



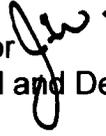
APPROVED BY ORANGE  
COUNTY BOARD OF COUNTY  
COMMISSIONERS

BCC Mtg. Date: July 19, 2016

## AGENDA ITEM

June 20, 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:** July 19, 2016 – Consent Item  
Environmental Protection Commission Recommendation on  
Waiver Requests for an After-The-Fact Boat Dock for  
Nathan F. Bower; Lake Fairview

Upon responding to a complaint, the Environmental Protection Division (EPD) discovered that Mr. Nathan F. Bower, the owner of the property at 4226 Grant Boulevard (Parcel ID 24-23-27-9009-00-100) on Lake Fairview in Orange County Commission District 2, was in the process of expanding an older “grandfathered” dock without any permit. EPD discovered that the expansion was basically complete, with the exception of the roof over a new boat slip still to be completed.

EPD staff informed Mr. Bower that he would need to obtain a permit for the dock and that he would need to meet all provisions of the current code, since the dock expansion no longer qualifies as a “grandfathered” repair. Pursuant to Orange County Code, Chapter 15, Article IX, EPD staff evaluated the “as-built survey” and informed the Applicant that his terminal platform exceeds the maximum size allowable under Section 15-342(b) and his side setback is less than the minimum under Section 15-343(b).

In an effort to allow the structure to remain and in order to complete the construction, on December 11, 2015, Mr. Bower submitted Applications for Waivers to Section 15-342(b) (terminal platform size) and Section 15-343(b) (side setback distance).

As required by Code, notification of the waiver requests were sent by certified mail on January 29, 2016 and March 14, 2016 to the property owners located within 300 feet of the shoreline for the request for larger terminal platform, and to the adjacent affected property owner for the request for side setback reduction.

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Environmental Protection Commission Recommendation on Waiver Requests for an After-The-Fact Boat Dock for Nathan F. Bower; Lake Fairview

Staff review of historical aerial photographs confirms that the “grandfathered” dock was built by a previous owner between 1967 and 1971, well before the adoption of Chapter 15, Article IX (the current Construction of Dock Ordinance).

The “grandfathered” structure comprised a boat house constructed adjacent to an old seawall on the property with a walkway extending into deeper water with a terminal deck. The “grandfathered” dock was built nearly abutting the southern projected property line. The total size of the previous structure, inclusive of the old boat house, is estimated to have been approximately 1,120 square feet.

The unpermitted expansion to the dock includes a widened access walkway, an enlarged terminal platform, and a newly constructed boat slip with a roof at the terminal platform for a total size of 1,784 square feet. The as-built survey depicts the dimensions (note that surveyor calculated the overall square footage incorrectly, not including the covered boat slips).

The 1,784 square foot dock is 929 feet larger than the 855 square feet allowed by code for the 96 feet of shoreline at his property (Section 15-342(b)). The unpermitted structure was expanded using the existing alignment which places it at 0.3 feet from the southern projected property line, 24.7 feet short of the 25-foot-side minimum setback required by code for the property (Section 15-343(b)).

### **Side Setback – Waiver Request**

Section 15-343(b), states that 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, unless such requirement is reduced by an appropriate waiver.” The dock expansion was constructed in the same alignment as the previous dock. According to the as-built survey, the terminal platform lies 0.3 feet from the projected property line.

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: *“Within the first year returning home I removed 23 truckloads of weeds and debris that collected on my area of shore line. Since that time I typically remove 500 pounds of debris every month. I have planted more than 33 native cypress trees on my lot and as the environment in my portion of shoreline has improved the native aquatic species that were here in my childhood have returned. Guppies, stone rollers, brim, bluegill, catfish, spotted gar, and bass have bedded in the native pickle weed, arrowhead, and lily pads. With the return of the native fish so have the water birds that feed on them. Mallards, green herons, blue*

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*herons, wood ducks, gallinules, grebes, kingfishers, limpkin, cormorants, white pelicans, and coots. I have even had otters in my back yard. In the trees I commonly have osprey, cormorants, egrets, crows, grackles and eagles. Every day of the week you can count at least 10 different species of birds in my back yard. The filling on of the point two properties south of mine combined with the grass and weed barrier at the neighbors property adjacent to the opening of the canal to Little Lake Fairview, creates an obstruction to the natural flow of water in the lake system. This situation blocks the flow of eel grass, weeds and debris floating in the lake so that everything collects at my property and thus creating the shallow water situation I am having to alleviate with the addition of a boat slip in deep water.*

To address 15-350(a)(2)(2); the applicant stated: *“There has been a dock in this position since 1962. This fact combined with the removal of invasive species around the dock and the planting and nurturing of native species of aquatic plants and trees have created a natural micro environment populated with the species inherent to that environment. The bass and blue gill and mallards use the cover of the dock to protect them from eagle and osprey predation and also as subterfuge to ambush their prey species. I challenge you to find a lot on this lake that has a more diverse population of native species in the numbers seen here every day. You won’t be able to, because this is the only lot on this lake that has been managed to provide an environment for native species to the extent that I have, and the native species have voted with their fins, feathers and feet to prove it.”*

### **Terminal Platform – Waiver Request**

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 96 feet at Normal High Water Elevation (NHWE) for the applicant’s property allows a 855 square foot terminal platform. Calculation of the square footage from the as-built survey for the dock results in a terminal platform size of 1,784 square feet.

To address the environmental impacts from the larger dock footprint, the Applicant has proposed to pay \$880 to the Conservation Trust Fund (CTF) to mitigate for the additional shading impacts to the surface water. Based on the Uniform Mitigation Assessment Methodology (UMAM), the contribution is equivalent to the mitigation required for the impacts.

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Section 15-350(a)(2) states that applications for waivers from Section 15-342(b) shall be made to the 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 has stated: *"I realize that the terminal platform of 1332 square feet is larger than the 855 square feet allowed by coded. I am interested in pursuing the purchase of mitigation credits to address the increase in size of the terminal platform."* [It has since been determined that the initial calculations of square footage did not include the boat slip area and the true size of the already constructed dock is 1784 square feet]

To address 15-350(a)(2)(2); the applicant has stated *"For the life of me I can't think of any effect it would have other than blocking more debris from floating into the abutting shoreline. I already mitigate that by the removal of 500 pounds of debris per month on average."*

### **Objection Letter**

EPD received an objection from Mr. Vollet at 4212 Grant Boulevard, the property owner immediately south of and adjacent to the Bower property on the side with the reduced side setback. Mr. Vollet objects to the side setback and terminal platform waiver requests. In his letter, Mr. Vollet states that the addition of the elevated boat shelter/boat lift is completely objectionable given the lack of setback from their property line. The structure would improperly block their view of the lake and adversely affect their rights to enjoy the lines of sight that existed when they purchased the property. He further states that if the dock and raised boat shelter structure were moved over to the prescribed setback, it would not have the same adverse effect on them.

Mr. Vollet offered a solution in that he could accept the current footprint and setback conditioned on there not being any vertical elements including pilings, structure, rails, roof, etcetera any higher than the current walkway deck elevation. All existing structures would need to be cut to the level of the existing deck. He also requests the dock be painted or stained a single neutral earth-tone color that is traditionally used on docks and maintained that way.

Staff discussed the proposal with Mr. Bower and he did not accept this suggestion. Mr. Bower indicated that he must have his boat lift at the terminal platform as do other docks in the area to allow lifting the boat out of the water to prevent theft. The expansion is needed since he can no longer use the old boat house located at the seawall due to a build-up of sediment over the years.

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Environmental Protection Commission Recommendation on Waiver Requests for an After-The-Fact Boat Dock for Nathan F. Bower; Lake Fairview

At the May 25, 2016 public hearing, the Environmental Protection Commission (EPC) voted to uphold the recommendation of the EPO and deny the after-the-fact waiver requests, based on the failure of the applicant to demonstrate that the waiver requests will not have a negative impact on the adjacent property. With this recommendation, the applicant must restore the footprint of the dock to meet the design and footprint of the previous grandfathered dock.

**ACTION REQUESTED:**        **Acceptance of Recommendation of the Environmental Protection Commission to deny the requests for waivers to Orange County Code, Chapter 15, Article IX, Section 15-342(b) (terminal platform) and Section 15-343(b) (side setback) for the Bower After-the-Fact Boat Dock Construction Permit BD-15-12-132. The dock must be returned to the pre-construction (grandfathered) dimensions within 90 days of the Board's Decision. District 2**

JVW/LC: mg

Attachments



ENVIRONMENTAL PROTECTION COMMISSION

David Ward  
Chairman

Jonathan Huels  
Vice Chairman

Sally Arwell

Alex Preisser

Glenn Dunkelberger

Mark Corbett

Mark Ausley

ENVIRONMENTAL PROTECTION DIVISION  
Lori Cunniff, CEP, CHMM, Deputy Director  
Community, Environmental and Development Services Department  
3165 McCrary Place, Suite 200  
Orlando, FL 32803-3727  
407-836-1400 • Fax 407-836-1499  
www.ocfl.net

ORANGE COUNTY ENVIRONMENTAL PROTECTION COMMISSION

Recommendation regarding a request for approval of waivers to Orange County Code, Chapter 15, Article IX, Section 15-342(b) (terminal platform size) and Section 15-343(b) (side setback), for After-the-Fact Boat Dock Construction Permit BD-15-12-132; Nathan F. Bower, 4226 Grant Boulevard, Lake Fairview.

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

**REQUEST:** Nathan F. Bower (the "Applicant") is requesting the approval of waivers to Orange County Code, Chapter 15, Article IX, Section 15-342(b) (terminal platform size) and Section 15-343(b) (side setback).

**BACKGROUND:** After receiving a complaint about a dock under construction on Lake Fairview, the Environmental Protection Division (EPD) discovered that Mr. Bower, the owner of the property, was in the process of expanding an older "grandfathered" dock. The expansion is basically complete with the roof of the boat slip still to be completed. In an effort to allow the structure to remain and construction to continue, an after-the-fact Application to Construct a Dock was submitted by Mr. Bower.

The current structure does not have a permit from the Orange County Division of Building and Safety.

Review of aerial photographs confirms that the "grandfathered" dock was built by a previous owner between 1967 and 1971 well before the adoption of Chapter 15, Article IX (the current Construction of Dock Ordinance). The "grandfathered" structure comprised a boat house constructed adjacent to an old seawall on the property with a walkway extending into deeper water with a terminal deck. The "grandfathered" dock was built nearly abutting the southern projected property line. The total size of the previous structure, inclusive of the old boat house, is estimated to have been 1,120 square feet.

The unpermitted expansion to the dock widened the walkway, enlarged the terminal platform and constructed a boat slip with a roof at the terminal platform for a total of 1,784 square feet. The as-built survey depicts the dimensions (note that surveyor calculated the overall square footage is incorrectly, not including the covered boat slips).

The 1,784 square foot dock is 929 feet larger than the 855 square feet allowed by code for the 96 feet of shoreline at his property (Section 15-342(b)). The unpermitted structure was expanded using the existing alignment which places it at 0.3 feet from the southern projected property line, 24.7 feet short of the 25-foot-side setback required by code for the property (Section 15-343(b)). Therefore, after-the-fact waivers to Section 15-342(b) and Section 15-343(b) are required.

On December 11, 2015 EPD received requests for waiver to terminal platform size and to side setback for the dock; and on January 4, 2016 EPD received the application for dock construction. Pursuant to Orange County Code, Chapter 15, Article IX, EPD staff evaluated the proposed application and required documents.

As required by Code, notification of the waiver requests were sent by certified mail on January 29, 2016 and March 14, 2016 to the property owners located within 300 feet of the shoreline for the request for larger terminal platform, and to the adjacent affected property owner for the request for side setback reduction.

EPD received an objection from Mr. Vollet at 4212 Grant Boulevard, the property owner immediately south of and adjacent to the Bower property on the side with the reduced side setback. In his letter, Mr.

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PROTECTION DIVISION  
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Vollet states that the addition of the elevated boat shelter/boat lift is completely objectionable given the lack of setback from their property line. The structure would improperly block their view of the lake and adversely affect their rights to enjoy the lines of sight that existed when they purchased the property. He further states that if the dock and raised boat shelter structure were moved over to the prescribed setback, it would not have the same adverse effect on them.

Mr. Vollet offers a solution in that he could accept the current footprint and setback conditioned on there not being any vertical elements including pilings, structure, rails, roof, etcetera any higher than the current walkway deck elevation. All existing structures would need to be cut to the level of the existing deck. He also requests the dock be painted or stained a single neutral earth-tone color that is traditionally used on docks and maintained that way.

Staff discussed the proposal with Mr. Bower and he did not accept this suggestion. Mr. Bower indicates that he must have his boat lift at the terminal platform as do other docks in the area to allow lifting the boat out of the water to prevent theft. The expansion is needed since he can no longer use the old boat house located at the seawall due to a build-up of sediment over the years.

#### Side Setback – Waiver Request

Section 15-343(b), states that 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, unless such requirement is reduced by an appropriate waiver." The dock expansion was constructed in the same alignment as the previous dock. According to the as-built survey, the terminal platform lies 0.3 feet from the projected property line.

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 has stated: *"Within the first year returning home I removed 23 truckloads of weeds and debris that collected on my area of shore line. Since that time I typically remove 500 pounds of debris every month. I have planted more than 33 native cypress trees on my lot and as the environment in my portion of shoreline has improved the native aquatic species that were here in my childhood have returned. Guppies, stone rollers, brim, bluegill, catfish, spotted gar, and bass have bedded in the native pickle weed, arrowhead, and lily pads. With the return of the native fish so have the water birds that feed on them. Mallards, green herons, blue herons, wood ducks, gallinules, grebes, kingfishers, limpkin, cormorants, white pelicans, and coots. I have even had otters in my back yard. In the trees I commonly have osprey, cormorants, egrets, crows, grackles and eagles. Every day of the week you can count at least 10 different species of birds in my back yard. The filling in of the point two properties south of mine combined with the grass and weed barrier at the neighbors property adjacent to the opening of the canal to Little Lake Fairview, creates an obstruction to the natural flow of water in the lake system. This situation blocks the flow of eel grass, weeds and debris floating in the lake so that everything collects at my property and thus creating the shallow water situation I am having to alleviate with the addition of a boat slip in deep water.*

To address 15-350(a)(2)(2); the applicant has stated: *"There has been a dock in this position since 1962. This fact combined with the removal of invasive species around the dock and the planting and nurturing of native species of aquatic plants and trees have created a natural micro environment populated with the species inherent to that environment. The bass and blue gill and mallards use the cover of the dock to protect them from eagle and osprey predation and also as subterfuge to ambush their prey species. I challenge you to find a lot on this lake that has a more diverse population of native species in the numbers seen here every day. You won't be able to, because this is the only lot on this lake that has been managed to provide an environment for native species to the extent that I have, and the native species have voted with their fins, feathers and feet to prove it."*

As previously stated, EPD has received an objection from the adjacent property owner (Mr. Vollet) to the request for waiver to Section 15-343(b).

### Terminal Platform – Waiver Request

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 96 feet at Normal High Water Elevation for the applicant's property allows a 855 square foot terminal platform. Calculation of the square footage from the as-built survey for the dock results in a terminal platform size of 1784 square feet. To address the environmental impacts from the larger dock footprint, the Applicant has agreed to pay \$880.00 to the Conservation Trust Fund to mitigate for the additional shading impacts to the surface water. Based on the Uniform Mitigation Assessment Methodology (UMAM), the contribution is equivalent to the mitigation required for the impacts.

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 has stated: *"I realize that the terminal platform of 1332 square feet is larger than the 855 square feet allowed by coded. I am interested in pursuing the purchase of mitigation credits to address the increase in size of the terminal platform. [It has since been determined that the initial calculations of square footage did not include the boat slip area and the true size of the already constructed dock is 1784 square feet]"*

To address 15-350(a)(2)(2); the applicant has stated *"For the life of me I can't think of any effect it would have other than blocking more debris from floating into the abutting shoreline. I already mitigate that by the removal of 500 pounds of debris per month on average."*

### Notification and Objection Letter

Pursuant to Section 15-347(a), notices of the waiver requests for the larger terminal platform were sent to the neighboring shoreline property owners within 300 feet. Notice of the side setback waiver requests were sent to the adjacent property owners.

EPD received an objection from Mr. Vollet at 4212 Grant Boulevard, the property owner immediately south of and adjacent to the Bower property on the side with the reduced side setback. In his letter, Mr. Vollet states that the addition of the elevated boat shelter/boat lift is completely objectionable given the lack of setback from their property line. The structure would improperly block their view of the lake and adversely affect their rights to enjoy the lines of sight that existed when they purchased the property. He further states that if the dock and raised boat shelter structure were moved over to the prescribed setback, it would not have the same adverse effect on them.

Mr. Vollet offers a solution in that he could accept the current footprint and setback conditioned on there not being any vertical elements including pilings, structure, rails, roof, etcetera any higher than the current walkway deck elevation. All existing structures would need to be cut to the level of the existing deck. He also requests the dock be painted or stained a single neutral earth-tone color that is traditionally used on docks and maintained that way.

Staff discussed the proposal with Mr. Bower and he did not accept this suggestion. He indicates that he must have his boat lift at the terminal platform as do other docks in the area to allow lifting the boat out of the water to prevent theft. The purpose of the expansion is because he can no longer use the old boat house located at the seawall due to a build-up of sediments over the years.

The recommendation of the EPO is to deny the after-the-fact waiver requests based on the failure of the applicant to demonstrate that the waiver requests will not have a negative impact on the adjacent property. With this recommendation, the applicant must restore the footprint of the dock to meet the design and footprint of the previous grandfathered dock.

**RECOMMENDATION:** Based upon the evidence and testimony presented at the May 25, 2016 public hearing, the Environmental Protection Commission approved a motion to uphold the EPO's recommendation to deny the requests for waivers to Orange County Code, Chapter 15, Article IX, Section 15-342(b) (terminal platform) and Section 15-343(b) (side setback); for the Bower After-the-Fact Boat Dock Construction Permit BD-15-12-132. The dock must be returned to the pre-construction (grandfathered) dimensions.

Signature of EPC Chairman: \_\_\_\_\_

A handwritten signature in cursive script, appearing to read "David R. Wain", is written over a horizontal line.

DATE EPC RECOMMENDATION RENDERED: May 25, 2016

# AFTER-THE-FACT BOAT DOCK WAIVER REQUESTS



## After-the-Fact Boat Dock and Waiver Requests

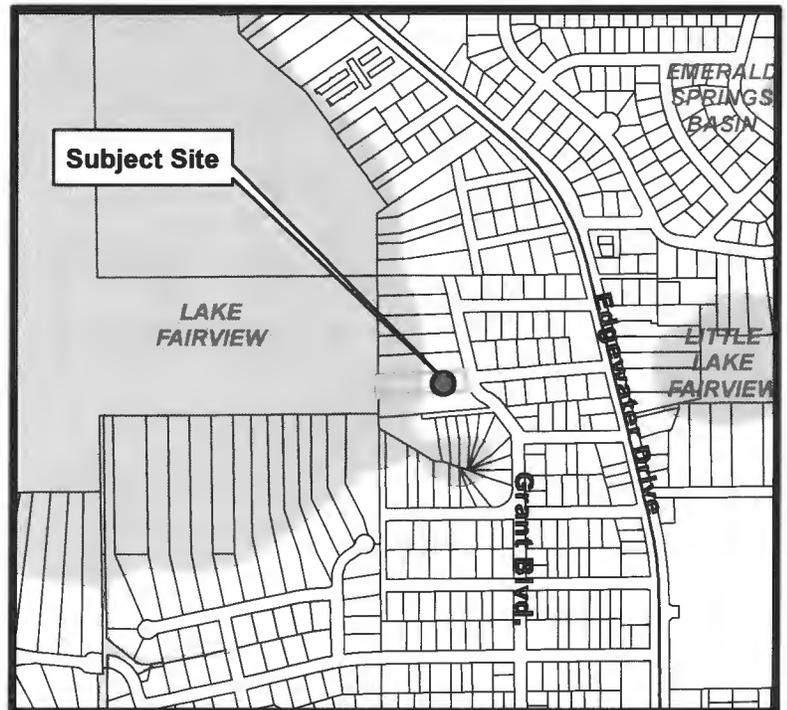
District # 2

Applicant: Nathan Bower

Parcel ID: 10-22-29-4886-02-060

Project Site

Property Location ●

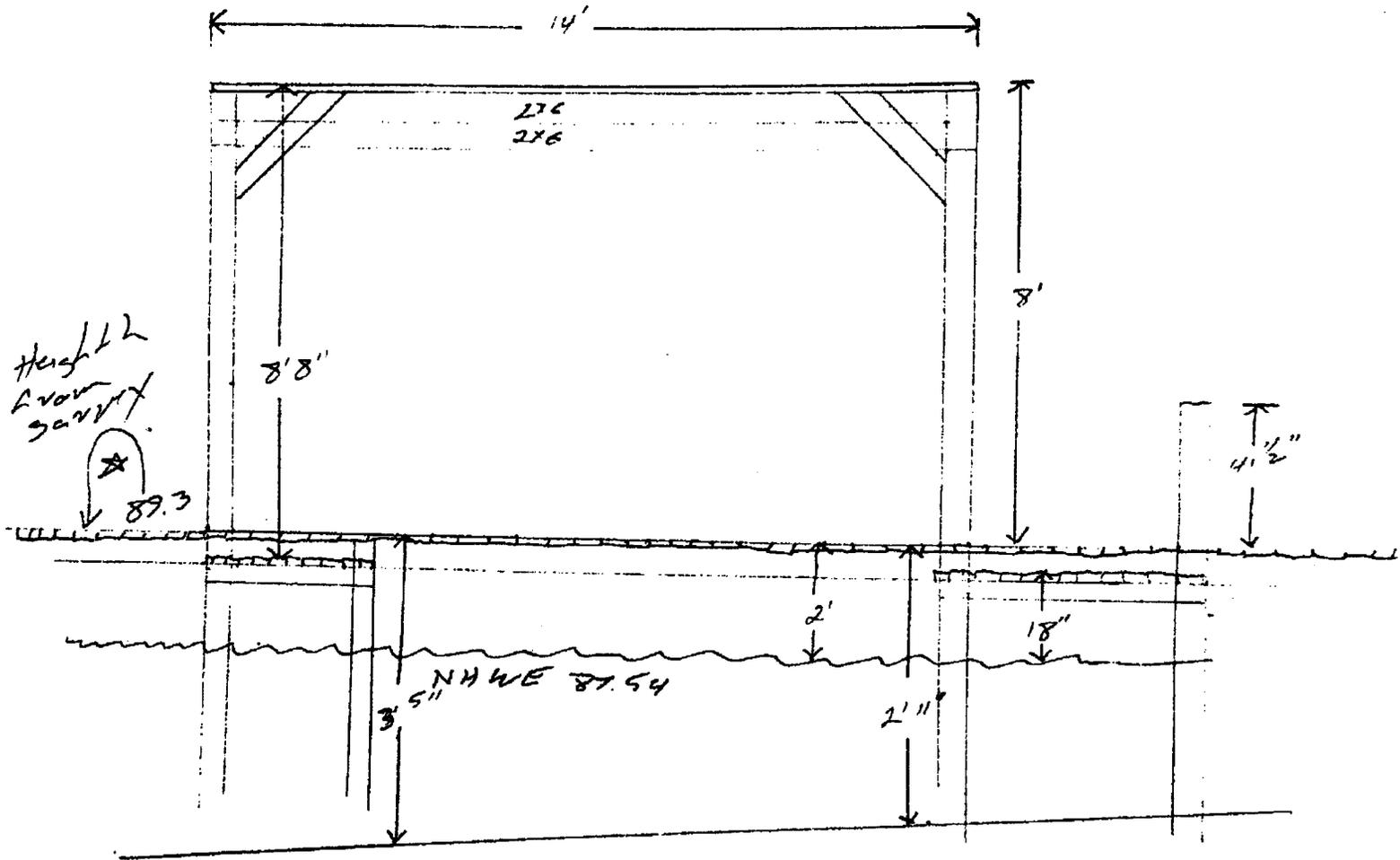


# 2016 aerial close-up showing expanded portion

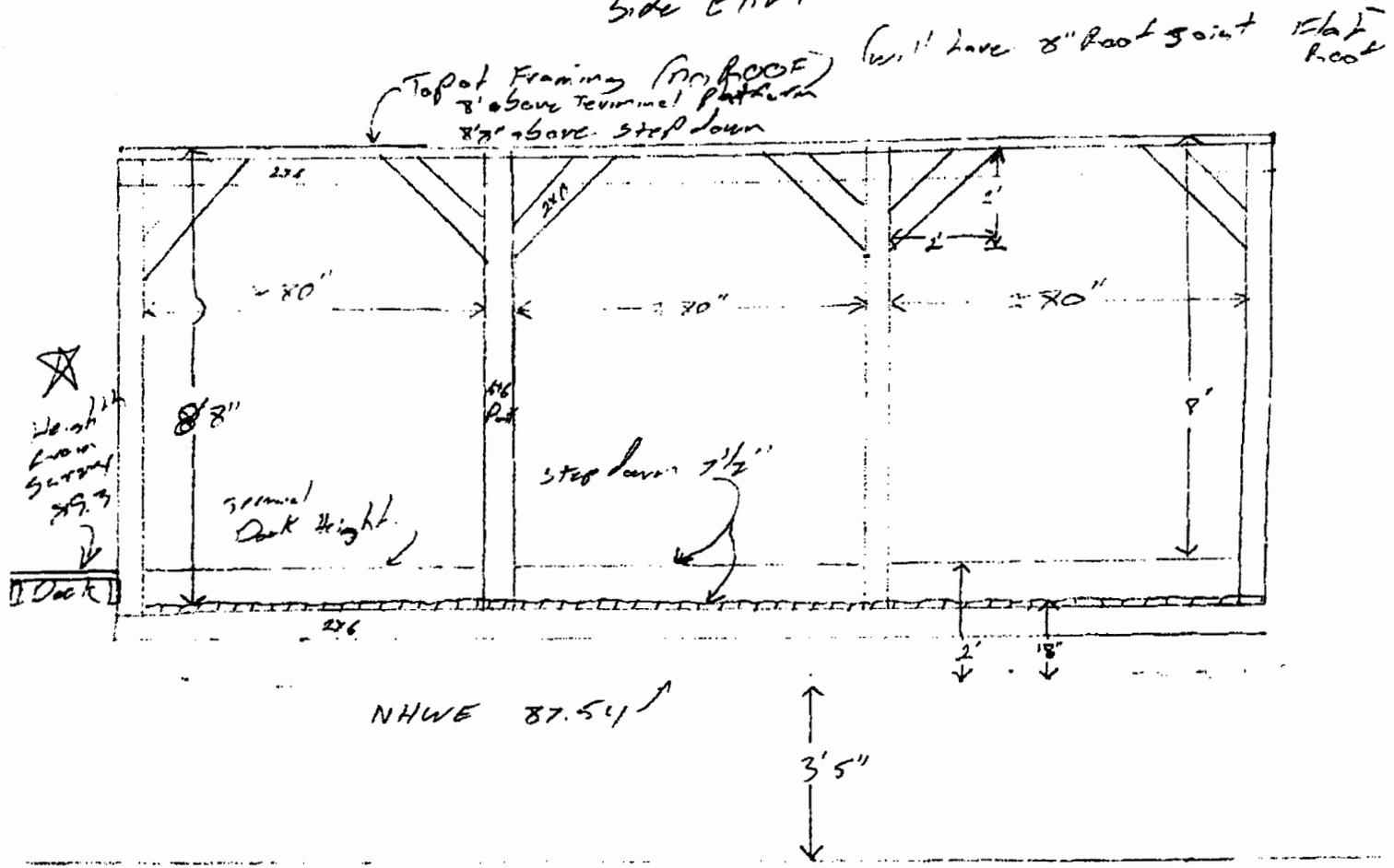




# END Elevation



### Side Elevation





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

I Nathan Bower 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:

SEE ATTACHED

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

SEE ATTACHED

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: Nathan F. Bower
Signature of Applicant/Agent: Nathan BOWER Date: 12/2/2015
Corporate Title (if applicable):

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Describe how this waver would not negatively impact the environment.

Within the first year returning home I removed 23 truck loads of weeds and debris that collected on my area of shore line. Since that time I typically remove 500 pounds of debris every month. I have planted more than 33 native cypress trees on my lot and as the environment in my portion of shoreline has improved the native aquatic species that were here in my childhood have returned. Guppies, stone rollers, brim, bluegill, catfish, spotted gar, and bass have bedded in the native pickle weed, arrowhead, and lily pads. With the return of the native fish so have the water birds that feed on them. Mallards, green herons, blue herons, wood ducks, gallinules, grebes, kingfishers, limpkin, cormorants, white pelicans, and coots. I have even had otters in my back yard. In the trees I commonly have osprey, cormorants, egrets, crows, grackles and eagles. Every day of the week you can count at least 10 different species of birds in my back yard. The filling in of the point two properties south of mine combined with the grass and weed barrier at the neighbors property adjacent to the opening of the canal to Little Lake Fairview, creates an obstruction to the natural flow of water in the lake system. This situation blocks the flow of eel grass, weeds and debris floating in the lake so that everything collects at my property and thus creating the shallow water situation I am having to alleviate with the addition of a boat slip in deep water.

There has been a dock in this position since 1962. This fact combined with the removal of invasive species around the dock and the planting and nurturing of native species of aquatic plants and trees have created a natural micro environment populated with the species inherent to that environment. The bass and bluegill and mallards use the cover of the dock to protect them from eagle and osprey predation and also as subterfuge to ambush their prey species. I challenge you to find a lot on this lake that has a more diverse population of native species in the numbers seen here every day. You won't be able to, because this is the the only lot on this lake that has been managed to provide an environment for native species to the extent that I have, and the native species have voted with their fins, feathers and feet to prove it.

Describe the effect of the proposed waver on abutting shoreline owners:

There has been a dock in the footprint of this dock for 47 years prior to the abutting owners purchase of his lot. Our addition is a covered boat slip to give me access to deep water like everyone else on this lake. Not having access to deep water is a hardship. If you don't put your boat up out of the water the motor or boat will be stolen. (Jet ski was stolen two doors down 6 months ago)

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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

I NATHAN BOWER 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:

SEE Attached

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

SEE Attached

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: Nathan F. Bower  
Signature of Applicant/Agent: [Signature] Date: 12/2/2015  
Corporate Title (if applicable): \_\_\_\_\_

Describe how this waver would not negatively impact the environment. I realize that the terminal platform of 1332 square feet is larger than the 855 Square foot allowed by code.

I am interested in pursuing the purchase of mitigation credits to address the increase in size of the terminal platform.

Describe the effect of the proposed waver on the abutting shoreline.

For the life of me I can't think of any effect it would have other than blocking more debris from floating into the abutting shore line. I already mitigate that by the removal of 500 pounds of debris per month on average.

OCEPD DEC112015PM1:41

**JON D. VOLLET  
521 RUGBY ST.  
ORLANDO, FL 32804**

March 12, 2016

Ms. Carolyn Schultz  
Orange County Environmental Protection Division  
3165 McCrory Place Suite 200  
Orlando, FL 32803

Via US Mail and email to Carolyn.schultz@ocfl.net

Re: Applicant: Nathan F. Bower  
Subject Site Address: 4226 Grant Blvd.  
Application No.: BD-15-12-132  
Lake Name: Fairview, Orange County Commission District: 2

Dear Ms. Schultz,

I am writing in response to the Notice Of Application For Request For Waiver For Side Setbacks and the Notice Of Application For Request For Waiver For Terminal Platform, both dated January 29, 2016 that I received from you on February 8, 2016.

Our family purchased the lakefront property adjacent to Mr. Bower's property several years ago with the intention of building a lovely new home on it. We look forward to enjoying the beautiful sunsets and panoramic view across the lake, when we move into our home. Unfortunately since we purchased the property, Mr. Bower has made several changes that have significantly impacted and impeded our view of the lake. More than a year ago, he constructed a (second) large storage shed just on the other side of the property line between our properties. That was followed by re-roofing and constructing a rooftop deck above an already existing fully enclosed boathouse at the shoreline, complete with a stairway leading to the rooftop deck. The space around and beneath the stairway was then enclosed using scrap siding and corrugated metal materials. None of these structures were engineered, permitted, inspected or approved by the County. All of these structures have been painted various colors of pink, white, bright green, black and yellow, and it is unfortunate that they effectively create a wall along the property line now, and block our view of the lake across the back of his property. Nonetheless, my wife and I reconciled that we can likely plant a hedge on our side of the fence that will help screen these structures.

Mr. Bower has also planted a string of cypress trees in a line projecting out into the lake right alongside our riparian property line. Some of them are actually planted on our side of the line. Although these trees tend to obstruct our view extending out into the lake, once again my wife and I reconciled that as they grow taller they will become less obtrusive and in any case the cypress are good for the lake water quality.

Ms. Carolyn Schultz  
March 12, 2016  
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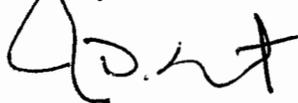
Mr. Bower's more recent addition to the dock's terminal end that is currently under construction, and particularly the elevated boat shelter / boat lift, is completely objectionable to us given the lack of setback from our property line. If allowed to be constructed, this structure would improperly block our view of the lake and adversely affect our rights to enjoy the lines of sight that existed when we purchased the property. As I've conveyed in conversation with Mr. Bower, it is simply unfair of him to construct all of these structures without setback that block our view and enjoyment of the property and the lake. If his dock and raised boat shelter structure were moved over to the prescribed setback, it would not have the same adverse effect on us. And this is why established zoning codes with permitting and setback requirements are maintained and enforced by the County.

For these reasons we must formally object to his proposed waivers as referenced above.

When his dock was reconstructed in 2013/2014 with an access walkway and terminal end footprint larger than the grandfathered footprint, I did speak with Mr. Bower and expressed my concerns about its appearance and questionable craftsmanship. We did not raise an objection with the Department at that time because the dock did not appear to pose a hazard to us or to the general public, and frankly, we felt that the larger footprint did not affect us visually so badly that we were willing to feud with our neighbor over it. We do however, object to any vertical elements above the platform or deck level because of the very close proximity to our property line and line of sight. For these reasons, along with a desire to remain reasonable and good neighbors, we propose the following solution. We would agree to allow the dock with its current footprint and non-compliant setback, conditioned on there not being any vertical elements, ie: pilings, structure, rails, roof, etcetera any higher than the current walkway deck elevation of the dock. Any existing pilings, structure, rails, roof, etcetera that protrude above the level of the walkway and or terminal end deck should be cut down to the current walkway or terminal end deck level. This concession would also be conditioned upon the entire dock being painted or stained a single neutral earth-tone color that is traditionally used on docks, and maintained accordingly. These stipulations would minimize the adverse impact to our view and sightlines within the 25 foot setback zone. It would also relieve Mr. Bower from having to tear out the illegally constructed dock in its entirety, in order to restore its original footprint.

If you should have any questions concerning this, please feel free to contact me at 407 330-1150 or by email at [jvollet@freeportinc.com](mailto:jvollet@freeportinc.com). Kindly inform me whenever any decisions or determinations are being considered with regard to this matter.

Cordially,



Jon D. Vollet