

THE TOWN OF  
**Windermere**



*Agenda*

**Development Review Board**

**Norma Sutton  
Stephen Withers  
Frank Chase  
Jennifer Roper  
Molly Rose  
Peter Fleck**

**Council Liaison: Bill Martini**

*Agenda*

**July 21, 2020  
6:30 PM**

**VIRTUAL MEETING**

**Join Zoom Meeting**

**<https://zoom.us/j/96225380233?pwd=dVpZTlByUlJZbVFDV1N5YXFFQVU5QT09>**

**Meeting ID: 962 2538 0233**

**Password: 226644**

**One tap mobile**

**+16465588656,,96225380233# US (New York)**

**+13017158592,,96225380233# US (Germantown)**

## Dial by your location

**+1 646 558 8656 US (New York)**

**+1 301 715 8592 US (Germantown)**

**+1 312 626 6799 US (Chicago)**

**+1 669 900 9128 US (San Jose)**

**+1 253 215 8782 US (Tacoma)**

**+1 346 248 7799 US (Houston)**

**Meeting ID: 962 2538 0233**

**Find your local number: <https://zoom.us/j/96225380233>**

**PLEASE NOTE:** IN ACCORDANCE WITH F.S. 286.26: Person with disabilities needing assistance to participate in any such proceeding should contact the Office of the Town Clerk at least 48 hours beforehand at (407) 876-2563

Pursuant to Resolution No. 2005-12 adopted on December 13, 2005, the following Civility Code shall govern all proceedings before the Town of Windermere Town Council:

1. All electronic devices, including cell phones and pagers, shall be either turned off or otherwise silenced.
2. Prolonged conversations shall be conducted outside Council meeting hall.
3. Whistling, heckling, gesturing, loud conversations, or other disruptive behavior is prohibited.
4. Only those individuals who have signed the speaker list and/or who have been recognized by the Mayor (or Chair) may address comments to the Council.
5. Comments at public hearings shall be limited to the subject being considered by the Council.
6. Comments at Open Forums shall be directed to Town issues.
7. All public comments shall avoid personal attacks and abusive language
8. No person attending a Town Council meeting is to harass, annoy, or otherwise disturb any other person in the room.

Any member of the public whose behavior is disruptive and violates the Town of Windermere Civility Code is subject to removal from the Town Council meeting by an officer and such other actions as may be appropriate. **PLEASE NOTE:** IN ACCORDANCE WITH F.S. 286.0105: Any person who desires to appeal any decision at this meeting will need a record of this proceeding. For this, such person may need to ensure that a verbatim record of such proceeding is made which includes the testimony and evidence upon which the appeal is to be based.

# **AGENDA**

- THE MEETING IS CALLED TO ORDER BY THE CHAIRMAN

1. **OPEN FORUM/PUBLIC COMMENT (3 Minute Limit):**

- a. **Please email [dburkhalter@town.windermere.fl.us](mailto:dburkhalter@town.windermere.fl.us) prior to 5pm EST July 20, 2020**

2. **NEW BUSINESS**

- a. **Resignation Letter: William Yeager (Information Only)**

- b. **MINUTES**

- i. **May 19, 2020 Board Meeting Minutes (Attachments-Board Option)**

- c. **GENERAL ITEMS FOR CONSIDERATION**

- i. **Z20-06: 10972 Bayshore Drive – Variance for an expansion of a non-conforming home by more than 10% and to allow a boat dock with a zero (0) foot side setback.**
  - ii. **Z20-08: 711 W 2nd Avenue – Variance to allow the replacement of an existing non-conforming boat dock at a setback of one (1) foot from the side property line.**
  - iii. **Z20-09: 31 Pine Street – Variance for an expansion of a non-conforming home by more than 10% and to allow a pool deck at less than 50 feet from the normal high-water elevation of the lake.**
  - iv. **ORDINANCE NO. 2020-06 (Ordinance to revise LDC to allow Chickens in Residential Areas)**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDERMERE, FLORIDA ALLOWING FOR BACKYARD CHICKENS; ADDING A NEW ARTICLE III TO CHAPTER 4 OF THE TOWN'S CODE OF ORDINANCES TO CREATE A BACKYARD CHICKEN PROGRAM; REQUIRING A PERMIT AND PROVIDING FOR TERMS, CONDITIONS, AND PENALTIES CONCERNING THE KEEPING OF CHICKENS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.**

3. **ADJOURN:**

---

# William Yeager

415 W First Avenue  
Windermere, FL 34786

June 18, 2020

Town of Windermere  
Attn.: Ms. Diane Edwards, Administrative Assistant  
614 Main Street  
Windermere, FL 34786

Dear Ms. Edwards,

Due to unforeseen circumstances, available time and an upcoming change of work responsibilities, I must submit my resignation, effective tomorrow (June 19, 2020), from the Town of Windermere, Development Review Board. Should you have additional questions or the need to further communicate with me, I can be contacted by phone (407-625-7145) or email ([wyeager012@gmail.com](mailto:wyeager012@gmail.com)). Although the time has been relatively short, I've appreciated working with the Town and staff, but regretfully cannot continue in the manner I've been serving.

Sincerely yours,



William W. Yeager

# TOWN OF WINDERMERE

## Development Review Board Meeting Minutes

May 19, 2020

Present were Board Members; Norma Sutton, William Yeager, Stephen Withers, Molly Rose, Jennifer Roper, and Peter Fleck. Town Manager Robert Smith, Liaison Bill Martini, Town Planner Brad Cornelius, and Town Clerk Dorothy Burkhalter were also present. Chair Frank Chase was absent.

Other attendees were Council member Chris Sapp, and John Fitzgibbon

Acting Chair Withers called the meeting to order at 6:30pm. He then led everyone in the Pledge of Allegiance.

### 1. OPEN FORUM/PUBLIC COMMENTS:

No public comments were made.

### 2. NEW BUSINESS:

#### a. MINUTES:

##### i. February 18, 2020 Meeting Minutes

Member Roper made a motion to approve the February 18, 2020 meeting minutes. Member Yeager seconded the motion. Sutton – aye, Yeager – aye, Withers – aye, Roper – aye, Rose – aye, and Fleck – aye. Motion carried 6-0. Discussion was made regarding Acting Chair Withers reading into the record Form 8B Conflict Voting from the previous meeting in February regarding the Town facilities. Clerk Burkhalter stated that due to the current event and this being the first virtual meeting, Acting Chair Withers could read the statement at the next DRB meeting.

#### b. GENERAL ITEMS FOR CONSIDERATION:

##### i. Proposed Town Event Pavilion

Acting Chair Withers turned the floor over to Mr. Brad Cornelius and Mr. John Fitzgibbon. Mr. Fitzgibbon deferred to Council member Chris Sapp for a brief presentation. Member Sapp explained that prior to being on the Town Council he was the Chair of the Downtown Business Committee for a number of years. He further explained that while he was on that Committee, discussion was made regarding a pavilion or a type of a structure to assist the Town with all the functions/events that go on. Member Sapp then commented on the proposed location and functionalities of the proposed pavilion. He further explained how this idea and sub-committee has come forward. Member Sapp then turned the floor over to Mr. Fitzgibbon. Mr. Fitzgibbon reviewed the two concepts and proposed floor plans/designs. He then opened the floor for discussion. Discussion was made regarding the height, length, elevations, square footage, size, cost, location, uses, materials being used, funding sources, trees, the basketball courts, parking and the overall style. Acting Chair Withers stated that the Downtown Business Committee and the Windermere Rotary will be handling the funding. Mr. Fitzgibbon commented on the step by step phase/process. Member Sutton stated that Mr. Sutton has been working with and will continue to work with Hunton Brady which their work has been

## TOWN OF WINDERMERE

### Development Review Board Meeting Minutes

May 19, 2020

done pro-bono. Manager Smith that a recommendation from this Board to the Town Council is needed. Member Sapp commented that the Long-Range Planning Committee as reviewed the concepts as well. Mr. Fitzgibbon commented that one concept is cost effective and one is more enhanced. Member Roper stated that she has concerns with the pavilion style and the need for matching the town square look. Member Rose stated she has concern with the budget. She then stated that HVAC is needed in the restrooms. Member Roper stated that electrical is going to be needed as well. Mr. Fitzgibbon stated that an option needed to be selected so that further research can be done if the project will be viable or not. Member Roper stated that she like the concept but it needs to match the square. Member Yeager questioned the timeline. Manager Smith stated that the pavilion would not be constructed until the new town facilities are built and the temporary structure is removed. Further discussion followed. Member Yeager stated for the record, "I think from reading the letter that Brad sent out, the first rendering that's shown in our packages is actually is option two which was recommended by the Long-Range Planning, not one." Mr. Fitzgibbon stated that Member Yeager was correct. Member Fleck questioned the width of the roof and what it is made out of. Mr. Fitzgibbon stated this is a concept and details will come later. Mr. Fleck stated that he is concerned with the wind load and the current designs. He stated that maintenance and structural components are a concern. Member Fleck made a motion to recommend approval of the option 2. Member Sutton seconded the motion. Member Sapp stated that the general location needed to be added in the motion. Member Fleck amended his motion to include recommending approval of the current location on the proposed plan. Member Rose seconded the amendment. Discussion of cost estimate was made. Member Rose modified the original motion to recommend that a conceptual estimate be provided before they do anything further on this project. Member Roper seconded the motion. Some discussion followed. Member Roper stated that her vote is not due to the idea or location, it is a concern of overpowering the Town Hall and not being in the same style. Roll call vote was as follows: Sutton – aye, Yeager - aye, Wither + aye, Roper – no, Rose – aye, and Fleck – aye. Motion carried 5-1.

#### 4. ADJOURN:

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

The meeting adjourned at 7:23pm.

---

Dorothy Burkhalter, Town Clerk

---

Frank Chase, Chair

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor  
JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

## Development Review Board July 21, 2020

## Town Council August 11, 2020

**Case No.:** Z20-06

**Applicant/Representative:** Darrell Nunnolley

**Property Owner:** Mike Wytiaz

**Requested Action:** Variance to allow for an increase of floor area of a nonconforming structure beyond 10%. The applicant is requesting to add 2,470 square feet of new floor area which is more than the allowable 10%. A second variance is requested to allow for the expansion of an existing nonconforming boat dock. The applicant is requesting a zero (0) foot setback for the construction of new deck area and a 14-foot setback for the construction of a new boat port.

**Update:** On July 7, 2020, the applicant submitted a revised plan for the boat house, which removed the addition of the new deck area at the back of the boathouse. The request for the 0-foot variance for the new deck area is rescinded. The variance for the new boat port is still requested.

**Property Address:** 10972 Bayshore Drive Windermere, FL 34786

**Legal Description:** LOT 8, LAKE DOWN ESTATES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK M, PAGE 22, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; AND A PORTION OF LOT 7, LAKE DOWN ESTATES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK M, PAGE 22, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

DESCRIBED AS FOLLOWS:  
BEGINNING AT THE MOST NORTHERLY CORNER OF OF SAID LOT 7, RUN SOUTH 37 DEGREES 00 MINUTES EAST ALONG THE EASTERLY LINE OF SAID LOT 7, A DISTANCE OF 245.68 FEET; THENCE SOUTH 53 DEGREES 00 MINUTES WEST, A DISTANCE OF 10.76 FEET; THENCE NORTH 34 DEGREES 29 MINUTES 35 SECONDS WEST A DISTANCE OF 245.77 FEET TO THE POINT OF BEGINNING

**Future Land Use/Zoning:** Residential/Residential

**Existing Use:** Residential (Single Family)

**Surrounding Future Land Use/Zoning**

**North:** Residential/Residential  
**East:** Residential/Residential  
**South:** Lake  
**West:** Residential/Residential

**CASE SUMMARY:**

The applicant requests to add a three-car garage and a master suite on the first floor and 2 bedrooms on the second floor. This addition will result in a 2,470 square feet net increase in floor area. The current structure is non-conforming in that the west side yard setback does not meet the required setback. This nonconformity limits the expansion of floor area to 10% of the existing floor area. The existing floor area is 3,368 square feet. This means the applicant would be limited to a 336.8 square foot expansion of floor area. The applicant is requesting a variance to allow the addition of 2,470 square feet, which is 2,133.2 square feet more than allowed. The new addition will meet the required 13.4 foot east side yard setback and will meet the 50-foot required setback from the normal high water elevation in the rear yard. The total gross floor area and impervious surface will also meet the Town's requirements.

The applicant would also like to expand an existing nonconforming boat dock. The existing boat dock encroaches over the west property line. The applicant is requesting a variance for a zero (0) foot setback to add a small deck on the south side of the existing boat dock. The applicant is also requesting a variance for a 14-foot setback to add a new boat port on the east side of the existing boat dock.

**Update: On July 7, 2020, the applicant submitted a revised plan for the boat house, which removed the addition of the new deck area at the back of the boathouse. The request for the 0-foot variance for the new deck area is rescinded. The variance for the new boat port is still requested.**



Applicant states that the expansion of the boat dock will not impact the neighbors view of the lake.

Division 10.02.00 of the LDC empowers the Development Review Board to review and make recommendations for approval, approval with conditions or denial to the Town Council on variance requests.

Division 10.02.00 of the LDC requires the Town Council to consider the recommendation of the Development Review Board and to take final action to either approve or deny the variance request.

### **CASE ANALYSIS:**

Section 10.02.02 of the LDC provides the specific standards by which the Development Review Board and Town Council are to review to consider the approval or denial of a variance application. In addition, this Section requires a positive finding, based on substantial competent evidence, for each of the standards. These standards are summarized as follows:

1. The need for the variance arises out of the physical surroundings, shape, topographical condition or other physical or environmental conditions that are unique to the subject property. Variances should be granted for conditions peculiar to the property and not the result of actions of the property owner;
2. There are practical or economic difficulties in carrying out the strict letter of the regulation;
3. The variance request is not based exclusively upon a desire to reduce the cost of developing the site;
4. The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire or other hazard to the public;
5. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site;
6. The effect of the proposed variance is in harmony with the general intent of this Land Development Code and the specific intent of the relevant subject areas of this Land Development Code; and
7. The variance will not encourage further requests for changes where such a land use would not be deemed appropriate.

It is also important to note that this Section also provides specific standards that are not to be considered in the review of a variance application. These standards are:

1. That the implementation of these regulations would impose an economic hardship on the cost of the building or redevelopment project;
2. That these regulations impose a hardship by decreasing the maximum density of a property in terms of the number of units, square footage of buildings, etc.; and
3. That other adjacent lands, structures or buildings not in conformance with these regulations provide a rationale for a lessening of their application in this specific case.

Section 10.02.02(c) of the LDC allows the imposition of conditions and restrictions as may be necessary to allow a positive finding to be made on any of the variance standards to minimize the negative effect of the variance. The conditions and restrictions should further the interest of the LDC.

The applicant submitted a site plan and other materials in support of the variance request. The following is a summary of the information provided by the applicants in support of their variance request:

1. The new addition will meet setback requirements and will not exceed the total floor area or impervious surface area allowed on site.
2. The expansion of the exiting boat dock will not affect the neighbor's view of the lake.

**PUBLIC NOTICE:**

Public notices were mailed to property owners within 500 feet of the subject property As of July 3, 2020, one letter response was returned in support. In addition, emails were received from the adjacent property owner to the west (11008 Bayshore Drive) and adjacent property owner to the east (10964 Bayshore Drive) An update to any responses received after July 3, 2020, will be provided at the DRB meeting.

May 20, 2020

Ms. Dorothy Burkhalter  
Town Clerk  
Windermere, Fl. 34786

RE: 10972 Bayshore Drive Windermere - revised

Dorothy:

Mike Wytiaz is requesting the Town of Windermere grant him a variance to do the following things:

Expand the footprint of the existing 2 story 3,368 Gross Sq Ft house by adding a 3 car garage and master suite on the 1<sup>st</sup> floor and 2 bedrooms on the 2<sup>nd</sup> floor adding 2,470 NET/Gross Sq Ft to the East side of the existing house outside the 14 feet side property setback not requiring a variance for this portion of the project

10% of the existing house is 336.8 sq ft and the new NET/Gross sq ft added is 2,470 requiring a variance

The WS or detached shed will be permanently removed

The West side of the building is less than 14 feet from the property line making this a nonconforming building creating the need for a variance

The existing boathouse is 0' from the West side property line and is nonconforming

They want to remodel the existing boathouse and walkway and add a deck to the rear of the existing boathouse requiring a variance for a 0' side yard setback.

They want to create a new boat port on the East side of the walkway 14 feet from the East property line requiring a 2 foot setback variance from the 16 ft required

No expansion of the house will encroach within the 50 foot rear setback from the Normal High Water Line (NHWL)

The existing house was created in 1930 and this Owner did not create the building

The expansion requested will not impact any of the Neighbor's view of the water or impact their peaceful enjoyment of their property

The existing paver parking area at the front of the Northwest corner of the house and brick walking path on the West side of the house that is approximately 133 sq ft will be removed as needed to make sure the minimum impervious ratios are met

Thank you with your help on this project

Darrell Nunnelley  
407.467.8069

## Cornelius, Brad

---

**From:** Darrell Nunnelley <darrellnunnelley@gmail.com>  
**Sent:** Tuesday, July 7, 2020 6:35 PM  
**To:** Cornelius, Brad; Mastison, Sarah  
**Subject:** 10972 Bayshore Drive Windermere  
**Attachments:** 10972 Bayshore Boathouse Plan Detached Roof 7 7 2020 Revised.pdf

Brad:

We would like to revise the variance application

We will not be doing any work or changes to the existing enclosed boathouse

I have revised the plans to show the deck on the rear of it is not going to be created

There will not be any doors or windows added or changed

I have attached the revised plans

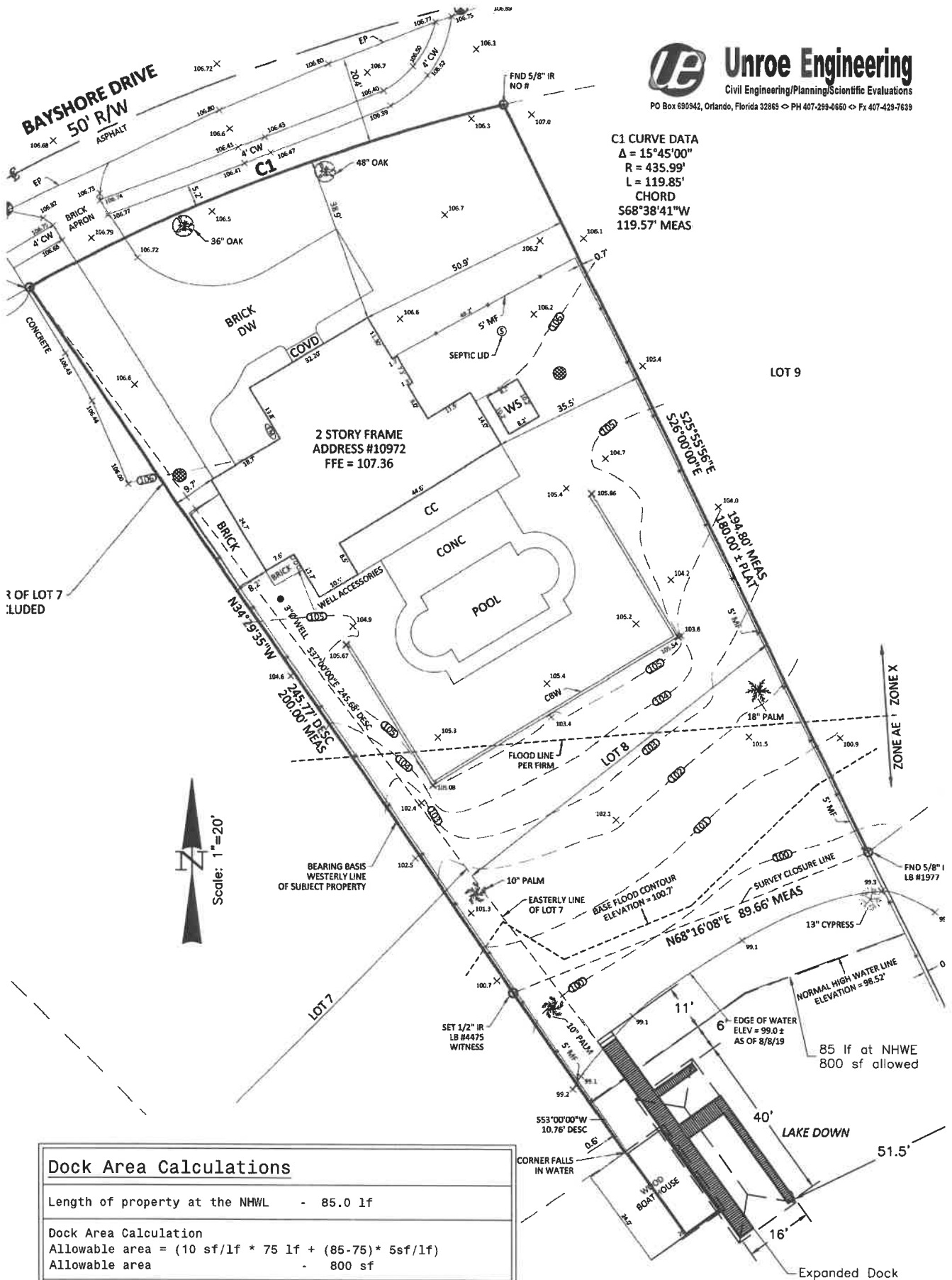
The boat port and walkway are still wanting to be created

Thanks for your help on this project

--

Darrell Nunnelley  
The Nunnelley Group LLC  
501 Main St  
Windermere, Fl. 34786  
407.467.8069 Cell  
CBC1257063

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**

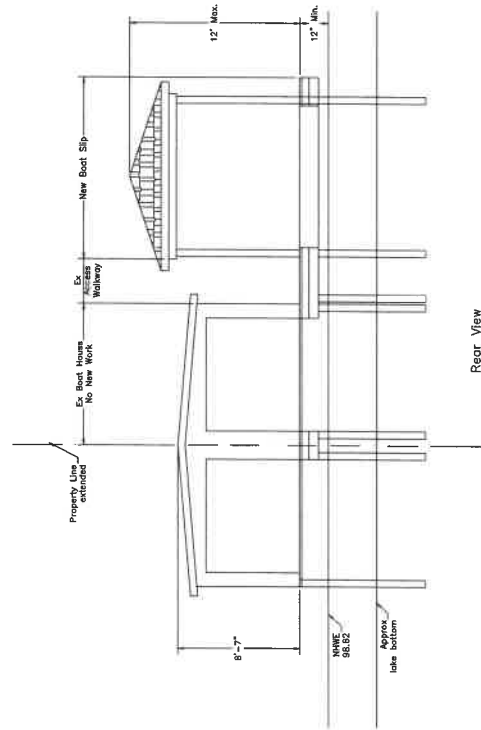
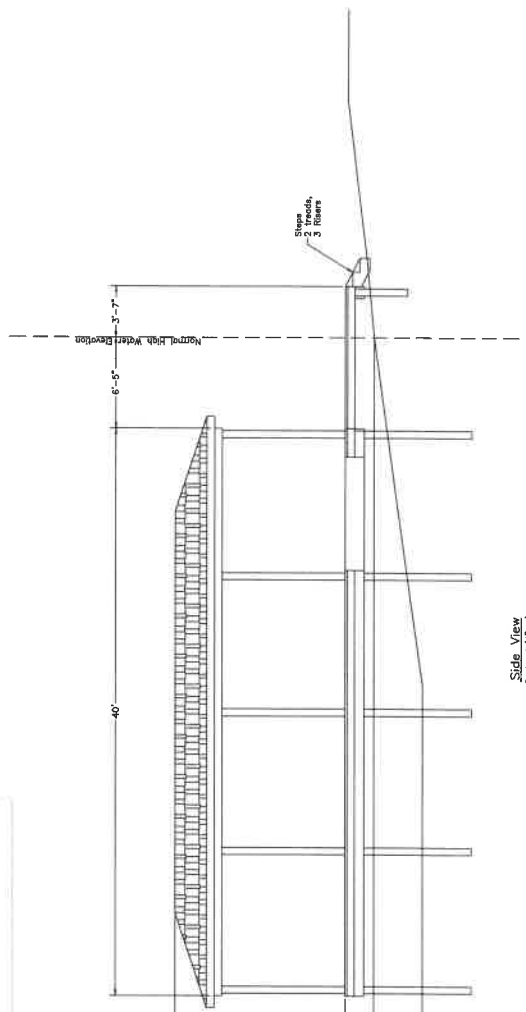
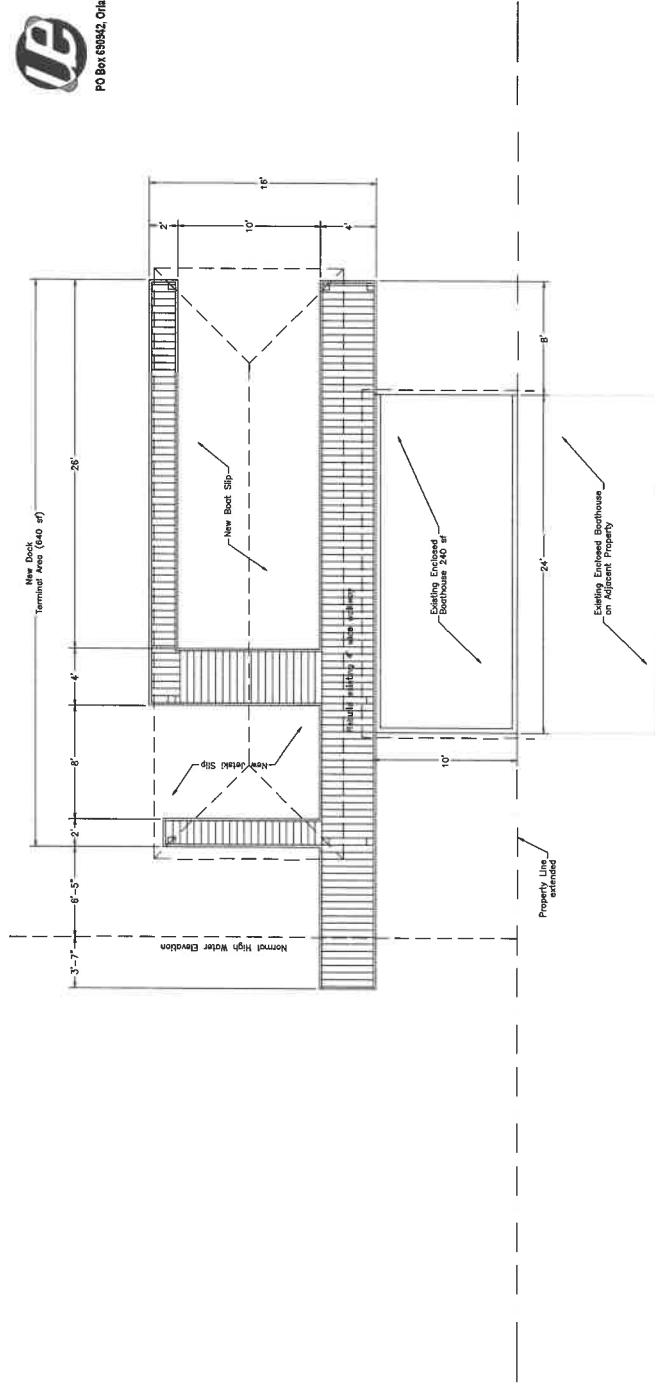
Length of property at the NHWL - 85.0 lf

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

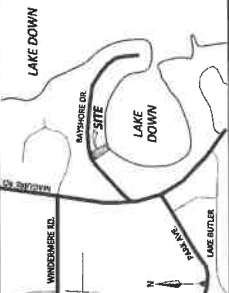


**Unroe Engineering**  
Civil Engineering/Planning/Scientific Evaluations  
PO Box 69042, Orlando, Florida 32869 • PH 407-259-0660 • F 407-423-7858



# MAP OF SURVEY

## VICINITY MAP (NOT TO SCALE)



### DESCRIPTION

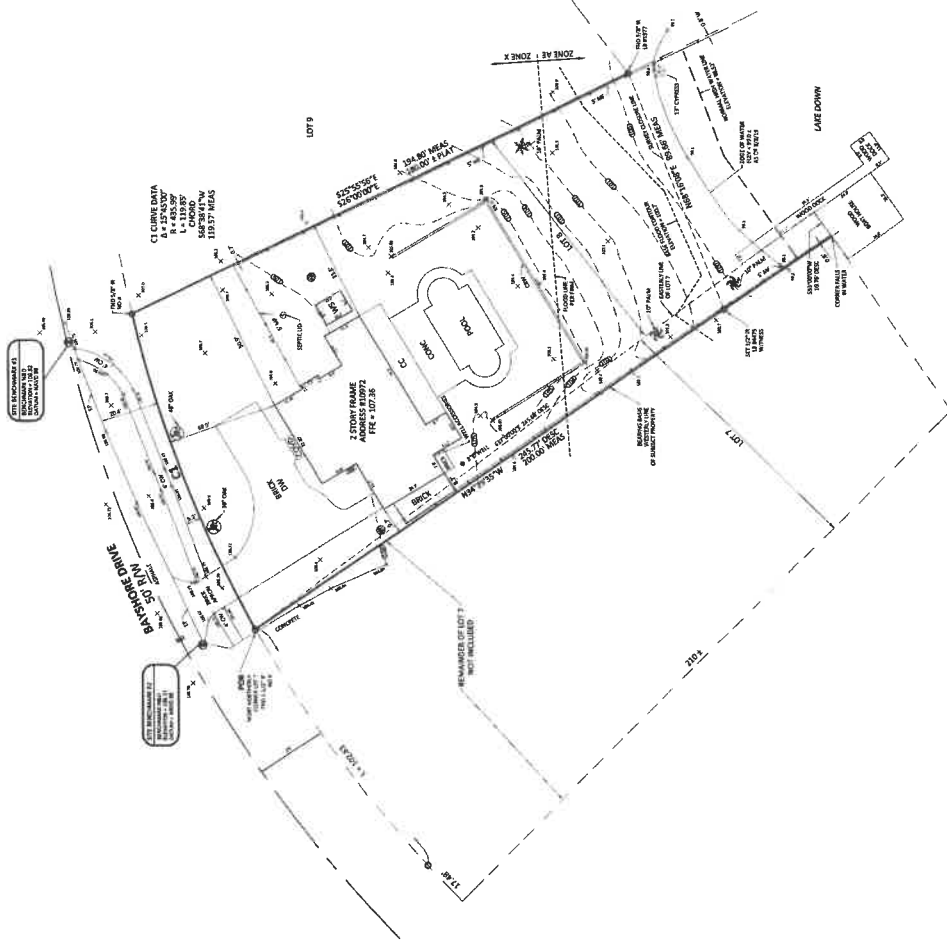
LOT 8, LAKE DOWN ESTATES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK M, PAGE 22, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AND A PORTION OF BOOK M, PAGE 22, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH NORTHERN CORNER OF OF SAID LOT 7, RUN SOUTH 67 DEGREES 59 MINUTES EAST ALONG THE EASTERN LINE OF SAID LOT 7, A DISTANCE OF 32.52 FEET TO POINT 'A'. FROM 'A' RUN SOUTH 45 DEGREES 35 MINUTES WEST A DISTANCE OF 255.77 FEET TO THE POINT OF BEGINNING.

### NOTES

1. REARING STRUCTURE IS ASSUMED AND BASED ON THE MONUMENTED WESTERN LINE OF SUBJECT PROPERTY BEING 152.725' W.
2. THIS SURVEY REFLECTS ONLY MATTERS OF RECORD AS PROVIDED BY THE CLIENT OR CLIENTS REPRESENTING.
3. THIS SURVEY WAS MADE BASED ON THE RECORDS. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN ARE CORRECT. THE SURVEYOR DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.
4. THIS BOUNDARY/LINE IS IN ZONES 'C' & 'M' - BASED ON FLOOD INSURANCE RATE MAP NO. 120800501P, COMMUNITY NO. 120781, ORANGE COUNTY, FLORIDA, EFFECTIVE 9/15/2009.
5. ACCORDING TO FLORIDA STATUTES, CHAPTER 402, THE SURVEYOR IS NOT REQUIRED TO TAKE PRECAUTIONS TO PREVENT DAMAGE TO ADJACENT PROPERTIES OR TO TAKE PRECAUTIONS TO PREVENT DAMAGE TO ADJACENT PROPERTIES OR TO TAKE PRECAUTIONS TO PREVENT DAMAGE TO ADJACENT PROPERTIES.
6. THIS SURVEY WAS MADE WITHOUT BENEFIT OF TITLE.
7. THIS SURVEY IS VALID ONLY FOR THE PARTIES TO WHOM IT IS CERTIFIED.
8. THIS SURVEY EXCEEDS THE ACCURACY REQUIREMENTS SET FORTH IN FLORIDA STATUTE.
9. ELEVATIONS BASED ON ORANGE COUNTY BENCHMARK 898-6 HAVING AN ELEVATION OF 107.310 FEET, NAVD 83.
10. THE WATER BOUNDARIES SHOWN HEREON ARE SUBJECT TO CHANGE AS THE WATER LEVELS RISE AND FALL AND MAY NOT REPRESENT THE ACTUAL LOCATION OF THE BANK OF TITLE.



**ACCURIGHT**

ACCURIGHT SURVEYS OF ORLANDO INC., LB 4475  
2012 E. Robinson Street, Orlando, Florida 32803  
P.O. Box 1347, Orlando, Florida 32816  
ACCUR@accright.com  
PHONE: (407) 894-4334

WORK SHEET SHEET 1 OF 1  
JOB # 2009-0110  
PREPARED FOR: WENDY & MICHAEL WYTIJAZ  
SURVEYOR NAME: LAKE DOWN ESTATES  
18077 BARKSHIRE DRIVE  
WINDSHORE, FLORIDA

LEGEND

1	NORTH ORANGE
2	CITY OF ORLANDO
3	CITY OF WINDSHORE
4	CITY OF WINDSHORE
5	CITY OF WINDSHORE
6	CITY OF WINDSHORE
7	CITY OF WINDSHORE
8	CITY OF WINDSHORE
9	CITY OF WINDSHORE
10	CITY OF WINDSHORE
11	CITY OF WINDSHORE
12	CITY OF WINDSHORE
13	CITY OF WINDSHORE
14	CITY OF WINDSHORE
15	CITY OF WINDSHORE
16	CITY OF WINDSHORE
17	CITY OF WINDSHORE
18	CITY OF WINDSHORE
19	CITY OF WINDSHORE
20	CITY OF WINDSHORE
21	CITY OF WINDSHORE
22	CITY OF WINDSHORE
23	CITY OF WINDSHORE
24	CITY OF WINDSHORE
25	CITY OF WINDSHORE
26	CITY OF WINDSHORE
27	CITY OF WINDSHORE
28	CITY OF WINDSHORE
29	CITY OF WINDSHORE
30	CITY OF WINDSHORE
31	CITY OF WINDSHORE
32	CITY OF WINDSHORE
33	CITY OF WINDSHORE
34	CITY OF WINDSHORE
35	CITY OF WINDSHORE
36	CITY OF WINDSHORE
37	CITY OF WINDSHORE
38	CITY OF WINDSHORE
39	CITY OF WINDSHORE
40	CITY OF WINDSHORE
41	CITY OF WINDSHORE
42	CITY OF WINDSHORE
43	CITY OF WINDSHORE
44	CITY OF WINDSHORE
45	CITY OF WINDSHORE
46	CITY OF WINDSHORE
47	CITY OF WINDSHORE
48	CITY OF WINDSHORE
49	CITY OF WINDSHORE
50	CITY OF WINDSHORE
51	CITY OF WINDSHORE
52	CITY OF WINDSHORE
53	CITY OF WINDSHORE
54	CITY OF WINDSHORE
55	CITY OF WINDSHORE
56	CITY OF WINDSHORE
57	CITY OF WINDSHORE
58	CITY OF WINDSHORE
59	CITY OF WINDSHORE
60	CITY OF WINDSHORE
61	CITY OF WINDSHORE
62	CITY OF WINDSHORE
63	CITY OF WINDSHORE
64	CITY OF WINDSHORE
65	CITY OF WINDSHORE
66	CITY OF WINDSHORE
67	CITY OF WINDSHORE
68	CITY OF WINDSHORE
69	CITY OF WINDSHORE
70	CITY OF WINDSHORE
71	CITY OF WINDSHORE
72	CITY OF WINDSHORE
73	CITY OF WINDSHORE
74	CITY OF WINDSHORE
75	CITY OF WINDSHORE
76	CITY OF WINDSHORE
77	CITY OF WINDSHORE
78	CITY OF WINDSHORE
79	CITY OF WINDSHORE
80	CITY OF WINDSHORE
81	CITY OF WINDSHORE
82	CITY OF WINDSHORE
83	CITY OF WINDSHORE
84	CITY OF WINDSHORE
85	CITY OF WINDSHORE
86	CITY OF WINDSHORE
87	CITY OF WINDSHORE
88	CITY OF WINDSHORE
89	CITY OF WINDSHORE
90	CITY OF WINDSHORE
91	CITY OF WINDSHORE
92	CITY OF WINDSHORE
93	CITY OF WINDSHORE
94	CITY OF WINDSHORE
95	CITY OF WINDSHORE
96	CITY OF WINDSHORE
97	CITY OF WINDSHORE
98	CITY OF WINDSHORE
99	CITY OF WINDSHORE
100	CITY OF WINDSHORE

BOUNDARY SURVEY DATE: 9/19/19  
PER 517.05(1)(b)(3) Florida Administrative Code

DATE	JOB #	REVISION

BOUNDARY, TOPOGRAPHIC AND TREE SURVEY  
CERTIFIED TO OWNERS: MICHAEL S. WYTIJAZ, WENDY WYTIJAZ

RONALD K. SMITH, PLS. ESTD.  
"THIS DATE OF SIGNATURE DOES NOT EXCEED OR SUPPERSIDE THE BOUNDARY SURVEY DATE OR REVISION DATE."  
"THIS SURVEY MEETS THE STANDARDS OF PRACTICE" AS REQUIRED BY CHAPTER 402, FLORIDA STATUTES, PURSUANT TO SECTION 477.22(3) OF THE FLORIDA STATUTES.  
"NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OF THIS FLORIDA LICENSED SURVEYOR AND MAPPER." - OR.  
AUTHORIZED BY RONALD K. SMITH, PLS. ESTD.

*Ronald K. Smith*





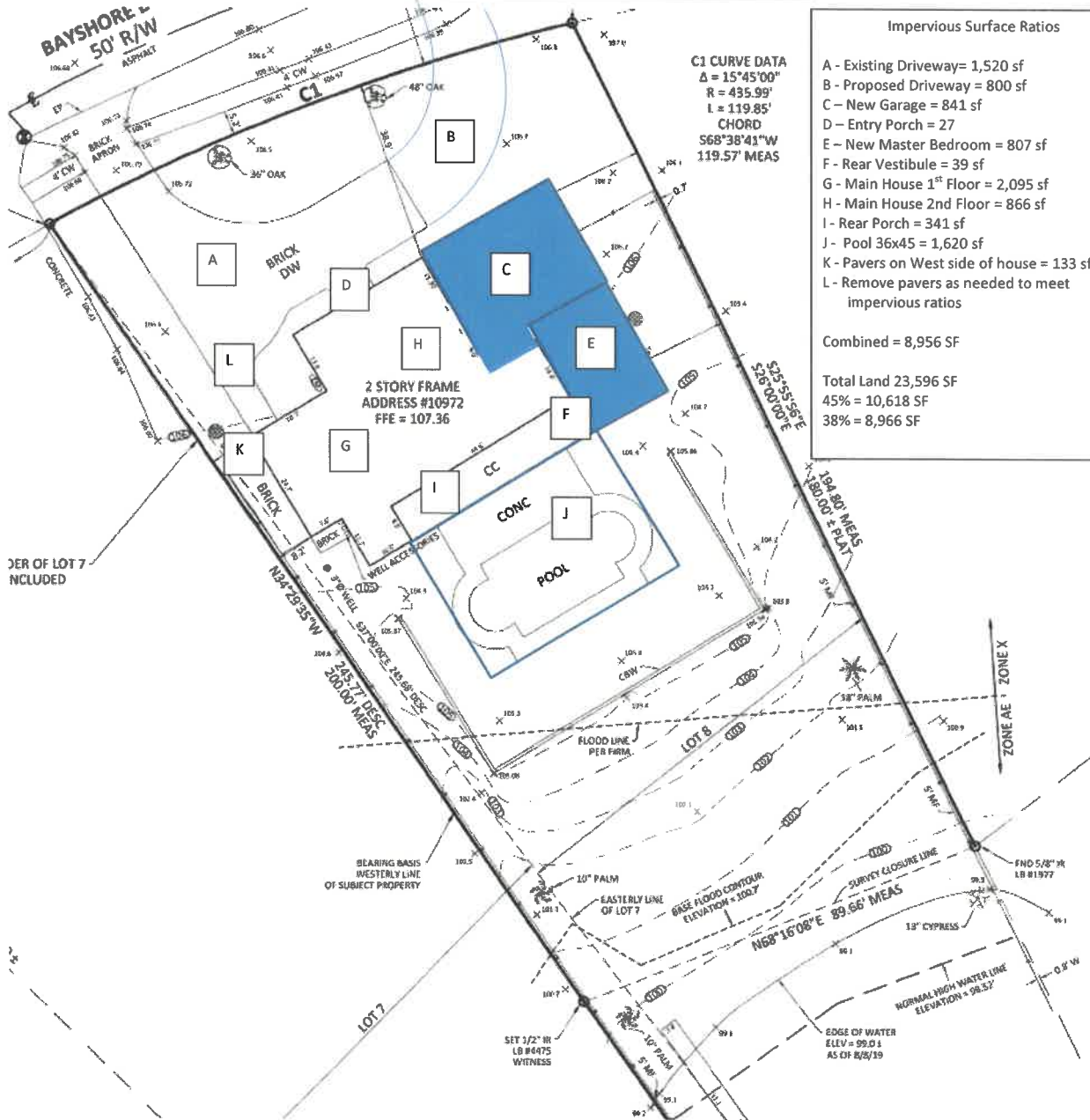




# Impervious Surface Calculations

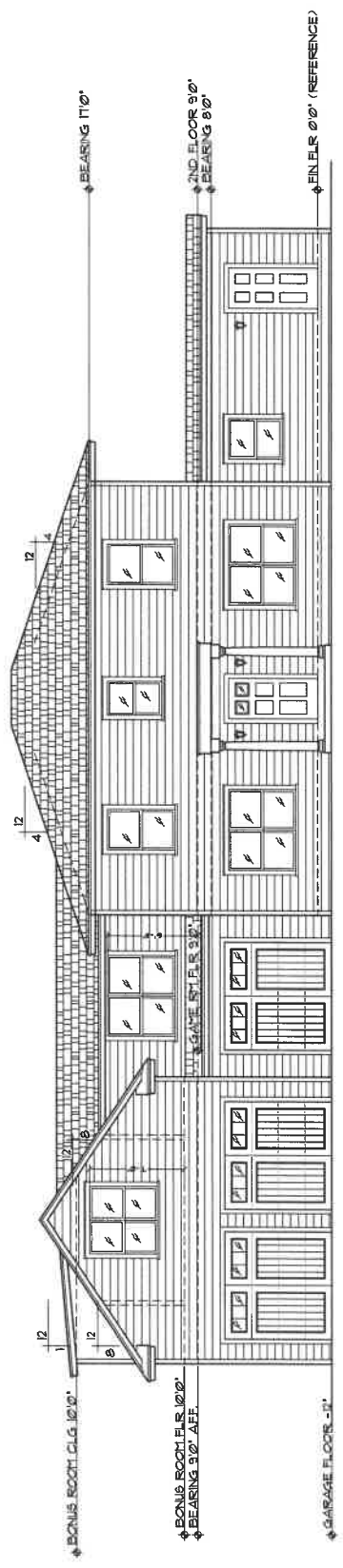
10972 Bayshore Drive  
Windermere, Florida 34786

## 10972 Bayshore Drive Impervious Surface Ratios

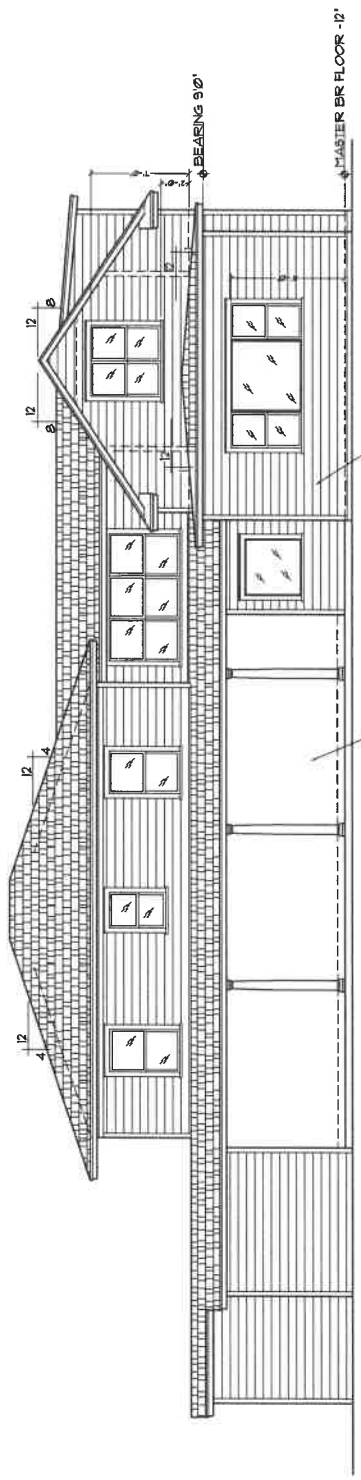








FRONT ELEVATION



REAR ELEVATION

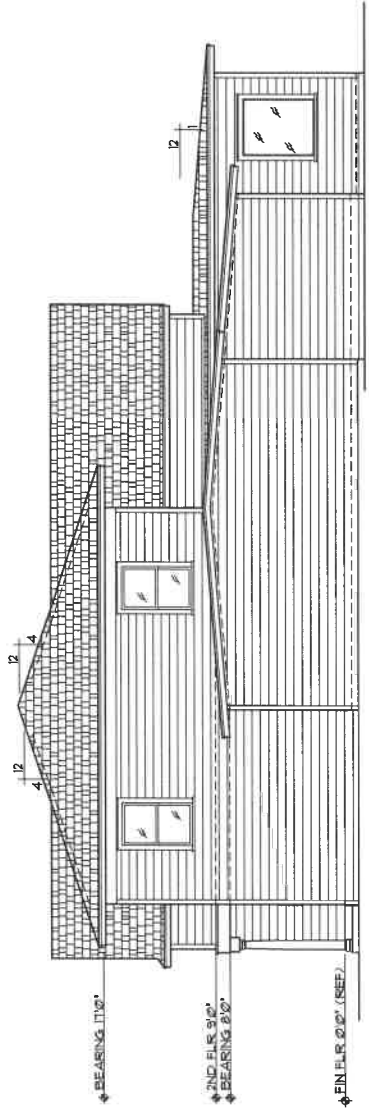


**GENERATION**  
RESIDENTIAL DESIGN  
WWW.PLANSPRODUCTIONS.COM  
379 12TH STREET, CALENDAR, FLORIDA 34711  
352-223-9724

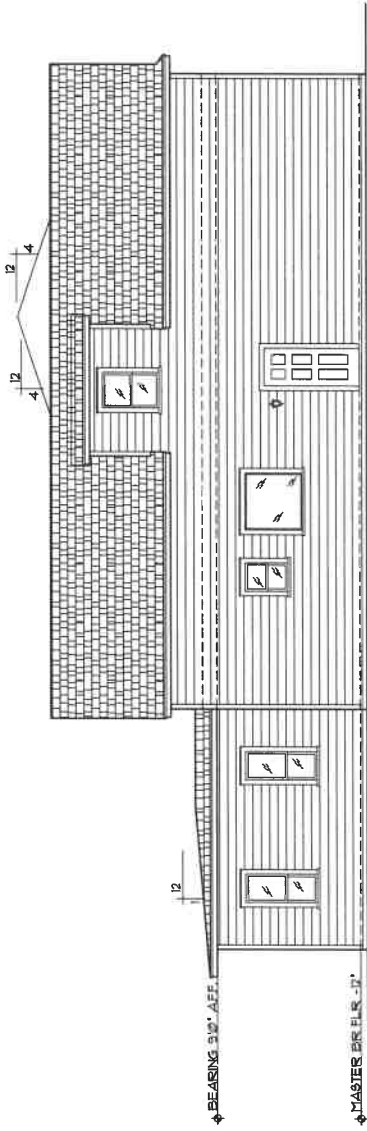
THIS DRAWING IS THE PROPERTY OF THE ARCHITECT AND IS TO BE USED ONLY FOR THE PROJECT AND SITE LISTED HEREON. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM.

RESIDENCE FOR  
**Ostendorf**  
SIDE ELEVATIONS

DRAWN BY: [ ]  
SCALE: 1/4"=1'-0"  
DATE: 8/22/2010  
REVISED: [ ]  
SHEET OF 2  
© 2010 ALL RIGHTS RESERVED



RIGHT SIDE ELEVATION



LEFT SIDE ELEVATION





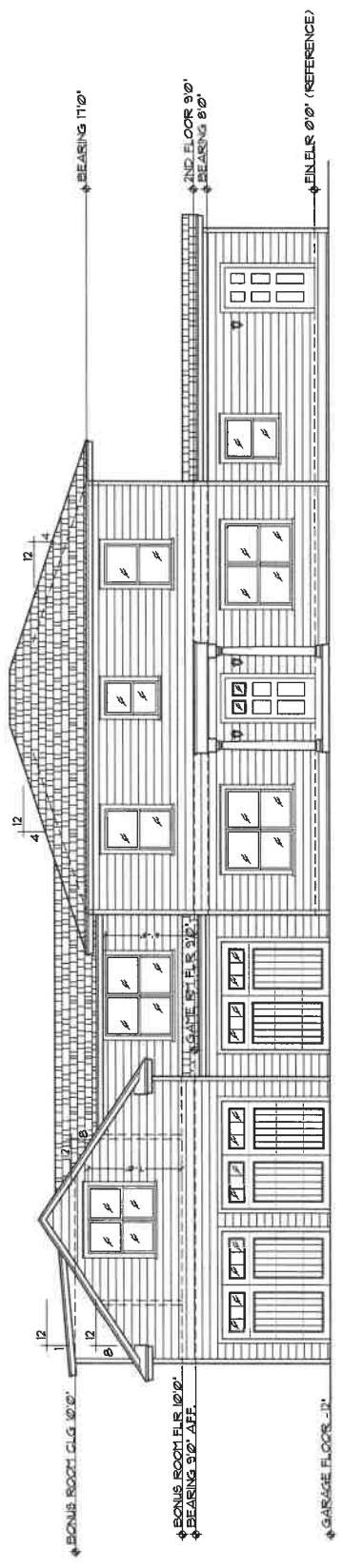


**GENERATION**  
RESIDENTIAL DESIGN  
392-223-9724  
WWW.PLANSDIRECT.COM  
3925 17TH STREET, CLERMONT, FLORIDA 34711

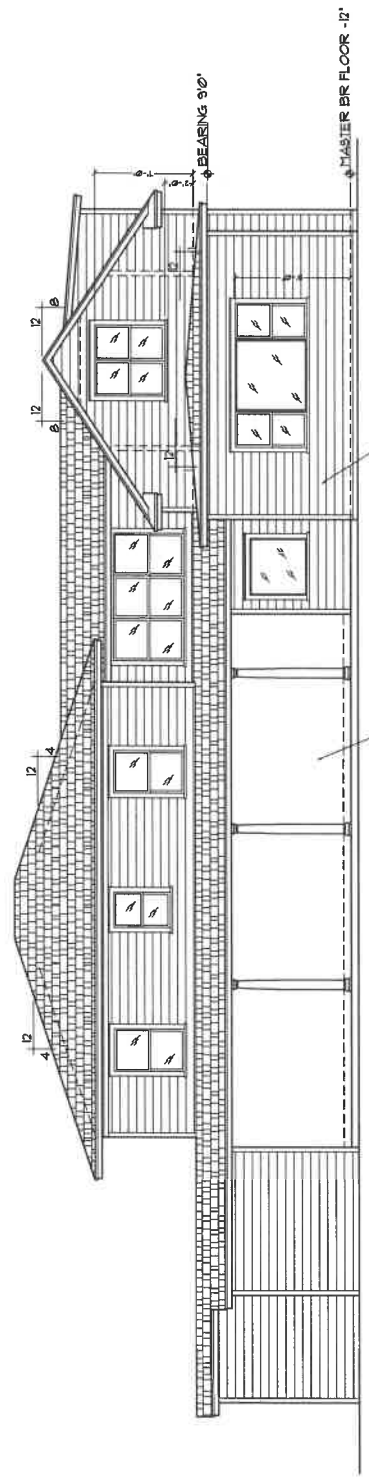
GENERATION RESIDENTIAL DESIGN INC. ACCEPTS NO LIABILITY FOR USE OF THESE PLANS  
THIS DRAWING DEPICTS A DESIGN CREATED BY AND FOR THE EXCLUSIVE USE OF THE PARTIES LISTED HEREON.  
THESE PLANS ARE THE PROPERTY OF GENERATION RESIDENTIAL DESIGN INC. AND ARE TO BE USED ONLY FOR THE PROJECT AND LOCATION SPECIFICALLY IDENTIFIED HEREON.  
NO PART OF THESE PLANS MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF GENERATION RESIDENTIAL DESIGN INC.  
COPYRIGHT LAW

PROJECT: RESIDENCE FOR OSTENDORF  
SCALE: 1/4" = 1'-0"  
DATE: 8/22/2022  
REVISED:  
SHEET 01 OF 01

© 2022 ALL RIGHTS RESERVED



**FRONT ELEVATION**



**REAR ELEVATION**

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Received

JW

Town Manager  
ROBERT SMITH Wade Trim

Mayor  
JIM O'BRIEN



Clerk  
DOROTHY BURKHALTER

June 17, 2020

BOGER GREGORY N  
10939 BAYSHORE DR  
WINDERMERE, FL 34786

## RE: Public Re-Notice of Variance Public Hearing for 10972 Bayshore Drive Z20-06

This notice is a re-notice for the subject variance case due to an error on the return address on the pre-stamped response envelope. Please note that there are also updated plans attached with this re-notice.

Darrell Nunnelley, on behalf of Mike Wytiaz, owner of 10972 Bayshore Drive submitted a request for approval of a variance, pursuant to Division 10.02.00 of the Town of Windermere Land Development Code. The purpose of the variance request is to allow for the following:

1. To allow for an increase of floor area of a nonconforming structure beyond 10%. The applicant is requesting to add 2,470 square feet of new floor area which is 2,133.2 square feet more than the allowable 10% (336.8 SF).
2. To allow for the expansion of an existing nonconforming boat dock. The applicant is requesting a zero (0) foot setback for the construction of new deck area and a 14-foot setback for the construction of a boat port.

Enclosed is additional information regarding this request.

Pursuant to the Town of Windermere Code of Ordinances, you as a surrounding property owner are entitled to comment on this matter. If you wish to comment, this form must be received by the Town of Windermere either by hand delivery to the Town Clerk or by use of the enclosed stamped envelope to Wade Trim, Inc. by July 17, 2020.

This matter will be presented to the Development Review Board on Tuesday, July 21, 2020 at 6:30 p.m. Their recommendation will be heard by the Town Council on Tuesday, August 11, 2020 at 6:00 p.m. At this time, the Town will either hold the meeting in person in the Town Hall, located at 520 Main Street, Windermere or it will be done virtually through Zoom. However, please refer to the Town's website or contact the Town's Administration Office to confirm the meeting method. You can access links to the meetings on the Town's website at <https://town.windermere.fl.us/>. If you need help connecting to the meetings you can contact the Town at 407-876-2563. All meetings are open to the public and you are welcome to participate. Feel free to contact me if you have any questions.

Sincerely,  
Brad Cornelius, AICP, Town Planner  
Wade Trim, Inc.  
813.882.4373  
[www.wadetrtrim.com](http://www.wadetrtrim.com)  
Encl.

RECOMMEND Z20-06 (10972 Bayshore Drive)

APPROVAL: [Signature] DISAPPROVAL \_\_\_\_\_

COMMENTS: I think its too big - zero foot set back is of none of my business, but the more than doubling the existing structure. Please don't leave rails (60 in rails) everywhere - every time I get

SIGNATURE: [Signature] DATE: 6/21/20  
BOGER GREGORY N  
This house is somewhat historic and this will destroy the character. But I won't object because I'm not alongside you. & flat it's because of construction

May 20, 2020

Ms. Dorothy Burkhalter  
Town Clerk  
Windermere, Fl. 34786

RE: 10972 Bayshore Drive Windermere - revised

Dorothy:

Mike Wytiaz is requesting the Town of Windermere grant him a variance to do the following things:

Expand the footprint of the existing 2 story 3,368 Gross Sq Ft house by adding a 3 car garage and master suite on the 1<sup>st</sup> floor and 2 bedrooms on the 2<sup>nd</sup> floor adding 2,470 NET/Gross Sq Ft to the East side of the existing house outside the 14 feet side property setback not requiring a variance for this portion of the project

10% of the existing house is 336.8 sq ft and the new NET/Gross sq ft added is 2,470 requiring a variance

The WS or detached shed will be permanently removed

The West side of the building is less than 14 feet from the property line making this a nonconforming building creating the need for a variance

The existing boathouse is 0' from the West side property line and is nonconforming

They want to remodel the existing boathouse and walkway and add a deck to the rear of the existing boathouse requiring a variance for a 0' side yard setback.

They want to create a new boat port on the East side of the walkway 14 feet from the East property line requiring a 2 foot setback variance from the 16 ft required

No expansion of the house will encroach within the 50 foot rear setback from the Normal High Water Line (NHWL)

The existing house was created in 1930 and this Owner did not create the building

*It should be  
land mark/historic.  
said that it  
going to be  
destroyed.*

The expansion requested will not impact any of the Neighbor's view of the water or impact their peaceful enjoyment of their property

The existing paver parking area at the front of the Northwest corner of the house and brick walking path on the West side of the house that is approximately 133 sq ft will be removed as needed to make sure the minimum impervious ratios are met

Thank you with your help on this project

Darrell Nunnelley  
407.467.8069

## Cornelius, Brad

---

**From:** Cornelius, Brad  
**Sent:** Tuesday, June 9, 2020 5:47 PM  
**To:** dsolomon@gomezpack.com  
**Cc:** Warner, Amanda; Mastison, Sarah  
**Subject:** RE: Building variance 10972 Bayshore Dr Z20-06

Mr. Soloman,

This is to confirm receipt of your email. Your email will be provided to the DRB and Town Council.

The addition will require sufficient stormwater retention to prevent the 1<sup>st</sup> inch of runoff from leaving the property.

If there are impacts to the existing septic system, then a new septic system would be required and must be permitted through the Orange County Health Department and be consistent with the State regulations for septic systems.

Take care,  
Brad Cornelius, AICP  
Contracted Town Planner

[COVID-19 Planning and Response at Wade Trim](#)



Brad Cornelius, AICP, CPRP, CFM, CPM, Vice President  
One Tampa City Center  
201 North Franklin Street, Suite 1350, Tampa, FL 33602  
813-882-4373 office  
813-415-4952 cell



**From:** Daniel Solomon <[dsolomon@gomezpack.com](mailto:dsolomon@gomezpack.com)>  
**Sent:** Sunday, June 7, 2020 12:20 PM  
**To:** tow <[tow@wadetrim.com](mailto:tow@wadetrim.com)>  
**Subject:** Building variance 10972 Bayshore Dr Z20-06

Good morning Mr. Cornelius,

I am in receipt of your notice for the Variance Public Hearing for 10972 Bayshore Dr Z20-06.

According to the plans, it calls for building the garage over the septic system. Is this permitted? Also wouldn't the septic system and drain field need to be materially enlarged to accommodate a 4,138 sq ft increase in floor space?

Our concern is the impact of the rain and septic runoff into Little Lake Down, and our well, which is on the adjacent side of our property.

Thank you,

Daniel Solomon  
10964 Bayshore Dr.  
Windermere, FL 34786

## Cornelius, Brad

---

**From:** Cornelius, Brad  
**Sent:** Friday, June 26, 2020 11:39 PM  
**To:** pcpd@post.harvard.edu  
**Cc:** Robert Smith; Diane Edwards; Warner, Amanda; Mastison, Sarah; Tomas Dvorak  
**Subject:** RE: 10972 Bayshore Dr., Windermere, FL 34786

Paweena,

The Town cannot deny a permit if the structure meets the code requirements of the Town or is granted a variance by the Town Council. Issues related to views of the lake are civil issues between property owners. However, you can submit your concerns regarding the variance request. They will be provided to the Development Review Board and Town Council.

Based on the submitted plans, the existing boathouse, which is partly on your property and 10972 Bayshore property, is 8'7" above the deck of the dock. The height of the proposed boat port is shown at 10'7" above the deck of the dock, which is 2 feet higher.

Stay safe and healthy!  
Brad

[COVID-19 Planning and Response at Wade Trim](#)



**Brad Cornelius**, AICP, CPRP, CFM, CPM, Vice President  
One Tampa City Center  
201 North Franklin Street, Suite 1350, Tampa, FL 33602  
813-882-4373 office  
813-415-4952 cell



**From:** Cathie Dvorak <phornprapha@gmail.com>  
**Sent:** Friday, June 26, 2020 12:45 PM  
**To:** Cornelius, Brad <bcornelius@wadetrim.com>  
**Cc:** Robert Smith <rsmith@town.windermere.fl.us>; Diane Edwards <dedwards@town.windermere.fl.us>; Warner, Amanda <AWARNER@WadeTrim.com>; Mastison, Sarah <smastison@wadetrim.com>; Tomas Dvorak <tdvorak@gmail.com>  
**Subject:** Re: 10972 Bayshore Dr., Windermere, FL 34786

Hello Mr. Cornelius,

Thank you very much for your response and the update information. If you don't mind, I have a couple additional questions to ask as follows:

1. Given that the proposed structure meets the code, does that mean that we cannot "object" even if the structure will obstruct our view of the lake?
2. How much higher is the new proposed boat port than is the existing/current one?

Thank you for all of your time and help.

Best Regards,  
Paweena

On Thu, Jun 18, 2020, 8:48 AM Cornelius, Brad <[bcornelius@wadetrim.com](mailto:bcornelius@wadetrim.com)> wrote:

Ms. Phornprapha,

Thank you for contacting the Town regarding the variance case for 10972 Bayshore Drive.

The variance case is rescheduled to be heard by the DRB at their meeting on July 21, 2020, and then by Town Council on August 11, 2020. The case will not be heard by the Town Council at their July 14 meeting. New notices were mailed out yesterday with the new dates for the DRB and Town Council meetings.

Attached are the revised notice that was mailed and the set of plans for the proposed variance that shows the height of the proposed dock (port).

The Town's code allows a the height of a boat dock (port) to be no higher than 14.5 feet above the normal high water elevation of the lake. The dock must also meet County Environmental Protection requirements that limits the dock height at no more than 12 feet above the deck. Based on the attached plans, the proposed new dock (port) will be no higher than 13 feet above the normal high water elevation and the highest point of the dock roof will not exceed 12 feet above the deck, which are compliant with the Town and County code.

If you have any other questions do not hesitate to contact me at 813-415-4952 or [bcornelius@wadetrim.com](mailto:bcornelius@wadetrim.com).

Take care,

Brad Cornelius, AICP

Contracted Town Planner

COVID-19 Planning and Response at Wade Trim

**Brad Cornelius**, AICP, CPRP, CFM, CPM, Vice President

One Tampa City Center

201 North Franklin Street, Suite 1350, Tampa, FL 33602

813-882-4373 office

813-415-4952 cell

---

**From:** Robert Smith <[rsmith@town.windermere.fl.us](mailto:rsmith@town.windermere.fl.us)>  
**Sent:** Thursday, June 18, 2020 7:21 AM  
**To:** Cornelius, Brad <[bcornelius@wadetrim.com](mailto:bcornelius@wadetrim.com)>  
**Subject:** Fw: 10972 Bayshore Dr., Windermere, FL 34786

Regards,

Robert Smith

Town Manager

Town of Windermere

614 Main St.



Windermere, FL 34786

[rsmith@town.windermere.fl.us](mailto:rsmith@town.windermere.fl.us)

Cell: (407) 797-5004

Main: (407) 876-2563 x5324

Fax: (407) 876-0103

Florida has a very broad Public Records Law. Virtually all written communications to or from State and Local Officials and employees are public records available to the public and media upon request. This means email messages, including your e-mail address and any attachments and information we receive online might be disclosed to any person or media making a public records request. E-mail sent on the Town system will be considered public and will only be withheld from disclosure if deemed confidential or exempt pursuant to State Law. If you are an individual whose information is exempt under 119.071, Florida Statutes, please so indicate in your email or other communication. If you have any questions about the Florida public records law refer to Chapter 119 Florida Statutes.

---

**From:** Cathie Dvorak <[phornprapha@gmail.com](mailto:phornprapha@gmail.com)>

**Sent:** Thursday, June 18, 2020 2:47 AM

**To:** [tow@wadetrim.com](mailto:tow@wadetrim.com) <[tow@wadetrim.com](mailto:tow@wadetrim.com)>; Robert Smith <[rsmith@town.windermere.fl.us](mailto:rsmith@town.windermere.fl.us)>

**Cc:** [dedward@town.windermere.fl.us](mailto:dedward@town.windermere.fl.us) <[dedward@town.windermere.fl.us](mailto:dedward@town.windermere.fl.us)>

**Subject:** 10972 Bayshore Dr., Windermere, FL 34786

Hello Mr. Cornelius and Mr. Smith,

My name is Paweena Phornprapha, and I am writing to inquire about the "request for approval of a variance" at my neighbor's property located at 10972 Bayshore Dr., Windermere, FL 34786. I am concerned that the proposed new "boat port" and "deck area" will affect and obstruct our view of the lake.

I was hoping to obtain more information and details about this request during the ZOOM meeting of the Town of Windermere Development Review Board that was scheduled for this past Tuesday, June 16<sup>th</sup>. But since this June 16<sup>th</sup> meeting was cancelled, I'd appreciate your response to the following questions please:

- Has the Development Review Board meeting been rescheduled for a different date? If so, when will this "make-up" meeting take place?
- Since the June 16<sup>th</sup> Development Review Board meeting was cancelled, would my neighbor's request/petition be automatically forwarded to the Town Council for discussion during their next scheduled meeting on July 14<sup>th</sup>? Or, would they have to first wait until the next Development Review Board meeting takes place?
- How/where may I request for additional information about the proposed new constructions at 10972 Bayshore Drive? The drawings I had received in the mail, for example, do not have information about the proposed height of the boat port.

Thank you very much for your time and attention to this matter. I hope to hear back from you soon with any advice and guidance you can provide. I can be reached at [phornprapha@gmail.com](mailto:phornprapha@gmail.com) or at 407-712-0000.

With Best Regards,

Paweena Phornprapha

(Owner/resident of 11008 Bayshore Dr., Windermere, FL 34786)

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor  
JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

## Development Review Board July 21, 2020

## Town Council August 11, 2020

**Case No.:** Z20-08

**Applicant/Representative:** Sheila Cichra

**Property Owners:** Scott and Stephanie Weisz

**Requested Action:** Variance to allow for a one (1) foot side setback for the replacement of an existing non-conforming boat dock.

**Property Address:** 711 West 2nd Avenue Windermere, FL 34786

**Legal Description:** Lot 18 and the Westerly ½ of Lot 19 of Windermere Club Company Subdivision as per Plat thereof recorded in Plat Book E, at Page 28 of the Public Records of Orange County, Florida, also know as Lot 18C and the Westerly ½ of Lot 19C of Windermere Club Company Subdivision as per Plat thereof recorded in Plat Book G at Pages 36 through 39, inclusive.

**Future Land Use/Zoning:** Residential/Residential

**Existing Use:** Residential (Single Family)

### Surrounding Future Land Use/Zoning

**North:** Lake  
**East:** Residential/Residential  
**South:** Residential/Residential  
**West:** Residential/Residential

### **CASE SUMMARY:**

The applicant would like to reconfigure an existing nonconforming boat dock. The existing boat dock encroaches the west side property line by 3 feet. The proposed reconfiguration will decrease the nonconformity by 4 feet to have a 1-foot setback from the west property line. The Town requires that boat dock be at least 16 feet from the side property line. The applicant has received a setback waiver from the adjacent neighbor to the west (745 W 2<sup>nd</sup> Avenue) for both the State and County permits. The applicant has received a DEP permit for the boat dock and has applied for a permit with OCEPD.

Division 10.02.00 of the LDC empowers the Development Review Board to review and make recommendations for approval, approval with conditions or denial to the Town Council on variance requests.

Division 10.02.00 of the LDC requires the Town Council to consider the recommendation of the Development Review Board and to take final action to either approve or deny the variance request.

### **CASE ANALYSIS:**

Section 10.02.02 of the LDC provides the specific standards by which the Development Review Board and Town Council are to review to consider the approval or denial of a variance application. In addition, this Section requires a positive finding, based on substantial competent evidence, for each of the standards. These standards are summarized as follows:

1. The need for the variance arises out of the physical surroundings, shape, topographical condition or other physical or environmental conditions that are unique to the subject property. Variances should be granted for conditions peculiar to the property and not the result of actions of the property owner;
2. There are practical or economic difficulties in carrying out the strict letter of the regulation;
3. The variance request is not based exclusively upon a desire to reduce the cost of developing the site;
4. The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire or other hazard to the public;
5. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site;
6. The effect of the proposed variance is in harmony with the general intent of this Land Development Code and the specific intent of the relevant subject areas of this Land Development Code; and

7. The variance will not encourage further requests for changes where such a land use would not be deemed appropriate.

It is also important to note that this Section also provides specific standards that are not to be considered in the review of a variance application. These standards are:

1. That the implementation of these regulations would impose an economic hardship on the cost of the building or redevelopment project;
2. That these regulations impose a hardship by decreasing the maximum density of a property in terms of the number of units, square footage of buildings, etc.; and
3. That other adjacent lands, structures or buildings not in conformance with these regulations provide a rationale for a lessening of their application in this specific case.

Section 10.02.02(c) of the LDC allows the imposition of conditions and restrictions as may be necessary to allow a positive finding to be made on any of the variance standards to minimize the negative effect of the variance. The conditions and restrictions should further the interest of the LDC.

The applicant submitted a site plan and other materials in support of the variance request. The following is a summary of the information provided by the applicants in support of their variance request:

1. The reconfiguration will reduce the nonconformity.
2. The applicant received setback waivers from the adjacent affect neighbor.

**PUBLIC NOTICE:**

Public notices were mailed to property owners within 500 feet of the subject property. As of July 3, 2020, one response was returned in support. An update to any responses received after July 3, 2020, will be provided at the DRB meeting.



Date: March 14, 2020  
To: Dorothy Burkhalter, Town Clerk  
From: Sheila Cichra  
Re: Variance Request for 711 West 2<sup>nd</sup> Avenue, Windermere  
Boat dock side setback variance

The attached files are an application package for a side setback variance from 16' to 1' for a proposed replacement boat dock.

The parcel belongs to the Scott Stephen Weisz and Stephanie Keiber Weisz Living Trust.

There is currently an existing boat dock that encroaches on the shared projected property line by about 3'.

The OC EPD boat dock permit, with a side setback waiver, is about to be issued. We have already obtained a DEP permit for the dock – again, with a side setback waiver.

The adjacent property owner's County and State setback waivers are also in the attached application package.

Thank you for your consideration.

A handwritten signature in blue ink, appearing to read "Sheila Cichra".



Date: September 20, 2019  
To: Dorothy Burkhalter, Town Clerk  
From: Sheila Cichra  
Re: Variance Request for 711 West 2<sup>nd</sup> Avenue, Windermere  
Boat dock side setback variance

The *Special Conditions and Circumstances* that exist on site, are that there is an existing boathouse that encroaches across the projected property line and that it has been there for over 20 years.

The hardship was *Not Self-Created*. The existing boathouse was already constructed when this property was purchased.

There is *No Special Privilege being Conferred*, because many similar variances have been issued in Windermere, to allow historical non-conforming boathouses to be rebuilt.

Regarding *Deprivation of Rights*, if this variance isn't approved, the new boathouse will have to be constructed near the center of the lot and that will destroy the view of the lake from the house.

We believe that we are requesting the *Minimum Possible Variance*, because we are already constructing the proposed boathouse 4' farther over than the existing.

The adjacent property owners are in full support of the new boathouse. We believe that is a good example of the *Purpose and Intent* of such a zoning variance.

# AGENT AUTHORIZATION FORM

I/WE, (PRINT PROPERTY OWNER NAME) Scott Stephen Weisz and Stephanie Keiber Weisz Living Trust, AS THE OWNER(S) OF THE REAL PROPERTY DESCRIBED AS FOLLOWS, 711 West 2nd Avenue, Windermere, DO HEREBY AUTHORIZE TO ACT AS MY/OUR AGENT (PRINT AGENT'S NAME), Sheila Cichra, TO EXECUTE ANY PETITIONS OR OTHER DOCUMENTS NECESSARY TO AFFECT THE APPLICATION APPROVAL REQUESTED AND MORE SPECIFICALLY DESCRIBED AS FOLLOWS, boat dock permit, AND TO APPEAR ON MY/OUR BEHALF BEFORE ANY ADMINISTRATIVE OR LEGISLATIVE BODY IN THE COUNTY CONSIDERING THIS APPLICATION AND TO ACT IN ALL RESPECTS AS OUR AGENT IN MATTERS PERTAINING TO THE APPLICATION.

Date: 10/24/19

✓ [Signature]  
Signature of Property Owner

Scott Weisz  
Print Name Property Owner

Date: 10/24/19

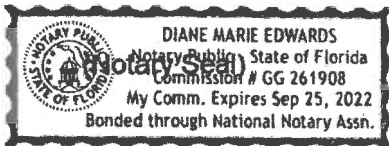
[Signature]  
Signature of Property Owner

Stephanie Weisz  
Print Name Property Owner

STATE OF FLORIDA :  
COUNTY OF Orange :

I certify that the foregoing instrument was acknowledged before me this 24 day of October, 2019 by Scott Weisz. He/she is personally known to me or has produced FL-W200-707-79-112-0 as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the 24 day of October, in the year 2019.



[Signature]  
Signature of Notary Public  
Notary Public for the State of Florida

My Commission Expires: 9-25-2022

Legal Description(s) or Parcel Identification Number(s) are required:

PARCEL ID #: 17-23-28-9336-30-180

LEGAL DESCRIPTION: PLAT OF WINDERMERE G/36 LOT 18C & W1/2 OF LOT 19C SEE 2333/849



Prepared By and Return To:  
Brian A. Barnes  
Saint Lawrence Title, Inc.  
212 Pasadena Place  
Orlando, FL 32803

For the issuance of title insurance, file #: 2019-4399

[ Space Above This Line For Recording Data ]

## WARRANTY DEED

This Warranty Deed made **September 23, 2019** between

**Grantor:** Carol P. Fosgate, a single woman

mailing 911 Seville Place  
address: Orlando, FL 32804

**Grantee:** Scott Stephen Weisz and Stephanie Keiber  
Weisz Living Trust

mailing 11449 Lake Butler  
address: Boulevard  
Windermere, FL 34786

Witnesseth, that said grantor, for and in consideration of the sum of One Million Five Hundred Fifty Thousand Dollars and zero Cents (\$1,550,000.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Orange County, Florida to-wit:

**Lot 18 and the Westerly 1/2 of Lot 19 of Windermere Club Company Subdivision as per Plat thereof recorded in Plat Book E, at Page 28 of the Public Records of Orange County, Florida, also known as Lot 18C and the Westerly 1/2 of Lot 19C of Windermere Club Company Subdivision as per Plat thereof recorded in Plat Book G at Pages 36 through 39, inclusive.**

**Subject property is not the Homestead of the Grantor**

**Parcel ID# 17-23-28-9336-30-180**

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining

To Have and to Hold, the same in fee simple forever.

**WARRANTY DEED – Continued**

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2018.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

X Brian A. Barnes Carol P. Fosgate  
Witness Name: Brian A. Barnes Carol P. Fosgate

X Kelsey Kelley  
Witness Name: Kelsey Kelley

STATE OF FLORIDA  
COUNTY OF ORANGE

This instrument was sworn to and acknowledged before me on September 23, 2019 by  
Carol P. Fosgate who produced a driver's license as  
identification.



X Brian A. Barnes

(Notary Seal)

- Florida templates
- Interstate 4
- Toll Road
- Major Roads
- Public Roads
- Gated Roads
- Road Under Construction
- Proposed Road
- US Road
- State Road
- County Road
- One Way
- Brick Road
- Proposed Surrail
- Check Line
- Lot Line
- Residential
- Agriculture
- Commercial/Institutional
- Governmental/Institutional/Miss
- Commercial/Industrial/Vacant Land
- Hydro
- Waste Land
- Agricultural Curilage
- County Boundary
- Parks
- Golf Course
- Lakes and Rivers
- Block Number
- Lot Number
- Parcel Number
- Parcel Address
- Parcel Dimension



Courtesy Rick Singh, CFA, Orange County Property Appraiser



This map is for reference only and is not a survey

Created: 1/28/2020 14:10 Aerial 2019

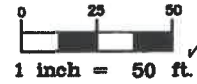
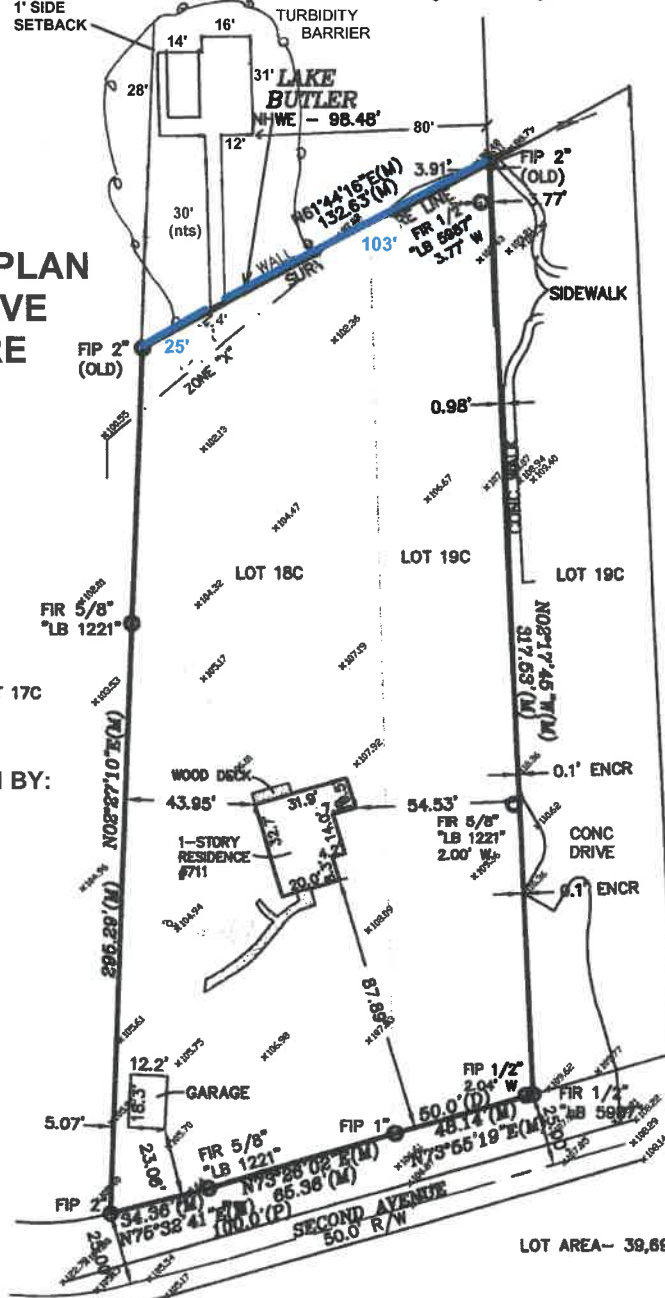


**LEGAL DESCRIPTION**

Lot 18 and the Westery 1/2 of Lot 19 of Windermere Club Company Subdivision as per Plat thereof recorded in Plat Book E, at Page 28 of the Public Records of Orange County, Florida, also known as Lot 18C and the Westery 1/2 of Lot 19C of Windermere Club Company Subdivision as per Plat thereof recorded in Plat Book G at Pages 36 through 39, inclusive.

**WEISZ SITE PLAN  
711 W 2ND AVE  
WINDERMERE  
FL 34786**

**SITE PLAN DRAWN BY:  
SHEILA CICHRA  
JANUARY 24, 2020**



**PROPERTY ADDRESS:**  
711 WEST 2ND AVE  
WINDERMERE, FL 34786

**BOUNDARY SURVEY CERTIFIED TO:**  
SCOTT STEPHEN WEISZ AND STEPHANIE KEIBER WEISZ LIVING TRUST  
SAINT LAWRENCE TITLE, INC.  
WESTCOR LAND TITLE INSURANCE COMPANY,  
AND THEIR SUCCESSORS AND/OR ASSIGNS.

**LEGEND & ABBREVIATIONS**

- FIR = FOUND IRON ROD
- FIP = FOUND IRON PIPE
- N/D = NAIL & DISK
- SIR = SET IRON ROD
- CMON = CONCRETE MONUMENT
- PSM = PROFESSIONAL SURVEYOR & MAPPER
- LB = LICENSED BUSINESS
- CB = CHORD BEARING
- R/W = RIGHT OF WAY
- CONC = CONCRETE
- COV = COVERED
- A/C = AIR CONDITIONER
- D.E. = DRAINAGE EASEMENT
- U.E. = UTILITY EASEMENT
- WBFB = WOOD BOARD FENCE
- WVF = WHITE VINYL FENCE
- CLF = CHAIN LINK FENCE
- (P) = PLAT DIMENSION
- (M) = FIELD MEASURED
- (C) = CENTERLINE
- WM = WATER METER
- CR = CABLE RISER
- TR = TELEPHONE RISER
- ER = ELECTRIC RISER
- PR = POWER POLE

1. BASIS OF BEARING - THE SOUTHERLY LINE OF LOT 18C AND THE WESTERLY 1/2 OF LOT 19C OF WINDERMERE CLUB COMPANY SUBDIVISION AS PER PLAT THEREOF RECORDED IN PLAT BOOK G AT PAGES 36 THROUGH 39, INCLUSIVE, AS BEING N73°35'19"E PER PLAT.
2. DATE OF FIELD SURVEY: 8/17/19; REVISED BOUNDARY 9/9/19
3. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING SURVEYOR.
4. PROPERTY LINES SHOULD NOT BE ESTABLISHED USING FENCE OR BUILDING TIES.
5. NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO, BURIED UTILITIES, FOUNDATIONS AND FOOTERS WERE LOCATED.
6. BASED UPON MY REVIEW OF THE "FLOOD INSURANCE RATE MAP" OF WINDERMERE COUNTY, FLORIDA, COMMUNITY PANEL NO. 12095C0385P, EFFECTIVE DATE SEPTEMBER 25, 2009, THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "AE", WITH A BASE FLOOD ELEVATION OF 101.0 FEET, AND ZONE "X" DEFINED AS AREAS DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN.
7. NO INSTRUMENTS OF RECORD REFLECTING OWNERSHIP OR ENCUMBRANCES WERE PROVIDED, EXCEPT AS NOTED, NOR DID THIS SURVEYOR ABSTRACT THESE LANDS.
8. SURVEY FILE NUMBER: 19-07-103
9. ELEVATIONS SHOWN HEREON ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88), AND MORE SPECIFICALLY TO THE FLORIDA PERMANENT REFERENCE NETWORK (FPRN) CONTINUOUSLY OPERATING REFERENCE STATIONS (CORS) ORL1, FLK5 & FLEU.

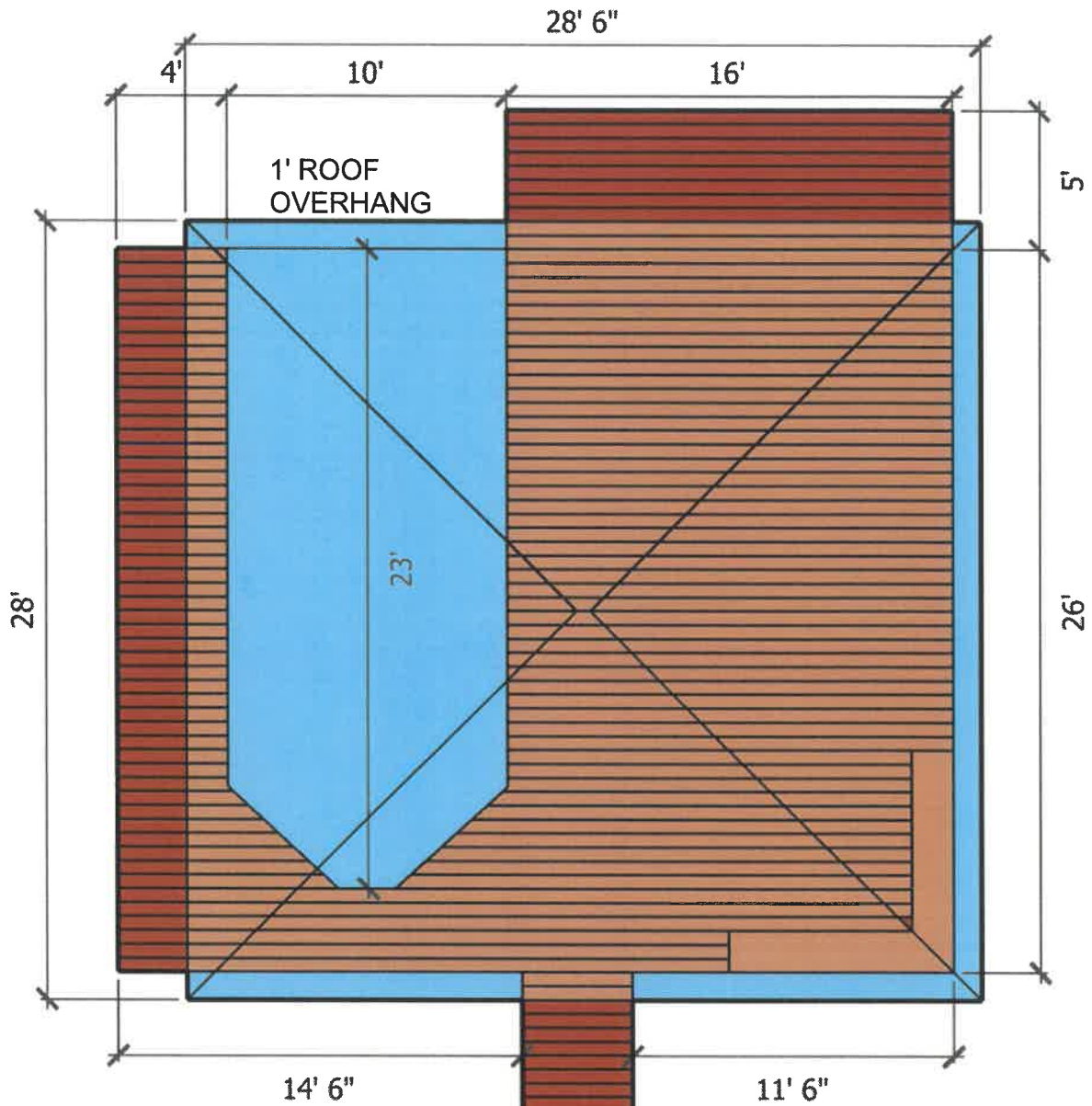
I HEREBY CERTIFY THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, AND THAT THIS SURVEY MEETS THE STANDARDS OF PRACTICE AS REQUIRED BY CHAPTER 5J-17 FLORIDA BOARD OF LAND SURVEYORS PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

This item has been electronically signed and sealed by Faun M. Hoffmeier, P.S.M. on [Date/Time Stamp shown] using a digital signature. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

XXXXXXXXXX

FAUN M. HOFFMEIER, P.S.M. LS 6552  
H&H SURVEY CONSULTANTS, LLC, LB 7821

2019.10.02 09:56:04 -04'00'



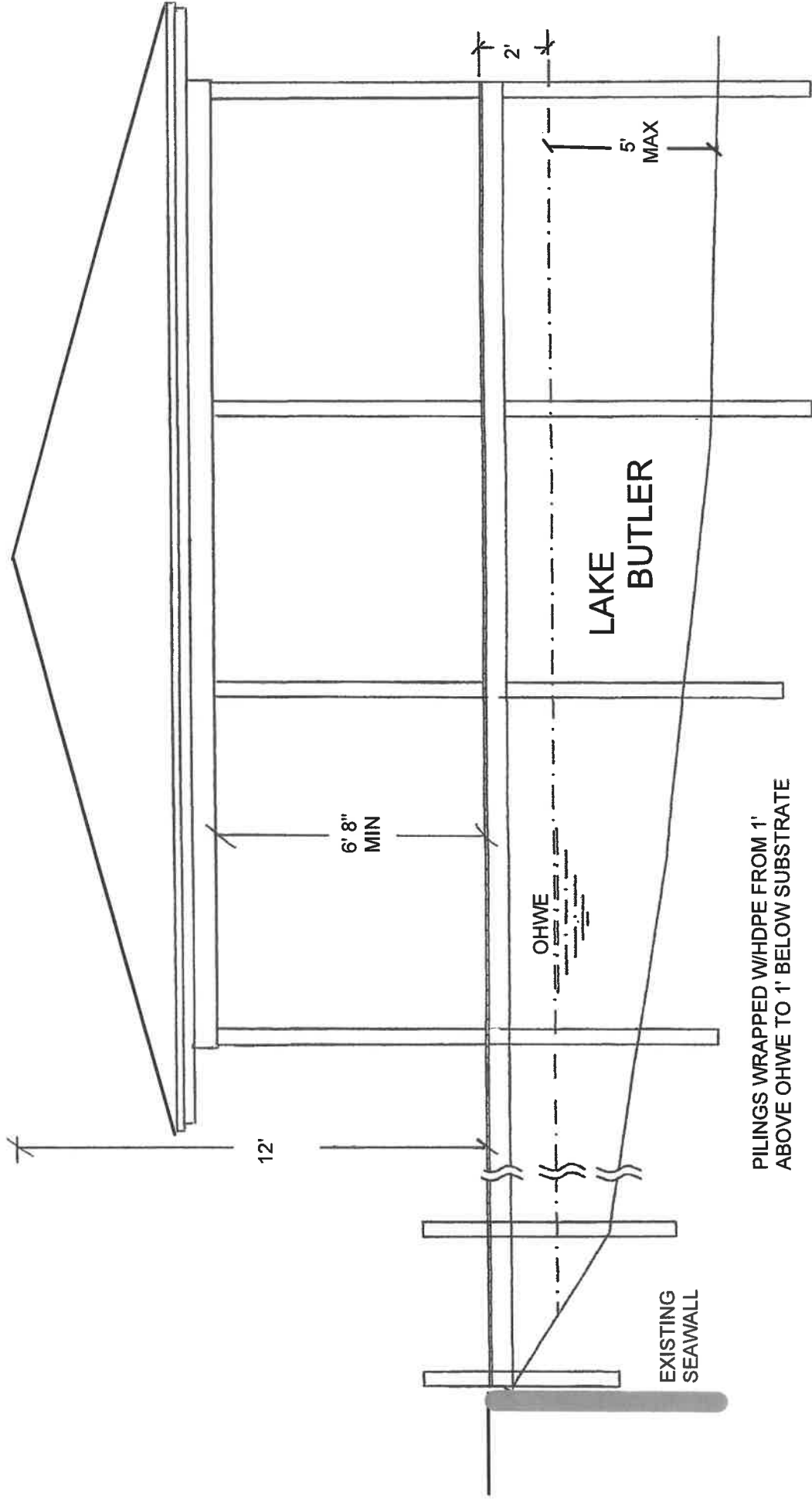
4' X 30' DOCK  
 16' X 31' DECK  
 + 39.5 SQ.FT. O.H.  
 14' X 26' BOATHOUSE  
 + 22 SQ.FT. O.H.  
 1,041.5 TOTAL SQ.FT.

LAKE BUTLER

WEISZ PLAN VIEW  
 711 WEST 2ND AVENUE  
 WINDERMERE, FL 34786

OHWE FALLS ON EXISTING SEAWALL

WEISZ ELEVATION  
711 WEST 2ND AVENUE  
WINDERMERE, FL 34786



PILINGS WRAPPED W/HDPE FROM 1'  
ABOVE OHWE TO 1' BELOW SUBSTRATE

MIN DEPTH OF 2' BELOW THE MEAN ANNUAL  
LOW WATER ELEVATION IN THE SLIP AREA

LETTER OF CONCURRENCE FOR SETBACK WAIVER

TO: Weisz Living Trust (owner/applicant)  
711 West 2nd Avenue (address of project)  
Windermere, FL 34786

File No.: \_\_\_\_\_

FROM: Joan Hargadon Revocable Trust (adjacent property owner)  
745 West 2nd Avenue  
Windermere, FL 34786

Section 18-21.004(3)(d), Florida Administrative Code, provides:

**Except as provided herein, all structures, including mooring pilings, breakwaters, jetties and groins, and activities must be set back a minimum of 25 feet inside the applicant's riparian rights lines. Marginal docks, however, must be set back a minimum of 10 feet. Exceptions to the setbacks are:** private residential single-family docks or piers associated with a parcel that has a shoreline frontage of less than 65 feet, where portions of such structures are located between riparian lines less than 65 feet apart, or where such structure is shared by two adjacent single-family parcels; utility lines; bulkheads, seawalls, riprap or similar shoreline protection structures located along the shoreline; structures and activities previously authorized by the Board; structures and activities built or occurring prior to any requirement for Board authorization; **when a letter of concurrence is obtained from the affected adjacent upland riparian owner;** or when the Board determines that locating any portion of the structure or activity within the setback area is necessary to avoid or minimize adverse impacts to natural resources.

I hereby state that I am the owner of the adjacent upland riparian property located to the (north / south / east / west) of the facility or activity proposed to be constructed or conducted by Weisz Living Trust (the applicant), as shown in the above referenced file (and on the attached drawing). **I understand that the subject project will be located entirely within the applicant's riparian rights area, and I do not object to the proposed structure or activity being located within the area required as a setback distance from the common riparian rights line, as required by Chapter 18-21.004(3)(d), F.A.C.** This file shows the structure will be located entirely within the applicant's riparian rights area and within 1 feet of the common riparian rights line between our parcels.

✓ Joan W. Hargadon  
(Original signature of adjacent owner)

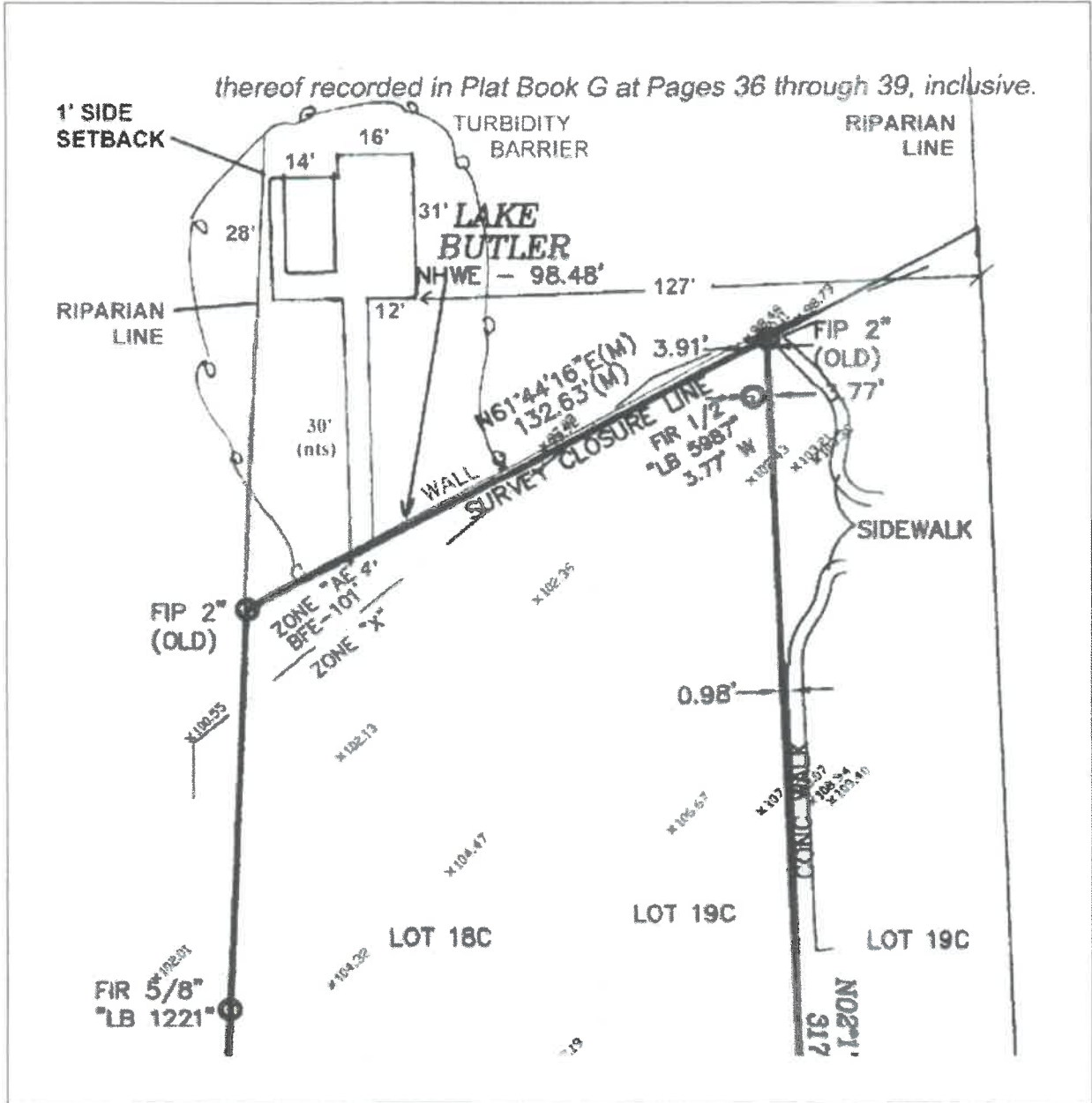
1-31-20  
(Date signed)

Joan Hargadon  
(Printed name of adjacent owner)

**This form is not adopted by rule; therefore, any letter of concurrence of similar content may be accepted.**

LETTER OF CONCURRENCE FOR SETBACK WAIVER

PAGE 2 – DRAWING, SKETCH, OR SURVEY OF PROPOSED DOCK LOCATION



✓ JWH (Initials of adjacent owner)

1.31.26 (Date)





# FLORIDA DEPARTMENT OF Environmental Protection

Central District  
3319 Maguire Blvd, Suite 232  
Orlando, FL 32803-3767

Ron DeSantis  
Governor

Jeanette Nuñez  
Lt. Governor

Noah Valenstein  
Secretary

March 4, 2020

Scott Weisz  
711 W. 2<sup>nd</sup> Avenue  
Windermere, FL 34786  
[Weisz@mac.com](mailto:Weisz@mac.com)

File No. 0384822-001-EG, Orange County

Dear Mr. Weisz:

On February 15, 2020, we received your notice of intent to use a General Permit (GP), pursuant to Rule 62-330.427, Florida Administrative Code (F.A.C.) to construct a 1,041.5 square-foot private, single-family dock with one covered boat slip within Lake Butler, an Outstanding Florida Waterbody and Class III waterbody. The project is located at 711 W. 2<sup>nd</sup> Avenue, Windermere, FL 34786, Section 17, Township 23 South, Range 28 East, Orange County.

Your intent to use a General Permit has been reviewed by Department staff for three types of authorizations: (1) regulatory authorization, (2) proprietary authorization (related to state-owned submerged lands), and (3) federal authorization. The authority for review and the outcomes of the reviews are listed below. Please read each section carefully.

**Your project did not qualify for the federal authorization; therefore, additional authorization must be obtained prior to commencement of the proposed activity.** This letter does not relieve you from the responsibility of obtaining other federal, state, or local authorizations that may be required for the activity. Please refer to the specific section(s) dealing with that portion of the review below for advice on how to proceed.

If you change the project from what you submitted, the authorization(s) granted may no longer be valid at the time of commencement of the project. Please contact us prior to beginning your project if you wish to make any changes.

## 1. Regulatory Review – Approved

Based on the forms, drawings, and documents submitted with your notice, it appears that the project meets the requirements for the General Permit under Rule 62-330.427, F.A.C. Any activities performed under a General Permit are subject to general conditions required in Rule 62-330.405, F.A.C. (attached), and the specific conditions of Rule 62-330.427, F.A.C. (attached). Any deviations from these conditions may subject the permittee to enforcement action and possible penalties.

Please be advised that the construction phase of the GP must be completed within five years from the date the notice to use the GP was received by the Department. If you wish to continue this GP beyond the expiration date, you must notify the Department at least 30 days before its expiration.

Authority for review- Part IV of Chapter 373, F.S., Title 62, F.A.C. and in accordance with the operating agreements executed between the Department and the water management districts, as referenced in Chapter 62-113, F.A.C.

## **2. Proprietary Review – Granted**

The Department acts as staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) and issues certain authorizations for the use of sovereign submerged lands. The Department has the authority to review activities on sovereign submerged lands under Chapter 253 of the Florida Statutes (F.S.) and 258, F.S. if located within an aquatic preserve, and Chapters 18-20 and 18-21 of the Florida Administrative Code.

The activity appears to be located on sovereign submerged lands owned by the Board of Trustees. The activity is not exempt from the need to obtain the applicable proprietary authorization. As staff to the Board of Trustees, the Department has reviewed the activity described above, and has determined that the activity qualifies for a letter of consent under Section 253.77, Florida Statutes, to construct and use the activity on the specified sovereign submerged lands, as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein.

During the term of this Letter of Consent you shall maintain satisfactory evidence of sufficient upland interest as required by paragraph 18-21.004(3)(b), Florida Administrative Code. If such interest is terminated or the Board of Trustees determines that such interest did not exist on the date of issuance of this Letter of Consent, this Letter of Consent may be terminated by the Board of Trustees at its sole option. If the Board of Trustees terminates this Letter of Consent, you agree not to assert a claim or defense against the Board of Trustees arising out of this Letter of Consent.

Please be advised that any use of sovereign submerged lands without specific prior authorization from the Board of Trustees will be considered a violation of Chapter 253, Florida Statutes and may subject the affected upland riparian property owners to legal action as well as potential fines for the prior unauthorized use of sovereign land.

Authority for review - Chapter 253 F.S., and Chapter 18-21, F.A.C. and, and Section 62-330.075, F.A.C. as required.

## **3. Federal Review – SPGP Not Approved**

Your proposed activity as outlined on your application and attached drawings does not qualify for Federal authorization pursuant to the State Programmatic General Permit and a SEPARATE permit or authorization shall be required from the U. S. Army Corps of Engineers. You must

apply separately to the Corps using the Application for Department of the Army Permit (ENG 4345) or alternative as allowed by Corps regulations. More information on Corps permitting may be found online in the Jacksonville District Regulatory Division Sourcebook (<https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book/>).

Authority for review - an agreement with the USACOE entitled "Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection (or Duly Authorized Designee), State Programmatic General Permit", Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

### **Additional Information**

Please retain this General Permit. The activities may be inspected by authorized state personnel in the future to ensure compliance with appropriate statutes and administrative codes. If the activities are not in compliance, you may be subject to penalties under Chapter 373, F.S., and Chapter 18-14, F.A.C.

### **NOTICE OF RIGHTS**

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the subsequent order may modify or take a different position than this action.

#### Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at [Agency\\_Clerk@dep.state.fl.us](mailto:Agency_Clerk@dep.state.fl.us). Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

#### Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While you are not required to publish notice of this action, you may elect to do so pursuant Rule 62-110.106(10)(a).

The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C. If you do not publish notice of this action, this waiver will not apply to persons who have not received written notice of this action.

#### Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at [Agency\\_Clerk@dep.state.fl.us](mailto:Agency_Clerk@dep.state.fl.us), before the deadline for

filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation

Mediation is not available in this proceeding.

FLAWAC Review

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000) and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within 30 days from the date this action is filed with the Clerk of the Department.

EXECUTION AND CLERKING

Executed in Orlando, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

*Christine Daniel*

---

Christine Daniel  
Environmental Manager  
Permitting and Waste Cleanup Program

Enclosures:

General Permit for Docks, Piers, and Associated Structures, Ch. 62-330.427, F.A.C.  
General Conditions for All General Permits, Ch. 62-330.405, F.A.C.  
Special Consent Conditions  
General Conditions for Authorizations for Activities on State-Owned Submerged Lands  
Project drawings, 3 pages

**CERTIFICATE OF SERVICE**

The undersigned duly designated deputy clerk hereby certifies that this document and all attachments were sent on the filing date below to the following listed persons:

Orange County, [Neal.thomas@ocfl.net](mailto:Neal.thomas@ocfl.net)  
Sheila Cichra, Agent, [sheilacichra@gmail.com](mailto:sheilacichra@gmail.com)  
Hayden Denton, FDEP, [Hayden.Denton@FloridaDEP.gov](mailto:Hayden.Denton@FloridaDEP.gov)  
Christine Daniel, FDEP, [Christine.Daniel@FloridaDEP.gov](mailto:Christine.Daniel@FloridaDEP.gov)

**FILING AND ACKNOWLEDGMENT**

FILED, on this date, pursuant to Section 120.52, F. S., with the designated Department Clerk, receipt of which is hereby acknowledged.

*Shirathway Bue*

---

Clerk

March 4, 2020

Date

**62-330.427 General Permit for Docks, Piers and Associated Structures.**

(1) A general permit is granted to any person to construct, extend, or remove a dock or pier and associated structures as described below:

(a) A private, single-family pier or dock with up to two boat lifts that, together with all existing structures on the shoreline of the property, does not exceed a total area of 2,000 square feet over surface waters. Such a structure:

1. Shall not accommodate the mooring of more than two vessels, either in the water or on a boat lift. Solely for purposes of this general permit, up to two personal watercraft as defined in section 327.02(33), F.S., may be moored in lieu of either or both allowable vessels of another type. These limits shall not apply to the mooring, storage or other use of the dock or pier by:

- a. Non-motor-powered vessels less than 16 feet in length that are stored on or under the dock or pier, or within an authorized mooring area; or
- b. Personal watercraft, dinghies or similar small vessels that are stowed out of the water, upon a larger parent vessel that is moored at the dock in compliance with this general permit.

2. Shall be located such that all areas used for vessel mooring and navigational access already provide a minimum depth of two feet below the mean low water level for tidal waters, or two feet below the expected average low water depth for non-tidal waters as determined based on best available information for the water body at the project location; and

3. May include a roof over the vessel mooring areas, boat lifts, and terminal platform, or any portions thereof, subject to the applicable provisions of chapters 253 and 258, F.S., and the rules adopted thereunder. Portions of such roofs that overhang beyond the edge of decked portions of the pier or dock shall be included in the calculation of the total square footage of over-water structure allowed under paragraph (1)(a), above.

(b) A public fishing pier that does not exceed a total area of 2,000 square feet provided the structure is designed and built to discourage boat mooring by elevating the fishing pier to a minimum height of five feet above mean high water or ordinary high water, surrounding the pier with handrails, and installing and maintaining signs that state "No Boat Mooring Allowed."

(2) This general permit shall be subject to the following specific conditions:

(a) Construction or extension of the boat lift, boat mooring locations, or terminal platform, shall not occur over submerged grassbeds, coral communities or wetlands. However, the access walkway portion of the pier may traverse these resources provided it is elevated a minimum of five feet above mean high water or ordinary high water, contains handrails that are maintained in such a manner as to prevent use of the access walkways for boat mooring or access, and does not exceed a width of six feet, or a width of four feet in Aquatic Preserves;

(b) There shall be no structures enclosed by walls, screens, or doors on any side;

(c) The dock or pier will not facilitate vessel rentals, charters, or serve any other commercial purpose;

(d) There shall be no fish cleaning facilities, boat repair facilities or equipment, or fueling facilities on the structures authorized by this general permit. In addition, no overboard

discharges of trash, human or animal waste, or fuel shall occur from any structures authorized by this general permit;

(e) This general permit shall not authorize the construction or extension of more than one dock or pier per parcel of land or individual lot. For the purposes of this general permit, multi-family living complexes shall be treated as one parcel of property regardless of the legal division of ownership or control of the associated property; and

(f) Notwithstanding any other provisions of this general permit, the design, construction and operation of the dock or pier and associated vessels shall not conflict with any manatee protection plan approved and adopted under section 379.2431(2)(t), F.S.

*Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.4131, 373.414(9), 373.418, 403.805(1) FS. Law Implemented 373.118(1), 373.406(5), 373.413, 373.4131, 373.414(9), 373.416, 373.418, 373.426, 403.814(1) FS. History—New 10-3-95, Formerly 62-341.427, Amended 10-1-13, 6-1-18.*



### **62-330.405 General Conditions for All General Permits**

The following general permit conditions are binding upon the permittee and are enforceable under chapter 373, F.S. These conditions do not apply to the general permit for stormwater management systems under section 403.814(12), F.S.

(1) The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit and may subject the permittee to enforcement action and revocation of the permit under chapter 373, F.S.

(2) The general permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any construction, alteration, operation, maintenance, removal or abandonment authorized by this permit; and it does not authorize any violation of any other applicable federal, state, local, or special district laws (including, but not limited to, those governing the "take" of listed species).

(3) The general permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the general permit.

(4) The general permit does not relieve the permittee from liability and penalties when the permitted activity causes harm or injury to: human health or welfare; animal, plant or aquatic life; or property. It does not allow the permittee to cause pollution that violates state water quality standards.

(5) Section 253.77, F.S., provides that a person may not commence any excavation, construction, or other activity involving the use of state-owned or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required consent, lease, easement, or other form of authorization authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on state-owned lands.

(6) The authorization to conduct activities under a general permit may be modified, suspended or revoked in accordance with chapter 120, F.S., and section 373.429, F.S.

(7) The general permit is not transferable to a new third party. To be used by a different permittee, a new notice to use a general permit must be submitted in accordance with rule 62-330.402, F.A.C. Activities constructed in accordance with the terms and conditions of a general permit are automatically authorized to be operated and maintained by the permittee and subsequent owners in accordance with subsection 62-330.340(1), F.A.C. Any person holding the general permit, persons working under the general permit, and owners of land while work is conducted under the general permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to sale, conveyance, or other transfer of ownership or control of the permitted project, activity, or the real property at which the permitted project or activity is located.

(8) Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the permitted system to ensure conformity with the plans and specifications approved by the general permit.

(9) The permittee shall maintain any permitted project or activity in accordance with the plans submitted to the Agency and authorized in the general permit.

(10) A permittee's right to conduct a specific activity under the general permit is authorized

for a duration of five years.

(11) Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be implemented and maintained immediately prior to, during, and after construction as needed to stabilize all disturbed areas, including other measures specified in the permit to prevent adverse impacts to the water resources and adjacent lands. Erosion and sediment control measures shall be installed and maintained in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation, June 2007)*, available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-04227>, and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)*, available at [http://publicfiles.dep.state.fl.us/DEAR/Stormwater\\_Training\\_Docs/erosion-inspectors-manual.pdf](http://publicfiles.dep.state.fl.us/DEAR/Stormwater_Training_Docs/erosion-inspectors-manual.pdf).

(12) Unless otherwise specified in the general permit, temporary vehicular access within wetlands during construction shall be performed using vehicles generating minimum ground pressure to minimize rutting and other environmental impacts. Within forested wetlands, the permittee shall choose alignments that minimize the destruction of mature wetland trees to the greatest extent practicable. When needed to prevent rutting or soil compaction, access vehicles shall be operated on wooden, composite, metal, or other non-earthen construction mats. In all cases, access in wetlands shall comply with the following:

(a) Access within forested wetlands shall not include the cutting or clearing of any native wetland tree having a diameter four inches or greater at breast height;

(b) The maximum width of the construction access area shall be limited to 15 feet;

(c) All mats shall be removed as soon as practicable after equipment has completed passage through, or work has been completed, at any location along the alignment of the project, but in no case longer than seven days after equipment has completed work or passage through that location; and

(d) Areas disturbed for access shall be restored to natural grades immediately after the maintenance or repair is completed.

(13) Barges or other work vessels used to conduct in-water activities shall be operated in a manner that prevents unauthorized dredging, water quality violations, and damage to submerged aquatic communities.

(14) The construction, alteration, or use of the authorized project shall not adversely impede navigation or create a navigational hazard in the water body.

(15) Except where specifically authorized in the general permit, activities must not:

(a) Impound or obstruct existing water flow, cause adverse impacts to existing surface water storage and conveyance capabilities, or otherwise cause adverse water quantity or flooding impacts to receiving water and adjacent lands; or

(b) Cause an adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to section 373.042, F.S., or a Works of the District established pursuant to section 373.086, F.S.

(16) If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, stone tools, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities

involving subsurface disturbance in the vicinity of the discovery. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section (DHR), at (850)245-6333, as well as the appropriate permitting agency office. Project activities shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and the proper authorities notified in accordance with section 872.05, F.S.

(17) The activity must be capable, based on generally accepted engineering and scientific principles, of being performed and of functioning as proposed, and must comply with any applicable District special basin and geographic area criteria.

(18) The permittee shall comply with the following when performing work within waters accessible to federally- or state-listed aquatic species, such as manatees, marine turtles, smalltooth sawfish, and Gulf sturgeon:

(a) All vessels associated with the project shall operate at "Idle Speed/No Wake" at all times while in the work area and where the draft of the vessels provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.

(b) All deployed siltation or turbidity barriers shall be properly secured, monitored, and maintained to prevent entanglement or entrapment of listed species.

(c) All in-water activities, including vessel operation, must be shut down if a listed species comes within 50 feet of the work area. Activities shall not resume until the animal(s) has moved beyond a 50-foot radius of the in-water work, or until 30 minutes elapses since the last sighting within 50 feet. Animals must not be herded away or harassed into leaving. All onsite project personnel are responsible for observing water-related activities for the presence of listed species.

(d) Any listed species that is killed or injured by work associated with activities performed shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1(888)404-3922 and [ImperiledSpecies@myFWC.com](mailto:ImperiledSpecies@myFWC.com).

(e) Whenever there is a spill or frac-out of drilling fluid into waters accessible to the above species during a directional drilling operation, the FWC shall be notified at [ImperiledSpecies@myfwc.com](mailto:ImperiledSpecies@myfwc.com) with details of the event within 24 hours following detection of the spill or frac-out.

(19) The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any activity authorized by the general permit.

(20) The permittee shall immediately notify the Agency in writing of any submitted information that is discovered to be inaccurate.

*Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.4131, 373.414(9), 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.044, 373.118(1), 373.129, 373.136, 373.406(5), 373.413, 373.4131, 373.414(9), 373.4145, 373.416, 373.422, 373.423, 373.429, 403.814(1) FS. History—New 10-3-95, Amended 10-1-07, Formerly 62-341.215, Amended 10-1-13, 6-1-18.*

### **Special Consent Conditions**

1. The applicant agrees to indemnify, defend and hold harmless the Board of Trustees and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty submerged lands or the applicant's use and construction of structures on sovereignty submerged lands. This duty to indemnify and hold harmless will include any and all liabilities that are associated with the structure or activity including special assessments or taxes that are now or in the future assessed against the structure or activity during the period of the authorization.
2. Failure by the Board of Trustees to enforce any violation of a provision of the authorization or waiver by the Board of Trustees of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure to enforce or a waiver prevent the Board of Trustees from enforcing the unenforced or waived provision in the event of a violation of that provision.
3. Applicant binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the applicant or its successors or assigns fails or refuses to comply with the provisions and conditions of the authorization, the authorization may be terminated by the Board of Trustees after written notice to the applicant or its successors or assigns. Upon receipt of such notice, the applicant or its successors or assigns will have thirty (30) days in which to correct the violations. Failure to correct the violations within this period will result in the automatic revocation of this authorization.
4. All costs incurred by the Board of Trustees in enforcing the terms and conditions of the authorization will be paid by the applicant. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The applicant will notify the Board of Trustees in writing of any change of address at least ten days before the change becomes effective.
5. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant that prohibits the activity.

### **General Conditions for Authorizations for Activities on State-Owned Submerged Lands:**

All authorizations granted by rule or in writing under rule 18-21.005, F.A.C., except those for geophysical testing, shall be subject to the general conditions as set forth in paragraphs (a) through (j) below. The general conditions shall be part of all authorizations under this chapter, shall be binding upon the grantee, and shall be enforceable under chapter 253 or 258, part II, F.S.

(a) Authorizations are valid only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use shall constitute a violation. Violation of the authorization shall result in suspension or revocation of the grantee's use of the sovereignty submerged land unless cured to the satisfaction of the Board.

(b) Authorizations convey no title to sovereignty submerged land or water column, nor do they constitute recognition or acknowledgment of any other person's title to such land or water.

(c) Authorizations may be modified, suspended or revoked in accordance with their terms or the remedies provided in sections 253.04 and 258.46, F.S., or chapter 18-14, F.A.C.

(d) Structures or activities shall be constructed and used to avoid or minimize adverse impacts to sovereignty submerged lands and resources.

(e) Construction, use, or operation of the structure or activity shall not adversely affect any species which is endangered, threatened or of special concern, as listed in rules 68A-27.003, 68A-27.004 and 68A-27.005, F.A.C.

(f) Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court's decision.

(g) Structures or activities shall not create a navigational hazard.

(h) Activities shall not interfere with the public easement for traditional uses of the sandy beaches provided in section 161.141, F.S.

(i) Structures shall be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of rule 18-21.005, F.A.C., within one year, of a structure damaged in a discrete event such as a storm, flood, accident, or fire.

(j) Structures or activities shall be constructed, operated, and maintained solely for water dependent purposes, or for non-water dependent activities authorized under paragraph 18-21.004(1)(g), F.A.C., or any other applicable law.

*Rulemaking Authority 253.03(7), 253.73 FS. Law Implemented 253.001, 253.03, 253.141, 253.0347, 253.665, 253.71, 253.68, 253.72, 253.74, 253.75, 253.77 FS. History—New 3-27-82, Amended 8-1-83, Formerly 16Q-21.04, 16Q-21.004, Amended 12-25-86, 1-25-87, 3-15-90, 8-18-92, 10-15-98, 12-11-01, 10-29-03, 12-16-03, 3-8-04, 10-27-05, 4-14-08, 9-1-09, 3-21-19.*

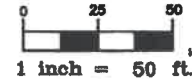
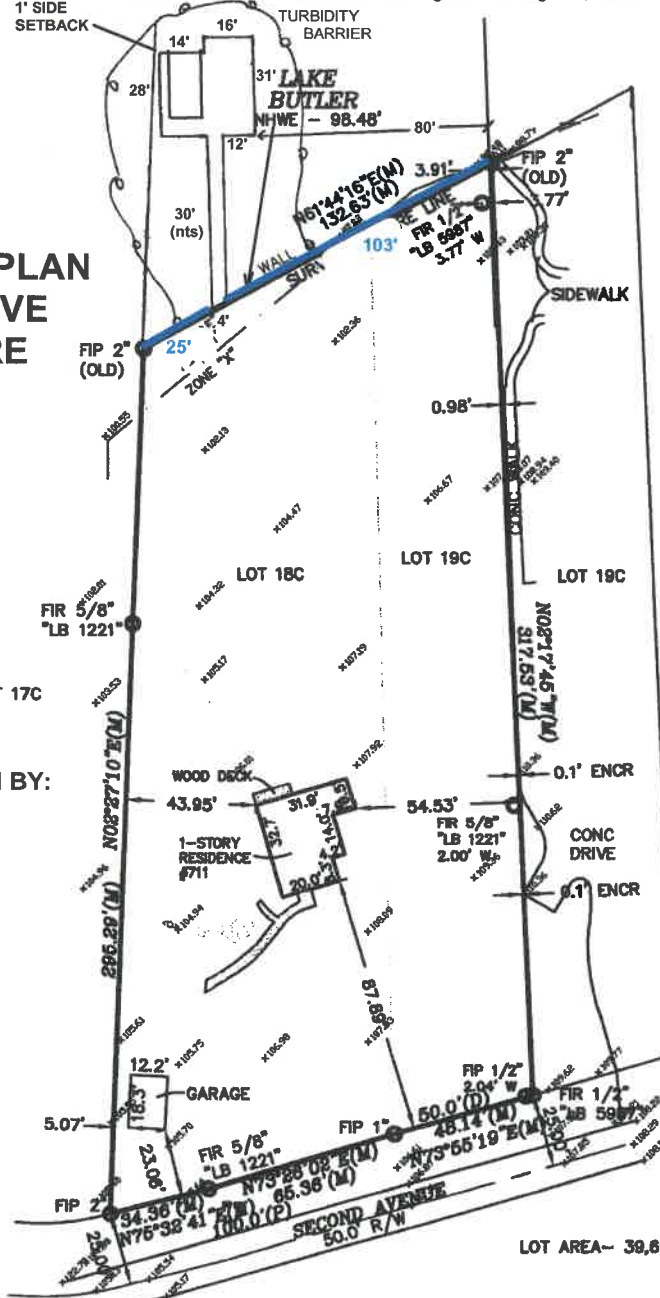


LEGAL DESCRIPTION

Lot 18 and the Westery 1/2 of Lot 19 of Windermere Club Company Subdivision as per Plat thereof recorded in Plat Book E, at Page 28 of the Public Records of Orange County, Florida, also known as Lot 18C and the Westery 1/2 of Lot 19C of Windermere Club Company Subdivision as per Plat thereof recorded in Plat Book G at Pages 36 through 39, inclusive.

WEISZ SITE PLAN
711 W 2ND AVE
WINDERMERE
FL 34786

SITE PLAN DRAWN BY:
SHEILA CICHRA
JANUARY 24, 2020



LOT AREA- 39,899 SF, 0.91 AC

BOUNDARY SURVEY CERTIFIED TO:
SCOTT STEPHEN WEISZ AND STEPHANIE KEIBER WEISZ LIVING TRUST
SAINT LAWRENCE TITLE, INC.
WESTCOR LAND TITLE INSURANCE COMPANY,
AND THEIR SUCCESSORS AND/OR ASSIGNS.

PROPERTY ADDRESS:
711 WEST 2ND AVE
WINDERMERE, FL 34786

LEGEND & ABBREVIATIONS

- FIR = FOUND IRON ROD
FIP = FOUND IRON PIPE
N/D = NAIL & DISK
SIR = SET IRON ROD
CMON = CONCRETE MONUMENT
PSM = PROFESSIONAL SURVEYOR & MAPPER
LB = LICENSED BUSINESS
CB = CHORD BEARING
R/W = RIGHT OF WAY
CONC = CONCRETE
COV = COVERED
A/C = AIR CONDITIONER
D.E. = DRAINAGE EASEMENT
U.E. = UTILITY EASEMENT
WBF = WOOD BOARD FENCE
WVF = WHITE VINYL FENCE
CLF = CHAIN LINK FENCE
(P) = PLAT DIMENSION
(M) = FIELD MEASURED
C = CENTERLINE
W = WATER METER
C = CABLE RISER
T = TELEPHONE RISER
E = ELECTRIC RISER
P = POWER POLE

NOTICE

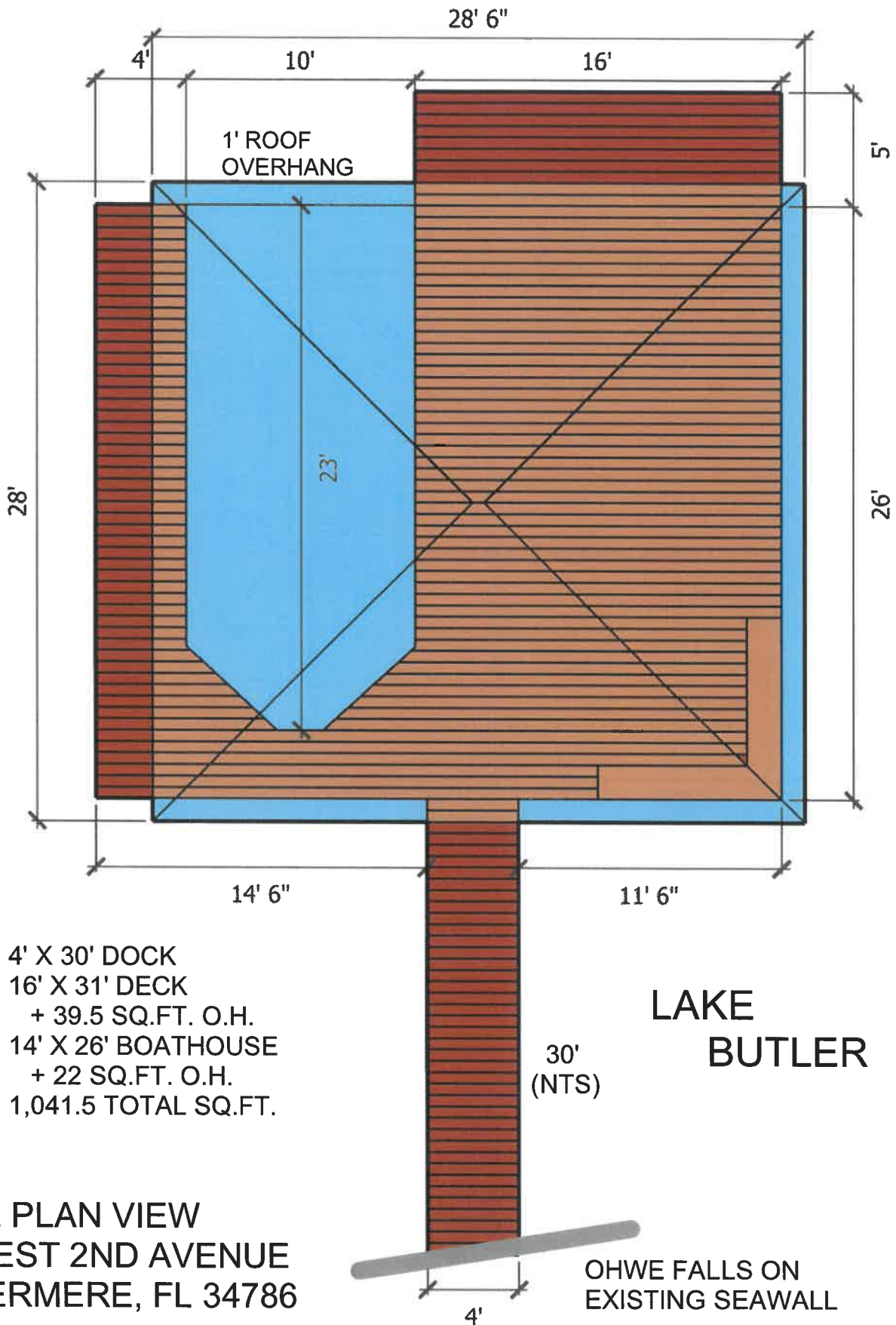
- 1. BASIS OF BEARING - THE SOUTHERLY LINE OF LOT 18C AND THE WESTERLY 1/2 OF LOT 19C OF WINDERMERE CLUB COMPANY SUBDIVISION AS PER PLAT THEREOF RECORDED IN PLAT BOOK G AT PAGES 36 THROUGH 39, INCLUSIVE.
2. DATE OF FIELD SURVEY: 8/17/19; REVISED BOUNDARY 9/9/19
3. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING SURVEYOR.
4. PROPERTY LINES SHOULD NOT BE ESTABLISHED USING FENCE OR BUILDING TIES.
5. NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO, BURIED UTILITIES, FOUNDATIONS AND FOOTERS WERE LOCATED.
6. BASED UPON MY REVIEW OF THE "FLOOD INSURANCE RATE MAP" OF WINDERMERE COUNTY, FLORIDA, COMMUNITY PANEL NO. 12D95C0385F, EFFECTIVE DATE SEPTEMBER 25, 2009, THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "AE", WITH A BASE FLOOD ELEVATION OF 101.0 FEET, AND ZONE "X" DEFINED AS AREAS DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN.
7. NO INSTRUMENTS OF RECORD REFLECTING OWNERSHIP OR ENCUMBRANCES WERE PROVIDED, EXCEPT AS NOTED, NOR DID THIS SURVEYOR ABSTRACT THESE LANDS.
8. SURVEY FILE NUMBER: 19-07-103
9. ELEVATIONS SHOWN HEREON ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88), AND MORE SPECIFICALLY TO THE FLORIDA PERMANENT REFERENCE NETWORK (FPRN) CONTINUOUSLY OPERATING REFERENCE STATIONS (CORS) ORL1, FLKS & FLEU.

I HEREBY CERTIFY THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, AND THAT THIS SURVEY MEETS THE STANDARDS OF PRACTICE AS REQUIRED BY CHAPTER 5J-17 FLORIDA BOARD OF LAND SURVEYORS PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

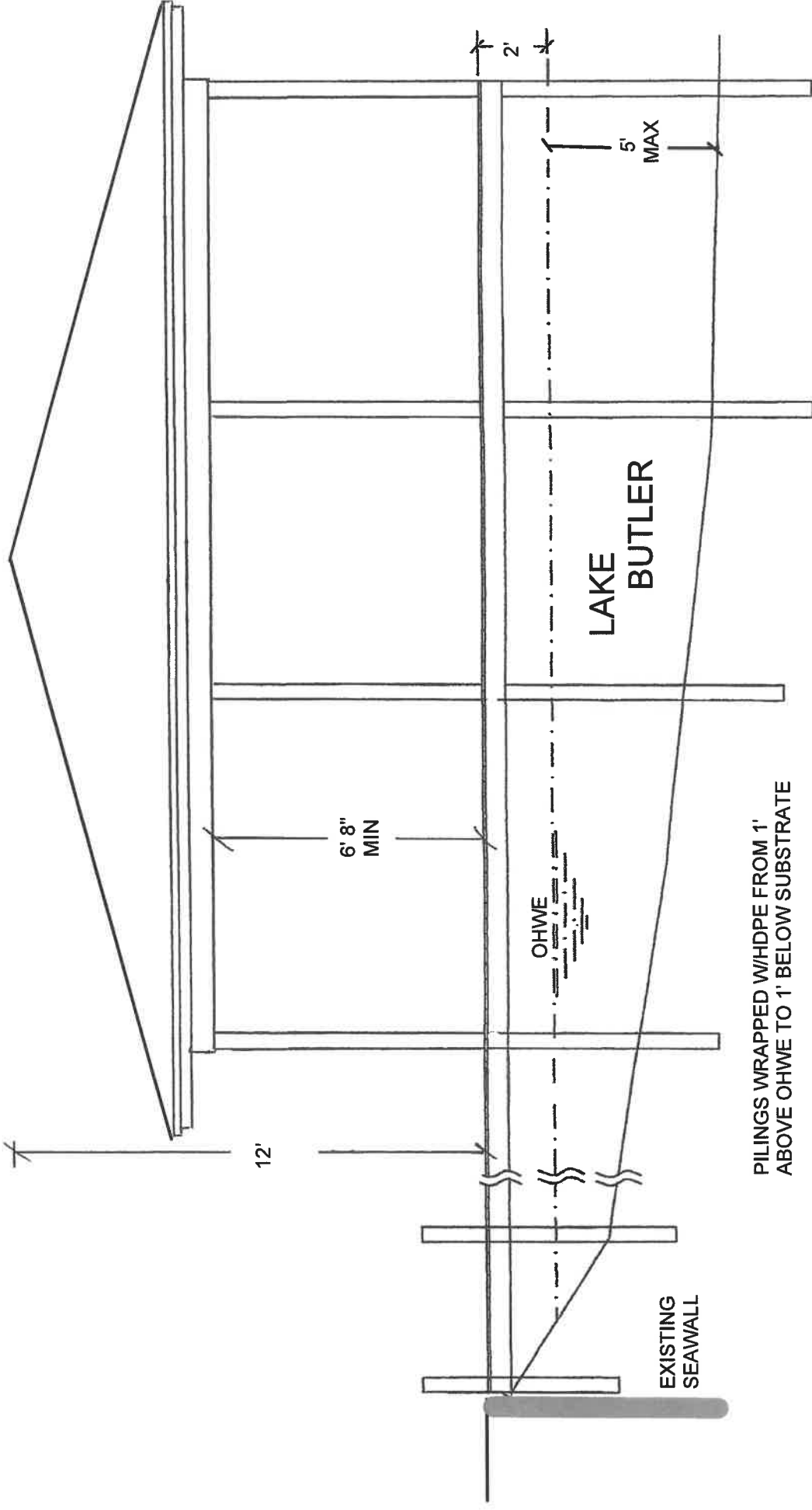
This item has been electronically signed and sealed by Faun M. Hoffmeier, P.S.M. on [Date/Time Stamp] showing a digital signature. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

XXXXXXXXXX
FAUN M. HOFFMEIER, P.S.M. LS 6552
H&H SURVEY CONSULTANTS, LLC, LB 7821

2019.10.02 09:56:04 -04'00'



**WEISZ ELEVATION  
711 WEST 2ND AVENUE  
WINDERMERE, FL 34786**



PILINGS WRAPPED WITHDPE FROM 1'  
ABOVE OHWE TO 1' BELOW SUBSTRATE

MIN DEPTH OF 2' BELOW THE MEAN ANNUAL  
LOW WATER ELEVATION IN THE SLIP AREA





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, Joan Hargadon, a legal property owner of property located at 745 West 2nd Avenue, (Adjacent Property Owner Name) (Address)

have reviewed the dock construction plans dated 1/24/20, for the property located at 711 West 2nd Avenue, and have no objections.

The dock construction plans include a side setback waiver request of 1 feet, in lieu of the minimum 25 feet required by Code.

Joan W. Hargadon (Signature - Adjacent Affected Property Owner)

1.31.20 (Date)

Joan W. Hargadon (Print Name - Adjacent Affected Property Owner)

ACKNOWLEDGEMENT:

STATE OF FLORIDA
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 31 day of 1 January 2020, by Joan Hargadon / Strickland



Diane Marie Edwards (Signature of Notary Public - State of Florida)

Personally Known OR Produced Identification FL-5362-499-40-674-0

Type of Identification Produced affidavit acknowledging change by both Joan Hargadon & Joan Strickland

RECOMMEND - Z20-08 (711 West 2nd Avenue)

APPROVAL:  APPROVAL  DISAPPROVAL

COMMENTS:

SIGNATURE: Robert M. McGoff  
MCGOFF ROBERT M

DATE: 6/22/20

Received

JUN 22 2020

Wade Trim

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor  
JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

## Development Review Board July 21, 2020

### Town Council August 11, 2020

**Case No.:** Z20-09

**Applicant/Representative:** Mitch Powers and Bryce Grafton

**Property Owner:** Patricia Sweet-Grafton

**Requested Action:** Variance allow for an additional 804.78 square feet of gross floor area from what was previously approved under variance #Z19-005 and to allow for a less than 50-foot setback from the normal high water elevation for a pool deck expansion. The setback request is for 15.7 feet from the normal high water elevation.

**Property Address:** 31 Pine Street Windermere, FL 34786

**Legal Description:** PLAT OF WINDERMERE G/36 THAT PT OF LOT 46-C LYING NWLY OF FOLLOWING DESC LINE FROM SW COR OF LOT 46-C RUN N 17 DEG W 130 FT FOR POB TH RUN N 72 DEG E 128.37 FT N 17 DEG W 14.32 FT S 86 DEG E 29.82 FT N 76 FT M/L TO N LINE OF LOT 46-C

**Future Land Use/Zoning:** Residential/Residential

**Existing Use:** Residential (Single Family)

#### Surrounding Future Land Use/Zoning

**North:** Residential/Residential  
**East:** Residential/Residential  
**South:** Residential/Residential

**West:** Lake & Residential/Residential

**CASE SUMMARY:**

The applicant would like to add an addition to an existing nonconforming house. The addition totals 2,360 square feet of floor area. This property previously received a variance (Z19-005) to add 1,555.22 square feet of floor area. The applicant is requesting an additional 804.78 square feet of floor area be approved under the subject variance. The additional gross floor area is the result of converting the roofs of the previous approved additions to covered decks. Under the Town's code, covered decks are included in the calculation of the gross floor area of a home.

The applicant would also like to replace the existing pool deck with a new pool deck in the rear yard. The new pool deck will have a 15.7-foot setback from the normal high water elevation. The Town requires all structures to have a 50-foot setback from the normal high water elevation. The applicant is requesting a variance to allow for a 15.7-foot setback instead of the required 50-foot setback from the normal high water elevation.

Division 10.02.00 of the LDC empowers the Development Review Board to review and make recommendations for approval, approval with conditions or denial to the Town Council on variance requests.

Division 10.02.00 of the LDC requires the Town Council to consider the recommendation of the Development Review Board and to take final action to either approve or deny the variance request.

**CASE ANALYSIS:**

Section 10.02.02 of the LDC provides the specific standards by which the Development Review Board and Town Council are to review to consider the approval or denial of a variance application. In addition, this Section requires a positive finding, based on substantial competent evidence, for each of the standards. These standards are summarized as follows:

1. The need for the variance arises out of the physical surroundings, shape, topographical condition or other physical or environmental conditions that are unique to the subject property. Variances should be granted for conditions peculiar to the property and not the result of actions of the property owner;
2. There are practical or economic difficulties in carrying out the strict letter of the regulation;
3. The variance request is not based exclusively upon a desire to reduce the cost of developing the site;
4. The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire or other hazard to the public;

5. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site;
6. The effect of the proposed variance is in harmony with the general intent of this Land Development Code and the specific intent of the relevant subject areas of this Land Development Code; and
7. The variance will not encourage further requests for changes where such a land use would not be deemed appropriate.

It is also important to note that this Section also provides specific standards that are not to be considered in the review of a variance application. These standards are:

1. That the implementation of these regulations would impose an economic hardship on the cost of the building or redevelopment project;
2. That these regulations impose a hardship by decreasing the maximum density of a property in terms of the number of units, square footage of buildings, etc.; and
3. That other adjacent lands, structures or buildings not in conformance with these regulations provide a rationale for a lessening of their application in this specific case.

Section 10.02.02(c) of the LDC allows the imposition of conditions and restrictions as may be necessary to allow a positive finding to be made on any of the variance standards to minimize the negative effect of the variance. The conditions and restrictions should further the interest of the LDC.

The applicant submitted a site plan and other materials in support of the variance request. The following is a summary of the information provided by the applicants in support of their variance request:

1. No additional footprint is being added to the house other than what was previously approved.
2. The existing pool deck surface is deteriorating and eroding.
3. The increase in pool deck area will still meet impervious surface area requirements.

The previous variance approval included the following conditions:

1. Additions that trigger improvements to the existing septic system by the requirements of the Orange County Health Department will require the existing septic system to be replaced with a Performance Based Treatment System as permitted by the Orange County Health Department.

2. A berm and swale between the lake and the home will be installed to prevent stormwater discharge to the lake. The berm and swale will be designed to capture the first inch of stormwater and will be permitted and installed with the first building permit that expands the impervious footprint of the existing home; and
3. The owner shall install native aquatic vegetation along 80% of the lake shoreline adjacent to the property. The installation shall occur with the first building permit that expands the impervious footprint of the existing home.

It is recommended that these conditions remain in place.

**PUBLIC NOTICE:**

Public notices were mailed to property owners within 500 feet of the subject property. As of July 3, 2020, two responses were returned in support. An update to any responses received after July 3, 2020, will be provided at the DRB meeting.

Please note that one of the letters in support did not support the expansion of the existing pool deck to be closer to the lake than its current location.

Dorothy Burkhalter, Town Clerk  
Town of Windermere  
Windermere, FL 34786

June 1, 2020

**RE: Grafton Residence Renovation and Addition – Variance request**

We are requesting that the FAR (floor area ratio) be increased to allow a walking surface to be applied to the previously approved covered porches on the rear of the home. Newly covered porch areas were granted in a previous variance review dated: May 19, 2019. These porch areas align with the existing rear of the home and due to the multi-levels of living space, the floor elevations will adjust with the home interior space for proper access from the respective levels. To be considered effective useable space, we are requesting to access the deck areas from the various levels of the interior space and have them covered with roof area.

The designated areas that we are requesting to have an upper-level walking surface are referenced from the May 19, 2019 letter including areas: C, D, & E.

There is no additional footprint area being requested and the increased floor area ratio is well within the allowable percentage. Please see the area calculations on the site plan sheet C101, dated 5/28/20.

The effect of this variance aligns with the harmony of the general intent of the land development code and the updated structure will blend with the existing topography enhancing this shoreline significantly.

The additional surface area of the pool deck that is proposed on the site plan is requested as the existing pool deck surface has deterioration and erosion. The increased pool deck area requested is also within the allowable impermeable surface area.

Regards,

Patricia Sweet-Gratton and Bryce Grafton

# AGENT AUTHORIZATION FORM

I/WE, (PRINT PROPERTY OWNER NAME) Patricia Sweet, AS THE OWNER(S) OF THE REAL PROPERTY DESCRIBED AS FOLLOWS, 31 Pine Street Windermere FL. 34786, DO HEREBY AUTHORIZE TO ACT AS MY/OUR AGENT (PRINT AGENT'S NAME), Bryce Grafton and architect Mitch Powers, TO EXECUTE ANY PETITIONS OR OTHER DOCUMENTS NECESSARY TO AFFECT THE APPLICATION APPROVAL REQUESTED AND MORE SPECIFICALLY DESCRIBED AS FOLLOWS, Variance request, AND TO APPEAR ON MY/OUR BEHALF BEFORE ANY ADMINISTRATIVE OR LEGISLATIVE BODY IN THE COUNTY CONSIDERING THIS APPLICATION AND TO ACT IN ALL RESPECTS AS OUR AGENT IN MATTERS PERTAINING TO THE APPLICATION.

Date: 6-1-2020

  
Signature of Property Owner

Patricia Sweet-Grafton  
Print Name Property Owner

Date: \_\_\_\_\_

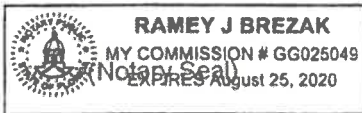
Signature of Property Owner

Print Name Property Owner

STATE OF FLORIDA :  
COUNTY OF Orange :

I certify that the foregoing instrument was acknowledged before me this 1 day of June, 2020 by 3pm / in person He/she is personally known to me or has produced driver's license as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the 1 day of June, in the year 2020.



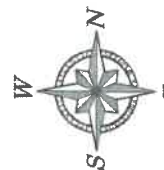
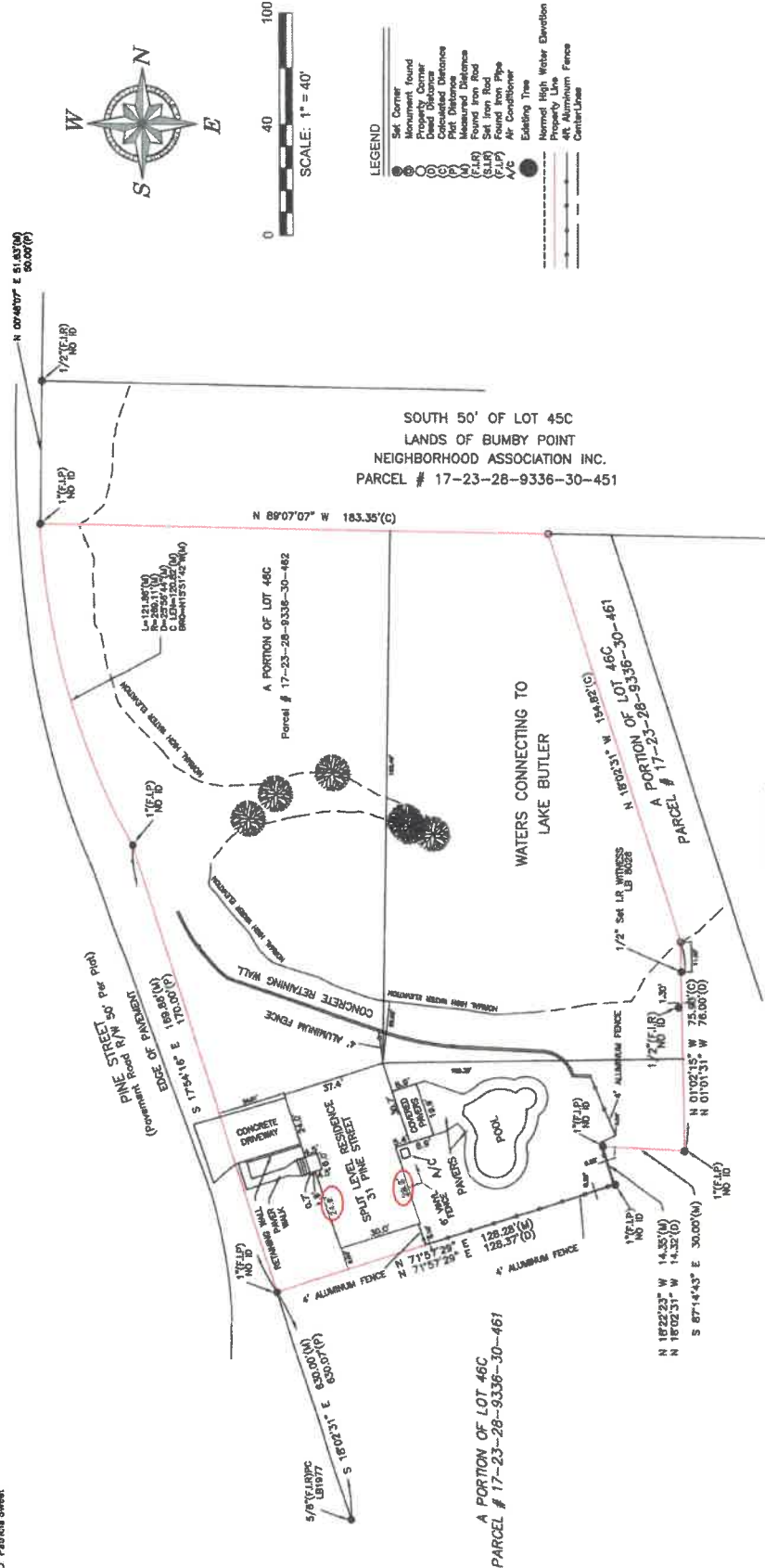
  
Signature of Notary Public  
Notary Public for the State of Florida

My Commission Expires: 8/25/20

Legal Description(s) or Parcel Identification Number(s) are required:
PARCEL ID #:
LEGAL DESCRIPTION:



CERTIFIED TO: Patricia Sweet



**LEGEND**

- Set Corner
- Monument Found
- Property Corner
- Dead End
- Calculated Distance
- Plot Distance
- Found Iron Pipe
- Found Iron Rod
- (S.I.P)
- (F.I.P)
- Found Iron Pipe
- A/C
- Existing Tree
- Normal High Water Elevation
- Utility Line
- Aluminum Fence
- Central-Line

NORMAL HIGH WATER ELEVATION : 98.48 FEET  
 NOTE: ELEVATION BASED ON NGS STATION DB113

- GENERAL NOTES:**
1. LEGAL DESCRIPTION PROVIDED BY OTHERS.
  2. EXAMINATION OF THE ABSTRACT OF TITLE WILL HAVE TO BE MADE TO DETERMINE RECORDED INSTRUMENTS, IF ANY, AFFECTING PROPERTY.
  3. THE LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR EASEMENT OR OTHER RECORDED ENCUMBRANCES NOT SHOWN ON THE PLAT.
  4. UNDERGROUND PORTIONS OF FOOTINGS, FOUNDATIONS OR OTHER IMPROVEMENTS WERE NOT LOCATED.
  5. ONLY VISIBLE AND ABOVE GROUND ENCROACHMENTS LOCATED.
  6. FENCE OWNERSHIP NOT DETERMINED.
  7. WALL TIES ARE TO THE FACE OF THE WALL.
  8. BOUNDARY SURVEY MEANS A DRAWING AND/OR GRAPHIC REPRESENTATION OF THE SURVEY WORK PERFORMED IN THE FIELD. COULD BE DRAWN AT A SHOWN SCALE AND/OR NOT TO SCALE.
  9. NO IDENTIFICATION FOUND ON PROPERTY CORNERS UNLESS NOTED.
  10. NOTICES UNLESS SEALED WITH THE ASSURED UNLESS OTHERWISE SHOWN.
  11. THIS IS BOUNDARY SURVEY UNLESS OTHERWISE NOTED.
  12. THIS BOUNDARY SURVEY HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE ENTITIES NAMED HEREON. THE CERTIFICATIONS DO NOT EXTEND TO ANY UNNAMED PARTIES.

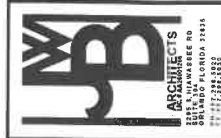


NOTES:  
 SOURCE OF LINE BEARING: Based on a Bearing on the Eastern Right of Way line of the Pine Street being assumed at S 18°02'31" E.  
 AREA: 1.05 ACRES BEING SURVEYED.  
 FOR POB TH RUN N 72 DEG E 128.32 FT N 77 DEG W 143.32 FT S 95 DEG E 204.82 FT N 78 FT MAL TO N LINE OF LOT 46-C

**MAP OF BOUNDARY SURVEY**  
 WITH NORMAL HIGH WATER ELEVATION  
 Property Address:  
 31 PINE STREET  
 WINDERMERE, FL 34786

Atlantic Surveyors and Mappers LLC LB 8026  
 1711 NORTH ORANGE ALLENBREE, SUITE 800  
 GULFSTREAM FL 33601





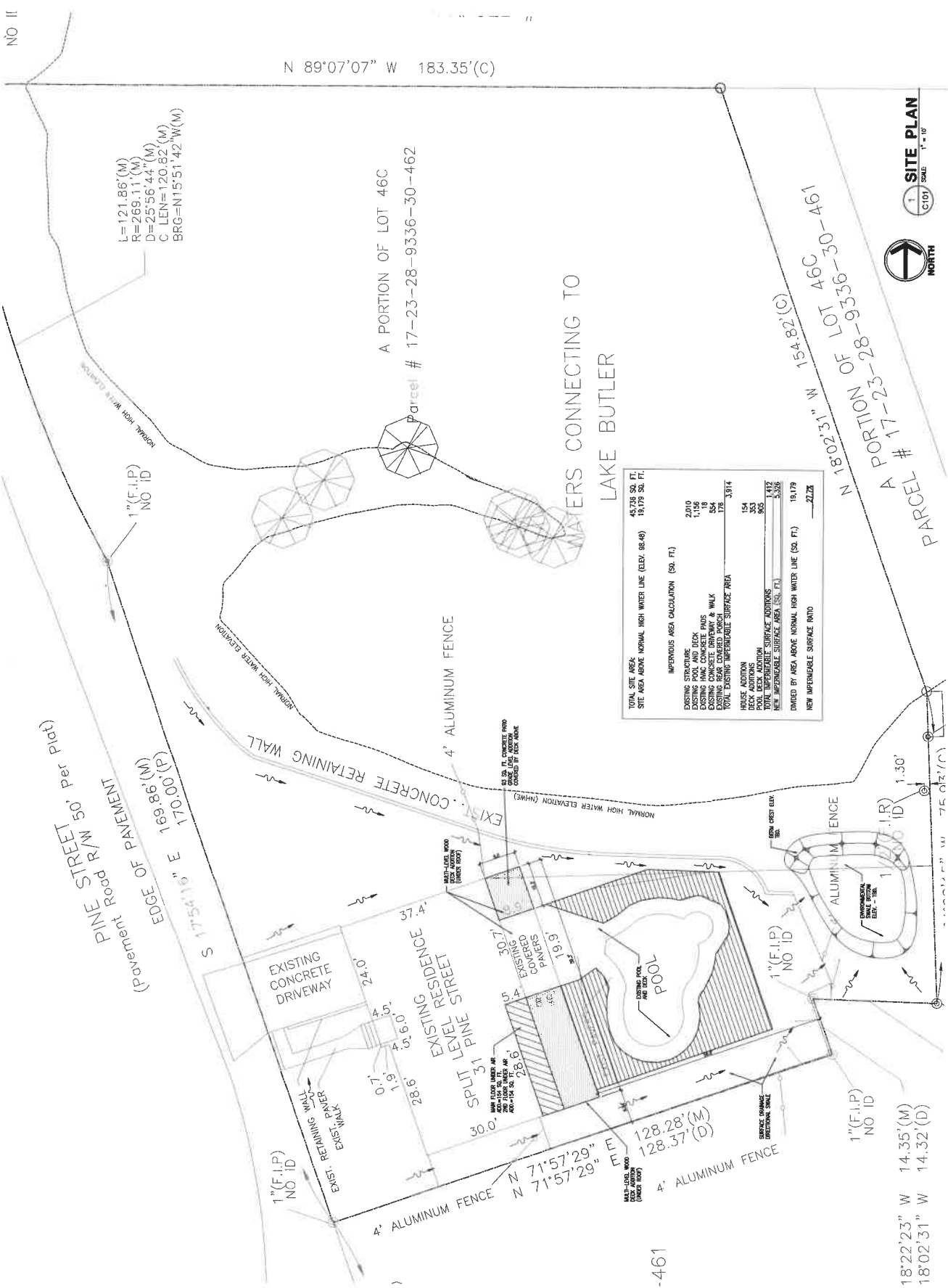
Owner:  
**BRYCE & PATRICA  
 GRAFTON**

**SITE PLAN**  
 GRAFTON RESIDENCE / REMODEL - ADDITION

31 PINE STREET  
 WINDSOR, FL 32090

Project No.	2070200	Client No.	200
Sheet No.	14-002	Scale	1" = 10'
Revision		Drawn By	JWB
		Checked By	JWB
		Approved By	JWB

**C101**



TOTAL SITE AREA	45,738 SQ. FT.
SITE AREA ABOVE NORMAL HIGH WATER LINE (ELEV. 98.48)	19,179 SQ. FT.
IMPERVIOUS AREA CALCULATION (SQ. FT.)	
EXISTING STRUCTURE	2,010
EXISTING POOL DECK	1,100
EXISTING PAVEMENT CONCRETE PATHS	1,100
EXISTING CONCRETE DRIVEWAY & WALK	554
EXISTING DRIVEWAY & WALK	178
TOTAL EXISTING IMPERVIOUS SURFACE AREA	3,942
HOUSE ADDITION	154
POOL DECK ADDITION	1,417
TOTAL IMPERVIOUS SURFACE ADDITIONS	1,571
NEW IMPERVIOUS SURFACE AREA (SQ. FT.)	5,513
DIVIDED BY AREA ABOVE NORMAL HIGH WATER LINE (SQ. FT.)	19,179
NEW IMPERVIOUS SURFACE RATIO	27.2%

NO II

N 89°07'07" W 183.35'(C)

L=121.86'(M)  
 R=269.11'(M)  
 D=25°56'44"(M)  
 C LEN=120.62'(M)  
 BRG=N15°51'42"W(M)

A PORTION OF LOT 46C  
 Parcel # 17-23-28-9336-30-462

WATERS CONNECTING TO  
 LAKE BUTLER

N 18°22'23" W 154.82'(C)  
 A PORTION OF LOT 46C  
 Parcel # 17-23-28-6336-30-16



(Pavement Road R/W 30' Per Plat)  
 PINE STREET  
 EDGE OF PAVEMENT  
 175°47'16" E 170.00'(M)  
 169.86'(M)

CONCRETE RETAINING WALL  
 4' ALUMINUM FENCE

EXISTING CONCRETE DRIVEWAY  
 31' PINE STREET  
 EXISTING RESIDENCE

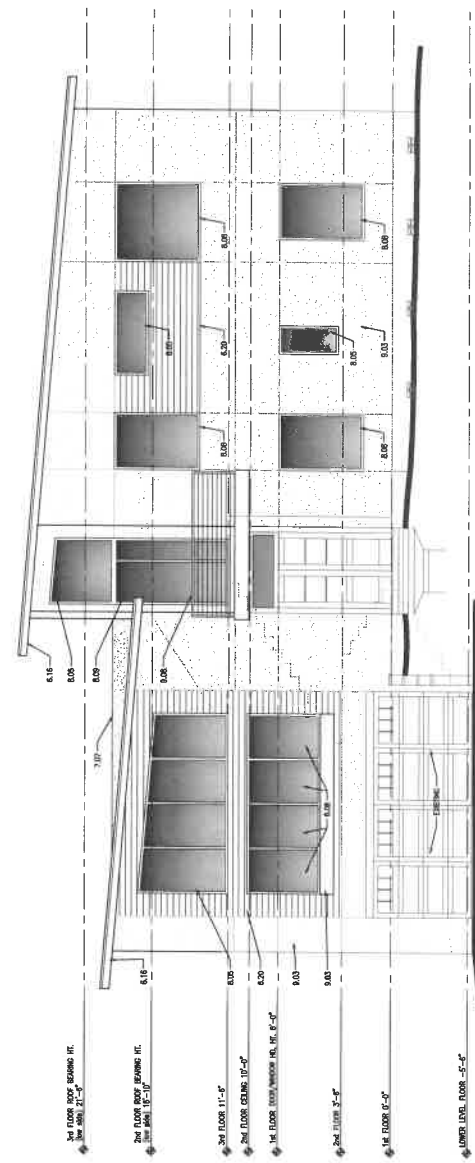
4' ALUMINUM FENCE  
 N 71°57'29" E 128.28'(M)  
 N 71°57'29" E 128.37'(D)

-461

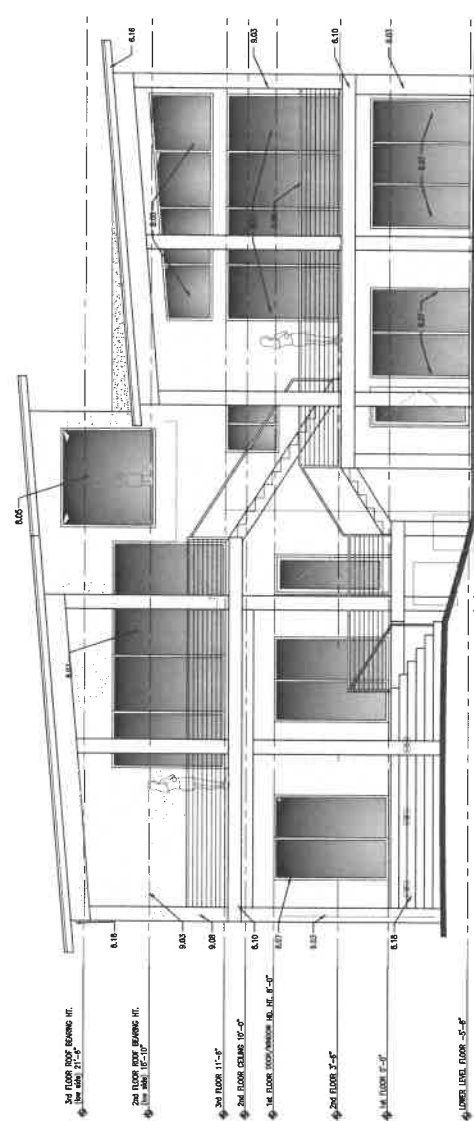
18°22'23" W 14.35'(M)  
 18°02'31" W 14.32'(D)

**KEYNOTES**

- SECTION 1 - GENERAL REQUIREMENTS**
- 1.1 3/4" MINIMUM CONCRETE SLAB SPECIFICATIONS SHALL BE AS FOLLOWS:
- SECTION 2 - STRUCTURE**
- 2.1 3/4" MINIMUM CONCRETE SLAB
  - 2.2 CONCRETE FLOOR OR WALL
  - 2.3 1/2" MINIMUM CONCRETE SLAB
  - 2.4 1/2" MINIMUM CONCRETE SLAB
  - 2.5 1/2" MINIMUM CONCRETE SLAB
  - 2.6 1/2" MINIMUM CONCRETE SLAB
  - 2.7 1/2" MINIMUM CONCRETE SLAB
  - 2.8 1/2" MINIMUM CONCRETE SLAB
  - 2.9 1/2" MINIMUM CONCRETE SLAB
  - 2.10 1/2" MINIMUM CONCRETE SLAB
  - 2.11 1/2" MINIMUM CONCRETE SLAB
  - 2.12 1/2" MINIMUM CONCRETE SLAB
  - 2.13 1/2" MINIMUM CONCRETE SLAB
  - 2.14 1/2" MINIMUM CONCRETE SLAB
  - 2.15 1/2" MINIMUM CONCRETE SLAB
  - 2.16 1/2" MINIMUM CONCRETE SLAB
  - 2.17 1/2" MINIMUM CONCRETE SLAB
  - 2.18 1/2" MINIMUM CONCRETE SLAB
  - 2.19 1/2" MINIMUM CONCRETE SLAB
  - 2.20 1/2" MINIMUM CONCRETE SLAB
- SECTION 3 - ROOFING**
- 3.1 1/2" MINIMUM CONCRETE SLAB
  - 3.2 1/2" MINIMUM CONCRETE SLAB
  - 3.3 1/2" MINIMUM CONCRETE SLAB
  - 3.4 1/2" MINIMUM CONCRETE SLAB
  - 3.5 1/2" MINIMUM CONCRETE SLAB
  - 3.6 1/2" MINIMUM CONCRETE SLAB
  - 3.7 1/2" MINIMUM CONCRETE SLAB
  - 3.8 1/2" MINIMUM CONCRETE SLAB
  - 3.9 1/2" MINIMUM CONCRETE SLAB
  - 3.10 1/2" MINIMUM CONCRETE SLAB
  - 3.11 1/2" MINIMUM CONCRETE SLAB
  - 3.12 1/2" MINIMUM CONCRETE SLAB
  - 3.13 1/2" MINIMUM CONCRETE SLAB
  - 3.14 1/2" MINIMUM CONCRETE SLAB
  - 3.15 1/2" MINIMUM CONCRETE SLAB
  - 3.16 1/2" MINIMUM CONCRETE SLAB
  - 3.17 1/2" MINIMUM CONCRETE SLAB
  - 3.18 1/2" MINIMUM CONCRETE SLAB
  - 3.19 1/2" MINIMUM CONCRETE SLAB
  - 3.20 1/2" MINIMUM CONCRETE SLAB
- SECTION 4 - INTERIOR AND EXTERIOR FINISHES**
- 4.1 1/2" MINIMUM CONCRETE SLAB
  - 4.2 1/2" MINIMUM CONCRETE SLAB
  - 4.3 1/2" MINIMUM CONCRETE SLAB
  - 4.4 1/2" MINIMUM CONCRETE SLAB
  - 4.5 1/2" MINIMUM CONCRETE SLAB
  - 4.6 1/2" MINIMUM CONCRETE SLAB
  - 4.7 1/2" MINIMUM CONCRETE SLAB
  - 4.8 1/2" MINIMUM CONCRETE SLAB
  - 4.9 1/2" MINIMUM CONCRETE SLAB
  - 4.10 1/2" MINIMUM CONCRETE SLAB
  - 4.11 1/2" MINIMUM CONCRETE SLAB
  - 4.12 1/2" MINIMUM CONCRETE SLAB
  - 4.13 1/2" MINIMUM CONCRETE SLAB
  - 4.14 1/2" MINIMUM CONCRETE SLAB
  - 4.15 1/2" MINIMUM CONCRETE SLAB
  - 4.16 1/2" MINIMUM CONCRETE SLAB
  - 4.17 1/2" MINIMUM CONCRETE SLAB
  - 4.18 1/2" MINIMUM CONCRETE SLAB
  - 4.19 1/2" MINIMUM CONCRETE SLAB
  - 4.20 1/2" MINIMUM CONCRETE SLAB
- SECTION 5 - ROOFING AND FINISHES**
- 5.1 1/2" MINIMUM CONCRETE SLAB
  - 5.2 1/2" MINIMUM CONCRETE SLAB
  - 5.3 1/2" MINIMUM CONCRETE SLAB
  - 5.4 1/2" MINIMUM CONCRETE SLAB
  - 5.5 1/2" MINIMUM CONCRETE SLAB
  - 5.6 1/2" MINIMUM CONCRETE SLAB
  - 5.7 1/2" MINIMUM CONCRETE SLAB
  - 5.8 1/2" MINIMUM CONCRETE SLAB
  - 5.9 1/2" MINIMUM CONCRETE SLAB
  - 5.10 1/2" MINIMUM CONCRETE SLAB
  - 5.11 1/2" MINIMUM CONCRETE SLAB
  - 5.12 1/2" MINIMUM CONCRETE SLAB
  - 5.13 1/2" MINIMUM CONCRETE SLAB
  - 5.14 1/2" MINIMUM CONCRETE SLAB
  - 5.15 1/2" MINIMUM CONCRETE SLAB
  - 5.16 1/2" MINIMUM CONCRETE SLAB
  - 5.17 1/2" MINIMUM CONCRETE SLAB
  - 5.18 1/2" MINIMUM CONCRETE SLAB
  - 5.19 1/2" MINIMUM CONCRETE SLAB
  - 5.20 1/2" MINIMUM CONCRETE SLAB



**1 WEST ELEVATION**  
SCALE 1/4" = 1'-0"



**2 EAST ELEVATION**  
SCALE 1/4" = 1'-0"

**JWB ARCHITECTS**  
3115 W. BAY STREET  
SUITE 100  
MIAMI, FL 33149  
PH: 305.371.4444  
WWW.JWBARCHITECTS.COM

**BRYCE & PATRICA GRAFTON**

**GRAFTON RESIDENCE / REMODEL - ADDITION**

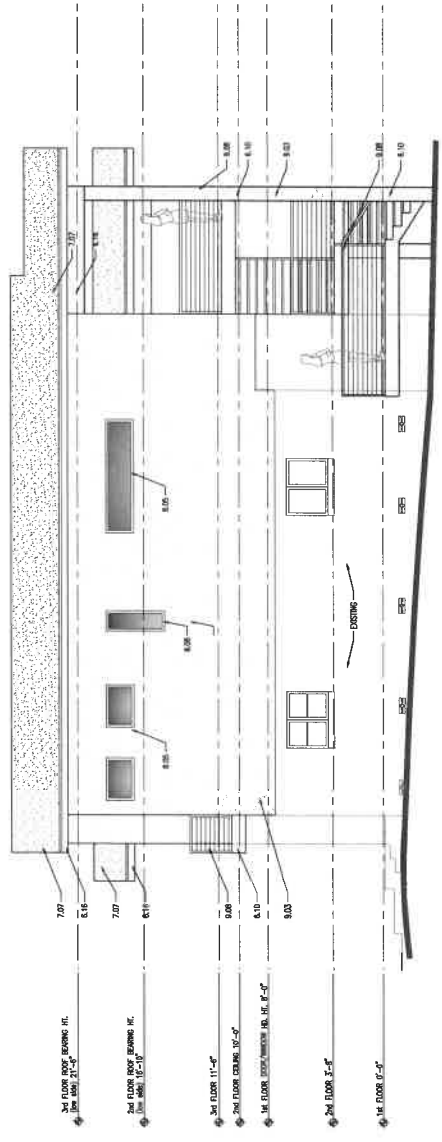
**EXTERIOR ELEVATIONS**

**A301**

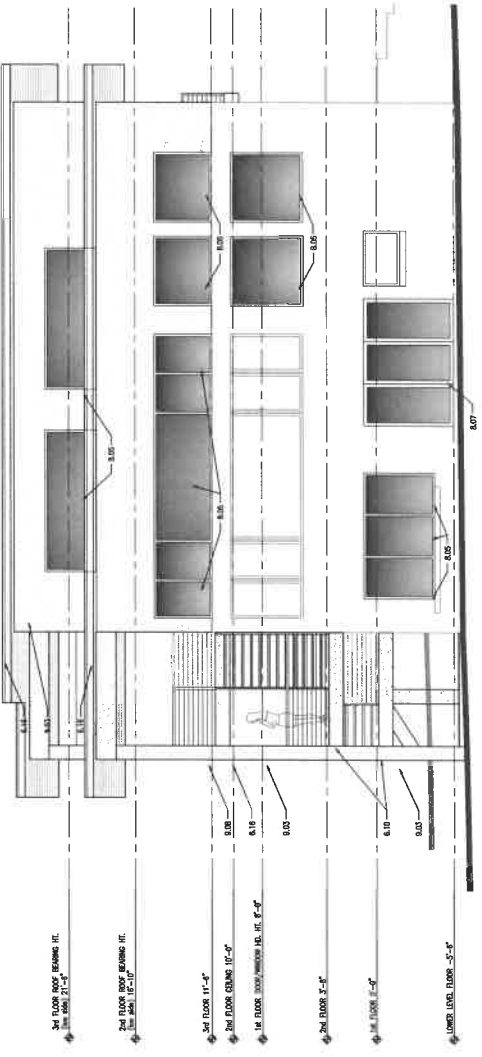
DATE: 02/20/20  
DRAWN BY: JWB  
CHECKED BY: JWB  
PROJECT NO.: 19-0025

**KEYNOTES**

- SECTION 1 - GENERAL REQUIREMENTS**
- 1.1 SEE THE NOTES FOR THE CONSTRUCTION SPECIFICATIONS ATTACHED.
- SECTION 2 - STRUCTURE**
- 2.01 ALL CONCRETE SHALL BE 4000 PSI STRENGTH, UNLESS OTHERWISE NOTED.
  - 2.02 ALL CONCRETE SHALL BE PLACED IN THE PRESENCE OF AN IRON.
  - 2.03 CONCRETE SHALL BE FINISHED TO THE FINISH GRADE.
  - 2.04 ALL FOUNDATION WALLS SHALL BE CONCRETE ON A GRAVEL PAD.
- SECTION 3 - ROOFING**
- 3.01 ALL ROOFING SHALL BE PERFORMED BY AN IRON.
  - 3.02 ALL ROOFING SHALL BE PLACED IN THE PRESENCE OF AN IRON.
  - 3.03 ALL ROOFING SHALL BE FINISHED TO THE FINISH GRADE.
  - 3.04 ALL ROOFING SHALL BE FINISHED TO THE FINISH GRADE.
- SECTION 4 - FLOORING**
- 4.01 ALL FLOORING SHALL BE PERFORMED BY AN IRON.
  - 4.02 ALL FLOORING SHALL BE PLACED IN THE PRESENCE OF AN IRON.
  - 4.03 ALL FLOORING SHALL BE FINISHED TO THE FINISH GRADE.
  - 4.04 ALL FLOORING SHALL BE FINISHED TO THE FINISH GRADE.
- SECTION 5 - WALLS AND PARTITIONS**
- 5.01 ALL WALLS AND PARTITIONS SHALL BE PERFORMED BY AN IRON.
  - 5.02 ALL WALLS AND PARTITIONS SHALL BE PLACED IN THE PRESENCE OF AN IRON.
  - 5.03 ALL WALLS AND PARTITIONS SHALL BE FINISHED TO THE FINISH GRADE.
  - 5.04 ALL WALLS AND PARTITIONS SHALL BE FINISHED TO THE FINISH GRADE.
- SECTION 6 - DOORS AND WINDOWS**
- 6.01 ALL DOORS AND WINDOWS SHALL BE PERFORMED BY AN IRON.
  - 6.02 ALL DOORS AND WINDOWS SHALL BE PLACED IN THE PRESENCE OF AN IRON.
  - 6.03 ALL DOORS AND WINDOWS SHALL BE FINISHED TO THE FINISH GRADE.
  - 6.04 ALL DOORS AND WINDOWS SHALL BE FINISHED TO THE FINISH GRADE.
- SECTION 7 - FINISHES AND MATERIALS**
- 7.01 ALL FINISHES AND MATERIALS SHALL BE PERFORMED BY AN IRON.
  - 7.02 ALL FINISHES AND MATERIALS SHALL BE PLACED IN THE PRESENCE OF AN IRON.
  - 7.03 ALL FINISHES AND MATERIALS SHALL BE FINISHED TO THE FINISH GRADE.
  - 7.04 ALL FINISHES AND MATERIALS SHALL BE FINISHED TO THE FINISH GRADE.
- SECTION 8 - UTILITIES**
- 8.01 ALL UTILITIES SHALL BE PERFORMED BY AN IRON.
  - 8.02 ALL UTILITIES SHALL BE PLACED IN THE PRESENCE OF AN IRON.
  - 8.03 ALL UTILITIES SHALL BE FINISHED TO THE FINISH GRADE.
  - 8.04 ALL UTILITIES SHALL BE FINISHED TO THE FINISH GRADE.



1 SOUTH ELEVATION  
SCALE: 1/4" = 1'-0"



2 NORTH ELEVATION  
SCALE: 1/4" = 1'-0"

Client: **BRYCE & PATRICA GRAFTON**

**EXTERIOR ELEVATIONS**  
**GRAFTON RESIDENCE / REMODEL - ADDITION**  
31 PINE STREET  
WINDHURST, FL 32786

Architect of Record:  
JWB ARCHITECTS  
400 N. Elm Street - Tallahassee

Client:	Owner:	Contract No.:	Drawn By:
JWB ARCHITECTS	MJP	JWB	JWB
Project No.:	Date:		
19-008			
Sheet No.:			
<b>A302</b>			





# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor  
JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

June 17, 2020

FAY GERALD W  
28 PINE ST  
WINDERMERE, FL 34786

JUN 26 2020

RE: Public Re-Notice of Variance Public Hearing for 31 Pine Street Z20-09

This notice is a re-notice for the subject variance case due to an error on the return address on the pre-stamped response envelope.

Patricia Sweet-Grafton and Bryce Grafton, owners of 31 Pine Street submitted a request for approval of a variance, pursuant to Division 10.02.00 of the Town of Windermere Land Development Code. The purpose of the variance request is to allow for an additional 804.78 square feet of gross floor area from what was previously approved under variance #Z19-005. The additional gross floor area is the result expanding the 2<sup>nd</sup> floor area. The applicant is also requesting a variance for a less than 50-foot setback from the normal high water elevation for a pool deck expansion. The setback request is for 15.7 feet from the normal high water elevation.

Enclosed is additional information regarding this request.

Pursuant to the Town of Windermere Code of Ordinances, you as a surrounding property owner are entitled to comment on this matter. If you wish to comment, this form must be received by the Town of Windermere use of the enclosed stamped envelope to Wade Trim, Inc. by July 17, 2020.

This matter will be presented to the Development Review Board on Tuesday, July 21, 2020 at 6:30 p.m. Their recommendation will be heard by the Town Council on Tuesday, August 11, 2020 2019 at 6:00 p.m. At this time, the Town will either hold the meeting in person in the Town Hall, located at 520 Main Street, Windermere or it will be done virtually through Zoom. However, please refer to the Town's website or contact the Town's Administration Office to confirm the meeting method. You can access links to the meetings on the Town's website at <https://town.windermere.fl.us/>. If you need help connecting to the meetings you can contact the Town at 407-876-2563. All meetings are open to the public and you are welcome to participate. Feel free to contact me if you have any questions.

Sincerely,  
Brad Cornelius, AICP, Town Planner  
Wade Trim, Inc.  
813.882.4373  
[town@wadetrim.com](mailto:town@wadetrim.com)  
Encl.

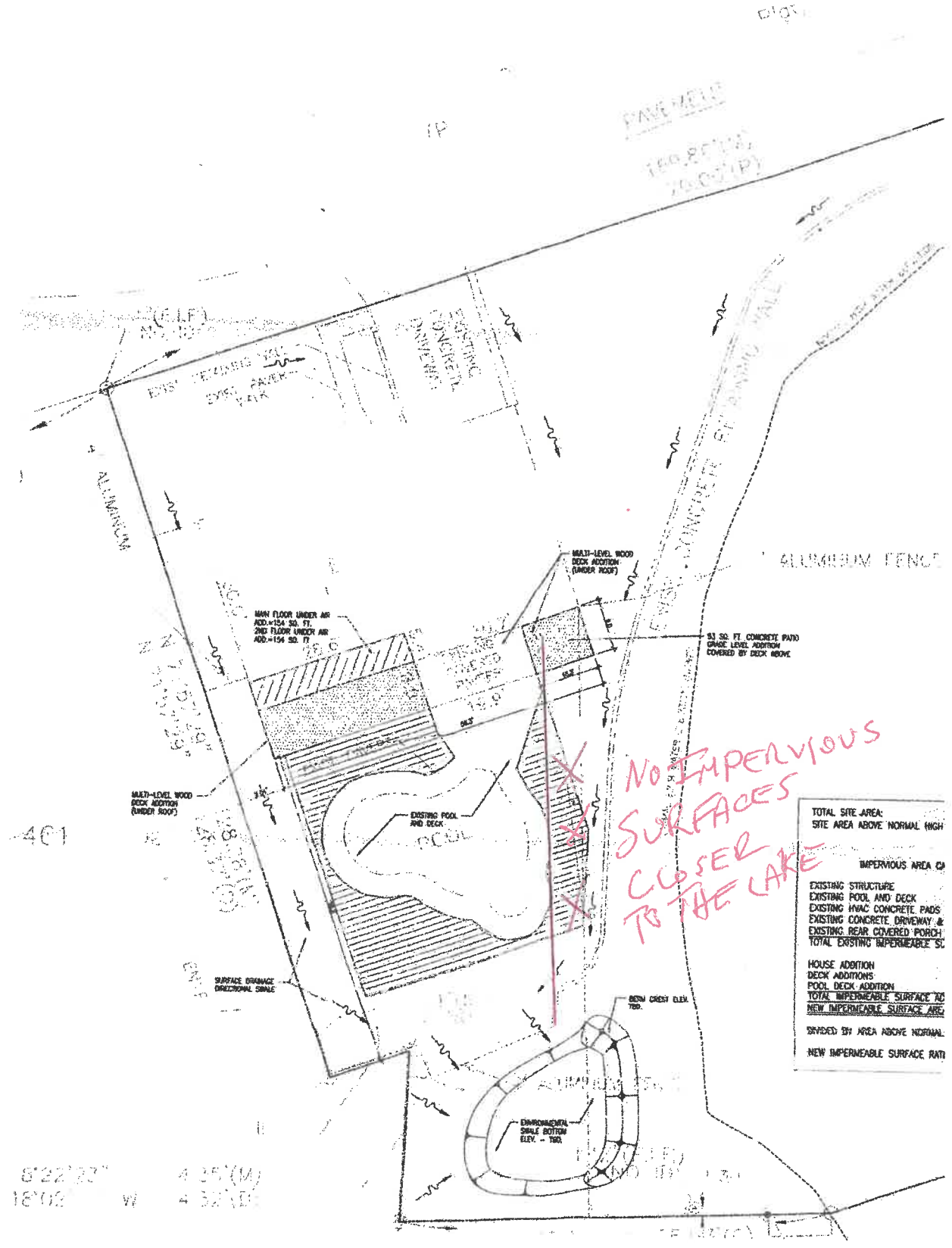
---

RECOMMEND - Z20-09 (31 Pine Street)

APPROVAL: X DISAPPROVAL \_\_\_\_\_

COMMENTS: I mentioned before that I'd like nothing more closer to the lake but Grafton said that "F" was not going to be built. I would hope not.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
FAY GERALD W



PAVE FIELD  
 160.87' (W)  
 79.00' (P)

EXIST. TERRAZZO TILE  
 EXIST. PAVEMENT  
 EXIST. CONCRETE DRIVEWAY

MULTI-LEVEL WOOD  
 DECK ADDITION  
 (UNDER ROOF)

MAIN FLOOR UNDER AIR  
 ADD. 154 SQ. FT.  
 2ND FLOOR UNDER AIR  
 ADD. 154 SQ. FT.

83 SQ. FT. CONCRETE PATIO  
 GRADE LEVEL ADDITION  
 COVERED BY DECK ABOVE

MULTI-LEVEL WOOD  
 DECK ADDITION  
 (UNDER ROOF)

EXISTING POOL  
 AND DECK

**NO IMPERVIOUS SURFACES CLOSER TO THE LAKE**

SURFACE DRAINAGE  
 DIRECTIONAL CHANNEL

SEW. DRESS. ELEV.  
 780.

ENVIRONMENTAL  
 SCALE BOTTOM  
 ELEV. - 780.

TOTAL SITE AREA:	
SITE AREA ABOVE NORMAL HIGH:	
IMPERVIOUS AREA (A)	
EXISTING STRUCTURE	
EXISTING POOL AND DECK	
EXISTING HVAC CONCRETE PADS	
EXISTING CONCRETE DRIVEWAY &	
EXISTING REAR COVERED PORCH	
TOTAL EXISTING IMPERVIOUS SURFACES:	
HOUSE ADDITION	
DECK ADDITIONS	
POOL DECK ADDITION	
TOTAL IMPERVIOUS SURFACE AD	
NEW IMPERVIOUS SURFACE AREA:	
DIVIDED BY AREA ABOVE NORMAL	
NEW IMPERVIOUS SURFACE RATE:	

8'22"23"  
 18'02" W 4'35"(M)  
 4'32"(E)





## EXECUTIVE SUMMARY

**SUBJECT:** Request to amend Land Development Code to allow Chickens in Residential areas

**REQUESTED ACTION:** Board Discussion

Work Session (Report Only)    **DATE OF MEETING:** 7/21/2020  
 Regular Meeting                       Special Meeting

**CONTRACT:**  N/A    Vendor/Entity: \_\_\_\_\_  
Effective Date: \_\_\_\_\_                                      Termination Date: \_\_\_\_\_  
Managing Division / Dept: \_\_\_\_\_

**BUDGET IMPACT:** TBD  
 Annual                      **FUNDING SOURCE:** \_\_\_\_\_  
 Capital                      **EXPENDITURE ACCOUNT:** \_\_\_\_\_  
 N/A

---

### HISTORY/FACTS/ISSUES:

Board Members,

At a prior meeting a Resident requested that the Town Council consider allowing Chickens in Residential areas. This is currently prohibited in the Town's Land Development Code. The Town Clerk reached out to surrounding jurisdictions to see if they allow and if so, how do they regulate. The responses were mixed but if they are allowed the conditions are as follows:

- Only Hens
- Max 4
- Permit Required
- No Sales
- No Slaughtering

Staff presented the concept to Town Council about allowing chickens in residential areas and they consented to proceed with drafting an ordinance with DRB input.

---

Current Code:

Sec. 4-1. - Harboring certain animals

Household pets are permitted in all zoning districts, subject to all other applicable town and Orange County regulations. Household pets shall not be considered to include poultry, hoofed animals of any type, or any animal that requires a permit for possession from the Florida Fish and Wildlife Conservation Commission. The term "poultry" means any chickens, turkeys, ducks, geese or guinea fowls.

ORDINANCE NO. 2020-06 was drafted to allow chickens as defined in the ordinance but also allow for reasonable guidelines, restrictions and enforcement.

Staff would look to the DRB for further direction.

---

**ORDINANCE NO. 2020-06**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDERMERE, FLORIDA ALLOWING FOR BACKYARD CHICKENS; ADDING A NEW ARTICLE III TO CHAPTER 4 OF THE TOWN’S CODE OF ORDINANCES TO CREATE A BACKYARD CHICKEN PROGRAM; REQUIRING A PERMIT AND PROVIDING FOR TERMS, CONDITIONS, AND PENALTIES CONCERNING THE KEEPING OF CHICKENS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.**

**BE IT ENACTED BY THE PEOPLE OF THE TOWN OF WINDERMERE:**

**Section 1. Legislative Findings.** The Town Council of the Town of Windermere (the “Town”) hereby makes and declares the following findings and statements of legislative intent:

- a) The Town Council recognizes the general trend in society to pursue a green lifestyle, to incorporate fresher products into diets, and to provide additional methods for allowing residents to engage in backyard food production through keeping and raising a limited number of chickens on single-family properties for production of eggs for the property owners’ consumption.
- b) The Town Council recognizes that the allowance of keeping backyard chickens into an urban residential setting must be balanced with the compatibility of surrounding property uses and that the accommodation of allowing backyard chickens in residential areas not cause undue noise, odor, or unsanitary conditions within the Town.
- c) The Town Council has determined that the allowance of a limited number of backyard chickens as an accessory use as provided herein is in the best interests of the health, safety, and welfare of the residents of the Town, and that this Ordinance is consistent with the Town’s Comprehensive Plan.

**Section 2. Adoption.** Article I titled “In General” of Chapter 4 titled “Animals” is hereby revised and a new Article III to be titled “Backyard Chicken Program” is hereby added to Chapter 4 to read as follows (words that are underlined are additions; words that are ~~stricken~~ are deletions; and all other provisions of Chapter 4 shall remain unchanged):

**CHAPTER 4 – ANIMALS**

**ARTICLE I. - IN GENERAL**

**Sec. 4-1. - Harboring certain animals.**

Household pets are permitted in all zoning districts, subject to all other applicable town and Orange County regulations. Household pets shall not be considered to include poultry, hoofed

41 animals of any type, or any animal that requires a permit for possession from the Florida Fish  
42 and Wildlife Conservation Commission. The term “poultry” means any male chickens, turkeys,  
43 ducks, geese or guinea fowls.

44 Exotic or invasive species of any kind, as defined and regulated by the Florida Fish and Wildlife  
45 Conservation Commission, shall not be used, kept or introduced into the town.

46 \* \* \*

47 **ARTICLE III. – BACKYARD CHICKEN PROGRAM**

48 **Sec. 4-30 . – Purpose and intent; program created; definitions.**

49 (1) The intent of the Backyard Chicken Program is to permit the keeping of up to four  
50 (4) chickens on an occupied detached single-family parcel of property, subject to the terms and  
51 conditions herein. For clarification, in the event there are multiple families or tenants living on  
52 one parcel of property, only four (4) chickens are allowed per “parcel” of property, as the term  
53 parcel is defined in Sec. 1.13.00 of the Town’s Land Development Code.

54 (2) For the purposes of this article, the term “chicken” refers to female chickens only  
55 (i.e., hens).

56 (3) This article does not authorize persons to violate applicable restrictive covenants  
57 and homeowners’ association rules and regulations. The Town does not police or enforce private  
58 restrictive covenants and homeowners’ association rules and regulations. Persons applying for  
59 and receiving permits under this article are solely responsible for compliance with all applicable  
60 restrictive covenants and homeowners’ association rules and regulations.

61 **Sec. 4-31. – Permit and general conditions for the keeping of chickens.**

62 (1) Persons desiring to participate in the Backyard Chicken Program shall apply for  
63 and obtain a permit from the Town Manager or his designee prior to keeping chickens. The  
64 Town shall charge a fee of \$50.00 to persons applying for a permit under this article to cover  
65 processing costs. If the person applying for a permit is not the fee simple owner of the subject  
66 property, the fee simple owner must join in and consent to the application.

67 (2) The application for a permit shall include proof to the Town that the applicant has  
68 attended and successfully completed a class at the Orange County Agricultural Extension Service  
69 or the University of Florida Extension Office (UF/IFAS) on the care and raising of chickens.

70 (3) In order to obtain a permit under this article, persons applying for a permit for the  
71 keeping of chickens must show that they can meet the requirements of this article. The Town  
72 may conduct site inspections of the subject property to make compliance determinations under  
73 this article prior and after issuance of a permit. The Town Manager or his designee may deny a  
74 permit application if he determines that the person(s) applying for a permit cannot meet the  
75 requirements of this article. The issuance of a permit for the keeping of chickens is conditioned  
76 upon and subject to the terms and conditions of this article.

77           (4) By applying for a temporary permit under this article, persons applying for such  
78 permit thereby: (a) agree to the terms and conditions of this article; (b) grant the Town and its  
79 officers, employees, and agents a right-of-entry upon the subject property (including the rear  
80 yard) for inspection purposes to ensure compliance with this article prior to and after the  
81 issuance of a permit, (c) agree to remove chickens and chicken coops and enclosures upon the  
82 termination or expiration of a permit and/or non-compliance with this article; and (d) hold the  
83 Town and its officials, officers, employees and agents harmless concerning matters relating to or  
84 concerning the permit and this article. As a condition of obtaining a permit, the Town Manager  
85 may require persons applying for a permit to sign an agreement, in a form acceptable to the  
86 Town, incorporating the agreements of this subsection (4).

87           (5) Up to four (4) chickens may be kept on an occupied detached single-family parcel  
88 of property located in areas where detached single-family residential is permitted upon receiving  
89 a permit from the Town Manager or his designee. Regardless of the underlying zoning district,  
90 chickens shall not be kept on properties developed with commercial uses.

91           (6) Chickens must be kept within a coop or enclosure at all times, unless the Town  
92 Manager grants a reasonable accommodation in regards to a claimed disability to allow a person  
93 to interact with and supervise the chickens within the confines of a fenced rear yard on the  
94 permitted premises. After a person has completed personal interaction and supervision of  
95 chickens within the confines of a fenced rear yard on the permitted premises, chickens shall be  
96 placed back into a coop.

97           (7) Other poultry as defined by Sec. 4-1 are not allowed under the provisions of this  
98 article.

99           (8) Chickens shall be kept for personal use only. Selling chickens, eggs, or chicken  
100 manure, or the breeding of chickens for commercial purposes is prohibited.

101           (9) Chickens shall not be slaughtered on premises.

102           (10) All applicable building permits shall be obtained prior to constructing enclosures  
103 to house chickens.

104 **Sec. 4-32. –Location and requirements for chicken coops.**

105           (1) The maximum size of the coop shall be one hundred and twenty (120) square feet.  
106 A building permit from the Town will be required. The application submittal shall show  
107 construction materials and methods as well as anchoring methods, such as tie-downs. Mobile  
108 coops shall be prohibited unless properly anchored to the satisfaction of the Town. The square  
109 footage for a chicken coop which meets the requirements of this Article is exempt from (i) the  
110 impervious surface area calculation for a parcel, and (ii) the floor area for a single-family  
111 building.

112           (2) The maximum height of a coop and the fence around the coop shall be six (6)  
113 feet, as measured from the existing grade to the highest part of the coop or fence.

114           (3)    The coop shall be located in the rear yard of the single-family detached residence  
115 and be set back a minimum of 10 feet from the side and rear lot lines, a minimum of twenty-five  
116 (25) feet from any side street, and a minimum of fifty (50) feet from the normal high water  
117 elevation of a lake, so long as the coop area shall be at least twenty-five (25) feet from any  
118 residential structure on an adjoining lot.

119           (4)    A coop must be built within a rear yard that is surrounded by an opaque wall or  
120 fence that is at least six (6) feet in height. Nothing in this section shall prevent construction of a  
121 coop to abut the side of an applicant's house, so long as it otherwise meets the requirements of  
122 the Code of Ordinances.

123           (5)    Chicken coops shall be covered and ventilated, and a fenced enclosure/run area is  
124 required. The coop must be constructed in a way that establishes a clean, safe and pleasant  
125 environment free of odor, vermin, noise, and disease.

126           (6)    All enclosures for the keeping of chickens shall be so constructed and maintained  
127 as to prevent rodents or other pests from being harbored underneath, within, or within the walls  
128 of the enclosure.

129           (7)    Chicken coops must be impermeable to rodents, wild birds, predators and  
130 weather, including all openings, ventilation holes, doors and gates. Enclosures shall be kept in  
131 neat condition, including provision of clean, dry bedding materials and regular removal of waste  
132 materials, so as to not create an odor.

133           (8)    The space per chicken in the coop shall not be less than three (3) square feet.

134           (9)    All chicken feed shall be kept in a secured and covered metal or plastic container,  
135 or otherwise protected so as to prevent rodents and other pests from gaining access to it.

136           (10)   Chicken coops shall be completely screened from adjacent roadways and parcels  
137 by a six-foot tall opaque fence, wall, or equivalent landscape vegetative material.

138           (11)   A signed affidavit is required to be submitted with all chicken-keeping permit  
139 applications. The affidavit shall state that the chicken coop will be designed, constructed and  
140 operated to the standards outlined in this article. The affidavit shall also state that the drawings  
141 submitted as part of the petition are a reasonably accurate representation of the subject site  
142 features and adjacent properties.

143    **Sec. 4-33. –Health, sanitation, and nuisance as applied to the keeping of chickens.**

144           (1)    Chickens shall be kept within a coop and enclosure. No person shall release or set  
145 any chicken free from such coop or enclosure except as set forth in this article. Chickens shall  
146 not be permitted to trespass on neighboring properties.

147           (2)    Chicken coops and enclosures shall be maintained in a clean and sanitary  
148 condition at all times. Chickens shall not be permitted to create a nuisance consisting of odor,  
149 noise or pests, or contribute to any other nuisance condition.

150 **Sec. 4-34. –Violations.**

151 In the event that a violation of this article occurs, the Town shall have the right to one or  
152 more of the following remedies or actions:

153 (1) Institute code enforcement proceedings and prosecute code violations against the  
154 violator and the property owner of the real property where the violation occurs;

155 (2) Prosecute the violator in accordance with Sec. 1-12 punishable by a fine not  
156 exceeding \$500.00 or imprisonment for a term not exceeding 60 days, or by both  
157 such fine and imprisonment;

158 (3) Take any other action or remedy authorized by law or in equity, including but not  
159 limited to, instituting an action in court to enjoin violating actions, in which case  
160 the violating person shall be liable to the Town for reimbursement of the Town's  
161 attorneys' fees and costs concerning such action; and/or

162 (4) Revoke the permit for the keeping of chickens.

163 No person convicted or declared as a repeat violator of subsections one (1) through four (4) of  
164 this section may be permitted to, or continue to, keep chickens on their premises.

165 **Section 3. Codification.** Section 2 of this Ordinance shall be codified and made part of the  
166 Town of Windermere Code of Ordinances.

167 **Section 4. Conflicts.** In the event of a conflict or conflicts between this ordinance and other  
168 ordinances, this ordinance controls to the extent of the conflict.

169 **Section 5. Severability.** The provisions of this Ordinance are declared to be separable and if  
170 any section, paragraph, sentence or word of this Ordinance or the application thereto any person  
171 or circumstance is held invalid, that invalidity shall not affect other sections or words or  
172 applications of this Ordinance. If any part of this Ordinance is found to be preempted or  
173 otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent  
174 permitted by the severance of such preempted or superseded part.

175 **Section 6. Effective Date.** This Ordinance shall become effective upon adoption at its second  
176 reading.

177 **ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2020, at a regular meeting of the Town  
178 Council of the Town of Windermere, Florida.

179  
180  
181  
182  
183  
184  
185  
186

Town of Windermere, Florida  
by: Town Council

by: \_\_\_\_\_  
Jim O'Brien, Mayor

187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198

Attest:

---

Dorothy Burkhalter, MMC, FCRM  
Town Clerk

First reading:

Second reading:

Advertised: