



Interoffice Memorandum

AGENDA ITEM

February 4, 2022

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental, and Development
Services Department

CONTACT PERSON: **David D. Jones, P.E., CEP, Manager**
Environmental Protection Division
(407) 836-1406

SUBJECT: March 8, 2022 — Consent Item
Environmental Protection Commission Recommendation for
Request for Variance for Mildred Austin Dock Construction
Permit BD-21-11-155

The applicant, Mildred Austin, is requesting a variance to Orange County Code (Code), Chapter 15, Article IX, Section 15-342(d) (floor elevation). The project site is located at 9893 Lake Georgia Drive, Orlando, FL 32817 on Lake Georgia in District 5. The Parcel ID Number is 06-22-31-4444-00-190.

On September 4, 2015, the Environmental Protection Division (EPD) issued Dock Construction Permit No. BD-15-07-090 to the prior owner (Richard Houle) of the subject property. The permit included an administrative waiver to Section 15-343(b) to allow a side setback of two feet from the northern projected property line. A Letter of No Objection (LONO) to the reduced side setback was provided to EPD by the affected adjacent property owners at the time (Thomas and Monique O'Hern). The waiver was administratively approved by the Environmental Protection Officer (EPO), pursuant to Section 15-343(b).

On February 8, 2016, EPD received an as-built survey of the dock. During review of the as-built survey, it was determined that the floor elevation of the dock is 2.19 feet below the Normal High Water Elevation (NHWE). Pursuant to Chapter 15, Article IX, Section 15-342(d), the floor elevation shall be a minimum of one foot above the established control elevation or NHWE.

On February 23, 2017, EPD issued a Non-Compliance Letter to Mr. Houle informing him that the floor elevation of the dock was in violation of Section 15-342(d). Due to staffing shortages and lack of correspondence from the permittee, pursuit of compliance on this issue stalled for approximately two years.

On June 28, 2019, during a review of unresolved, outstanding compliance and enforcement cases, EPD determined that the non-compliance issue would not be further pursued at that time, based on the length of time that had passed since the issuance of the permit and receipt of the as-built over three years prior. Staff determined that any future dock renovation or replacement would necessitate that the applicant/owner at the time of application address the issue, if the deck elevation was to remain as previously constructed.

On November 12, 2021, EPD received an Application to Construct a Dock from Ms. Mildred Austin, who purchased the property in March 2021, to construct an addition to the existing dock. Included with the application was an Application for Variance to Section 15-342(d) to allow the existing floor elevation to remain and an Application for Waiver to Section 15-343(b) to authorize a side setback of 3.6 feet from the northern projected property line, to allow the dock to remain in the existing location as previously constructed.

After-the-Fact Variance Request – Floor Elevation

Chapter 15, Article IX, Section 15-342(d) of the Code states, "The floor elevation shall be a minimum of one (1) foot above the established control elevation or NHWE." The NHWE for Lake Georgia is 58.41' (NAVD88) and the floor elevation of the dock is 56.22' (NAVD88), which is 2.19 feet below the NHWE. The applicant is requesting a variance to keep the dock floor elevation as constructed.

Section 15-350(a)(1) states "A variance application may receive an approval or approval with conditions when such variance: (1) would not be contrary to the public interest; (2) where, owing to special conditions, compliance with the provisions herein would impose an unnecessary hardship on the permit applicant; (3) that the hardship is not self-imposed; and (4) the granting of the variance would not be contrary to the intent and purpose of this article."

Pursuant to Section 15-350(a)(1), "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."

To address Section 15-350(a)(1)(1), the applicant's agent, Sheila Cichra, states, "*The variance application is being submitted in order to allow an addition to an existing non-compliant dock. The dock was constructed by the previous owner and does not reach adequate mooring depth.*"

To address Section 15-350(a)(1)(2), the applicant's agent states, "*The proposed structure will not adversely affect the adjacent property owner's view or navigability. The NHWE of this lake is not accurate and most of the older existing docks are built below the NHWE.*"

Based on information provided by the Orange County Public Works Department, lake elevations on Lake Georgia have not reached the NHWE since September of 1964. The highest recorded elevation of the lake was 60.34 feet (NAVD88), 1.93 feet above the NHWE, recorded in October of 1959. The most recent recorded water elevation on the lake was 53.71 feet (NAVD88), recorded on December 2, 2021.

Waiver Request – Side Setback

Chapter 15, Article IX, Section 15-343(b) of the Code states, "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 which shall be reviewed by the environmental protection division." The applicant has a shoreline that measures approximately 130 linear feet at the NHWE, requiring a minimum side setback of 25 feet. The applicant is requesting a side setback of 3.6 feet from the northern projected property line in order to allow the dock to remain in the existing location as previously constructed. A LONO was received from the affected

property owners, Haidar and Ziena Rahal at 9889 Lake Georgia Drive, on December 9, 2021. Pursuant to Section 15-343(b), the side setback waiver can be approved by the Environmental Protection Officer (EPO) and no action is required by the Environmental Protection Commission (EPC) or by the Board on this item.

Public Noticing

On December 14, 2021, a Notice of Application for Variance was sent to all shoreline property owners within a 300-foot radius of the property. Several notices were not delivered by the United States Postal Service (USPS); therefore, EPD requested that the applicant's agent hand deliver all of the notices not delivered by the USPS. This was completed by the dock builder (David Rooney, Orlando Deck and Dock) on December 20, 2021. Confirmation (photographs) that the notices were delivered was provided to EPD on December 21, 2021. No objections were received.

Enforcement Action

The subject property currently has an unpermitted concrete wall and an unpermitted building located below the NHWE of Lake Georgia that appear to have been in place since at least 1978 (based on historic aerials). In their present state, neither structure appears to pose any environmental or safety concerns; therefore, EPD has not initiated any enforcement action for these structures at this time. The applicant has been informed that future alteration/additions to these structures will require permits from the County and that they may also require variances to Code due to their location.

Mooring Area - Maximum Water Depth

According to Section 15-342(a), "The dock shall extend only to the point where reasonable water depth for vessel mooring is achieved." As stated above, the applicant is proposing an addition to the existing dock because the current extent of the terminal platform does not reach an adequate mooring depth. Section 15-342(a) further states, "The maximum water depth allowed for mooring areas is five feet, as measured from the NHWE, unless the natural conditions of the water body necessitate a greater water depth to allow reasonable mooring conditions." As stated above, the existing dock is 2.19 feet below the NHWE, and the proposed addition will be constructed at the same elevation. Therefore, the water depth in the mooring area for the proposed dock will be greater than five feet, as measured from the NHWE. EPD has determined that the low-water condition (relative to the established NHWE) has been present for many years and represents a natural condition that necessitates a greater water depth to allow reasonable mooring conditions, and therefore a variance to the maximum allowed water depth is not required.

Navigation Assessment

Since the proposed dock addition will extend an additional 50 feet waterward of the existing terminal platform to achieve an adequate mooring depth, EPD requested that the Orange County Sheriff's Office (OCSO) conduct a navigational assessment of the proposal. The OCSO stated that they found no navigational concerns over the dock proposal.

EPD Staff Evaluation/Recommendation

Staff evaluated the variance request for compliance with the criteria for approval. The applicant has demonstrated that there will be no adverse effects from the proposed

variance on abutting shoreline owners pursuant to Section 15-350(a)(1)(2), as no objections have been received, and that the hardship is not self-imposed per Section 15-350(a)(1)(1), as the current dock was constructed prior to their purchase of the property. Therefore, the recommendation of the EPO is to approve the request for the variance to Chapter 15, Section 15-342(d) (floor elevation) with the condition that the applicant enter into a Hold Harmless and Indemnification Agreement with Orange County.

Environmental Protection Commission Public Hearing

EPD presented the variance request to the EPC at their January 26, 2022 public meeting. Ms. Cichra attended on behalf of the applicant.

Chairman Mark Ausley agreed that based on historic data it is clear that the water elevations will remain below the NHWE and agrees with the variance request with the requirement for a Hold Harmless Agreement. Chairman Ausley also inquired whether the County periodically re-reviews the NHWE. Mr. Neal Thomas from EPD responded that someone (resident, citizen, environmental professional, etc.) would need to submit that request with an accompanying report to the County in order to begin that process and that the County would not likely initiate that procedure without a request.

Commission member Alan Horn asked Ms. Cichra if the applicant could extend the pilings above the decking and add lighting to them at the end of the proposed terminal platform addition so that in the event the water levels did rise above the NHWE there would be some indication of the presence of the dock, removing a navigational hazard. Ms. Cichra offered that the applicant could install solar powered lights on the pilings, to which the commission members agreed. Ms. Cichra provided a revised site plan on January 27, 2022 that depicts the modifications agreed upon during the EPC meeting.

Based upon evidence and testimony presented at the hearing, the EPC voted unanimously to accept the findings and recommendation of the EPO, and recommended approval of the variance request to Section 15-342(d) (floor elevation) with the condition that the applicant enters into a Hold Harmless and Indemnification Agreement.

ACTION REQUESTED: Acceptance of the findings and recommendation of the Environmental Protection Commission and approval of the request for variance to Orange County Code, Chapter 15, Article IX, Section 15-342(d) to reduce the required floor elevation from one foot above to 2.19 feet below the Normal High Water Elevation with the conditions that the applicant enter into a Hold Harmless and Indemnification Agreement with Orange County and that the endposts of the new 50-foot walkway are illuminated for the Mildred Austin Dock Construction Permit BD-21-11-155. District 5

JVW/DDJ: jk

Attachments

Dock Construction Application for Variance



Dock Construction Application for Variance

BD-21-11-155

District #5

Applicant: Mildred Austin

Address: 9893 Lake Georgia Drive

Parcel ID: 06-22-31-4444-00-190

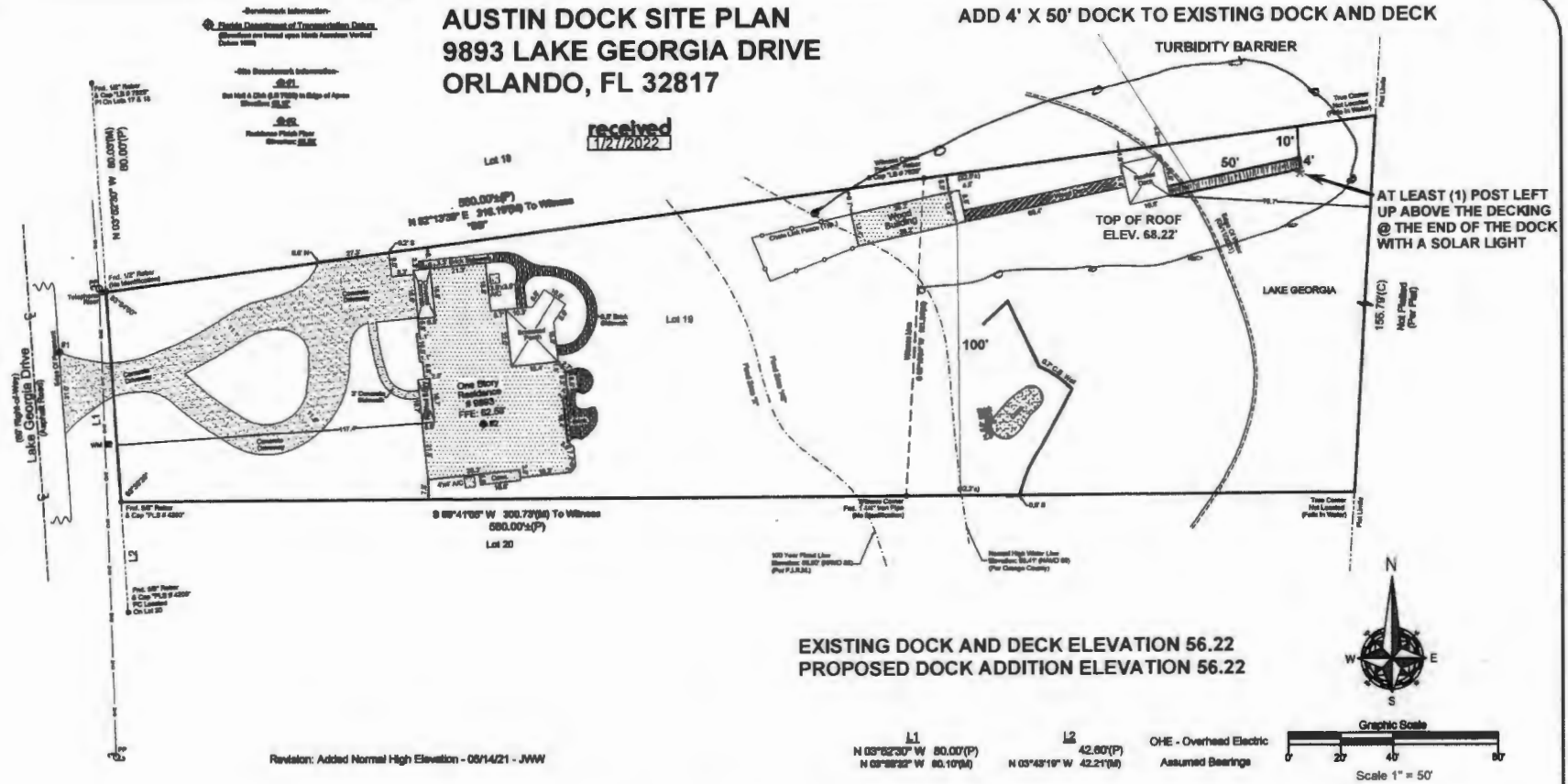
Project Site 

Property Location 



AUSTIN DOCK SITE PLAN 9893 LAKE GEORGIA DRIVE ORLANDO, FL 32817

ADD 4' X 50' DOCK TO EXISTING DOCK AND DECK



NOT SPECIFIED

Legal Description:

LOT 19, LAKE GEORGIA SHORES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 65, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

Flood Information:

BY REPRESENTING A SUBJECT WITH THE LOCAL GOVERNING JURISDICTION OR IN ANY MANNER, THE PROPERTY APPEARS TO BE LOCATED IN A FLOOD HAZARD AREA. THE PROPERTY WAS FOUND BY ORANGE COUNTY, COMMUNITY NUMBER 15074, DATED 11/20/21.

CERTIFIED TO:

MILDRED T AUSTIN



9893 LAKE GEORGIA DRIVE, ORLANDO, FLORIDA 32817

Field Date: 6/11/2021 Date Completed: 06/14/21

Drawn By: P File Number: IS-8617 NHWE

Legend	
C	Callouts
CB	Concrete Block
CM	Concrete Monument
CONC	Concrete
D	Description
DE	Driveway Easement
ES	Easement
F.A.R.A.	Federal Emergency Management Agency
FF	Finished Floor Elevation
FL	Fence
IP	Iron Pipe
L	Length (Feet)
M	Manhole
M&D	Mail & Dock
N.R.	Non-Residential
OR	Official Records Book
P	Post
P.A.	Post & Angle
WF	Wood Fence
PC	Point of Curvature
P	Post
PI	Point of Intersection
P.O.B.	Point of Beginning
P.O.L.	Point on Line
PP	Power Pole
PRM	Permanence Measurements Monument
PT	Point of Tangency
R	Radius
RA	Radius
R&C	Radius & Chord
REC	Recovered
RO	Radius
SE	Set
SP	Set
Tab	Table
US	Utility
WM	Water Meter
JA	Delta (Central Angle)
CL	Chain Link Fence

Survey is based upon the Legal Description supplied by Client. Subsequent Property Deeds have NOT been researched for Gaps, Overlaps and/or Mistakes. Subject to any Statements and/or Restrictions of Record. Bearing based dimensions are Assumed and based upon the Line Connected with a "B". Building This are NOT to be used to reconstruct Property Lines. Factual Corrections to NOT determined. Overhead, Underground Utilities and/or Features have NOT been located UNLESS otherwise noted. Under and/or Overhead locations are approximate and MUST be verified by appropriate Utility Location Companies. Value of This Survey for Purposes other than Intended, Without Written Verification, Will be at the User's Sole Risk and Without Liability to the Surveyor. Nothing Herein shall be construed to give ANY Rights or Benefits to Anyone Other than Those Contained.

CONCRETE DRIVEWAY CROSSES PROPERTY LINE

I hereby certify that this Boundary Survey of the above Described Property is True and Correct to the Best of my Knowledge and Belief as recently ascertained under my Oath on the Date Herein, Based on Information furnished to me as Noted and Confirmed to the Standard of Practice for Land Surveying in the State of Florida in accordance with Chapter 49, F.S. Florida Administrative Code, Pursuant to Section 49.307 Florida Statutes.

FOR THE SURVEYOR
Patrick K. Ireland, Surveyor No. 6637, License No. LB 7823
This Survey is intended for the use of Said Client Parties.
This Survey NOT VALID UNLESS SIGNED AND EMBOSSED WITH SURVEYOR'S SEAL

Ireland & Associates Surveying, Inc.
300 Gannery Circle | Suite 1026
Lake Mary, Florida 32746
www.irelandsurveying.com
Office-407.678.3368 Fax-407.320.8165



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 Sheila Cichra on behalf of Mildred Austin (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 are adding onto an existing dock and covered deck, which would be less of an environmental impact than tearing it all down and starting over, at the correct setback.

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

The proposed boat dock does not adversely impact the view or navigation for the adjacent property owner. The dock extension does not have a roof and will not even clear the weedline.

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: Sheila Cichra
Signature of Applicant/Agent [Signature] Date: 11/11/2021
Corporate Title (if applicable): President, Streamline Permitting, Inc.



APPLICATION TO CONSTRUCT A DOCK APPLICATION FOR VARIANCE

(Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(a)(1))

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

****Enclose a check for \$409.00 payable to The Board of County Commissioners****

I Sheila Cichra on behalf of Mildred Austin (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(1) am requesting a variance to section 15-342 (d) of the Orange County Dock Construction Ordinance.

1. Describe 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):

The variance application is being submitted in order to allow an addition to an existing non-compliant dock. The dock was constructed by the previous owner and does not reach adequate mooring depth.

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

The proposed structure will not adversely affect the adjacent property owner's view or navigability. The NHWE of this lake is not accurate and most of the older existing docks are built below the NHWE.

Notice to the Applicant:

The environmental protection officer, environmental protection commission and the Board of County Commissioners may require additional information necessary to carry out the purposes of this article.

A variance application may receive an approval or approval with conditions when such variance: (1) would not be contrary to the public interest; (2) where, owing to special conditions, compliance with the provisions herein would impose an unnecessary hardship on the permit applicant; (3) that the hardship is not self-imposed; and (4) the granting of the variance would not be contrary to the intent and purpose of this article.

By signing and submitting this application form, I am applying for a variance to 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: Sheila Cichra
Signature of Applicant/Agent  Date: 11/11/2021
Corporate Title (if applicable): President, Streamline Permitting, Inc.



ENVIRONMENTAL PROTECTION DIVISION
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ENVIRONMENTAL
 PROTECTION
 COMMISSION

Mark Ausley
 Chairman

Oscar Anderson
 Vice Chairman

Flormari Blackburn

Billy Butterfield

Peter Fleck

Richard Horn

Elaine Imbruglia

**ORANGE COUNTY
 ENVIRONMENTAL PROTECTION COMMISSION
 January 26, 2021**

Applicant: Mildred Austin

Permit Application Number: BD-21-11-155

Location/Address: 9893 Lake Georgia Drive, Orlando, FL 32817

RECOMMENDATION: Accept the findings and recommendation of the Environmental Protection Officer, and make a finding that the request for variance is consistent with Orange County Code, Chapter 15, Article IX, Section 15-350(a)(1) and recommend approval of the request for variance to 15-342(d), to reduce the required floor elevation from one foot above to 2.19 feet below the Normal High Water Elevation of Lake Georgia with the condition that the applicant enter into a Hold Harmless and Indemnification Agreement with Orange County for the Mildred Austin Dock Construction Permit BD-21-11-155. District 5

EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED

EPC DISAGREES WITH THE ACTION REQUESTED, AS PRESENTED AND HAS MADE THE FOLLOWING RECOMMENDATION:

with the additional requirement that the endposts of the new 50' walkway are illuminated.

Signature of EPC Chairman: Mark Ausley

DATE EPC RECOMMENDATION RENDERED: 1-26-22