



Interoffice Memorandum
APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS

JUL 29 2014 KH/ES

AGENDA ITEM

July 3, 2014

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director *JV*
Community, Environmental and Development
Services Department

CONTACT PERSON: Lori Cunniff, CEP, CHMM, Deputy Director *L Cunniff*
Community, Environmental and Development
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(407) 836-1405

SUBJECT: July 29, 2014 - Consent Item
Environmental Protection Commission (EPC) Recommendation
After-the-Fact Request for Dock Waiver (Grabenu)

The applicants, John and Faye Grabenu, are requesting an after-the-fact waiver to Section 15-342(b), terminal platform size. The project site is located at 6224 Dora Drive, Mt. Dora, Florida 32757. The Parcel ID for the site is 06-20-27-3276-03-043. The subject property is located on Lake Beauclair in Orange County Commission District 2.

On February 5, 2014, the Environmental Protection Division (EPD) received the as-built survey for the completed boat dock. Upon review of the as-built, staff discovered an unauthorized wedge addition had been added to the beginning of the terminal platform. The applicants had previously requested, and received approval for a larger than allowed terminal platform in March 2013. EPD informed the Permittee that he could either remove the unpermitted addition or attempt to obtain an after-the-fact waiver for the increased terminal platform size.

The previously approved waiver to terminal platform size was for a boat dock with a terminal platform size of 1,214 square feet. With the addition of the "wedge" piece, the new terminal platform size is now 1,224 square feet.

On April 2, 2014, EPD received an after-the-fact Application for Waiver to Section 15-342 (b) (terminal platform size) to modify their boat dock permit BD-13-03-021 in an effort to allow the additional terminal platform to remain as constructed.

Notifications for the after-the-fact waiver were sent to all shoreline property owners within 300 feet of the subject property on April 3, 2014.

Pursuant to Section 15-350(a)(2) Waivers, “the applicant shall also describe (1) how this waiver would not negatively impact the environment, and (2) the effect of the proposed waiver on abutting shoreline owners.”

To address the impact on the environment (1), the impact of the proposed dock was evaluated using the Uniform Mitigation Assessment Method (UMAM) and the applicants have agreed to offset the environmental impact associated with the larger terminal platform size by implementing a shoreline restoration plan in the amount of \$1,073, in lieu of contributing this amount to the Conservation Trust Fund. In regards to the effect on the abutting neighbors (2), EPD has not received any objections to the after-the-fact waiver request.

There is an enforcement case for this property. EPD sent a Notice of Violation and Consent Agreement to John and Faye Grabenau for the unpermitted addition to the terminal platform size. The applicants have complied with the corrective actions of the Consent Agreement by applying for the after-the-fact waiver and paying the administrative penalty of \$3,748.13. Approval of the after-the-fact waiver and modification of the permit will resolve this enforcement case.

Based upon the evidence and testimony presented at the June 25, 2014, public hearing, the EPC made a recommendation, pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350 (b), to approve the request for the after-the-fact waiver to Orange County Code, Chapter 15, Article IX, Section 15-342 (b) for the Grabenau Dock Construction Permit BD-13-03-021; with the condition that the applicants mitigate the environmental impacts with a contribution of \$1,073, which has been used to implement a shoreline restoration project on the subject property. The supporting information and documents are attached.

ACTION REQUESTED: Approval of Recommendation of the Environmental Protection Commission to Uphold the Environmental Protection Officer’s Recommendation to Approve the After-the-Fact Request for Waiver from Orange County Code, Chapter 15, Article IX, Section 15-342 (b), terminal platform size for Dock Construction Permit BD-13-03-021; John and Faye Grabenau. District 2



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**ORANGE COUNTY
ENVIRONMENTAL PROTECTION COMMISSION**

Recommendation Regarding an after-the-fact waiver request from Orange County Code, Chapter 15, Article IX, Dock Construction Permit BD-13-03-021; John and Faye Grabenau, 6224 Dora Drive.

ACTION TAKEN BY THE ENVIRONMENTAL PROTECTION COMMISSION ("EPC") on the above application was as follows:

REQUEST: John and Faye Grabenau (the "Applicants") are requesting an after-the-fact waiver from Orange County Code, Chapter 15, Article IX, Section 15-342 (b).

BACKGROUND: In March 2013, EPD received an Application to Construct a Dock for the subject property with an Application for Waiver to Section 15-342 (b), terminal platform size. On June 26, 2013, the Environmental Protection Commission (EPC) recommended approval of the request; and the Board of County Commissioners (BCC) approved their recommendation on August 6, 2013. Subsequently, EPD issued Dock Construction Permit BD-13-03-021 on August 8, 2013.

Shortly after construction of the dock began, but prior to completion of the dock, the contractor contacted EPD about raising the roof height; and on August 13, 2013, EPD received a new Application for Variance to Section 15-342 (e), roof height. On October 30, 2013, the EPC recommended approval of the request; and the BCC approved their recommendation on December 3, 2013. On December 17, 2013, EPD issued Dock Construction Permit Modification BD-13-03-021.

On February 5, 2014, EPD received the as-built survey for the completed boat dock. Upon review of the as-built, staff discovered an unauthorized wedge addition had been added to the beginning of the terminal platform. EPD informed the Permittee that he could remove the unpermitted addition or attempt to obtain an after-the-fact waiver for terminal platform size.

On February 5, 2014, EPD received an After-the-Fact Application for Waiver to Section 15-342 (b) (terminal platform size) to modify their boat dock permit BD-13-03-021 to allow the additional terminal platform to remain as constructed.

The approved waiver to terminal platform size was for a boat dock with a terminal platform size of 1,214 square feet. With the addition of the "wedge" piece, the new terminal platform size is now 1,224 square feet.

Notifications for the after-the-fact waiver were sent to all shoreline property owners within 300 feet of the subject property on April 3, 2014.

Pursuant to Section 15-350(a) (2) Waivers, "the applicant shall also describe (1) how this waiver would not negatively impact the environment, and (2) the effect of the proposed waiver on abutting shoreline owners."

To address the impact on the environment (1), the impact of the proposed dock was evaluated using the Uniform Mitigation Assessment Method (UMAM), and the applicants have agreed to offset the environmental impact associated with the larger terminal platform size by implementing a shoreline restoration plan in the amount of \$1,073.00, in lieu of contributing this amount to the Conservation Trust Fund. In regards to the second part of the waiver criteria (2), EPD has not received any objections to the after-the-fact waiver request.

There has been enforcement action for this property, previously and currently. On September 3, 2013, EPD sent a Notice of Violation and Consent Agreement to John and Faye Grabenau for the non-compliant access walkway width. The applicants complied with the corrective actions of the Consent Agreement by applying for the after-the-fact variance [approved by the Environmental Protection Officer pursuant to Section 15-350 (a)(i)] and payment of the administrative penalty of \$2,498.75. That case is now closed.

On April 11, 2014, EPD sent a Notice of Violation and Consent Agreement to John and Faye Grabenau for the unpermitted addition to the terminal platform size. The applicants have complied with the corrective actions of the Consent Agreement by applying for the after-the-fact waiver and paying the administrative penalty of \$3,748.13. Approval of the after-the-fact waiver and modification of the permit will resolve this enforcement case.

The recommendation of the Environmental Protection Officer is to approve the after-the-fact waiver for additional terminal platform size, with the condition that the applicants offset the environmental impact associated with the larger terminal platform size with a contribution of \$1,073.00, which the applicants have used to implement a shoreline restoration project on the subject property.

RECOMMENDATION: Approval.

Based upon the evidence and testimony presented at the June 25, 2014, public hearing, the EPC made a recommendation, pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350 (b), to approve the request for the after-the-fact waiver to Orange County Code, Chapter 15, Article IX, Section 15-342 (b) for the Grabenau Dock Construction Permit BD-13-03-021; with the condition that the applicants mitigate the environmental impacts with a contribution of \$1,073.00, which has been used to implement a shoreline restoration project on the subject property.

Signature of EPC Chairman: _____

DATE EPC RECOMMENDATION RENDERED: _____

7/9/14

Dock Construction Waiver Request



Dock Construction Waiver Request

District #2

Applicant: John and Faye Grabenau
Parcel IDs: 06-20-27-3276-03-043

Project Site

Property Location ●

