Board of County Commissioners

Appeals of the Recommendation of the Environmental Protection Commission Regarding a Variance and Waiver Request for the William and Debra Stauffer Boat Dock (BD-18-04-046)

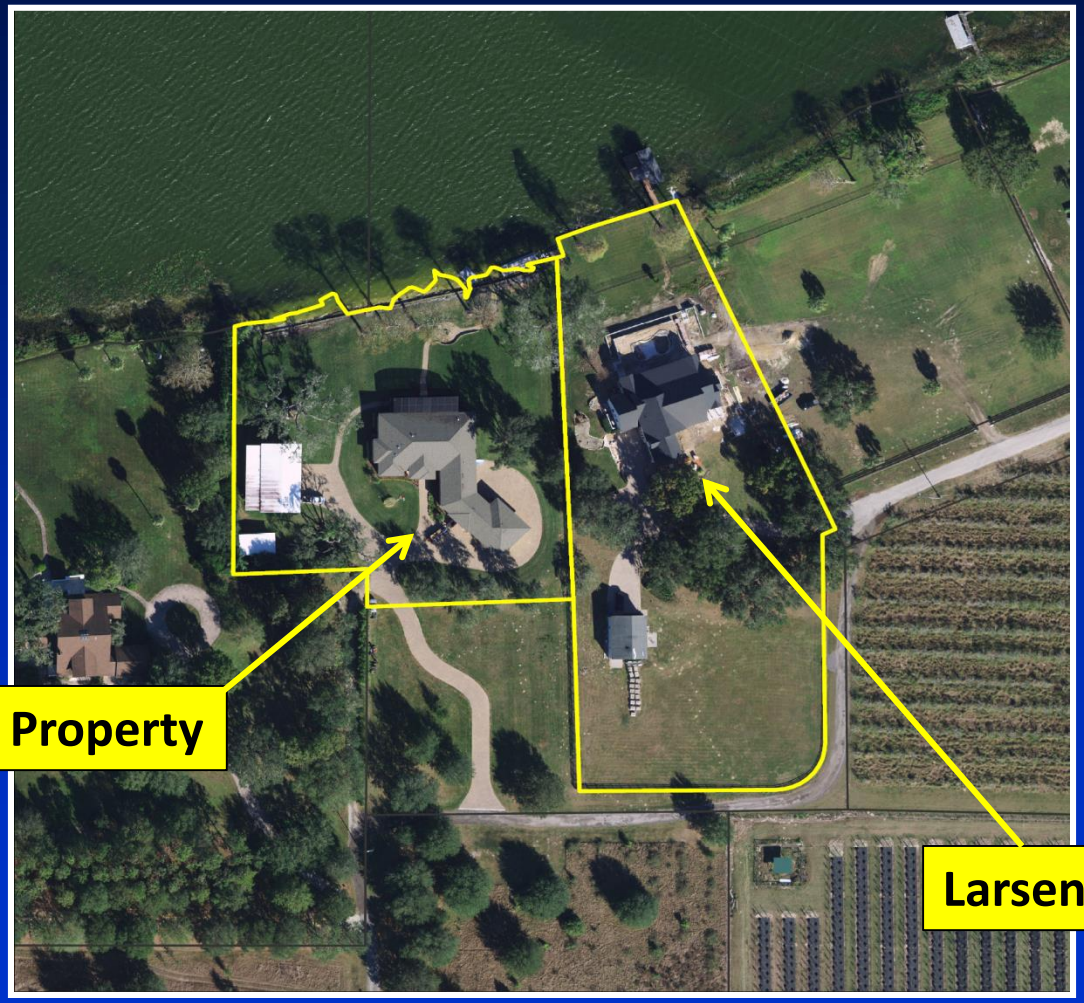
Appellants: William and Debra Stauffer and Stuart and Sue Larsen

January 15, 2019

Location Map

Aerial Photo

4790 (Stauffer) and 4788 (Larsen) Lake Carlton Drive



Site Conditions

View from Stauffer's Property

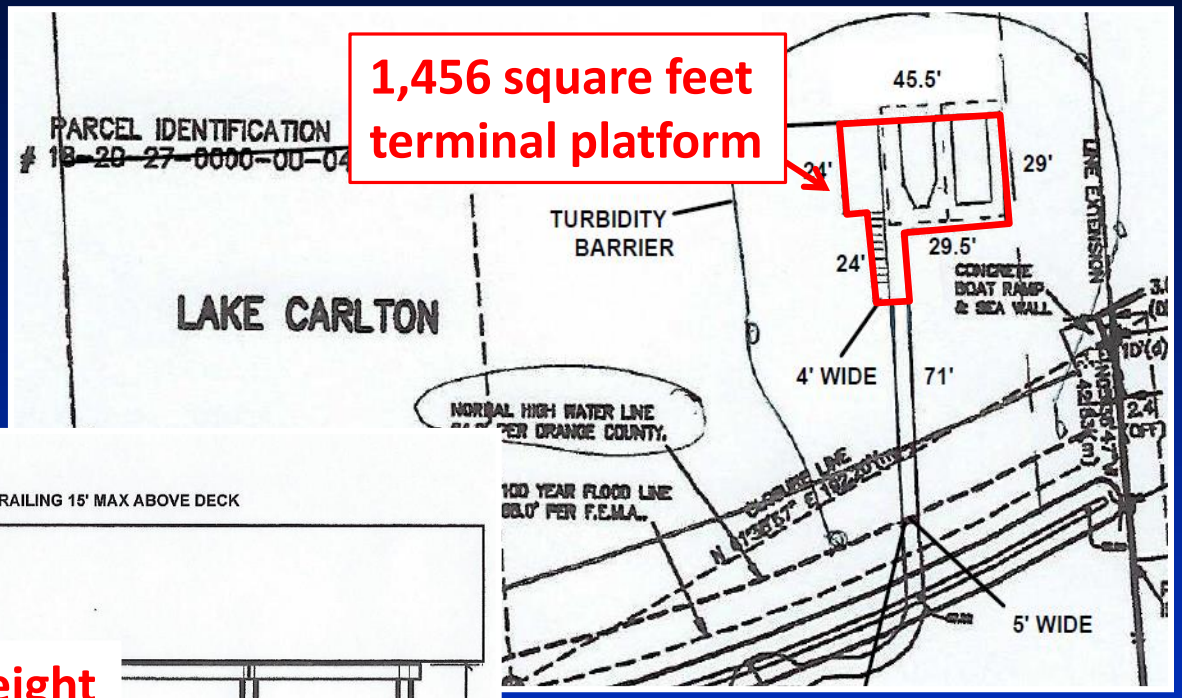
Site Conditions

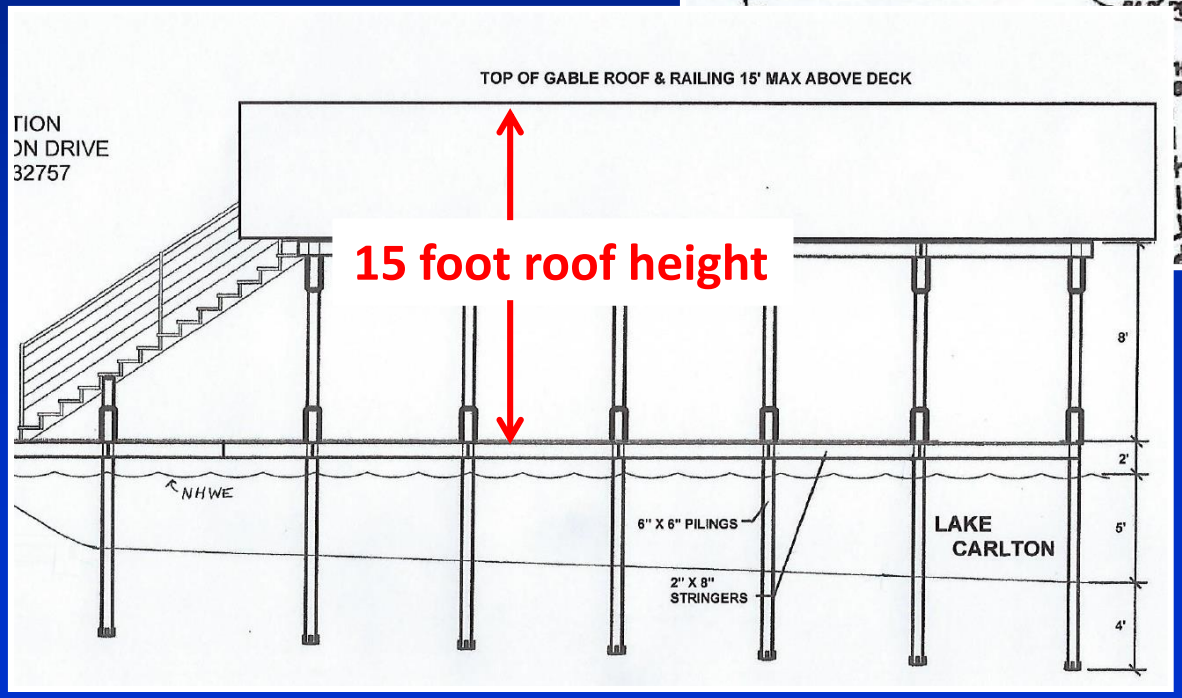
View from Larsen's Property

Application Review

- On April 17, 2018, the Environmental Protection Division (EPD) received an Application to Construct a Dock from William and Debra Stauffer.
- Included with the permit application was an Application for Variance to Section 15-342(e) (roof height) and an Application for Waiver to Section 15-342(b) (terminal platform size).
- Orange County Code allows for a maximum roof height of 12 feet and the applicants are requesting a roof height of 15 feet.
- Orange County Code allows for a maximum terminal platform size of 1,000 square feet for this lot and the applicants are requesting a terminal platform size of 1,456 square feet.

Site Plans


1,456 square feet terminal platform
PARCEL IDENTIFICATION
18-20-27-0000-00-04
LAKE CARLTON
TURBIDITY BARRIER
45.5'
29'
24'
29.5'
24'
4' WIDE
71'
CONCRETE BOAT RAMP & SEA WALL
NORMAL HIGH WATER LINE
100 YEAR FLOOD LINE
5' WIDE


TOP OF GABLE ROOF & RAILING 15' MAX ABOVE DECK
15 foot roof height
8'
2'
5'
4'
NHWE
6" X 6" PILINGS
2" X 8" STRINGERS
LAKE CARLTON

Variance Criteria – Roof Height

- Section 15-350(a)(1) Variances states, "A variance application may receive 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."

Variance Criteria – Roof Height

- 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."*

Waiver Criteria – Terminal Platform

- Section 15-350(a)(2) *Waivers* states, "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."*
- 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."*
- The additional shading was evaluated by EPD staff and the applicant agreed to provide mitigation for the additional shading with a payment of $1,102 to the Conservation Trust Fund.

Neighbor Notifications

- On May 14, 2018, a Notice of Application for Waiver and Variance was sent via certified mail to the shoreline property owners with a 300-foot radius of the property.
- The 300-foot radius resulted in only the adjacent neighbors being notified because of the large lot sizes.
- The notice stated that any objection to the requests must be received, in writing, by EPD within 35 days of receipt.

First EPC Hearing – June 2018

- On June 1, 2018, EPD received a notarized Letter of No Objection (LONO) from the adjacent property owners to the east, Stuart and Sue Larsen (4788 Lake Carlton Drive).
- On June 3, 2018, EPD received a LONO from the adjacent property owner to the west, Metro LLC. (8925 Sadler Road).
- Since all property owners within the 300-foot radius had no objection to the variance and waiver requests, a public hearing was scheduled for the June 27, 2018 EPC meeting.
- EPD presented the variance and waiver requests to the Environmental Protection Commission (EPC) with a recommendation of approval.
- The EPC agreed with the recommendation and voted unanimously to approve the requests for variance and waiver.

Objection

- After the June 27, 2018 EPC meeting, the Larsens rescinded their previous support and submitted an objection letter to the variance request for roof height within the 35-day timeframe allowed by Code for objections.
- The Larsens objected to the height of the dock due to the impacts it would have on their view of the lake.
- On August 10, 2018, EPD received a request for rehearing from Attorney Rebecca Wilson, who represents the Larsens.

EPC Rehearing – September 2018

- The variance and waiver requests were scheduled for a rehearing at the August 29, 2018 EPC meeting. However, the EPC did not have a quorum in order to proceed and the item was continued to the September 26, 2018 EPC meeting.
- On September 6, 2018, EPD received an untimely objection (not within the 35-day timeframe) to the terminal platform waiver from the Larsens.

EPC Rehearing – September 2018

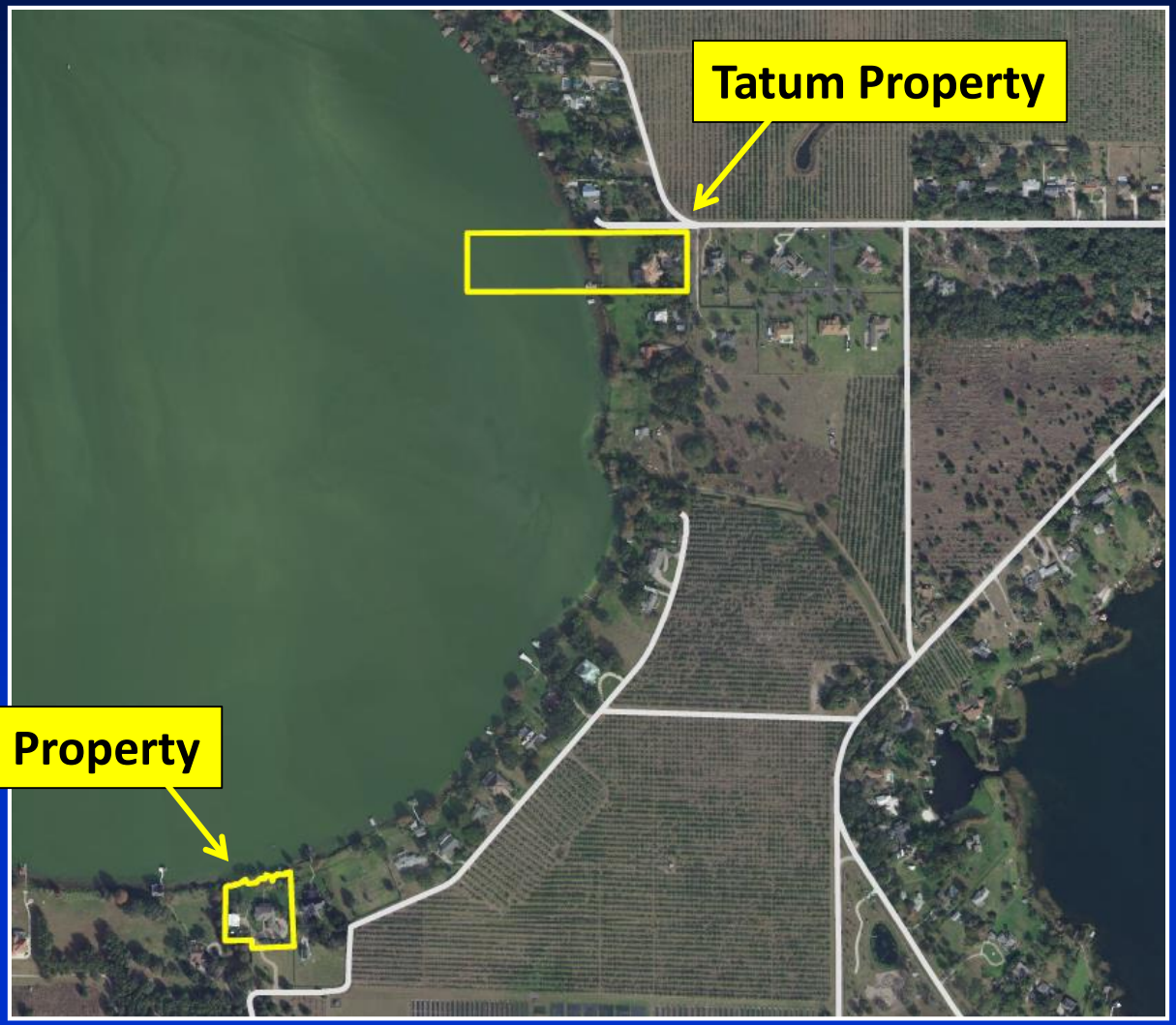
- On September 26, 2018, EPD presented the variance and waiver requests before the EPC, and recommended denial of the variance request for roof height and denial of the waiver request for terminal platform size based on the objections filed by the Larsens.
- After significant discussion, the EPC voted to deny the request for variance to roof height and approve the request for waiver to terminal platform size.

EPC Appeals

- On September 28, 2018 EPD received an appeal of the recommendation of approval of the waiver request from the neighboring property owners to the east, Stuart and Sue Larsen.
- On October 4, 2018 EPD received an appeal from William and Debra Stauffer of the recommendation of denial of the variance request.

Objection

8302 Earlwood Avenue



EPC Appeals

Dock Feature	Code Allows	Waiver Request	Variance Request	EPC Rec.	Appellant
Roof Height	12’		15’	Deny	Stauffers
Terminal Platform Size	1,000 sq. ft.	1,456 sq. ft.		Approve	Larsens

Enforcement Case

- There is currently an open enforcement case on the Stauffer property for beginning construction of the dock prior to obtaining the EPD permit.
- After receiving a Notice of Violation, Ms. Stauffer explained that they received their Florida Department of Environmental Protection permit and thought they had what they needed to start construction. All construction activity has ceased.
- EPD assessed a $999 penalty which has been paid.
- Issuance of a Dock Construction Permit will resolve the enforcement case.

Actions Requested

- To affirm, reverse, or modify the decision of the Environmental Protection Commission to recommend denial of the variance to Orange County Code, Chapter 15, Article IX, Section 15-342(e) (roof height) for the William and Debra Stauffer Boat Dock Construction Permit BD-18-04-046. District 2

-AND-

- To affirm, reverse, or modify the decision of the Environmental Protection Commission to recommend approval of the waiver to Section 15-342(b) (terminal platform size) for the William and Debra Stauffer Boat Dock Construction Permit BD-18-04-046. District 2