

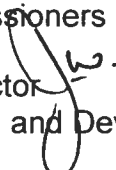


Interoffice Memorandum

AGENDA ITEM

August 11, 2020

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

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

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

SUBJECT: September 22, 2020 — Consent Item
Environmental Protection Commission Recommendation for
Request for Waiver and After-the-Fact Variance for Scott
Phillips Dock Construction Permit BD-20-01-008

The applicant, Scott Phillips, is requesting approval of a waiver to Orange County Code (Code), Chapter 15, Article IX, Section 15-342(b) (terminal platform size) and approval of an after-the-fact variance to Chapter 15, Article IX, Section 15-342(d) (floor elevation). The project site is located at 3907 Orange Lake Drive, Orlando, Florida 32817. The Parcel ID number is 12-22-30-4511-00-120. The subject property is located on Lake Irma in District 5.

On April 28, 2017, the Environmental Protection Division (EPD) issued BD Permit #BD-16-07-080 to the previous owner of the subject property. According to aerial photos, the dock was constructed sometime between the date of permit issuance and January 2018; however, EPD was not provided a Notice of Construction or an as-built survey for the dock by the previous owner. On April 20, 2018, the applicant purchased the property, and on September 7, 2019, EPD received the required as-built survey. Upon review of the survey, it was determined that the floor elevation did not meet the minimum requirements of Chapter 15, Article IX, Section 15-342(d) [minimum one foot above the Normal High Water Elevation (NHWE)], or as approved on the plans in BD Permit #BD-16-07-080.

On January 29, 2020, EPD received a new Application for Dock Construction from the applicant, accompanied by Applications for Waiver and after-the-fact Variance. The applicant is requesting to increase the terminal platform size to 1,104 square feet. The maximum allowed terminal platform size for the subject parcel is 874 square feet, and the maximum allowed terminal platform size for any lot per Code is 1,000 square feet; therefore, a waiver to Section 15-342(b) is required. Additionally, the applicant is requesting to keep the dock elevation as constructed, which is 0.06 foot above the NHWE in lieu of the minimum of one foot above the NHWE as required per Code.

In order to address safety and navigability concerns stemming from the dock being built too low, the applicant will install a hand-railing three feet in height along the eastern edge of the existing dock walkway. Additionally, the terminal platform addition will either be constructed to meet the minimum floor elevation of one foot above the NHWE or will also include a hand-railing three feet in height along the eastern edge of the platform. In the event the water level rises above the existing floor elevation, the posts and roof over most of the existing terminal platform, the existing floating nature of the remainder of the existing terminal platform, and the hand railing will serve as a visual indicator of the presence of the portions of the dock that do not meet the minimum floor elevation requirement. At three feet in height, the top of the hand railing will extend 1.9 feet above the highest recorded water level on Lake Irma, which was reached in 2004.

Notification of the Application for Waiver and after-the-fact Application for Variance was sent to all shoreline property owners within a 300-foot radius of the property. An objection to the waiver request (terminal platform size) was received on February 18, 2020 from the adjacent neighbors to the west. On March 20, 2020, the objectors withdrew their objection, citing "*the interest of neighborly harmony*" as the reason.

Although the dock was constructed without adherence to the permit or approved plans, it was constructed prior to the purchase of the property by the current owner; therefore, no enforcement action has been initiated.

Staff evaluated the waiver request for compliance with the criteria for approval. The recommendation of the Environmental Protection Officer (EPO) is to approve the request for waiver to Section 15-342(b) (terminal platform size) based on a finding that the applicant demonstrated there will be no negative effect on the abutting shoreline owner pursuant to Section 15-350(a)(2)(2), as the only objection received was withdrawn. Additionally, any impact to the environment pursuant to Section 15-350(a)(2)(1) will be offset as the applicant has agreed to provide a \$675 payment to the Conservation Trust Fund as mitigation for the additional shading impacts.

Staff also evaluated the after-the-fact variance request for compliance with the criteria for approval. The applicant has demonstrated that the hardship is not self-imposed, since the dock was constructed by the previous property owners. With the inclusion of the proposed hand railings, all portions of the dock that do not meet the minimum floor elevation requirement will remain visible during typical high-water events, addressing safety and navigational concerns. In addition, water level data indicates that for the last 15 years the water level in Lake Irma trended lower than the established NHWE and has only exceeded the NHWE on one recorded date during this timeframe (July 2005). Therefore, the recommendation of the EPO is to approve the request for the after-the-fact variance to Section 15-342(d), based on a finding that the applicant has demonstrated that the hardship is not self-imposed, that there will be no effect on abutting shoreline owners pursuant to Section 15-350(a)(1) as the only objection received was specifically regarding the waiver request and has been retracted, and the request is not contrary to any other criteria in Section 15-350(a)(1).

Based upon evidence and testimony presented at the July 29, 2020 public hearing, the Environmental Protection Commission voted to accept the findings and recommendation of the EPO and made a recommendation to approve the request for waiver to Section 15-342(b) (terminal platform) with the condition that the applicant pay \$675 to the Conservation Trust Fund as mitigation within 60 days of the decision of the Board of County Commissioners, and to approve the request for after-the-fact variance to Section 15-342(d) (floor elevation) to decrease the minimum floor elevation from one foot to 0.06 foot above the NHWE of Lake Irma with the condition that the applicant enter into a Hold Harmless and Indemnification Agreement with Orange County.

ACTION REQUESTED: **Accept the findings and recommendations of the Environmental Protection Commission and approve the request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-342(b) to increase the allowable terminal platform size from 874 square feet to 1,104 square feet with the payment of \$675 to the Conservation Trust Fund within 60 days of the decision of the Board of County Commissioners, and approve the after-the-fact request for variance to Section 15-342(d) to decrease the minimum floor elevation from one foot to 0.06 foot above the Normal High Water Elevation of Lake Irma with the condition that the applicant enter into a Hold Harmless and Indemnification Agreement with Orange County for the Phillips Dock Construction Permit BD-20-01-008. District 5**

JWW/DDJ: mg

Attachments

Dock Construction Application for Waiver and After-the-Fact Variance

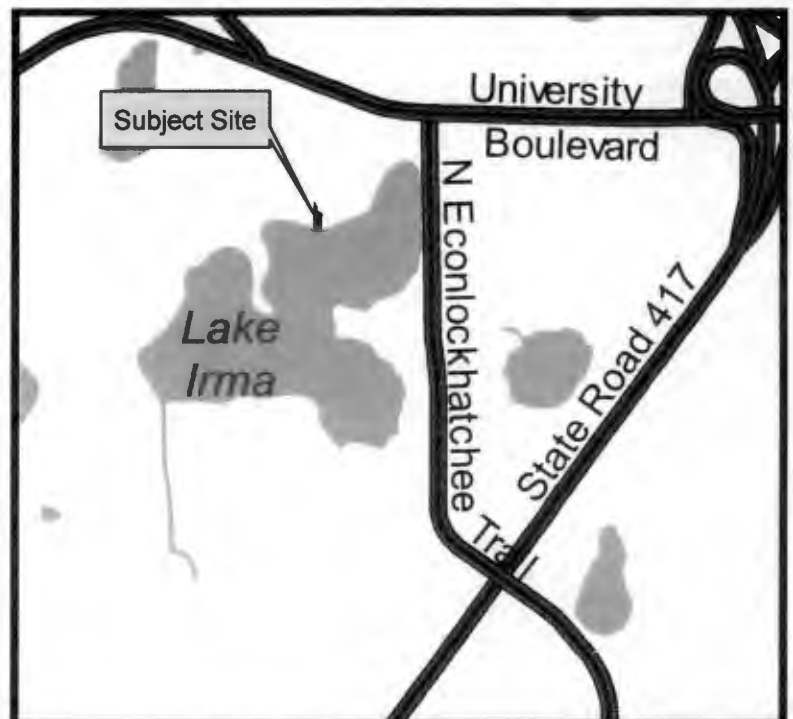


Dock Construction Application for Waiver and After-the-Fact Variance BD-20-01-008 District #5

Applicant: Scott Phillips
Address: 3907 Orange Lake Drive
Parcel ID: 12-22-30-4511-00-120

Project Site 

Property Location 



received
7/29/2020

3907 ORANGE LAKE DRIVE

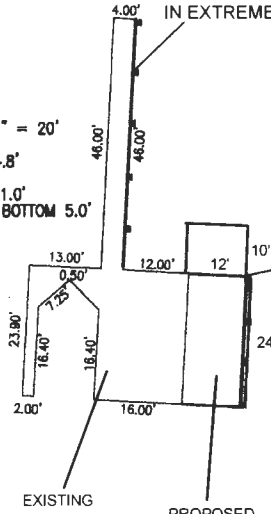
ORANGE LAKE DRIVE
80' RIGHT-OF-WAY PER PLAT

PROPOSED:
ADD 36" TALL PILINGS
AND TOP RAIL TO
PREVENT COLLISIONS
IN EXTREME HIGH WATER



DETAIL SCALE 1" = 20'

DECK ELEV 54.8'
NHWE 54.74
ROOF HEIGHT 11.0'
DECK TO LAKE BOTTOM 5.0'



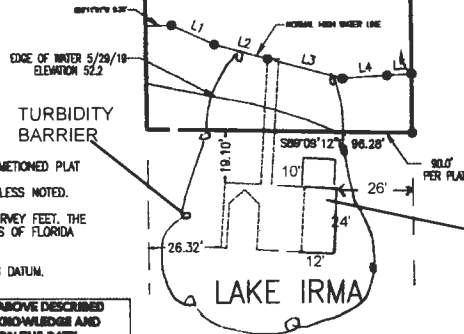
LOT 13
DOCK HEIGHT 54.8

LINE	BEARING	DISTANCE
L1	S85°19'37"E	17.00'
L2	S75°01'46"E	20.08'
L3	S75°10'00"E	28.13'
L4	N86°24'11"E	18.11'
L5	N86°24'11"E	9.02'

PROPOSED:
ADD 36" TALL PILINGS
AND TOP RAIL TO
PREVENT COLLISIONS
IN EXTREME HIGH WATER
OR:
BUILD THE NEW DECK
SQUARE FOOTAGE AT
LEAST 1' ABOVE THE
NHWE PER CODE

HOME AND IMPROVEMENTS NOT SHOWN

LOT 11
DOCK HEIGHT 54.7



ADD A 12' X 24'
UNCOVERED DECK
AND A 12' X 10' JETSKI
PORT TO THE EXISTING
TERMINAL PLATFORM

SURVEYORS NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE AFORESAID PLAT
2. ALL DISTANCES SHOWN ARE PLAT AND MEASURED UNLESS NOTED.
3. THE MEASUREMENTS SHOWN HEREON ARE IN U.S. SURVEY FEET. THE ACCURACY OF THIS SURVEY EXCEEDS THE REQUIREMENTS OF FLORIDA ADMINISTRATIVE CODE SJ-17.
4. ELEVATIONS SHOWN HEREON ARE BASED ON NAVD 88 DATUM.

I HEREBY CERTIFY THAT THIS AS-BUILT SURVEY OF THE ABOVE DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS RECENTLY SURVEYED UNDER MY DIRECTION ON THE DATE SHOWN, BASED ON INFORMATION FURNISHED TO ME AS NOTED AND CONFORMS TO THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN THE STATE OF FLORIDA IN ACCORDANCE WITH CHAPTER 36-17.002, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.007, FLORIDA STATUTES.

EDWARD J. MIZO
PROFESSIONAL SURVEYOR AND MAPPER NO. 3376
THIS SURVEY IS VOID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

**PHILLIPS SITE PLAN
3907 ORANGE LAKE DR
ORLANDO, FL 32817**

<p>EDWARD MIZO PROFESSIONAL LAND SURVEYOR 2825 LEGACY VILLAS DR WATLAND, FL 32751 321-436-8391</p>	<p>SPECIAL PURPOSE SURVEY 3907 ORANGE LAKE DRIVE DOCK AS-BUILT</p>	SITE PLAN DRAWN BY:	
		SHEILA CICHRA	
		JANUARY 30, 2020	



ENVIRONMENTAL PROTECTION DIVISION
 David D. Jones, P.E., CEP, Manager
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 Orlando, FL 32803
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 www.ocfl.net

ORANGE COUNTY
 ENVIRONMENTAL PROTECTION COMMISSION
 July 29, 2020

ENVIRONMENTAL
 PROTECTION
 COMMISSION

Jonathan Huels
 Chairman

Mark Ausley
 Vice Chairman

Oscar Anderson

Floreana Blackburn

Billy Butterfield

Mark Corbett

PROJECT NAME: Scott Phillips
 PERMIT APPLICATION NUMBER: BD-20-01-008
 LOCATION/ADDRESS: 3907 Orange Lake Drive, Orlando

RECOMMENDATION: Accept the findings and recommendations of the Environmental Protection Officer and approve the request for waiver to Section 15-342(b) to increase the allowable terminal platform size from 874 square feet to 1,104 square feet with the payment of \$675 to the Conservation Trust Fund within 60 days of the decision of the Board of County Commissioners, and approve the after-the-fact request for variance to Section 15-342(d) to decrease the minimum floor elevation from one foot to 0.06 foot above the Normal High Water Elevation of Lake Irma with the condition that the applicant enter into a Hold Harmless and Indemnification Agreement with Orange County for the Phillips Dock Construction Permit BD-20-01-008. District 5

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

Signature of EPC Chairman: *Jonathan Huels*

DATE EPC RECOMMENDATION RENDERED: 7/29/20



received
7/9/2020



PROPOSED HANDRAIL

PROPOSED PILING ADDITIONS
LEFT UP 36" ABOVE THE DECK

BLUE LINE IS CURRENT WATER ELEVATION 52.925'

GREEN LINE IS HIGH WATER MARK 53.425'

YELLOW LINE IS NHWE 54.74' 1.315' ABOVE HIGH WATER MARK

PINK LINE IS TOP OF DECK 54.8'

RED LINE IS THE HIGHEST ELEVATION MEASURED 55.9'

GRAY LINE IS PROPOSED HANDRAIL