

TOWN OF WINDERMERE

Development Review Board Meeting Minutes

January 15, 2019

Present were Chair Frank Chase, Boards Members; Timothy Balding, Stephen Withers, Molly Rose, Jennifer Roper, and Peter Fleck. Town Manager Robert Smith, Town Planner Brad Cornelius, Council Liaison Jim O'Brien, and Town Clerk Dorothy Burkhalter were also present. Norma Sutton was absent.

Chair Chase called the meeting to order at 6:30pm. He then led everyone in the pledge of Allegiance.

1. OPEN FORUM/PUBLIC COMMENTS:

There were no public speakers.

2. OLD BUSINESS: NONE

3. NEW BUSINESS:

a. MINUTES:

i. DRB meeting minutes August 21, 2018

Member Withers made a motion to approve the DRB minutes of August 21, 2018 as presented. Member Roper seconded the motion. All were in favor.

b. GENERAL ITEMS FOR CONSIDERATION:

i. Z-19-002: 806 W 2nd Avenue Variance: Boat Dock Variance to allow reduced side setback of zero (0) feet.

Chair Chase turned the floor over to Mr. Brad Cornelius. Mr. Cornelius introduced himself. He then reviewed the variance request, past permit history and grandfathering. Mr. Cornelius stated that the applicant requests a variance for an existing enclosed boathouse with reduced side setback of zero (0) feet from the east projected property line. The required side setback for a dock is 16 feet. The existing dock includes a 5.3' x 32.9' and 4.1' x 11.3' walkway to the west of the boathouse that is 87.5 feet from the west projected property line. The walkway was constructed in approximately 2011 or 2012. A permit for the walkway was not obtained at the time of construction. Under the subject zoning case, the property owner is also requesting a variance so that the entire dock, including the unpermitted walkway, may be retained. Discussion began with the Board members. Member Withers questioned the "guest house" that shows on the plans. Mr. Cornelius stated he is unsure why it was named a guest house but it has been named that for many years and "at best" should remain that way. Chair Chase questioned what made the applicant apply for the variance. Mr. Cornelius explained that when the homeowner decided not to remove the walkway and it was originally built without a permit. Member Rose questioned if there is a hardship. Mr. Cornelius stated that the configuration of the lot is a problem. Member Balding questioned if all permits had been obtained. Mr. Cornelius stated that the State and County permits are needed prior to applying to the Town, which have been obtained. Member Rose stated that the process for the town is for approving the setbacks. Mr. Cornelius agreed. Chair Chase questioned the variance request. Mr. Cornelius stated that the variance

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request is to allow the expansion of the non-conforming boat dock due to setbacks. Member Fleck questioned if the dock has been pile wrapped? Ms. Shelia Cichra of Streamline Permitting introduced herself. She stated that it is in the permitting standards. Member Fleck questioned if the wrap had been done. Ms. Cichra stated she had not inspected it. Member Withers commented that this permit is for setbacks and then questioned if this permit should have come to the Town first. Ms. Chicra stated that she was uncertain if the permit would pass at the State level. She stated that all plumbing was required to be brought up to today's standards. Ms. Chicra stated that when she began this project, the catwalk was existing. She further stated that after EPD researched and the aerials were reviewed, they noticed that the walkway was not present approximately 5-6 years ago. Ms. Cichra commented that's when an after-the-fact permit was pulled. She explained that the owner could not get to his dock without the walkway. Member Withers stated that the permit should have been pulled through Windermere first. Mr. Cornelius stated that State and County are the first steps in this type of permitting process. Discussion followed. Member Withers commented on his concern with "saying it's ok, it gives a pass for doing something that shouldn't have been done." Chair Chase commented that the owner applied for the after the fact permit on his own. He further commented that it was not due to the fact that he was tagged for it. Member Fleck stated that he does not have a problem with this, as the neighbors are in favor as well. Member Withers stated that a condition could be placed in the motion. He also stated that he does not like rewarding someone who hasn't followed the rules. Member Withers stated that a recommendation to not allow any roofs or changes to this structure could be included. Also have them be required to meet the current standards for pile wrapping or anything else that is required to this dock. Chair Chase questioned if a permit will need to be pulled through the Town. Mr. Cornelius stated yes. Some discussion followed regarding State and County approvals. Member Withers made a motion to recommend approval of the variance with the conditions that no other additions be added to this boat dock and that it be built, retro built, to meet current requirements of the State and County. Member Rose seconded the motion. All were in favor. Mr. Cornelius stated that this will go before the Town Council for final approval on February 12th

- ii. **Z19-003: 15 Pine Street Variance: Variance to allow for a side setback of 13.1' for a proposed replacement boathouse, a 32' setback from the NHWE for a replacement wood deck and a 1' setback from the NHWE for replacement paver deck with stairs at 15 Pine Street**

Mr. Cornelius introduced Z19-003. He explained that the first request relates to the dock. Mr. Cornelius explained that the applicant is looking to place the dock back to its original location which would have a south side setback of 13.1'. He then stated that the dock will be larger than the existing dock. Mr. Cornelius stated that the first variance request is to allow the 13.1' side set back. He then explained the second request which relates to the rear decking. Mr. Cornelius explained that there has been an existing permitted elevated deck to the home. He explained that the deck has been demolished without a permit. Mr. Cornelius stated that he received plans to build a new deck, and the new deck will encroach the 50' setback. He further stated that the setback would be 32', having an estimated 18' encroachment. Mr. Cornelius stated that the hardship would be due to the lot shape. Mr. Cornelius then commented on the third variance request. He explained that is not a request, but a courtesy notice. Mr. Cornelius further explained that the owner would like to replace the paver deck with stairs that encroach into the normal high-water elevation setback. He stated that the new deck with stairs will be smaller than what was previously there. Mr. Cornelius stated that the hardship could be the configuration of the lot. He then stated that 33 notices were mailed out with a total of 12 returned, all in support. Member Rose questioned if a roof would

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be built on the deck. Mr. Cornelius stated that only a deck with stairs is being built. Member Withers commented on the enlarging of the boat dock and jet ski platform. Ms. Cichra stated that all existing pilings will be kept and used in their original locations. Member Withers stated that the new construction should be kept within the setbacks. Some discussion followed. Chair Chase asked if there were any comments regarding the deck. Member Withers commented on a past report regarding contaminated waters and this area was in that report. He then commented on allowing building within the 50' setback and causing pollution in the lakes. Mrs. Melissa Farrell, owner of 15 Pine Street introduced herself. She then gave a brief history of the project that was done in 2002 by the previous owner. Mrs. Farrell then commented on the reduction of the project along with the new swales. Mrs. Farrell's landscape architect stated that the sensitivity of recharge in the area is being considered. Discussion regarding the new deck plan and the variance request was made. Member Rose made a motion to recommend approval of the variance with the modification to the boat dock and the jet ski dock so it is at least 16' from the property line. Member Fleck seconded the motion. Member Roper questioned if the deck was included. Member Rose stated yes. All were in favor. Manager Smith stated that this item will go before the Town Council for final approval on February 12th

Chair Chase welcomed new members Molly Rose and Peter Fleck. Discussion was made regarding approval of the current board and positions. Member Roper made a motion to approve Frank Chase as the Chair and Stephen Withers as the Vice Chair and the others remain as members. Member Balding seconded the motion. All were in favor.

4. ADJOURN:

Member Rose made a motion to adjourn the meeting. Member Withers seconded the motion. All were in favor.

The meeting adjourned at 7:22pm


Dorothy Burkhalter, Town Clerk


Frank Chase, Chair