

TOWN OF WINDERMERE

Development Review Board Meeting Minutes

February 15, 2022

Present were Chair Frank Chase, Board Members; Norma Sutton, Roger Heinz, Stephen Withers, and Peter Fleck. Town Manager Robert Smith, Town Planner Brad Cornelius, Town Council Liaison Bill Martini (via ZOOM), and Town Clerk Dorothy Burkhalter were also present. Member Jennifer Roper was absent.

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

1. OPEN FORUM/PUBLIC COMMENTS:

Chair Chase opened the floor to the public. There were no public speakers.

2. NEW BUSINESS:

a. MINUTES:

i. January 18, 2022 Meeting Minutes

Member Withers made a motion to approve the minutes. Member Heinz seconded the motion. All were in favor.

b. MEMBERSHIP:

i. Gregg Anderson

Chair Chase introduced this item. Member Heinz made a motion to recommend approval of Gregg Anderson as a new member to the DRB. Member Withers seconded the motion. All were in favor.

c. General Items for Consideration

i. Z22-01: 19 Main Street – Nguyen, Phu & Elizabeth – Variance to allow a pool less than 50 feet from the NHWE

Chair Chase turned the floor over to Mr. Cornelius. Mr. Cornelius presented case Z22-01. He explained that this request is to allow a pool to be constructed 23' from the normal high-water line with a deck at 20' from the NHWL. This would require a variance of 30' from the NHWL for the pool deck and a 27' variance for the pool. Mr. Cornelius commented on the standards for consideration for a variance. He reviewed comments received from Ms. Amy Giannotti (AquaSTEM Consulting, the Town's water specialist), Wade Trim, and Attorney Ramos. Mr. Cornelius then stated that public notices were mailed out with 5 responses received in support, and 3 in opposition. Member Withers commented on the past Town Council discussion regarding 50' setback and the process that would be needed if an Ordinance change is made. Seawalls and stormwater retention was discussed. Mr. Cornelius stated that Attorney Ramos stated that a hold harmless agreement could also be put in place. Mr. Nguyen owner of 19 Main Street introduced himself and his family. He then commented on surrounding areas and their setbacks, surrounding homes with pools, home originally built in 1951, saltwater pool instead of chlorine, seawall and additional stormwater protection, has moved septic from the back of home to front, and the need for the pool for his young daughter. Member Fleck question compliance with impervious overage. Mr.

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Cornelius stated the property is allowed 45% and with the pool it would be 44%. Member Fleck stated that his main concern is the stormwater. Member Withers commented that his concern is no valid hardship. Member Heinz stated that he feels this is a greater issue for the Town Council and not the DRB. Much discussion followed. Member Fleck stated he would much rather see pools closer to the lakes than landscaping that requires chemicals which will flow into the lakes. Member Sutton commented on the risks. Member Withers commented on the no hardship. Member Withers made a motion to recommend denial for the variance request. Member Sutton seconded the motion. Roll call vote was as follows: Sutton – aye, Heinz – nay, Withers – aye, Chase – aye, and Fleck – nay. Motion carried 3-2. Chair Chase stated that this is a recommending board. He then stated that this item will be before the Town Council on March 8, 2022 at 6:00pm in the Town Hall.

ii. Z22-02: 620 Forest Street – Brakken, Eric & Jessica – Variance to allow an accessory structure in excess of the 37% FAR

Member Heinz stated for the record that he will be recusing himself as he's the potential contractor. Chair Chase turned the floor over to Mr. Cornelius. Mr. Cornelius stated that the Brakkens would like to build a pool with an outdoor kitchen. He explained that the outdoor kitchen would have a roof, and per code, would need to meet code. Mr. Cornelius explained that with the roof the maximum coverage for the 50' lot is 38% and calculating the roof it would place the coverage at 39.8%. He further explained that this project does meet the impervious requirements as well as setbacks. Mr. Cornelius stated that the stormwater is located in the rear yard and will need to be re-done. He stated that public notices were mailed out with 18 received in support and 1 late response in objection. Mr. Cornelius also stated that the pool had been moved and no longer requires a variance. Member Withers suggested a bamboo top which would then be a shade structure and no variance would be needed. Mr. Heinz stated that with the outdoor weather, a roof is needed. Discussion followed regarding the shade structure. Mr. Heinz stated that the swales and drainage will be moved. Member Withers questioned the hardship. Member Sutton made a motion to recommend approval for the variance request. Member Withers seconded the motion. Roll call vote was as follows: Sutton – aye, Heinz – abstain, Withers – aye, Chase – aye, and Fleck – aye. Motin carried 4-0-1. Chair Chase stated that this is a recommending board. He then stated that this item will be before the Town Council on March 8, 2022 at 6:00pm in the Town Hall.

iii. Z22-03: 920 Main ST – Allen, Mark & Anne – Variance to allow a dock less than 16 feet from the side setback

Mr. Cornelius introduced case Z22-03. He explained that this is a variance to allow a side setback of 10' for a boat dock. This will be a 6' encroachment to the required 16' side setback. Mr. Cornelius stated that there is a previous variance for the setback of 10'; this would be a compete rebuild. He commented that public notices were mailed out with 7 responses received in support and 0 in objection. Mr. Cornelius stated that immediate neighbor Molly Rose has submitted approval to the Town and County. Member Withers questioned the original variance. Mr. Cornelius explained that since this footprint will be different, it's back before the Board. Discussion was made regarding the original variance. Chair Chase stated he remembered the original permit. Member Fleck questioned the zip line. Mr. Cornlius stated that those issues have been closed and will not be built. Member Withers made a motion to recommend approval for the variance. Member Fleck seconded the motion. Roll call vote was as follows: Fleck – aye, Chase – aye, Withers – aye, Heinz – aye, and Sutton – aye. Motin carried 5-0. Chair Chase stated that this is a recommending board. He then stated that this item will be before the Town Council on March 8, 2022 at 6:00pm in the Town Hall.

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iv. Z22-05: 1 1st Court – Roland, Jason & Anita – Variance to allow a dock less than 16 feet from the side setback

Mr. Cornelius explained that Mr. Roland is looking to expand his existing non-conforming dock resulting in a 6.9' side setback. He stated that the required set back is 16'. Mr. Cornelius stated that Mr. Roland will need to apply for permits with Orange County EPD for approval. He stated that public notices were sent out with 7 responses in support, 2 with comments and 1 in objection. Discussion ensued regarding length which is not the variance request only the side setback; neighboring docks, and potential conflicts. Chair Chase stated that Mr. Roland needed to work with his neighbor due to the County requirement of approval from the immediate neighbors. He then stated that this item should be tabled until the applicant has gone through the County process. Mr. Jason Roland, owner of 1 1st Court introduced himself. He then stated that he was "caught off guard" by his neighbors' comments. Mr. Roland commented on the location/length and other close surrounding docks. Member Sutton questioned if the new dock closer than the existing dock. Mr. Roland stated that it is an extension of the existing dock. Member Fleck commented on concerns with approval from the Navigation Board and possibly renovate existing. Mr. Roland stated that dredging would then need to be done and he would not want to do that. Discussion followed. Chair Chase opened the floor to the public. Ms. Allison Pearce of 78 Forest Street spoke on concerns regarding the length of the dock and turnaround areas. Member Heinz questioned if Mr. Roland had a Bathymetric Survey. Mr. Cornelius stated he will provide that for the County permit. Member Heinz made a motion to recommend approval of the variance request. He stated that the motion is "solely based on if we're not the board of transportation and turnaround, boat turnaround, the Bathymetric Survey, the length is not what we're talking about, and how he gets his boat in is technically not our problem." Member Sutton seconded the motion. Member Withers would like to have included in the motion that Mr. Roland work with his neighbor. Member Fleck made a motion to table this item, have the applicant obtain a navigation study and bring this back. Clerk Burkhalter advised that there is a current motion and second on the floor. After some discussion, Member Heinz amended his motion to include that a navigational study be done, work with the neighbor and depth survey for the variance approval. Chair Chase stated that the navigation and depth item will be handled at the County level. And if the County approves the permit this would allow the applicant to permit the dock. Roll call vote was as follows: Sutton – aye, Heinz – aye, Withers – nay, Chase – aye, and Fleck – nay. Motion carried 3-2. Chair Chase stated that this is a recommending board. He then stated that this item will be before the Town Council on March 8, 2022 at 6:00pm in the Town Hall.

v. Z22-06: 11068 Bayshore Drive – O'Keefe, David & Linda – Variance to allow a dock less than 16 feet from the side setback

Chair Chase turned the floor over to Mr. Cornelius. Member Fleck stated that he would be recusing himself as he's the dock builder. Mr. Cornelius presented variance request Z22-06 which is to allow expanding of a conforming dock resulting in a 11.5' setback instead of 16' per code. He stated that public notices were sent out with 6 received in support and in 1 opposition. Mr. Cornelius further stated that a County permit has been obtained/approved. Member Withers questioned the directional maps (north, south, east, west) and dimensions. He then stated that he would like to see a drawing to scale. Mr. Cornelius explained that the request is for the side setback. Member Withers questioned the need for the variance. Mr. Fleck explained that it's an older dock that is being renovated, scaled back with an 8 x 10 addition and adding a 2' walkway which assists with support. Some discussion followed. Member Withers questioned if this is an old dock needing new support? Mr. Fleck stated yes. Member Withers made a motion to recommend approval of the variance request. Member Heinz seconded the motion. Roll call vote was as

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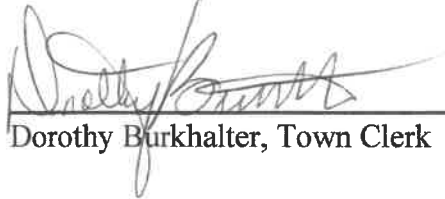
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follows: Sutton – aye, Heinz – aye, Withers – aye, Chase – aye, and Fleck – abstain. Motin carried 4-0-1. Chair Chase stated that this is a recommending board. He then stated that this item will be before the Town Council on March 8, 2022 at 6:00pm in the Town Hall.

4. ADJOURN:

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

The meeting adjourned at 7:57pm.



Dorothy Burkhalter, Town Clerk



Frank Chase, Chair

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Fleck Peter</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>DRB</i>
MAILING ADDRESS <i>10820 Wonder Lane</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY <i>Windermere FL 34786</i>	NAME OF POLITICAL SUBDIVISION: <i>Town of Windermere</i>
DATE ON WHICH VOTE OCCURRED	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTEE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Peter Fleck, hereby disclose that on 2-15, 2022

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____ ;
- inured to the special gain or loss of my relative, _____ ;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

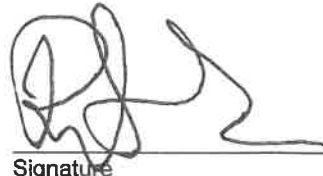
(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Dan OKeefe is a Boat Dock client of my Company

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

2-15-22

Date Filed


Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Henz Roger Philip</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Dev. Review Board</i>
MAILING ADDRESS <i>616 Forest Street</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY <i>Windsor</i> <i>Orange</i>	NAME OF POLITICAL SUBDIVISION: <i>Town of Windsor</i>
DATE ON WHICH VOTE OCCURRED <i>2/15/2022</i>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

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For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

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APPOINTED OFFICERS (continued)

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DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Roger Heinz, hereby disclose that on February 15th, 20 22:

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Potential contact with the applicant
620 Forest Street

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

2/15/2022
Date Filed

[Signature]
Signature

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