

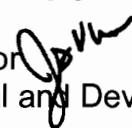


Interoffice Memorandum

AGENDA ITEM

August 21, 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 Jones, P.E., Manager**
Environmental Protection Division
(407) 836-1405

SUBJECT: August 29, 2017 – Consent Item
Environmental Protection Commission Recommendation for
a Waiver and a Variance for the Moore Dock Construction
Permit BD-15-05-072

The applicant, Thomas Moore, is requesting approval of a waiver to Section 15-342(b) terminal platform size and a variance to Section 15-343(a) side setback for Dock Construction Permit BD-15-05-072. The project site is located at 9019 Spence Court, Gotha on Lake Rose. The Parcel ID is 27-22-28-8211-00-020. The subject property is located in District 1.

On May 15, 2017, the Environmental Protection Division received an Application for Waiver to Section 15-342(b) for a larger than allowed terminal platform size, and an Application for Variance to Section 15-343(a) to reduce the side setbacks. The applicant has approximately 25 linear feet of shoreline at the Normal High Water Elevation on Lake Rose, which by code will allow up to 250 square feet of terminal platform. The applicant has requested approval of a terminal platform of 540 square feet. In addition, the required minimum side setback is 10 feet from both the projected property lines. The applicant is requesting approval of a side setback of 5.5 feet from both projected property lines.

Letters of objection were received from adjacent property owners to the north and south of the subject property. They were opposed to the oversized dock and the minimal setbacks; therefore, since the applicant was unable to meet the Waiver and Variance criteria as outlined in Section 15-350, the Environmental Protection Officer (EPO) recommended denial of the requests.

During the June 28, 2017, the Environmental Protection Commission voted to overturn the recommendation of the EPO and approved the request for waiver and variance,

Page Two

August 29, 2017 – Consent Item

Environmental Protection Commission Recommendation for a Waiver and a Variance for the Moore Dock Construction Permit BD-15-05-072

subject to the condition that the applicant pay \$550 to the Conservation Trust Fund for the additional shading caused by the oversized boat dock.

ACTION REQUESTED: Acceptance of recommendation of the Environmental Protection Commission to approve the request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-342(b) (Terminal Platform Size) and approve the request for variance to Chapter 15, Article IX, Section 15-343(a) (Side Setback), with the condition that the applicant pay \$550 to the Conservation Trust Fund (as mitigation for the shading impacts) for the Moore Dock Construction Permit #BD-15-05-072. District 1

JVW/LC: mg

Attachments



ENVIRONMENTAL
PROTECTION
COMMISSION

Jonathan Huels
Chairman

Mark Ausley
Vice Chairman

Sally Arwell

Alex Presser

Glenn Dunkelberger

Mark Corbett

David Ward

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.oed.net

ORANGE COUNTY
ENVIRONMENTAL PROTECTION COMMISSION

PROJECT NAME: Moore

PERMIT APPLICATION NUMBER: BD-15-05-072

LOCATION/ADDRESS: 9019 Spence Court, Gotha, Lake Rose

RECOMMENDATION:

EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED



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

overturn the recommendation of the EPC and
approve waiver to terminal platform and
variance to side setback with a \$550.00
mitigation payment to the CTF.

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 15-342(B) (TERMINAL PLATFORM SIZE),
AND DENY THE REQUEST FOR VARIANCE TO
CHAPTER 15, ARTICLE IX, SECTION 15-
343(A)SIDE SETBACK FOR THE MOORE DOCK
CONSTRUCTION PERMIT #BD-15-05-072.

Signature of EPC Chairman: Jonathan P. Huels

Date EPC Recommendation Rendered: 6/28/17



June 15, 2017

TO: Environmental Protection Commission

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

SUBJECT: Thomas Moore Request for a Boat Dock Waiver and a Variance

A handwritten signature in black ink, appearing to read "L. Cunniff", is written over the typed name "Lori Cunniff" in the "FROM:" line.

Reason for Public Hearing

The applicant, Thomas Moore, is requesting approval of a waiver to Section 15-342(b) terminal platform size and a variance to Section 15-343(a) side setback for Dock Construction Permit BD-15-05-072.

Location of Property/Legal Description

The project site is located at 9019 Spence Court, Gotha on Lake Rose. The Parcel ID is 27-22-28-8211-00-020. The subject property is located in Orange County Commission District 1.

Public Notifications

The shoreline property owners within 300 feet of the subject parcel were notified of the request for waiver and variance on May 5, 2017.

Staff Findings

On December 23, 2015, the initial Application to Construct a Dock BD-15-05-072 was closed due to insufficient information. Subsequently, on March 14, 2017, a Final Judgment was provided to Orange County Environmental Protection Division (EPD) indicating permission was granted by the Ninth Judicial Circuit Court of Orange County, Florida for Mr. Moore to construct a dock on the property owned by the Lionel Dolphin Trust and the file was reopened.

On May 15, 2017, EPD received an Application for Waiver to Section 15-342(b) for a larger than allowed terminal platform size and an Application for Variance to Section 15-343(a) side setback. Pursuant to Orange County Code, Chapter 15, Article IX, EPD staff has evaluated the proposed application and required documents.

On May 5, 2017, notifications of the request for waiver and variance were sent to all shoreline property owners within 300 feet of the shoreline to the subject property. EPD has received two objections to the proposed waiver and variance requests. One from the southern, adjacent, affected property owners Jay and Taryn Hess, who reside at 9013 Spence Court and one from the northern, affected neighbor, Anthony Miceli, who resides at 361 Woodlawn Cemetery Road.

Terminal Platform Size Waiver

Section 15-342 (b) states that the maximum square footage of the terminal platform shall not exceed the square footage of ten times the linear shoreline frontage for the first 75 feet of shoreline and five times the linear shoreline frontage for each foot in excess of 75 feet, not to exceed a maximum of 1,000 square feet.

The applicant has approximately 25 linear feet of shoreline on Lake Rose, which by code will allow up to 250 square feet of terminal platform. The applicant has requested approval of a terminal platform of 540 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 Authorized Agent has stated that *"The proposed boathouse is relatively small compared to the average boat dock terminal platform. The wetland vegetation will only be impacted in the slip area – it will be left in place everywhere else. The shaded/deck area of the proposed terminal platform will provide additional artificial fish habitat"* The increased shading has been evaluated by staff using Uniform Mitigation Assessment Method (UMAM) and if the waiver is approved, the applicant shall offset the environmental impacts associated with the larger terminal platform size with a payment of \$550.00 to the Conservation Trust Fund (CTF).

To address Section 15-350(a)(2)(2), the applicant has stated *"The proposed structure will not interfere with the adjacent property owner's ability to construct their own boathouses"*.

Side Setback Variance

Section 15-343(a) states that on lots or parcels having a shoreline frontage of less than seventy-five (75) feet, docks, including designated mooring areas, shall have a minimum side-setback of ten (10) feet from the projected property line.

Due to the shoreline length of 25 linear feet, the required side setback is ten feet from both projected property lines. The applicant is requesting approval of a side setback of only 5.5 feet from both adjacent properties.

Pursuant to Section 15-350(a)(1), Variances, "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 15-350(a)(1)(1), the Authorized Agent has stated that *"the property is only 25 feet wide. If the 10 foot setbacks are enforced, the owner cannot construct a boathouse at all. A very narrow boathouse is being proposed to minimize the impact and we are just asking for a 50% reduction in the required setbacks."*

To address 15-350(a)(1)(2), the agent has stated that *"the proposed boathouse will not interfere with future construction of a boathouse for either adjacent property owner."*

On May 23, 2017, EPD received an objection to the waiver and variance request from the adjacent property owners to the south at 9013 Spence Court (Jay and Taryn Hess). Their objections include:

- 1) The reduced side setback does not provide adequate setback from the north and south property lines;
- 2) The configuration of the dock crosses over their property which will impede their ability to construct a dock;
- 3) The proposed dock will block their view of the lake; and,
- 4) The proposed dock will decrease their property value.

On June 8, 2017, EPD receive an objection from the adjacent property owner to the north, (Anthony Miceli) of 361 Woodlawn Cemetery Road. His objections include:

1. Concern that the dock would negatively impact the property value; and
2. Reduce the enjoyment of the beach and waterfront view.

Enforcement Action

There currently is no enforcement action for this property.

Staff Recommendation

The recommendation of the Environmental Protection Officer (EPO) is to deny the request for waiver to Section 15-342(b) for the additional terminal platform size and request for variance to Section 15-343(a) side setback due to the failure of the Applicant to meet the criteria in the 15-350(a)(1) and 15-350(a)(2).

<u>ACTION REQUESTED</u>	<u>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 15-342(B) (TERMINAL PLATFORM SIZE), AND DENY THE REQUEST FOR VARIANCE TO CHAPTER 15, ARTICLE IX, SECTION 15-343(A)SIDE SETBACK FOR THE MOORE DOCK CONSTRUCTION PERMIT #BD-15-05-072.</u>
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AK/NT/ERJ/LC: gfdjr/mg

Attachments

Application for Waiver and Variance



BD-15-05-072

District # 1

Applicant: Thomas Moore

Parcel ID: 27-22-28-8211-00-020

Project Site 

Property Location 





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 Thomas Moore (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(1) am requesting a variance to section 15-343 (a) 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 property is only 25' wide. If the 10' setbacks are enforced, the owner cannot construct a boathouse at all. A very narrow boathouse is being proposed to minimize the impact and we are just asking for a 50% reduction in the required setbacks.

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


The proposed boathouse will not interfere with future construction of a boathouse for either adjacent property owner.

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: 05/15/2017
Corporate Title (if applicable): President, Streamline Permitting, Inc.



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: 800 Mercy Drive, Suite 4
Orlando, Florida 32808
(407) 836-1400, Fax (407) 836-1499

I Sheila Cichra on behalf of Thomas Moore (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 proposed boathouse is relatively small compared to the average boat dock terminal platform. The wetland vegetation will only be impacted in the slip area - it will be left in place everywhere else. The shaded/deck area of the proposed terminal platform will provide additional artificial fish habitat.

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

The proposed structure will not interfere with the adjacent property owner's ability to construct their own boathouses.

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 *Sheila Cichra*

Date: 05/15/2017

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



CD	Artist	Label	Year	Notes
1	Cher	Warner	1987	1st CD release
2	Cher	Warner	1988	2nd CD release
3	Cher	Warner	1989	3rd CD release
4	Cher	Warner	1990	4th CD release
5	Cher	Warner	1991	5th CD release
6	Cher	Warner	1992	6th CD release
7	Cher	Warner	1993	7th CD release
8	Cher	Warner	1994	8th CD release
9	Cher	Warner	1995	9th CD release
10	Cher	Warner	1996	10th CD release
11	Cher	Warner	1997	11th CD release
12	Cher	Warner	1998	12th CD release
13	Cher	Warner	1999	13th CD release
14	Cher	Warner	2000	14th CD release
15	Cher	Warner	2001	15th CD release
16	Cher	Warner	2002	16th CD release
17	Cher	Warner	2003	17th CD release
18	Cher	Warner	2004	18th CD release
19	Cher	Warner	2005	19th CD release
20	Cher	Warner	2006	20th CD release
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27	Cher	Warner	2013	27th CD release
28	Cher	Warner	2014	28th CD release
29	Cher	Warner	2015	29th CD release
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31	Cher	Warner	2017	31st CD release
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34	Cher	Warner	2020	34th CD release
35	Cher	Warner	2021	35th CD release
36	Cher	Warner	2022	36th CD release
37	Cher	Warner	2023	37th CD release
38	Cher	Warner	2024	38th CD release
39	Cher	Warner	2025	39th CD release
40	Cher	Warner	2026	40th CD release
41	Cher	Warner	2027	41st CD release
42	Cher	Warner	2028	42nd CD release
43	Cher	Warner	2029	43rd CD release
44	Cher	Warner	2030	44th CD release
45	Cher	Warner	2031	45th CD release
46	Cher	Warner	2032	46th CD release
47	Cher	Warner	2033	47th CD release
48	Cher	Warner	2034	48th CD release
49	Cher	Warner	2035	49th CD release
50	Cher	Warner	2036	50th CD release

Jay & Taryn Hess
9013 Spence Ct.
Gotha, FL 34734
5/13/17

RECEIVED
O.C. ENVIRONMENTAL
PROTECTION DIVISION

2017 MAY 23 AM 9:43

Aimee Krivan
Senior Environmental Specialist
Environmental Protection Division
Community, Environmental and Development Services Department
3165 McCrory Place, Suite 200
Orlando, FL 32803
407-836-1400

Attention Aimee Krivan,

This letter is in response to the application to construct a dock for the following property:

Applicant: Thomas Moore
Subject Site Address: 9019 Spence Court
Application Number: BD-15-05-072
Lake Name: Rose
Orange County Commission District: 1

We, Jay & Taryn Hess, object to the applicant's, Thomas Moore, request for a waiver to Orange County Code, Chapter 15, Article IX, Section 15-342(b). We also object to the applicant's request for a waiver to Orange County Code, Chapter 15, Article IX, Section 15-343(a).

The applicant's proposal exceeds the terminal platform size. The applicant's proposal does not provide adequate setback from the north and south property lines. In addition, the applicant's proposal crosses over into our property which will impede our ability to add a dock on our property, will block our view of the lake, and will decrease our property value.

We request to be notified if any additional action needs to be taken regarding this matter. If you have any questions, please contact us directly.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay & Taryn Hess", is written over a faint, larger signature.

Jay & Taryn Hess
9013 Spence Ct. Homeowner

6/7/2017

Aimee Krivan
Sr Environmental Specialist
Orange County EPD
3165 McCrory Place, Suite 200
Orlando, FL 32803

To whom it may concern,

In response to the certified letter we received from the EPD office we would like to formally state our objection to the application for constructing a boat dock proposed by Thomas Moore. We believe the dock would negatively impact our property value and also the enjoyment of our beach and waterfront view.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony J. Miceli". The signature is fluid and cursive, with the first name "Anthony" and last name "Miceli" clearly distinguishable.

Anthony J. Miceli
361 Woodlawn Cemetery Rd.
Gotha, FL 34734
407 619 0804
tonymiceli.creative@gmail.com

RECEIVED
O.C. ENVIRONMENTAL
PROTECTION DIVISION
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