



VARIANCE APPLICATION

VA-24-10-095

KATELYND O'NEAL
AUTHORIZED AGENT OF:

KELLY & SAMANTHA KLATT
6042 SHORE LINE DRIVE

BACKGROUND

- In 2004, after 3 successive hurricanes, the property was severely damaged and unlivable
- 2005, Property owner opened permits for interior renovation
- After removing the damaged screen enclosure, decided to add outdoor projects of extended pool deck, and fence to renovation project.
- OC Building was consulted and determined no permit was needed
 - The fence was less than 5ft in height
 - The extended pool deck abutted a retaining wall less than 48"
- HOA Approval was requested and granted
- Contractor failed to add the outdoor projects to the site plan, however, electrical was added and inspected

BACKGROUND

- In 2021, the neighboring property at 6048 Shore Line Drive was purchased by the Oldenkamps. The existing home was demolished and a new residence is currently being constructed
 - Subjected to current building codes which undoubtedly is frustrating the neighbor and caused them to file a complaint at the Klatt's projects.
- Nov 2023, Klatt's received a code enforcement violation notice about their backyard improvements (extended pool deck, fence, water feature, pavers, outdoor kitchen)
 - Fence, Outdoor kitchen, and pavers have since been permitted
 - Extended pool deck in progress, requires variance
 - Water feature in progress

VARIANCE CRITERIA

Special Circumstances:

- Article 8, Division 3, Section 38-1254 is the site development standards for P-D zoning district, referenced in code enforcement letter.
- 50ft from NHWE setback requirement was added to this section of code through Ordinance 2023-46 in December 2023
- Since the setback code wasn't in place at the time of the project, the improvements should be considered non-conforming uses
 - Sec 38-46 defines Non-conforming use as lawful use of a structure existing at the time of adoption which may be continued although such structure does not conform with existing provisions

ORDINANCE 2023-46

CODE OF ORDINANCES

> 2024

▼ 2023

Ordinance No. 2023-46

Ordinance No. 2023-43

Ordinance No. 2023-42

Ordinance No. 2023-40

Ordinance No. 2023-35

Ordinance No. 2023-34

Ordinance No. 2023-33

Ordinance No. 2023-32

Ordinance No. 2023-21

Ordinance No. 2023-20

Ordinance No. 2023-19

Ordinance No. 2023-18

Ordinance No. 2023-17

Ordinance No. 2023-16

Ordinance No. 2023-12

Ordinance No. 2023-11

> DETAILS

90 / 215 | 71% | [Icons]

DRAFT

88

89

90

Section 38. Amendments to Section 38-1254 ("Setbacks"). Section 38-1254 is amended to read as follows:

Sec. 38-1254. Setbacks and building heights.

(1) ~~Setbacks from side and rear property lines shall relate to the design height of the structures. The following guidelines shall be utilized to review projects; however, they may vary depending upon conditions and design considerations. Setbacks from PD boundaries, lakes, and internal and external rights-of-way for all types of residential development shall be as follows:~~

a. PD Boundary: 25 feet.

b. Functionally Classified Road: 25 feet.
(measured from abutting property line)

90

c. All other existing street rights-of-way: 20 feet. (measured from abutting property line)

d. Normal High-Water Elevation (NHWE) measured from the contour line: 50 feet.

~~All one-story and two-story units should provide a minimum twenty-five foot setback from all boundaries of the PD. Structures in excess of two (2) stories should increase this setback to reflect the additional structural height.~~

(2) Setbacks for individual lots within a single-family detached or duplex residential development shall be proposed by the applicant. Setbacks for individual lots within a single-family attached (townhouse) residential development shall comply with Sec. 38-79(20).

VARIANCE CRITERIA

Not Self Created:

- Homeowner observed all necessary steps at the time of the project and was advised that permits were not needed.
- HOA approval was granted.
- Conflicting information from the county does occur and is no fault of the homeowner.

FINAL HOA APPROVAL LETTER

*ORANGE TREE ESTATE HOMES
7201 Woodgreen Drive
Orlando, Florida 32819*

February 11, 2006

*Mr. and Mrs. Kelly Klatt
6042 Shoreline Drive
Orlando, Florida 32819*

Re: Architectural Approval

Dear Mr. and Mrs. Klatt:

Thank you for your recent letter. While Ms. Cherveney and Mr. Roeder do not agree with your recollection of events, they agree that there seems to be a valid basis for misunderstanding. Given the fact that you confirmed that there is indeed a drainage easement behind your house that is not reflected on the survey you provided to the Architectural Control Board, combined with your recent efforts to determine if there might be any kind of encroachment, the Estate Homes Association is willing to preserve your Architectural approval for your patio extension with the following proviso.

The architectural approval for your patio extension is preserved with the explicit understanding that:

- (a) Said approval is not in any way intended as a waiver by the Association as to our rights to the use of the drainage easement*
- (b) You take the risk as to whether or not your recent additions are, or are not, in any way within the drainage easement*
- (c) The Association will not be responsible for any damage to your improvements that may result from our future use of this easement*

If this is acceptable to you, you need do nothing else.

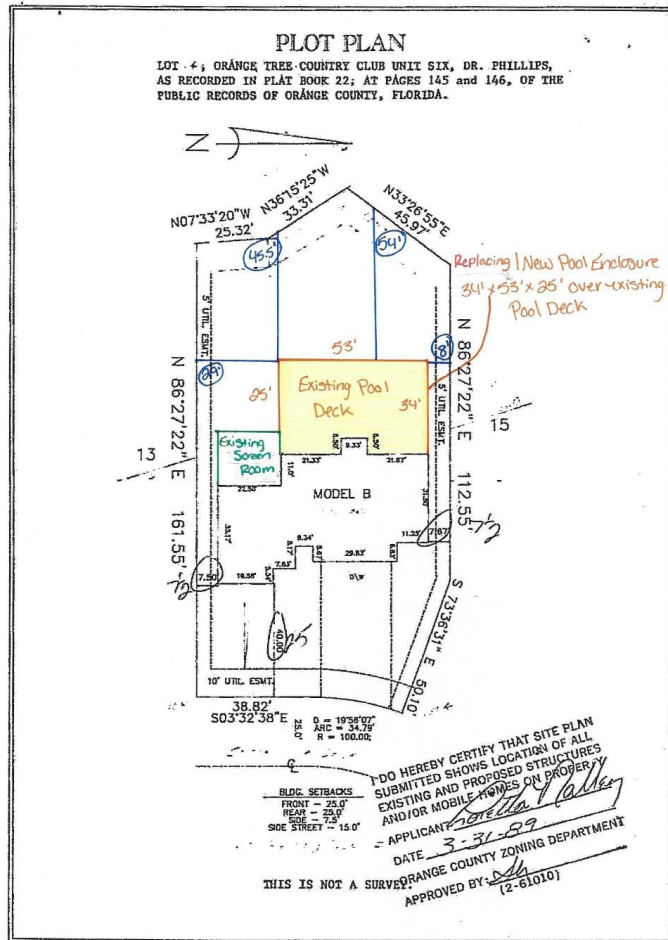
Again, congratulations on the wonderful improvements to your home.

Sincerely,

*Joan Hayes
Architectural Control Board
And for the Estate Home Board of Directors*

- Conditions for final approval were solely focused on the drainage easement
- No concerns were previously surfaced around distance to NHWE
- “you need do nothing else”

PROOF OF CHANGING REQUIREMENTS



6006 Shore Line Drive

This was approved in 2019 for a screen enclosure

30 year old Plot plan from 1989 provided for permit, not a survey

Does not show NHWE

Does not even show the lake

Prepared For: ARVIDA SOUTHERN	bowyer-singleton & associates INCORPORATED 3805 MADONNA AVENUE ORLANDO, FL 32809 407-261-1111	Date: <u>3-31-19</u> Approved Plans Orange County Division of Building Safety Revisions: _____ Date: _____ Drawn By: _____
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NOT VALID UNLESS EMBOSSED WITH RAISED SEAL

This Approval is void if any applicable code, Encroachment or other activity result in a cloud on the title of this property. Keep this plan on the job site at all times.

PROOF OF CHANGING REQUIREMENTS



Residential Plan Review Comments

November 10, 2021

Permit No: B21021412

The following is a list of correction comments from all departments for the above referenced permit application. A contact is listed for each division, please direct your queries to each contact accordingly.

Please provide the following additional information.
To supply corrected Electronic Plans, please log into your FastTrack account at:
<https://fastrack.ocfl.net/online-services/login.aspx>

After you are logged in, you may upload your corrected plans via the Documents page at:
<https://fastrack.ocfl.net/online-services/DocumentsPagePortal.aspx?ID=2852095>

For any questions on this process, please email ESubs@ocfl.net

Once the permit is approved by all reviewing divisions, it still is not ready to issue if any of the following processes are still "Open":

Utilities Customer Service	(407) 836-5503
Impact Fee Assessment	(407) 836-5691
Final Issuance Review	ESubs@ocfl.net
Final Plan Preparation	ESubs@ocfl.net

Dev Eng Review

Deficient

Dev Eng Misc - Deficiency remains.

Dev Eng Misc - Please provide a scanned, scaled signed and sealed survey/site/plot/grading plan with accurate depiction of property lines, easements, proposed structure location, dimensions, and separation distance to property lines. Also show that structure will not encroach into any easements. If the structure is less than 20 feet away from side and/or rear property lines, please provide swales to contain stormwater inside the property. Swales have to meet design standards of 5 feet wide, 1 foot deep and 1:3 internal slope with an overall slope of 0%.

Please direct all questions of the Dev Eng Review to the below contact:
Nelson Ortiz-Vera - PH: 407-836-5847- Nelson.Ortiz-Vera@ocfl.net

Zoning Review

Deficient

Site plan provided does not meet requirements of Sec. 38-3(l) and (m) of Orange County Code

Full site plan must show entire property with pool on it.

Site Plan must be signed and sealed

Proposed accessory structure does not meet required setback from NHWE

Deficient

Pool must be at least 25 feet from NWHE contour line

Please direct all questions of the Zoning Review to the below contact:
Ian Baker - PH: 407-836-5932- Ian.Baker@ocfl.net

- Early deficiency Letter for the proposed pool at 5934 Crystal View Dr stated requirement was 25ft from NHWE in 2021

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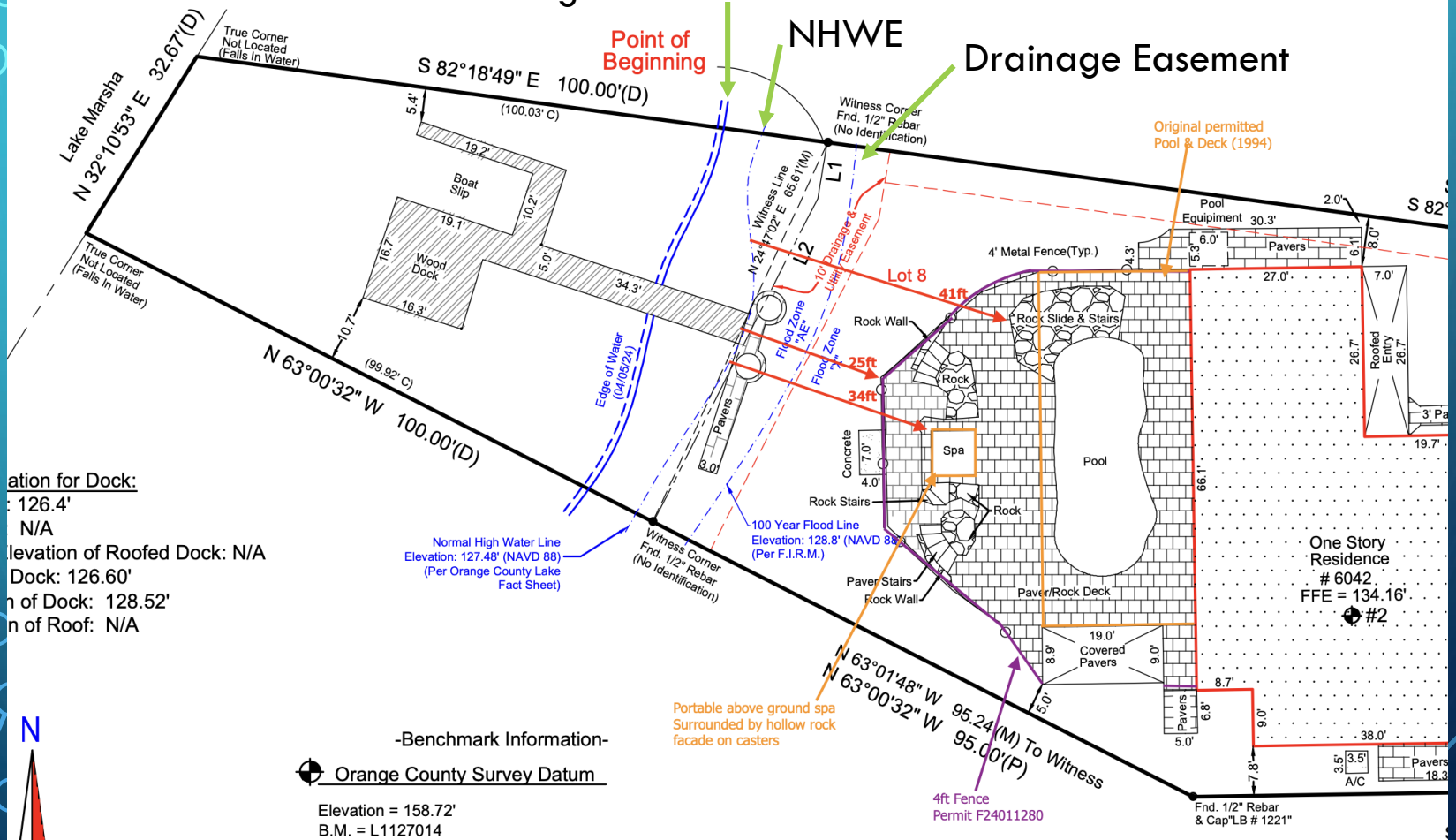
VARIANCE CRITERIA

No Special Priviledge:

- Several homes on Lake Marsha have historical improvements closer to NHWE than 50ft (*maps and measurements in future slides*)
 - 4 Homes on Sparkling Lake Drive, between 15ft to 34ft
 - 3 Homes on Crystal View Drive, between 38ft and 48ft
 - 2 other Homes on Shore Line Drive, between 33ft and 42ft
 - Neighborhood Clubhouse Tennis courts between 15ft and 23ft

SITE PLAN – SUBJECT PROPERTY

6042 Shore Line Drive



Information for Dock:

Area: 126.4'

Depth: N/A

Elevation of Roofed Dock: N/A

Area of Dock: 126.60'

Area of Roof: 128.52'

Area of Roof: N/A

N

-Benchmark Information-

Orange County Survey Datum

Elevation = 158.72'

B.M. = L1127014

OCPA MAP W/SITE PLAN

- Most landward part of NHWE line from survey aligns with white dotted line on OCPA

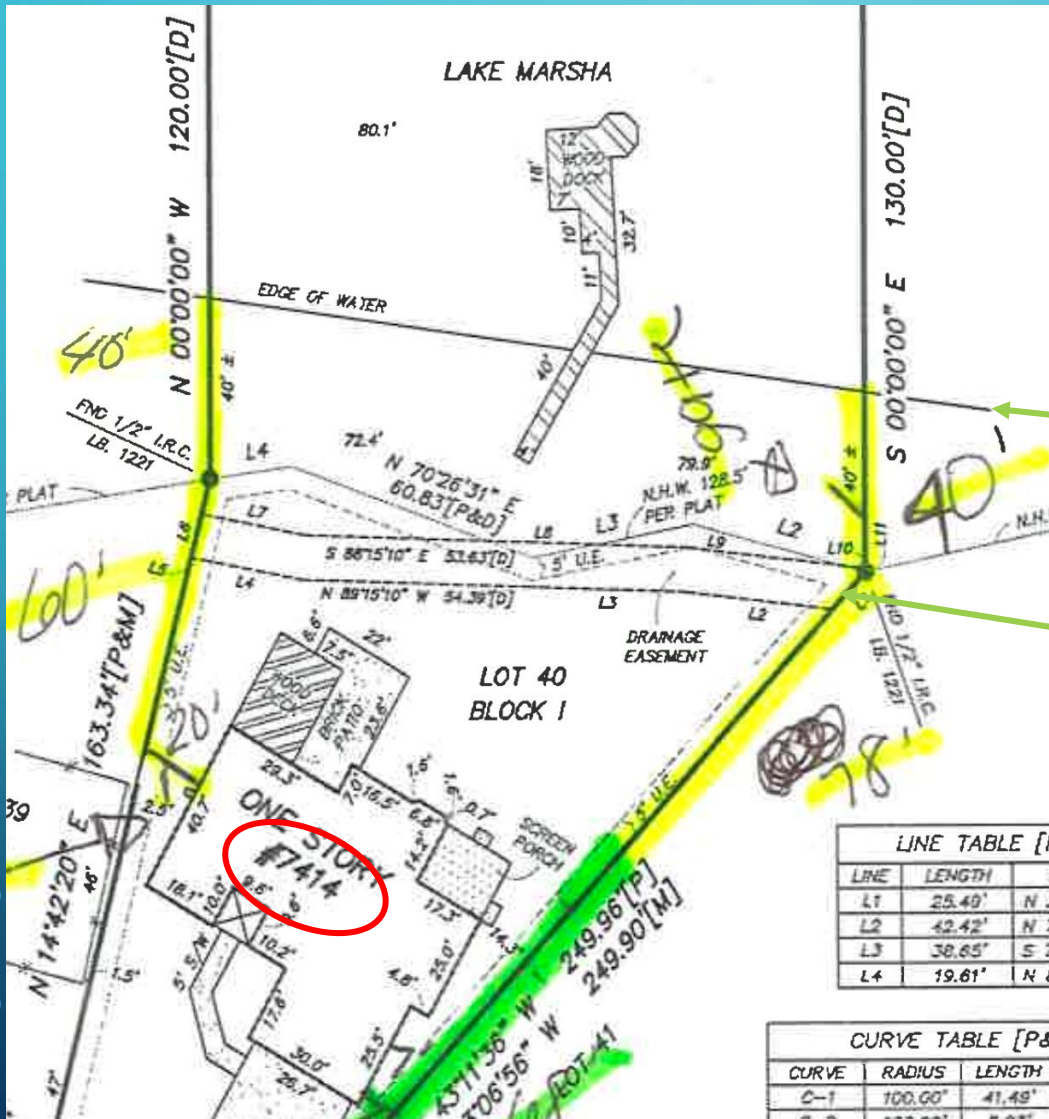
Appraiser Florida

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📍 Identify
🔧 OCPA Tools
🖨️ Custom Print
⚡ Tr



OCPA MAP – NEIGHBORING PROPERTY

7414 Sparkling Lake Road



Edge of Water

NHWE

Drainage Easement

LINE TABLE [P&M]

LINE	LENGTH	B
L1	25.49'	N 24
L2	42.42'	N 75
L3	38.65'	S 76
L4	19.61'	N 81

CURVE TABLE [P&M]

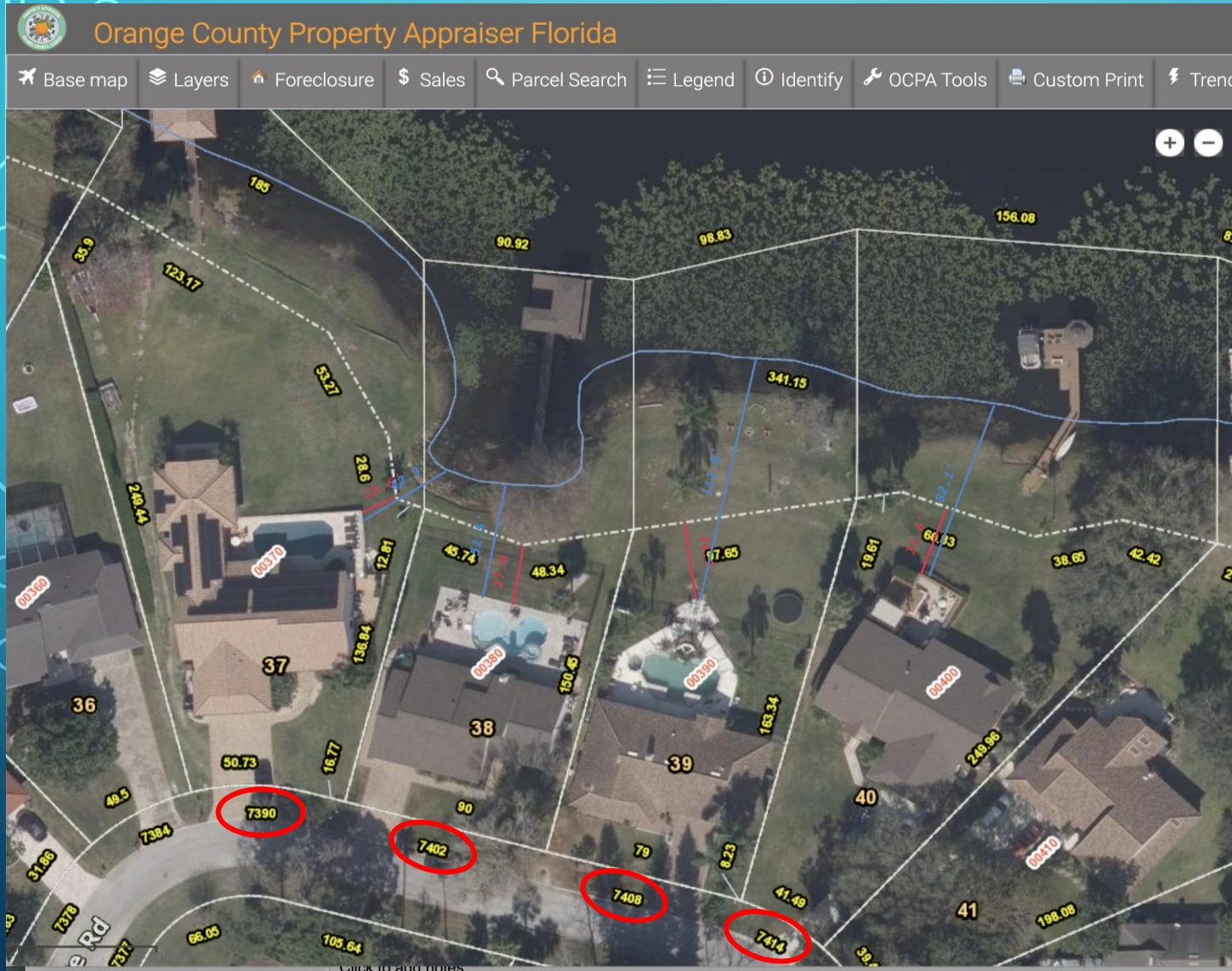
CURVE	RADIUS	LENGTH
C-1	100.00'	41.49'
C-2	100.00'	41.49'

OCPA MAP W SURVEY OVERLAY

- NHWE line from survey aligns with white dotted line on OCPA



OCPA MAP W MEASUREMENTS



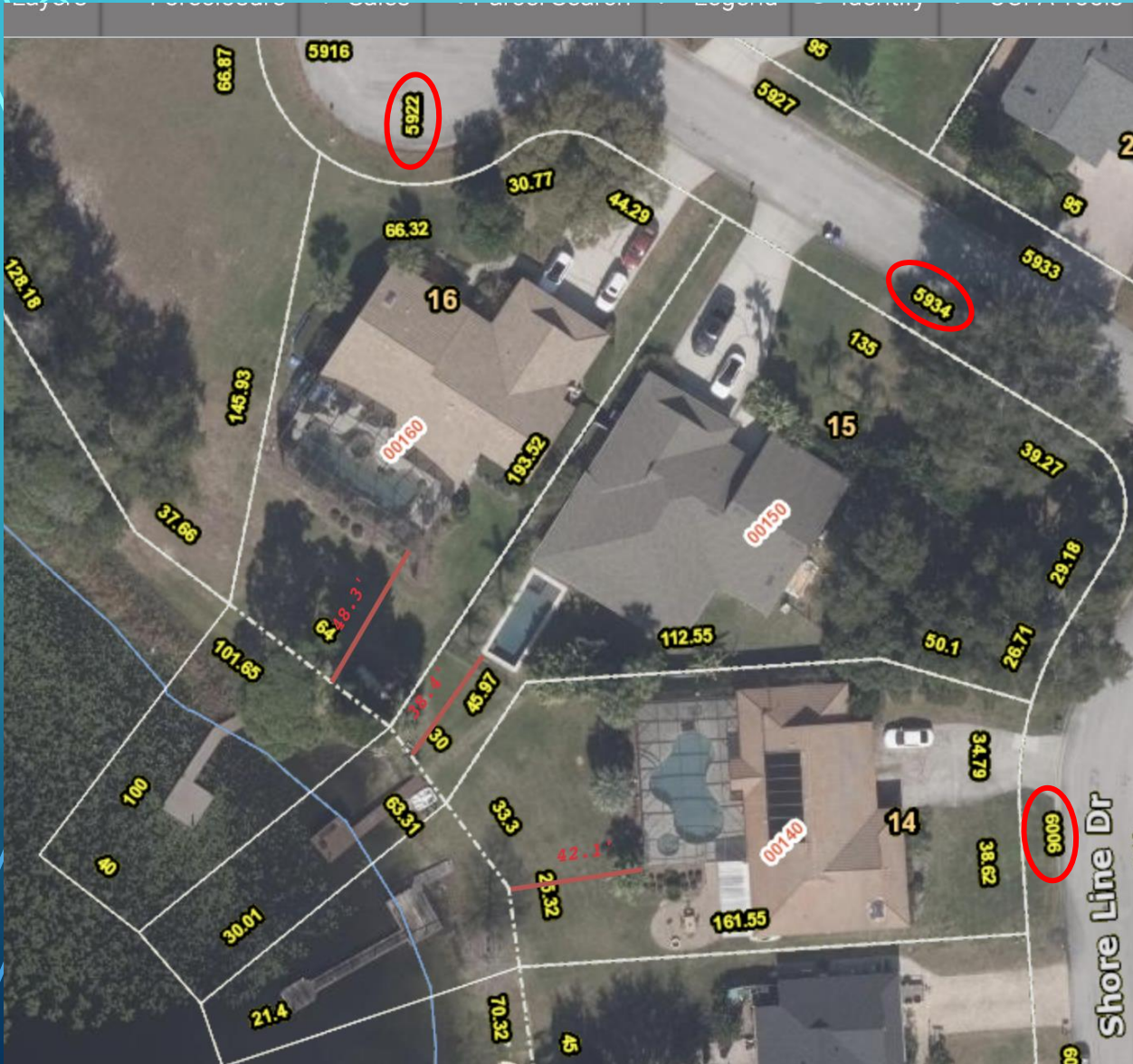
7414 Sparkling
Lake Rd:
31.6ft to NHWE

7408 Sparkling
Lake Rd:
34.7ft to NHWE

7402 Sparkling
Lake Rd:
27ft to NHWE

7390 Sparkling
Lake Rd:
15.6ft to NHWE

OCPA MAP W MEASUREMENTS

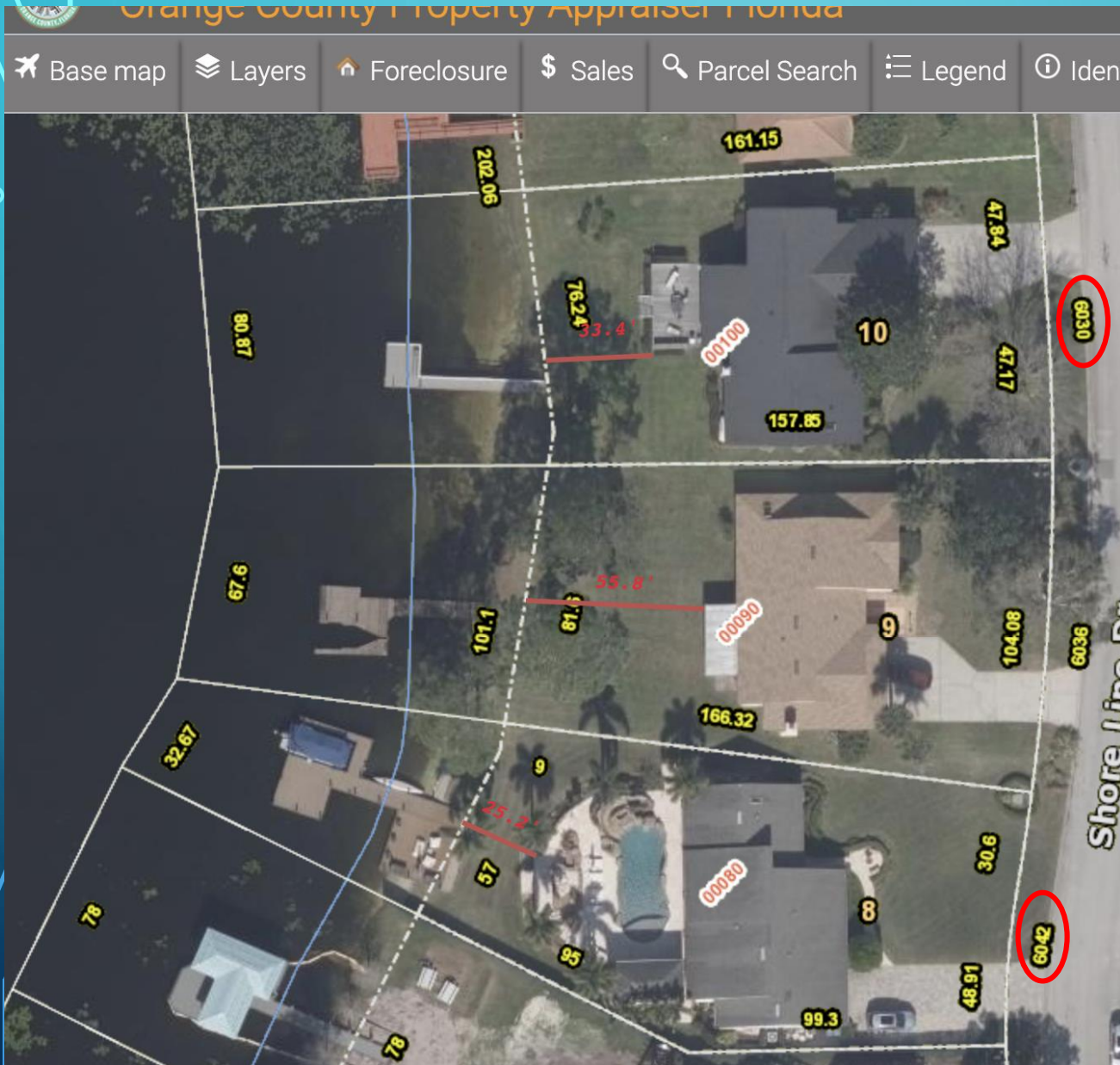


5922 Crystal View Dr:
48.3ft to NHWE

5934 Crystal View Dr:
38.4ft to NHWE

6006 Shore Line Dr:
42.1ft to NHWE

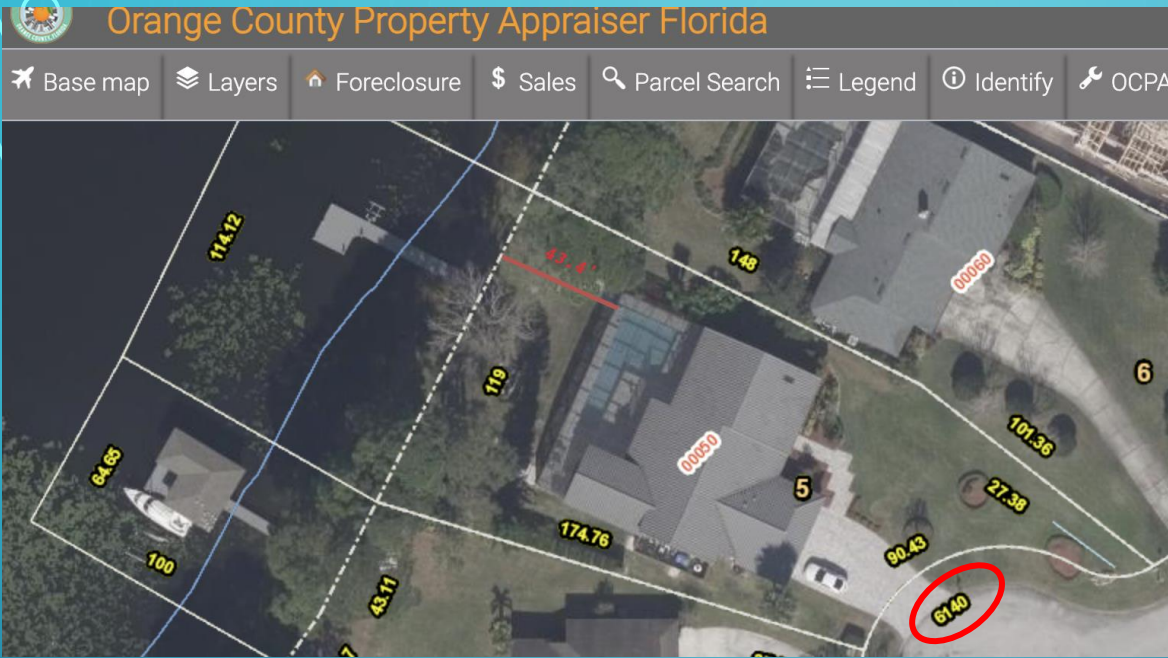
OCPA MAP W MEASUREMENTS



6030 Shore Line Dr:
33.4ft to NHWE

6042 Shore Line Dr:
25.2ft to NHWE

OCPA MAP W MEASUREMENTS



6140 Crystal View Dr:
43.4ft to NHWE

7201 Woodgreen Dr
Clubhouse Courts:
23.8ft to NHWE
15.6ft to NHWE
15ft to NHWE



VARIANCE CRITERIA

Deprivation of Rights:

- Pool deck is a common accessory use permitted within P-D
- New codes enacted after an improvement should not subject that improvement to modification

Minimum Possible Variance:

- Existing pool deck has been in place for 19 years and fully enclosed within a permitted fence.
- No additional space on the property for the spa that would meet the setback requirement

Purpose & Intent:

- HOA approval, Most lakefront neighbors have no objection
- No environmental or stormwater impact.

FAVOR & OPPOSITION MAP



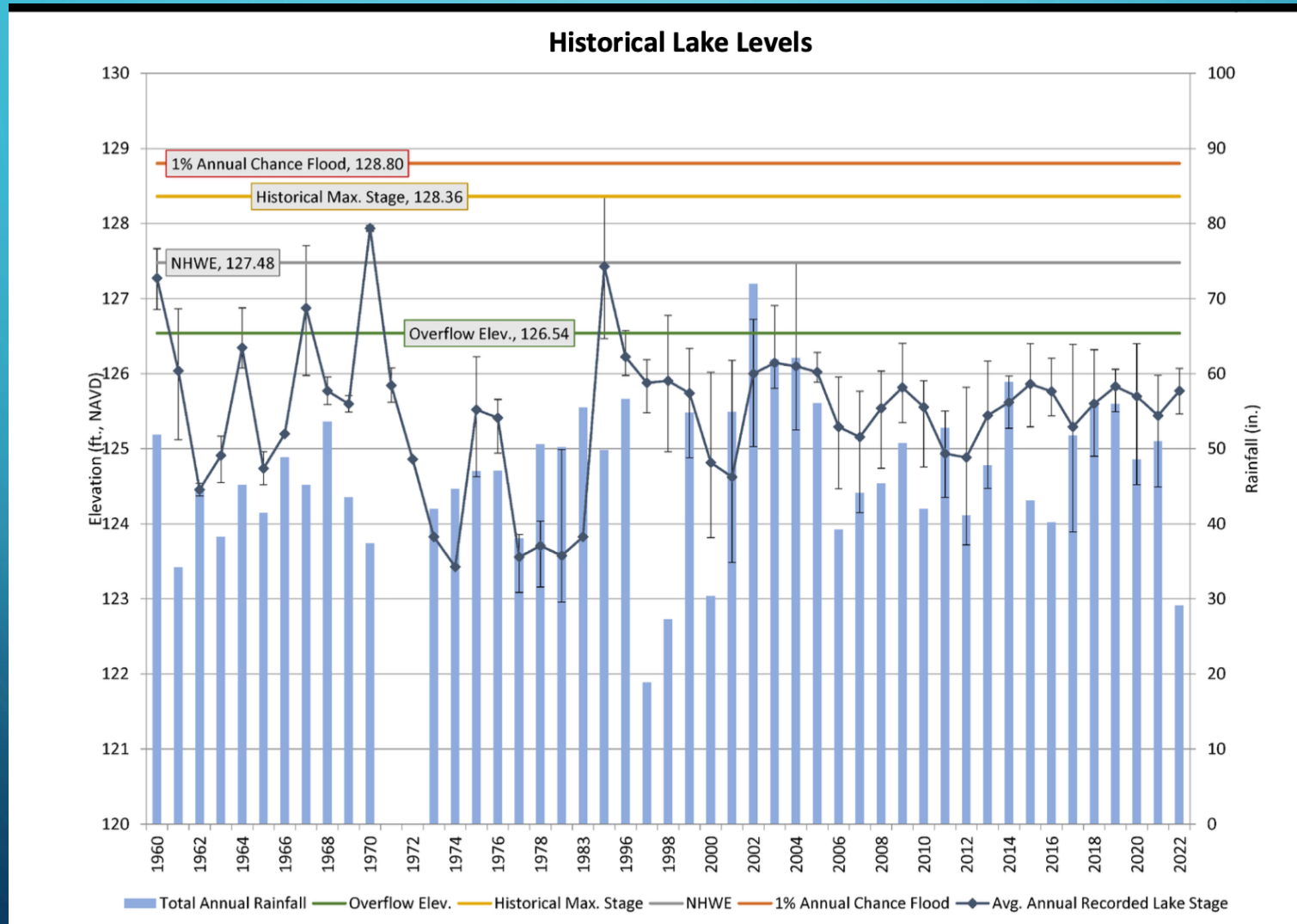
Favor:
17 Households
(9 Lakefront)

Opposition:
9 Households
(4 Lakefront)

**Some opposition letters were received from multiple members of the same household*
***Opposition letters from individuals who do not own the property or live in Orange Tree were excluded in this view*

LAKE MARSHA HISTORIC LEVELS

https://orange.wateratlas.usf.edu/upload/documents/Lake-Fact-Sheet_Marsha.pdf



RESPONSE TO FLOOD RISK

- Post Hurricane Milton, there was no pooling of water or impacts to the Klatt or Oldenkamp residences with 12+ inches of rain in the area.

6042 Klatt property



6048 Oldenkamp property



APPEAL CLAIMS

Opposition was unfairly restricted and received limited time to speak:

- 4 speakers in opposition received over 8 minutes in total
- Homeowner was limited to 2 minutes
- Applicant spoke for <6min for initial argument, and an additional 4 minutes were used to answer BZA questions

Opposition Report was not sent in advance

- 40-page opposition report sent in advance by Mr. McNeill
- Additional opposition letters were attempted to be submitted by Kathryn Oldenkamp after public comments were closed

APPEAL CLAIMS

Engineering report was ridiculed:

- BZA commented on the suggestive and insubstantial language used by the Engineer. Engineering firm did not walk the property. Used words like “suggest” “appears” and “could”.
- Stormwater, EPD, and Public Works had no comment
- Klatt property recently had swales inspected by the county
- Any flood risk to Oldenkamps is self-created

RESPONSE TO FLOOD RISK

- It is the responsibility of new construction to create appropriate run-off and drainage
- The neighboring property which is still under construction, flattened their swale while removing several cypress trees and root systems that could have mitigated flood risk

Oct 6, 2021 (6048 Shoreline Dr)



APPEAL CLAIMS

False Testimony:

- All proof of statements were submitted to public record at the hearing including satellite pictures with measurements and HOA approval letter

HOA ACB APPROVAL PROCESS

- 8/4/2005 – ARB Request submitted to HOA
- 8/12/2005 – Fence **Approved**. Additional information needed for Pool Deck
- 9/20/2005 – **Approved extended pool deck** from HOA
- 12/29/2005 – ACB Requested an updated survey and copies of permits. This was not previous listed in the conditions of approval from prior letters
- 1/2/2006 – Response from Klatts to ARB
- 2/7/2006 – ACB Letter revoking approval for pool deck due to concerns with location of the drainage easement on the property. Referenced an email that was sent on 9/16/2005.
 - Email was sent to wrong email address (misspelled @lowes.com instead of the correct @loews.com and never received by Mr. Klatt.
- 2/10/2006 – Response from Klatts to ACB along with pictures and measurements showing drainage easement is not impacted by the deck
- 2/11/2006 – Final **approval from ACB** on extended pool deck.



THANK YOU!