



Interoffice Memorandum

-03- 8P 15 RC

November 26, 2018

12-03-18A11:45 RCVD

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
PHONE #: 407-836-1511

SUBJECT: Request for Public Hearing on January 15, 2019, at 2:00 p.m., for the Appeal of the Environmental Protection Commission recommendation of denial of a request for variance to roof height for the William and Debra Stauffer dock permit application (BD-18-04-046), for property located at 4790 Lake Carlton Drive, on Lake Carlton; Parcel ID No. 18-20-27-0000-00-024; District 2

NOTE: Schedule this public hearing concurrently with the Appeal from Stuart and Sue Larsen

=====

Appellants: William and Debra Stauffer.

Type of Hearing: Appeal of the Environmental Protection Commission (EPC) recommendation of denial of a request for variance to roof height for dock permit application #BD-18-04-046.

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 applicants (appellants) and their agent, and previous objectors will be notified at least seven days prior to the public hearing by the Environmental Protection Division (EPD).

January 15, 2019
@ 2pm

November 26, 2018

Request for Public Hearing—William and Debra Stauffer Appeal of the Environmental Protection Commission Recommendation (BD-18-04-046)

Page 2

Lake Advisory Board
to be notified:

N/A.

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 #:

2.

Materials being submitted as backup for public hearing request:

1. Boat Dock Variance Application
2. Site Plan
3. Location Map
4. EPC Staff Report
5. EPC Recommendation Letter
6. Letter of Appeal from William and Debra Stauffer

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.

JR/NT/TMH/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
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 Debra Stauffer (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 larger than normal, so in order to obtain the roof pitch required for tile, the height must be increased.

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

The additional height will not adversely affect the adjacent property owner's view. As evidenced by the attached letters of no objection.

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.

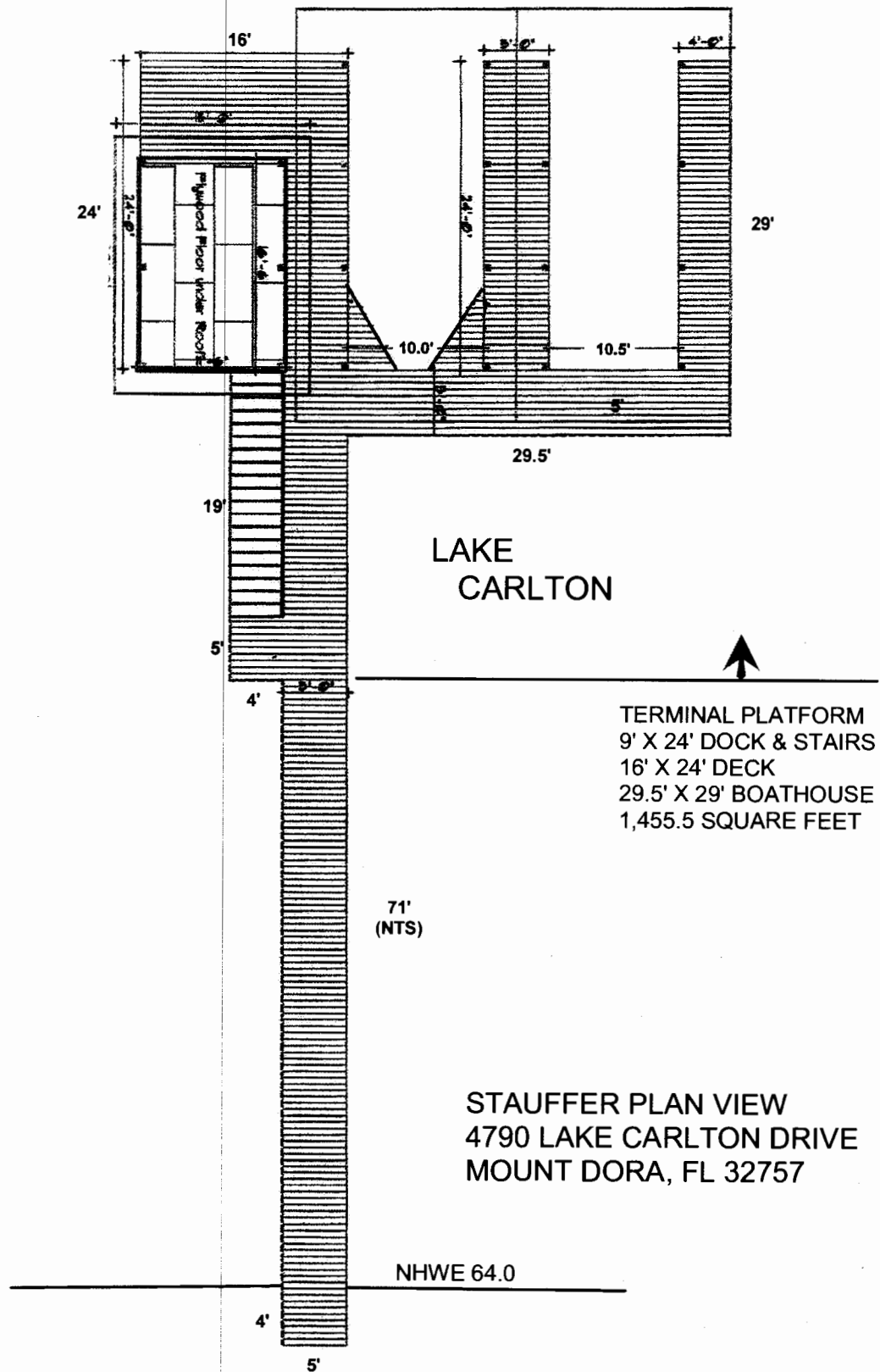
By signing and submitting this application form, I am applying for a variance to the Orange County Dock Construction Ordinance identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained in this application,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

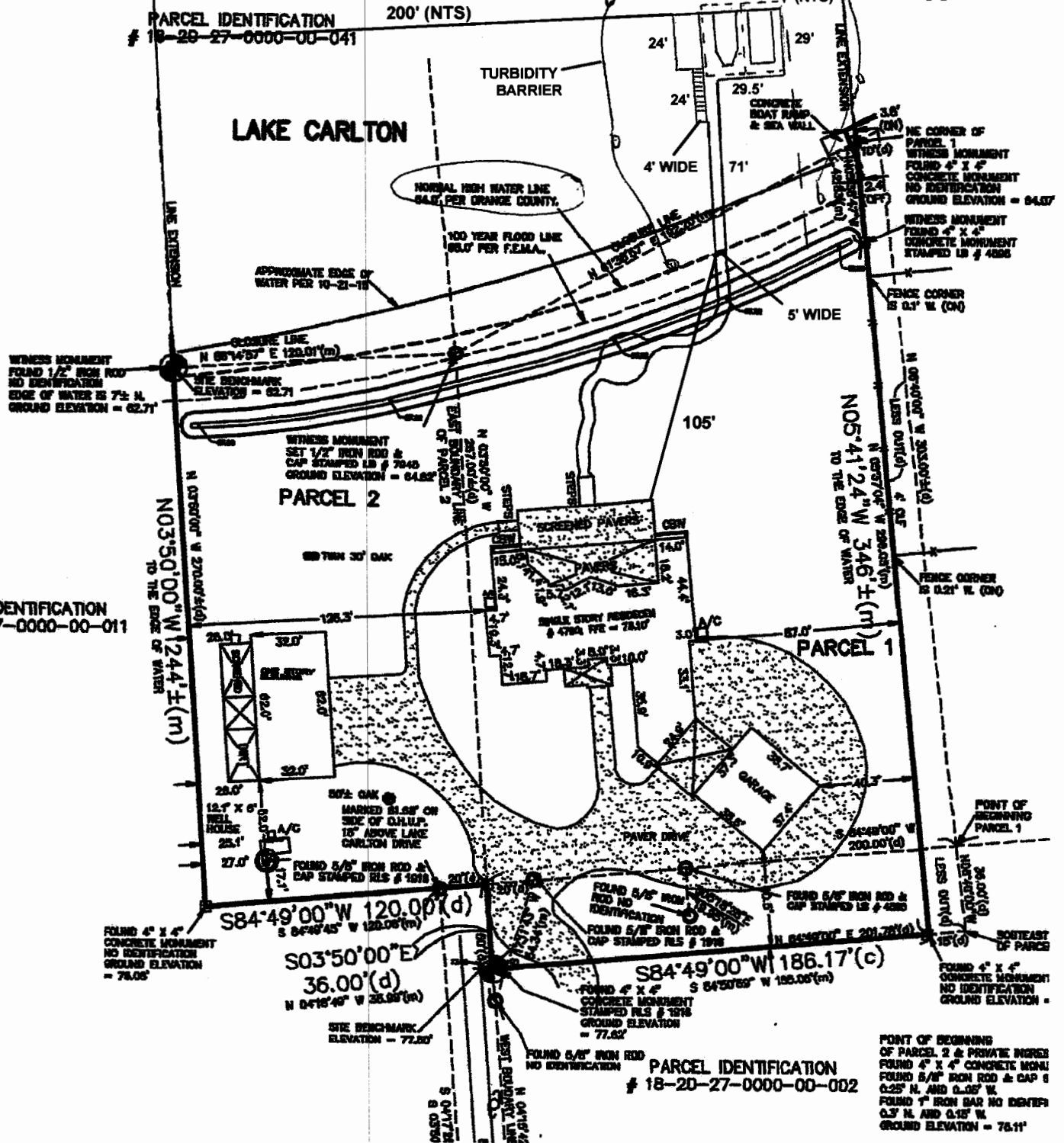
Name of Applicant: Sheila Cichra

Signature of Applicant/Agent 

Date: 04/17/2018

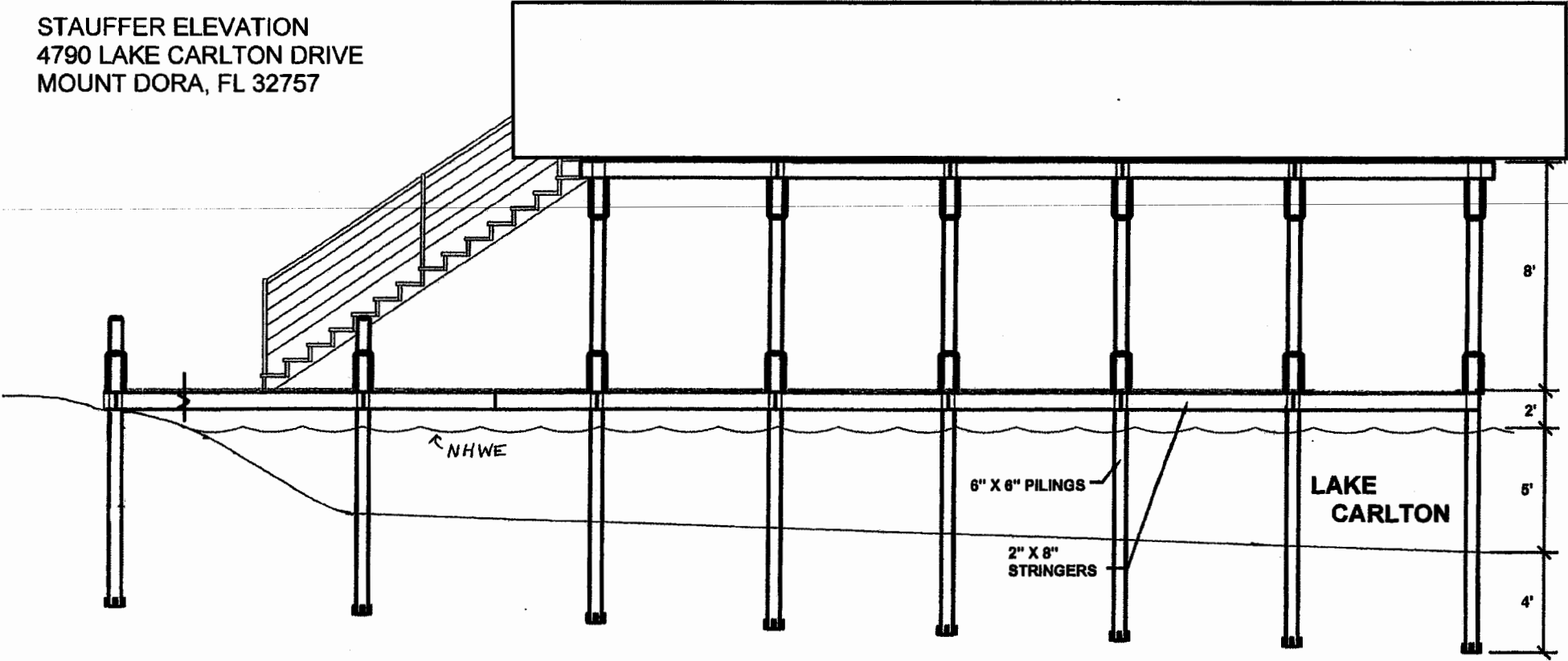
Corporate Title (if applicable): President, Streamline Permitting, Inc.





STAUFFER ELEVATION
4790 LAKE CARLTON DRIVE
MOUNT DORA, FL 32757

TOP OF GABLE ROOF & RAILING 15' MAX ABOVE DECK



Dock Construction Application for Waiver and Variance



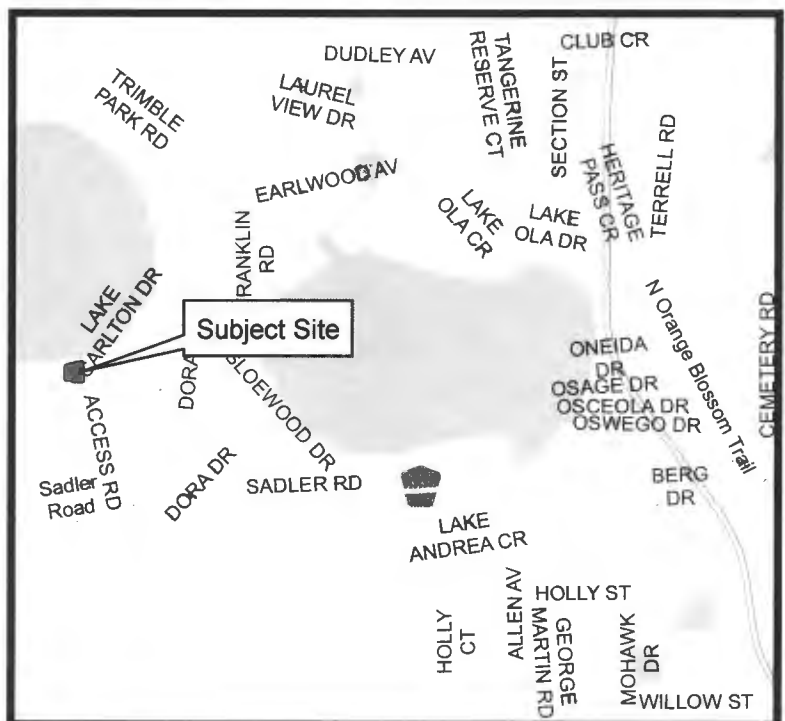
Dock Construction Application for Waiver and Variance BD-18-04-046 District #2

Applicant: William and Debra Stauffer
Address: 4790 Lake Carlton Drive
Parcel ID: 18-20-27-0000-00-024

Project Site



Property Location





Interoffice Memorandum

September 13, 2018

To: Environmental Protection Commission

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

Subject: Re-hearing of the William and Debra Stauffer Request for Waiver and Variance for Dock Construction Permit BD-18-04-046

This item was originally heard at the June 27, 2018 meeting of the Environmental Protection Commission (EPC). This item was continued at the August 29, 2018 meeting of the EPC due to a lack of quorum.

Reason for Public Hearing

The applicants, William and Debra Stauffer, are requesting 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(e) (roof height).

Location of Property/Legal Description

The project site is located at 4790 Lake Carlton Drive. The Parcel ID number is 18-20-27-0000-00-024. The subject property is located on Lake Carlton in District 2.

Public Notifications

On May 14, 2018, a Notice of Application for Waiver and Application for Variance was sent to the shoreline property owners within a 300-foot radius of the property. The 300-foot radius resulted in only the adjacent neighbors being notified because of the large property lines. The applicants also supplied a Letter of No Objection (LONO) from each of those neighbors, including the neighbors to the east, Stuart and Sue Larsen. However, after the June 27, 2018 EPC meeting, the Larsens rescinded their previous support and submitted an objection letter, received by the Environmental Protection Division (EPD) on July 2, 2018, which is within the 35-day timeframe allowed by Code for objections. On August 10, 2018, EPD received a request for rehearing from Rebecca Wilson with Lowndes, Drosdick, Doster, Kantor & Reed, who represents the Larsens.

The applicants and their agent, and the objectors and their attorney were sent notices of the rehearing on September 4, 2018 to inform them of the EPC meeting on September 26, 2018.

Terminal Platform Size Waiver

Section 15-342(b) states, "the maximum square footage of the terminal platform shall not exceed the square footage of ten times the linear shoreline frontage for the first seventy-five (75) feet of shoreline and five times the linear shoreline frontage for each foot in excess of seventy-five (75) feet, not to exceed a maximum of one thousand (1,000) square feet." The applicants have a shoreline that measures 297 feet, allowing for a terminal platform of 1,000 square feet. The applicants are proposing a dock with a terminal platform size of 1,456 square feet.

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

To address 15-350(a)(2)(1), the applicant states, *"The lot is about three times as wide as most lakefront parcels. The impact of one oversized terminal platform is less than three regular boat docks would be."* The additional shading impacts from a larger than allowed terminal platform were evaluated by EPD staff using the Uniform Mitigation Assessment Method, and the applicant agreed to provide mitigation for the additional shading with a payment of \$1,102 to the Conservation Trust Fund (CTF).

To address 15-350(a)(2)(2), the applicant states, *"The proposed structure will not adversely affect the adjacent property owner's view or navigability."*

Roof Height Variance

Section 15-342(e) states, "The maximum roof height shall be no higher than twelve (12) feet above the floor elevation." The applicants are requesting a roof height of 15 feet above the floor elevation.

Pursuant to Section 15-350(a)(1), "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 applicant states, *"The boathouse roof is larger than normal, so in order to obtain the roof pitch required for tile, the height must be increased."*

To address Section 15-350(a)(1)(2), the applicant states, *"The additional height will not adversely affect the adjacent property owner's view."*

The objection letter from the Larsens, received by EPD on July 2, 2018, stated they signed the LONO in good faith, but they were not supplied drawings of the proposed dock. They object to the height of the dock due to the impacts it will have on their view of the lake.

On September 6, 2018, EPD received an untimely objection (not within the 35-day objection timeframe) to the terminal platform waiver. Rebecca Wilson stated, *"When the un-permitted dock first appeared, the most concerning element was the height of the boatdock roof. Accordingly our objection was just to the roof height. As we have further examined the plans and the structure, we have come to understand that not only is the first floor platform larger than allowed by code but that there is a second platform the floor of which will be 12' high. The proposed deck is much larger than any others on the lake and the elevated deck will have furniture and other things which will further hinder the views of my client. Our concern is also about the precedent set, if the Board allows this dock to be larger than code, they will be setting precedent for others. We are aware of no "hardship" which isn't self-imposed that requires this larger dock. In addition, we may be less inclined to object to the size of the dock and the second story platform, if it was positioned in the middle of the Stauffer's lot instead so close to the Larsen lot line. I could not tell from the plans how close the dock is being proposed but the Stauffer's have about 200' of frontage where they could place this dock instead of as close as possible to the Larsens."*

Enforcement Action

There is currently an enforcement case on the Stauffer property for beginning construction of the dock prior to obtaining a permit. The Stauffers were issued a Notice of Violation, including a penalty, instructing them to stop work on the dock until a permit is issued. The construction on the dock has stopped and the penalty was paid. Issuance of a Dock Construction Permit will resolve the enforcement case.

September 26, 2018 Environmental Protection Commission

William and Debra Stauffer Rehearing of a Request for Waiver and Variance for Dock Construction
Permit BD-18-04-046

Page 3

Staff Recommendation

The recommendation of the Environmental Protection Officer is to deny the waiver request to Section 15-342(b) (terminal platform size) based on the failure of the applicant to meet Section 15-350(a)(2)(2); and deny the variance request to Section 15-342(e) (roof height) based on the failure of the applicant to meet Section 15-350(a)(1)(2).

ACTION REQUESTED:

Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(b), deny the request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-342(b) (terminal platform size) and deny the request for variance to Section 15-342(e) (roof height), for the Stauffer Dock Construction Permit BD-18-04-046.

JR/NT/ERJ/TH/DJ:gfdjr/mg

Attachments



ENVIRONMENTAL
PROTECTION
COMMISSION

Jonathan Huels
Chairman

Mark Ausley
Vice Chairman

Oscar Anderson

Perry Bamas

Florian Blackburn

Mark Corbett

Theodore Geltz

ENVIRONMENTAL PROTECTION DIVISION

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

3165 McCrary Place, Suite 200

Orlando, FL 32803-3727

407-836-1400 • Fax 407-836-1499

www.ocfl.net

ORANGE COUNTY
ENVIRONMENTAL PROTECTION COMMISSION
September 26, 2018

PROJECT NAME:

William and Debra Stauffer

PERMIT APPLICATION NUMBER:

BD-18-04-046

LOCATION/ADDRESS/LAKE:

4790 Lake Carlton Drive, Lake Carlton

RECOMMENDATION:

PURSUANT TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX, SECTION 15-350(b), DENY THE REQUEST FOR WAIVER TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX, SECTION 15-342(b) (TERMINAL PLATFORM SIZE) AND DENY THE REQUEST FOR VARIANCE TO SECTION 15-342(e) (ROOF HEIGHT), FOR THE STAUFFER DOCK CONSTRUCTION PERMIT BD-18-04-046.

☐ EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED

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

Pursuant to Orange County Code, Ch. 15 Art IX, Section 15-350(b), Approve the request for waiver to OC code, Ch. 15, Article IX, Sect 15-342(b) and deny the request for variance to Sect. 15-342(e), for BD-18-04-046

Vice
Signature of EPC Chairman:

Mark Ausley

EPC Recommendation Date:

9/26/18

Date: October 4, 2018
To: Jason Root
From: Sheila Cichra for William and Debra Stauffer
4790 Lake Carlton Drive, Mount Dora, FL 32757
(407) 448-5338
Re: BD-18-04-046

On September 26th, the EPC denied our variance to roof height.

Please allow this email to serve as our appeal of that decision.

We believe that the EPC made that decision based solely on the opinion of the adjacent property owner that his view would be *negatively* impacted. That is very much a matter of opinion, but the way that the variance criteria is written, only the *opinion* matters to the EPC, not the validity of that opinion.

The proposed dock is 16' farther away from the property line than is required by code. Also, the elevation of the Larsen's main house is such that someone standing on the Larsen's pool deck looks down onto the top of the boathouse roof, instead of *through* the boathouse. The adjacent property owner's view would not be any more negatively impacted with the roof at 15' than it would be, if the boathouse roof was built at code - 12' above the deck.

Therefore, we believe that pursuant to Article IX Section 15.350(a)(1), the effect of the proposed variance on the abutting shoreline owner is negligible and should not be grounds for denial of the variance.

In the last ten years, 12 roof height variance applications have been brought before the Board. Seven of which were after the fact. All of those variances, ranging from 6" to 6.8', were approved.

We believe that the BCC will see that the adjacent property owner is not *actually* negatively impacted, reverse the EPC's decision and approve this variance.

Thank you.

