



## Interoffice Memorandum

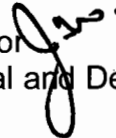
APPROVED BY ORANGE  
COUNTY BOARD OF COUNTY  
COMMISSIONERS

BCC Mtg. Date: November 1, 2016

## AGENDA ITEM

October 10, 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: November 1, 2016 - Consent Item  
Environmental Protection Commission Recommendation for an  
After-the-Fact Waiver Request to Terminal Platform Size for a  
previously issued Boat Dock Permit BD-14-01-001 for applicant  
Richard Fender

The project site is located at 500 29<sup>th</sup> Street on Lake Holden. The Parcel ID No. is 03-23-29-0183-21-001. The subject property is located in Orange County Commission District 3.

On January 23, 2014, the Environmental Protection Division (EPD) issued Boat Dock Permit BD-14-01-001 for Richard Fender. On April 13, 2016, EPD received the as-built survey and a compliance site visit was completed. A bench along the access walkway was present during the compliance inspection which causes the terminal platform size to exceed what is allowed by Code. On July 16, 2016, EPD received an after the fact Application for Waiver to Section 15-342(b) for the greater terminal platform size.

During the September 28, 2016 public hearing, the Environmental Protection Commission (EPC) voted to uphold the recommendation of the Environmental Protection Officer (EPO) and the after the fact request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-342(b) (terminal platform size) for the Fender Dock Construction Permit BD-14-01-001. There are currently two additional variance requests under review with this dock; however, the EPC made a motion to continue these requests to allow staff to continue to work with the applicant.

**ACTION REQUESTED: Acceptance of Recommendation of the Environmental Protection Commission to uphold the Recommendation of the Environmental Protection Officer to approve the request for the after the fact Waiver to Section 15-342(b) (Terminal Platform Size) with the condition that the applicant pay \$725 to the Conservation Trust Fund for the Fender Dock Construction Permit BD-14-01-001. District 3**

JVW/LC: mg

Attachments

# Dock Variance and Waiver Request



## Dock Variance and Waiver Request

District #3

**Applicant:** Richard Fender

**Parcel ID:** 03-23-29-0183-21-001

**Project Site**



**Property Location**





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

ENVIRONMENTAL  
PROTECTION  
COMMISSION

David Ward  
Chairman

Jonathan Huels  
Vice Chairman

Sally Atwell

Alex Preisser

Glenn Dunkelberger

Mark Corbett

Mark Ausley

ORANGE COUNTY  
ENVIRONMENTAL PROTECTION COMMISSION  
September 28, 2016

PROJECT NAME: Richard Fender  
PERMIT APPLICATION NUMBER: BD-14-01-001  
LOCATION/ADDRESS: 500 29<sup>th</sup> Street

RECOMMENDATION:

#1 PURSUANT TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX, SECTION 15-350(B), APPROVE THE REQUEST FOR AFTER-  
THE-FACT WAIVER TO ORANGE COUNTY CODE, CHAPTER 15,  
ARTICLE IX, SECTION 15-342(b) (TERMINAL PLATFORM SIZE)  
WITH THE CONDITION THAT THE APPLICANT PAY \$725.00 TO  
THE CTF AND DENY THE REQUEST FOR AFTER-THE-FACT  
VARIANCES TO SECTION 15-342(g) (ENCLOSED DOCK) AND  
SECTION 15-343(c) (STORAGE LOCKER VOLUME) AND REQUIRE  
THAT THE ENCLOSURE BE REMOVED AND THE STORAGE  
LOCKER VOLUME BE REDUCED TO LESS THAN 65 CUBIC FEET  
WITHIN 60 DAYS OF THE ACCEPTANCE OF THIS DECISION BY  
THE BCC FOR THE FENDER BOAT DOCK CONSTRUCTION  
PERMIT BD-14-01-001.

EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED

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

#2 CONTINUED TO OCTOBER 2016 MEETING TO  
WORK WITH APPLICANT ON VARIANCE REQUESTS.

Signature of EPC Chairman:

David R. Ward

DATE EPC RECOMMENDATION RENDERED:

9/28/16



**Interoffice Memorandum  
Community, Environmental and Development Services Department**

September 28, 2016

TO: Environmental Protection Commission

FROM: Lori Cunniff, CEP, CHMM, Deputy Director  
Community, Environmental and Development Services Department *L. Cunniff*

SUBJECT: Richard Fender After-the-Fact Boat Dock Waiver and Variance Requests

**Reason For Public Hearing**

The applicant, Richard Fender, is requesting an after-the-fact waiver to Section 15-342(b) (terminal platform size) and after-the-fact variances to Section 15-343(c) (storage locker volume) and Section 15-342(g) (enclosed dock).

**Location of Property/Legal Description**

The project site is located at 500 29<sup>th</sup> Street on Lake Holden. The Parcel ID is 03-23-29-0183-21-001. The subject property is located in Orange County Commission District 3.

**Public Hearing Notifications**

The applicant and agent were notified of the hearing on September 13, 2016.

**Staff Findings**

On January 23, 2014, the Environmental Protection Division (EPD) issued a dock permit (BD-14-01-001) for the subject property. A year after the permit was issued the applicant requested an extension because the dock was not completed yet. EPD agreed to extend the permit for an additional year. On April 13, 2016, EPD received the as-built survey for the completed dock.

During a compliance inspection, EPD staff observed that the dock had been constructed with a partial wall and more storage lockers than allowed by Code. A bench along the access walkway was also present that was not included on the as-built survey. Upon completion of the compliance inspection and review of the as-built survey it was determined that the applicant required an after-the-fact waiver to terminal platform size and after-the-fact variances to storage locker volume and enclosed dock.

On July 16, 2016, EPD received an after-the-fact Application for Waiver for the terminal platform size and an after-the-fact Application for Variance for the storage locker volume and enclosed dock, in an attempt to permit the dock as constructed. Pursuant to Orange County Code, Chapter 15, Article IX, EPD staff has evaluated the proposed applications and required documents.

### **Terminal Platform Waiver**

Section 15-342(b) states "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 (75) feet of shoreline and five times the linear shoreline frontage for each foot in excess of seventy-five (75) feet, not to exceed a maximum of one thousand (1,000) square feet."

The applicant has approximately 162 feet of shoreline; therefore, the allowed terminal platform size for the subject lot is 1,000 square feet. Due to the addition of a bench area (not included in the plans) near the end of the access walkway, the terminal platform size increased to 1079 square feet.

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

To address 15-350(a)(2)(1), the applicant has stated, *"the overage is very small and the width of the property is 162', which is much wider than most lakefront lots. The property could theoretically be split into two parcels with two 800 square foot terminal platforms."*

In accordance with EPD procedures, the proposed dock was evaluated using the Uniform Mitigation Assessment Method (UMAM). The environmental impact associated with the larger terminal platform size can be offset with a payment of \$725.00 to the Conservation Trust Fund (CTF).

To address Section 15-350(a)(2)(2), the applicant has stated, *"The proposed structure will not adversely affect the adjacent property owner's view or navigability."*

### **Enclosed Dock and Storage Locker Variances**

Section 15-342(g) states, "enclosed docks are prohibited." Enclosed dock is defined as "a dock which has any portion of its structure completely or partially enclosed with walls and/or doors." The completed dock has a partial wall on one side; therefore, meets the definition of an enclosed dock.

Section 15-343(c) states, "storage lockers shall be limited to a cumulative maximum of sixty-five (65) cubic feet. Storage lockers shall not be used to store boat maintenance and/or repair equipment and materials, fuel, fueling equipment, and hazardous materials or hazardous wastes." The storage space on the constructed dock measures 166.43 cubic feet.

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 has stated that, *"the storage box and closet area were existing on the previous boathouse. When the owner rebuilt, he was unaware that they were not allowed and rebuilt them as well. The enclosed storage area is crucial, due to the owner's disability and the high crime area."*

To address Section 15-350(a)(1)(2), the applicant has stated that, *"the proposed variances will have no negative impact to the view or navigability of the adjacent properties. The view of the storage area and partial wall is blocked by the Touchless boat cover on one side and by heavy vegetation on the other side."*

The contractor indicated that he rebuilt the dock and during this process, inadvertently created the enclosed structure, the larger than allowed terminal platform, and larger than allowed storage locker.

#### **Side Setback Waiver**

The dock is currently 16 feet from the projected property line to the east which is owned by Orange County Board of County Commissioners. The parcel is maintained by Orange County Public Works (OCPW) as the property contains an outfall pipe leading to Lake Holden. When the dock was originally permitted in 1997, the side setback requirement was 10 feet. However, since the dock now has been modified and has lost its "grandfathered" status, the dock will require a 25-foot side setback waiver. The existing dock is 16 feet from the property line. Notification of the waiver request was sent to OCPW. OCPW has no objection to the side setback but asks that the property owner enter into a Hold Harmless Agreement with OCPW. The signing of the Hold Harmless Agreement has been added as a permit condition. No action is required of the EPC in regards to the side setback waiver.

#### **Letters of Support**

On September 12, 2016, EPD received 17 letters in support of Mr. Fender's dock. 13 of the letters are from residents that live on Lake Holden. Three of the letters were from residents that lived nearby, but not directly on the lake. Attached is an example of the letter of support.

#### **Enforcement Action**

There currently is no enforcement action for this property.

#### **Staff Recommendation**

The recommendation of the Environmental Protection Officer (EPO) is to approve the request for after-the-fact waiver to Section 15-342(b) for the additional terminal platform size with the condition that the applicant pay \$725.00 to the CTF as mitigation for the adverse impacts to the environment associated with the larger than allowed terminal platform size.

The EPO is recommending denial of the after-the-fact variances to Section 15-342(g) (enclosed dock) and Section 15-343(c) (storage locker volume) and is requesting the wall be removed and the storage locker volume reduced to the maximum 65 cubic feet within 60 days of the acceptance of this decision by the BCC. The applicant has not demonstrated that the hardship was not self-imposed and therefore does not meet the variance criteria for approval.

<u><b>ACTION REQUESTED</b></u>	<u><b>PURSUANT TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX, SECTION 15-350(B), APPROVE THE REQUEST FOR AFTER-THE-FACT WAIVER TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX, SECTION 15-342(b) (TERMINAL PLATFORM SIZE) WITH THE CONDITION THAT THE APPLICANT PAY \$725.00 TO THE CTF AND DENY THE REQUEST FOR AFTER-THE-FACT VARIANCES TO SECTION 15-342(g) (ENCLOSED DOCK) AND SECTION 15-343(c) (STORAGE LOCKER VOLUME) AND REQUIRE THAT THE ENCLOSURE BE REMOVED AND THE STORAGE LOCKER VOLUME BE REDUCED TO LESS THAN 65 CUBIC FEET WITHIN 60 DAYS OF THE ACCEPTANCE OF THIS DECISION BY THE BCC FOR THE FENDER BOAT DOCK CONSTRUCTION PERMIT BD-14-01-001.</b></u>
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JR/NT/ERJ/LC  
Attachments



## 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 Richard Fender (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(1) am requesting a variance to section 15-343 (c) & 15-342 (g) 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 storage box and closet area were existing on the previous boathouse. When the owner rebuilt, he was unaware that they were not allowed and rebuilt them as well. The enclosed storage area is crucial, due to the owner's disability and the high crime area.

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

The proposed variances will have no negative impact to the view or navigability of the adjacent properties. The view of the storage area and partial wall is blocked by the Touchless boat cover on one side and by heavy vegetation on the other side.

### 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 Sheila Cichra

Date: 07/16/2016

Corporate Title (if applicable): President, Streamline Permitting, Inc.





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## APPLICATION TO CONSTRUCT A BOAT DOCK APPLICATION FOR WAIVER

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(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 Richard Fender (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:

The overage is very small and the width of the property is 162', which is much wider than most lakefront lots. The property could theoretically be split into two parcels with two 800 square foot terminal platforms.

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

The proposed structure will not adversely affect the adjacent property owner's view or navigability.

The environmental protection officer and the board may require of the applicant information necessary to carry out the purposes of this article.

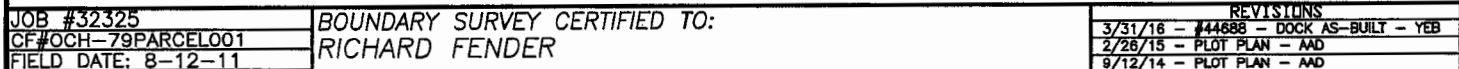
By signing and submitting this application form, I am applying for a waiver to the Section indicated of the Orange County Dock Construction Ordinance identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained 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  Date: 07/16/2016

Corporate Title (if applicable): President, Streamline Permitting, Inc.

THE EAST 157.5 FEET OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 LYING SOUTH OF 29th STREET, AS SHOWN ON THE MAP OF ANGEbilt ADDITION NO. 2, PER PLAT RECORDED IN PLAT BOOK "J", PAGE 124, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AND THE EAST 157.5 FEET OF THE NORTH 574.6 FEET OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 2, TOWNSHIP 23 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA.



To the Orange County Environmental Protection Commission

From: Scott Comeaux

Address: 3641 MacArthur Dr.

Reference Variance for Boat Dock issues at the home of Rick Fender and Xi Lu at 500 29<sup>th</sup> Street Orlando, FL 32805- permit number BD-14-01-001

I am in favor of allowing the variances from the EPD ordinance in that the issues of the benches, dock's recycle, trash, storage closet and mini refrigerator on the dock will have no negative impact to the view or navigability of the adjacent properties. The view of the storage area and partial wall is blocked by the Touchless boat cover on one side and by the owner's heavy beneficial vegetation on the other side. Further, the extra beneficial vegetation and Wood Duck nesting boxes that the property owner's have placed on their property overwhelmingly mitigate any environmental issues that may be perceived by the dock mounted benches, recycle, trash bin, mini refrigerator and closet.

We have no objection to this property improvement and we are in favor of the variance being approved.

Neighbor-

 Date: 9/9/16

