their property, and (iii) consistent with denied variances, modify the applicant’s fences to have a smooth side facing towards the neighbors and lower the height within 35 feet of NHWE;
- (B) deny the variance to maintain the backyard fence by the canal at 6 feet in height (thus applicant must reduce the height of the fence to be code compliant at no more than 4 feet within 35 feet of NHWE); and
- (C) deny the variance to allow the structural smooth side of the fence to face the applicant’s property instead of the neighboring property.

Board member Thompson seconded the motion which passed unanimously 4:0.

City Manager Francis said the applicant should wait 15-days before starting any work to allow for any appeals.

5. Other Business – N/A

6. Adjournment

There being no further business the meeting was unanimously adjourned at 7:15pm.



# City of Belle Isle

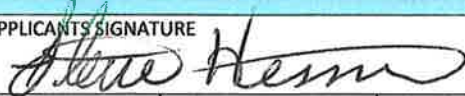
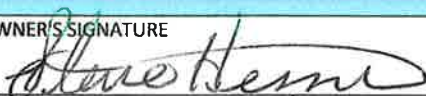
1600 Nela Avenue, Belle Isle, FL 32809

Tel 407-851-7730 \* Fax 407-240-2222 \* www.belleislefl.gov

a.

## Variance and Special Exception Application

City Code Chapter 42, Art. II, Sec. 41-61 thru 41-72 AND Sec 42-64 Land Development Code

APPLICANT <b>Steve Hesson</b>	OWNER <b>Steve Hesson</b>
ADDRESS <b>2323 Cross Lake Road</b>	PROJECT ADDRESS <b>2323 Cross Lake Road</b>
CONTACT NUMBER <b>407-466-0940</b>	OWNER'S CONTACT NUMBER <b>407-466-0940</b>
EMAIL <b>S.hesson@yahoo.com</b>	OWNER'S EMAIL <b>S.hesson@yahoo.com</b>
PARCEL ID# <b>18-23-30-7164-00-420</b>	
LAND USE CLASSIFICATION <b>Residential</b>	ZONING DISTRICT <b>R-1-A</b>
SECTION OF THE CODE VARIANCE REQUESTED ON <b>5/4/2022</b>	
<p>DETAILED VARIANCE REQUEST</p> <p>A 3' high fence was installed in 1986 to keep cars from driving on the Septic Tank and Drain Field. The fence has been replaced a few times over the years for reasons including Hurricane damage and age. We keep the fence maintained, so it looks appealing. We would like to keep our fence.</p>	
<ul style="list-style-type: none"> <li>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 nine (9) months. Further, the requested user does not violate any deed restriction of the property.</li> <li>By applying, I authorize City of Belle Isle employees and members of the P&amp;Z Board to enter my property during reasonable hours to inspect the area to which the application applies.</li> <li>The applicant shall provide a minimum of ten (10) sets of three (3) photographs in support of this application as follows: at least one (1) picture of the front of the property and at least two photos (from different angles) of the specific area of the property to which the application applies.</li> </ul>	
APPLICANT'S SIGNATURE 	OWNER'S SIGNATURE 
<input checked="" type="checkbox"/> VARIANCE <input type="checkbox"/> SPECIAL EXCEPTION <input type="checkbox"/> OTHER	P&Z CASE NUMBER DATE OF HEARING

**Sec. 42-64. - Variances.** The Board shall have the power to approve, conditionally approve or deny applications for a variance from the terms of the Land Development Code.

**Criteria.** The Board shall not approve an application for a variance from terms of the Land Development Code unless and until:

- A written application for a variance is submitted to the city manager or the city manager's designee on a form provided by the city clerk setting forth all of the special conditions and circumstances that exist in favor of the granting of the variance and addressing the requirements of subsections (1)d—g of this section of the criteria set forth in this section. Upon submission of the properly completed application and the appropriate fee, the city manager or the city manager's designee shall refer the application to the board.

- Notice of public hearing for the variance shall be given as required by the article for hearing before the board.
- The public hearing on the application for the variance shall be held. The applicant, the applicant's agent as evidenced by a signed writing or the applicant's attorney shall appear before the board.
- It is determined 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.
- 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 in order to circumvent the Land



**Variance and Special Exception Application**

Development Code or for the purpose of obtaining a variance.

- f. It is determined that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
- g. It is determined that the granting of the variance will be in harmony with the general purpose and intent of the Land Development 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.
- h. The board shall find that the preceding requirements have been met by the applicant for a variance.

the variance is granted, shall be deemed a violation of this Land Development Code and punishable in accordance with this article. At the Board's discretion, such variance may be revoked for violation of the condition and safeguards.

- b. The Board may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed. Under no circumstances, except as permitted above, shall the Board grant a variance to allow a use not generally or by special exception allowed in the zoning district involved, or any use expressly or by implication prohibited by the terms of the Land Development Code in the zoning district. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district, and no permitted use of land, structures, or buildings in other zoning districts, shall be considered grounds for the authorization of a variance.

The Board shall find that the preceding requirements have been met by the applicant for a variance.

**(2) Violations of conditions.**

- a. In granting any variance, the Board may prescribe appropriate conditions and safeguards to comply with the Land Development Code. Violation of such conditions and safeguards, when made a part of the terms under which

**Applications submitted must meet all of the above criteria before the Board can grant a variance.** The burden of proof is on the applicant to comply with the criteria.

A special exception addresses the compatibility of uses, differing slightly from a variance. The approval of a special exception depends on how the request affects the surrounding area. All uses allowed as special exceptions are listed within the individual zoning districts. Before the Board can approve a special exception, the request must meet all of the following criteria:

1. A written application for a special exception must be submitted to City Hall no later than 4:00 p.m. on the first Thursday of the previous month. (See Above)
2. The Board shall find that it is empowered under the section of the zoning ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest.
3. It is determined that public health, safety, comfort, order, convenience, prosperity, morals, or general welfare is promoted, protected, or improved.

**General Information**

1. Certain conditions may be prescribed on the special exception or variance approved by the Board.
2. The applicant must be present at all hearings.
3. Decisions rendered by the Board do not become final until fifteen (15) days after the hearing. The fifteen-day waiting period allows all aggrieved parties to appeal the decision. Any person filing an appeal will submit, within fifteen (15) days of the decision, a notice stating where they feel the Planning and Zoning Board erred in their decision. Belle Isle's City Council will then hold an appeal hearing.
4. Sec 42-61 thru 41-72 - Variances and special exceptions granted by the Board will become void if a permit necessary for utilization of the variance or special exception is not issued within six (6) months of the date approved by the Planning and Zoning Board.

<b>FOR OFFICE USE ONLY:</b>			
<b>FEE: \$300</b>			
Date Paid	Check/Cash	Rec'd By	



City of Belle Isle  
 1600 Nela Avenue, Belle Isle, FL 32809  
 Tel 407-851-7730 \* Fax 407-240-2222 \* [www.belleislefl.gov](http://www.belleislefl.gov)  
**Variance and Special Exception Application**

a.

### ABOUT YOUR PUBLIC HEARING

The following information is provided to assist applicants in applying for a variance, special exception, or use determination. Please familiarize yourself with the process by visiting

The City of Belle Isle's Planning and Zoning Board, which comprises seven (7) non-paid volunteer residents, meets on the fourth Tuesday of the month to hear various planning and zoning issues, including variances, special exceptions, and use determinations. In recommending approval or denial of a request, the Board looks at each application individually to determine if the request meets the following criteria:

A written application for a **variance must be submitted to City Hall no later than 4:00 p.m. on the first Thursday of the previous month**. The application **MUST** include:

- a. the \$300 filing fee,
- b. a completed application form,
- c. proof of ownership of the property, or a notarized statement from the owner with the representative's information,
- d. Ten (10) copies of a plot plan or survey showing all improvements to the property, ten copies of a scale drawing of the planned construction, illustrated on the survey, and digital format for large-scale documents is required.
- e. For boat dock variances, the survey must clearly illustrate the Normal High Water Line elevation (NHWL) of Lake Conway.
- f. **A narrative addressing how the variance complies with the following:**

*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 a 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. That 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. <b>WHAT ARE THE SPECIAL CONDITIONS AND CIRCUMSTANCES UNIQUE TO YOUR PROPERTY?</b> <b>WHAT WOULD BE THE UNNECESSARY HARDSHIP?</b>
Not-Self- Created Section 42-64 (1) e	The applicant must prove that the special conditions and circumstances do not result from the applicant's actions. A personal (self-created) hardship shall not justify a variance; i.e., when the applicant creates the alleged hardship, they are not entitled to relief by their conduct. <b>HOW WERE THE SPECIAL CONDITIONS NOTED ABOVE CREATED?</b>
Minimum Possible Variance Section 42-64 (1) f	The applicant must prove that the zoning variance is the minimum variance that will make the reasonable use of the land, building, or structure possible. <b>CAN YOU ACCOMPLISH YOUR OBJECTIVE IN ANOTHER WAY?</b> <b>LIST ALTERNATIVES YOU HAVE CONSIDERED AND EVIDENCE AS TO WHY THEY ARE NOT FEASIBLE.</b>
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. <b>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).</b>

**\*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, and you do not have to comply with Sec. 42-64 (1) d and (1) f.**

- 1) WHAT ARE THE SPECIAL CONDITIONS AND CIRCUMSTANCES UNIQUE TO YOUR PROPERTY? WHAT WOULD BE THE UNNECESSARY HARDSHIP? Our Septic Tank and Drain Field are in the front yard.
- 2) HOW WERE THE SPECIAL CONDITIONS NOTED ABOVE CREATED? We put up a fence in 1986 to keep people from driving on our front yard and possibly damaging our drain field and harming themselves.
- 3) CAN YOU ACCOMPLISH YOUR OBJECTIVE IN ANOTHER WAY? LIST ALTERNATIVES YOU HAVE CONSIDERED AND EVIDENCE AS TO WHY THEY ARE NOT FEASIBLE. We could possibly put up a hedge, but we are worried the roots could damage the Drain Field.
- 4) WHAT EFFECTS WILL APPROVAL OF THE VARIANCE HAVE ON ADJACENT PROPERTIES OR THE SURROUNDING NEIGHBORHOOD? Our fence has had no negative effect on our neighbors, in fact we receive many compliments on our yard and fence. We created a butterfly garden within our fence, and I am afraid by taking down our fence we will destroy all the host plants and milkweed that the butterflies enjoy, along with our drain field being damaged.

Thank you for taking the time to hear our case.

Steve Hesson and Carla Genco



{EXTERNAL}

carla genco <genco27@hotmail.com>

Tue 5/3/2022 2:54 PM

To: Genco Carla <cgenco@martin-brower.com>



Sent from my iPhone

a.

{EXTERNAL}

carla genco <genco27@hotmail.com>

Tue 5/3/2022 2:53 PM

To: Genco Carla <cgenco@martin-brower.com>





**CITY OF BELLE ISLE, FL**

**Planning and Zoning: Staff Report**

June 28, 2022

**Variance Application: 2323 Cross Lake Road**

Applicant Request: PURSUANT TO BELLE ISLE CODE SEC. 42-64, AND SEC. 50-102 (B) (5) THE BOARD SHALL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO ALLOW THE CURRENT FENCE INSTALLATION IN THE FRONT YARD, SUBMITTED BY APPLICANT STEVE HESSON, LOCATED AT 2323 CROSS LAKE ROAD, BELLE ISLE, FL 32809 ALSO KNOWN AS PARCEL # 18-23-30-7164-00-420.

**Existing Zoning/Use:** R-1-A single family home

This variance application seeks a variance from Sec. 50-102 (B) (5) to keep their front yard fence.

The applicant has provided information supporting the variance request with additional information about the existing neighborhood design and the character of the property they are trying to expand upon for the rear setback. Please see this information enclosed with this agenda item packet.

**Staff Recommendation**

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

1. Special Conditions and/or Circumstances

Given that the septic tank and drain field are located in the front yard, the conditions of this lot would qualify as a special circumstance for having a fence located in the front yard.

2. Not Self-Created

The special circumstance of this lot has not resulted from the applicant’s actions. This house was developed in the 1950s with a septic tank and drain field installed in the front yard.

3. Minimum Possible Variance

While the applicant has suggested a hedge wall as an alternative solution to protecting the front yard, the roots may cause damage to the septic tank over time.

4. Purpose and Intent

The purpose and intent of maintaining this front yard fence is to prevent damage to the septic tank and their butterfly garden. Seeing how this fence was installed in 1986, and there have been no documented complaints to the City about this fence, the requested variance would not negatively impact the surrounding neighbors or the character of the neighborhood.

Staff provides a recommendation to approve the requested variance.

**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.