



# **Board of County Commissioners**

## **Appeal of the Recommendation of the EPC Regarding a Variance Request for the Sarah Goldman Boat Dock (BD-17-12-137)**

**Appellants: Peter and Kari Fleck**

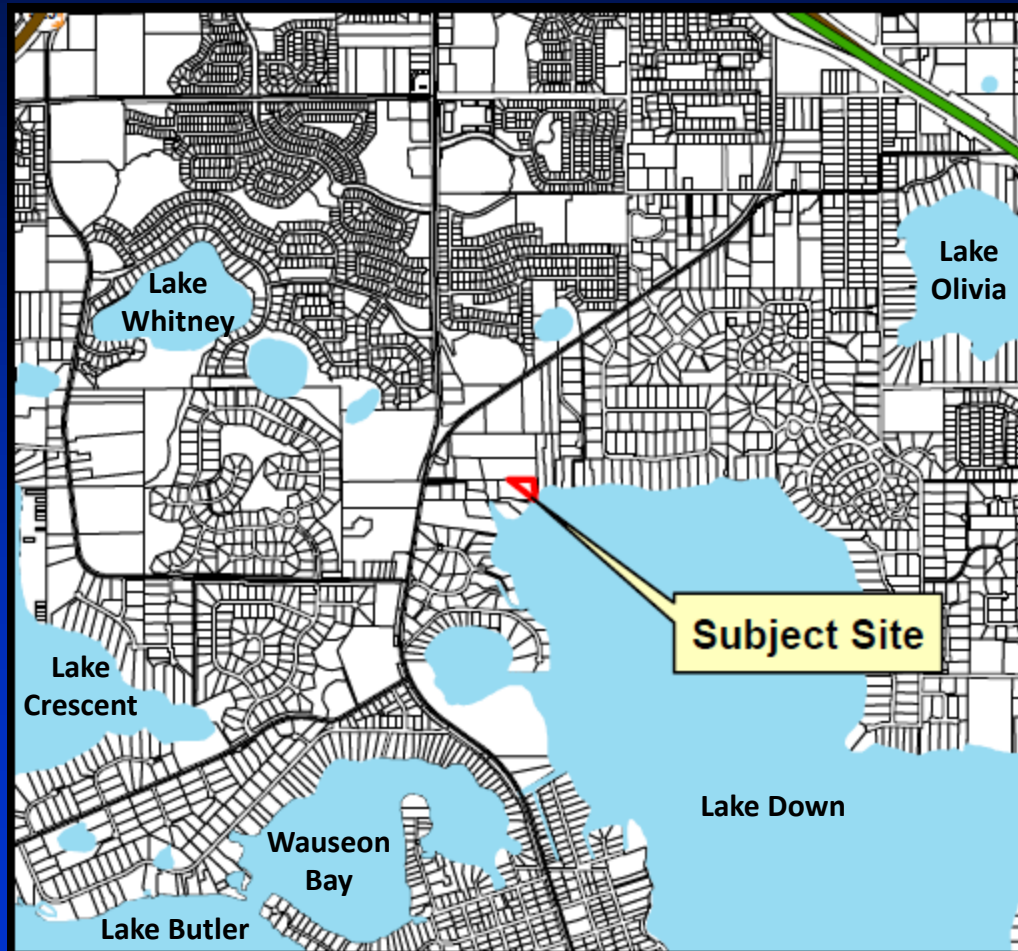
**District 1**

**July 31, 2018**



# Location Map

10828 Wonder Lane, Windermere



Parcel ID # 05-23-28-0000-00-042



# Aerial Photo



Parcel ID #: 05-23-28-0000-00-042





# Existing Conditions



Facing Southeast – January 16, 2018



# Application Review

- **December 26, 2017 - EPD received an application to construct a dock at 10828 Wonder Lane, including an Application for Variance to Section 15-343(a) (side setback).**
- **Applicant is requesting a variance to reduce the required 10-foot side setback:**
  - Zero (0) feet on the eastern projected property line
  - Six (6) feet on the western projected property line.
- **EPD received a letter of no objection from Christian Anouge, the adjacent property owner to the west, with the application.**





# Aerial Photo



Parcel ID #: 05-23-28-0000-00-042



# Variance Request

- **Section 15-343(a) states, “On lots or parcels having a shoreline frontage of less than seventy-five (75) feet, docks, including designated mooring areas, shall have a minimum side setback of ten (10) feet from the projected property line.”**
- **The applicant’s shoreline measures approximately 72 feet. Therefore, the side setback requirement is 10 feet.**



# Restrictions and Limitations

- The following considerations limit the design and placement of the dock:
  - The property is within a cove area
  - The water depth is relatively shallow
  - The dock has to stay within the projected property lines (EPD), and within the riparian lines (DEP), which can differ





# Variance Criteria

- Pursuant to Section 15-350(a)(1), the applicant shall describe how strict compliance with the provisions from which a variance is sought would impose a unique and unnecessary hardship on the applicant (the hardship cannot be self-imposed).

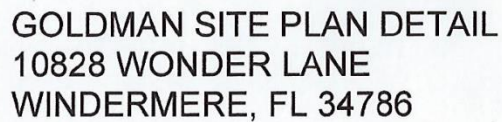
*The agent for the owner has stated, "The lot pines dramatically, so even a below standard sized boathouse does not fit within the setbacks. The proposed boathouse is being located in the only location that has adequate water depth."*



# Variance Criteria

- Pursuant to Section 15-350(a)(2), the applicant shall describe the effect of the proposed variance on abutting shoreline owners.

The agent for the owner has stated, *“The proposed boathouse does not negatively impact the view or navigation for either adjacent property owner.”*



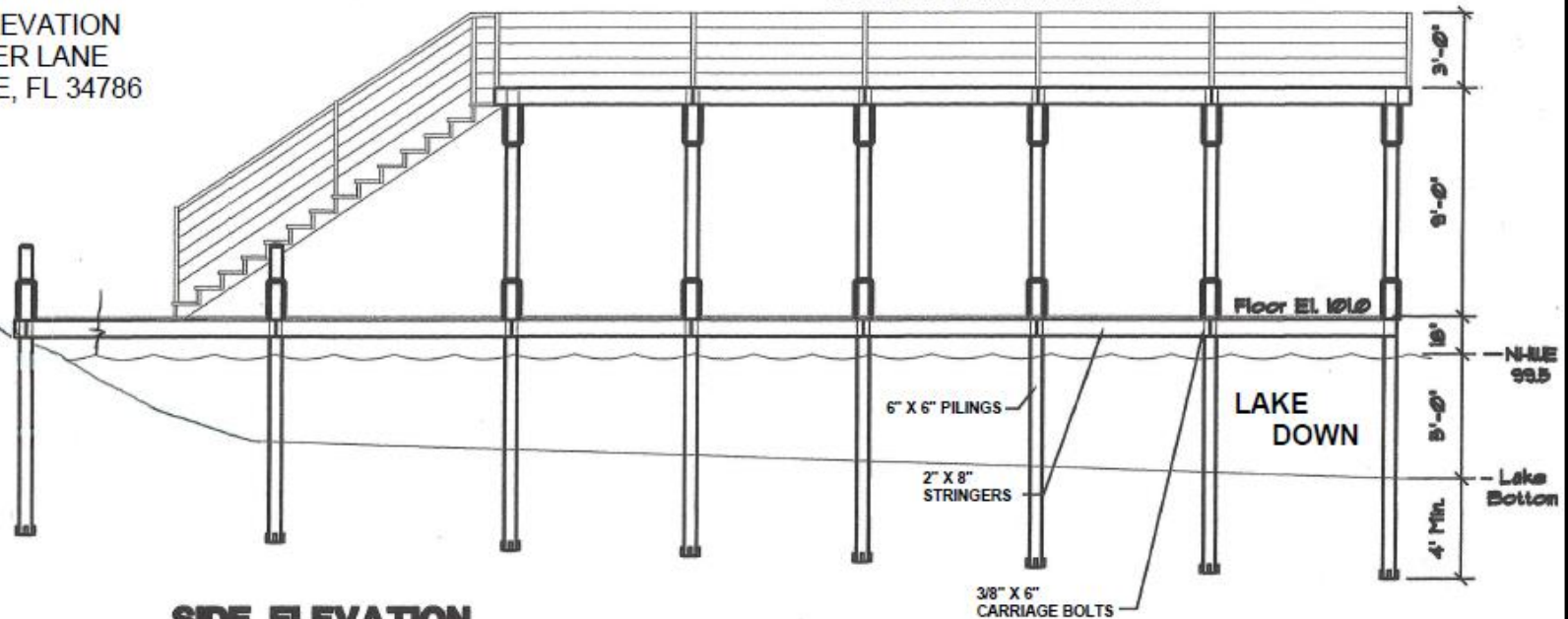




# Site Plan

**Observation deck** TOP OF RAIL 12' MAX ABOVE DECK

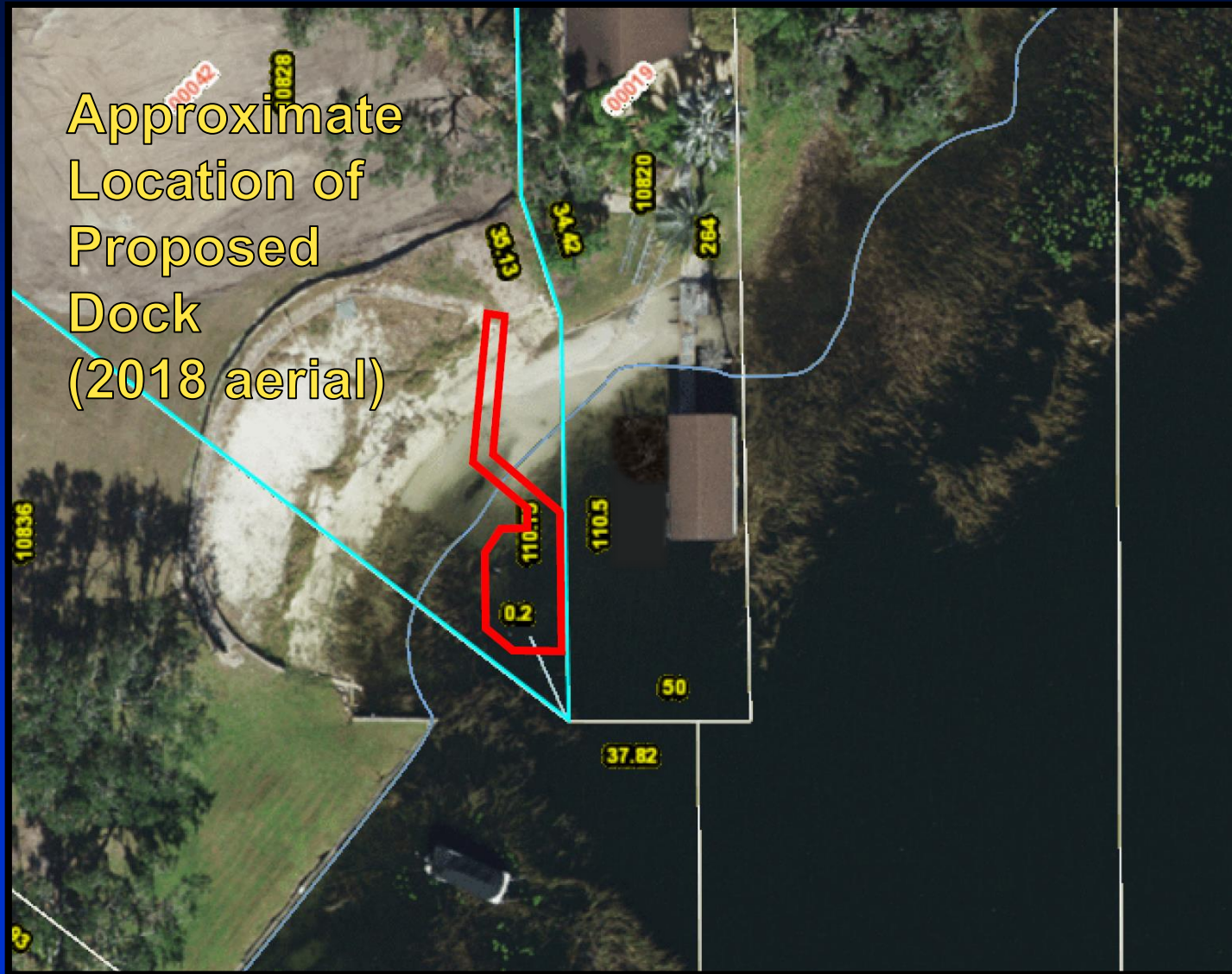
GOLDMAN ELEVATION  
10828 WONDER LANE  
WINDERMERE, FL 34786



**SIDE ELEVATION**  
SCALE: 1/8" = 1'-0"



# Site Plan





# Navigation Assessment

- March 27, 2018 - The proposed dock was staked on site and EPD requested the Orange County Sheriff's Office (OCSO) conduct a navigation study.
- The OCSO recommended the dock be moved further west for accessibility, but did not state that the dock was a navigation hazard.





# Proposed Location

Pink stakes  
represent corners of  
proposed dock

Fleck Dock



Existing Conditions



# Objections

- January 22, 2018 - EPD sent notification of the variance request to all lakeshore property owners within a 300-foot radius of the project site.
- On February 1, 2018 EPD received an objection to the variance from the affected eastern adjacent property owners, Peter and Kari Fleck. They stated:

*“I received the Notice of Application for a boat dock to go in at 10828 Wonder Lane and have seen the proposed site plan. At this time I do not support the plan or give my consent for a 0’ side setback from my property line. Our property has limited frontage and we need space for our boats.”*



# Objections

- On June 14, 2018 (after the EPC hearing), EPD received a letter from Mr. Anouge, dated June 12, 2018. In the letter, he rescinded the Letter of No Objection that was submitted with the Goldman application, and additionally stated:

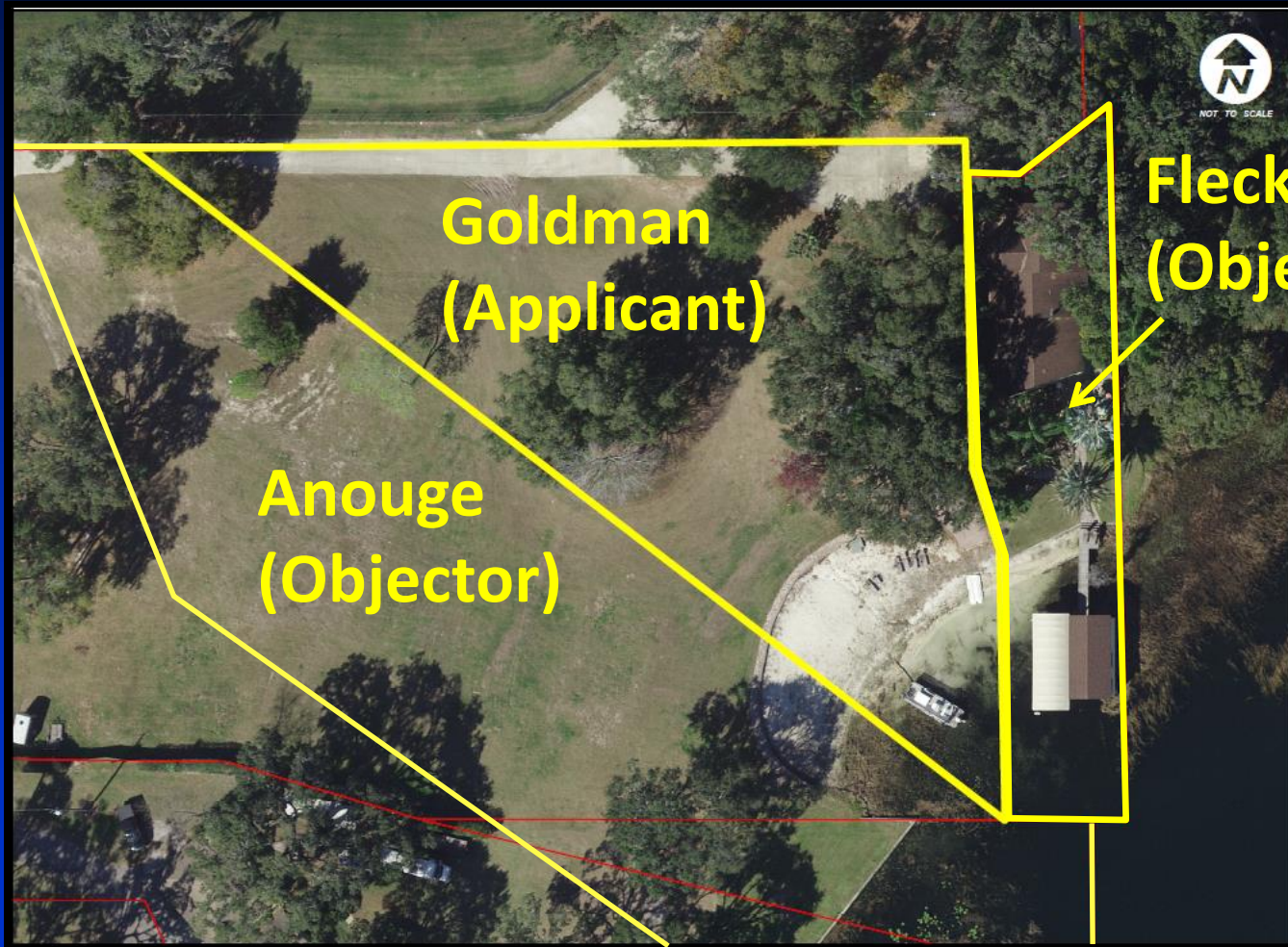
*“...I hereby object to the construction of the Goldman dock as it has been described to me as well as its location. I believe the Goldman dock can be built without the need for said dock to encroach upon the setbacks that are in place.”*





# Objections

10828 Wonder Lane, Windermere



PARCEL ID# 05-23-28-0000-00-042



# **EPC Public Hearing**

- **March 28, 2018 - Per Section, 15-350(b), EPD presented the variance request to the Environmental Protection Commission (EPC) with a recommendation of denial based on the failure of the applicant to demonstrate that the variance to side setback did not adversely affect the adjacent property owner and the objection received from the Flecks.**



# **EPC Public Hearing**

- **EPC overturned EPD's recommendation for denial and unanimously recommended approval of the variance request based on the current configuration of the dock on the Fleck's property, which is one foot from their eastern projected property line, and the distance between the Fleck's dock and the proposed dock (32 feet).**
- **EPC also considered the applicant's riparian right to have a dock on their property and that a dock of some sort would have to be approved consistent with riparian rights to wharf out.**





# Appeal

- **April 6, 2018 - EPD received an appeal from Peter and Kari Fleck. The letter of appeal generally stated that:**
  - The EPC approved the side setback variance even though EPD recommended denial and the OCSO recommended the dock be moved further west;
  - The hardship the applicants presented was self-imposed because they knew the lot shape and restrictions when they purchased the lot;
  - The multi-level dock has a negative impact on their view;
  - The dock could be reduced in size, including eliminating or reducing the roof, to better meet the required setbacks and improve the view; and
  - The dock poses a navigation hazard.



# Appeal

- **Per Orange County Code Chapter 15, Article IX, Section 15-349(b): The appeal shall be filed with the environmental protection officer and shall be scheduled for a public hearing before the board... The board may affirm, reverse, or modify the decision of the environmental protection commission. The decision of the board shall be final.**



# Action Requested

- To affirm, reverse, or modify the decision of the Environmental Protection Commission to recommend approval of the variance to Orange County Code, Chapter 15, Article IX, Section 15-343(a) (side setback) for the Sarah Goldman Boat Dock Construction Permit (BD-17-12-137).

**District 1**