PLANNING & ZONING BOARD MEETING MINUTES
October 14, 2019

Planning and Zoning Board Members:
Marion Rayburn, Chair (Quorum)
David Gragg, Vice-Chair (absent)
Steve Kreidt, Board Member
Ryan Santurri, Board Member
Aileen Trivedi, Board Member

Staff:
Attorney Smith, City Attorney
Planner Hardgrove, City Planner
David Mahler, City Engineer
Allen Lane, City Engineer
Sandra Riffle, Deputy City Clerk
David Ireland, Police Sergeant

Applicant:
Melinda Elannan, applicant

CALL TO ORDER

Chair Rayburn called the Planning & Zoning Board meeting to order at 6:30 pm and led the Pledge of Allegiance.

Deputy City Clerk Riffle announced that there was a quorum with four Board Members present. Board Member Gragg was absent.

APPROVAL OF MINUTES

- ***September 9, 2019***

  Vice-Chair Gragg sent an email previous to the meeting with two corrections to the minutes; page 4, waiver for the Access/parking design, it reads 'second by Board Member Board Member Gragg"; page 8, "favor" is not capitalized in the grid across from Board Member Kreidt.

  Board Member Trivedi moved to approve the minutes with corrections; Second by Board Member Santurri. Motion approved (4/0).

NEW BUSINESS

Variance Requests for boat dock located at 1411 Windsong Drive

Homeowner Melinda Elannan is requesting two variances for a boat dock that has already been constructed. The variance requests are to allow a boat dock greater than 1,000 square feet and to allow the boat dock to extend more than 25% of the width of the canal.

- **Variance 2019-03 to allow a boat dock greater than the 1,000 square feet allowed by City Code.**

Engineer Lane, from CPH, presented Variance 2019-03, to allow a boat dock greater than 1,000 square feet. He explained that the boat dock was built larger than the plans and also from the original as-builts that were submitted to the City. He then reviewed the variance criteria for a boat dock form Section 14-11(d0(2).

Repairs were made after the construction. Engineer Lane said they revisited the property after the repairs were completed, and the repairs were not very noticeable; however, the catwalk is a couple of inches wider than the original size.

Engineer Lane responded to Board Member Santurri that the dock met the original plans. The alterations were made with the repairs.

Board Member Kreidt asked if the boat dock originally measured 1,000 square feet or less and then was exceeded after the repairs, and also inquired if it extends past the dripline. Engineer Lane said that they count everything that shades the water, and the boat dock now measures approximately 1,020 square feet, from the normal high water elevation (NHWE) to the outer edge of the dock. Included in the measurement are the deck and the walkway from the NHWE to the dock. Engineer Lane showed the as-builts and how they determine the square footage.

Chair Rayburn asked about the email from Adam Popp that said that the canal remains navigable. Engineer Lane said that he is with the Sheriff's Office and is part of the Orange County navigation team.

Engineer Lane said that the repairs were not the approved repairs.

Further conversation from the Board included the size of the excessive square footage and the possibility for restoring the dock to the original dimensions. Per Engineer Lane, the walkway and the deck area would be affected. The repairs did not cause the dock to extend more into the canal.

Chair Rayburn invited the applicant to speak.

Applicant Melinda Elannan came to the podium. She explained that her house is zoned lakefront, not canal front. The actual dock, to be functional, had to be pushed further into the water, from the original application, and the walkway became longer as a result. To Board Member Kreidt, she said that they had to go around a cypress tree, which made the walkway longer and wider lakeward. She said that she assumed that the contractor built the dock correctly, and she has not had much communication with them. Ms. Elannan noted that the repair was due to warped boards.

Brittany Reliford, spoke in support of the applicant. Ms. Reliford said they had to use a different board company, and there was a dispute between the dock builder and the brand of boards, which answers why they used bigger boards. She said that after a year and five months, there are no reported issues or complaints about navigability. They want to be good neighbors. She said that removing boards will be a safety issue, and the stringers will be exposed. There will be an unsafe gap and will have to be structurally repaired.

In response to Board Member Kreidt, Ms. Reliford said the contractor decided not to come to the meeting.

Doug Langford, Edgewood resident since 1997. Mr. Langford's house is across the canal. He has been building and repairing docks since 2004.

Ms. Reliford said they would withdraw variance 2019-02 for projecting more than 25% into the canal, based on the fact that their property is defined as lakefront, not canal front.

Mr. Langford said there is no such thing as lakefront zoned. If the engineer found fault that it is over 25% of the width, the only item that is an issue is it is on a canal. It is difficult to establish the rear setback on this property. His rear line is six feet from the canal.

Mr. Langford confirmed to Board Member Trivedi that his property line is 6 ft. from the dock. It appears to be a gap, not sure who owns it and should not be sovereign submerged land.

Mr. Langford said to Board Member Kreidt that there is supposed to be 25 feet on the rear property line, or it requires a variance. Mr. Langford said it is on the line. Mr. Langford said that the repair was a re-deck, which added additional framing, and the catwalk went from 18" to 24".

Mr. Langford responded to Board Member Kreidt that the catwalk closely extends past the dripline or extends out. Board Member Kreidt said it shows the same line. Board Member Kreidt responded to Mr. Langford that the added 6" on the catwalk was already accounted for in the roof area. Mr. Langford said it might not count against them if it doesn't go beyond the edge.

Chair Rayburn says there are two codes in Orange County lakefront and canal front, which are 0130 and 0131.

Mr. Langford said he would determine how much is in the canal. He does not know who makes the determination. Asked what beyond 25% it is. Ms. Reliford said it is .6% beyond. Mr. Langford said the true width is between the western edge of the dock and the vegetation. If he put a dock across there, it would be 21 feet across and would probably be denied.

Mr. Langford said they are asking for a variance after the fact. This leaves him likely not to have a dock if he wanted it. He said that he does already have a dock.

Mr. Langford said that he would agree with granting the variance because this has been a waste of time, money, and resources. He added that people have filed defamatory statements to the police department for bringing up the issue. He would ask for caveats that no alteration be made under any ownership unless it reduces size or encroachment, including touchless covers.

Board Member Santurri asked Langford if it would require reframing to reduce it from 25.6% to 25% of the distance. Mr. Langford said the pilings did not change during the repairs. He provided a copy of the survey for the Board, which identifies distances to the nearest dock.

Attorney Smith said that the Board could make conditions. Mr. Langford said that he thinks everyone needs to move on. Board Member Kreidt said he applauded that willingness to offer to move on. Mr. Langford added that he does not have an overriding concern with navigability. The concern is a trampling of the rules.

Tina Demostene, Edgewood resident on Lake Gatlin. Ms. Demostene said that the original dock was moved. It was expanded without permits and it is sketchy. She does not object to the square footage.

Lake Conway is in three different jurisdictions, and they all calculate square footage differently. The prior engineer also figured it differently, and Edgewood is overly restrictive. She agrees with Mr. Langford's recommendations. She does not object to allowing the variances but does not agree with it.

Attorney Smith asked Ms. Elannan about the proposed conditions. She said she did want a touchless cover on the boat. Board Member Kreidt asked if it would go out beyond the roofline, and she responded that she does not know, but in high water, the boat can come in further. At low water, the cover would project out more, and it is limited by water depth.

Board Member Santurri said a touchless cover has a metal frame and would extend out past the dock, and there would be an additional shaded area.

Board Member Trivedi said that it seems reasonable to allow the variance with the conditions because the alternative is to meet the code requirements.

Board Member Kreidt said that a touchless cover would be a complication in low water when the boat can't come in as far. In high water, there would be no ceiling above the part that is past the edge of the dock, which defeats the purpose.

Board Member Kreidt said the problem was created by the builders, not the applicant or the neighbors, but adding a boat cover would defeat the intent. He asked Ms. Elannan if she would be comfortable with the compromise suggested by Mr. Langford. Ms. Elannan said she wants this to go away, so she would agree with the conditions if that is what she has to do.

Attorney Smith stated the conditions proposed by the Board. To approve the variance with condition of no alterations of 10/14/2019 that would result in the increase of the square footage of the dock, no mechanical additions that would result in increased size of the existing dock or of the shaded area, or encroachment into the waterway, and no addition of a second floor or shaded area.

- **Variance Request 2019-03 to allow a boat dock greater than 1,000 square feet.**

Board Member Kreidt moved to recommend approval of Variance 2019-03 to City Council with conditions; second by Board Member Santurri. The Motion was approved (4/0).

The conditions are as follows:
Condition #1: No alterations of 10/14/2019 that would result in the increase of the square footage of the dock;
Condition #2: no mechanical additions that would result in increased size of the existing dock or of the shaded area, or encroachment into the waterway;
Condition #3: no addition of a second floor.

Roll call vote was as follows:

Chair Rayburn	Favor
Board Member Trivedi	Favor
Board Member Santurri	Favor
Vice-Chair Gragg	Absent
Board Member Kreidt	Favor

In response to Chair Rayburn, Deputy City Clerk Riffle said that this would go before City Council on November 19, 2019.

- **Variance Request 2019-02 – to allow the boat dock to exceed more than 25% of the width of the canal.**

Engineer Lane said there is a second application for a variance to allow the boat dock exceeding more than 25% of the width of the canal. The applicant submitted the variance by the request of CPH due to the proximity of the dock to the canal. However, after an initial review, the subject property is considered lakefront, not canal front per the Orange County Property Appraiser. In response to Attorney Smith, Engineer Lane said there is a separate reference for each with a distinct designation for both. Chair Rayburn confirmed.

The code allows the dock to extend 65 feet into the water. It could not be constructed this way due to navigability. Per Engineer Allen, the encroachment of 25% is not applicable per code, and

the owner is not required to proceed with this variance. CPH would not object to the homeowner withdrawing the application.

Board Member Kreidt asked if this could provide complications in the future if the applicant proceeds. Attorney Smith says there is no harm in proceeding with the variance.

Ms. Elannan requested to withdraw her application for Variance 2019-02.

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Board Member Kreidt asked if this could provide complications in the future if the applicant proceeds. Attorney Smith says there is no harm in proceeding with the variance.

Ms. Elannan requested to withdraw her application for Variance 2019-02.

Public Comment:

Tina Demostene – resident. Ms. Demostene said CPH is wrong. Orange county does not set the zoning for the City and anyone who relies on the property appraiser has lost their mind. It is for taxes and they would prefer to charge for lakefront. They are clearly partially on the canal and they are behind the sign that says "slow down."

Doug Langford, resident. There is no question that the dock is in the canal. Use code is only for taxes not the property; it is well south of the marker for the canal. He is not sure that they should withdraw because he thinks it is necessary.

Mr. Langford said that there should be a third variance less than 25 feet from the rear property line. Attorney Smith said there is no need to address it; it is not applied for, and the city maintains the property is not on the canal.

Board Member Kreidt said the applicant might want to reconsider given the neighbor's willingness, and it would be a settled matter.

Ms. Reliford said that this could come up again. Attorney Smith said to remember that this Board makes a recommendation, and the Council makes the decision.

Ms. Elannan said they would not withdraw the application so that everything can be covered tonight.

Attorney Smith said that they may repeat the conditions of approval.

Mr. Langford said that on page three of the application, it mentions if the body of water is less than 200 feet and asked if the 25% rule applies. Attorney Smith said that it was required information on the application and appeared to be for the engineer's opinion.

Board Member Santurri made the motion to recommend approval of Variance 2019-02, with the same conditions as proposed for Variance 2019-03; second by Board Member Trivedi. The motion approved (4/0).

The conditions are as follows:

Condition #1: No alterations of 10/14/2019 that would result in the increase of the square footage of the dock;
Condition #2: no mechanical additions that would result in increased size of the existing dock or of the shaded area, or encroachment into the waterway;
Condition #3: no addition of a second floor.

Vice-Chair Gragg	Absent
Board Member Santurri	Favor
Chair Rayburn	Favor
Board Member Kreidt	Favor
Board Member Trivedi	Favor

COMMENTS/ANNOUNCEMENTS

Deputy City Clerk Riffle said that if any Board members still needs assistance with their login with their City email login she will provide assistance.

ADJOURNMENT:

As there was no further discussion, Vice Chairman Rader asked for a motion:

Board Member Trivedi moved to adjourn the meeting; second by Board Member Santurri. Motion passed (4/0).

Meeting adjourned at 8:10 p m

Marion Rayburn, Chair

Sandra Riffle, Deputy City Clerk