



Interoffice Memorandum

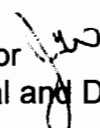
APPROVED BY ORANGE
COUNTY BOARD OF COUNTY
COMMISSIONERS


BCC Mtg. Date: May 10, 2016

AGENDA ITEM

April 8, 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: May 10, 2016 — Consent Item
Environmental Protection Commission Recommendation for an
After-the-Fact Variance for Faye H. Stanford

The project site is located at 1141 West 2nd Avenue, Windermere, Florida 34786. The Parcel ID for the site is 07-23-28-0048-00-020. The subject property is located on Wauseon Bay, which is adjacent to Lake Butler in Orange County Commission District 1.

On May 30, 2013, the Environmental Protection Division (EPD) issued a Grandfathered Dock Construction Permit (BD-13-04-038) to Faye H. Stanford for the subject property. This permit authorized the Permittee (Faye H. Stanford) to reconstruct a grandfathered dock maintaining the original design and footprint as the previous one. Mr. J. Andrew McCarthy was listed as the Agent/Consultant authorized to secure the permit on behalf of Faye H. Stanford. Specifically, the permit authorized re-construction of the dock in accordance with the plans dated as received by EPD on April 25, 2013 and May 24, 2013.

On January 15, 2014, EPD received notification (via email) from Mr. McCarthy that the boat dock structure was completed. Subsequently, on January 21, 2014, EPD staff conducted a compliance inspection of the completed structure.

On March 31, 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. Therefore; since the repair activities did not maintain the original design and footprint of the dock, as required by Section 15-346, the dock is now required to meet the conditions for issuance in Section 15-342 and 15-343.

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May 10, 2016 – Consent Item

Environmental Protection Commission Recommendation for an After-the-Fact Variance for Faye H. Stanford

On July 19, 2014, EPD received an after-the-fact Application to Construct a Dock for the subject property. Upon review of the application, the repairs to the dock met the conditions of issuance in Section 15-342 and 15-343, with the exception of 15-342 (g) (enclosed dock) and 15-343 (b)(side setback waiver). Subsequently, at the direction of EPD staff, on September 23, 2014, 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 at least 1985.

Enclosed Boat Dock Variance

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

Notifications for the after-the-fact variance request were sent to all shoreline property owners within 300 feet of the subject property on September 25, 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. More specifically, the updated code required the staircase to be re-built larger than the historic staircase. A U-shaped staircase had to be built instead of the historic straight staircase.

Regarding Section 15-350(a)(2), Mr. McCarthy has stated that the abutting shoreline property owners (Eugene and Rita Melvin, 1069 West 2nd Avenue) have no objection to the enclosed boathouse structure. EPD has not received any objections to the variance request.

Side Setback Waiver

As part of the September 23, 2014, 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 7.1 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.”

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May 10, 2016 – Consent Item

Environmental Protection Commission Recommendation for an After-the-Fact Variance for Faye H. Stanford

On April 15, 2014, EPD received a LONO from Eugene and Rita Melvin, the affected neighbors to the southeast, who own the property at 1069 West 2nd Avenue, in Windermere. No action is required by the EPC or the Board of County Commissioners (BCC) for this issue, as the side setback waiver has been approved by the EPO.

Enforcement Action

There is currently an open enforcement case for this property. A Notice of Violation, dated June 4, 2014, was issued to Faye H. Stanford. Approval of the after-the-fact variance, and issuance of a new after the fact dock construction permit, will resolve the enforcement case.

At the March 30, 2016 public hearing, the EPC voted to uphold the recommendation of the EPO and approve the request for an after-the-fact variance to Section 15-342(g) (enclosed structure).

ACTION REQUESTED: Acceptance of Recommendation of the Environmental Protection Commission to approve the request for an after-the-fact variance to Section 15-342(g) (enclosed dock) for Faye H. Stanford, After-the-Fact Dock Construction Permit BD-14-09-110. District 1

JWW/LC: mg

Attachments



ENVIRONMENTAL
PROTECTION
COMMISSION

John Miklos
Chairman

David Ward
Vice Chairman

Sally Atwell

Alex Preisser

Jonathan Huch

Glenn Dunkelberger

Mark Corbett

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ORANGE COUNTY
ENVIRONMENTAL PROTECTION COMMISSION

Recommendation regarding a request for approval of an after-the-fact variance to Orange County Code, Chapter 15, Article IX, Section 15-342(g) (enclosed structure), for After-the-Fact Dock Construction Permit BD-14-09-110; Faye H. Stanford, 1141 West 2nd Avenue, Wauseon Bay (adjacent to Lake Butler).

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

REQUEST: Faye H. Stanford (the "Applicant") is requesting approval of 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 Faye H. Stanford for the subject property. This permit authorized the Permittee (Faye H. Stanford) to reconstruct a grandfathered dock maintaining the original design and footprint as the previous one. Mr. J. Andrew McCarthy was listed as the Agent/Consultant authorized to secure the permit on behalf of Faye H. Stanford. Specifically, the permit authorized re-construction of the dock in accordance with the plans dated as received by EPD on April 25, 2013 and May 24, 2013.

On January 15, 2014, EPD received notification (via email) from Mr. McCarthy that the boat dock structure was completed. Subsequently, on January 21, 2014, EPD staff conducted a compliance inspection of the completed structure.

On March 31, 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. Therefore; since the repair activities did not maintain the original design and footprint of the dock, as required by Section 15-346, the dock is now required to meet the conditions for issuance in Section 15-342 and 15-343.

Staff Findings

On July 19, 2014, EPD received an after-the-fact Application to Construct a Dock for the subject property. Upon review of the application, the repairs to the dock met the conditions of issuance in Section 15-342 and 15-343, with the exception of 15-342 (g) (enclosed dock) and 15-343 (b)(side setback waiver). Subsequently, at the direction of EPD staff, on September 23, 2014, 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 at least 1985.

Enclosed Boat Dock Variance

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 to all shoreline property owners within 300 feet of the subject property on September 25, 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. More specifically, the updated code required the staircase to be re-built larger than the historic staircase. A U-shaped staircase had to be built instead of the historic straight staircase.

Regarding Section 15-350(a)(2), Mr. McCarthy has stated that the abutting shoreline property owners (Eugene and Rita Melvin, 1069 West 2nd Avenue) have no objection to the enclosed boathouse structure. EPD has not received any objections to the variance request.

Side Setback Waiver

As part of the September 23, 2014, 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 7.1 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."

On April 15, 2014, EPD received a LONO from Eugene and Rita Melvin, the affected neighbors to the southeast, who own the property at 1069 West 2nd Avenue, in Windermere. No action is required by the EPC for this issue because the side setback waiver can be approved by the EPO.

Enforcement Action

There is currently an open enforcement case for this property. A Notice of Violation, dated June 4, 2014, was issued to Faye H. Stanford. Since said issuance, EPD and Mr. McCarthy have been working towards bringing the subject property into compliance. Approval of the after-the-fact March 30, 2016 variance, and issuance of a new after the fact dock construction permit, will resolve the enforcement case.

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

RECOMMENDATION: Approval. Based upon the evidence and testimony presented at the March 30, 2016 public hearing, the Environmental Protection Commission made a recommendation to approve the request for an after-the-fact variance to Orange County Code, Chapter 15, Article IX, Section 15-342(g) for the Faye H. Stanford After-the-Fact Dock Construction Permit BD-14-09-110.

Signature of EPC Chairman: _____

DATE EPC RECOMMENDATION RENDERED: _____

After-the-Fact Variance Request



After-the-Fact Application to Construct a Dock

District #1

Applicant: Faye H. Stanford

Parcel IDs: 07-23-28-0048-00-020

Project Site

Property Location

