



Interoffice Memorandum

November 16, 2020

TO: Mayor Jerry L. Demings  
-AND-  
County Commissioners

FROM: Jon V. Weiss, P.E., Director  
Planning, Environmental, and Development  
Services Department

CONTACT PERSON: David D. Jones, P.E., CEP, Manager  
Environmental Protection Division  
(407) 836-1406

SUBJECT: December 15, 2020 — Consent Item  
Environmental Protection Commission Recommendation for  
Request for After-the-Fact Variance for Mulligan  
Constructors, Inc. Dock Construction Permit BD-19-11-132

The applicant, Mulligan Constructors, Inc., is requesting a permit modification and approval of an after-the-fact variance to Orange County Code (Code), Chapter 15, Article IX, Section 15-342(e) (roof height). The project site is located at 10561 Down Lakeview Circle, Windermere, Florida 34786. The Parcel ID number is 05-23-28-4818-00-120. The subject property is located on Lake Down in District 1.

On December 30, 2019, the Environmental Protection Division (EPD) issued Dock Construction Permit BD-19-11-132 to the applicant to construct a boat dock at the subject property. On July 22, 2020, EPD received the as-built survey of the dock which indicated that the roof height exceeded the 12-foot maximum allowed by Code, Chapter 15, Article IX, Section 15-342(e). In order to allow the dock to remain as constructed, the applicant is requesting an after-the-fact variance to permit a roof height of 14 feet in lieu of 12 feet as required by Code.

Notification of the after-the-fact Application for Variance was sent to all shoreline property owners within a 300-foot radius of the property. No objections were received.

EPD has not initiated a formal enforcement action; however, a \$799 penalty was assessed for non-compliance with the permitted plans, permit conditions, and Chapter 15, Article IX during construction of the dock. The penalty was subsequently increased to \$1,499, as discussed below. The penalty will be paid prior to approval of the compliance inspection for the dock.

Staff evaluated the request for compliance with the Code criteria. The recommendation of the Environmental Protection Officer (EPO) is to approve the after-the-fact variance based on a finding that the applicant has demonstrated that there will be no adverse effects from the proposed variance on abutting shoreline owners pursuant to Section 15-350(a)(1)(2), as no objections were received, that the request is not contrary to the public interest, that granting of the variance would not be contrary to the intent and purpose of this article, and that there is no environmental harm associated with the request.

Based upon evidence and testimony presented at the October 28, 2020 Environmental Protection Commission (EPC) public hearing, the EPC voted to modify the findings and recommendation of the EPO by increasing the administrative penalty from \$799 to \$1,499. The EPC made a recommendation to approve the after-the-fact request for variance to Section 15-342(e) (roof height) with the condition that the applicant pay an administrative penalty of \$1,499 to the Conservation Trust Fund within 60 days of the decision of the Board of County Commissioners.

**ACTION REQUESTED:**            **Accept the findings and recommendations of the Environmental Protection Commission and approve the after-the-fact variance to Orange County Code, Chapter 15, Article IX, Section 15-342(e) to increase the allowable roof height from 12 feet to 14 feet with the condition that the applicant pay an administrative penalty of \$1,499 to the Conservation Trust Fund within 60 days of the decision of the Board for the Mulligan Constructors, Inc. Dock Construction Permit BD-19-11-132. District 1**

JVW/DDJ: mg

Attachments

# After-The-Fact Boat Dock Construction Application for Variance



The Sanborn Map Company

**After-The-Fact Boat Dock  
Application for Variance  
Permit No. BD-19-11-132  
District # 1**

**Applicant: Mulligan Constructors, Inc  
Address: 10561 Down Lakeview Cir.  
Parcel ID: 05-23-28-4818-00-120**

**Project Site**



**Property Location**





APPLICATION TO CONSTRUCT A DOCK APPLICATION FOR VARIANCE

(Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(a)(1))

Mail or Deliver To: Orange County Environmental Protection Division 3165 McCrory Place, Suite 200 Orlando, Florida 32803 (407) 836-1400, Fax (407) 836-1499

\*\*Enclose a check for \$409.00 payable to The Board of County Commissioners\*\*

I Sheila Cichra on behalf of Jason Mulligan (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(1) am requesting a variance to section 15 - 342 (e) of the Orange County Dock Construction Ordinance.

1. 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 boathouse roof is twice as wide as normal, so it is very difficult to obtain an aesthetically pleasing roof pitch and stay within the height limitation, without lowering the perimeter beam. This property owner is very tall, so that would have created an uncomfortable space.

2. Describe the effect of the proposed variance on abutting shoreline owners:

The additional height will not adversely affect the adjacent property owner's views, because the lot is elevated quite far above the lake level. The difference is barely noticeable.

Notice to the Applicant:

The environmental protection officer, environmental protection commission and the Board of County Commissioners may require additional information necessary to carry out the purposes of this article.

A variance application may receive an approval or approval with conditions when such variance: (1) would not be contrary to the public interest; (2) where, owing to special conditions, compliance with the provisions herein would impose an unnecessary hardship on the permit applicant; (3) that the hardship is not self-imposed; and (4) the granting of the variance would not be contrary to the intent and purpose of this article.

By signing and submitting this application form, I am applying for a variance to the Orange County Dock Construction Ordinance identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained in this application, and represent that such information is true, complete, and accurate. I understand this is an application and not a permit, and that work conducted prior to approval is a violation. I understand that this application and any permit issued pursuant thereto, does not relieve me of any obligation for obtaining any other required federal, state, or local permits prior to commencement of construction. I understand that knowingly making any false statements or representation in this application is a violation of Sections 15-341 & 15-342, Orange County Code.

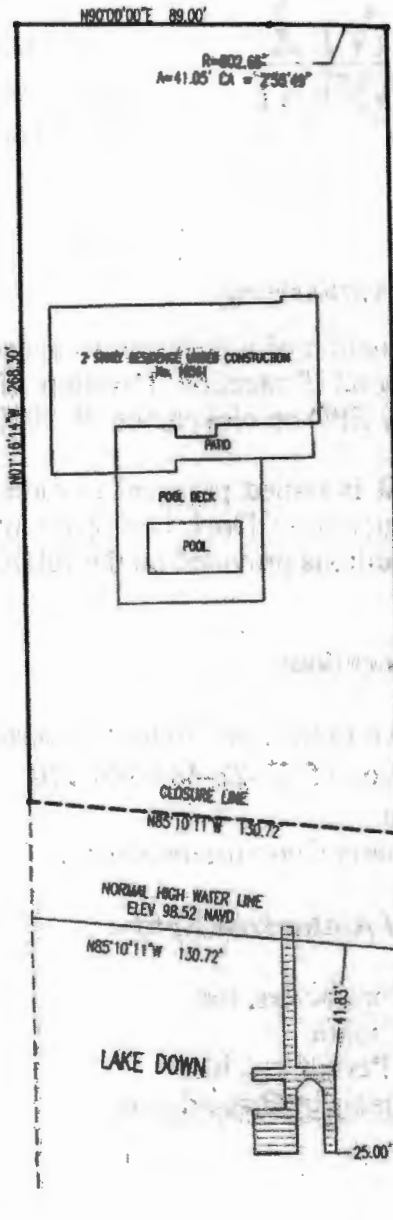
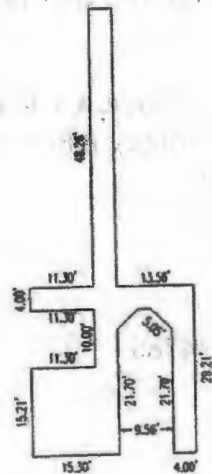
Name of Applicant: Sheila Cichra Signature of Applicant/Agent: [Signature] Date: 10/22/2020 Corporate Title (if applicable): President, Streamline Permitting, Inc.

SPECIAL PURPOSE SURVEY  
 FINAL DOCK AS-BUILT  
 10561 DOWN LAKEVIEW CIRCLE  
 WINDEMERE FL. 34786



DOWN LAKEVIEW CIRCLE

DETAIL SCALE 1" = 20'  
 NHWE = 98.52 NAVD  
 DECK ELEV = 100.5  
 LAKE BOTTOM FROM DECK = 6.8'  
 ROOF HEIGHT FROM DECK = 14.0'



I HEREBY CERTIFY THAT THIS SURVEY HAS BEEN PREPARED UNDER MY DIRECTION AND THAT THIS SURVEY HAS BEEN PREPARED IN ACCORDANCE WITH THE ADOPTED "MINIMUM TECHNICAL STANDARDS" AS REQUIRED BY CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027, FLORIDA STATE STATUTES.

Edward Mizo, Jr. Digitally signed by Edward Mizo, Jr.  
 PLS 27143 Date: 2020.06.25 20:08:09 -0400

EDWARD J. MIZO  
 PROFESSIONAL SURVEYOR AND MAPPER NO. 3376  
 WOULD WOULD WITHOUT THE AUTHENTIC ELECTRONIC  
 SIGNATURE AND SEAL OF A PROFESSIONAL SURVEYOR AND MAPPER.

SURVEYOR'S NOTES:

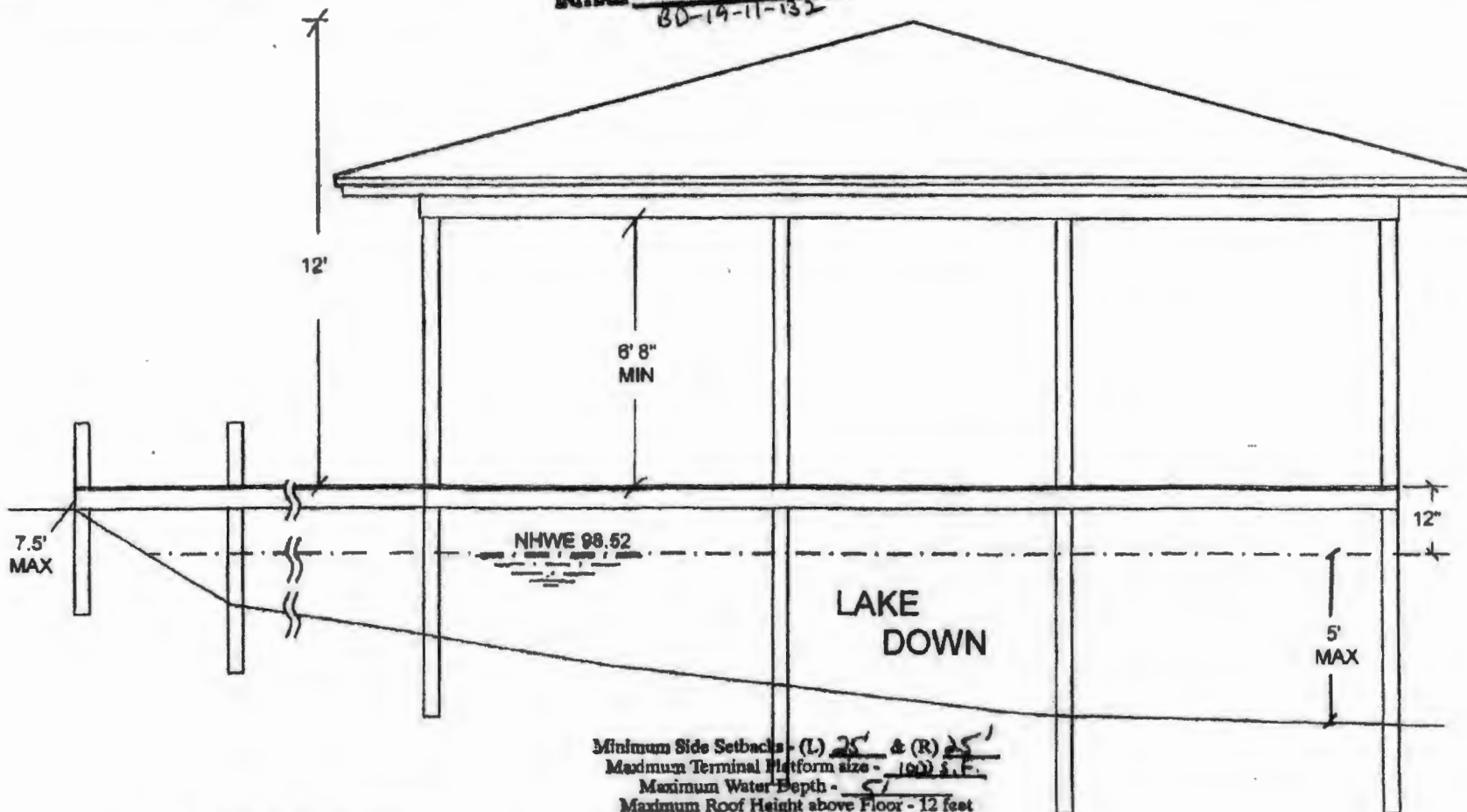
1. BEARINGS SHOWN HEREON ARE BASED ON THE REFERENCED PLAT.
2. ALL DISTANCES SHOWN ARE PLAT AND MEASURED UNLESS NOTED.
3. THE MEASUREMENTS SHOWN HEREON ARE IN U.S. SURVEY FEET. THE ACCURACY OF THIS SURVEY EXCEEDS THE REQUIREMENTS OF FLORIDA ADMINISTRATIVE CODE 5J-17.

EDWARD MIZO PROFESSIONAL LAND SURVEYOR 175 ANCONA AVE DEBARY, FL 32713 (321) 436-8981	PROPOSED DOCK LOCATION 10561 DOWN LAKEVIEW CIRCLE WINDEMERE, FL 32786	FINAL DOCK LOCATION	JUNE 25, 2020

MULLIGAN ELEVATION  
 10561 DOWN LAKEVIEW CIR  
 WINDERMERE, FL 34786

APPROVED BY  
 ORANGE COUNTY  
 ENVIRONMENTAL PROTECTION DIVISION  
 DATE: 12-30-19  
 INITIAL: RGR  
80-19-11-132

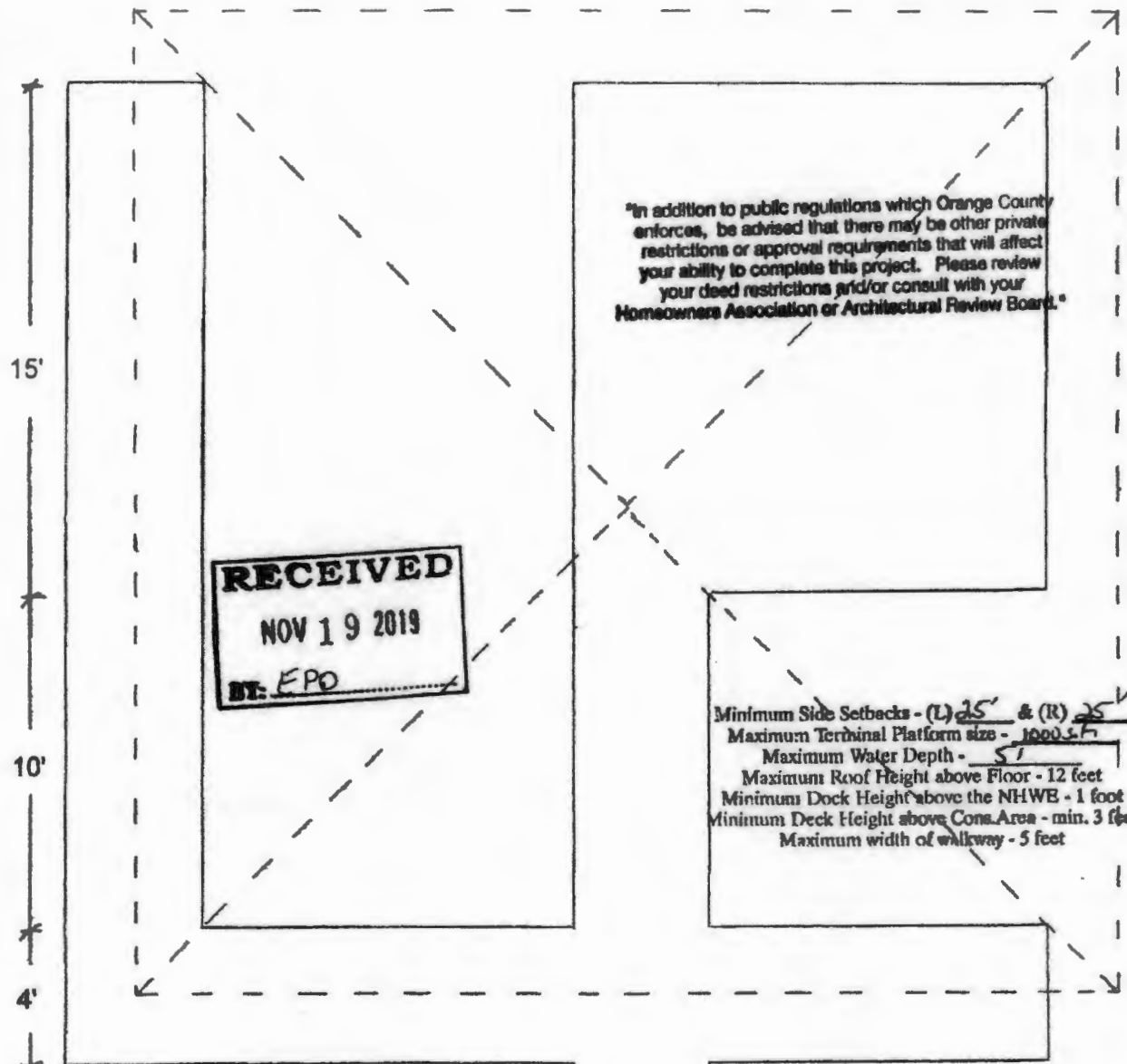
"In addition to public regulations which Orange County enforces, be advised that there may be other private restrictions or approval requirements that will affect your ability to complete this project. Please review your deed restrictions and/or consult with your Homeowners Association or Architectural Review Board."



Minimum Side Setbacks - (L) 25' & (R) 25'  
 Maximum Terminal Platform size - 100 s.f.  
 Maximum Water Depth - 5'  
 Maximum Roof Height above Floor - 12 feet  
 Minimum Dock Height above the NHWE - 1 foot  
 Minimum Deck Height above Cons. Area - min. 3 feet  
 Maximum width of walkway - 5 feet

**RECEIVED**  
 NOV 19 2019  
 BY: FPD

4' 10' 4' 11'



"In addition to public regulations which Orange County enforces, be advised that there may be other private restrictions or approval requirements that will affect your ability to complete this project. Please review your deed restrictions and/or consult with your Homeowners Association or Architectural Review Board."

**RECEIVED**  
 NOV 19 2019  
 BY: EPO

Minimum Side Setbacks - (L) 25' & (R) 25'  
 Maximum Terminal Platform size - 1000 sq ft  
 Maximum Water Depth - 5'  
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 Maximum width of walkway - 5 feet

APPROVED BY  
 ORANGE COUNTY  
 ENVIRONMENTAL PROTECTION DIVISION  
 DATE: 12-30-19  
 INITIAL: KLR  
 80-19-11-132

LAKE  
 DOWN

NHWE 98.52

MULLIGAN PLAN VIEW  
 10561 DOWN LAKEVIEW CIR  
 WINDERMERE, FL 34786

15'  
 10'  
 4'  
 60'

4'