

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
October 27, 2022

LET IT BE REMEMBERED, that the Collier County Hearing Examiner, in and for the County of Collier, having conducted business herein, met on this date at 9:00 a.m., in REGULAR SESSION at 2800 North Horseshoe Drive, Room 609/610, Naples, Florida, with the following people present:

HEARING EXAMINER ANDREW DICKMAN

ALSO PRESENT:

Michael Bosi, Planning and Zoning Director
Raymond V. Bellows, Zoning Manager
John Kelly, Senior Planner
Andrew Youngblood, Operations Analyst

PROCEEDINGS

HEARING EXAMINER DICKMAN: All right. Good morning, everybody. Good morning. This is October 27th, 2022 Hearing Examiner Meeting. We are going to -- all right. Are they on? All that matters is if she hears me over there. That's all that matters.

Okay. We're going to get started with the Pledge of Allegiance and call this meeting to order.

(The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER DICKMAN: Okay. Thanks very much. A few housekeeping items, including myself, let's all silence our phones. If you want to have a conversation, private conversation, just step outside in the hallway, please, so we don't interrupt anybody speaking or trying to listen.

For the record, my name is Andrew Dickman. I'm an attorney in good standing with the Florida Bar. I've been practicing over 22 years now in the area of local government, land use, zoning, environmental law. I've been hired by the Board of County Commissioners -- I'm not a -- as a private attorney to be the hearing examiner to fulfill the duties and obligations of the hearing examiner that are outlined in the Code of Ordinances. And I am not an employee, even though I'm guilty by association by being on the same side as these guys. They are their own people. I am not an employee of the County. I like them. I like everybody in this room.

But I'm an independent person here. My job is to listen to the evidence and the testimony that is presented here today at these quasi-judicial hearings and to apply that to the criteria that's articulated in the code for whatever petition it is being presented to, and then render a decision within 30 days. I do not render decisions here today. I do not issue orders here today. I take back everything that is presented at this hearing and, again, do the analysis and come up with a written decision, which everyone will receive.

Everything that is going to -- anyone who is going to speak here today has to do so under oath, at least the individuals that are going to be giving testimony, and in a minute, I'll ask the court reporter to administer the oath.

The process that we're going to follow is that the County -- I've asked the County to come up to the smaller podium in the middle, excuse me, and just give us a quick overview of their analysis from the staff report that they've published and the notices that were put out and any recommendations or conditions. And then the applicant or the applicant representatives will come over to this other podium. And then we'll open it up for public comment.

We have a hybrid meeting. The County has set up a process for the public that can't or don't feel comfortable coming here in person. They can participate via technology over the Internet, and we'll take public comment. And then I'll save a few minutes for the applicant or the applicant's representative for rebuttal for anything that they've heard from the public or anybody else. And then that will be it for that. And then we'll -- I'll probably ask some questions, or I may not ask questions.

The important thing is that everything is captured, for the record. So try to speak clearly, give your name and address when you come up, and speak clearly so that the -- all of the information can be captured. Our court reporter here will flag me down or flag you down or throw something or do whatever it takes to stop the process if she

feels like she can't understand what's being said. Obviously, hand gestures, thumbs up, shaking your head, if you're trying to answer a question or say something like that, that's not something -- you've got to do it verbally.

So with that, I think I have everything. Why don't we go ahead and anyone who is going to testify here today stand up, or anybody in the virtual world stand up and raise your right hand.

And do you mind administering the oath, Madam Court Reporter?

(The speakers were duly sworn and indicated in the affirmative.)

HEARING EXAMINER DICKMAN: Okay. I think I've covered everything.

So we have three items today, two boat dock extensions and a variance related to a boat dock. So why don't we get started with Item 3A.

And, John, you're getting up.

MR. KELLY: Good morning, Mr. Dickman. John Kelly, Senior Planner, for the record.

This is going to be your Item 3A. It's boat dock extension PL20210000314. It's a request that you approve a 10-foot boat dock extension over the maximum permitted protrusion of 20 feet for waterways less than 100 feet in width to allow the addition of a second slip with boatlift and boathouse to an existing boat docking facility that will protrude a total of 30 feet into a waterway that is, plus or minus, 87 feet wide pursuant to Section 5.03.06(E)(2) of the Collier County Land Development Code for the benefit of the subject property.

It should be noted that the existing finger pier type dock is encumbered by a recorded access easement in an order granting permanent injunctive relief to an unrelated party. Both documents are included within Attachment D of the staff report.

The property is located at 715 Palm Point Drive in Section 19, Township 52 South, Range 27 East, Collier County, Florida. The full legal description of the property is provided within Attachment A of the staff report. The property is located within a village residential VR zoning district and also the Goodland zoning overlay, which pertains mostly to permitted uses more so than development regulations.

Public notice requirements were as per LDC Section 10.03.06(H). The property owner's notification letter was sent by the County as well as the newspaper ad was run on October 7, 2022. Public hearing sign was posted by me on October 10, 2022.

This petition was reviewed by staff based upon the review criteria contained within LDC Section 5.03.06(F) and 5.03.06(H). In conjunction with the subject boat dock extension, the boat -- I'm sorry -- boathouse. The boathouse satisfies all seven of the review criteria. As far as the boat dock extension, it satisfies four of five of the primary criteria, four of six of the secondary with the sixth being not applicable, the Manatee Protection Plan and has been found to be consistent with the Growth Management Plan and the Land Development Code.

Staff recommends you approve this petition as described in accordance with the proposed dock plans provided within Attachment B and with the condition that a railing chain or rope must be incorporated into the design to cordon off and prevent use of the northern side of both the new and proposed portion of the dock as well as the existing finger dock to prevent additional mooring area. And that concludes staff's report.

HEARING EXAMINER DICKMAN: Okay. Thank you. I am looking at the order that you referenced. It's a 2008 order, which relates to a permanent injunction

related to a 15-foot wide strip of land north of the north line of the property described, yada, yada, yada. So I guess we'll get into that a little bit later.

Okay. Thanks, John.

All right. Who's here for the applicant?

How are you today?

MR. PEARSON: Good. For the record, my name is Nick Pearson. I'm with Turrell, Hall & Associates. We're an environmental and marine engineering consulting company.

Here are some of my accolades. My resume, just to prove to you, I am an expert in this field.

HEARING EXAMINER DICKMAN: We recognize you.

MR. PEARSON: Thank you.

Next slide, please.

Just to get our bearings, this here is a map, essentially, showing the property location. It's on the south side of Goodland near the terminus of a manmade canal.

Next slide, please.

So just to give a little bit of background on this property, you can see that 1963 aerial on the top left. That's essentially prior to any development. In 1967, we had the plat created, and by '69 it had been essentially followed where the canal was dug out. '73, again, you can see the canal. And by '85, it had been expanded a little bit. So you can kind of tell by looking at differences there. The '85 is just a little bit wider at the end of the canal near where our property is. And then in 2021, you can see it's more or less stayed similar.

The reason I bring that up, though, is that the waterway in this case did not follow the plat, which essentially means we had to get most of the end of that canal surveyed.

Next slide, please.

So, again, you can kind of tell the deviations here from, you know, the actual site conditions between the old plat. The plat calls the waterway out as 61.43 feet at the end. That's really not the case. It actually meanders more along the lines of approximately 90 feet at the end of the canal and --

HEARING EXAMINER DICKMAN: You're talking about right along here?

MR. PEARSON: Yeah, and I have a measurement that shows it later on.

HEARING EXAMINER DICKMAN: Is this the general --

MR. PEARSON: That's the mean high-water line.

HEARING EXAMINER DICKMAN: -- water line like where we're talking about?

MR. PEARSON: Yeah, that's the surveyed mean high.

HEARING EXAMINER DICKMAN: Somebody has dug out here?

MR. PEARSON: Yes.

HEARING EXAMINER DICKMAN: It's supposed to look like this, something like that?

MR. PEARSON: Yes. I don't want to speculate on what happened there, but it seems like -- it seems like, also, the western property line didn't correspond completely with the plat.

HEARING EXAMINER DICKMAN: Yeah.

MR. PEARSON: But there was some shoreline work going on at the subject

property. It's -- there wasn't any docking facility constructed, but that's why you see a turbidity boom right there.

HEARING EXAMINER DICKMAN: There was a little thing called dredge and fill before you were born that you may have heard of that created most of Florida.

MR. PEARSON: Yes, this entire canal.

Next slide, please.

So this is a better picture of kind of what the site looks like -- or these photos were actually prior to the hurricane, but my understanding is it looks pretty much the same.

So you can see there is an existing dock on site. That is the dock that's kind of associated with the access easement. It's located pretty much right near the south property line. So you can also see there's mangroves, you know, bordering kind of the north and south ends of the property as well.

So next slide, please.

I had to split the PowerPoint in two. It was too large for an email.

HEARING EXAMINER DICKMAN: You could have removed your picture.

MR. PEARSON: I knew you'd like it, though.

HEARING EXAMINER DICKMAN: I do like it. That's a classy move. You've got to establish yourself as an expert.

MR. PEARSON: So here are some more pictures. You kind of see the way down the canal to the south in that lower picture. And the top two pictures are basically looking north. So those are both of those houses that are in kind of the upper corners of the canal.

Next slide, please.

So just to kind of further go on about the existing conditions on the site, again, we've got 83 feet of shoreline total, and that's measuring the mean high-water line.

HEARING EXAMINER DICKMAN: So I just want to -- let's identify this court order. Is this what we're talking about?

MR. PEARSON: Yes. That is the access easement. That's --

HEARING EXAMINER DICKMAN: What's the story behind that? Because it was a default. I don't see the complaint; I just see the order. Do you have any history of that, like what that's about, private access easement?

MR. PEARSON: There was the original -- I included the original grant in our files and then also the permanent injunction relief that resulted from litigation.

HEARING EXAMINER DICKMAN: Okay.

MR. PEARSON: There were a lot of files submitted with the litigation, so I --

HEARING EXAMINER DICKMAN: So nothing you're proposing is going to interfere in this area?

MR. PEARSON: We're trying to avoid interfering with that at all costs.

HEARING EXAMINER DICKMAN: Okay.

MR. PEARSON: So we're abiding by all of the setbacks with our proposal, which is 15 feet. Again, the waterway kind of meanders here, just because it doesn't exactly follow the canal, so -- and we can kind of follow up on that on a later slide as well.

HEARING EXAMINER DICKMAN: Okay.

MR. PEARSON: And as I mentioned before, those green circles are essentially

the root line of the mangroves.

HEARING EXAMINER DICKMAN: Black or red?

MR. PEARSON: They are red, yes.

HEARING EXAMINER DICKMAN: Red mangroves?

MR. PEARSON: Yes.

Next slide, please.

So this is our proposal. As you can see, it's essentially a one-finger pier, a four-post lift all underneath one boathouse roof. So we've kind of pushed it as far north as we can, just to get away from that existing dock, again, just to avoid interference. So just a hair over 500 square feet total, and that includes the boathouse roof. And our max protrusion would be 30 feet, which actually matches the existing structure on the site as well.

HEARING EXAMINER DICKMAN: And the railings are going to be where? Here?

MR. PEARSON: One railing would be there, and there is already a railing on the north side of that dock, unless the hurricane damaged it.

MR. DONAHUE: No, it's there.

MR. PEARSON: It's still there. Okay.

Yes. So we wouldn't really be able to moor on the north side of that pier anyway, otherwise, we would be in the side setback.

HEARING EXAMINER DICKMAN: It doesn't mean that it wouldn't happen from time to time.

Okay. So this looks to me like a boatlift of some sort, some kind of structure. So the idea is to come in -- straight in here like that?

MR. PEARSON: Yes. Yes. And you can see the boat on that lift in some of the photos provided earlier, if we want to go back to that.

And just to reiterate, too, our total slip count for the property here would be two. So that includes the one that we were proposing and then also the one by -- that's the access easement grantee. So you can see it, yes, that's his boat.

HEARING EXAMINER DICKMAN: This belongs to somebody totally different?

MR. PEARSON: Yes.

HEARING EXAMINER DICKMAN: Okay. All right.

MR. PEARSON: Yes.

HEARING EXAMINER DICKMAN: Interesting. Okay.

MR. PEARSON: Next slide, please.

So this is just, you know, a close-up of the easement, just so you can see it a little better, kind of get the lay of the land a little bit better.

Next slide, please.

So cross-sections of the proposal, the vessel that's going to be moored, the primary vessel of the applicant here, will be a 22-foot overall deck boat called a Vectra. So we anticipate it will draft around 12 to 18 inches. And the beam on that would be approximately 8 to 9 feet. And I suppose the -- the information for the easement grantee's vessel is there as well, if that matters to you.

Next slide, please.

So, again, just want to go back to the waterway width. There's a lot of vegetation

in this canal. Obviously, there's other docks as well, so I -- we don't believe that the proposed structure would be out of line with other structures that are already in the canal. And as you can see, it is at one of the wider areas of the canal as well, so we don't believe we would be obstructing navigation at all.

HEARING EXAMINER DICKMAN: Although, this is kind of an odd number, because, I mean, it's -- we're not really sure what that is, right?

MR. PEARSON: Well, that's the turbidity boom.

HEARING EXAMINER DICKMAN: Oh, that's what that is.

MR. PEARSON: Yeah. So that would --

HEARING EXAMINER DICKMAN: So that's --

MR. PEARSON: Yeah. So that would be removed from the property after work is completed.

HEARING EXAMINER DICKMAN: I thought that was -- all right.

MR. PEARSON: Next slide, please.

Again, just want to follow up on the primary, secondary and boathouse criteria. The one that was missed with the primary was having to do with the waterway. And then the only one missed for the secondary is the vessel length to shoreline length ratio.

Next slide.

And that's my presentation.

HEARING EXAMINER DICKMAN: Okay. Why don't we go to the public. Anybody signed up to speak?

MR. YOUNGBLOOD: I don't have any registered public speakers for this item.

HEARING EXAMINER DICKMAN: John, anything else you want to add?

MR. KELLY: No, sir.

HEARING EXAMINER DICKMAN: Okay.

MR. PEARSON: I should also note, we had one letter of support from the neighbor across the waterway.

MR. DONAHUE: A guy on the other side of the canal, he came over and gave me a letter.

MR. PEARSON: Yes. And I have that with me right now, too. I don't think that was put into the record.

HEARING EXAMINER DICKMAN: You might want to go ahead and enter it. Now is the time to do that, if you want to put it in the record. You can just give it to John, and then John will provide me with a copy.

MR. PEARSON: Okay.

HEARING EXAMINER DICKMAN: In fact, can I see that real quick? Is it a long letter?

MR. PEARSON: Not too long.

HEARING EXAMINER DICKMAN: Okay. If we don't have any public speakers and you have no further comments, the County has no further comments, I don't have any questions.

MR. YOUNGBLOOD: Mr. Hearing Examiner, I believe the court reporter needs a copy of that letter as well.

HEARING EXAMINER DICKMAN: We'll make copies for everybody. Thank you, Andrew.

Okay. I don't have any questions. Thanks for your very nice presentation.

MR. PEARSON: Okay. Thank you.

HEARING EXAMINER DICKMAN: Okay. So the next two items are the same address, so do we want to handle these separately, make one presentation -- one presentation and then it will be two separate decisions? Is that okay with you?

MR. KELLY: Yes. We'd like to make one presentation with two decisions.

HEARING EXAMINER DICKMAN: Okay.

MR. KELLY: Okay. Before we -- it's going to be Agenda Items 3B and 3C. B is a variance petition PL20220004839, and Item C is a boat dock extension, PL20220004181.

Again, we'll be hearing both items at the same time, with your permission. It's a request for you to approve both a variance from Section 5.03.06(E)(5) of the Collier County Land Development Code to reduce the required side setback from 15 feet to 5 feet on the west side for a lot with 85, plus or minus, feet of water frontage and for a 6-foot boat dock extension over the maximum permitted protrusion of 20 feet for waterways of 100 feet or greater in width to allow a boat docking facility that will protrude a total of 26 feet into a waterway that is, plus or minus, 358 feet wide.

First went to Section 5.03.06(E)(1) of the Land Development Code for the benefit of the subject property. At this time, the Petitioner seeks to modify an existing dock facility for which the hearing examiner issued a formal decision on July 22, 2021, and that was HEX No. 2021-29 which allowed a 40-foot protrusion. However, it's staff's understanding the approved design was rejected by the Florida DEP.

This property is located at 406 Cristobal Street, also known as Lot 579, Isles of Capri No. 3, in Section 27, Township 51 South, Range 26 East, Collier County, Florida, which is located within a residential single-family 3 -- RSF3 zoning district.

Public notice requirements for the variance were per LDC Section 10.03.06(F)(2), and for the boat dock extension per 10.03.06(H). The required agent letter to property owners within 150 feet was sent by the applicant's agent on September 12, 2022. The property owner notification letter for this hearing as well as the newspaper ad were taken care of by the County on October 7, 2022. And a public hearing sign was posted by me on the property on October 10, 2022.

The variance application was reviewed by staff based upon the criteria contained within LDC Section 9.04.03 A through H with findings stated within the staff report. The boat dock extension was reviewed based upon the review criteria contained within LDC Section 5.03.06(H). Of the primary criteria, it satisfied five of five. Of the secondary criteria, it satisfied four of six, with the sixth being the Manatee Protection Plan, which isn't applicable. And both have been found to be consistent with the Growth Management Plan and Land Development Code.

I've received no public comment pertaining to this petition. And it's staff's recommendation that you approve both the variance and the boat dock extension in accordance with the plans contained within Attachment A of the individual staff reports. Approval of the boat dock extension is dependent upon the approval of the companion variance.

And that concludes staff's presentation.

HEARING EXAMINER DICKMAN: Thank you, John.

How are you, sir?

MR. ROGERS: Good morning. How are you?

HEARING EXAMINER DICKMAN: Good. Thanks for asking.

MR. ROGERS: For the record, Jeff Rogers with Turrell, Hall & Associates here today representing the applicant, Beau Middlebrook, who lives at 406 Cristobal Street, which is on the northeast side of Isles of Capri just off of Johnson Bay area/Rookery Bay.

This area, as John stated, is in an aquatic preserve and was presented to you a year ago for a boat dock extension, basically for -- to modify the existing dock that is there that is a grandfathered structure. Just to give you a little history on this, I'm not here to, A, waste staff's time, nor my time, to present these over and over again. But just to give you a little history of what happened here, the owner was in coordination with DEP for himself and didn't involve Turrell Hall, and didn't want to listen -- I hate to say this -- to our advice on what the rules are for an aquatic preserve. And he was adamant that I proceed with the BDE at the time. And against our recommendation, we did. And, unfortunately, after we got the approval for the original proposed dock, DEP denied his request.

HEARING EXAMINER DICKMAN: So just so I know, do you normally do these concurrently?

MR. ROGERS: No. When we are hired and when our firm is hired, we do DEP, Army Corps first. We start that process. And if we, as a firm, are comfortable with -- in knowing the regulatory rules, we will proceed with the County, knowing that the approval will come.

HEARING EXAMINER DICKMAN: So you'll get some preliminary feedback from --

MR. ROGERS: Correct.

HEARING EXAMINER DICKMAN: -- them. And if you -- in this case, you might have had -- had you been involved, you might have gotten the signals that what was being presented to us or me --

MR. ROGERS: Right.

HEARING EXAMINER DICKMAN: -- in this forum wouldn't fly?

MR. ROGERS: Correct.

HEARING EXAMINER DICKMAN: And that's what happened.

MR. ROGERS: And I did present the rules to him, but he was -- him and his contractor were elbow deep in it and thought that they were going to come out on top with the State, and it did not happen.

HEARING EXAMINER DICKMAN: It happens.

MR. ROGERS: It does.

HEARING EXAMINER DICKMAN: People try to do things on their own.

MR. ROGERS: And I'm not here to waste your time, that's why I want to make sure everyone understands --

HEARING EXAMINER DICKMAN: I was wondering why DEP --

MR. ROGERS: Yeah.

HEARING EXAMINER DICKMAN: -- why we were here.

MR. ROGERS: So, basically, let's move forward. We'll do the variance.

So run through DEP's requirements, which are more restrictive in this case. He does have an existing T-shaped dock and another additional slip with a canopy cover for

his deck boat. This is a single-family zoned property, so, therefore, they are allowed two boat slips. And the T-dock is a grandfathered structure.

And come to find out, DEP did not have record of the second boat lift addition. He did have a County building permit for it, for the lift as well as the canopy, but never got State approval. The owner bought the property that way, just so you know. The previous owner did that work, and the current applicant/owner inherited that. So he had to deal with that as well as the proposed original approved HEX approval. Both of those came to a head with DEP last year. So presented to you today is the proposed design.

Let's move forward if you would, Andrew, please.

HEARING EXAMINER DICKMAN: It brings up a good question.

MR. ROGERS: Yeah.

HEARING EXAMINER DICKMAN: So when you're in the SC overlay, I mean, it's -- or all of them, maybe I should be asking you if you've contacted DEP or anybody, I mean, what's the DEP's position on this?

MR. ROGERS: Currently?

HEARING EXAMINER DICKMAN: No. No. I'm just thinking procedurally.

THE WITNESS: Oh, yeah. I mean --

HEARING EXAMINER DICKMAN: It might not be a bad idea just to go ahead and ask that question if DEP has been -- if there's an open application started with DEP.

MR. ROGERS: And there was. Just in regards to the first round are you speaking to?

HEARING EXAMINER DICKMAN: I'm saying just in general with these docks. Because if we're getting -- I don't want to have these scenarios where we have to do these twice --

MR. ROGERS: Right.

HEARING EXAMINER DICKMAN: -- and waste everybody's time and money.

MR. ROGERS: I agree.

HEARING EXAMINER DICKMAN: I'm just talking to myself right now.

MR. ROGERS: No. No. And I totally agree. And in this case, unfortunately, I was hitting a brick wall, so to speak, with the owner on my knowledge and expertise and my recommendation to him to not proceed with the County. But he was adamant and, unfortunately, wasted some time and money of myself and his own.

HEARING EXAMINER DICKMAN: Your colleague has got a better photo. You should have let him do it.

MR. ROGERS: Right. He didn't take in the knowledge that I've been doing this for 15 years and knew what I was, unfortunately, talking about, so...

HEARING EXAMINER DICKMAN: All right. All right.

MR. ROGERS: All right. Moving forward, let's go to the next slide, please, Andrew.

So here's the survey showing you what's there currently on site. And, again, this is an aquatic preserve, so the State is more restrictive here. The State has a requirement of 25-foot setbacks. County, in this case, is 15. That's -- it's if the shoreline is greater than 60 feet.

So to accommodate the applicant's vessel, which is a 36-foot boat, but 38 LOA with the motors, we had to get very creative with a dock design that would fit within, A, the setbacks of the County, if possible, let alone also the protrusion limitations that the State has on vessels in aquatic preserves to be extending out to the negative 4 feet mean low-water contour line. We cannot go past that line. There is no variances with the State. There's no ways around that, unless you're a commercial property. If you're a single-family, you're -- it is what it is.

So that's -- that was our design box. So, therefore, we had to get very creative on what options we could come up with on a design.

Move forward, please.

So this is existing conditions.

Let's go to the next one, please.

So here we are, very unique and creative dock design. Again, the State has 25-foot setbacks, so -- and how did we get around that with the State? Basically, the State will let you get a setback waiver signed by the landowner that is directly affected, and that is to the left with the existing boathouse. Both sides have boathouses, but if you're looking at the screen to the left -- yes, sir, right there. Immediately to our west, that's a grandfathered structure. It was there pre-1985, so, you know, it doesn't meet the 25-foot setback either. However, if they were to change that, they would have to come into compliance with the State at that time.

We are proposing a 5-foot setback with the mooring piles off the bow of the boat, and, therefore, basically, asking for a 10-foot variance from the County, and a 20-foot setback waiver from the State, which they have received and issued their permit for that currently.

HEARING EXAMINER DICKMAN: Okay. What is the State objecting to? This part?

MR. ROGERS: Yeah. So that's a grandfathered structure. A, it extends out past the 4-foot contour line, and it's greater in size, square footage than what is allowed, too. So they limited you on everything in an aquatic preserve.

And what we proposed originally was to knock the T-head off to make it an L and put the big vessel on the west side, left side if you're looking at the screen, originally, and that's what was approved, and leaving the other slip where it is, which we're also doing today.

HEARING EXAMINER DICKMAN: So you'll build around this --

MR. ROGERS: Correct.

HEARING EXAMINER DICKMAN: -- one which was not recognized by the State, but it's there, so you're building around that. This will be eliminated, and then this will become the new mooring spot for the lift. Okay.

MR. ROGERS: And the reason the vessel -- the larger vessel, the new proposed slip is so forward on the dock is because of the negative 4-foot contour line. The boat cannot extend past it even on the lift. So that's why we're so far into the setback on this case. To fit a 38-foot vessel, yeah, the contour line literally is kissing the stern of the boat, and it's inside the box for the State, so we're good there, and we have the State permit for that.

HEARING EXAMINER DICKMAN: So you have the consent from this property?

MR. ROGERS: Yes, sir. And that was submitted to the County, and it's in your package. It's basically a letter of no objection setback waiver.

So it does not interfere -- he ingresses and egresses his boathouse north to south, basically bow to the seawall. So when he backs out, he backs out within his riparian area, and then ultimately goes west out to the channel to Little Marco River that way.

So there's no interference. Both neighbors -- everyone has been notified. There have been no objections. I did speak to one lady across the street and clarified what we were doing. She was the only one that voiced any questions to what we were doing.

We're well within what the other existing docks are on the waterway. To kind of morph this into the boat dock extension, you know, we're extending out 6 feet past the allowed 20 feet, which is basically on the east side. You can see that measurement right there, 26 feet. So it's really incorporating the dock and the existing boat that's there.

The property line is the most restrictive in this case/mean high-water line. It falls actually on the plat, which is amazing. So they line up here. So asking for a 6-foot boat dock extension and a 10-foot variance for the setback requirement for the proposed dock, so...

HEARING EXAMINER DICKMAN: Do you feel confident that DEP is going to go for this or --

MR. ROGERS: It's already permitted.

HEARING EXAMINER DICKMAN: Okay. Great.

MR. ROGERS: Yes, sir.

I don't believe I submitted that permit. I think I received it, but I do have that. It is public record, and I can provide it, if you would like.

HEARING EXAMINER DICKMAN: No. That's fine. I just don't want you to have to come back again.

MR. ROGERS: No. No. This is -- unfortunately, it's a very unique dock design. It's not ideal, but it is permanent. It's the only thing we could get done.

HEARING EXAMINER DICKMAN: Okay.

MR. ROGERS: Open to questions, other than that.

HEARING EXAMINER DICKMAN: Public comment?

MR. YOUNGBLOOD: I don't have any registered speakers for either item.

HEARING EXAMINER DICKMAN: John, any last words?

MR. KELLY: No, sir.

HEARING EXAMINER DICKMAN: Okay. Pretty straightforward. I understand both requests on this property, and I can see why it's being requested. And unless you have anything else you want to add, I don't have anything more, and I can close the public hearing on this.

MR. ROGERS: Good to go. Thank you, guys.

HEARING EXAMINER DICKMAN: Nice presentation.

MR. ROGERS: Thank you.

HEARING EXAMINER DICKMAN: All right. Anything new -- any new business you guys want to talk about?

MR. BOSI: Mike Bosi, Planning and Zoning Director, none from staff.

HEARING EXAMINER DICKMAN: Okay. Thank you, everybody. I appreciate it. I guess we're going to close the meeting. It's 9:40. Thank you, everybody.

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:40 a.m.

COLLIER COUNTY HEARING EXAMINER



ANDREW DICKMAN, HEARING EXAMINER

These minutes approved by the Hearing Examiner on 11/23/22, as presented or as corrected .

TRANSCRIPT PREPARED ON BEHALF OF FORT MYERS COURT REPORTING, BY
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PUBLIC.