



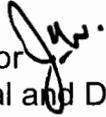
Interoffice Memorandum

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
DEC 01 2015 NP/CAS

AGENDA ITEM

November 2, 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: December 1, 2015 — Consent Item
Environmental Protection Commission Recommendation for
an After-the-Fact Waiver Request for a Dock for Henri and
Nicolette Johnson

On April 16, 2014, the Orange County Environmental Protection Division (EPD) received an Application to Construct a Dock from Henri and Nicolette Johnson. On May 28, 2014, EPD issued Dock Construction Permit BD-14-04-044.

On May 27, 2015, EPD received an as-built survey for the completed dock. The survey showed the side setback to be 4.4 feet from the north property line, instead of the required 25 feet. The actual structure is 9.01 feet from the adjacent parcel. There are also two jet-ski lifts that have been added to the north side of the dock that were not part of the original approved plans. Even with the addition of the jet-ski lifts, the terminal platform is still under its allowed size.

Mrs. Johnson was notified that she will be required to modify the permit, submit a new application fee, and obtain an after-the-fact waiver for side setback in order to keep the dock in its current location. On May 28, 2015, Mrs. Johnson submitted a new application, fee, and waiver application.

Pursuant to Sec 15-350(a)(2), "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". Mrs. Johnson stated in the waiver application that there would be no negative influence on the environment and no negative effect on the abutting shoreline owners.

Page Two

December 1, 2015 – Consent Item

Environmental Protection Commission Recommendation for an After-the-Fact Waiver Request for a Dock for Henri and Nicolette Johnson

Notification of the waiver request was sent to the affected property owners, Mr. and Mrs. Potz, on May 28, 2015. On July 6, 2015, EPD received a written objection from Mr. and Mrs. Potz. In the objection letter they offered two possible options in order for them to rescind their objection: 1) remove the jet-ski platforms that were placed on the north side of the dock or relocate them to the south side of the dock; or 2) pay for landscaping on the Potz's property to block the view of the two jet-ski lifts.

The objection letter was sent to Mrs. Johnson and EPD was informed that the two parties were going to meet to discuss the objection and waiver request. On September 11, 2015, Mrs. Johnson notified EPD that negotiations had come to a standstill.

On October 27, 2015, EPD received a second letter from Mr. and Mrs. Potz stating they could not attend the Environmental Protection Commission (EPC) hearing, but that they still object to the location of the jet-ski lifts; however, they no longer wish for any type of landscaping on their property. They requested that the jet-ski lifts be removed or relocated to the opposite side (south) of the dock.

Since the applicant failed to demonstrate that the waiver for side setback did not have a negative impact on the adjacent property owner as required in Sec. 15-350(a)(2)(2), the recommendation of the Environmental Protection Officer was to deny the request for the waiver.

Based upon the evidence and testimony presented at the October 28, 2015, public hearing, the Environmental Protection Commission (EPC) made a recommendation to overturn staff's recommendation of denial and made a recommendation of approval of the after-the-fact waiver request to Section 15-343(b) (side setback), with the requirement that the jet-ski lifts either be relocated to the southern side of the dock or removed entirely within 60 days of the BCC decision date for the Henri and Nicolette Johnson Boat Dock Waiver Request for Permit BD-14-04-044.

ACTION REQUESTED: Acceptance of Recommendation of the Environmental Protection Commission to approve the request for a waiver to Section 15-343(b) (side setback) for the Henri and Nicolette Johnson Dock Construction Permit BD-14-04-044, with the condition the jet-ski lifts either be relocated to the southern side of the dock or removed entirely within 60 days of the BCC decision date. District 1

JVW/LC: mg

Attachments



ENVIRONMENTAL
PROTECTION
COMMISSION

John Miklos
Chairman

David Ward
Vice Chairman

Sally Arwell

Ally Prosser

Michael Kybos

Jonathan Hucks

Glenn Dunkelberger

ENVIRONMENTAL PROTECTION DIVISION
Lori Cunniff, CEP, CHMM, Deputy Director
Community, Environmental and Development Services Department
800 Mercy Drive, Suite 4
Orlando, FL 32808-7896
407-836-1400 • Fax 407-836-1499
www.octfl.net

ORANGE COUNTY
ENVIRONMENTAL PROTECTION COMMISSION

Recommendation regarding a request for approval of an after-the-fact waiver to Orange County Code, Chapter 15, Article IX, Section 15-343(b) (side-setback) for Dock Construction Permit BD-14-04-044; Henri and Nicolette Johnson, 3444 S. Lake Butler Blvd, Lake Butler.

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

REQUEST: Henri and Nicolette Johnson (the "Applicants") are requesting approval of a waiver from Orange County Code, Chapter 15, Article IX, Section 15-343(b).

BACKGROUND: On April 16, 2014, the Orange County Environmental Protection Division (EPD) received an Application to Construct a Dock from Henri and Nicolette Johnson. On May 28, 2014, EPD issued Dock Construction Permit BD-14-04-044.

On May 27, 2015, EPD received an as-built survey for the completed dock. The survey showed the side setback to be 4.4 feet from the north property line, instead of the required 25 feet. Additionally there were two jet-ski lifts added to the north side of the dock that were not part of the original approved plans; however, the dock is still under its allowed maximum terminal platform size and does not require a waiver for terminal platform size.

Mrs. Johnson was notified that she will be required to modify the permit, submit a new application fee, and obtain an after-the-fact waiver for side setback. On May 28, 2015, Mrs. Johnson submitted a new application, fee, and waiver application.

Pursuant to Sec 15-350(a)(2), "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. Mrs. Johnson stated in the waiver application that there would be no negative influence on the environment and no negative effect on the abutting shoreline owners.

Notification of the waiver request was sent to the affected property owners, Mr. and Mrs. Potz, on May 28, 2015. On July 6, 2015 EPD received a written objection from Mr. and Mrs. Potz. In the objection letter they offered two possible options in order for them to rescind their objection: 1) remove the jet ski platforms that were placed on the north side of the dock or relocate them to the south side of the dock; or 2) pay for landscaping on the Potz's property to block the view of the two jet-ski lifts.

The objection letter was sent to Mrs. Johnson and EPD was informed that the two parties were going to meet to discuss the objection and waiver request. On September 11, 2015, Mrs. Johnson notified EPD that negotiations had come to a standstill.

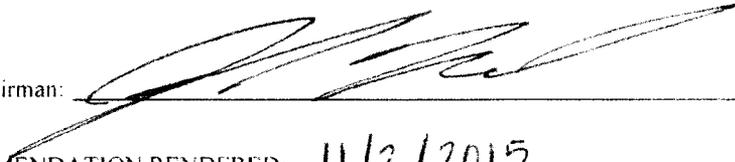
On October 27, 2015, EPD received another letter from Mr. and Mrs. Potz stating they still object to the location of the jet-ski lifts; however, they no longer wish for any type of landscaping on their property. They request that the jet-ski lifts be removed or relocated to the opposite side of the dock.

There currently is no enforcement action for this property. If the waiver request is denied the dock will be out of compliance and an enforcement case will be initiated. EPD will require the dock to be relocated to its original permitted design.

The applicant has failed to demonstrate that the waiver for side setback will not have a negative impact on the adjacent property owner as required in Sec. 15-350(a)(2)(2). Therefore, the recommendation of the Environmental Protection Officer is to deny the request for waiver.

RECOMMENDATION: Approval with Conditions. Based upon the evidence and testimony presented at the October 28, 2015, public hearing, the Environmental Protection Commission made a recommendation to overturn staff's recommendation of denial and made a recommendation of approval of the after-the-fact waiver request to Section 15-343(b) (side setback), with the requirement that the jet-ski lifts either be relocated to the southern side of the dock or removed entirely within 60 days of the BCC decision date for the Henri and Nicolette Johnson boat dock permit BD-14-04-044.

Signature of EPC Chairman: _____



DATE EPC RECOMMENDATION RENDERED: _____

11/2/2015

After-the-Fact Boat Dock Waiver Request



After-the-Fact Boat Dock
Waiver Request

District #1

Applicant: Henri and Nicolette Johnson

Parcel ID: 07-23-28-5616-01-840

Project Site

Property Location ■

