



Interoffice Memorandum

AGENDA ITEM

August 17, 2017

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

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

CONTACT PERSON: David D. Jones, P.E., CEP, Manager
Environmental Protection Division
(407) 836-1405

SUBJECT: August 29, 2017 – Consent Item
Environmental Protection Commission Recommendation for an
After-the-Fact Waiver Request to Terminal Platform Size for the
Connie and Steven Emmerson Boat Dock Permit BD-16-06-067

The applicants, Connie and Steven Emmerson, are requesting an after-the-fact waiver to Section 15-342(b) terminal platform size for Dock Construction Permit BD-16-06-067. The project site is located at 9419 Winter Garden Vineland Road on Lake Sheen. The Parcel ID number is 05-24-28-0000-00-020. The subject property is located in District 1.

On June 27, 2016, the Environmental Protection Division (EPD) received an Application for Waiver to Section 15-342(b) for a larger than allowed terminal platform size to expand a previously permitted dock. Multiple code violations associated with the dock and shoreline were discovered during a subsequent site review on July 7, 2016. Formal enforcement actions against the property owner were taken by EPD, resulting in a penalty of \$4,000 and Special Magistrate Order SM-2017-327583SE (issued on February 6, 2017). With most of the violations resolved since issuance of the Order and upon receipt of an as-built survey on March 31, 2017, EPD staff continued processing the after-the-fact waiver for the larger than allowed terminal platform. The terminal platform of the dock is currently 1,132 square feet, which is 105 square feet greater than previously permitted and 152 square feet larger than allowed by Code.

Notifications of the request for waiver were sent to all shoreline property owners within 300 feet of the shoreline of the subject property. EPD did not receive any objections to the proposed waiver.

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August 29, 2017 – Consent Item

Environmental Protection Commission Recommendation for an
After-the-Fact Waiver Request to Terminal Platform Size for the
Connie and Steven Emmerson Boat Dock Permit BD-16-06-067

During the July 26, 2017 Environmental Protection Commission (EPC) public hearing, the EPC voted to uphold the recommendation of the Environmental Protection Officer and approve the after-the-fact request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-342(b) for terminal platform size with a condition that the applicant pay \$119.60 to the Orange County Conservation Trust Fund (CTF) as mitigation. The applicant paid the CTF for the mitigation after the hearing.

ACTION REQUESTED: Acceptance of recommendation of the Environmental Protection Commission to approve the after-the-fact request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-342(b) (terminal platform size) with the condition that the applicant pay \$119.60 to the Orange County Conservation Trust Fund for the Emmerson Dock Permit BD-16-06-067. District 1

JVW/DJ: mg

Attachments



ENVIRONMENTAL
PROTECTION
COMMISSION

Jonathan Huels
Chairman

Mark Ausley
Vice Chairman

Sally Atwell

Alex Preisser

Glenn Dunkelberger

Mark Corbett

David Ward

ENVIRONMENTAL PROTECTION DIVISION

David D. Jones, P.E., CEP, Manager

3165 McCrory Place, Suite 200

Orlando, FL 32803-3727

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ORANGE COUNTY
ENVIRONMENTAL PROTECTION COMMISSION

PROJECT NAME: Emmerson - 9419 Winter Garden Vineland Road

PERMIT APPLICATION NUMBER: ATF BD-16-06-067

LOCATION/ADDRESS: 9419 Winter Garden Vineland Road, Orlando, Lake Sheen

RECOMMENDATION:

☒ EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED

ACTION REQUESTED: 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 \$119.60 TO THE ORANGE COUNTY CONSERVATION TRUST FUND FOR THE EMMERSON AFTER-THE-FACT BOAT DOCK PERMIT MODIFICATION #BD-16-06-067.

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

Signature of EPC Chairman: _____

DATE EPC RECOMMENDATION RENDERED: _____

2/6/17



Interoffice Memorandum

July 18, 2017

TO: Environmental Protection Commission

FROM: David D. Jones, P.E., Manager
Environmental Protection Division

A handwritten signature in black ink, appearing to read "David D. Jones", written over the printed name in the "FROM" field.

SUBJECT: Connie and Steven Emmerson Boat Dock After-the-Fact Waiver Request

Reason for Public Hearing

The applicants, Connie and Steven Emmerson, are requesting a permit modification and approval of an after-the-fact waiver to Orange County Code, Chapter 15, Article IX, Section 342(b) (terminal platform size) for a larger than allowed terminal platform.

Location of Property/Legal Description

The project site is located at 9419 Winter Garden Vineland Road, on Lake Sheen. The Parcel ID number is 05-24-28-0000-00-020. The subject property is located in Orange County Commission District #1.

Public Notifications

The applicants were notified of the hearing date on July 17, 2017.

Project History

On December 17, 2014, the Environmental Protection Division (EPD) received a complaint regarding a boat dock being constructed without a permit. An enforcement case (#14-421093) was initiated, which was ultimately resolved through issuance of an after-the-fact boat dock permit (#BD-15-04-044). This permit authorized an after-the-fact waiver to allow a 7.6-foot side setback (in lieu of the required 25 feet) on the northern property line, and authorized an after-the-fact waiver to the terminal platform size of 1,027 square feet (in lieu of the 980 square foot maximum allowed by code), with the condition the applicant pay \$943.00 to the Conservation Trust Fund (CTF) as mitigation for the larger than allowed terminal platform.

Staff Findings

On June 27, 2016, EPD received a permit modification request and new Application to Construct a Dock from the authorized agent (ACT Construction), including an Application for Waiver to Section 15-342(b), for additional terminal platform size and to install two jet-ski lift platforms to the previously permitted dock. The permit modification was assigned a new number (#BD-16-06-067) for tracking purposes.

Pursuant to Orange County Code, Chapter 15, Article IX, EPD staff evaluated the proposed application and required documents. A site inspection in July, 2016, revealed that the newly proposed lifts had already been installed, the boat lift previously authorized by BD-15-04-044 had

been relocated to the southern side of the terminal platform (landward of where it was depicted on the approved plans), the dock had been modified to include two vertical walls, the vegetation had been removed along the shoreline south of the dock, and sand had been placed on the shoreline.

Upon discovery of these unauthorized activities, EPD initiated enforcement proceedings to bring the property into compliance with the Code. Through Special Magistrate Order 2017-327583SE, the Court required corrective actions, which included payment of an administrative penalty of \$4,000.00, removal of the two vertical walls that had been installed on the boat dock, removal of sand placed on the shoreline, replanting the shoreline, and providing an as-built survey of the dock to allow EPD to continue processing the after-the-fact Application for Waiver to terminal platform size.

In accordance with the Court Order, the applicant has completed some of the corrective actions. The administrative penalty has been paid, and as of the last site inspection conducted in April 2017, the two vertical walls have been removed. Additionally, some plantings have been installed; and an as-built survey was provided that depicts the changes in the footprint of the dock.

EPD has reviewed the as-built survey and new site plan and calculated that the total terminal platform size is now 1,132 square feet (105 square feet larger than what was allowed by the previous permit). Moving the boat lift platform to the southern side of the dock actually increased the side setback from 7.6 feet to 19.1 feet. Therefore, the side setback is still in compliance with the permit.

On May 15, 2017, notifications of the Application for Waiver to terminal platform size were sent to all shoreline property owners within 300 feet of the subject property. EPD has not received any objections to the proposed waiver, however, on May 18, 2017, EPD received a response from the agent, Rick Arnold with ACT Construction, who stated [summarized] that he no longer represents the applicant.

Section 15-350(a)(2) states "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 agent for the applicant stated that "*Waiver is for the addition of 2 dockside PWC Lifts only. No anticipated Impact from this addition.*" To offset the environmental impact of additional shading to the lakeshore, EPD has calculated an additional mitigation contribution of \$119.60 to the Conservation Trust Fund (CTF) will offset the shading impact of the additional terminal platform.

To address Section 15-350(a)(2)(2), the agent for the applicant has stated "*None, This addition is alongside an existing walkway and has no encroachment affect on neighboring properties.*"

Staff Recommendation

The recommendation of the Environmental Protection Officer (EPO) is to approve the After-the-Fact Waiver to terminal platform size, with payment of \$119.60 to the CTF as mitigation for the additional shading impacts. Should the EPC or BCC deny the current request for an after-the-fact waiver to the additional terminal platform size, the jet-ski lifts must be removed per the Court Order.

ACTION REQUESTED **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 \$119.60 TO THE ORANGE COUNTY CONSERVATION TRUST FUND FOR THE EMMERSON AFTER-THE-FACT BOAT DOCK PERMIT MODIFICATION #BD-16-06-067.**

CRS/NT/ERJ/DJ: mg

Attachments

Waiver for After-the-Fact Boat Dock Modification



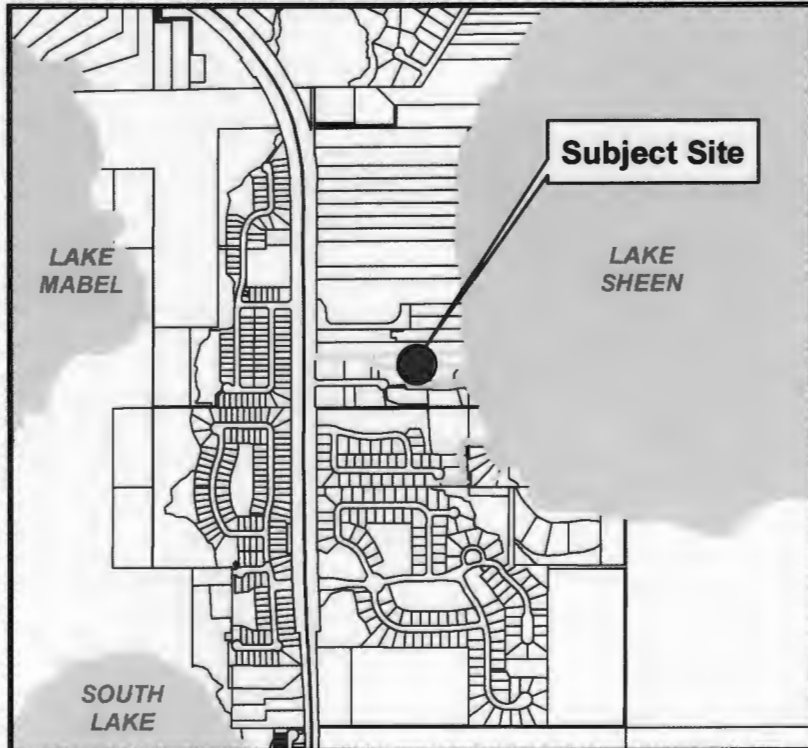
Waiver for After-the-Fact Boat Dock Modification

District # 1

Applicant: Connie & Steven Emmerson
Parcel IDs: 05-24-28-0000-00-020

Project Site

Property Location ●





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 Orange County Environmental Protection Division
Deliver To: 3165 McCrory Place, Suite 200
Orlando, Florida 32803
(407) 836-1400, Fax (407) 836-1499

I Rick Arnold on behalf of Connie Emmerson (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:

Waiver is for the addition of 2 dockside PWC Lifts only. No anticipated impact from this addition

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

None, This addition is along side an existing walkway and has no encroachment affect on neighboring

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.

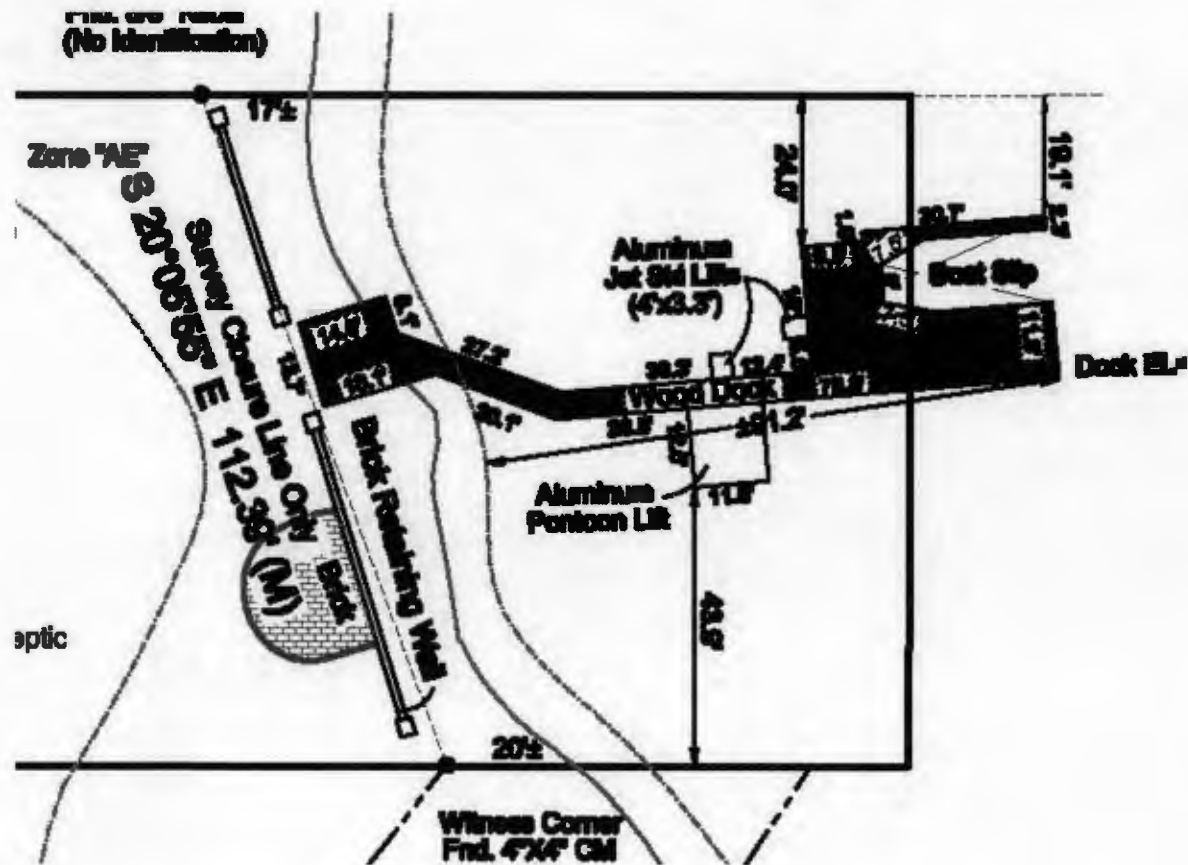
Name of Applicant: Connie Emmerson

Signature of Applicant/Agent _____ Date: _____

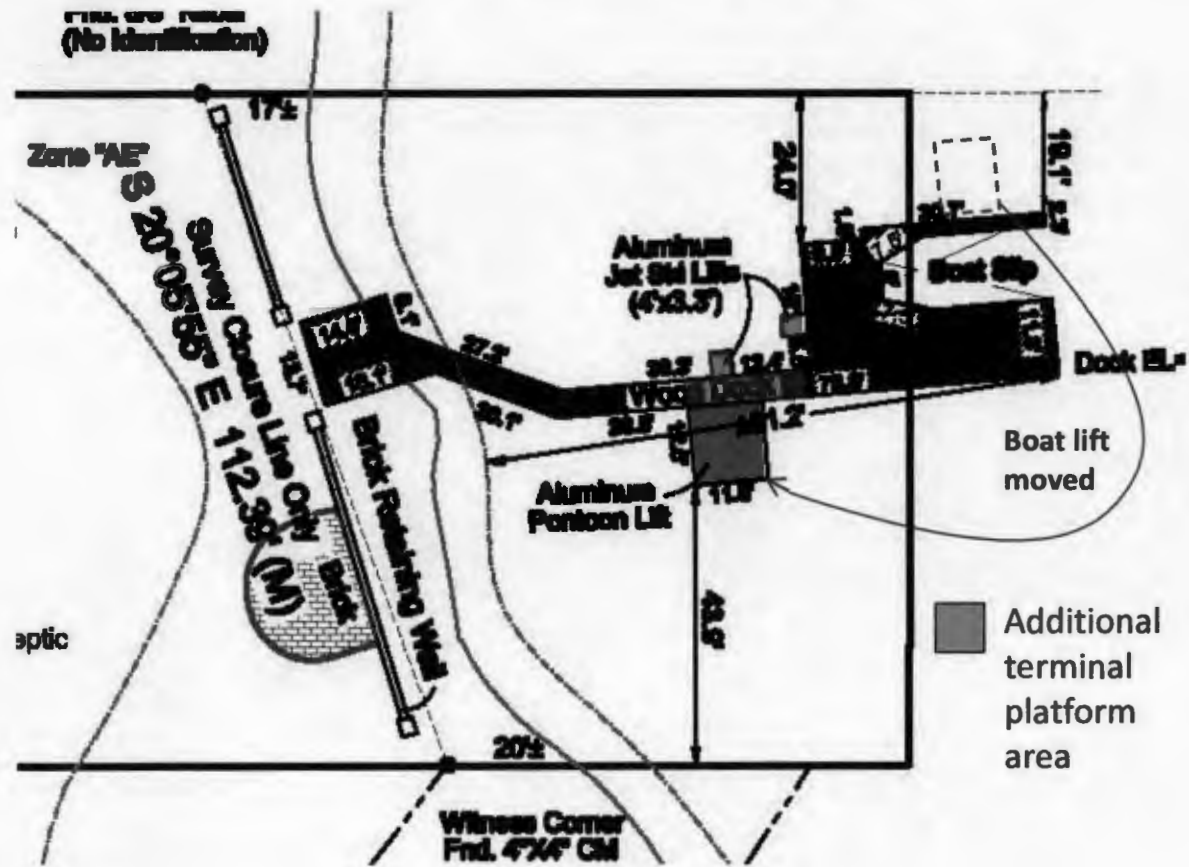
Corporate Title (if applicable): _____

BD-16-06-067 Request for Waiver to terminal platform size
Emmerson – 9419 Winter Garden Vineland Road

As-built Survey with the addition and changes to the platform



Addition and changes highlighted



Looking east at changes to platform

