

STAFF RECOMMENDATION:

Reverse the Board of Adjustment decision to deny side yard setback variances from 10 feet to 0 feet for an existing boat dock based on staff's findings.

ATTACHMENTS:

Staff Report
Future Land Use Map
Zoning Map
Aerial
Survey
Site Plan
Appeal Letter
DEP Correspondence
BOA Minutes from December 19, 2005 (BV2005-181, Mr. Rapp)
BA(99-3-26V) Mr. Mettham BOA application
BOA Minutes from March 22, 1999 (BA99-3-26V, Mr. Mettham)

STAFF REPORT

<p>BACKGROUND / REQUEST:</p>	<ul style="list-style-type: none"> • The adjacent neighbor to the south received a variance (BA99-3-26V) from the Board of Adjustment at the March 22, 1999 meeting for a side yard setback from 10 feet to 0 feet. This request was approved with the following conditions: installation of a gutter on the north side of the building, repair of damage, if any, to the neighbor's property, and a letter of no opposition from the Homeowners Association Architectural Review Board. • The applicant was cited on 10/17/05 by the Seminole County Building Division for unpermitted construction of an existing dock structure. The applicant was modifying the existing dock structure by removing a center portion in order to place his boat. • The applicant has received his permit from the Department of Environmental Protection (DEP) to modify the existing 600 square-foot private single-family dock structure. The DEP permit states in the notification of exemption request that the dock shall remain in its existing configuration, except for the removal of the triangular extension on the waterward end of the terminal platform, and the addition of a covered boat slip cut into the waterward end of the terminal platform as shown in the drawing. 																								
<p>ZONING & FUTURE LAND USE (FLU)</p>	<table border="1"> <thead> <tr> <th>Direction</th> <th>Existing Zoning</th> <th>Existing FLU</th> <th>Use of Property</th> </tr> </thead> <tbody> <tr> <td>Site</td> <td>R-1AA</td> <td>Low Density Residential</td> <td>Single-Family (Conventional)</td> </tr> <tr> <td>North</td> <td>R-1AA</td> <td>Low Density Residential</td> <td>Single-Family (Conventional)</td> </tr> <tr> <td>South</td> <td>R-1AA</td> <td>Low Density Residential</td> <td>Single-Family (Conventional)</td> </tr> <tr> <td>East</td> <td>R-1AA</td> <td>Low Density Residential</td> <td>Single-Family (Conventional)</td> </tr> <tr> <td>West</td> <td>R-1AA</td> <td>Low Density Residential</td> <td>Single-Family (Conventional)</td> </tr> </tbody> </table>	Direction	Existing Zoning	Existing FLU	Use of Property	Site	R-1AA	Low Density Residential	Single-Family (Conventional)	North	R-1AA	Low Density Residential	Single-Family (Conventional)	South	R-1AA	Low Density Residential	Single-Family (Conventional)	East	R-1AA	Low Density Residential	Single-Family (Conventional)	West	R-1AA	Low Density Residential	Single-Family (Conventional)
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<p>STAFF FINDINGS:</p>	<p>The Board of County Commissioners shall have the power to hear and decide appeals from Board of Adjustment decisions, including variances the Board of Adjustment is specifically authorized to pass under the terms of the Land Development Code upon determination that <u>all</u> of the following provisions of Section 30.43(b)(3) are satisfied:</p>																								

a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning classification.

Special conditions exist on this property due to the irregular shape of the lot, which gives the property owner a very limited amount of land abutting the canal. The applicant cannot move the existing dock structure to meet the side yard setbacks due to the dimensions of the lot.

b) That the special conditions and circumstances do not result from the actions of the applicant.

A previous owner of the property constructed the dock/deck structure, which was inherited by the present owner when they purchased the property.

c) That granting the variance requested will not confer on the applicant any special privilege that is denied by Chapter 30 to other lands, buildings, or structures in the same zoning classification.

The grant of the requested variance will not confer on the applicant any special privileges due the fact that other property owners have received variances for side yard setbacks and permits for boat docks along the canal.

d) That literal interpretation of the provisions of Chapter 30 would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification and would work unnecessary and undue hardship on the applicant.

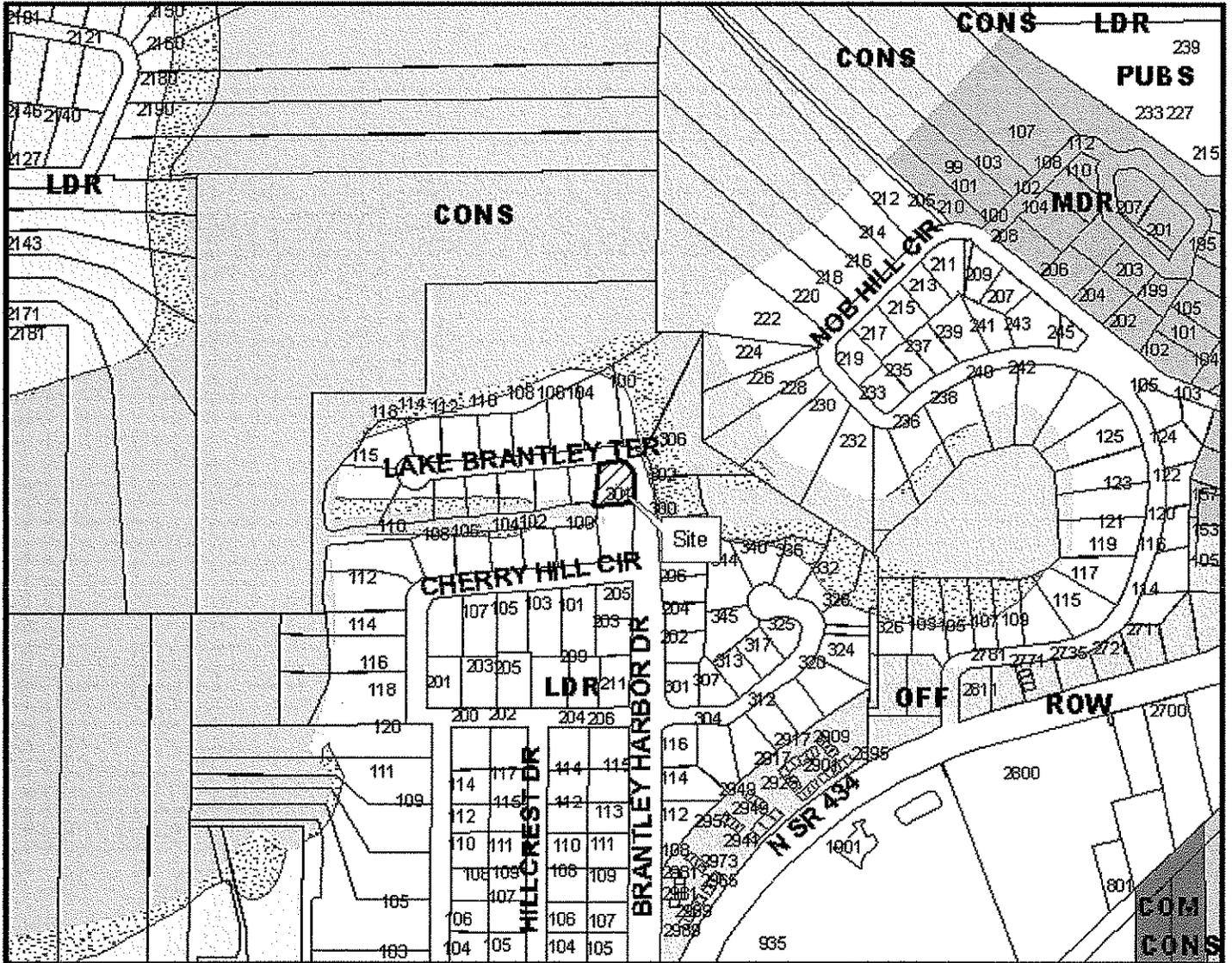
The literal interpretation would deprive the applicant of the use of the canal and boat dock which is a use commonly enjoyed by other residents of the Brantley Harbor Estates Subdivision.

e) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The requested variance is the minimum with which the applicant will retain reasonable use of the existing structure and canal which other property owners of the Brantley Harbor Estates Subdivision commonly enjoy.

	<p>f) That the grant of the variance will be in harmony with the general intent and purpose of Chapter 30, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.</p> <p>The grant of the variance will be in harmony with the trend of development for property owners to utilize the canal and construct boat docks along the canal on Lake Brantley. The dock will not be injurious to the neighborhood or detrimental to public welfare due to various other owners who have constructed boat docks along the canal.</p>
<p>STAFF RECOMMENDATION:</p>	<ul style="list-style-type: none"> Based on the stated findings, staff recommends the Board of County Commissioners <u>reverse</u> the decision of the Board of Adjustment to deny side yard setback variances from 10 feet to 0 feet for an existing boat dock in the R-1AA (Single-Family Dwelling) District.

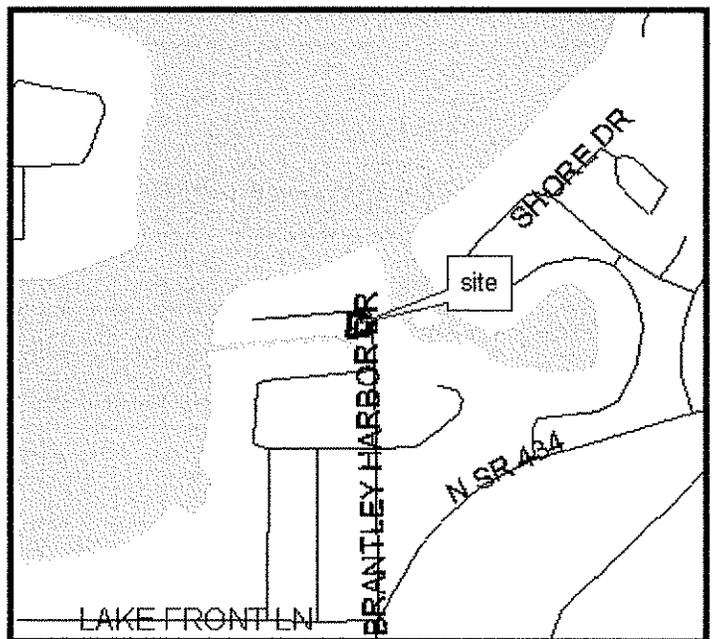
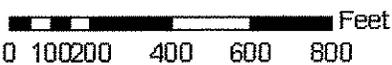
Rodney Rapp
303 Brantley Harbor Drive
Longwood, FL 32779



Seminole County Board of Adjustment
December 19, 2005
Case: BV2005-181
Parcel No: 04-21-29-509-0A00-0240

Future Land use

- | | | | |
|--|-----------|--|------------|
| | CONS, LDR | | OFF |
| | CONS, MDR | | COM |
| | CONS, COM | | HIPTI |
| | PUBS | | HIPAP |
| | LDR | | BV2005-181 |
| | MDR | | |



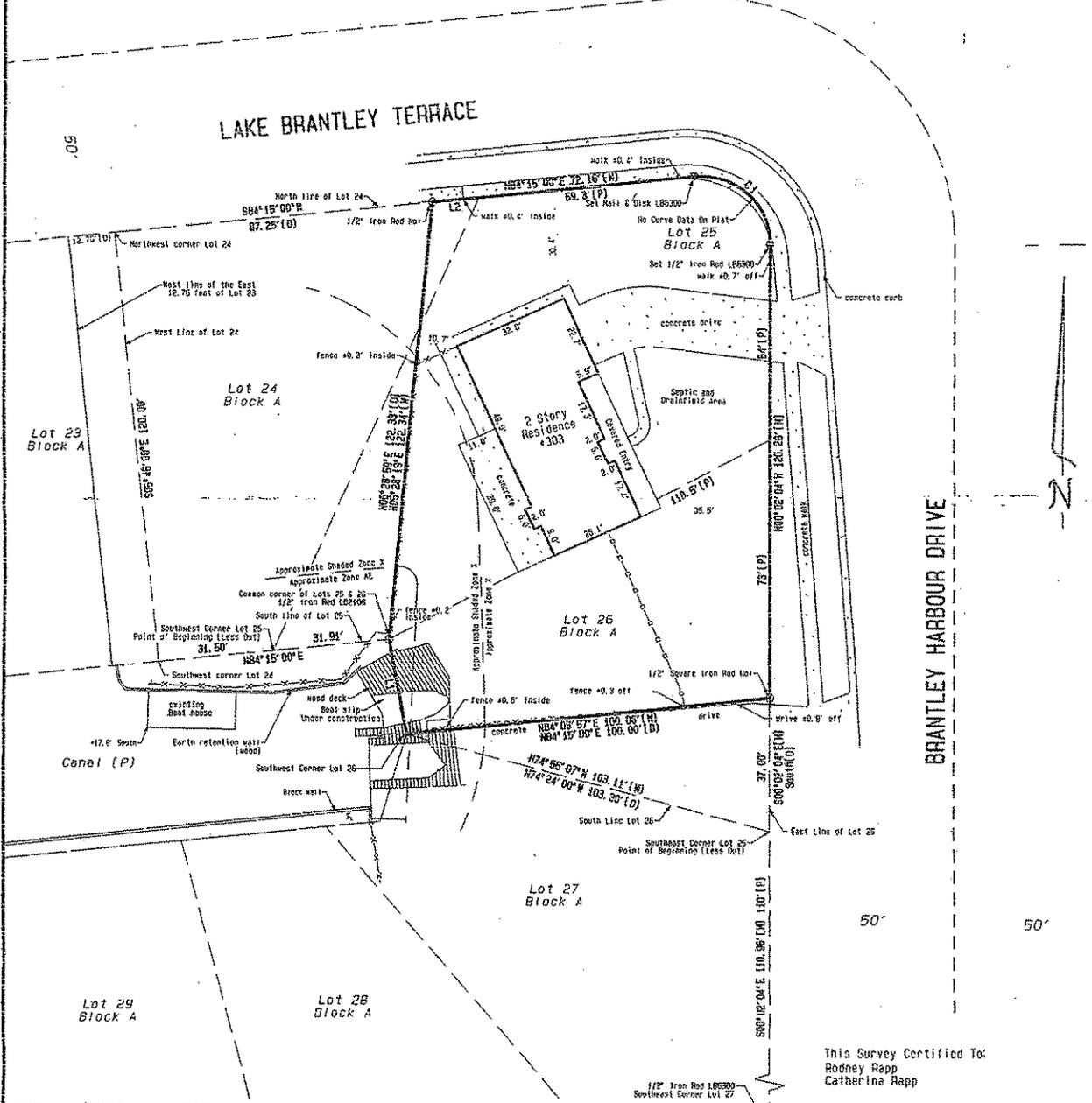
LAND USE

2004 AERIAL



Boundary Survey for Rodney & Catherina Rapp

LOTS 24, 25 AND 26 IN BLOCK A OF BRANTLEY HALL ESTATES, SEMINOLE COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 13, PAGE 16 AND 17, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA, LESS BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 26, RUN THENCE ALONG THE SOUTH LINE OF SAID LOT 25, N 84 DEGREES 15' 00" E 31.91 FEET MORE OR LESS TO A COMMON CORNER BETWEEN SAID LOTS 25 AND 26, THENCE RUN N 05 DEGREES 28' 59" E 122.33 FEET TO THE NORTH LINE OF AFORESAID LOT 24, THENCE S 84 DEGREES 15' 00" W 87.25 FEET TO THE NORTHWEST CORNER OF LOT 24, THENCE S 05 DEGREES 45' 00" E ALONG THE WEST LINE OF SAID LOT 24, A DISTANCE OF 120.00 FEET TO THE SOUTHWEST CORNER OF LOT 24 RUN THENCE N 84 DEGREES 15' 00" EAST 31.50 FEET TO THE POINT OF BEGINNING AND ALSO LESS BEGINNING AT THE SOUTHWEST CORNER OF AFORESAID LOT 26, RUN N 74 DEGREES 24' 00" W ALONG THE SOUTH LINE OF AFORESAID LOT 26 A DISTANCE OF 103.30 FEET TO THE SOUTHWEST CORNER OF SAID LOT 26, THENCE N 84 DEGREES 15' 00" E 100.00 FEET TO THE EAST LINE OF SAID LOT 26, THENCE SOUTH 37.00 FEET TO THE POINT OF BEGINNING.



LINE #	BEARING	LENGTH
L1 (W)	N10°32'05\" W	26.61'
L1 (P)		26.00'
L2 (P)	S84°15'00\" N	12.75'

Update: 1/22/06
 Bearings are based on the North line of Lots 24 & 26 as being S84°15'00\" N, per deed

SCALE: 1\" = 30'

REVIEWED BY: HWS

DRAWN BY: SAH

DATE: November 1, 1999

JOB No.: 20572

Update: 7/19/04

Legend

- = Recovered 4\" x 4\" Concrete Monument
- = Set 4\" x 4\" Concrete Monument #LB6300
- ⊕ = Recovered Nail & Disk #LB6300
- ⊗ = Recovered X cut in concrete
- = Recovered Iron Rod or Pipe as shown
- ⊙ = Set 1/2\" Iron Rod #LB6300
- ◇ = Light Pole as shown
- = 6\" Wood Fence
- = 4\" Chain Link Fence
- = Fence as shown
- ▣ = Concrete Slab

This survey is certified and prepared for the sole and exclusive benefit of the entities and/or individuals listed and shall not be relied on by any other entity or individual whatsoever.

Underground foundations and/or improvements were not located as a part of this survey.

Lands shown hereon were not abstracted for rights of ways and/or easements of public records.

ALTA MOUNT SURVEYING AND PLATTING, INC.

435 Douglas Avonon, Suite 1505 F
 Altamonte Springs, Florida 32714

Phone (407) 852-7555 Fax (407) 862-6229

This Survey Certified To:
 Rodney Rapp
 Catherine Rapp

Legal Description furnished by client (unless otherwise noted)

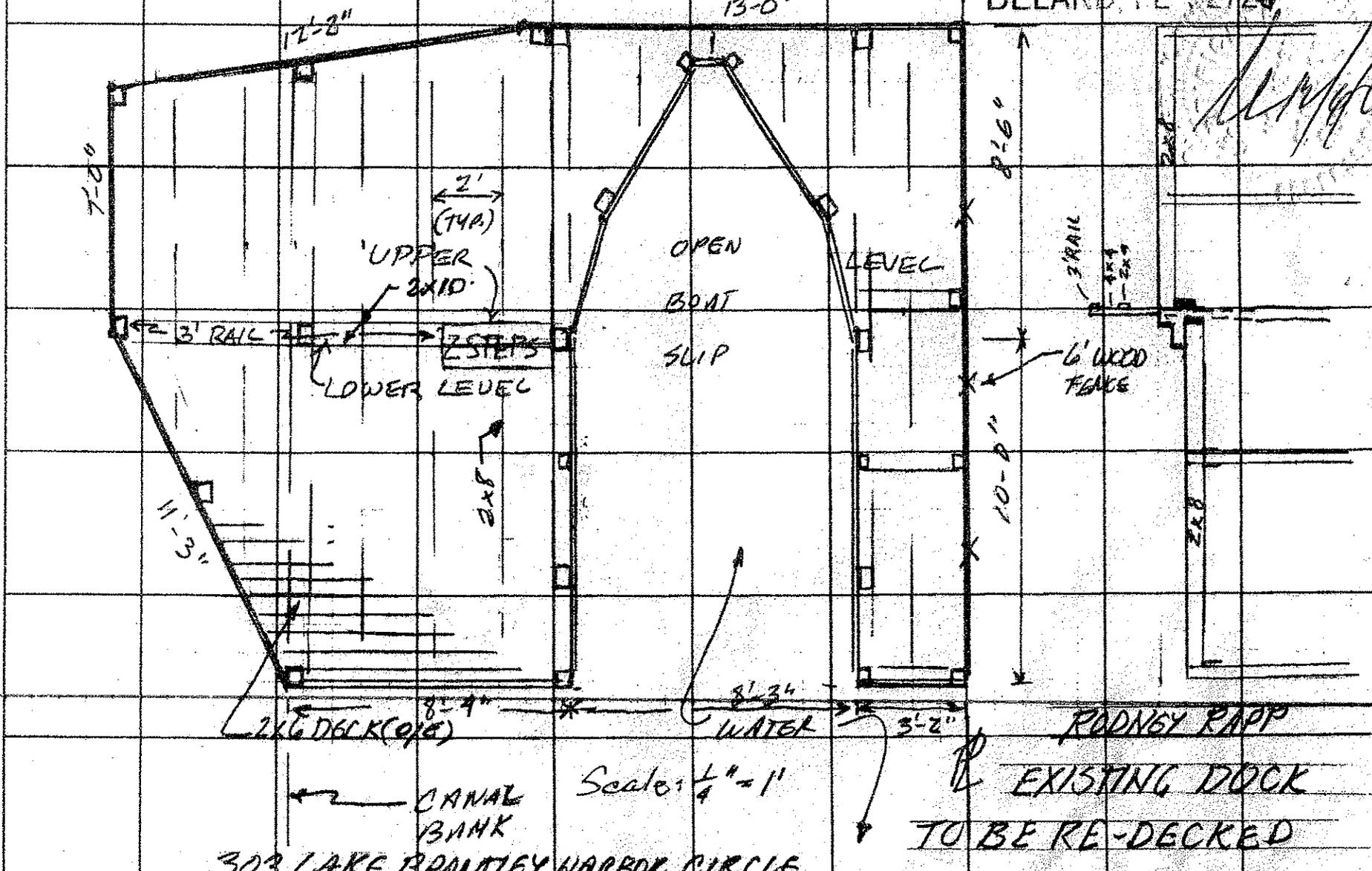
This is to certify that I have reviewed the Flood Insurance Rating Map (FIRM), Panel Number 120288 0110 E., Dated 4/17/95 and determined that the lands shown hereon lies in Flood Zone "X, AE and Shaded Zone "X."

ROBERT Y. WHITE, P.E.
PROF. CIVIL ENGINEER

MEETS S. 1606 SBC 2004 120 MPH
LIVE LOAD 60 PSF 1.0 ZONE 2 CAT B
4-16d GALV NAILS EA FACE
ALL LUMBER PT. D. 4 CCA(018)

FL. CERT. N.R. 13191
2464 PRINCETON ROAD
DELAND, FL 32720

Handwritten signature/initials



303 LAKE BRANTLEY HARBOR CIRCLE

Scale: 1/4" = 1'

RODNEY RAPP
EXISTING DOCK
TO BE RE-DECKED

January 2, 2006

Planning And Development Counsel / Board:

RE: Variance Request For Parcel# 04-21-29-509-0A00-0240

The previous counsel made a decision that frankly did not make since. After the Chairman made it clear that both neighbors have a dock and both are less than 10 feet from another neighbors property I am asking for a second review of this difficult situation. I am the only property on this canal not to have a dock. My neighbor 301 Brantley received the same variance that I am asking for in 1999 because his boat dock is clearly on my property line and the other neighbor on the other side as well. The only neighbor in this community apposed to the variance clearly has his dock less that 10 feet from the other side neighbor as well. Also, the D.E.P. has ruled on the dock and has granted authorization for reconstruction.

So once presented with evidence that will be provided in the upcoming hearing should clearly prove that it is reasonable to grant this variance.

Enclosures:

1. Boundary Survey
2. Current and Proposed dock/deck outline.
3. D.E.P. Letter of authorization.

Thank you,



Rodney Rapp



Jeb Bush
Governor

Department of Environmental Protection

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

DOC # 3
8 pgs

Colleen M. Castille
Secretary

1-8

NOTIFICATION OF EXEMPTION REQUEST

Ron & Adria Rapp
303 Brantley Harbor Drive
Longwood, FL 32779

File No.: 59-250602-001

Applicant: Ron & Adria Rapp

Dear Mr. & Mrs. Rapp:

Thank you for your application to modify an existing 600 square foot private single-family dock structure located on a canal in Lake Brantley Class III Waters, pursuant to Rule 40C-4.051 (11) (g) F.A.C. The dock shall remain in its existing configuration, except for the removal of the triangular extension on the waterward end of the terminal platform, the addition of a small rectangular portion of deck space on the landward portion of the terminal platform, and the addition of a covered boat slip cut into the waterward end of the terminal platform as shown in drawing. The project is located at 303 Brantley Harbor Drive, Longwood, Florida, 32779, in Section 4, Township 21S, Range 29E in Seminole County. A maximum of two vessels may moor at the structure at any time. There shall be adequate water depths within the boatslip area to accommodate the vessels that will moor at the structure. This type of activity requires authorization for construction and operation of the project (regulatory authorization), unless otherwise exempt by statute or rule, and federal authorization for works in waters of the United States through the State Programmatic General Permit (SPGP) program. Your request has been reviewed for both authorizations. The authorizations you have been granted are listed below. Please read each section carefully. Your project **may not** have qualified for both authorizations. If your project did not qualify for one or more of the authorizations, that specific section will advise you how to obtain it. **You may NOT commence your project without both authorizations.** 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. In any event, this determination shall expire after one year.

(1) REGULATORY REVIEW - GRANTED

Based on the information you sent to us, we have determined that **your project is exempt from the need for an Environmental Resource Permit (ERP)** under Rule 40C-4.051 (11) (g), Florida Administrative Code. This determination is based solely on the information provided to the Department and the statutes

"More Protection, Less Process"

Printed on recycled paper.

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and rules in effect when the application was submitted and is effective only for the specific activity proposed. This determination shall automatically expire if site conditions materially change or the governing statutes or rules are amended. In any event, this determination shall expire after one year.

(2) SPGP - REVIEW - GRANTED

Your project has been reviewed for compliance with a State Programmatic General Permit (SPGP). Your proposed activity as outlined on the attached drawings is in compliance with the SPGP program. U.S. Army Corps of Engineers (Corps) specific conditions apply to your project, if attached. **The Corps requires no further permitting for this activity.**

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

Additional Information

This letter does not relieve you from the responsibility of obtaining other federal, state, or local authorizations that may be required for the activity.

**NOTICE OF RIGHTS
OF SUBSTANTIALLY AFFECTED PERSONS**

This letter acknowledges that the proposed activity is exempt from Environmental Resource Permitting requirements under Exemption 40C-4.051 (11) (g) F.A.C., and is a final determination unless a timely petition for an administrative hearing is filed under sections 120.569 and 120.57 of the Florida Statutes, before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth in the attached notice.

This determination is based on the information you provided the Department and the statutes and rules in effect when the application was submitted and is effective only for the specific activity proposed. This determination shall automatically expire if site conditions materially change or the governing statutes or rules are amended. In addition, any substantial modifications in your plans should be submitted to the Department for review, as changes may result in a permit being required. In any event, this determination shall expire after one year.

Be advised that your neighbors and other parties who may be substantially affected by the proposed activity allowed under this determination of exemption have a right to request an administrative hearing on the Department's decision that the proposed activity qualifies for this exemption.

Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for an administrative hearing may result in a final determination that the proposed activity is not authorized under the exemption established under 40C-4.051 (11) (g) F.A.C. If a timely and sufficient petition for an administrative hearing or request for an extension of time to file a

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petition is timely filed, this determination automatically becomes only proposed agency action subject to the result of the administrative review process. Accordingly, the applicant is advised not to commence construction or other activities under this determination until the time frames noted in the attached notice for filing a petition for an administrative hearing or request for an extension of time has expired.

Under rules 62-110.106(4) of the Florida Administrative Code, 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 prior to the applicable deadline. 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. Upon motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect, the Department may also grant the requested extension of time.

The Department will not publish notice of this determination. *Publication of this notice by you is optional and not required for you to proceed.* However, in the event that an administrative hearing is held and the Department's determination is reversed, proceeding with the proposed activity before the time period for requesting an administrative hearing has expired would mean that the activity was conducted without the required permits.

If you wish to limit the time within which *all* substantially affected persons may request an administrative hearing, you may elect to publish, at your own expense, the enclosed notice (Attachment A -- Form NOR-F15 -- for newspaper publication) in the legal advertisement section of a newspaper of general circulation in the county where the activity is to take place. A single publication will suffice.

If you wish to limit the time within which any *specific* person(s) may request an administrative hearing, you may provide such person(s), by certified mail, a copy of this determination, including Attachment A (NOR-F15).

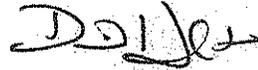
For the purposes of publication, a newspaper of general circulation means a newspaper meeting the requirements of sections 50.011 and 50.031 of the Florida Statutes. In the event you do publish this notice, within seven days of publication, you must provide to the following address a certification or affidavit of publication issued by the newspaper. If you provide direct written notice to any person as noted above, you must provide to the following address a copy of the direct written notice.

Department of Environmental Protection
3319 Maguire Boulevard, Suite 232
Orlando, FL 32803-3767

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If you have any questions, please contact Mark Langford at the letterhead address or call 407/893-7867, between the hours of 8:00 a.m. and 4:30 p.m. When referring to your project please use the DEP File number listed above.

Sincerely,



David Herbster
Program Administrator
Submerged Lands and Environmental
Resources Program

Date: SEP. 9, 2005

^h
DH/ml/df

Enclosures:

Exemption Conditions 40C-4.051 (11) (g) F.A.C.
Copy of Drawings
General Conditions for Authorizations

cc: USACOE, Jacksonville
Seminole County

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**NOTICE OF DETERMINATION
OF QUALIFICATION FOR EXEMPTION
Attachment A**

In the Matter of an Application
For a Determination of Qualification
For an Exemption by:

Ron & Adria Rapp

**DEP File No. 59-250602-001
Seminole County**

The Department of Environmental Protection gives notice that it has determined that a 600 square foot private single family dock in a canal off of Lake Brantley, located at 303 Brantley Harbor Drive, Longwood, in Seminole County by Ron & Adria Rapp, qualifies for the exemption established under 40C-4.051 (11) (g) F.A.C.

The Department's determination shall become final unless a timely petition for an administrative hearing is filed under sections 120.569 and 120.57 of the Florida Statutes. The time and procedure for petitioning for a hearing are set forth below. Upon the timely filing of a petition, this determination will not be effective until further order of the Department.

A person whose substantial interests are affected by the Department's decision may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and 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. The petitioner shall also mail a copy of the petition to the applicant at the address indicated above at the time of filing.

Petitions must be filed within 21 days of publication or receipt of this written notice, except that a petition by any person entitled to written notice under section 120.60(3) of the Florida Statutes must be filed within 21 days of receipt of the written notice. The failure of any person 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 of the Florida Statutes. 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 of the Florida Administrative Code.

A petition must contain the following information:

- (a) The name, address, and telephone number of each petitioner; the Department file identification number and the county in which the subject matter or activity is located;
- (b) A statement of how and when each petitioner received notice of the Department action;

40C-4.051 Exemptions.

(11) No permit shall be required under chapters 40C-4, 40C-40, 40C-42, 40C-44, or 40C-400, F.A.C, for the following activities:

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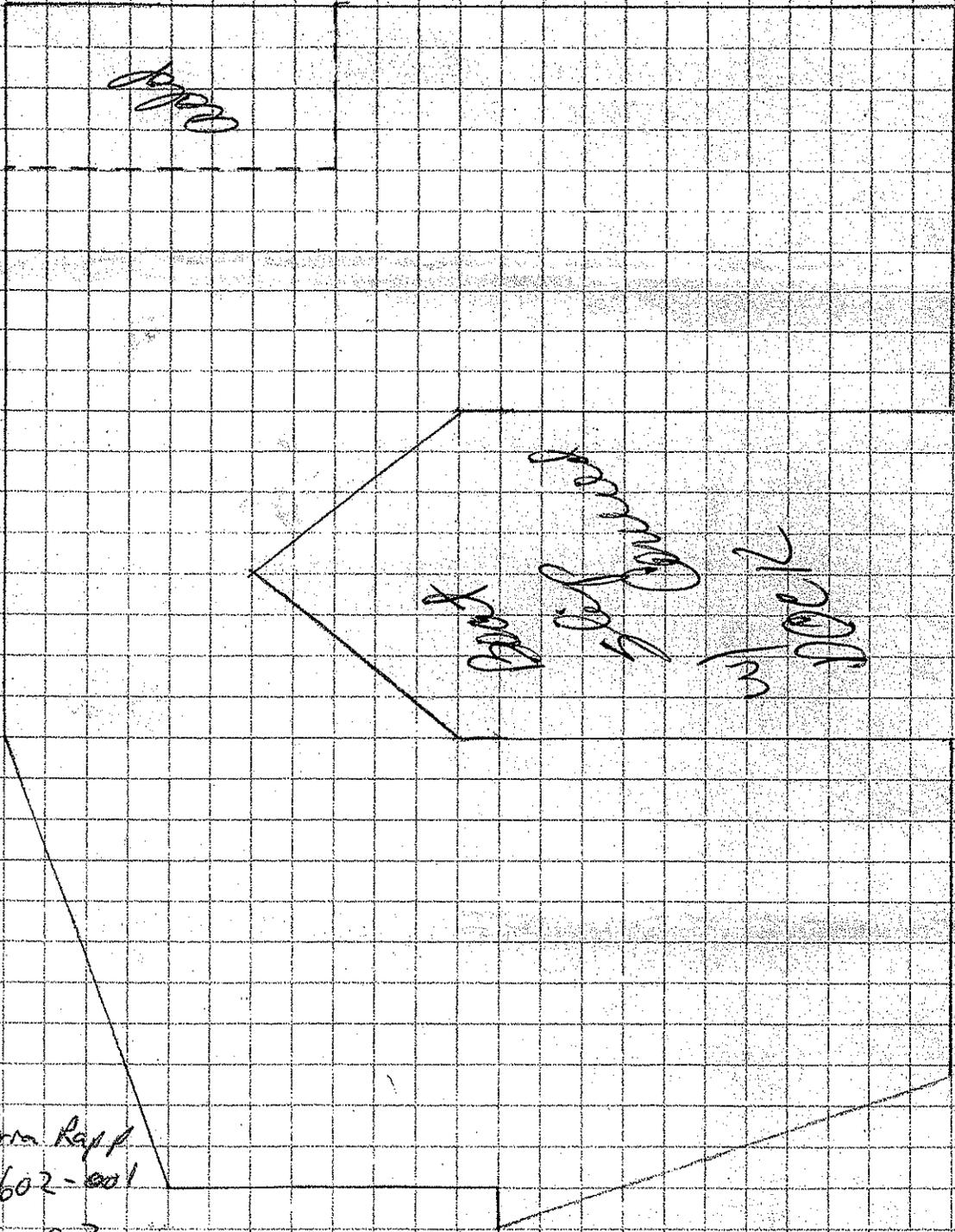
(g) The installation of private docks of 1000 square feet or less of surface area over wetlands or other surface waters or 500 square feet or less of surface area over wetlands or other surface waters for docks which are located in Outstanding Florida Waters. This exemption shall include the construction of structures above the dock area, such as gazebos and boat shelters, provided such structures are not enclosed with walls and doors, are not used for living, commercial purposes, or storage of materials other than those associated with recreational use, and provided the structures do not exceed, together with the docking facility, the total area limitations above. To qualify for this exemption, any such dock and associated structure:

1. Shall be used for recreational, non-commercial activities;
2. Shall be constructed or held in place by pilings, including floating docks, so as not to involve filling or dredging other than necessary to install the pilings;
3. Shall not substantially impede the flow of water, or create a navigational hazard; and
4. Shall be the sole dock constructed pursuant to this exemption as measured along the shoreline for a minimum distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case there may be one exempt dock allowed per parcel or lot. For the purposes of this paragraph, multi-family living complexes and other types of complexes or facilities associated with the proposed private dock shall be treated as one parcel of property regardless of the legal division of ownership or control of the associated property. Construction of a private dock under this exemption does not require the District to issue a subsequent permit to construct a channel to provide navigational access to the dock. Activities associated with a private dock shall include the construction of structures attached to the pier which are only suitable for the mooring or storage of boats (i.e., boatlifts). Nothing in this paragraph shall prohibit the Department from taking appropriate enforcement action pursuant to chapter 403, F.S., to abate or prohibit any activity otherwise exempt from permitting pursuant to this paragraph, if the Department can demonstrate that the exempted activity has caused water pollution in violation of chapter 403, F.S.

CENTRAL PRO

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Central Dist. - DEP

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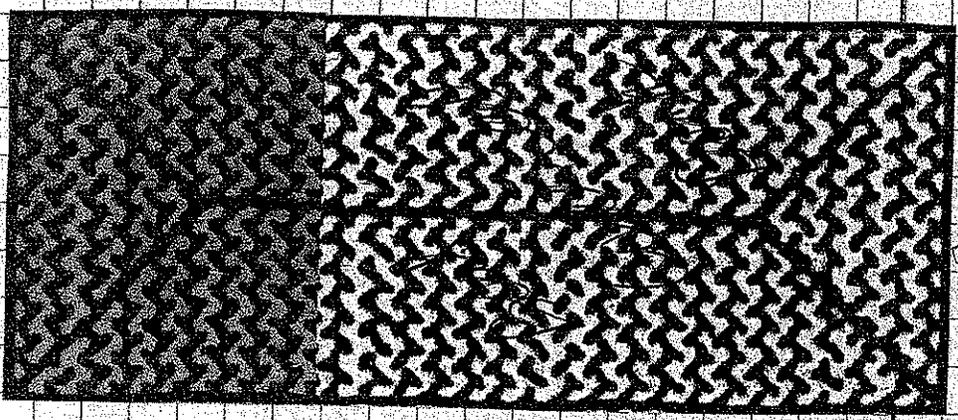
Ron + Adria Rapp
Permit # 59-250602-001
Page 2 of 3

NOTAL PRO

RECEIVED
AUG 10 2005
Central Dist. - DEP

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Rent Adria Rapp
Permit # 59-250602-001

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**Minutes for the Seminole County Board of Adjustment
December 19, 2005 Meeting
Item #6**

303 BRANTLEY HARBOR DRIVE – Rodney Rapp, applicant; Request for a side yard setback variance from 10 feet to 0 feet for an existing boat dock in the R-1AA (Single-Family Dwelling District); Located on the west side of Brantley Harbor Drive, approximately ¼ mile north of the intersection of N SR 434 and Brantley Harbor Drive; (BV2005-181).

Ian Sikonia, Planner

Ian Sikonia introduced the location of the property and stated that the applicant proposes to modify an existing dock that encroaches 10 feet into the 10 foot side yard setback. He further stated that the existing boat dock was constructed in 1985 in the canal in the rear of the property. He also stated that the applicant cannot move the existing boat dock to meet the side yard setbacks due to the dimension of the subject property. He then stated that the neighbor to the south of the property received a variance from the Board of Adjustment in 1999 for a rear and side yard setback from 10 feet to 0 feet. He lastly stated that the applicant had received his permit from the Department of Environmental Protection to modify the existing boat dock.

Rodney Rapp stated that all he is trying to do is move his boat which is currently in the middle of the canal, into his property. He further stated that the dock was there when he bought the property. He also stated that he received approval from the Department of Environmental Protection.

Mr. Kerry Smith did a power point presentation. He stated that the boat dock is encroaching on his property. He further stated that the encroachment is 16 feet and it was taken when the boat dock was built. He then showed pictures of the existing docks in the area. He stated that the property at 301 Brantley Harbor Drive put in their boat house legally and the property at 303 Brantley Harbor Drive which is now Mr. Rapp property should do what is needed to correct the problem on his property. He further stated that they would like to get their shore line back. He then stated that his recommended actions are as follows:

- The Board of Adjustment Deny the request and initiate enforcement for removal of the existing dock
- Restore the original shoreline
- Require any construction have permits from Seminole County

Patrick O'Grady stated that he recently purchased the property at 301 Brantley Harbor Drive. He further stated that he would like Mr. Rapp to

find a way to remove his boat from the canal because it has been causing a navigational problem for him coming in and out of his boat house. He also stated that the quality of the construction is a big concern, he stated that Mr. Rapp was doing the work himself and doing it without following the proper procedures. He lastly stated that he was opposed to the request being built right next to his property.

Rodney Rapp stated that he was trying to accommodate his neighbors and remove his boat from the canal. He further stated that he was trying to do a lot of the work himself because it would be very expensive to hire someone. He also stated he wanted to improve the property and make it look nicer for everyone. He then stated that the Department of Environmental Protection told him he was 4 feet too far on Mr. Smith property and he needed to remove the 4 feet. He further stated that he got started because he had gotten approval from the Department of Environmental Protection. He lastly stated that there was not enough room on either side of the property to have 10 feet.

Mr. Rozon made a motion to deny the request.

Mr. Bushrui seconded the motion.

The motion passed by unanimous consent (5-0).

**VARIANCE & SPECIAL EXCEPTION
APPLICATION TO THE BOARD OF ADJUSTMENT
SEMINOLE COUNTY**

CURRENT PLANNING DIVISION
(407) 321-1130, EXTENSION 7444

- APPROVAL OF SPECIAL EXCEPTION
 APPROVAL OF VARIANCE
 OTHER

John T. Metham: Owner (+ Charlene)

APPLICANT: PAUL & GEORGIA MEYER

MAILING ADDRESS: 308 WICKHAM COURT: LONGWOOD; FL 32779

PHONE: WORK 834-4400 HOME 869-9266 FAX: 834-5397

REQUEST: FROM 10' SIDE SET BACK TO ZERO SIDE SET BACK ON NORTH PROPERTY LINE,
AND ZERO REAR SET BACK ON CANAL END. (SEE ATTACHED) / SIDE YARD SETBACK VARIANCE
FROM 10'-0' AND REAR YARD SET BACK FROM 10'-0' FOR A BOATHOUSE.

LEGAL DESCRIPTION OF PROPERTY: A PORTION OF LOTS 26, 27, & 28, BLOCK "A",

BRANTLEY HALL ESTATES, PLAT BOOK 13, PAGES 16 & 17 (SEE ATTACHED)

(4-21-29)-509

ZONING DISTRICT: SEMINOLE CO

GENERAL LOCATION (Directions): I-4; SR 434 W - PALM SPRINGS (RT) - RT ON BRANTLEY

HARBOR DR - 301 BRANTLEY HARBOR DRIVE

LOT SIZE: APROX. 13,000 SQ FT

EACH APPLICATION WILL BE ACCOMPANIED BY THE FOLLOWING:

- Special Exception - Submit ten - 8.5" X 14" copies of site plan. One copy completed Concurrency Review Application. Application fee.
- Variance - Applicant must be property owner or submit letter of authorization from the property owner. One 8.5" X 14" site plan. Application fee.

SIGNATURE OF APPLICANT *Paul Meyer* DATE 2/4/99

FOR OFFICE USE ONLY	
FEE: BA <u>\$150.00 #279583cc</u>	DATE <u>2-5-99</u>
FURTHER DESCRIBED AS: <u>N.W. CORNER OF CHERRY HILL CIR. & BRANTLEY HARBOR DR., 1/6 MILE N. OF S.R 434</u>	
PROCESSING:	
A. LEGAL AD TO NEWSPAPER <u>2-26-99</u> ^{fixed; published:} <u>3-2-99</u>	B. NOTICE TO PROPERTY OWNERS <u>3-3-99</u>
C. PLACARDS / NOTICE <u>2-25-99</u> ^{made up:} <u>12-26-99</u>	^{sent:}
D. BOARD ACTION / DATE <u>Approved 3-22-99</u>	E. LETTER TO APPLICANT <u>3-24-99</u>

Approved ^{POV} subject to: DISTRICT: 3

- Installation of a gutter on the north side of the building.
- Repair of damage, if any, to the neighbor's property.
- Submittal of a letter of no opposition from the Homeowners Association's Architectural Review Board.

FILE NO. BA 99-3-26V
MEETING DATE 3-22-99

5. LANCE & JILL DOUGLAS – BA99-3-25V – R-1B Residential Zone - Side street setback variance from 20 ft. to 10 ft. for a 6 ft. high wooden fence on Lot 72, Aloma Woods, Phase 5, PB 53, Pg 11-13, Section 29-21-31; NW corner of Cypress Head Trail, 1/4 mile E of Aloma Oaks Drive and 1/4 mile N of Aloma Woods Boulevard. (DIST 1)

Ms. Markley presented the site location.

Lance Douglas stated that they would like to construct a fence to go around the yard. He stated that they are on a corner lot. He stated that they have a pool and the pool screen runs directly parallel with the back of the house. He stated that there is also some pool equipment on the side of the house facing the road that they would like to enclose with the fence. He presented photographs and a letter from the homeowners association to the Board.

Mr. Pennington stated that on his drawing, it shows 8 ft. from the house to the fence.

Mr. Douglas stated that they measured the pool equipment and it comes out 5 ft. from the side of the house. He stated that he is not sure how much they are going to need for the gate area. He stated that when they were filing for the variance, it was suggested that they file for 10 ft.

Mr. Bushrui asked Mr. Douglas if this is a mandatory homeowners association.

Mr. Douglas stated that it is.

Mr. Rozon asked Mr. Douglas if the neighbor to the west, behind the pool enclosure, objected to the fence.

Mr. Douglas stated that they have asked to pay for half of it.

No one spoke in favor or in opposition to this request.

Ms. Markley stated that staff would not recommend the granting of the variance unless the Board finds a hardship.

Mr. Bushrui made a motion to approve with the hardship being the configuration of the lot and the equipment situation; seconded by Mrs. Buchanan. Motion passed unanimously.

6. JOHN T. METTHAM – BA99-3-26V – R-1AA Residential Zone – Side and rear yard setback variance from 10 ft. to 0 ft. for a boat house on a portion of Lots 26, 27 and 28, Block A, Brantley Hall Estates, PB 13, Pg 16 & 17, described as follows: from the SW corner of Lot 28, Block A, of said Brantley Hall Estates, run N 84 degrees 15' E, along the S line of said Lot 28, 34.99 ft. to the point of beginning, run thence N 05 degrees 45' W, 123.80 ft.; thence N 17 degrees 07' 16" E, 25.23 ft.; thence N 84 degrees 15" E, 100 ft. to a point on the Ely line of Lot 26, Block A, of aforesaid Brantley Hall Estates, run thence S 147.80 ft.; thence S 84 degrees 15" W 95.01 ft. to the point of beginning, Section 4-21-29; NW corner of Cherry Hill Circle and Brantley Harbor Drive and 1/6 mile N of SR-434. (DIST 3)

Ms. Markley presented the site location.

Mike Diazo, with Specialty Marine Contractors, stated that he is representing the Metthams and the Meyers. He stated that this home has been up for sale for

quite some time. He stated that everyone that has looked at it turned it down because there is no room to moor a boat on their property without being across the neighbor's property and there is no way to build a boathouse without digging a slip into the property. He stated that the owner was told that was not possible. He stated that he has done this quite a few times on Winter Park chain where canals go from one lake to the next, homeowners have lots on the canal and they live two blocks in. He stated that they go in, dig a boat slip, retaining wall it up and build a boathouse inside the slip. He stated that their hardship is that there is no water access to build a boathouse and keep all the setbacks that are required. He stated that the Meyers are interested in buying this house and have done so in hopes that this Board grants the variance. He presented photographs to the Board.

Mr. Bushrui asked Ms. Markley if the advertisement was correct with the owners.

Ms. Markley asked Mr. Diazo if the Metthams were the former property owners.

Mr. Diazo stated that is correct. He stated that when he made the application, they were in the process of closing.

Ms. Markley asked Mr. Diazo if it is the Mettham's signature on the application.

Mr. Diazo stated that it is.

Ms. Markley stated that it is fine.

James Radziszewski spoke in opposition stating that he shares a common property line (north property line at the end of the canal) with the Meyers. He stated that to be able to float a boat into the proposed boathouse would require pretty serious excavation of the canal itself by at least 3 ft. of where the current water is. He stated that would mean that the elevation of Mr. Meyers boathouse, at the zero lot line clearance where it would adjoin his property, would end up to be a hole 8 ft. deep. He stated that they have sugar sand. He stated that it percolates water well but it tends to wash away. He stated that it is hard to do foundations with it. He submitted photographs to the Board. He stated that he has a combined deck with Mr. Meyers. He stated that this would disturb the deck area of his property when he builds this. He stated that his property is for sale and he was told that this would devalue his property because he has a small back yard as his house sits way back off the front of the road. He stated that the water drainage from the boathouse roof would drain onto his property.

Mr. Bushrui asked Mr. Radziszewski if there is a homeowners association with an architectural review board.

Mr. Radziszewski stated there is.

Mr. Diazo stated that this would increase Mr. Radziszewski's property. He stated that the boathouse will be 2 ft. on the property line and the roof will drip right at the property line so it would be equal.

Mrs. Buchanan asked Mr. Diazo about the soil.

Mr. Diazo stated that it is not a big deal. He stated that he has been building boathouses for 20 years. He stated that he has built boathouses 5 times exactly like this.

Mrs. Buchanan asked Mr. Diazo if they could put an eave on the roof so that it drains into the canal.

Mr. Diazo stated that they could install a gutter system on that side. He stated that he has spoken with the homeowners association and they felt if they could

get a variance from this Board, the Architectural Review Board would not have a problem with working with the Meyers on this.

Mr. Rozon asked Ms. Markley if they have to obtain a permit to excavate.

Ms. Markley stated that they have to obtain a dredge and fill permit from Seminole County.

Mr. Diazo stated that they definitely have a hardship. He stated that they would like to put in a boathouse like everyone else in the neighborhood on the canal but they cannot do it because of the irregular lot.

Mr. Pennington asked Mr. Diazo if they have looked at the possibility of building two at once.

Mr. Diazo stated that he proposed that to Mr. Radziszewski because it would make his lot more easier to sell. He stated that if he would just put the slip in so someone else could build the boathouse in the future.

Chairman Hattaway asked Mr. Diazo if he is going to be doing anything that would prevent the person next door, at a future date, from doing a slip and a boathouse.

Mr. Diazo stated that he would not. He stated that it is all wood structure and would be very easy to take back down, that side of the boat slip and re-excavate into the neighbor's property.

Chairman Hattaway asked Mr. Diazo if he is going to put up a wall on the Meyers property and whoever would be the owner now or in the future of Mr. Radziszewski's property, would have to take it down.

Mr. Diazo stated that the wall could stay up and they could dig on the other side of it. He stated that he feels that the State would want the two to connect to have one larger body of water than two little slips.

Chairman Hattaway asked Mr. Diazo, at a future date, whoever owns Mr. Radziszewski's property wants to put a slip or boathouse in there, and the people that own the Meyers property would say no that they could not take down the wall, what would happen then.

Mr. Diazo stated that he could easily dig on the other side of the wall and the wall would just stand. He stated that the wall would be equally in the ground and equally out.

Ms. Markley stated that staff would not recommend the granting of the variance unless the Board finds a hardship.

Mr. Bushrui asked Ms. Markley to address what permits would be required.

Ms. Markley stated that there will be a permit issued by Seminole County, a dredge and fill permit, as well as the permit by EPA. She stated that we have inspectors as well as the State has their inspectors that would be inspecting the work upon completion.

Mrs. Buchanan made a motion to approve subject to the permitting process of the State and the County, the gutter system being installed on the roofline, replacement of any damage done to anything on the adjoining property and approval by the Architectural Review Board with the hardship being the configuration of the lot that borders the canal; seconded by Mr. Pennington. Chairman Hattaway voted in opposition. Motion passed 4-1.