

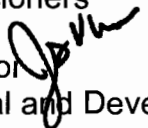


Interoffice Memorandum

AGENDA ITEM

May 1, 2017

TO: Mayor Teresa Jacobs  
-AND-  
Board of County Commissioners

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

CONTACT PERSON: Lori Cuniff, CEP, CHMM, Deputy Director  
Community, Environmental and Development  
Services Department  
(407) 836-1405

SUBJECT: June 6, 2017 – Consent Item  
Environmental Protection Commission Recommendation for  
a Waiver Request to Terminal Platform Size and Variance  
Requests to Side Setback and Water Depth for Boat Dock  
Permit BD-15-03-028 for Martin Krytus

The project site is located at 801 West 2<sup>nd</sup> Avenue on Lake Butler. The Parcel ID No. is 07-23-28-0044-00-040 in Orange County Commission District 1.

During the April 26, 2017 public hearing, the Environmental Protection Commission voted to approve the request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-342(b) (terminal platform size); approve the request for variance to Section 15-343(a) (side setback); and approve the request for variance to Section 15-342(a) (water depth).

**ACTION REQUESTED:** Acceptance of recommendation of the Environmental Protection Commission to approve the request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-342(b) (terminal platform size); approval of the request for variance to Section 15-343(a) (side setback); and approval of the request for variance to 15-342(a) (water depth) for the Martin Krytus Dock Construction Permit BD-15-03-028. District 1

JVW/LC: mg  
Attachments

# Boat Dock Waiver and Variance Requests



## Boat Dock Waiver and Variance Requests

District #1

**Applicant:** Martin Krytus

**Parcel IDs:** 07-23-28-0044-00-040

**Project Site**



**Property Location**





ENVIRONMENTAL  
PROTECTION  
COMMISSION

David Ward  
Chairman

Jonathan Huels  
Vice Chairman

Sally Atwell

Alex Preisser

Mark Corbett

Mark Ausley

Norman Blackburn

ENVIRONMENTAL PROTECTION DIVISION  
Lori Cunniff, CEP, CHMM, Deputy Director  
Community, Environmental and Development Services Department  
3165 McCarty Place, Suite 200  
Orlando, FL 32803-3727  
407 836 1400 • Fax 407 836 1499  
www.ocfl.net

ORANGE COUNTY  
ENVIRONMENTAL PROTECTION COMMISSION  
April 26, 2017

PROJECT NAME: Martin Krytus Boat Dock  
PERMIT APPLICATION NUMBER: BD-15-03-028  
LOCATION/ADDRESS: 801 West 2<sup>nd</sup> Avenue

RECOMMENDATION:

**PURSUANT TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX, SECTION 15-350(b), APPROVE THE REQUEST FOR WAIVER TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX, SECTION 15-342(b) (TERMINAL PLATFORM SIZE); APPROVE THE REQUEST FOR VARIANCE TO SECTION 15-343(a) (SIDE SETBACK); AND APPROVE THE REQUEST FOR VARIANCE TO SECTION 15-342(a) (WATER DEPTH) FOR THE MARTIN KRYTUS BOAT DOCK PERMIT BD-15-03-028.**



EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED

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

Signature of EPC Chairman: \_\_\_\_\_

DATE EPC RECOMMENDATION RENDERED: \_\_\_\_\_

4-26-17



April 17, 2017

TO: Environmental Protection Commission

FROM: Lori Cunniff, CEP, CHMM, Deputy Director  
Community, Environmental and Development Services Department

A handwritten signature in black ink, appearing to read "Lori Cunniff", written over the typed name.

SUBJECT: Martin Krytus Dock Construction Waiver and Variance Requests

**\*THIS PUBLIC HEARING WAS PREVIOUSLY HEARD AT THE FEBRUARY 12, 2016 EPC MEETING.\***

**Reason For Public Hearing**

The applicant, Martin Krytus, is requesting a waiver to Section 15-342(b) (terminal platform size) and variances to Section 15-343(a) (side setback) and Section 15-342(a) (water depth).

**Location of Property/Legal Description**

The project site is located at 801 West 2<sup>nd</sup> Avenue, in Section 07, Township 23 South, Range 28 East, on Lake Butler. The Parcel ID# is 07-23-28-0044-00-040. The subject property is located in Orange County Commission District 1.

**Public Notifications**

The applicant and agent were notified of the hearing on April 13, 2017.

**History**

On March 6, 2012, the Environmental Protection Division (EPD) received an application to demolish an existing permitted dock structure (BD 07-106) and construct a new boat dock on this Lake Butler property owned by Mr. Martin Krytus. The initial construction plans required a waiver to Section 15-342(b) for a larger than allowed terminal platform and a variance to Section 15-343(a) for a reduced side setback.

As required by code, notifications were sent to all of the shoreline property owners within 300 feet, and EPD received three written objections to the proposed terminal platform. The objectors were: Carolyn Green (803 W. 2<sup>nd</sup> Avenue), Jay Garner (799 W. 2<sup>nd</sup> Avenue), and Diana Vergowe (711 W. 2<sup>nd</sup> Avenue). Residents Green and Garner live on either side of Mr. Krytus. Ms. Vergowe lives 4 lots to the east of Mr. Krytus.

The waiver and variance requests were scheduled for public hearing by the Environmental Protection Commission (EPC) on June 27, 2012; however, after hearing the objections, EPC voted to continue the case so the applicant could attempt to work out a resolution with the objectors.

In July 2012, two of the three objectors rescinded their objections (Green and Garner).

At the August 2, 2012 EPC meeting, EPD recommended denial of the waiver request (terminal platform) because Ms. Vergowe had not withdrawn her objection. However, EPD recommended approval of the variance (side setback) because the adjacent affected neighbor (Green) no longer objected and furthermore, the applicant was able to demonstrate the hardship was not self-imposed due to the irregular lot shape.

EPC overturned staff's recommendation to deny the waiver and made a recommendation to approve the variance to side setback and approve the waiver to terminal platform size with the condition that the applicant pay \$1,009.20 to the Conservation Trust Fund (CTF) as mitigation for shading caused by the larger than allowed terminal platform size.

On September 11, 2012, the Board of County Commissioners (BCC) accepted the recommendation of the EPC and EPD issued boat dock permit BD-12-03-009 on September 18, 2012, after receiving the mitigation payment from the Applicant.

The boat dock was never constructed and the permit expired on September 18, 2013.

In March 2015, EPD received a new application for the same proposed boat dock as previously approved permit BD-12-03-009. The applicant was informed that because the original permit had expired, the new application and variance and waiver requests would have to go through the same public hearing process with required approvals by EPC and the BCC.

The variance and waiver requests were scheduled for the January 27, 2016 EPC meeting. However, on January 26, 2016, EPD received a request to continue the hearing because the applicant was having travel issues and would not be able to attend the meeting. EPC voted to continue the variance and waiver requests until the next scheduled EPC meeting (February 24, 2016).

With this application, EPD again received written objections to the variance and waiver requests from four residents:

- 1) Caroline Green (803 W. 2<sup>nd</sup> Ave),
- 2) Jay Garner (799 W. 2<sup>nd</sup> Ave),
- 3) Joan Strickland (745 W. 2<sup>nd</sup> Ave), and
- 4) Carol Fosgate (711 W. 2<sup>nd</sup> Ave).

At the February 24, 2016 EPC hearing, EPD recommended denial of the waiver and variance requests due to the four objections received. EPC made a recommendation to overturn the staff recommendation and approve the request for waiver for terminal platform, and variances to side setback and water depth.

Following the February 24, 2016 EPC hearing, Commissioner Boyd was contacted by the neighboring objectors and requested that an onsite meeting be held with the applicant and objectors. On March 29, 2016, Commissioner Boyd, EPD staff, the applicant's agent, and neighboring objectors met at the subject property to discuss the dock. Following the meeting a few suggested changes were made by Commissioner Boyd for the proposed dock. These suggestions included reducing the length of the dock to be more in line with neighboring docks, flipping the Jet Ski slip to the east side away from Ms. Green's property, and reducing the overall size while still allowing for a second story. The applicant's agent was to discuss these suggestions with the applicant and submit revised site plans.

On February 22, 2017, EPD received revised plans for the proposed dock. The plans include reducing the overall length from 76' to 62.5' and relocating the jet-ski slip to the eastern side of the dock. The reconfiguration of the dock design also reduces the size of the terminal platform from 1,276 square feet to 1,264 square feet.

On March 7, 2017, Notice of Application letters along with the revised site plans were sent to shoreline property owners within 300 feet of the subject parcel. No objections were received by EPD regarding the new plans.

### **Terminal Platform Waiver**

The applicant is requesting a terminal platform of 1,264 square feet. The length of the shoreline on this property is 74 feet; therefore, a terminal platform size of 740 square feet is allowed by code.

Pursuant to Section 15-350(a)(2), "...the applicant shall (1) describe how this waiver would not negatively impact the environment and (2) the effect of the proposed waiver on the abutting shoreline owners."

To address 15-350 (a)(2)(1), the applicant has stated that the placement of the dock would not negatively impact vegetation. In addition, since the EPC and BCC approved the request for waiver for increased size with the condition that the applicant pay a mitigation fee to the CTF of \$1,009.20, and that payment was received on September 14, 2012, EPD staff is satisfied that the applicant has offset the impacts from the shading and no additional mitigation is being requested for this current waiver request to increase the terminal platform size.

To address 15-350(a)(2)(2) the applicant has stated "the view and navigability of the abutting shoreline owners will not be negatively impacted."

### **Side Setback Variance**

The side setback requirement for a 74 foot shoreline is 10 feet from the projected property line. The existing dock is located four (4) feet from the projected property line and the proposed dock will also be four (4) feet from the projected property line, which requires the variance.

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 15-350 (a)(1)(1), for the side setback variance, the agent has stated that the construction will replace an existing structure and the shoreline length is shorter than average as compared to neighboring lots. The site plan provided by the Applicant shows that the new dock will be no closer to the adjacent property than the existing permitted dock (approximately four feet from the property line).

To address 15-350 (a)(1)(2), for the side setback variance, the agent has stated that "the view and navigability of abutting shoreline owners will not be negatively impacted." It was also stated that "the owner previously requested and received approval of this variance."

### **Water Depth Variance**

Section 15-342(a) states, "the maximum water depth allowed for mooring areas is five feet, as measured from the NHWE..." The applicant is requesting a water depth at the end of the terminal platform of 7.5 feet.

To address 15-350 (a)(1)(1) for the variance to water depth, the applicant states "a variance to extend the applicant's dock beyond a water depth of 5 feet would have no negative environmental effects considering it would better align with adjacent dock structures."

Included as attachments with this staff report are location map, waiver/variance request, site plans, and photos.

**Enforcement Action**

There currently is no enforcement action for this property.

**Staff Recommendation**

The recommendation of the Environmental Protection Officer is to approve the request for waiver to terminal platform size and approve the requests for variances for side setback and water depth.

<b><u>ACTION REQUESTED</u></b>	<b><u>PURSUANT TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX, SECTION 15-350(B), APPROVE THE REQUEST FOR WAIVER TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX, SECTION 15-342(b) (TERMINAL PLATFORM SIZE); APPROVE THE REQUEST FOR VARIANCE TO SECTION 15-343(a) (SIDE SETBACK); AND APPROVE THE REQUEST FOR VARIANCE TO SECTION 15-342(a) (WATER DEPTH) FOR THE MARTIN KRYTUS BOAT DOCK PERMIT BD-15-03-028.</u></b>
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JR/NT/ERJ/LC: mg

Attachments



**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** Orange County Environmental Protection Division  
**Deliver To:** 800 Mercy Drive, Suite 4  
Orlando, Florida 32808  
(407) 836-1400, Fax (407) 836-1499

I Renea Anderson on behalf of Martin Krytus (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:

Placement does not negatively impact vegetation

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

The view and navigability of the abutting shoreline owners will not be negatively impacted.

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: Renea Anderson  
Signature of Applicant/Agent: Renea Anderson Date: 3/9/15  
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  
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 Renea Anderson on behalf of Martin Krytus (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(1) am requesting a variance to section 15-342b 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):

Requested terminal platform size is comparable to neighboring structures. Construction will replace an existing structure. The shoreline length is shorter than average as compared to neighboring lots. Owner has previously requested and received EPD approval BD 12-03-09 for increased terminal platform size. Permit expired before commencement of construction.

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

The view and navigability of abutting shoreline owners will not be negatively impacted. The adjacent property owner's view is skewed toward the East side of their property. The adjacent property owner to the west has existing boathouse that is within a couple feet of the applicant's existing boat dock and that property owner should be unaffected by the proposed dock.

### 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: RENEA ANDERSON  
Signature of Applicant/Agent: Renea Anderson Date: 3/9/15  
Corporate Title (if applicable): \_\_\_\_\_



For E.P.D. Staff Use Only

Permit # \_\_\_\_\_ Date Received \_\_\_\_\_ Receipt No. \_\_\_\_\_

04/2009

## APPLICATION FOR VARIANCE

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

**Mail or** Orange County Environmental Protection Division  
**Deliver To:** 800 Mercy Drive, Suite 4  
Orlando, Florida 32808  
(407) 836-1400, Fax (407) 836-1499

**\*\*Enclose a check for \$397.00 payable to The Board of County Commissioners\*\***

I David Holly on behalf of Marty Krytus (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(1) am requesting a variance to section 15-342(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):

Adjacent property owners docks extend further into the lake than the applicant's dock. A variance to extend the applicant's dock beyond a water depth of 5 feet would have no negative environmental effects considering and would better align with adjacent dock structures. In addition, the proposed application was previously approved by OCEPD.

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

The adjacent property owner should be unaffected by the dock structure. Properties to the east and west contain dock structures which extend further into the lake than the applicant's dock.

### 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.

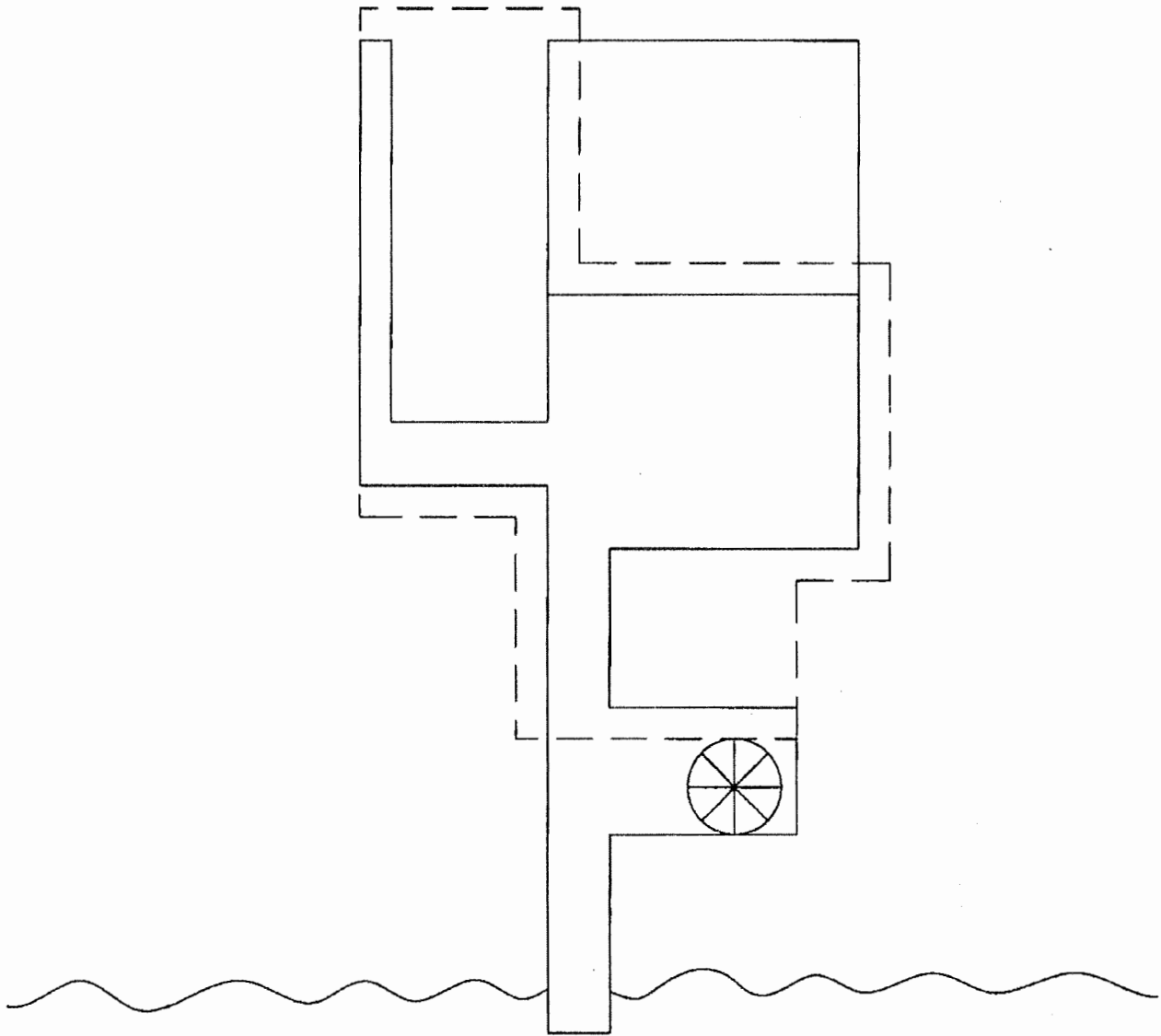
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Name of Applicant: Marty Krytus

Signature of Applicant/Agent 

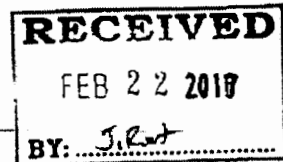
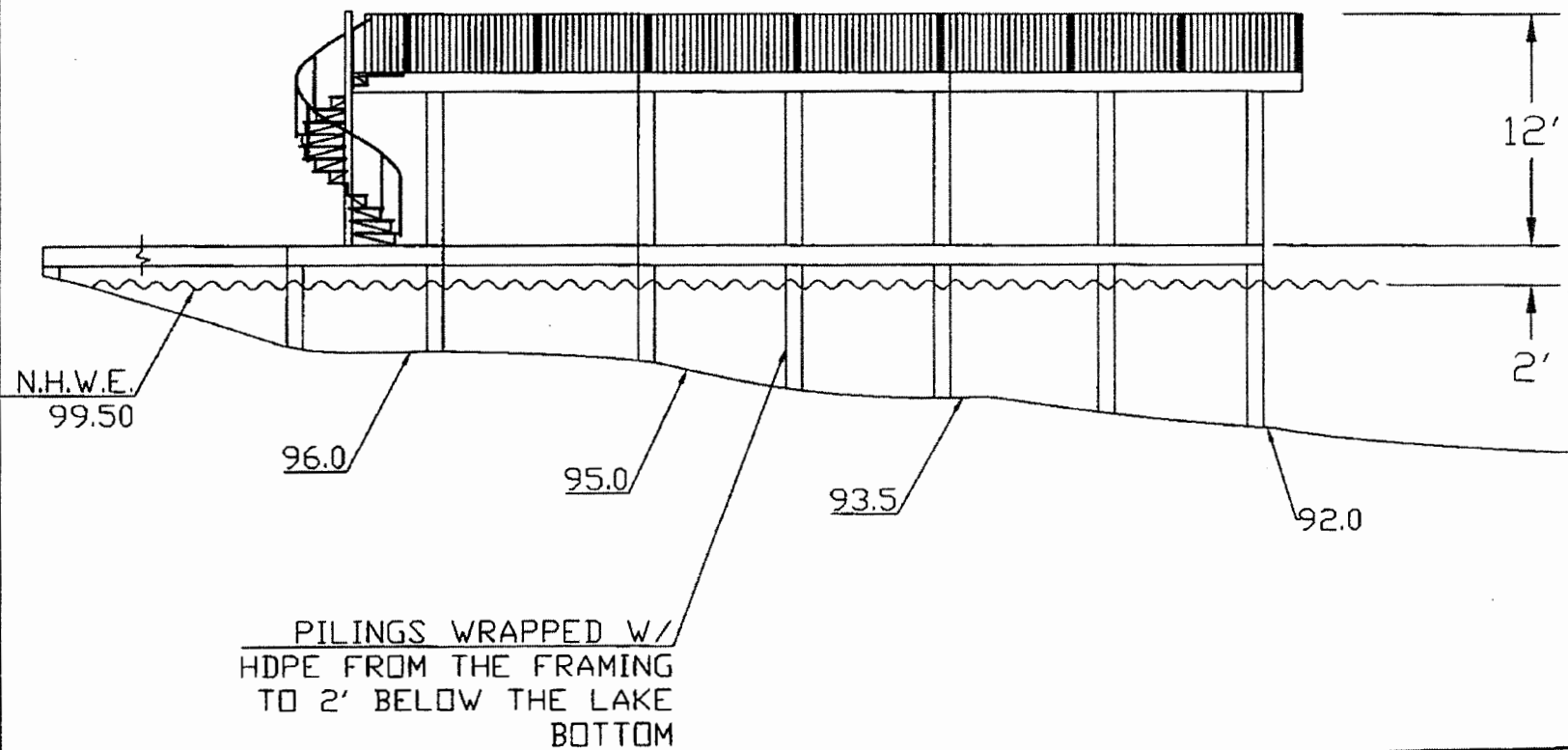
Date: 11/17/15

Corporate Title (if applicable): \_\_\_\_\_

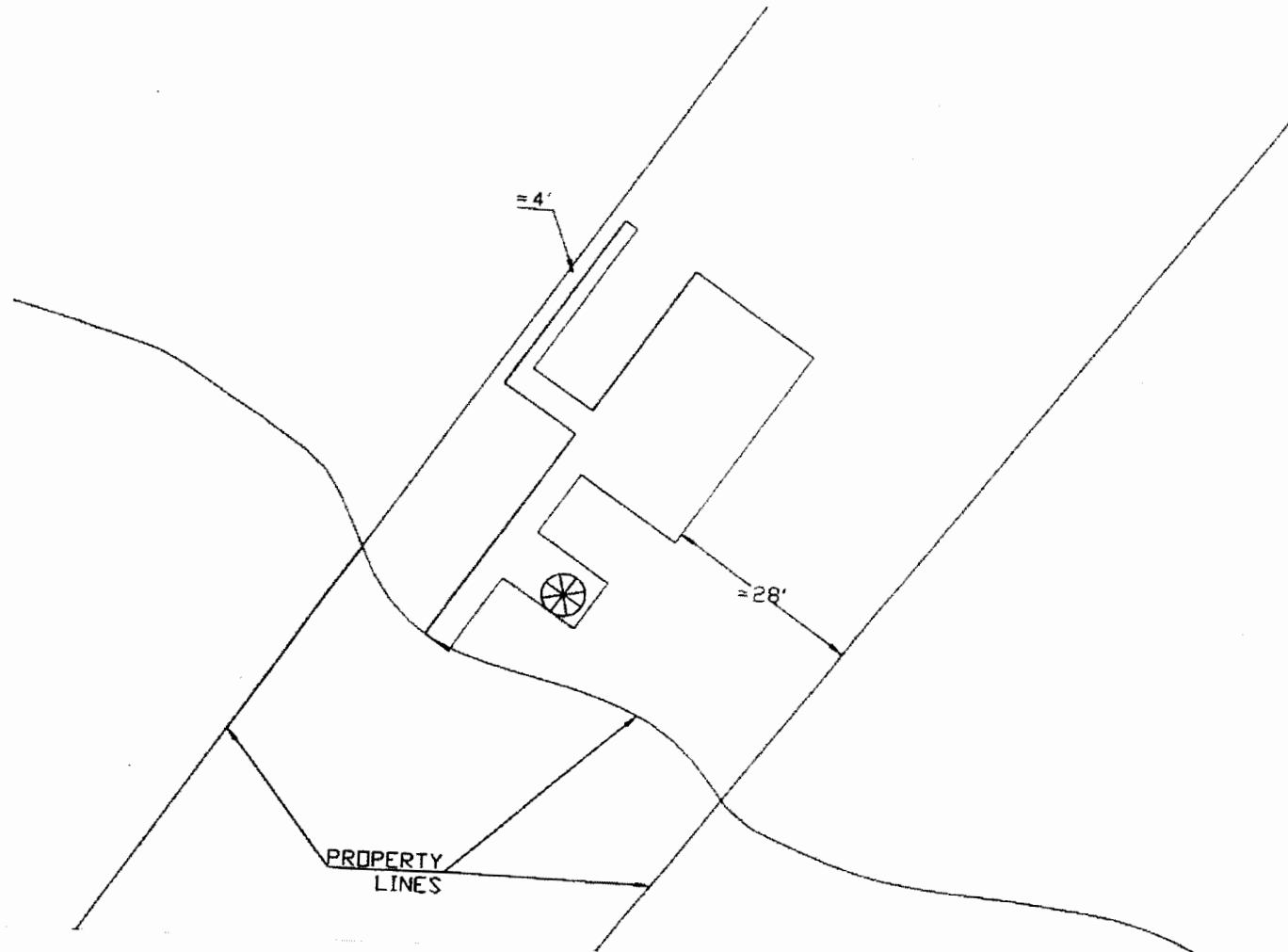


**RECEIVED**  
FEB 22 2017  
BY: J. Root

# RIGHT SIDE ELEVATION



# PROPOSED SETBACKS



**RECEIVED**  
FEB 22 2018  
BY: J. Root

