



Interoffice Memorandum

06-12-18P02:49 RCVD

June 7, 2018

TO: Katie Smith, Manager
Comptroller Clerk's Office

THROUGH: Cheryl Gillespie, Agenda Development Supervisor
Agenda Development

FROM: David D. Jones, P.E., CEP, Manager
Environmental Protection Division
(407) 836-1405

STAFF PERSON: **Elizabeth R. Johnson, CEP, Assistant Manager**
Environmental Protection Division
PHONE #: **407-836-1511**

SUBJECT: Request for Public Hearing on July 31, 2018, at 2:00 p.m., for the Appeal of the Environmental Protection Commission recommendation of approval of a request for variance to the side setback distance for the Goldman Boat Dock permit application (BD-17-12-137); project site is located at 10828 Wonder Lane, Windermere, on Lake Down, Parcel ID No. 05-23-28-0000-00-042, District 1

Appellant: Peter and Kari Fleck.

Type of Hearing: Appeal of the Environmental Protection Commission (EPC) recommendation of approval of a request for variance to side setback distance for the Goldman boat dock application (BD-17-12-137) from the required 10-foot minimum setback to zero (0) feet on the eastern projected property line and to six (6) feet on the western projected property line.

Hearing required by
Florida Statute # or Code: Chapter 15, Article IX, Section 15-349(b).

Advertising requirements: None.

Advertising timeframes: N/A.

Notification Requirements: The applicant, agent, and appellant will be notified at least seven days prior to public hearing by the Environmental Protection Division (EPD).

LEGISLATIVE FILE # 18-841

July 31, 2018
@ 2pm

June 7, 2018

Request for Public Hearing—Peter and Kari Fleck Appeal (Goldman BD-17-12-137)

Page 2

Lake Advisory Board
to be notified:

Windermere Water and Navigation Control District Ijaz Ahmed
(Chairman) – ijazahmed736@gmail.com.

Robert Smith – Town Manager, Town of Windermere -
Rsmith@town.windermere.fl.us.

Municipality or other
Public Agency to be
notified:

Florida Department of Environmental Protection –
DEP_CD@dep.state.fl.us.

Estimated time required
For public hearing:

2 minutes.

Hearing Controversial:

No.

District #:

1.

Materials being submitted as backup for public hearing request:

1. Boat Dock Variance Application
2. Site Plan
3. Location Map
4. Letter of Objection from Mr. Peter Fleck
5. Letter of No Objection from Mr. Anouge
6. EPC Staff Report
7. EPC Recommendation letter
8. Letter of Appeal from Mr. Peter Fleck

Special Instructions to Clerk:

1. Once the Board of County Commissioners makes a decision on the Appeal, please submit the decision letter to Michelle Gonzalez of EPD. EPD will issue the decision to the appellant.

SG/NT/~~TWH~~/ERJ/DJ: mg

Attachments

c: Chris Testerman, Assistant County Administrator
Jon V. Weiss, P.E., Director, Community, Environmental and Development Services
Joel D. Prinsell, Deputy County Attorney



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
800 Mercy Drive, Suite 4
Orlando, Florida 32808
(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 Sarah Goldman (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(1) am requesting a variance to section 15-343 (a) 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 lot pies 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.

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

The proposed boathouse does not negatively impact the view or navigation for either adjacent property owner.

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.

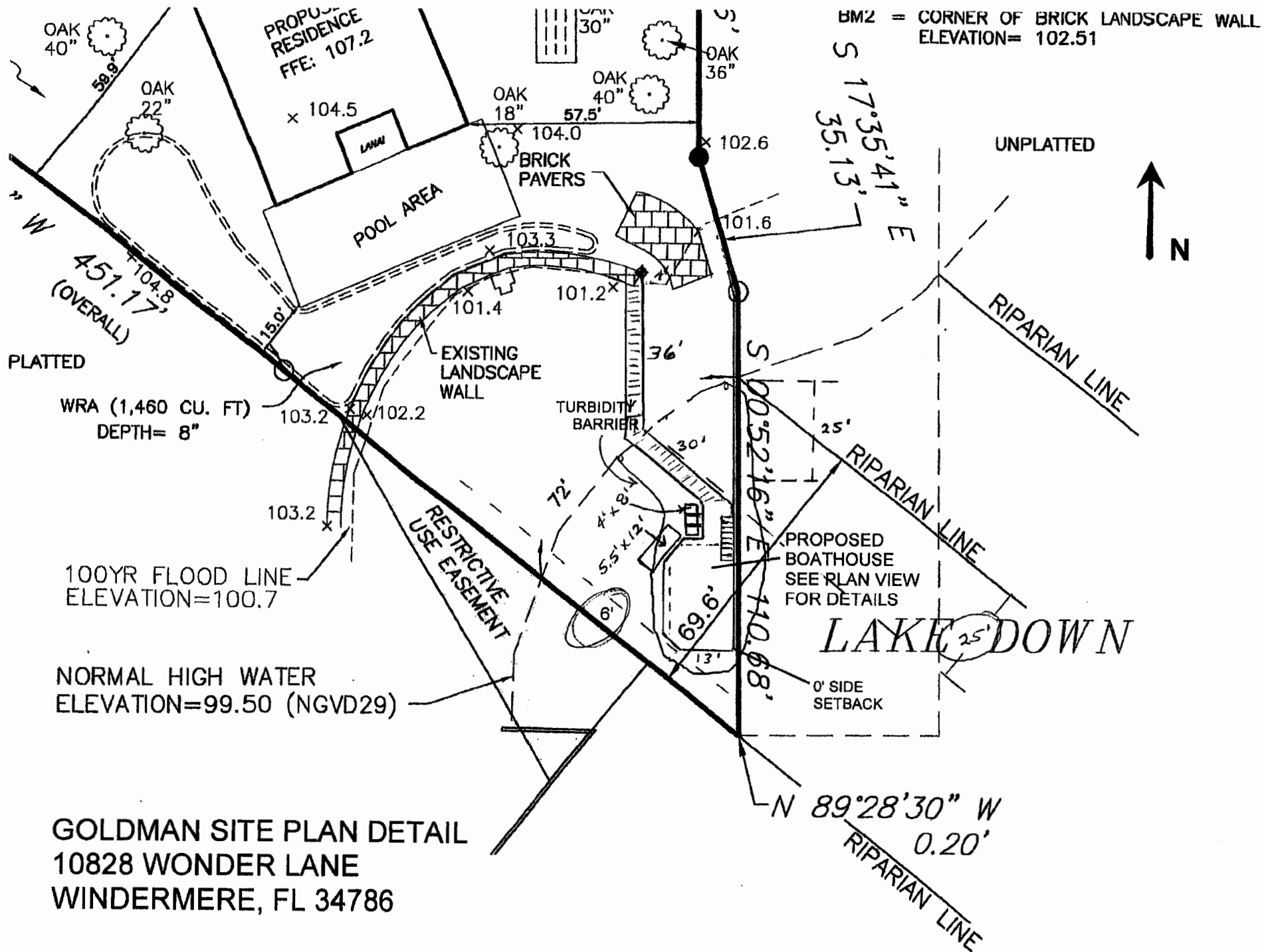
By signing and submitting this application form, I am applying for a variance to the Orange County Dock Construction Ordinance identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained in this application, 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.

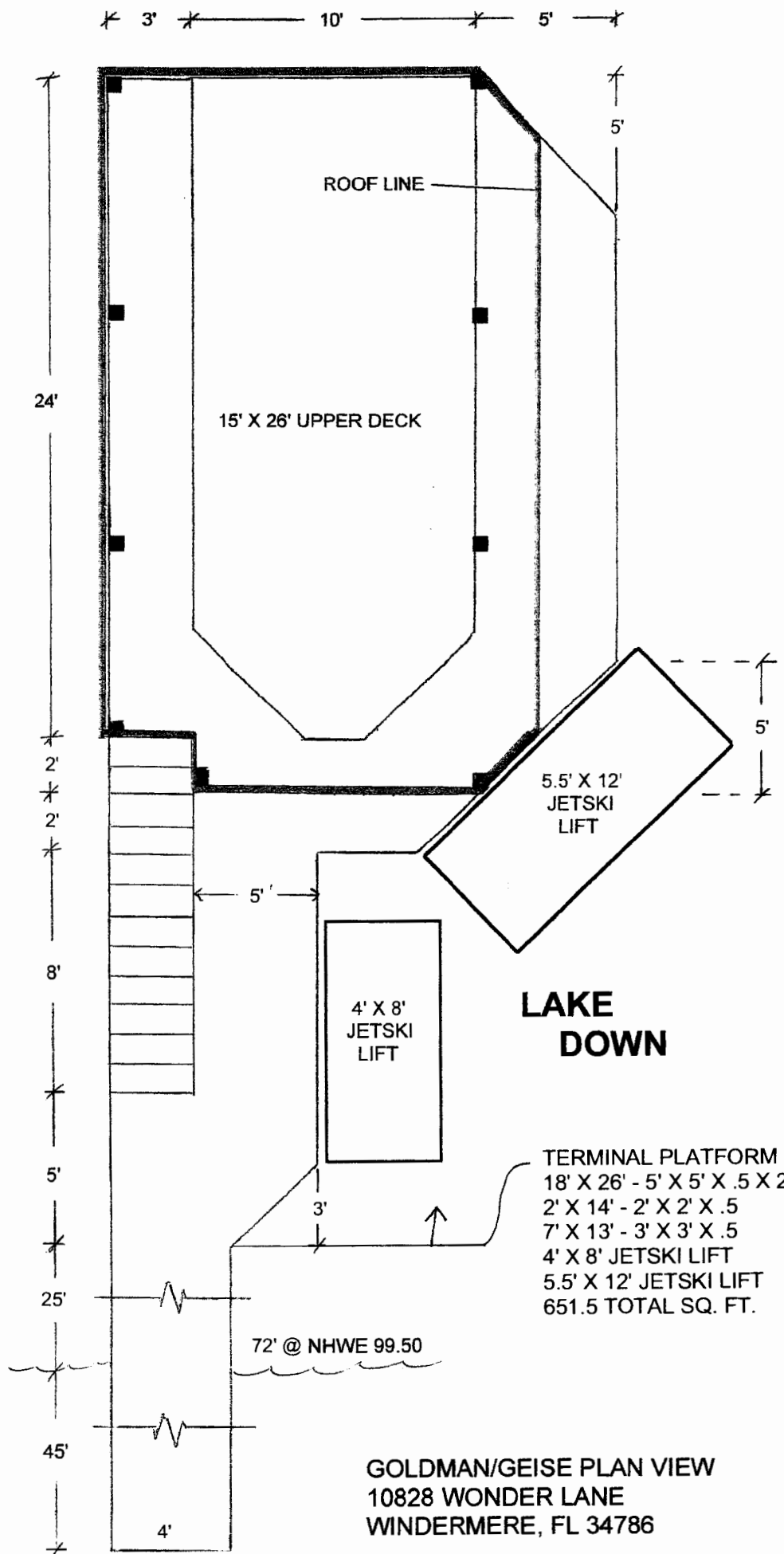
Name of Applicant: Sheila Cichra

Signature of Applicant/Agent [Signature]

Date: 12/24/2017

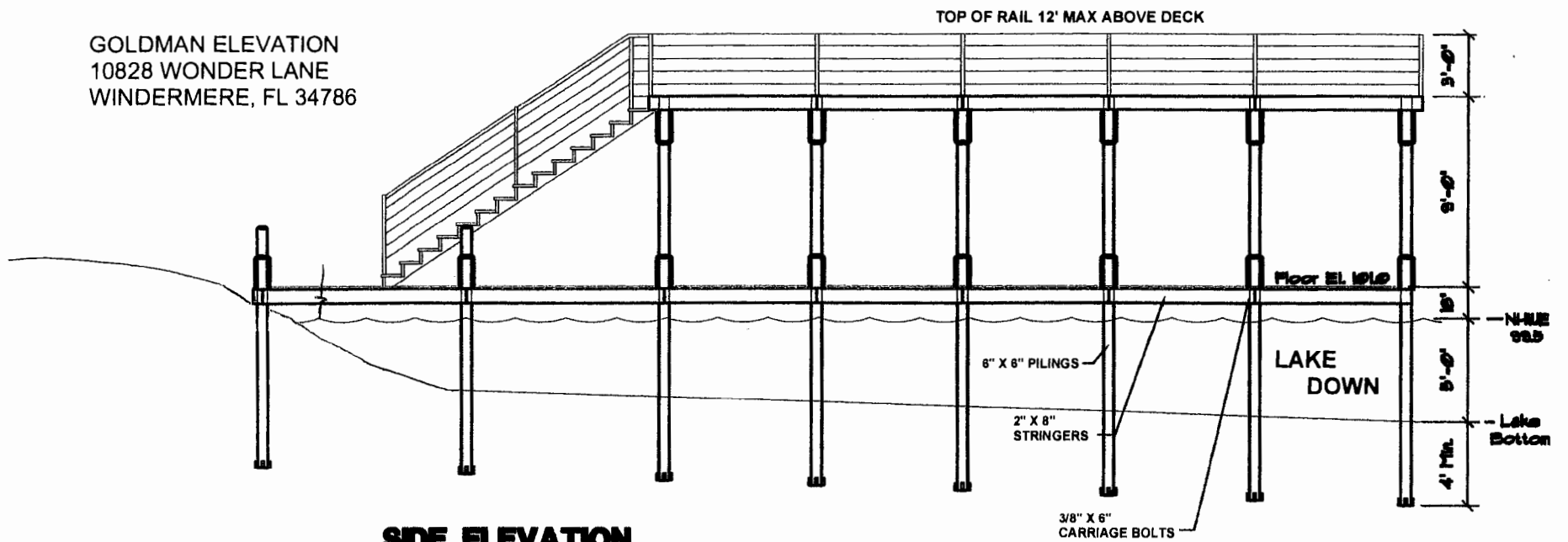
Corporate Title (if applicable): President, Streamline Permitting, Inc.





GOLDMAN/GEISE PLAN VIEW
10828 WONDER LANE
WINDERMERE, FL 34786

GOLDMAN ELEVATION
10828 WONDER LANE
WINDERMERE, FL 34786



SIDE ELEVATION

SCALE : 1/8" = 1'-0"

Request for Boat Dock Variance



Request for Boat Dock Variance

BD-17-12-137

District #1

Applicant: Sarah Goldman

Address: 10828 Wonder Lane

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

Project Site



Property Location



Peter Fleck
10820 Wonder Lane
Windermere, Fla. 34786

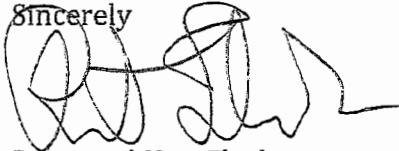
Feb. 1, 2018

Sarah,

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.

Sincerely

A handwritten signature in black ink, appearing to be a cursive representation of the names Peter and Kari Fleck, written over the word 'Sincerely'.

Peter and Kari Fleck



**AFFECTED ADJACENT PROPERTY OWNER
NOTARIZED STATEMENT OF
NO OBJECTION TO BOAT DOCK**

As required by Section 15-343 of Orange County Code, the Environmental Protection Officer shall send notices by certified mail to the owners of the shoreline properties abutting the property on which the proposed boat dock is to be located. In cases where the nature of the shoreline is such that additional property owners will be affected, the environmental protection officer may send notices to those property owners as well. In the alternative, the applicant, at his option, may supply notarized letters of no objection from each of the affected adjacent property owners.

The following is to be completed by the affected adjacent property owner as required by Section 15-343, Orange County Code.

I, Christian or Maureen Anouge, owner's of 10836 Wonder Lane, on
(Affected Adjacent Property Owner Name) (Address)

Lake Down, have reviewed my adjacent property owner's proposed
(Name of Lake)
boat dock construction plan and have no objection to the project.

Christian Anouge II
(Signature)

12/19/17
(Date)

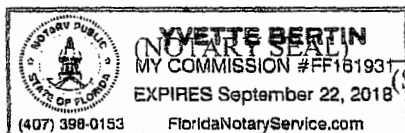
Christian Anouge II
(Print Name)

ACKNOWLEDGEMENT:

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 19th day of December 2017, by

Christian Anouge II.



Yvette Bertin
(Signature of Notary Public – State of Florida)

Personally Known ☒ OR Produced Identification ☐

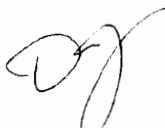
Type of Identification Produced _____



Interoffice Memorandum

March 21, 2018

To: Environmental Protection Commission

From: David D. Jones, P.E., CEP, Manager
Environmental Protection Division 

Subject: Sarah Goldman Request for a Variance for Dock Construction - BD-17-12-137

Reason for Public Hearing

The applicant is requesting approval of a variance to Orange County Code, Chapter 15, Article IX, Section 15-343(a) (side setback distance).

Location of Property/Legal Description

The project site is located at 10828 Wonder Lane in Windermere. The Parcel ID number is 05-23-28-0000-00-042. The subject property is located on Lake Down in District 1.

Background

On December 26, 2017, the Environmental Protection Division (EPD) received an Application to Construct a Dock for Sarah Goldman. The applicant is proposing a 0-foot and 6-foot side setback distance from the eastern and western projected property lines, respectively, in lieu of the minimum 10-foot setback distance required by code.

An Application for Variance to Section 15-343(a), and a letter of no objection signed and notarized by the affected west adjacent property owner (Christian Anouge, 10836 Wonder Lane) was included with the application submittal. Pursuant to Orange County Code, Chapter 15, Article IX, EPD staff has evaluated the proposed variance application and required documents.

Public Notifications

On January 22, 2018, a Notice of Application for Variance was sent to all shoreline property owners within a 300-foot radius of the property. On February 1, 2018, EPD received a written objection to the variance request from the eastern adjacent neighbors (Peter and Kari Fleck, 10820 Wonder Lane).

The applicant, agent, objector and western neighbor were sent notices on March 8, 2018, to inform them of the Environmental Protection Commission meeting on March 28, 2018.

Side Setback Variance

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 has a shoreline length of 72 feet, which requires a 10 foot side setback distance from all portions of the proposed boat dock.

Pursuant to Section 15-350(a)(1), Variances, *"the applicant shall also describe, (1) 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; and (2) the effect of the proposed variance on abutting shoreline owners."*

To address Section 15-350(a)(1)(1), the agent for the owner has stated, *"The lot pies 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."*

To address Section 15-350(a)(1)(2), the contractor has stated, *"The proposed boathouse does not negatively impact the view or navigation for either adjacent property owner."*

On February 1, 2018, EPD received an objection from the eastern adjacent property owners, Peter and Kari Fleck. They state:

"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."

Enforcement Actions

There has been no enforcement action associated with the subject property.

Staff Recommendation

The recommendation of the Environmental Protection Officer is to deny the request for 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. The applicant has not sufficiently demonstrated that the variance to side setback will not negatively impact the eastern adjacent property owner, and EPD has received an objection from that property owner.

ACTION REQUESTED: Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(a), deny the request for 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.

SG/NT/ERJ/DJ: mg

Attachments



ENVIRONMENTAL
PROTECTION
COMMISSION

Jonathan Huels
Chairman

Mark Ausley
Vice Chairman

Perry Barnasi

Flormari
Blackburn

Mark Corbett

Oscar Anderson

David Ward

ENVIRONMENTAL PROTECTION DIVISION

David D. Jones, P.E., CEP, Manager

3165 N. Orange Blvd., Suite 200

Orlando, FL 32804-1707

407-436-1444 • Fax 407-436-1444

www.ocfl.net

ORANGE COUNTY
ENVIRONMENTAL PROTECTION COMMISSION
March 28, 2018

PROJECT NAME: Sarah Goldman Boat Dock
PERMIT APPLICATION NUMBER: BD-17-12-137
LOCATION/ADDRESS: 10828 Wonder Lane, Windermere

RECOMMENDATION: Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(a), deny the request for 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.

☐ EPC AGREES WITH THE ACTION REQUESTED. AS PRESENTED

☒ EPC DISAGREES WITH THE ACTION REQUESTED. AS PRESENTED AND HAS MADE THE FOLLOWING RECOMMENDATION:

Approve the request for variance to
OC Code, Ch. 15, Art. IX, Sec. 15-343(a)
(side setback) to the Sarah Goldman Boat Dock
Construction Permit BD-17-12-137

Signature of EPC Chairman: Jonathan Huels

EPC Recommendation Date: 3/28/18

David D. Jones
Environmental Protection Division
3165 Mc Crory Place, Suite 200
Orlando, Fl. 32803

Mr. Jones:

As allowed in Orange county code, Sec. 15-349
I would like to appeal the decision of Environmental Protection
commission that approved a variance to side set back distance.
Orange County Code, Chapter 15, article IX, Section 15-343(a).

Pursuant to Section 15-350(a)(1), Variance, "applicant shall
also describe (1) 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; and (2) the effect of the proposed variance
on abutting shoreline owners.

The EPD staff correctly recommended the denial of this
variance. Unfortunately, the EPC went against the staff
recommendation and approved the variance, even though the
applicant did not meet the Code requirements to be entitled to
a variance.

Strict compliance with the provisions would **NOT** impose a
unique and unnecessary hardship on the applicant. If a
hardship is claimed it would be self-imposed. Additionally, the
construction of this multi-level dock has a negative effect on
our view.

The applicant agent stated "Even a below standard size
boathouse does not fit within the setbacks. The proposed

boathouse is being located in the only location that has adequate water depth”

The proposed boat dock has mooring for 3 vessels a 2nd story, staircase and full boat slip. It is difficult to call this a below standard size and should be redesigned to something that can meet the code requirements, and that would reduce its negative impact on our view of the lake. A smaller dock and/or a dock without a roof would go a long way towards meeting the code requirement and would also have less of an impact on our view.

The Applicant’s agent stated that “The proposed boathouse does not negatively impact the view or navigation for either adjacent property owner.” This is also a false statement. The proposed dock is on a 0 setback from our projected property line. Our property is 50 feet wide, making it difficult not to see it.

It also is a navigation hazard and the Sheriff’s office said it would be better if it was moved back.

The Applicant purchased the property with a reduced price due to the waterfront limitations. The property adjacent to the applicant, without the limitations sold for \$350,000 more. Both sales were in 2017 a couple months apart.

There is no hardship in this situation and if there is, it is self-imposed by their decision to purchase the property with it’s configuration. Nonetheless, any alleged hardship can be easily cured by building a smaller less obstructive dock – preferably without a roof.

An applicant should not be able to either state they have a hardship or create an alleged hardship simply because they cannot build the precise dock that they want. If a smaller less obstructive dock or one without a roof would satisfy the Code requirements or would be less of an impediment to a neighbor's view, then that is the route the applicant should be required to take.

This situation is not unique, there are plenty of docks that are reduced in size or do not have a roof, so as to meet the code requirements.

Sincerely,

Peter and Kari Fleck
10820 Wonder Lane
Windermere, FL 34786
407 724 1550