



Interoffice Memorandum

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
NOV 17 2015 *CS/BS*

AGENDA ITEM

October 28, 2015

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
Services Department
(407) 836-1405

SUBJECT: November 17, 2015 – Consent Item
Environmental Protection Commission Recommendation for an
After-the-Fact Waiver Request for Connie Emmerson

On April 16, 2015, the Orange County Environmental Protection Division (EPD) received an After-the-Fact Application to Construct a Dock from the property owner, Ms. Connie Emmerson. The After-the-Fact application was submitted in an effort to allow the existing structure to remain as constructed, and bring the property located at 9419 Winter Garden Vineland Road on Lake Sheen into compliance with Orange County Code.

The boat dock was constructed without any permits from Orange County EPD or from Orange County Division of Building Safety. It was constructed as a replacement for a previous dock on the site that had been constructed sometime in 2006 by a previous owner; also with no permits.

The boat dock has a terminal platform size of 1,027 square feet, which is 47 square feet larger than the 980 square feet allowed by Code [Section 15-342(b)]. The dock was also built with a side setback from the northern projected property line of 7.6 feet; which is less than the required 25-foot minimum side setback for a property greater than 75-feet-wide [Section 15-343(b)].

Therefore, an After-the-Fact waiver for a larger than allowed terminal platform size and reduced side setback is required.

As required by Code, on July 28, 2015, EPD sent notification letters of the waiver requests by certified mail to all of the shoreline property owners located within 300 feet of the subject property for the request for the larger terminal platform, and to the adjacent affected property owner for the request for side setback reduction. EPD did not receive any objections.

Page Two

November 17, 2015 – Consent Item

Environmental Protection Commission Recommendation for an After-the-Fact Waiver Request for Connie Emmerson

Terminal Platform Size – Waiver

Section 15-342(b) states that the maximum square footage of the terminal platform shall not exceed the square footage of ten times the linear shoreline frontage for the first seventy-five feet of shoreline and five times the linear shoreline frontage for each foot in excess of seventy-five feet, not to exceed a maximum of one thousand square feet. The shoreline of approximately 121 feet at Normal High Water Elevation (NHWE) for the applicant's property allows a 980 square foot terminal platform. The as-built survey for the dock depicts the dock with a terminal platform size of 1,027 square feet.

Section 15-350(a)(2) states that applications for waivers from Section 15-342(b) shall be made to the Environmental Protection Officer (EPO) and must describe: (1) how the waiver would not negatively impact the environment; and (2) the effect of the waiver on abutting shoreline owners.

To address 15-350(a)(2)(1); the applicant stated: *"We made adjustments to existing dock to improve the safety and appearance to modern standards and necessity. We will not do anything to negatively impact the environment and will maintain the lake and land as required."* To address the environmental impacts (shading) from the larger dock footprint, the applicant has agreed to pay \$943 to the Conservation Trust Fund (CTF) to mitigate for the impacts to the surface water. Based on the Uniform Mitigation Assessment Methodology, the contribution amount is equivalent to the purchase of credits from a similar mitigation bank and will offset the impacts to the surface water.

To address 15-350(a)(2)(2); the applicant stated *"Positive impact with the new appearance. Much safer and nicer to see from all angles. There will be no negative impact on our neighbors."*

Side Setback – Waiver

Since the property has greater than 75 feet of shoreline at the NHWE, pursuant to Section 15-343(b), the required side setback for the dock is 25 feet from the property line. This waiver request has been administratively approved by the Environmental Protection Officer, pursuant to Section 15-343(b); therefore no further action is required.

Based upon the evidence and testimony presented at the September 30, 2015 public hearing, the Environmental Protection Commission (EPC) made a recommendation, pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350 (b), to approve the request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-342(b) for the Emmerson Dock Permit BD-15-04-044 with the condition that the applicant pay \$943 to the CTF.

Page Three

November 17, 2015 – Consent Item

Environmental Protection Commission Recommendation for an After-the-Fact Waiver Request for Connie Emmerson

There currently is enforcement action for this property regarding the unpermitted boat dock and unauthorized lakeshore clearing. EPD sent a Notice of Violation (NOV) and Consent Agreement (CA) to the property owner on February 3, 2015. The property owner signed and returned the CA to EPD on March 18, 2015. Terms of the CA included payment of a \$200 penalty for the construction of a dock without a permit, and obtain an After-the-Fact boat dock and lakeshore protection permit. EPD received payment of the penalty on March 19, 2015. A Lakeshore Protection permit, LSP-15-04-031, was issued June 1, 2015, and has been implemented. Approval of this After-the-Fact boat dock permit and receipt of payment for mitigation will resolve the violations.

ACTION REQUESTED: Acceptance of Recommendation of the Environmental Protection Commission to approve the request for an After-the-Fact waiver to Section 15-342(b) terminal platform size for the Emmerson Boat Dock Permit BD-15-04-044 with the condition that the applicant pay \$943 to the Conservation Trust Fund. District 1

JVW/LC: mg

Attachments

Request for ATF Dock Request for Waiver



Request for Waiver for After-the-Fact Boat Dock

District #1

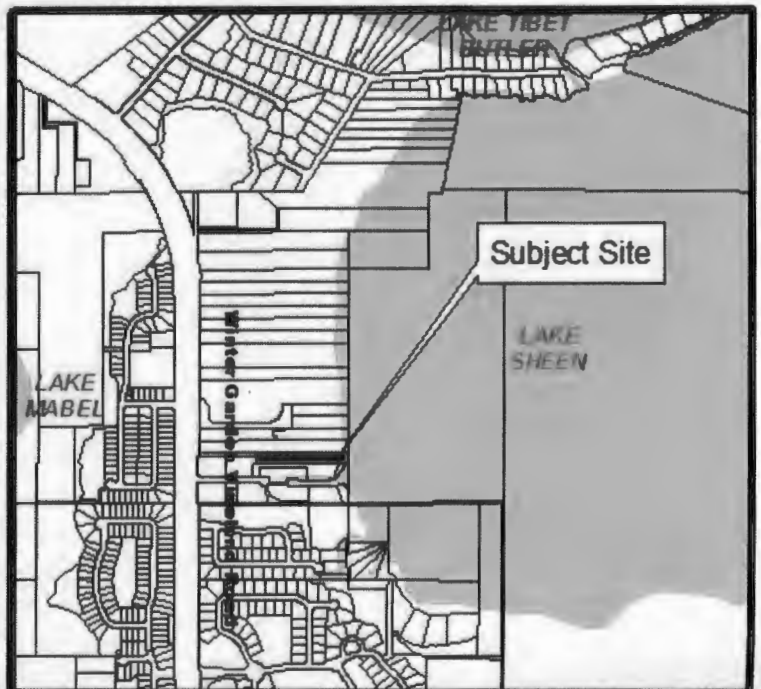
Applicant: Connie Emmerson

Parcel IDs: 05-24-28-0000-00-020

Project Site



Property Location





From end of dock looking north at alignment with adjacent dock

From dock looking west at house





September 2015 - Looking northeast from South property edge



September 2015 - Looking through cypress at dock



ENVIRONMENTAL PROTECTION DIVISION
Lori Cunniff, CEP, CHMM, Deputy Director
Community, Environmental and Development Services Department
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Orlando, FL 32808-7896
407-836-1400 • Fax 407-836-1499
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ORANGE COUNTY
ENVIRONMENTAL PROTECTION COMMISSION

Recommendation regarding a request for waiver for terminal platform size from Orange County Code, Chapter 15, for After-the-Fact Boat Dock Permit BD-15-04-044; Emmerson, 9419 Winter Garden Vineland Road on Lake Sheen; Parcel ID 05-24-28-0000-00-020.

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

REQUEST: The owner, Connie Emmerson is requesting a waiver to Section 15-342(b), terminal platform size for an after-the-fact Boat Dock Permit application as part of corrective actions in a Consent Agreement.

BACKGROUND: On April 16, 2015 the Orange County Environmental Protection Division (EPD) received an after the fact Application to Construct a Dock from the property owner, Connie Emmerson. The boat dock application was submitted in an effort to allow the current structure to remain and bring the property into compliance with Orange County Code.

The existing boat dock was constructed without permits from Orange County EPD or from Orange County Division of Building Safety and was a replacement for a previous dock on the site that had been constructed sometime in 2006 by a previous owner, also without a permit.

The current dock has a terminal platform size of 1027 square feet, which is 47 square feet larger than the 980 square feet allowed by Code (Section 15-342(b)). The dock was also built with a side setback at the northern property line of 7.6 feet; which is less than the required 25-foot minimum side setback for a property greater than 75-feet-wide (Section 15-343(b)).

Therefore, an after the fact request for waiver for a larger than allowed terminal platform size (and for the side setback requirement of 25-feet), is required. As required by Code, notification of the waiver requests were sent by certified mail on July 28, 2015 to the property owners located within 300 feet of the shoreline for the request for larger terminal platform, and to the adjacent effected property owner for the request for side setback reduction. EPD did not receive any objections to the notices.

Terminal Platform Size – Waiver

Section 15-342(b) states that the maximum square footage of the terminal platform shall not exceed the square footage of ten times the linear shoreline frontage for the first seventy-five feet of shoreline and five times the linear shoreline frontage for each foot in excess of seventy-five feet, not to exceed a maximum of one thousand square feet. The shoreline of approximately 121 feet at Normal High Water Elevation for the applicant's property allows a 980 square foot terminal platform. The as-built survey for the dock depicts the dock with a terminal platform size of 1027 square feet.

Section 15-350(a)(2) states that applications for waivers from Section 15-342(b) shall be made to the Environmental Protection Officer (EPO) and must describe: 1) how the waiver would not negatively impact the environment; and 2) the effect of the waiver on abutting shoreline owners.

In regards to # 1; the applicant stated: "*We made adjustments to existing dock to improve the Safety and appearance to modern standards and necessity. We will not do anything to negatively impact the environment and will maintain the lake and land as required.*" To further address the environmental impacts from the larger dock footprint, the Applicant has agreed to pay \$943.00 to the Conservation Trust Fund to mitigate for the additional shading impacts to the surface water. Based on the Uniform Mitigation Assessment Methodology, the contribution is equivalent to the mitigation required for the impacts.

In regards to #2; the applicant has stated *"Positive impact with the new appearance. Much safer and nicer to see from all angles. There will be no negative impact on our neighbors."*

Side Setback – Waiver

Since the property has greater than 75 feet of shoreline at the NHWE, pursuant to Section 15-343(b), the required side setback for the dock is 25 feet. This waiver request can be administratively approved by the Environmental Protection Officer, pursuant to Section 15-343(b); therefore no action was required on behalf of the Environmental Protection Commission.

ENFORCEMENT: Approval of this after the fact boat dock permit will resolve the violation related to the unauthorized boat dock.

RECOMMENDATION: Approval with conditions. Based upon the evidence and testimony presented at the September 30, 2015 public hearing, the EPC made a recommendation pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(b), to approve the after-the-fact request for waiver to Section 15-342(b), Terminal Platform Size, with payment of \$943.00 to the Conservation Trust Fund as mitigation for the Emmerson Boat Dock Permit #BD-15-04-044.

Signature of EPC Chairman: 

DATE EPC RECOMMENDATION RENDERED: _____

10-7-15



**APPLICATION TO CONSTRUCT A BOAT DOCK
APPLICATION FOR WAIVER**

(Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2))

Mail or Deliver To: Orange County Environmental Protection Division
800 Mercy Drive, Suite 4
Orlando, Florida 32808
(407) 836-1400, Fax (407) 836-1499

Platform Size

I Connie Emmerson on behalf of _____ (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(2) am requesting a waiver to section (choose and circle from the following: 15-342(b), 15-343(b), 15-344(a) and 15-345(a)) of the Orange County Dock Construction Ordinance.

1. Describe how this waiver would not negatively impact the environment:

We made adjustments to existing dock to improve the Safety and appearance to modern standards and necessity. We will not do anything to negatively impact the environment and will maintain the lake and land as required

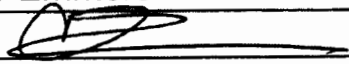
2. Describe the effect of the proposed waiver on abutting shoreline owners:

Positive impact with the new appearance. Much safer and nicer to see from all angles
There will be no negative impact on our neighbors

The environmental protection officer and the board may require of the applicant information necessary to carry out the purposes of this article.

By signing and submitting this application form, I am applying for a waiver to the Section indicated of the Orange County Dock Construction Ordinance identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained in this application, and represent that such information is true, complete, and accurate. I understand this is an application and not a permit, and that work conducted prior to approval is a violation. I understand that this application and any permit issued pursuant thereto, does not relieve me of any obligation for obtaining any other required federal, state, or local permits prior to commencement of construction. I understand that knowingly making any false statements or representation in this application is a violation of Sections 15-341 & 15-342, Orange County Code.

Name of Applicant: Connie Emmerson

Signature of Applicant/Agent  Date: 5/21/2015

Corporate Title (if applicable): _____



APPLICATION TO CONSTRUCT A BOAT DOCK
APPLICATION FOR WAIVER

(Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2))

Mail or Deliver To: Orange County Environmental Protection Division
800 Mercy Drive, Suite 4
Orlando, Florida 32808
(407) 836-1400, Fax (407) 836-1499

Side setback (circled handwritten note)

I Connie Emmerson on behalf of (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(2) am requesting a waiver to section (choose and circle from the following: 15-342(b), 15-343(b), 15-344(a) and 15-345(a)) of the Orange County Dock Construction Ordinance.

1. Describe how this waiver would not negatively impact the environment:

We didnt change the existing dock significantly, but made improvments to bring it to safer and more Modern standards.(which increased size) The angle was created to reduce any negative impact on the trees in the water to allow them to grow more freely and not into the dock.

2. Describe the effect of the proposed waiver on abutting shoreline owners:

Positive impact with the new appearance. Much safer and nicer to see from all angles
There will be no negative impact on our neighbors

The environmental protection officer and the board may require of the applicant information necessary to carry out the purposes of this article.

By signing and submitting this application form, I am applying for a waiver to the Section indicated of the Orange County Dock Construction Ordinance identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained in this application, and represent that such information is true, complete, and accurate. I understand this is an application and not a permit, and that work conducted prior to approval is a violation. I understand that this application and any permit issued pursuant thereto, does not relieve me of any obligation for obtaining any other required federal, state, or local permits prior to commencement of construction. I understand that knowingly making any false statements or representation in this application is a violation of Sections 15-341 & 15-342, Orange County Code.

Name of Applicant: Connie Emmerson
Signature of Applicant/Agent [Signature] Date: 5/21/2015
Corporate Title (if applicable):

