



Interoffice Memorandum

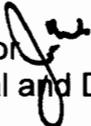
APPROVED BY ORANGE
COUNTY BOARD OF COUNTY
COMMISSIONERS

BCC Mtg. Date: Apr. 5, 2016

AGENDA ITEM

March 11, 2016

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 5, 2016 — Consent Item
Environmental Protection Commission Recommendation for
Waiver and Variance Requests for a Dock for Martin Krytus

On March 6, 2012, the Environmental Protection Division (EPD) received an application to demolish an existing permitted dock structure (BD 07-106) and construct a new boat dock located at 801 West Second Avenue on Lake Butler.

The initial construction plans required a waiver to Section 15-342(b) for a larger than allowed by code terminal platform size and a variance to Section 15-343(a) for a reduced side setback. As required by code, notifications were sent to all of the shoreline property owners within 300 feet, and EPD received three written objections to the proposed terminal platform. The objectors were: Carolyn Green (803 W. 2nd Avenue), Jay Garner (799 W. 2nd Avenue), and Diana Vergowe (711 W. 2nd Avenue). Residents Green and Garner live on either side of Mr. Krytus. Ms. Vergowe lives 4 lots to the east of Mr. Krytus.

The waiver and variance requests were scheduled for public hearing by the Environmental Protection Commission (EPC) on June 27, 2012; however, after hearing the objections, EPC voted to continue the case so the applicant could attempt to work out a resolution with the objectors.

Prior to the August 2, 2012 hearing, two of the three objectors rescinded their objections (Green and Garner).

At the August 2, 2012 EPC meeting, the Environmental Protection Officer (EPO) recommended denial of the waiver request (terminal platform) because the applicant had failed to demonstrate the waiver would not have a negative impact on the affected shoreline owner Ms. Vergowe, who had not withdrawn her objection. However, the EPO recommended approval of the variance (side setback) because the adjacent affected neighbor (Green) no longer objected and furthermore, the applicant was able to demonstrate the hardship was not self-imposed due to the irregular lot shape.

At the public hearing, EPC overturned staff's recommendation to deny the waiver request and made a recommendation to approve both the variance to side setback and the waiver to terminal platform size, with the condition that the applicant pay \$1,009.20 to the Conservation Trust Fund (CTF) as mitigation for shading caused by the larger than allowed terminal platform size.

On September 11, 2012, the Board of County Commissioners (BCC) accepted the recommendation of the EPC, and EPD issued boat dock permit BD-12-03-009 on September 18, 2012, after receiving the mitigation payment from the Applicant.

Do to various reasons, the boat dock was never constructed and the permit expired on September 18, 2013. In March 2015, EPD received a new application for the same proposed boat dock as previously approved permit BD-12-03-009. The applicant was informed that because the original permit had expired, the new application and variance and waiver requests would have to go through the same public hearing process with approval by EPC and BCC.

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

The applicant is again requesting a terminal platform of 1,276 square feet. The length of the shoreline on this property is 74 feet; therefore, a terminal platform size of 740 square feet is allowed by code.

The side setback requirement for a 74 foot shoreline would be 10 feet from the projected property line. The existing dock is located four (4) feet from the projected property line and the proposed dock will also be four (4) feet from the projected property line.

Notification of the variance and waiver requests was sent to all property owners within 300 feet of the property on March 26, 2015. After those letters were sent, EPD was informed that the water depth at the end of the terminal platform may exceed the five (5) feet allowed by code.

The agent was then informed that a variance to Section 15-342(a) would be required if the water depth were to exceed five (5) feet. On November 19, 2015, EPD received an Application for Variance for greater than allowed water depth. A variance notification letter was sent to the property owners within 300 feet, with the new variance request.

To date, EPD has received written objections to the variance and waiver requests from four residents:

- 1) April 15, 2015 and January 4, 2016, EPD received objection letters from Caroline Green (803 W. 2nd Ave)
- 2) April 16, 2015, EPD received an objection from Jay Garner (799 W. 2nd Ave).
- 3) April 22, 2015 and December 31, 2015, EPD received objection letters from Joan Strickland (745 W. 2nd Ave).
- 4) April 27, 2015 and December 31, 2015, EPD received objection letters from Carol Fosgate (711 W. 2nd Ave).

The variance and waiver requests were scheduled for the January 27, 2016 EPC meeting; however, on January 26, 2016 EPD received a request to continue the hearing because the applicant would not be able to attend the meeting. EPC voted to continue the variance and waiver requests until the February 24, 2016 EPC meeting.

Terminal Platform Waiver

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

To address 15-350 (a)(2)(1), the applicant has stated that the placement of the dock would not negatively impact vegetation. In addition, since the EPC and BCC approved the request for waiver for increased size with the condition that the applicant pay a mitigation fee to the CTF of \$1,009.20, and that payment was received on September 14, 2012, EPD staff is satisfied that the applicant has offset the impacts from the shading and no additional mitigation is being requested for this current waiver request to increase the terminal platform size.

To address 15-350(a)(2)(2), the applicant has stated "the view and navigability of the abutting shoreline owners will not be negatively impacted." However, all four letters of objection include concerns to the proposed terminal platform size. The concerns included blocked views, concerns over the dock extending too far into the lake, overbuilding for this particular lot, and setting precedents for oversized docks.

Side Setback Variance

Pursuant to Section 15-350(a)(1), Variances, "the applicant shall also describe (1) how strict compliance with the provisions from which a 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 owners."

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April 5, 2015 – Consent Item

Environmental Protection Commission Recommendation for Waiver and Variance Requests for a Dock for Martin Krytus

To address 15-350 (a)(1)(1), for the side setback variance, the agent has stated that the construction will replace an existing structure and the shoreline length is shorter than average as compared to neighboring lots. The site plan provided by the Applicant shows that the new dock will be no closer to the adjacent property than the existing permitted “grandfathered” dock (approximately four feet from the property line).

To address 15-350 (a)(1)(2), for the side setback variance, the agent has stated that “the view and navigability of abutting shoreline owners will not be negatively impacted.” It was also stated that “the owner previously requested and received approval of this variance.” However, all four written objection letters received by EPD state that the dock will encroach on the current neighboring boat house. They also reference concerns over decreased property values with the structure being so close to the property line and may restrict a planned upgrade to the neighboring dock.

Water Depth Variance

To address 15-350 (a)(1)(1) for the variance to water depth, the applicant states “a variance to extend the applicant’s dock beyond a water depth of 5 feet would have no negative environmental effects considering it would better align with adjacent dock structures.”

To address 15-350(a)(1)(2) the applicant has stated that “the adjacent property owners should be unaffected by the dock structure.” However, three of the four objection letters received by EPD include concerns to the request for the variance to water depth. Among the concerns are that the dock is being proposed too far out (approximately 15 feet further than the existing permitted “grandfathered” dock) and could be a hazard for boaters.

The recommendation of the Environmental Protection Officer (EPO) at the February 24, 2016 EPC hearing was to deny the request for waiver to additional terminal platform size due to the Applicant’s failure to effectively address the impact on the abutting shoreline owners as required in Section 15-350(a)(2)(2), and deny the requests for variances for side setback and water depth, based on the failure of the Applicant to demonstrate that the dock will not have a negative impact on the adjacent property owners, as required in Section 15-350(a)(1)(2).

At the February 24, 2016 public hearing, EPC overturned staff’s recommendation and voted to approve the variances to side setback and water depth and approve the waiver to terminal platform size.

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April 5, 2015 – Consent Item

Environmental Protection Commission Recommendation for Waiver and Variance Requests for a Dock for Martin Krytus

ACTION REQUESTED: Acceptance of Recommendation of the Environmental Protection Commission to approve the request for a waiver to Section 15-342(b) (terminal platform size), and approve the requests for variances to Section 15-343(a) (side setback) and Section 15-342(a) (water depth) for the Martin Krytus Dock Construction Permit BD-15-03-028. District 1

JWW/LC: mg

Attachments



ENVIRONMENTAL
PROTECTION
COMMISSION

John Miklos
Chairman

David Ward
Vice Chairman

Sally Arwell

Alex Presser

Jonathan Hoels

Glenn Ditzelberger

Mark Corbett

ENVIRONMENTAL PROTECTION DIVISION
Lori Cunniff, CEP, CHMM, Deputy Director
Community, Environmental and Development Services Department
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ORANGE COUNTY
ENVIRONMENTAL PROTECTION COMMISSION

Recommendation regarding a request for approval of a waiver to Orange County Code, Chapter 15, Article IX, Section 15-342(b) (terminal platform size), and variances to Section 15-343(a) (side setback) and Section 15-342(a) (water depth) for Dock Construction Permit BD-15-03-028; Martin Krytus, 801 W. 2nd Avenue, Lake Butler.

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

REQUEST: Martin Krytus (the "Applicant") is requesting approval of a waiver from Orange County Code, Chapter 15, Article IX, Section 15-342(b) and variances to Section 15-343(a) and Section 15-342(a).

BACKGROUND: On March 6, 2012, the Environmental Protection Division (EPD) received an application to demolish an existing permitted dock structure (BD 07-106) and construct a new boat dock on this Lake Butler property owned by Mr. Martin Krytus. The initial construction plans required a waiver to Section 15-342(b) for a larger than allowed by Code terminal platform size and a variance to Section 15-343(a) for a reduced side setback. As required by code, notifications were sent to all of the shoreline property owners within 300 feet, and EPD received three written objections to the proposed terminal platform. The objectors were: Carolyn Green (803 W. 2nd Avenue), Jay Garner (799 W. 2nd Avenue), and Diana Vergowe (711 W. 2nd Avenue). Residents Green and Garner live on either side of Mr. Krytus. Ms. Vergowe lives 4 lots to the east of Mr. Krytus.

The waiver and variance requests were scheduled for public hearing by the Environmental Protection Commission (EPC) on June 27, 2012; however, after hearing the objections, EPC voted to continue the case so the applicant could attempt to work out a resolution with the objectors.

In July 2012, two of the three objectors rescinded their objections (Green and Garner). At the August 2, 2012 EPC meeting, EPD recommended denial of the waiver request (terminal platform) because Ms. Vergowe had not withdrawn her objection. However, EPD recommended approval of the variance (side setback) because the adjacent affected neighbor (Green) no longer objected and furthermore, the applicant was able to demonstrate the hardship was not self-imposed due to the irregular lot shape.

EPC overturned staff's recommendation to deny the waiver and made a recommendation to approve the variance to side setback and approve the waiver to terminal platform size with the condition that the applicant pay \$1,009.20 to the Conservation Trust Fund (CTF) as mitigation for shading caused by the larger than allowed terminal platform size. On September 11, 2012, the Board of County Commissioners (BCC) accepted the recommendation of the EPC and EPD issued boat dock permit BD-12-03-009 on September 18, 2012 after receiving the mitigation payment from the Applicant. The boat dock was never constructed and the permit expired on September 18, 2013.

In March 2015, EPD received a new application for the same proposed boat dock as previously approved permit BD-12-03-009. The applicant was informed that because the original permit had expired, the new application and variance and waiver requests would have to go through the same public hearing process with approval by the EPC and BCC.

The variance and waiver requests were scheduled for the January 27, 2016 EPC meeting. A request was received by EPD on January 26, 2016 to continue the hearing because the applicant was having travel issues and would not be able to attend the meeting. The EPC voted to continue the variance and waiver requests until the February 24, 2016 EPC meeting.

The applicant is requesting a terminal platform of 1,276 square feet. The length of the shoreline on this property is 74 feet; therefore, a terminal platform size of 740 square feet is allowed by code.

The side setback requirement for a 74 foot shoreline would be 10 feet from the projected property line. The existing dock is located four (4) feet from the projected property line and the proposed dock will also be four (4) feet from the projected property line.

Notification of the variance and waiver requests (listed above) was sent to all property owners within 300 feet of the property on March 26, 2015. After those letters were sent, EPD was informed that the water depth at the end of the terminal platform may exceed the five (5) feet allowed by Code.

The agent was then informed that a variance to Section 15-342(a) would be required if the water depth were to exceed five (5) feet. On November 19, 2015, EPD received an Application for Variance for greater than allowed water depth. A variance notification letter was sent to the property owners within 300 feet, with the new variance request.

To date, EPD has received written objections to the variance and waiver requests from four residents:

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Terminal Platform Waiver

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To address 15-350 (a)(2)(1) The applicant has stated that the placement of the dock would not negatively impact vegetation. In addition, since the EPC and BCC approved the request for waiver for increased size with the condition that the applicant pay a mitigation fee to the CTF of \$1,009.20, and that payment was received on September 14, 2012, EPD staff is satisfied that the applicant has offset the impacts from the shading and no additional mitigation is being requested for this current waiver request to increase the terminal platform size.

To address 15-350(a)(2)(2) the applicant has stated "the view and navigability of the abutting shoreline owners will not be negatively impacted." However, all four letters of objection include concerns to the proposed terminal platform size. The concerns included blocked views, concerns over the dock extending too far into the lake, overbuilding for this particular lot, and setting precedents for oversized docks.

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owner previously requested and received approval of this variance." However, all four written objection letters received by EPD state that the dock will encroach on the current neighboring boat house. They also reference concerns over decreased property values with the structure being so close to the property line and may restrict a planned upgrade to the neighboring dock.

Water Depth Variance

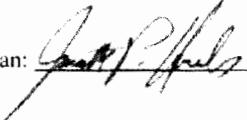
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The recommendation of the Environmental Protection Officer (EPO) is to deny the request for waiver to additional terminal platform size due to the Applicant's failure to effectively address the impact on the abutting shoreline owners as required in Section 15-350(a)(2)(2), and deny the requests for variances for side setback and water depth, based on the failure of the Applicant to demonstrate that the dock will not have a negative impact on the adjacent property owners, as required in Section 15-350(a)(1)(2).

RECOMMENDATION: Approval. Based upon the evidence and testimony presented at the February 24, 2016 public hearing, the Environmental Protection Commission made a recommendation to overturn the staff recommendation and approve the request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-342(b), and approve the requests for variances to Section 15-343(a) and Section 15-342(a) for the Martin Krytus Dock Construction Permit BD-15-03-028.

Signature of EPC Chairman: _____



DATE EPC RECOMMENDATION RENDERED: _____

February 24, 2016

Boat Dock Waiver and Variance Requests



Boat Dock Waiver and Variance Requests

District #1

Applicant: Martin Krytus
Parcel IDs: 07-23-28-0044-00-040

Project Site 

Property Location 



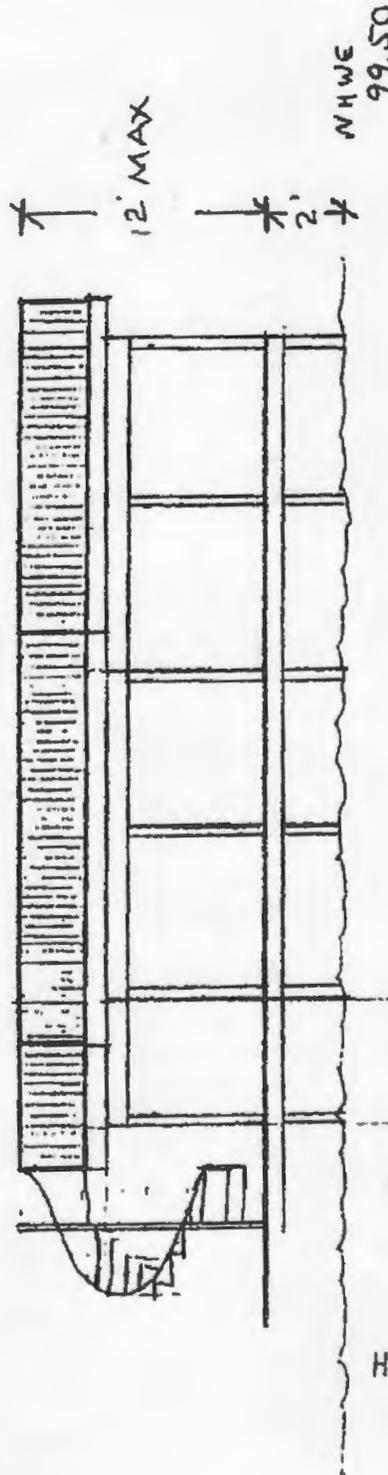
Krytus Boat Dock Objectors



DCEP\MAR132015\AM10:3

Minimum Side Setbacks-(L) 4' & (R) 10'
Maximum Terminal Platform size- 1276 sq ft
Maximum Water Depth- 5'
Maximum Roof Height above Floor-12 feet
Minimum Dock Height above the NHWE-1 foot
Minimum Deck Height above Conserv Area-min 3 feet
Maximum width of walkway - 5 feet

APPROVED BY THE
ORANGE COUNTY
ENVIRONMENTAL PROTECTION DIVISION
DATE: 9/18/12
INITIAL: JR
BD-12-03 009



ADMINISTRATIVE VARIANCE APPROVED

Administrative Waiver Approved

RIGHT SIDE VIEW
1/8" = 1' 0"

In addition to public regulations which Orange County enforces, be advised that there may be other private restrictions or approval requirements that will affect your ability to erect this structure. Please review your deed restrictions and/or consult with your Homeowners Association or Architectural Review Board