

# TOWN OF WINDERMERE

## Development Review Board Meeting Minutes

January 17, 2023

Present were Acting-Chair Stephen Withers, Board Members Roger Heinz, Gregg Anderson and Jennifer Roper. Town Manager Robert Smith, Town Attorney Heather Ramos, Town Council Liaison Bill Martini, Town Planner Brad Cornelius, and Town Clerk Dorothy Burkhalter were also present. Chair Frank Chase, Member Norma Sutton, and Member Peter Fleck were absent.

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

### 1. OPEN FORUM/PUBLIC COMMENTS:

There were no public speakers.

### 2. NEW BUSINESS:

#### a. MINUTES:

##### i. November 15, 2022, Meeting Minutes

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

#### b. General Items for Consideration:

##### i. Z23-01 – 510 Jennifer Lane – Variance to allow a Boat Dock with a Negative 50-foot setback from the projected adjacent property line

Acting-Chair Withers turned the floor over to Mr. Brad Cornelius. Mr. Cornelius, Town Planner, introduced case number Z23-01. He explained that the applicants are seeking a variance to allow construction of a boat dock that extends across the Town's 15-foot undeveloped, platted right-of-way and to encroach across 713 E 6<sup>th</sup> Avenue's extended property line by 35 feet, for a total of a negative 50-foot setback. Mr. Cornelius explained that this is caused by the properties being perpendicular to each other. He then commented that should this be approved by the Town Council, he will request that a Right-of-Way Use Agreement be implemented by the owners and the Town of Windermere. Mr. Cornelius stated that the 16-foot side setbacks and height requirements will be met. He then stated that the Orange County EPD waiver has been approved, but that the owners of 713 E 6<sup>th</sup> Avenue have filed an appeal with the County requesting that the Orange County Board of County Commissioners rescind the EPD approval of the waiver, which will be considered on February 21, 2023. Mr. Cornelius stated that the Town has the authority to approve or deny variances based on the Town's Land Development Code. He stated that public notices were mailed out with 7 responses received in support, 3 in objection and 1 with no comment. Mr. Cornelius commented that there is a dispute regarding property rights with the applicant in which a response was submitted advising they had hired a professional land surveyor to document riparian lines. Member Heinz questioned if ownership of land was in question. Mr. Cornelius stated that ownership is not in question with the variance. Discussion was made regarding riparian rights, ownership, Consent Final Judgements on Lake Bessie and Lake Down, if approved an agreement in like with the owners, etc. Acting Chair Withers turned the floor over to the public. First to speak was the applicant's attorney Ms. Mary Doty Solik, 121 South Orange Avenue, Suite 1500, Orlando, Florida. Ms. Solik reviewed the Town's Land Development Code regarding Variance Criteria. She then requested the DRB recommend approval for the

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variance request based on the LDCs. Ms. Anna Long, Attorney with Dean Mead, 420 South Orange Avenue Suite 700 Orlando, Florida, representing owners Hill/Harry introduced herself. She then commented that they feel there is a need to dispute the riparian rights. Ms. Long stated that her clients have requested a continuance of this meeting as they are awaiting survey results. She also stated that there is a dispute of where the water begins and ends, which currently there is not an answer. Acting Chair Withers questioned when the property was built. Ms. Solik stated 2017. Acting Chair Withers commented on the current neighbor's location of the existing dock that sits in front of the applicant's house. Ms. Solik commented on the current conditions and the normal high-water mark. Mr. Nathan Hill of 713 E 6<sup>th</sup> Avenue introduced himself. He then commented high water mark uncertainty, navigation and safety issues that the dock will cause, and awaiting his survey results. Acting Chair Withers questioned Mr. Hill if he had to pass 501 Jennifer Lane to get to his dock. Mr. Hill stated yes but that 501 Jennifer Lane is a lakeview lot, not a lakefront lot. Acting Chair Withers stated that Mr. Hill's boat dock is in front of 501 Jennifer Lane. Mr. Hill stated that 501 Jennifer Lane is a lakeview lot not a lakefront lot. Some discussion followed. Manager Smith commented that Orange County Sheriff's office did handle the navigational study and stated that the waters would be navigable. Acting Chair Withers suggested that the neighbors talk this out with each other and come to a compromise. Ms. Elizabeth Pagane of 703 E 6<sup>th</sup> Avenue introduced herself. She then commented that the home is a lakeview home, not lakefront with like access. Ms. Pagane stated that it would be a "gift," as they would receive lakefront access without paying the taxes for it. She then commented on setting a precedent. Ms. Solik stated that an approval would not be a "gift" due to the code being followed. Mr. Wallace Palladino owner of 510 Jennifer Lane introduced himself. He then stated that when Mr. Hill's surveyors were out, he spoke with one of them. Mr. Palladino further stated that the surveyor also stated that the high-water lines were marked in the same location as Mr. Palladino's. Some discussion followed regarding the water line, and setbacks. Ms. Shelia Cichra with Streamline Permitting introduced herself. She then commented that State will not allow a boat dock to be built in a "less amount of water." Ms. Cichra explained that the dock is marked as close to lines as possible. Ms. Long questioned if the home to the south of the requestor could request a dock for their lakeview lot/home. She then stated that if lots with lakeview are intended to be allowed to build docks as a lakefront home, then the tax base needs to change from the lakeview home to lakefront. Ms. Long commented that they will await their surveyors report. Ms. Solik reviewed a survey that shows the normal high-water line. She then stated that the Town does not assess taxes, the Property Appraiser would need to reassess and make the determination. Ms. Solik stated that this is an equitable variance request for approval. Some discussion followed regarding the south lot of the Paladino's. Member Heinz made a motion to recommend approval of the variance request. Member Anderson seconded the motion. Roll call vote was as follows: Roper – nay, Anderson – aye, Withers – aye, and Heinz – aye. Motion carried 3-1. Manager Smith stated that the DRB is a recommending Board, and the final determination will be made by the Town Council at their February 14<sup>th</sup> meeting.

**ii. Z23-03 – 914 W 2<sup>nd</sup> Avenue – Variance to allow a gross floor area in excess of 38% for the installation of a roof over existing 2<sup>nd</sup> story balconies**

Acting Chair Withers turned the floor over to Mr. Cornelius. Mr. Cornelius introduced case Z23-03. He explained that the current home is built to 38% gross floor area as allowed by code. Mr. Cornelius explained that the owner would like to put roofs on the balconies which would increase the floor area ratio to 40% which is over the 38% allowed. He stated that notices were mailed out with 11 received in support and zero in opposition. Acting Chair Withers questioned the hardship. Mr. Logan Witt representative with Alair Homes introduced himself. Acting Chair Withers questioned the hardship which is required by State law. Mr. Witt explained that additional living space is needed, and the existing

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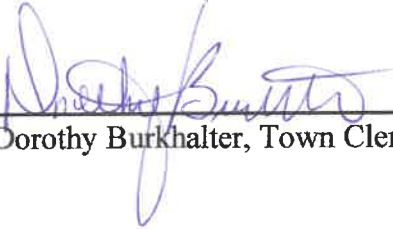
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balconies will be converted to living space, which will be covered with a roof. Some discussion followed. Member Heinz commented as builder, why there is no hardship. He explained that, however, water issues are a big concern with open balconies and closing the space in and adding the roof is better. Member Heinz made a motion to recommend approval. Member Roper seconded the motion. Roll call was as follows: Heinz – aye, Withers – nay, Anderson – aye, and Roper – aye. Motion carried 3-1.

4. ADJOURN:

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

The meeting adjourned at 7:37pm.

  
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Dorothy Burkhalter, Town Clerk

  
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Frank Chase, Chair