



Interoffice Memorandum


AGENDA ITEM

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS

APR 07 2015 KH/NP

March 5, 2015

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

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

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

SUBJECT: April 7, 2015 - Consent Item
Environmental Protection Commission Recommendation
After-the-Fact Request Dock Construction Permit Variance
Permit – J. Andrew McCarthy

On May 30, 2013, the Environmental Protection Division (EPD) issued a Grandfathered Dock Construction Permit (BD-13-04-038) to Stanford Family Investments, LLC, for the subject property. This permit authorized the Permittee (Stanford Family Investments, LLC) to re-construct a grandfathered dock maintaining the original design and original footprint as the previous one. Mr. J. Andrew McCarthy was listed as the Agent/Consultant authorized to secure the permit on behalf of Stanford Family Investments, LLC. Specifically, the permit authorized re-construction of the dock in accordance with the plans dated as received by EPD on May 24, 2013; and as modified and agreed upon on May 29, 2013. On or about June 26, 2013, Stanford Family Investments, LLC, sold the property to Mr. McCarthy.

The project site is located at 915 W 2nd Avenue in Windermere on Wauseon Bay (adjacent to Lake Butler). The Parcel ID is 07-23-28-0044-00-140.

On December 17, 2013, EPD received notification (via email) from Mr. McCarthy that the boat dock structure was completed. Subsequently, on December 18, 2013, EPD staff conducted a compliance inspection of the completed structure. During this inspection, staff noted a Shore Station (boat lift) had been installed adjacent to the boat dock that was neither indicated nor authorized on the approved plans.

Page Two

April 7, 2015—Consent Item

Environmental Protection Commission Recommendation After-the-Fact Dock
Construction Permit Variance Request – J. Andrew McCarthy

On January 2, 2014, EPD informed Mr. McCarthy that the Shore Station (boat lift) met the definition of terminal platform in Chapter 15, Article, IX, Section 15-323; therefore, a new Dock Construction Permit would be required, or the Shore Station would have to be removed.

Pursuant to Section 15-346, any modification (to a dock) that increases the size of the terminal platform shall not be considered a minor modification and a new dock construction permit shall be required.

On April 4, 2014, EPD received the as-built survey for the completed structure. Upon review of the as-built survey, EPD discovered several additional alterations to the completed structure that were not in compliance with the approved plans.

On July 18, 2014, EPD received an after-the-fact Application to Construct a Dock for the subject property. In that same submittal, EPD received an after-the-fact Application for Variance to Section 15-342(g), (enclosed structure) in an effort to keep the current enclosed boathouse. According to the applicant, the enclosed boathouse has been in existence since around 1962.

Pursuant to Orange County Code, Chapter 15, Article IX, Environmental Protection Division (EPD) staff has evaluated the proposed application and required documents.

Notifications for the after-the-fact variance request were sent or hand delivered to all shoreline property owners within 300 feet of the subject property on October 3, 2014, and October 7, 2014.

Pursuant to Section 15-350(a)(1) Variances, “the applicant(s) shall also describe (1) how strict compliance with the provisions from which the variance is sought would impose a unique and unnecessary hardship on the applicant – the hardship cannot be self-imposed; and (2) the effect of the proposed variance on abutting shoreline property owners.”

In response to these provisions, (1) Mr. McCarthy has stated that compliance with new building codes have created a hardship; specifically new building codes in Windermere require staircases to have an 11:7 run-to-rise ratio, whereas the grandfathered steps were too steep. Due to the changes in the staircase, the entry door had to be relocated to the side of the enclosed structure; which in turn caused a re-configuration of the access walkway.

As part of the July 18, 2014, permit application submittal package, EPD also received an after-the-fact Application for Waiver to Section 15-343(b). Per Code, the required side setback distance for the subject property is twenty-five (25) feet from each adjacent property line. The existing structure is 5.6 feet from the adjacent property owner to the southeast. Section 15-343(b) states, “on lots or parcels having a shoreline frontage of

Page Three

April 7, 2015—Consent Item

Environmental Protection Commission Recommendation After-the-Fact Dock
Construction Permit Variance Request – J. Andrew McCarthy

seventy-five (75) feet or greater, docks shall have a minimum side setback of twenty-five (25) feet from the projected property line...Waivers from side-setback requirements may be granted by the Environmental Protection Officer (EPO) if a notarized Letter Of No Objection (LONO) to the waiver is received from the shoreline property owner abutting the applicant's property line affected by the waiver."

There is currently an open enforcement case for this property. A Notice of Violation, dated May 19, 2014, was issued to Mr. McCarthy. Since said issuance, EPD and Mr. McCarthy have been working towards bringing the subject property into compliance.

ACTION REQUESTED: Approval of Recommendation of the Environmental Protection Commission to uphold the Environmental Protection Officer's recommendation to approve the After-the-Fact Dock Construction Permit Variance Request from Orange County Code, Chapter 15, Article IX, Section 15-342 (g), enclosed structure for Dock Construction Permit BD-14-09-109; J. Andrew McCarthy. District 1

JVW/LC: mg

Attachments

After-the-Fact Dock Construction Permit Variance Request



After-the-Fact Dock Construction Permit Variance Request

District #1

Applicant: J. Andrew McCarthy
Parcel IDs: 07-23-28-0044-00-140

Project Site 

Property Location 





ENVIRONMENTAL PROTECTION DIVISION
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**ORANGE COUNTY
 ENVIRONMENTAL PROTECTION COMMISSION**

Recommendation regarding an after-the-fact variance request from Orange County Code, Chapter 15, Article IX, After-the-Fact Dock Construction Permit BD-14-09-109; J. Andrew McCarthy, 915 W 2nd Avenue.

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

REQUEST: J. Andrew McCarthy (the “Applicant”) is requesting an after-the-fact variance from Orange County Code, Chapter 15, Article IX, Section 15-342 (g).

BACKGROUND: On May 30, 2013, the Environmental Protection Division (EPD) issued a Grandfathered Dock Construction Permit (BD-13-04-038) to Stanford Family Investments, LLC, for the subject property. This permit authorized the Permittee (Stanford Family Investments LLC) to reconstruct a grandfathered dock maintaining the original design and original footprint as the previous one. Mr. J. Andrew McCarthy was listed as the Agent/Consultant authorized to secure the permit on behalf of Stanford Family Investments LLC. Specifically, the permit authorized re-construction of the dock in accordance with the plans dated as received by EPD on May 24, 2013; and as modified and agreed upon on May 29, 2013. On or about June 26, 2013, Stanford Family Investments, LLC sold the property to Mr. McCarthy.

On December 17, 2013, EPD received notification (via email) from Mr. McCarthy that the boat dock structure was completed. Subsequently, on December 18, 2013, EPD staff conducted a compliance inspection of the completed structure. During this inspection, staff noted a *ShoreStation* (boat lift) had been installed adjacent to the boat dock that was neither indicated nor authorized on the approved plans.

On January 2, 2014, EPD informed Mr. McCarthy that the *ShoreStation* (boat lift) met the definition of terminal platform in Chapter 15, Article IX, Section 15-323; therefore, a new Dock Construction Permit would be required, or the *Shorestation* would have to be removed.

Pursuant to Section 15-346, any modification (to a dock) that increases the size of the terminal platform shall not be considered a minor modification and a new dock construction permit shall be required.

On April 4, 2014, EPD received the as-built survey for the completed structure. Upon review of the as-built survey, EPD discovered several additional alterations to the completed structure that were not in compliance with the approved plans.

On July 18, 2014, EPD received an after-the-fact Application to Construct a Dock for the subject property. In that same submittal, EPD received an after-the-fact Application for Variance to Section 15-342(g), (enclosed structure) in an effort to keep the current enclosed boathouse. According to the applicant, the enclosed boathouse has been in existence since around 1962.

Pursuant to Orange County Code, Chapter 15, Article IX, Environmental Protection Division (EPD) staff has evaluated the proposed application and required documents.

Notifications for the after-the-fact variance request were sent or hand delivered to all shoreline property owners within 300 feet of the subject property on October 3, 2014, and October 7, 2014.

Pursuant to Section 15-350(a)(1) Variances, “the applicant(s) shall also describe (1) how strict compliance with the provisions from which the variance is sought would impose a unique and unnecessary hardship on the applicant – the hardship cannot be self-imposed; and (2) the effect of the proposed variance on abutting shoreline property owners.”

In response to these provisions, (1) Mr. McCarthy has stated that compliance with new building codes have created a hardship; specifically new building codes in Windermere require staircases to have an 11:7 run-to-rise ratio, whereas the grandfathered steps were too steep. Due to the changes in the staircase, the entry door had to be relocated to the side of the enclosed structure; which in turn caused a re-configuration of the access walkway.

As part of the July 18, 2014, permit application submittal package, EPD also received an after-the-fact Application for Waiver to Section 15-343(b). Per Code, the required side setback distance for the subject property is twenty-five (25) feet from each adjacent property line. The existing structure is 5.6 feet from the adjacent property owner to the southeast. Section 15-343(b) states, "on lots or parcels having a shoreline frontage of seventy-five (75) feet or greater, docks shall have a minimum side setback of twenty-five (25) feet from the projected property line...Waivers from side-setback requirements may be granted by the Environmental Protection Officer (EPO) if a notarized Letter Of No Objection (LONO) to the waiver is received from the shoreline property owner abutting the applicant's property line affected by the waiver."

There is currently an open enforcement case for this property. A Notice of Violation, dated May 19, 2014, was issued to Mr. McCarthy. Since said issuance, EPD and Mr. McCarthy have been working towards bringing the subject property into compliance.

The recommendation of the EPO is to approve the after-the-fact variance for an enclosed structure.

RECOMMENDATION: Approval.

Based upon the evidence and testimony presented at the February 25, 2015, 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 after-the-fact variance to Orange County Code, Chapter 15, Article IX, Section 15-342 (g) for the J. Andrew McCarthy Dock Construction Permit BD-14-09-109.

Signature of EPC Chairman: _____

DATE EPC RECOMMENDATION RENDERED: February 25, 2015