Interoffice Memorandum



May 1, 2017

AGENDA ITEM

Mayor Teresa Jacobs -AND-Board of County Commissioners

FROM:

TO:

Jon V. Weiss, P.E., Director P Community, Environmental and Development Services Department

CONTACT PERSON: Lori Cunniff, CEP, CHMM, Deputy Director Community, Environmental and Development Services Department (407) 836-1405

SUBJECT: June 6, 2017 - Consent Item Environmental Protection Commission Recommendation for a Waiver Request for the Shuler Boat Dock Construction Permit BD-17-02-012

On February 16, 2017, the Orange County Environmental Protection Division (EPD) received an Application to Construct a Dock for property owned by Andrew and Geri Shuler, located at 301 MacArthur Drive, on Lake Holden. The application included an Application for Waiver to Section 15-343(b) (side setback).

The applicants have approximately 89 linear feet of shoreline at the Normal High Water Elevation (NHWE); therefore, the minimum side setback allowed by code for the subject property is 25 feet until the property converges to a width of 75 feet, where the setback is then 10 feet. The applicants requested a side setback of 15 feet from the northern projected property line (at a point where the distance between the projected property lines are still greater than 75 feet). At the point where the property is 75 feet or less in width, the dock is meeting the required setbacks. EPD received an objection to the waiver request from the affected northern adjacent neighbor.

During the April 26, 2017 public hearing, the applicants submitted a new site plan showing a minimum 18-foot side setback with respect to the northern projected property line. The Environmental Protection Commission voted to overturn the recommendation of the Environmental Protection Officer and approve the request for waiver to Section 15-343(b) (side setback) with the condition that the applicant build the dock to meet the proposed 18-foot side setback.

ACTION REQUESTED: Acceptance of recommendation of the Environmental Protection Commission to overturn the Environmental Protection Officer's recommendation of denial and approval of the Request for Waiver to Orange County Code, Chapter 15, Article IX, Section 15-343(b), side setback with the condition that the applicant construct the dock to meet a minimum 18-foot side setback from the northern projected property line for the Shuler Boat Dock Construction Permit BD-17-02-012. District 3



ENVIRONMENTAL PROTECTION COMMISSION

> David Ward *Chairman*

Jonathan Huels Vice Chairman

Sally Atwell

Alex Preisser

Mark Corbett

Mark Ausley

Flormari Blackburn

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

ORANGE COUNTY ENVIRONMENTAL PROTECTION COMMISSION April 26, 2017

BD-17-02-012

PROJECT NAME:

Andrew and Geri Shuler Boat Dock

PERMIT APPLICATION NUMBER:

301 MacArthur Drive, Orlando, FL 32839

RECOMMENDATION:

LOCATION/ADDRESS:

PURSUANT TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX, SECTION 15-350(b), DENY THE REQUEST FOR WAIVER TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX, SECTION 15-343(b) (SIDE SETBACK), FOR THE SHULER BOAT DOCK CONSTRUCTION PERMIT BD-17-02-012.

□ EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED

✓ EPC DISAGREES WITH THE ACTION REQUESTED, AS PRESENTED AND HAS MADE THE FOLLOWING RECOMMENDATION: <u>OVERTOON</u> the <u>recommendation</u> of the EDD ONE the <u>vecomendation</u> of the EDD ONE the <u>waver</u> request with the dock <u>Maying</u> a sole set back of 18' from the dock <u>Maying</u> a sole set back of 18' from

Signature of EPC Chairman:

EPC RECOMMENDATION DATE: 4. 26.17



April 7, 2017

TO: **Environmental Protection Commission**

& Curryff FROM: Lori Cunniff, CEP, CHMM, Deputy Director Community, Environmental and Development Services Department

SUBJECT: Andrew and Geri Shuler Waiver Request

Reason For Public Hearing

The applicants, Andrew and Geri Shuler, are requesting a waiver to Section 15-343(b) (side setback).

Location of Property/Legal Description

The project site is located at 301 MacArthur Drive in unincorporated Orlando on Lake Holden. The Parcel ID for the site is 11-23-29-4498-00-110. The subject property is located in Orange County Commission District 3.

Public Hearing Notifications

The applicant, agent, and objector were notified of the hearing on March 29, 2017.

Staff Findings

On February 16, 2017, the Environmental Protection Division (EPD) received an Application to Construct a Dock for the subject property. Pursuant to Orange County Code, Chapter 15, Article IX, EPD staff has evaluated the proposed application and required documents.

Included with the dock construction application was an Application for Waiver to Section 15-343(b) (side setback).

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 feet from the projected property line unless such requirement is reduced by an appropriate waiver..." Additionally, for parcels that have irregular lot shapes resulting in projected property lines that converge (such as the pie-shape of the Shuler property), Section 15-343(b) states that "at the point where the distance between the projected property lines is equal to or less than 75 feet, the minimum setback shall be 10 feet."

April 7, 2017 Environmental Protection Commission Andrew and Geri Shuler Waiver Request Page 2

The applicants have approximately 89 linear feet of shoreline at the Normal High Water Elevation (NHWE); therefore, the minimum side setback allowed by code for the subject property is 25 feet until the property converges to a width of 75 feet, where the setback is then 10 feet. The applicants are requesting a side setback of 15 feet from the northern projected property line (at a point where the distance between the projected property lines are still greater than 75 feet). At the point the property is 75 feet or less in width, the dock is meeting the required setbacks.

Notification of the application for waiver was sent via registered mail to the affected north adjacent shoreline property owner on February 21, 2017.

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 applicants have stated that "The aquatic vegetation is consistent along the shoreline. The location of the boathouse in one place versus another does not alter the impact to the lake. Also, building the boathouse in the same location as the existing boathouse; creates the least impact."

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

On March 20, 2017, EPD received a written objection from the northern adjacent property owner, Mr. Paul Guay, who resides at 3638 MacArthur Drive. Mr. Guay stated that he opposes the waiver request because the existing dock (with a 14.34-foot setback) already encroaches on his privacy and view of the lake due to the wedge-shape of the parcels in the area. Mr. Guay requests that the proposed dock be constructed to meet the minimum 25-foot setback required by code. It should be noted that this objection was received in response to the applicant's original February 16, 2017 request which was for a 10-foot side setback from the northern adjacent property line.

The Applicant's Agent (Ms. Sheila Cichra) was notified of the objection that we received and on March 28, 2017, EPD received a modified site plan that increased the proposed side setback in relation to the northern projected property line from 10 feet (as originally requested) to 15 feet. The setback of the currently existing "grandfathered" dock (to be removed) is 14.34 feet. This modified plan was then sent to Mr. Guay via email for review and comment. Mr. Guay stated that he wished to proceed with his original objection.

Enforcement Action

There has been no enforcement action on this property.

April 7, 2017 Environmental Protection Commission Andrew and Geri Shuler Waiver Request Page 3

Staff Recommendation

The recommendation of the Environmental Protection Officer (EPO) is to deny the request for waiver to Section 15-343(b) side setback, based on the failure of the applicant to demonstrate that the waiver request would not have a negative impact on the abutting shoreline owner.

ACTION REQUESTED PURSUANT TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX, SECTION 15-350(b), DENY THE REQUEST FOR WAIVER TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX, SECTION 15-343(b) (SIDE SETBACK), FOR THE SHULER BOAT DOCK CONSTRUCTION PERMIT BD-17-02-012.

SG/NT/ERJ/LC: mg

Attachments

Application for Boat Dock Construction





SHULER PLAN VIEW - 301 MACARTHUR DR - ORLANDO













From:	Paul Guay
То:	<u>Given, Sarah A</u>
Subject:	Objection to Shuler Dock Application for Waiver (BD-17-02-012)
Date:	Monday, March 20, 2017 2:28:00 PM

Ms. Sarah Given,

Please find this e-mail as my objection to Mr. and Mrs. Shuler's Application for Waiver for their dock application number BD-17-02-012. The application asks for a waiver of the Orange County Code 25 foot setback from our property line and requests the setback be 10 feet instead.

Since my property and the Shuler's property are on a corner of Lake Holden, our adjoining property line is at a steep angle onto the lake, forming pie shapes going towards the middle of the lake. This adjoining property line angles towards my property in such a way that building a dock only 10 feet from this property line would adversely affect my privacy and also my view of the lake from my backyard. Presently the dock that Mr. and Mrs. Shuler have is about 16 feet from the property line. Sitting on their current dock, the Shulers have full view of my backyard, my dock, my backyard patio and my driveway. The new proposed dock construction would further have the new dock closer to the property line by about six feet thus further encroaching on my privacy and view. The proposed dock would be closer to my dock, my beach and my shoreline. If the Shulers parked a boat (they currently have multiple boats and one personal watercraft) next to their dock by our adjoining property line, it would thus be parked and fall on my property. This would affect my enjoyment of the lake from my shoreline for swimming, fishing and boating purposes.

Mr. And Mrs. Shuler currently own a shoreline that is about 89 feet in length and have ample space to build their proposed dock in the middle of their shoreline without affecting my privacy and also by doing so, they would also concurrently be increasing their privacy for themselves.

On the other side of my property (my other adjoining property line with my other neighbor, Mrs. Miracle), Mrs. Miracle's dock is actually on my property and does not have any setback as this dock construction was before Orange County had dock regulations and thus her dock is now grandfathered. I am already losing privacy from that side of my property and that dock is already very close to my dock. Boats parking on this dock are already on my property by about 10 feet already Including boat dimensions).

I would please ask the Environmental Protection Division from Orange County to consider my objection as valid. I do not have any biases towards my neighbors. I just request that they please construct their proposed dock within the 25 foot setback required by Orange County Code in order to provide me with privacy and to enjoy my property, shore and lake property as others do around the lake. I am not asking for favors, just to follow the Orange County Code please.

Thanks for your consideration. If you have any questions, please feel free to contact me.

Paul Guay 3638 MacArthur Drive Orlando Fl 32806

Canadian address: 1020 Heritage Drive Rockland Ontario Canada K4K 1T4 From:Sheila CichraTo:Given, Sarah ASubject:Fwd: Neighbor''s ObjectionDate:Wednesday, March 22, 2017 9:56:17 AMAttachments:Objection counterstatement.docx

The owner's response.

I'm going to meet with him today and discuss a plan of attack. I'll let you know if he has decided to change the proposed location later today.

Sheila Cichra Streamline Permitting, Inc. 2154 Oak Beach Blvd. Sebring, FL 33875 CRC1326973 M: (407) 450-4241 O: (863) 314-6711 sheilacichra@gmail.com

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------ Forwarded message ------From: Shuler Andrew <<u>shulerdental@yahoo.com</u>> Date: Tue, Mar 21, 2017 at 1:39 PM Subject: Neighbor's Objection To: Sheila Cichra <<u>sheilacichra@gmail.com</u>> Cc: Gunnar Shuler <<u>gunnar6996@yahoo.com</u>>, Geri Shuler <<u>gerijomutzshuler@yahoo.com</u>>

Sheila,

I don't know if you will need this information but I went through Mr. Guay's objection letter and added my comments in red regarding the statements that he made.

Andrew F. Shuler, D.D.S. <u>608-290-7811</u>

From: Paul Guay

To: Given, Sarah A Subject: Objection to Shuler Dock Application for Waiver (BD-17-02-012)

Date: Monday, March 20, 2017 2:28:00 PM

Ms. Sarah Given,

Please find this e-mail as my objection to Mr. and Mrs. Shuler's Application for Waiver for their dock application number BD-17-02-012. The application asks for a waiver of the Orange County Code 25 foot setback from our property line and requests the setback be 10 feet instead. Since my property and the Shuler's property are on a corner of Lake Holden, our adjoining property line is at a steep angle (The lot line bisects the angle of the shoreline, not a steep angle) onto the lake, forming pie shapes going towards the middle of the lake. This adjoining property line angles (equally bisects the angle so it does not angle toward his property) towards my property in such a way that building a dock only 10 feet from this property line would adversely affect my privacy and also my view of the lake (His own dock obstructs his view more than my dock would. If his view is so critical maybe he should consider removing his own dock since it is his main obstruction to his view.) from my backyard. Presently the dock that Mr. and Mrs. Shuler have is about 16 feet from the property line. (Current dock is 14.34' from the lot line with the entire platform being parallel to the lot line. New dock would be 10' at the closest point with the rest of the dock being farther away.) Sitting on their current dock, the Shulers have full view of my backyard, my dock, my backyard patio and my driveway. (Both of our neighbors have docks that angle toward our lot line and have full view of our backyard. It is the nature of the shape of our lots. It is impossible to have total privacy on a lakefront lot. Not sure what he is so concerned about.) The new proposed dock construction would further have the new dock closer to the property line by about six feet thus further encroaching on my privacy and view. (The dock would still be totally within our lot lines and not encroach on his property. I assured Mr. Guay that if I built the dock as proposed, we would not park any additional boats on his side of the dock. If we have to move the dock over then any visiting boats will need to be parked on Mr. Guay's side of the dock since the other side of our property has vegetation which prevents its use for boats. Additionally, our seating area is designed to be on the other side of the dock and will actually afford Mr. Guay more privacy in relation to us. His view over or thru our property cannot be our main concern.) The proposed dock would be closer to my dock, my beach and my shoreline. If the Shulers parked a boat (they currently have multiple boats and one personal watercraft) (Currently one pontoon boat parked on the opposite side of the dock and one jet ski. Occasionally, a visitor's boat will be parked temporarily. Our boat which is currently parked in the driveway would be in the boathouse) next to their dock by our adjoining property line, it would thus be parked and fall on my property. (False, we still have plenty of property and although the boat may be close to their property, it will still be on our property. Moving the dock farther into our property, will increase the likelihood that boats will be parked on Mr. Guay's side of our dock.) This would affect my enjoyment of the lake from my shoreline for swimming, fishing and boating purposes. (This dock in no way infringes on Mr. Guay's property. So, unless he is trying to utilize our shoreline for his use, I do not see how any dock on our property would prevent his use of the lake. I have never seen him swim, fish or boat.) Mr. And Mrs. Shuler currently own a shoreline that is about 89 feet in length and have ample

space to build their proposed dock in the middle of their shoreline without affecting my privacy and also by doing so, they would also concurrently be increasing their privacy for themselves. (The opposite side of our shoreline is filled with vegetation including a tree. Since our dock has been in the current position for several years, it would seem to be most practical to maintain the dock in a similar position and make significant improvement to the appearance and function.) On the other side of my property (my other adjoining property line with my other neighbor, Mrs. Miracle), Mrs. Miracle's dock is actually on my property and does not have any setback as this dock construction was before Orange County had dock regulations and thus her dock is now grandfathered. (They have lived with that for years. Likewise, both my neighbors' docks angle toward my property. Just something I have to live with.) I am already losing privacy from that side of my property and that dock is already very close to my dock. Boats parking on this dock are already on my property by about 10 feet already including boat dimensions). (I have never seen a boat at Mrs. Miracle's dock.) I would please ask the Environmental Protection Division from Orange County to consider my objection as valid. I do not have any biases towards my neighbors. I just request that they please construct their proposed dock within the 25 foot setback required by Orange County Code in order to provide me with privacy and to enjoy my property, shore and lake property as others do around the lake. (Due to the pie shape of our lot, it is impossible to construct the necessary dock without encroaching on the 25 foot setback to some degree. Mr. Guay's father had signed a waiver for the previous owner of our property to build a dock and it did not seem to be a problem.) I am not asking for favors, just to follow the Orange County Code please. Thanks for your consideration. If you have any questions, please feel free to contact me.

Paul Guay 3638 MacArthur Drive Orlando Fl 32806

Canadian address: 1020 Heritage Drive Rockland Ontario Canada K4K 1T4

Hi Sarah

Given the existing privacy issues existing already, and the proposed dock location, I would like proceed with my objection of the dock's location, given the the Shulers have ample space to locate their new dock centrally on their property. Or they can try to locate it nearer to the other neighbor's property line on the other side for a change.

Thanks

Paul Guay

On Mar 28, 2017, at 8:55 AM, <<u>Sarah.Given@ocfl.net</u>> <<u>Sarah.Given@ocfl.net</u>> wrote:

Mr. Guay,

The Shulers have revised their plan to show a minimum 15 foot setback (see attached), which is the same setback distance of the currently existing dock. Would this be acceptable or would you like to proceed with the objection to the dock's location?

Thank you,

Sarah Given Environmental Specialist II Environmental Protection Division Environmental Permitting & Compliance 3165 McCrory Place, Suite 200 Orlando, FL 32803 office: 407-836-1457 fax: 407-836-1459 email: <u>Sarah.Given@ocfl.net</u> web: <u>www.ocfl.net/epd</u> <image001.gif>

PLEASE NOTE: Florida has a very broad public records law (F. S. 119). All e-mails to and from County Officials are kept as a public record. Your e-mail communications, including your e-mail address may be disclosed to the public and media at any time.

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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 orOrange County Environmental Protection DivisionDeliver To:800 Mercy Drive, Suite 4Orlando, Florida 32808(407) 836-1400, Fax (407) 836-1499

I Sheila Cichra on behalf of Andrew Shuler (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 aquatic vegetation is consistent along the shoreline. The location of the boathouse in one place versus another does not alter the impact to the lake. Also, building the new boathouse in the same location as the existing boathouse was; creates the least impact.

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

The proposed structure will not adversly 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: Sh	eila Cichra		
Signature of Applicant/Ag	ent_fluit Cuit	Date:	02/14/2017
Corporate Title (if applica	ble): President, Streamline Permitting, Inc.		

