City of Belle Isle Planning & Zoning Board Regular Session Minutes May 26, 2015 – 6:30pm

Frank	David Woods	Chris	Nicolette	Gregg	Dr. Stuart	John	Nicholas
Kruppenbacher	District 1	Shenefelt	Kramer	Templin	Bernstein	McLeod	Fouraker
City Attorney	Chairman	District 2	District 3	District 4	District 5	District 6	District 7
Absent	Present	Present	Present	Absent	Present	Present	Present

On Tuesday, May 26, 2015 the Belle Isle Planning & Zoning Board met in a regular session at 6:30pm in the Belle Isle City Hall Council Chambers. Present was Attorney Thomas Callan, Chairman Woods, Board member Shenefelt, Board member Kramer, Board member Templin, Board member Bernstein, Board member McLeod, Board member Fouraker and City Clerk Yolanda Quiceno. Absent were City Attorney Kruppenbacher and Board member Templin.

CALL TO ORDER

Chairman Woods called the meeting to order at 6:30pm and opened with the Pledge of Allegiance. Chairman Woods welcomed our new Board members Chris Shenefelt, District 2 and Dr. Bernstein, District 5.

APPROVAL OF MINUTES

Chairman Woods called for approval of the May 21, 2015 minutes.

Board member Fouraker moved to approve the minutes as presented.

Board member McLeod seconded the motion which passed unanimously.

ATTORNEY DISCUSSION

Attorney Callan addressed a memo to the City dated May 21, 2015 concerning compliance with City Code provisions 2-162 thru 164 on disclosure of exparte communication in a quasi judicial action such as a variance application. This action, within our City Code and Florida Law, is to ensure that everyone knows what is being heard in a decision. It is a question of fairness and due process.

Attorney Callan recommended before each item is opened at tonight's hearing that the Board disclose any exparte communication for the benefit of the applicant, proponents or opponents.

CHAIRMAN OVERVIEW OF MEETING PROCESS

Chairman Woods provided an overview, in brief, of the variance process and criteria for approval.

PUBLIC HEARING CASE 2015-03-017

Applicant Black Pearl Realty Investments, LLC property owner of 7210 Seminole Drive, Belle Isle Florida, Orange County also described as Parcel ID #29-23-30-4389-04-040 and LAKE CONWAY PARK G/138 LOT 4 also described as Parcel ID# 29-23-30-4389-04-050, requests a variance from Section 50-102(b)(5a) allowing a 5 foot high fence to span past the front elevation and a 6 foot fence heading easterly across property attaching to the front elevation of the existing garage.

Chairman Woods opened for Board member's disclosure of any exparte communication.

• Board member Shenefelt, Chairman Woods, Board member Dr. Bernstein, Board member Fouraker and Board member McLeod disclosed that they did visit the site.

Steve Fusilier property owner of 7210 Seminole Drive provided pictures in support of his request to install and secure his property from the traffic generated from the park across the street. The five foot fence located in the front of the home will be placed behind the existing corpus hedge and will not be visible. The six foot wood fence will continue from the

corner of the neighbor's fence to a location on the side of his garage. He will be replacing the existing chain link fence in front of the house with an aluminum picket fence. The side yard fence will be white vinyl.

Board member Bernstein asked what is the future plans for the property. Mr. Fusilier said there are two lots measuring 75ft and will eventually construct a single family residence on the vacant lot.

Chairman Woods opened for public comment.

- Deborah Donham residing at 6907 Seminole Drive asked if the City has approved a home to be built on a 75ft lot. Mr. Fusilier said the lot was previously approved. Chairman Woods stated and clarified that the variance is solely for placement of a fence.
- Gregory Gent residing at 2924 Nela Avenue spoke in opposition of the variance. He noted that the precedence of establishing barriers around every home will lose the flavor of the neighborhood. Secondly, whether someone places a hedge and places fence behind it the end result is that the hedge could be removed and the fence will be exposed.

There being no further public comment Chairman Woods closed and called for Board discussion.

- Board member Kramer asked for clarification on the height of the existing and proposed fences to conclude an informed decision.
- Board member Shenefelt said the Code clearly states no fences in the front yard and, for justification, if someone has one does not necessarily mean that the next person will be approved.
- Board member Kramer asked if Counsel had an idea on how many six foot fence variances have been granted, or grandfathered, in the past few years.
 - Attorney Callan stated, first, that it is important the Board understands where the front yard starts and ends. He said the front yard is between the front of the house and the street. From the side of the structure to the side yard is considered a side yard fence. Discussion ensued.

Attorney Callan said the property next door has a similar fence that is a foot behind the front of the garage and ties into the home. Generally, if it is behind the front of the home it is deemed a side yard. As the Board of Adjustment's, finding in harmony with the neighborhood and upon other criteria in Chapter 42-64, the board can approve with reasonable conditions.

- Board member Fouraker said he appreciates the corrective action to the property and consistency to all the various fence types in the area and security concerns.
- Board member McLeod said the placement of the fence by the garage is reasonable; however he does not agree with the fence behind the existing hedge.
- Chairman Woods said the fence built at the location adjacent to the garage is a side yard fence and not subject for a variance. Attorney Callan said, yes.
- Board member Shenefelt asked if the fence will go across the driveway or remain open. Mr. Fusilier said yes, he will upgrade the fence to an invisible zero line fence with a gate.

Discussion ensued. Board member Kramer moved, the criteria of Chapter 42, Article III, Section 42-64(1) of the Belle Isle Land Development Code having been met to approve this request for a variance from Section 50-102(b)(5a) allowing a 5 foot high fence to span past the front elevation and a 6 foot fence heading easterly across property attaching to the front elevation of the existing garage on the property described as 7210 Seminole Drive, Belle Isle Florida, Orange County also described as Parcel ID #29-23-30-4389-04-040 and Lake Conway Park G/138 LOT 4 also described as Parcel ID# 29-23-30-4389-04-050, Orange County, FL.

Board member Fouraker seconded which passed 4:1 with Board member McLeod, nay. Chairman Woods abstained from the vote.

Chairman Woods noted that the applicant should not start any properly permitted construction prior to 15 days to allow for any appeals.

PUBLIC HEARING CASE #2015-05-005

Request by applicant Brooks Stickler requests a variance on 1934 McCoy Road, Belle isle, FL also described as Parcel I.D. #31-23-30-8262-03-000, from Section 50-73 to change the maximum building height for a C1 Retail Commercial hotel development from 30 feet to 51 feet.

Chairman Woods opened for Board member's disclosure of any exparte communication.

Chairman Woods and the Board collectively stated and disclosed that they did visit the site.

Brooks Stickler representing Wood Springs Suites residing at 3660 Maguire Blvd, Orlando FL said the applicant is proposing to build a new hotel within the C1 zoning behind the existing hotel. The adjacent existing hotel is a five story development. They are requesting a four story building. The existing site is an abandoned, storage/industrial use location. The entire area will be demolished to build a \$10 million project in the City of Belle Isle. The applicant provided a brief overview of the proposed site plan.

Chairman Woods opened for public comment.

- Bob Harrell residing at 2800 Trentwood Blvd asked if this will be an extended stay hotel. The applicant said yes.
 Mr. Harrell said he is not opposed to the height variance because of its location. However, he is opposed to the extended stay because it connects with a crowd of prostitution and drugs associated with the type of service.
- Steven Lindas residing at 3106 Indian Drive agreed with Mr. Harrell and is opposed to the request.
- Cindy Lance residing at 3401 Trentwood agreed with Mr. Harrell and is opposed to the request.
- Resident residing at 2915 Nela Avenue agreed with Mr. Harrell and is opposed to the request.
- Mike Simms residing at 2606 Trentwood Blvd. agreed with Mr. Harrell and is opposed to the request.
- Scott Dexler, Vice President of Wood Spring Suites, Wichita Kansas said the only misconception is identifying an extended stay with a negative consumer. This will be a corporate location and they have a tremendous amount of security and concern that all companies have relative to unwanted people in a hotel. The average stay is less than 30 days at a rate of \$350.00 a week which has a tendency to eliminate the negative concern. The development will bring taxes for the City and he is troubled by the comments. He further added that that many hotels including the Marriott have extended stay services.

Chairman Woods asked, based on the market analysis, what is the target demographic. Mr. Dexler said the target demographics consist of 30 year olds to seniors; business, military, construction and hospital transients.

- Anna Marie Fiiola residing at 2493 Trentwood said she researched extended day hotels and is opposed to this type of development.
- Resident residing at 2627 Trentwood said the intent is to attract good clientele however, they can never dictate the quality of service, and if they start to decline they will need to lower their rates.
- Deborah Donham residing at 6907 Seminole Drive opposed the request.
- Steven Lindas residing at 3106 Indian Drive said the comments are way off the road, and the Board should decline the comments and stick to the variance request.
- Mr. Harrell said on the website the applicant was Value Place and is changing their name. Mr. Dexler said they
 were working on a brand name change for the last two years to get bigger across the United States; this is not a
 small mom and pop extended stay.
- Greg Gent residing at 2924 Nela asked if this request can be tabled to allow research on crime statistics to reduce the communities concerns. He also said he has not heard as to why they need the variance.

Chairman Woods responded, per the Attorney, and clarified that the Board is here to approve the height variance and not the use of the building. If the application is approved or not approved the applicant or the public have the option to appeal to Council.

• Thomas Ray residing at 2512 Trentwood said the height variance will increase pedestrian and vehicle traffic in the area. He would like them to take the \$10 million dollars in one of the existing declining hotels.

• Chairman Woods asked what is peculiar to the site that makes it necessary to make the building taller. Mr. Drexler said if they did not have the capability to make it four stories the economic feasibility will not make it successful. Secondly, 75% of their marketing is done online however, because we are behind a five story building it will allow for better marketing to the 60-70,000 cars that pass McCoy and the Beach Line every day.

Attorney Callan asked then, why not apply for rezoning for a more extensive use. He noted that the C2 and C3 zoning categories does allow for a maximum height of 50 feet.

There being no further public comment Chairman Woods closed and called for Board discussion.

- Board member McLeod said the variance for the existing five story hotel was approved primarily because the more rooms they had the more they can sustain. He is not familiar with the comments made tonight and sees nothing wrong with the request.
- Board member Bernstein said he tends to be in agreement with the comments tonight.
- Chairman Woods read Board member Templin's written opinion which states yes for the variance because it will
 hardly be seen. Chairman Woods stated that he is in agreement with the opinion, including that it will create a
 sound buffer from the Beach Line. It actually has a benefit for the neighborhood aside from the economic benefit.
- Board member Fouraker said more height is more density which will affect the Fire and Police Department calls. He is challenged to support the increase in height.

Board member Kramer moved the justifying criteria of the Belle Isle Land Development Code, Chapter 42, Article III, Section 42-64(1), having NOT been met *under subsection D, E, F, and G* the requirements of section 42-64(1) Subsections, all of the above having NOT been met to deny this request for a variance from Section 50-73 to change the maximum building height for a C1 Retail Commercial hotel development from 30 feet to 51 feet on the property described as 1934 McCoy Road, Belle Isle, FL also described as Parcel I.D. #31-23-30-8262-03-000, Orange County, FL.

Board member Fouraker seconded the motion to deny the request which passed 5:1 with Board member McLeod, nay.

Attorney Callan stated if the applicant would like to reapply for a rezoning under City Code he can discuss the option with the City Manager.

PUBLIC HEARING CASE #2015-04-001

Applicant Walters Construction Company, on behalf of property owner Charles A. Bruno, located at 6806 Seminole Drive, Belle Isle Florida, Orange County also described as Parcel ID #29-23-30-4389-02-010 and S Lake Conway Trailer Park also described as Parcel ID# 29-23-30-4389-02-021, request a variance from Section 50-73(a) for a reduction in minimum lot width from 85 feet to 70 feet, for six new lots.

Chairman Woods stated that Case #2015-04-001 has been withdrawn by the applicant.

PUBLIC HEARING CASE #2015-02-002-continued

Request by applicant Beech Outdoor Company, Inc. requests a variance on 2635 McCoy Road, Belle Isle, FL also described as Parcel I.D #30-23-30-0000-00-005, from Section 52-33(7)(b) to raise existing billboard from 45 feet to 65 feet to be consistent with the others allowed to be operated in the City along State Road 528.

Chairman Woods opened for Board member's disclosure of any exparte communication.

- Board member Fouraker disclosed that he spoke with Mr. Rex Beech on Friday in length. He presented a plan to propose as a compromise to the original request, which will be presented tonight. He was not asked for an opinion or vote.
- Board member Bernstein visited the site and spoke with Jeremy Weinsier who pointed out that the sign area is adjacent to a residential area.
- Board member McLeod met with Mr. Rex Beech and was provided some material on the billboard. He visited the site on 3 locations prior to meeting with Mr. Beech.
- Board member Kramer stated that she had communication with her husband who is very opposed to the raising of the billboard and with Mr. Beech at her office and by email.

- Board member Shenefelt said he did take pictures from the lake to the site.
- Chairman Woods disclosed that he spoke to Mr. Beech at his home. They spoke on what he was intended to present tonight. He did suggest that Mr. Beech provide a profile showing how high the sign would be as viewed by the residents. He suggested a possible surveyor that can provide him some assistance. There was a secondary discussion on the presentation today. He did not express his opinion for or against.

Kendell Keith spoke on behalf of Beech Outdoors and said this is the third time he is presenting to the Board. He provided a letter dated April 3rd and a presentation in support of a variance to increase the height of a billboard located at 2635 McCoy Road to allow better visibility as the sign is viewed from the Beachline Expressway. He added that the existing offsite billboard on the property consists of two faces and that the billboard structure is regulated by both the City of Belle Isle and the Florida Department of Transportation (FDOT). He addressed the hardship created by improvements to the Beachline Expressway and said it is consistent with precedence for such signage within the City of Belle Isle and it is the minimum variance that will provide reasonable visibility of the billboard when viewed from the Beachline Expressway.

Rex Beech residing at 1672 Indian Drive Court addressed the following,

- At the first meeting there was concern on the lighting illuminating the back yard of the adjacent neighborhood. The concern was addressed and at the last meeting where two experts spoke in length on the light reflection.
- Discussion then arose that the sign was visible from the lake. This will be addressed tonight by Mr. Scott.
- Mr. Beech requested, for Board consideration, to reduce his original request from 65 feet to 60 feet;
- In response to citizen comments, they will spread the faces on the structure to angle 45 feet and camouflage the back side of the bill board to limit the visibility impact;
- In addition, he offered to donate one of the digital faces to the City for emergency notifications, amber alerts or City events.

Mr. Robert Scott, on behalf of Beech Outdoors, presented a 3D animated presentation on the visibility of the subject billboard from Trentwood Blvd looking South toward the location of the subject billboard. He showed the present height of the billboard at 50 feet elevation above ground level then, the elevated billboard to 65 feet above ground level. He provided a view from the North over the existing tree line and down to 4 feet above the paved surface of Trentwood Blvd. The view point will look South toward the billboard location and travel West on Trentwood Blvd to illustrate the visibility or, non-visibility of the subject billboard at the requested height above ground level. During the westward travel of the viewpoint, the animation stopped at several points to show a ghosted image of the billboard against the tree line in both day and night views.

Attorney Callan asked for clarification on the PSA (public service announcement) frequency. Mr. Beech said the LED sign frequency will be once every minute based on availability. For the purposes of the PSA, as a condition to the variance, they will provide one digital image to the City on an ongoing basis on availability.

Chairman Woods questioned the angle of the billboard on slide 18. Discussion ensued. Mr. Beech confirmed the angle to be adjusted to 45 feet as stated and said the slide was presented incorrectly.

Attorney Callan asked for clarification, on slide 2, for the purposes of discussion. He asked if the lease includes both the commercial and residential area of the property. Mr. Beech said no only the area of the bill board. Attorney Callan asked if Mr. Beech spoke with the owner about leaving the residential area undisturbed. He said no he only has control of the posted area. Discussion ensued. Attorney Callan stated that the variance goes with the land and is placed on a split zoning lot. The Board has the discretion to ferret out some of these issues and place some conditions on the variance.

Chairman Woods opened for public comment.

- Cindy Lance residing at 3401 Trentwood said the applicant cannot guarantee that the trees will remain undisturbed and should not be considered part of the hardship. She is opposed to the request.
- Thomas Ray residing at 2512 Trentwood said the City Code has a restriction that a Billboard cannot be 2000 feet from another and it is not being addressed and should be considered and applied to the request. He is opposed to the request.

- Greg Gent residing at 2924 Nela Avenue shared his concern with the uncertainty of the angle of the presentation. He is sure that it wasn't intention however, how do we know that the drone is showing the south and north side of the area. In addition the tree line in temporary and the issue cannot be used at all. The last is the offer to provide free use of the PSA as a condition for approval. It appears sketchy and maybe viewed as bribery. He is opposed to the request.
- Resident residing at 6904 Seminole Drive is in agreement with Cindy Lance and is opposed to the variance.
- Mike Simms residing at 2606 Trentwood said he hasn't heard of why it is good for the City and request any Board member who votes yes to explain.
- Bill Hahn residing at 3499 Trentwood Blvd said if the trees do fall down the angle adjustment will have less impact to the neighborhood and will not affect the view of the lake.

There being no further public comment Chairman Woods closed and called for Board discussion.

Chairman Woods summarized the variance conditions as follows,

- Applicant has offered raising the billboard to 60 feet; and
- Widen the angle to 90 degrees between the panels and have it oriented in such a fashion so that no light from the billboard reach the neighbors as depicted on slide 18; and
- Offered one digital service announcement, per minute, to the City on an ongoing basis on availability.

Board member Kramer said the applicant has a property right to the billboard that has been comprised in some regard by the raising of the expressway which is why he has the hardship. To the extent that the billboard cannot be seen as well his lease rights are being abridged which is why the Board needs to consider the hardship. The trees have been discussed at length, at prior meetings, and should not be considered as they exist now or later. However the sky line should be considered for the entire City. She does believe the PSA falls under the public welfare it does help getting the word out on an Amber alert or hurricane announcement.

Board member Kramer moved, the criteria of Chapter 42, Article III, Section 42-64(1) of the Belle Isle Land Development Code having been met, to approve this request for a variance from section 52-33(7)(b) to raise existing billboard from

- 1. 45 feet to 60 feet to be consistent with the others allowed to be operated in the City along State Road 528; and
- 2. Widen the angle to 90 degrees between the panels and have it oriented in such a fashion so that no light from the billboard reach the neighbors as depicted on slide 18; and
- 3. Offered one digital PSA, per minute to the City on an ongoing monthly basis on availability submitted by the City Clerk to the bill board operator; and
- 4. The best efforts for the residential area to remain in a residentially zoned classification.

on the property described as 2635 McCoy Road, Belle Isle FL, 32859, also described as Parcel I.D #30-23-30-0000-00-005 Belle Isle, Orange County, Florida.

Board member Fouraker seconded the motion.

Chairman Woods amended the motion to strike the criteria on the residential area which is beyond the applicant's control. After board discussion, Board member McLeod seconded the amended motion.

No further discussion the motion with amendment was approved 5/1 with Board member Bernstein, nay.

The motion was passed as follows 4/2 with Board member Bernstein and Board member Shenefelt, nay. Board member Kramer moved, the criteria of Chapter 42, Article III, Section 42-64(1) of the Belle Isle Land Development Code having been met, to approve this request for a variance from section 52-33(7)(b) to raise existing billboard from

- 1. 45 feet to 60 feet to be consistent with the others allowed to be operated in the City along State Road 528; and
- 2. Widen the angle to 90 degrees between the panels and have it oriented in such a fashion so that no light from the billboard reach the neighbors as depicted on slide 18; and
- 3. Offered one digital PSA, per minute to the City on an ongoing monthly basis on availability submitted by the City Clerk to the bill board operator.

APPOINTMENT OF VICE CHAIRMAN

Chairman Woods called for nominations for Vice Chair.

Board member Fouraker motioned to nominate Board member Kramer for Vice Chairman.

With no other nominations from the Board the motion passed unanimously.

ADJOURN

There being no further business the Board motioned to adjourn at 9:45pm.

Yolanda Quiceno, City Clerk