





Interoffice Memorandum

AGENDA ITEM

October 16, 2020

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

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

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

SUBJECT: November 17, 2020 — Consent Item
Environmental Protection Commission Recommendation for
Request for Waiver and Variance for Michael Ostendorf
Dock Construction Permit BD-20-05-088

The applicant, Michael Ostendorf, is requesting a boat dock construction permit with approval of a waiver to Orange County Code (Code), Chapter 15, Article IX, Section 15-342(b) (terminal platform size) and a variance to Section 15-342(g) (enclosed docks). The project site is located at 10972 Bayshore Drive, Windermere, Florida 34786. The Parcel ID number is 05-23-28-4396-00-080. The subject property is located on Lake Down in District 1.

On May 21, 2020, the Environmental Protection Division (EPD) received an Application to Construct a Dock at the subject property. There is an existing enclosed dock structure that is located on the property line and shared with the neighbor to the west. The applicant is proposing to keep the enclosed, shared dock structure as it currently exists and add a covered boat slip immediately adjacent to the enclosure. The application included an Application for Waiver to Section 15-342(b) (terminal platform size) to attempt to permit an oversized terminal platform and an Application for Variance to Section 15-342(g) (enclosed docks) to permit the existing enclosed dock structure to remain.

Notification of the Applications for Waiver and Variance was sent to all shoreline property owners within 300 feet. No objections were received. A Letter of No Objection (LONO) was received from Daniel Solomon and Yorcky Gomez who are the adjacent property owners to the east residing at 10964 Bayshore Drive. EPD also received a LONO from Tomas Dvorak and Paweena Phornprapha who are the adjacent property owners to the west residing at 11008 Bayshore Drive.

Staff has evaluated the waiver and variance requests for compliance with the criteria for approval. The recommendation of the Environmental Protection Officer (EPO) is to approve the request for waiver to Section 15-342(b) (terminal platform size) based on a finding that the applicant has demonstrated there will be no negative effect on the

abutting shoreline owners pursuant to Section 15-350(a)(2)(2), as no objections have been received and LONOs have been received by the adjacent property owners. Additionally, pursuant to Section 15-350(a)(2)(1), negative effects to the environment due to additional shading impacts from the excess terminal platform size will be offset through a mitigation payment of \$725 to the Conservation Trust Fund (CTF).

Additionally, the EPO recommends approval of the request for variance to Section 15-342(g) (enclosed docks) based on a finding that the applicant has demonstrated the hardship is not self-imposed pursuant to Section 15-350(a)(1)(1) since the enclosed dock was a grandfathered structure shared with the adjacent neighbor to the west and no modifications to the enclosure are being proposed. Additionally, pursuant to Section 15-350(a)(1)(2), no negative effects on the abutting shoreline owners are anticipated as no objections have been received and LONOs have been received by the adjacent property owners.

Based upon evidence and testimony presented at the September 30, 2020 Environmental Protection Commission (EPC) public hearing, the EPC voted to accept the findings and recommendation of the EPO and made a finding that the request for waiver is consistent with Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2) and recommended approval of the request for waiver to 15-342(b) to increase the maximum allowable terminal platform size from 800 square feet to 880 square feet with the payment of \$725 to the CTF within 60 days of the decision of the Board; and made a finding that the request for variance is consistent with Section 15-350(a)(1) and recommended approval of the request for variance to 15-342(g) to allow the enclosed dock to remain as constructed.

ACTION REQUESTED: **Accept the findings and recommendations of the Environmental Protection Commission and approve the request for waiver to Section 15-342(b) to increase the maximum allowable terminal platform size from 800 square feet to 880 square feet with the payment of \$725 to the Conservation Trust Fund within 60 days of the decision of the Board and approve the request for variance to Section 15-342(g) to allow the enclosed dock to remain as constructed for the Michael Ostendorf Dock Construction Permit BD-20-05-088. District 1**

JVW/DDJ: mg

Attachments

Dock Construction Application for Waiver and Variance



Dock Construction Application for Waiver and Variance

BD-20-05-088

District #1

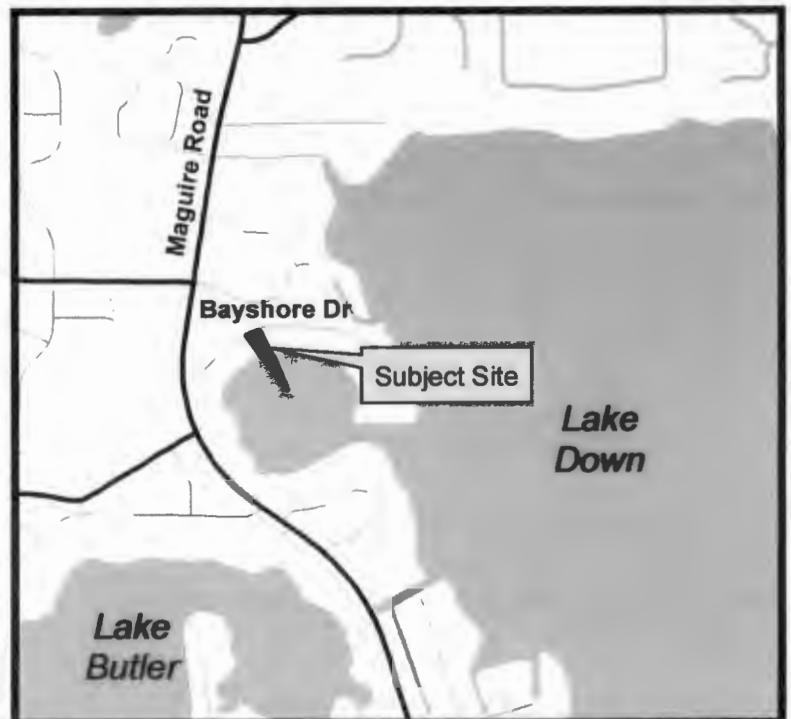
Applicant: Michael Ostendorf

Address: 10972 Bayshore Drive

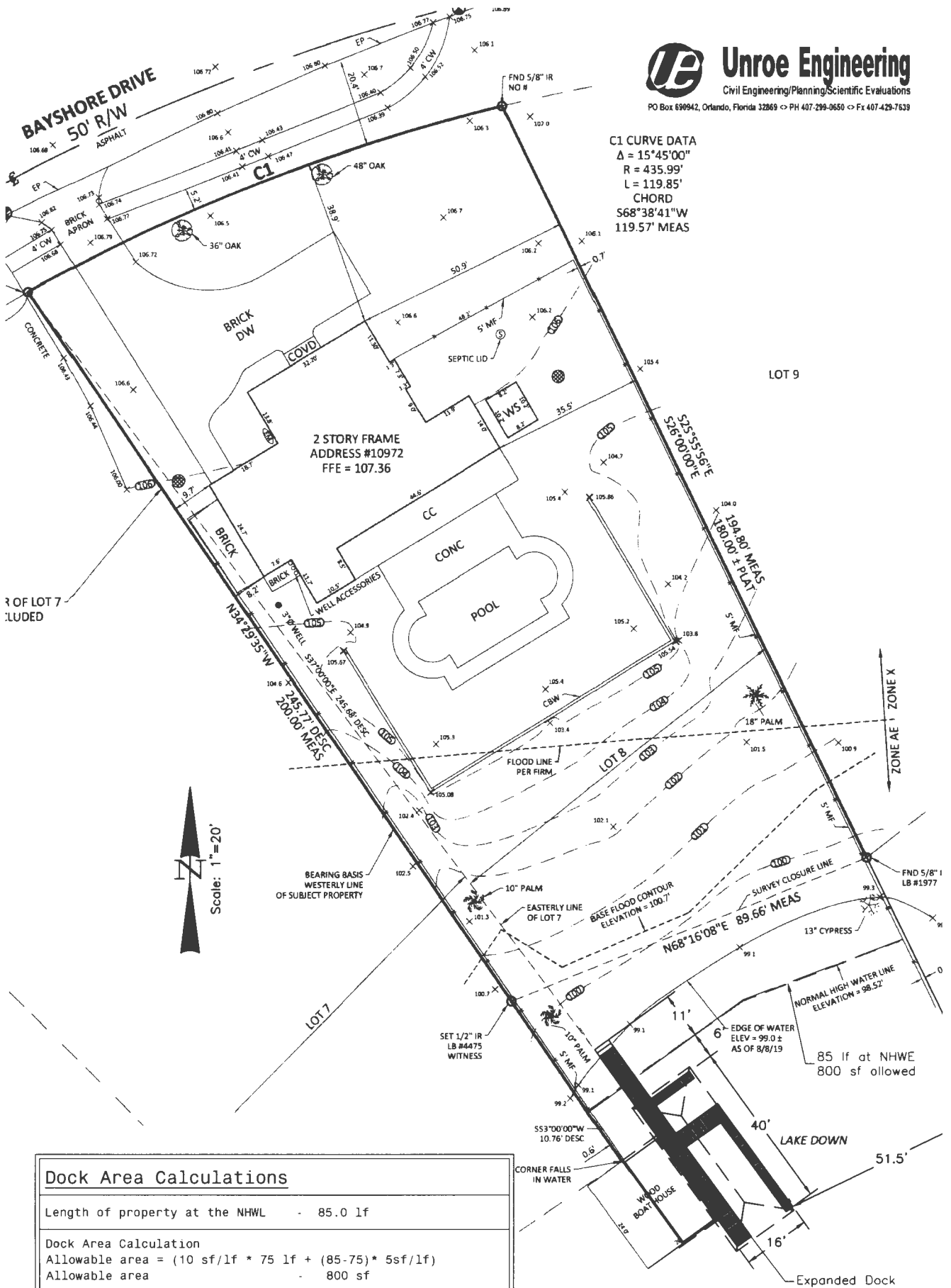
Parcel ID: 05-23-28-4396-00-080

Project Site 

Property Location 



C1 CURVE DATA
 $\Delta = 15^{\circ}45'00''$
 $R = 435.99'$
 $L = 119.85'$
 CHORD
 $568^{\circ}38'41''W$
 $119.57'$ MEAS



Dock Area Calculations

Length of property at the NHWL - 85.0 lf

Dock Area Calculation
 Allowable area = $(10 \text{ sf/lf} * 75 \text{ lf} + (85-75) * 5 \text{ sf/lf})$
 Allowable area - 800 sf

Proposed & existing areas	
Existing Boathouse	- 240 sf
New boat dock deck	- 284 sf
Additional Area under roof	- 356 sf
Total Terminal Platform Area	- 880 sf*
* Variance Requested	



**APPLICATION TO CONSTRUCT A BOAT DOCK
APPLICATION FOR WAIVER**

(Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2))

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

I Darrell Nunnelley on behalf of Michael Wytiaz (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(2) am requesting a waiver to section (choose and circle from the following: 15-342(b), 15-343(b), 15-344(a) and 15-345(a)) of the Orange County Dock Construction Ordinance.

1. Describe how this waiver would not negatively impact the environment:

The boathouse currently exists and will not change the environment in any way -


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

The existing boathouse is joined with the Neighbor to the West and will not effect them -

The Neighbor to the East will not be effected by anything we are proposing

The environmental protection officer and the board may require of the applicant information necessary to carry out the purposes of this article.

By signing and submitting this application form, I am applying for a waiver to the Section indicated of 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: Darrell Nunnelley
Signature of Applicant/Agent  Date: 7/18/2020
Corporate Title (if applicable): _____



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 Darrell Nunnelley on behalf of Michael Wytiaz/Mike Ostendorf (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(1) am requesting a variance to section 15-342(g) (enclosed dock) 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 enclosed boathouse straddles the property line and is shared with the Neighbor for over 30 years - If the East side of the boathouse is not approved to be 0' setback it will require the Neighbor to remove their side of the boathouse also to meet the setback codes - The existing boathouse is not the correct width or height for the newer wakeboard boats and that is the reason a new boat port is required that will be 14 feet from the property line - the enclosed existing boathouse will not be altered or changed from the current use
2. Describe the effect of the proposed variance on abutting shoreline owners: Granting the variance will benefit the Neighbor on the West and not impact the Neighbor on the East - Both Neighbors have signed Letters of No Objection and the Town of Windermere approved the variance request concerning the boathouse

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: Darrell Nunnelley Signature of Applicant/Agent Date: 7 18 2020 Corporate Title (if applicable):



AFFECTED ADJACENT PROPERTY OWNER
NOTARIZED STATEMENT OF NO OBJECTION
TO BOAT DOCK SIDE-SETBACK WAIVER REQUEST

The following is to be completed by the affected adjacent property owner as required by Section 15-343, Orange County Code. Section 15-343(b) states: "On lots or parcels having a shoreline frontage of seventy-five (75) feet or greater, docks shall have a minimum side setback of twenty-five (25) feet from the projected property line, unless such requirement is reduced by an appropriate waiver which shall be reviewed by the environmental protection division. Waivers from side-setback requirements may be granted by the environmental protection officer if a notarized letter of no objection to the waiver is received from the shoreline property owner abutting the applicant's property line affected by the waiver."

I, Daniel Solomon & Yorcky Gomez, a legal property owner of property located at 10964 Bayshore Drive (Adjacent Property Owner Name) Windermere, Fl. 34786, have reviewed the dock construction plans dated July 7, 2020, for the property located at 10972 Bayshore Drive Windermere, Fl. 34786, and have no objections.

The dock construction plans include a side setback waiver request of up to 16 feet, in lieu of the minimum 25 feet required by Code.

[Handwritten signature] (Signature - Adjacent Affected Property Owner)
7/19/2020 (Date)
DANIEL SOLOMON YORCKY GOMEZ (Print Name - Adjacent Affected Property Owner)

ACKNOWLEDGEMENT:

STATE OF FLORIDA COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 19th day of July, 2020, by Daniel Solomon & Yorcky Gomez



[Handwritten signature: Linda Barbara] (Signature of Notary Public - State of Florida)

Personally Known [checked] OR Produced Identification

Type of Identification Produced



AFFECTED ADJACENT PROPERTY OWNER
NOTARIZED STATEMENT OF NO OBJECTION
TO BOAT DOCK SIDE-SETBACK WAIVER REQUEST

The following is to be completed by the affected adjacent property owner as required by Section 15-343, Orange County Code. Section 15-343(b) states: "On lots or parcels having a shoreline frontage of seventy-five (75) feet or greater, docks shall have a minimum side setback of twenty-five (25) feet from the projected property line, unless such requirement is reduced by an appropriate waiver which shall be reviewed by the environmental protection division. **Waivers from side-setback requirements may be granted by the environmental protection officer if a notarized letter of no objection to the waiver is received from the shoreline property owner abutting the applicant's property line affected by the waiver.**"

I, Paweena Phornaprapha & Tomas Dvorak, a legal property owner of property located at 11008 Bayshore Drive (Adjacent Property Owner Name) Windermere, Fl. 34786, have reviewed the dock construction plans dated July 7, 2020, for the property located at 10972 Bayshore Drive Windermere, Fl. 34786, understand the existing boathouse will not be changed from the current use or design and have no objections.

The dock construction plans include a side setback waiver request 0 feet, in lieu of the minimum 25 feet required by Code.

[Handwritten Signature]
(Signature - Adjacent Affected Property Owner)

July 23, 2020
(Date)

Tomas Dvorak, Paweena Phornaprapha
(Print Name - Adjacent Affected Property Owner)

ACKNOWLEDGEMENT:

STATE OF FLORIDA

COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 23rd day of July, 2020, by Paweena Phornaprapha & Tomas Dvorak.



Linda Barbara
(Signature of Notary Public - State of Florida)

Personally Known OR Produced Identification

Type of Identification Produced _____