

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida, March 9, 2017

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 MARK STRAIN

ALSO PRESENT: Raymond V. Bellows, Zoning Manager
Nancy Gundlach, Principal Planner
Rachel Beasley, Principal Planner
Scott Stone, Assistant County Attorney

HEARING EXAMINER STRAIN: Good morning, everyone. Welcome to the Thursday, March 9th meeting of the Collier County Hearing Examiner's Office.

If everybody will please rise for the Pledge of Allegiance.
(Pledge of Allegiance was recited in unison.)

HEARING EXAMINER STRAIN: Thank you. Review of the agenda. There are three items on the agenda today. Item 4.A is Petition VA-PL20160002992. It's for Mark Adrian Williams and Donna Marie Delvecchio. It's in the Wyndemere PUD. That item will not be heard today. That item's been requested to be continued to April 13th, so that Wyndemere petition will not be heard today. So it will be continued to the April 13th Hearing Examiner's meeting. Same time in this room.

So is anybody here for that first item?
(No response.)

HEARING EXAMINER STRAIN: Okay. Other than that, there are no other changes to the agenda. I've also -- number three, approval of prior meeting minutes, I've reviewed those, those are approved as written.

***That takes us into the first advertised public hearing. Again, the 4.A, the Wyndemere variance, has been continued to April 13th so we'll move right into Petition VA-PL20160001264. It's Pauline Christie, requesting a variance from the LDC for a minimum side yard setback in Golden Gate Estates at 5095 Palmetto Woods Drive.

All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter. If you're going to speak on this item, please rise to be sworn in.

(All speakers were duly sworn.)

HEARING EXAMINER STRAIN: Thank you.

I have talked to staff, I've met with the applicant once, I reviewed all the files, looked at the history of the project of this particular address, and that's the extent of my disclosures on that. And at this point I don't have any other documents I read. But mostly staff report.

So with that, I don't believe -- no members of the public other than the applicant are here for this item. Are there any members of the public here for this item?
(No response.)

HEARING EXAMINER STRAIN: Okay, at this point I have read the entire document. I will not need a staff report or a -- I'm sorry, I will not need a presentation by the applicant. However, if the applicant will come up and just identify herself for the record so we know she was here for this hearing.

MS. CHRISTIE: Good morning. I'm Pauline Christie.

HEARING EXAMINER STRAIN: And you're the -- you're the property owner for this particular address?

MS. CHRISTIE: Yes, I am.

HEARING EXAMINER STRAIN: Your house was built when the code allowed a 15-foot setback and your pool cage was put there at the setback at 18.8. And it looks like you said you want to take a single-story pool cage and make it a two-story; is that what this is all about?

MS. CHRISTIE: Yes.

HEARING EXAMINER STRAIN: That's what I thought.

Thank you, that's all I need from you. I have no other questions.

MS. CHRISTIE: Okay.

HEARING EXAMINER STRAIN: I know it seems rather simple for government, but since I read everything ahead of time it's not necessary to repeat everything that I've read, so --

MS. CHRISTIE: Okay, thank you.

HEARING EXAMINER STRAIN: Thank you.

And we'll next go to staff report.

Nancy?

MS. GUNDLACH: Staff recommends approval.

HEARING EXAMINER STRAIN: Nancy, you are noted for your brief staff reports.

And I have reviewed the old codes and this definitely is one of those caught into the time change

between the old code and new. I don't have any other questions for it. Staff is recommending approval.

The only stipulation that I noted in staff was leave it at the 18.8 feet that it previously was approved at. Is that --

MS. GUNDLACH: That is correct.

HEARING EXAMINER STRAIN: Okay. With that, we will close the public hearing -- oh, any members of the public here wishing to testify on behalf of this item?

(No response.)

HEARING EXAMINER STRAIN: I know I keep repeating that, but I don't want to miss anybody. Okay, with that we'll close the public hearing in this matter and a decision will be rendered within 30 days.

Thank you, ma'am, that's all there is to it today.

***That takes us to number two on our agenda, Item 4.C. It's Petition number BD-PL20160000357. It's Michael Whalen for a -- requesting approval of a boathouse at lot four, block F in the Brookside subdivision. And the address is 1792 Holiday Lane.

All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter.

(All speakers were duly sworn.)

HEARING EXAMINER STRAIN: Okay, disclosures. On my part, I really didn't have a lot of discussion on this until today.

Whoever's got that cell phone, if you don't mind turning it down a little bit.

I received the one letter of no objection and actually a letter recommending approval from a resident across the way, across the road, Mrs. Kokkinos, Mr. and Mrs. Kokkinos.

This morning when I first came in I noticed people in the audience, a couple of them came up and talked to me. They are neighbors across the canal, at least one was. There was two letters provided expressing concerns about the project.

I have since explained to them prior to the meeting what the implications were with this boathouse cover -- or this boat cover, as well as the dock and its width and the distances both across the canal and the lot lines. Their letters of concern will be filed with the court reporter as a record of the meeting.

My understanding, that after I explained things to them, their concerns were somewhat relieved as a result of that. I'll definitely, after we finish if they still have concerns they can come up and speak, but at least we've gotten that far this morning.

So with that, how many of the public are here to address this item? I know the two people in front, two more in back. Okay, three.

And with that, Mr. Whalen, if you wouldn't mind coming up and identifying yourself for the record.

MR. WHALEN: My name is Michael Whalen, I'm the owner of 1792 Holiday Lane.

HEARING EXAMINER STRAIN: Thank you. Normally what happens, most of the time if there's objections or concerns and we get them ahead of time, and when that happens, because this room doesn't have the overhead projector, or what's called an ELMO, that you can slide things around on the fly and it can be seen overhead.

I tried to put your project on the overhead so that it will tie into this projector ahead of time. I didn't do that because I had not received any objections.

This morning with some concerns expressed I wish now I had done it on your behalf so you could have explained your project. But I'll try to explain it. I know I could ask you to do that, but I can probably make sure and explain it as I understand that you intend it to be and we don't have anything mixed up to the detriment of anybody in the neighborhood.

You have an existing boat dock, and I believe you're replacing it with a new boat dock; is that true?

MR. WHALEN: Correct.

HEARING EXAMINER STRAIN: Okay. The new boat dock is a total of almost just under 53 feet. The north side of the boat dock is 15 feet back from your north property line; is that true?

MR. WHALEN: Correct.

HEARING EXAMINER STRAIN: The south side of the boat dock is at least 15 feet, if not possibly more from the riparian line.

The boathouse is not the full width or size of the dock. The boathouse is about a little over 30 feet.

MR. WHALEN: Correct.

HEARING EXAMINER STRAIN: So it doesn't cover -- and it's 30 feet over where the boat is being placed which is 16 feet back from the north side of the boathouse, from what I can see -- or the boat dock, I'm sorry.

MR. WHALEN: Correct.

HEARING EXAMINER STRAIN: Okay. The boat dock also is only 17 feet, four, excluding the allowed roof overhang of two foot, six from the seawall; is that correct?

MR. WHALEN: Correct.

HEARING EXAMINER STRAIN: Okay. Now, I want to ask staff to kind of jump in on this. Does the boat dock -- let's forget about the boathouse which in this case is a cover over the boat. Does the boat dock -- would it have required any public process to be here today?

MS. BEASLEY: It does not, no.

HEARING EXAMINER STRAIN: So the boat dock doesn't exceed any of the minimum standards of the Land Development Code and someone could have come in and obtained a building permit to build just a dock with no trouble at all?

MS. BEASLEY: Correct.

HEARING EXAMINER STRAIN: The boathouse mirrors the -- somewhat of the footprint of the boat dock with the exception of the roof overhang. And it was because they were requesting the boathouse, it had come in for a review publicly; is that right?

MS. BEASLEY: This is correct, yes.

HEARING EXAMINER STRAIN: Okay. Mr. Whalen, I think I explained most of your project. And I did that for the benefit of those people here who may not have seen the plans or to the detail that they've been included in the packet.

I don't know what questions may come from the public. If you have nothing to add to what I've just expressed right now, then we'll listen to the public's concerns and I may call you back, unless you have something else you'd like to say right now.

MR. WHALEN: No, I'm good. We'll wait on the questions.

HEARING EXAMINER STRAIN: Okay. Thank you, sir. That's all I've got.

Let me move to a staff report.

MS. BEASLEY: Yes, a staff report was supplied.

HEARING EXAMINER STRAIN: You've been talking to Nancy too much.

Does staff recommend approval?

MS. BEASLEY: Yes, staff recommends approval of the boathouse.

HEARING EXAMINER STRAIN: Were there any conditions or stipulations, other than what -- the drawings themselves?

MS. BEASLEY: No, there were not.

HEARING EXAMINER STRAIN: And welcome back, Rachel. I know you've been out for quite a while on maternity leave.

MS. BEASLEY: Yes.

HEARING EXAMINER STRAIN: So congratulations and welcome back.

MS. BEASLEY: Well thank you.

HEARING EXAMINER STRAIN: And with that, I'll move to public speakers.

First of all, Fred, I had asked if you didn't mind making a few copies. Could you bring those up? Or Rachel.

MS. BEASLEY: Yes, I have them --

HEARING EXAMINER STRAIN: I need you to keep copies for your record.

Could you give one of each to the court reporter.

MS. BEASLEY: I also have a letter of approval.

HEARING EXAMINER STRAIN: Of Mr. and Mrs. Kokkinos?

MS. BEASLEY: Yes.

HEARING EXAMINER STRAIN: I've already distributed that to the court reporter.

MS. BEASLEY: All right.

HEARING EXAMINER STRAIN: And I need a copy as well of the two for my records.

Now, after we go through the further questions and discussion this morning, the two people that brought the letters in are sitting near the second row back. If they still have questions after hearing this today, I'll ask that they come up and see if there's any concerns that haven't been addressed.

So with that, I know some people in the back raised their hand to discuss. If you'll please come up to the speaker one at a time and use that microphone over there. You need to state your name for the record.

MS. HARPER: Hello. My name is Leslie Harper and I live right next door to Michael Whalen's house.

HEARING EXAMINER STRAIN: North or south side?

MS. HARPER: South.

HEARING EXAMINER STRAIN: Okay. Are you objecting or are you in favor?

MS. HARPER: Well, objecting. I have a list that I emailed --

HEARING EXAMINER STRAIN: Hand it to me, but you'll have to not speak and go back to the microphone; otherwise you won't be recorded and these meetings are all testimony that is recorded.

MS. HARPER: Yeah, I believe we did send her an email, the woman that was on the paperwork that was on the website. We did send her an email explaining, but she never responded.

HEARING EXAMINER STRAIN: I have not received it so this is the first I've heard of any objections to the project. So let's -- and ma'am, I don't know how you want to approach this.

MS. HARPER: Well, I'll just explain it. I went around and talked to a lot of the neighbors, and some of them are here today. And I think one of them was neutral with it. I mean, I talked to like eight different neighbors. Most of them were across the waterway from me and down the waterway, the people that would be affected by the sight of it.

And the thing is their house is the biggest house anywhere. I mean, it's twice as tall as mine. And if you have seen a photo of it? I'm not sure.

HEARING EXAMINER STRAIN: No, but the issue today has nothing to do with the house so it's not an item that I could even weigh in on.

MS. HARPER: Well, it's the aesthetics of how it's going to look with the house. The screen is so big that it's only four feet from the seawall, and I believe it's supposed to be eight feet back.

HEARING EXAMINER STRAIN: Again, that's not for today's hearing.

MS. HARPER: Anyway, so if you build a boathouse 53 feet long, I thought it was 55 feet.

HEARING EXAMINER STRAIN: No, the deck is 53 feet, but the boathouse is about 30 or 31 feet long. And it's in front of their property. It's not -- in fact, it's more towards the north side of their property than it is to the south. So actually if you're on the south side you would be less impacted potentially by it than if you were on the north side, just because of distances.

MS. HARPER: Okay, that's not making sense because it's 15 on each side per the diagram.

HEARING EXAMINER STRAIN: Well, and I'll have to ask the staff to tell me from -- a 52-foot boat, what is the distance north and south of the property lines? I know what the aerial shows. I'm trying to get a clarification on the detail on the drawings.

MS. BEASLEY: You're looking for a --

HEARING EXAMINER STRAIN: How much frontage is there between the two property lines and where it buffets the canal; do you know?

MS. BEASLEY: I'm not sure if I completely understand. I know -- I mean, the drawing shows, it does show 15-foot setbacks.

HEARING EXAMINER STRAIN: You're right, it is 15 foot on the south and it's 30 feet on the north to the boathouse. So from the boathouse perspective there's more impact to the south but it's still within the setback that's required by code.

MS. HARPER: Okay, I understand that.

But what you stated earlier didn't make sense as far as the footage, because you said it was 30 feet of a boathouse and then you said it was 16 more feet of a dock. So that's not 53 feet total.

HEARING EXAMINER STRAIN: No, I'll tell you what the numbers are. And I wish I had the overhead for this reason. The boathouse is -- let's start with the setbacks. It meets the code requirement of a 15-foot setback on both north and south.

On the north side there's a 16-foot dimension to the cut-out of the dock where the boat starts, the roof overhang for the boathouse, and it's not scaled so it's not stated on here so it looks to be a foot or two more than that. So your 15 feet plus 16, maybe 18 feet before you start the boathouse.

Then the boathouse, according to the other drawing, goes about 31 feet. So you add 16 to 31, you come up with 47, and you add a couple more feet for that depth, you're right about the 52 feet, nine inches they say they're building to. And Rachel may have a diagram.

I wish we had gotten your email, we could have tried to resolve all of this and I would have had it on the overhead. So I apologize, I did not realize there were objections to this today.

MS. HARPER: Okay. Well, the main issue is how it looks aesthetically.

And the other main issue is I don't understand why he doesn't put the boat opening where he pulls the boat into the house on the north side where it would make more sense. Because what he has to do is turn his 28-foot boat around in front of everybody else's boats that are sitting in this narrow canal. And my dock is only 16 feet from my property line, which is 31 feet total from his new dock, proposed dock. So I want to know how he's going to turn that boat around in that short little space.

And I sometimes have my rowboat sitting out sitting along my dock, and so I'm just concerned that -- I'm asking if maybe he can put the opening on the north end instead of the south end, or make it shorter. Because if he can make the whole thing a little bit shorter, not width-wise but length-wise, then it would just solve that problem.

HEARING EXAMINER STRAIN: Okay. And you may have heard the testimony from the staff, the dock itself is not an issue. I mean, if the neighbor wanted to make those changes to accommodate you, that's his desire. It's not an element that is part of today's discussion in regards to being able to say he's in violation of the code and telling him he's got to change it. The only issue we're talking about today is the covering that's going to go over the boat.

And the rules are somewhat -- the criteria is somewhat spelled out in it, they have to be no higher than 15 feet above the seawall; they've got to have shingles and roof to match the house; and there's a couple other technical rules as far as setbacks. All those are met according to the staff report. So I'm not sure how we can move to an issue of a dock that didn't even need to be here today, because it's not the dock we're discussing, we're discussing the boat cover, so --

MS. HARPER: Okay, but the dock is part of the boathouse, right?

HEARING EXAMINER STRAIN: The boathouse actually is over part of the dock.

MS. HARPER: Right, so it's all one unit, right? That's what we're talking about.

HEARING EXAMINER STRAIN: No, it's a boat facility made up of a boat cover plus a dock facility. But it doesn't matter. The issue at hand here today, he's here because of the boathouse. The boathouse is the covering that goes over that portion of the dock that he wants to cover his boat up with. And my limitations today will be having to focus on that.

Are there any concerns over the specific boathouse that you feel are not consistent with what is allowed to be there, or that you have problems with for whatever reason? And I'll try to explain it.

MS. HARPER: Well, yeah, the two that I just talked about, the egress into -- the unsafe egress and limited space as it's written here. We wrote up this -- these objections. You know, it's just visually going to be so big, one thing. And the -- you know, the character of it is going to be just overwhelming, because their house sits right on the end and it's the biggest house and it's just so big compared to all the other little four homes. That's one thing.

And the -- you know, most of it is the unsafe egress on that south end. Because a lot of people don't -- aren't always safe with their boats. I'm not saying that he's not. I'm sure he's -- but to turn that big boat around in front of all of our docks is -- I don't know why -- can you ask him to maybe put the opening on the north side?

HEARING EXAMINER STRAIN: I think your request today is making your preference known to him, and if he wants to do it, that's something that he certainly could volunteer to do.

My question would be if he's not building this boathouse today, say he wasn't here for that boathouse, would you still be concerned about the egress to the dock?

MS. HARPER: No, because there's no boat coming in and out on the south end.

HEARING EXAMINER STRAIN: No, no, if the dock was built just like it's shown with a boat coming out on the south end but he didn't put a cover over it, he didn't put the boathouse over it, you would still have the same issue I would believe; is that correct?

MS. HARPER: Right. But also I think the boathouse maybe could be a little smaller as far as like 17 and a half feet is -- it's taking up almost half of the canal visually. If I sit on my dock and I look north, I'm right next to his property. And I look and I see where his boat is now, and he told me that it would look a lot like where his boat would be as far as exactly where it sits on the water. It takes up almost half the canal. Can he make it a little bit in towards the seawall more?

HEARING EXAMINER STRAIN: The requirement for the boat dock in that location, he's not allowed to go over 25 percent of the width of the waterway. He's under that with the facility he's got being proposed here today.

I'll ask staff who did the review and reviewed it, interpreted against the code to qualify that. Rachel?

MS. BEASLEY: Yes, what was -- I'm sorry, I was --

HEARING EXAMINER STRAIN: The question was -- or the statement was that he's over half of the distance of the waterway. What is the percentage -- go ahead.

MS. HARPER: No, I said almost half. Visually it looks like almost half of the waterway.

HEARING EXAMINER STRAIN: Could you explain how far into the waterway this boat dock was allowed to go and that it does or does not violate that distance.

MS. BEASLEY: It's -- so he's allowed to go up to 20 feet.

HEARING EXAMINER STRAIN: And your report says he's 17 feet, I think four inches; is that correct?

MS. BEASLEY: That is correct, yes.

HEARING EXAMINER STRAIN: Okay, the 17 feet, four inches as far as the percentage of the waterway, he was allowed to go up to 25 percent of the width of the waterway?

MS. BEASLEY: That I would have to look at the code, but --

HEARING EXAMINER STRAIN: Well, you analyzed this, and I believe those are the numbers you --

MS. BEASLEY: This is true.

HEARING EXAMINER STRAIN: Put in your report. Now, is Fred the one that actually -- I know you came in late. Did Fred actually research this?

MS. BEASLEY: Right. Maybe. I mean --

HEARING EXAMINER STRAIN: Well, there can't be any maybes.

MS. BEASLEY: Yeah, I --

HEARING EXAMINER STRAIN: There's a requirement in the code that he can't exceed a certain width of the waterway, based on the width of the waterway.

MS. BEASLEY: Right.

HEARING EXAMINER STRAIN: Did he exceed that width? And if he didn't, what was the width limited to?

MR. BELLOWS: For the record, Ray Bellows.

The dock doesn't exceed the maximum 25 percent protrusion into the waterway. It is allowed to go to 20 feet and it's at 17 feet.

HEARING EXAMINER STRAIN: Okay. And that's what I wanted to make clear, that the -- up to approximately 50 percent or close to 50. He's not even close to that, he's less than 25 percent.

I realized that when I read the application. It's clear in the application where he's out in relationship to the seawall across the waterway.

Have you seen the staff report, ma'am?

MS. HARPER: Yeah.

HEARING EXAMINER STRAIN: Okay, the staff report shows its distance as laid out, and it's not over 25 percent.

So with that, I -- that's the only other comment I can offer to your concerns.
Is there anything else that you wanted to state for the record?

MS. HARPER: Yeah, it's just the fact that it overshadows the other residences because it's so big and massive. And, you know, it just creates that unsafe waterway for boaters and -- you know, I mean, he has a view. He has the most beautiful view on the whole corner and if he wants a view from his dock, he can still get it if he puts the boat on the other side, you know. And I'm just asking if he could consider that, putting the entryway on the north side.

But other than that, it's just -- you know, I'm just asking if he could make it a little bit smaller.

HEARING EXAMINER STRAIN: Okay. I appreciate it, ma'am, and I'm sure he's hearing it. And before we finish today I'll ask him if he's going to be able to consider that or not.

MS. HARPER: And the other thing is, did you say it's only 15 feet above the water level or above the sea wall?

HEARING EXAMINER STRAIN: Above the sea wall. He's not allowed by law to go above -- higher than 15 feet above the sea wall.

Whoever's phone that is, please shut it off.

MS. HARPER: So it doesn't say on here if it's 15 -- how many feet high it is.

HEARING EXAMINER STRAIN: There's a diagram included in the staff report that shows that dimension. I will try to tell you what page it's on, if you have the staff report.

If you look on Page 37 of the staff report, there's a cross-section of the unit, and it shows the height of the facility at 15 feet. Actually, that's probably more conservative. That's with the -- that's from the level of the dock, which the dock is not above the seawall. So either way he's going to come out adequate for the height of the facility. It can't be above 15 feet greater than the seawall.

MS. HARPER: Okay, the other question I have is, is there going to be an electric boat lift?

Michael, is there going -- is the boat lift --

HEARING EXAMINER STRAIN: Well, he'll -- we can ask that question when he comes up.

MS. HARPER: Does the boat lift come further out from the 17 and a half feet?

HEARING EXAMINER STRAIN: It couldn't. The only thing that could come out past the 17 and a half feet is the roof overhang that's allowed by code.

MS. HARPER: Well, you have a list of the objections that we've written down, so --

HEARING EXAMINER STRAIN: Yes, ma'am, I have.

MS. HARPER: Okay.

HEARING EXAMINER STRAIN: Thank you very much.

Is there anyone else that would like to speak?

MR. WILKENS: Yes.

HEARING EXAMINER STRAIN: Sir, come on up.

MR. WILKENS: My name is John Wilkens and I live down the street. I'm new to the neighborhood, so my questions are more administrative than anything else.

HEARING EXAMINER STRAIN: Sure, we'll try to answer them.

MR. WILKENS: And I think, you know, Leslie's maybe kind of stumbling through this a little bit because she's not necessarily familiar with dealing with county things.

My biggest question wasn't -- I mean, is not the dock. I reviewed all the paperwork, everything looked like it was in order. I mean, my -- it looks like you've been diligent in finding a way through what you want to do.

The only question I had is why is there a need for this hearing for the boathouse? Is it -- I mean, if there's -- if he's within the code to do the dock, and apparently he's within the code to do the boathouse, why are we even here?

MR. BELLOWS: For the record, Ray Bellows. I'm the manager for the zoning section.

The impacts associated with a boathouse are different than a dock extension, and there are separate standards that have to be met in order to be approved for a boathouse. And because they are controversial and

could have an impact on view for the residents, we require a public hearing.

MR. WILKENS: Okay. Well, you know, in trying to help Leslie explain her concern, she obviously lives right next door to him, it's a 15-foot tall boathouse and it's going to obstruct her view from her location. That's -- when she came -- you know, she came and we talked about it earlier in the week, and that seemed to be one of the bigger objections that was there.

I live four houses down, it doesn't really block my view too much. My only concern was, was it going to take up any of the canal. I reviewed the documents and it didn't seem like it was going to take up too much of the canal.

But I will state, and maybe for the record, that I'm in the building contract world, so navigating your website is not too difficult for me, but we have an older population in our community and even finding your staff report would have been very difficult, because there wasn't a link on the notice to take us to where the staff report was located. So it may have been easier for you to get the objections, if there were any, if it were easier to find the staff report. I actually had to -- you know, I tried to show her where it was. I couldn't find it a second time. The first time I found it real easy, the second time I didn't find it so easily, so --

HEARING EXAMINER STRAIN: I would have much preferred to understand the concerns of the neighborhood before today so that I could have at least sat down with you and showed you what the process is and where the elements are that may be more focused on today. So I wish it was clearer. I'm sorry.

MR. WILKENS: No, I think that -- you know, honestly, it's just that I think that with regards to Leslie, anyway, I haven't talked to any of the other neighbors, you know, she didn't even really have a clear understanding of what was going to be happening there. So that's all.

HEARING EXAMINER STRAIN: I appreciate your comments, sir. Thank you.

Anybody else here?

Sir, come on up.

MR. HARPER: Good morning. I'm Michael Harper, I live at 1794 Holiday Lane, neighbor to Michael Whalen.

The objection that I have to the boathouse is that it will change the character of that canal. When you look up and down that canal, it's old Florida homes with very modest and simple boathouses -- boat docks. And a boathouse at the end of the canal is going to change the character of that community and it's going to overshadow the character of that community. And I think it will also have a negative environmental impact in our community, in our appreciation of the natural environment that we have been blessed with. That's my objection.

HEARING EXAMINER STRAIN: Okay. And I am not familiar with that particular canal. I do a lot of kayaking around Naples, but I don't think I've gotten up in that area before. Are there any other boathouses that you're aware of on the canal?

MR. HARPER: No.

HEARING EXAMINER STRAIN: Okay, thank you, sir.

Anybody else to speak?

Yes, ma'am, please come up and identify yourself for the record.

MS. RIGGS: I'm Francis Riggs, I live at 1837 Harbor Lane, and I'm down the canal --

HEARING EXAMINER STRAIN: Could you -- you have to speak a little closer.

MS. RIGGS: -- from Mr. Whalen.

And I -- it will probably affect my view a little bit. But I'm not concerned about the -- I think it's all, you know, been accepted and legal and all that. I'm just a little worried for Leslie and her husband about the safety, and I just want to support that to Mr. Whalen, if there could be any concessions. I know it's between them. But I think it will be important that the boat can get into the boathouse safely. That's all. So I think it's between them, but I just wanted to support that idea.

HEARING EXAMINER STRAIN: Thank you very much, ma'am.

Anybody else wish to address this issue?

(No response.)

HEARING EXAMINER STRAIN: Mr. Whalen, could you come back up to the microphone, please. Sir, I know you heard the testimony and it seems that the most concerning issue is the direction of

entry of your boat into the dock. Your dock is an element that is really not part of today's hearing. The boat cover is. The dock is something that is allowed to be there by right, subject to a building permit. You're under the distance requirements for a dock to need a dock extension. But there are some decision features that for the benefit of the neighborhood you may want to consider.

Have you taken a look at those or have you heard of those before today?

MR. WHALEN: No, I haven't. Just last night Leslie came over, spoke to me about it.

HEARING EXAMINER STRAIN: You need to get a little closer to the mic. Okay, I think it's good enough. I heard you so far.

It's nothing we can tell you from a code perspective that we can insist upon, but if there's some way to work out the direction of that dock to be more beneficial to your neighbors, it might be something you could consider as time goes on. In the meantime, we'll focus -- today's issues will be just focused on the boathouse itself.

And I don't have any other questions. You've heard the concerns raised by the members of the public. Your screen enclosure and your boathouse seem to be four, five, six feet apart?

MR. WHALEN: I'm not sure of that dimension, no.

HEARING EXAMINER STRAIN: Do you know, is it a two-story screen included?

MR. WHALEN: It is, yeah.

HEARING EXAMINER STRAIN: Okay. I don't have any other questions.

Staff, is everything fine? Staff understand everything so far, questions of staff at this point?

MS. BEASLEY: No questions. I understand.

HEARING EXAMINER STRAIN: Yes, sir?

MR. WHALEN: I do want to address a few things. There are other boathouses in the neighborhood on Harbor, to answer your question. Not on Holiday but on Harbor, which is one canal to the west. There's a couple, two, three of them.

It's my belief that the boathouse covering over the boat dock; that is, the boat dock, there's no question, I could have got a permit for that years ago and dealt with that and we'd be here to just talk about the covering, if you will. And it's really not a house, it's a roof on six pilings.

I'm a longest tenure resident in that neighborhood, I think. My family moved there in 1970. I live in the same home, same address since I was five years old. I know that area pretty well and seen the values grow.

The boathouse I believe will increase the values of our neighborhood. It is a developing neighborhood with new development on Davis corner stepping in. Our neighborhood is prime and ripe for increasing tearing down existing old Florida character homes and building better, bigger and better homes. More economical.

I personally also received many phone calls from neighbors of support. They called me. I had never heard any negative except for last night with Leslie, so I'm kind of new to this too of any objection. I want to be a good neighbor.

The process, as my new neighbor said, is a little -- I will say that the process is laboring and not -- it doesn't make sense but -- on my property, but I'm sure on other properties throughout Collier County it makes sense to have. I found it hard to send people to the website myself to get information. I had to copy stuff. But I know that listed on there Rachel Beasley was always listed there, anybody can always call her to get that information if she can direct people or email. She was very helpful.

Regarding the egress and exit, egress and -- ingress and egress to the south, you know, there's going to be -- the code requires 15 feet on each property line for that specifically so a boat can turn in.

I use my boat probably 20 times a year. It will be on a lift. It will be sitting on a lift just like it does in the water right now. My boat, as it sits with the dock, I have whips that push it out away from the dock. My boat -- new proposed boat dock and boathouse is less than that. It will be less restrictive in the canal with the new proposed boat dock and house. I want to tell you that.

The roof will look exactly like my home. It will have matching shingles and I believe it will -- to my belief it will better the community in our little neighborhood that I've been there a long time. I think that covers it, I want to say.

HEARING EXAMINER STRAIN: Okay. And a couple verifications. The boat lift that you will

be installing will not extend beyond the extent of the dock, is that --

MR. WHALEN: That's correct. It's inside the 17 feet and it's directly underneath the roof covering. And that's the purpose of the house is just to cover the boat.

HEARING EXAMINER STRAIN: And I want to verify the 15-foot height. It's shown on the diagram measured from your dock. The dock is not any higher than the seawall; is that correct?

MR. WHALEN: That is correct. And it will be 15 feet total height. That means to the peak.

HEARING EXAMINER STRAIN: Right.

MR. WHALEN: So it's not at the eve.

HEARING EXAMINER STRAIN: Understand. I wanted those clarifications, because one of the cuts for your boat dock were not included in the packet and that would have defined that clearer now that I understand it, so --

And I do want one clarification to make for the residents. I see now where you were concerned it was a 55-foot dock. Actually what happens is there's a marginal wharf kind of configuration part of the dock that is against the seawall and it goes three feet out from the seawall on the south side that extends three foot past the bulk of the dock. The bulk of the dock is 52 feet, nine inches long, except for the three feet of it that is along the seawall. It goes up to the 15-foot setback on the south side. So the actual portion of the dock where the boat resides is three foot more in from that 15-foot setback, according to the diagram that was provided.

So that clarification I wanted to make because I heard a couple times that the 55-foot length was noted for the dock. It is, but that's only three feet of the dock. The remaining 14 feet, four inches of that dock's depth is 52 feet, nine inches.

So with that, I don't have any other questions, sir. Thank you, sir.

MR. WHALEN: Thank you.

HEARING EXAMINER STRAIN: Anybody else who has not spoken have anything else they would like to add?

(No response.)

HEARING EXAMINER STRAIN: Okay, with that, we will close the public hearing on this matter and a decision will be rendered in 30 days.

For those folks that were here for this petition, there's a couple of housekeeping matters I did not read into the record, I will make those notifications now.

All decisions are final unless appealed to the Board of County Commissioners. So if today's decision is unsettling for anybody, they can appeal it to the BCC, and the BCC will take it up based on the qualifications of the decision in comparison to the code or any new issues that may come up. And then the decision will be rendered within 30 days.

And that is the end of this particular case. Thank you all for attending and participating.


With that, there is no other item on the agenda. Are there any other public comments at this time?

(No response.)

HEARING EXAMINER STRAIN: Okay. With that, this meeting adjourned. Thank you.

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



MARK STRAIN, HEARING EXAMINER

ATTEST:
DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 4-13-17 as presented ✓
or as corrected _____.

Transcript prepared on behalf of
U.S. Legal Support, Inc., by
Cherie' R. Nottingham.