



Interoffice Memorandum

AGENDA ITEM

June 7, 2018

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners *Cheryl [unclear]*

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: July 10, 2018 – Consent Item
Environmental Protection Commission recommendation for a
waiver request for the Gould Dock Construction Permit BD-17-
10-114

Monica and Michael Gould are requesting a waiver to Section 15-343(b) (side setback distance) for Dock Construction Permit BD-17-10-114. The project site is located at 15526 Avenue of the Arbors on Lake Hancock. Lake Hancock is considered sovereignty submerged lands. The Parcel ID number is 21-23-27-8132-09-910. The subject property is located in District 1.

On October 26, 2017, the Environmental Protection Division (EPD) received an Application to Construct a Dock for a new boat dock on the subject property. The application included an Application for Waiver to Section 15-343(b) (side setback distance). The subject parcel is on the eastern lobe of Lake Hancock. The projected property lines converge in a cove. The relatively shallow water depth in the area requires the proposed dock be extended waterward to achieve an appropriate depth for mooring a boat. The applicant is requesting to cross the projected property lines by 69 feet to construct the dock. The dock would encroach on the projected property lines of the adjacent property to the east owned by the Independence Community Association, Inc. Homeowners Association (HOA). The lot is identified on the recorded plat as Tract P1; a park with 620 feet of shoreline. Adjacent to Tract P1 is another tract with an existing semi-private boat ramp and companion dock, which is also owned by the HOA.

Pursuant to Orange County Code, Chapter 15, Article IX, EPD staff evaluated the proposed waiver application and required documents. Notice of the waiver application was sent to the HOA on March 9, 2018. On April 3, 2018, EPD received a letter of objection from the HOA.

Page Two

July 10, 2018 – Consent Item

Environmental Protection Commission recommendation for a waiver request for the Gould Dock Construction Permit BD-17-10-114

Pursuant to Article IX, a public hearing of the Environmental Protection Commission (EPC) was held on May 30, 2018 to review the request for a waiver to side setback. Due to the objection, the staff recommendation to EPC was to deny the waiver request. During the hearing, an attorney representing the HOA explained that the objection is not necessarily to the location of the proposed dock, but is related to the requirements of the subdivision Covenants and Restrictions, which require a two-thirds approval by proxy vote of all residents to convey the rights he believed were necessary for the applicant to construct the dock across the projected property line. Despite the objection, an HOA representative at the hearing did not challenge the riparian rights of the Goulds, and stated they were willing to work towards a reasonable resolution. A discussion ensued during which time the Chairman of the EPC stated that the EPC was not the correct forum for discussion of the HOA restrictions and approval process, and that the EPC members should strictly adhere to the County Code and the requirements for approval of the waiver request.

The EPC discussed the waiver criteria, including the effect of the waiver on the environment and on the affected neighbor. The EPC determined that there would not be a negative impact to the environment if the required side setback were reduced. Additionally, the EPC concluded that the effect of the side setback waiver on the HOA was limited because there would still be plenty of room along Tract P1 if the HOA wanted to construct another dock. Moreover, the EPC discussed it would be unlikely that the HOA would request to construct another dock on this lobe of Lake Hancock due to the existing dock and boat ramp on the adjacent tract.

Accordingly, the EPC voted to overturn the recommendation of the Environmental Protection Officer and approve the request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-343(b)(side setback distance).

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 15-343(b) (side setback distance) for the Monica and Michael Gould Dock Construction Permit BD-17-10-114. District 1**

JVW/DDJ: mg

Attachments



ENVIRONMENTAL
PROTECTION
COMMISSION

Jonathan Huels
Chairman

Mark Ausley
Vice Chairman

Oscar Anderson

Perry Barnasi

Norman Blackburn

Mark Corbett

Theodore Gelitz

ENVIRONMENTAL PROTECTION DIVISION
David D. Jones, P.E., CEP, Manager
Environmental Protection Division

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Orlando, FL 32803-3727
407-836-1400 • Fax 407-836-1499
www.ocfl.net

ORANGE COUNTY
ENVIRONMENTAL PROTECTION COMMISSION
MAY 30, 2017

PROJECT NAME: Monica and Michael Gould Dock
PERMIT APPLICATION NUMBER: BD-17-10-114
LOCATION/ADDRESS/LAKE: 15526 Avenue of The Arbors, Lake Hancock

RECOMMENDATION:

Approve
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 MONICA AND MICHAEL GOULD APPLICATION TO CONSTRUCT A DOCK BD-17-10-114.

☐ 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*


EPC Recommendation Date: *May 30, 2018*



**Interoffice Memorandum
Environmental Protection Division**

May 17, 2018

To: Environmental Protection Commission

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

Subject: **Monica and Michael Gould Request for a Waiver for Dock Construction Permit BD-17-10-114**

Reason for Public Hearing

Monica and Michael Gould are requesting approval of a waiver to Orange County Code, Chapter 15, Article IX, Section 15-343(b) (side setback distance).

Location of Property/Legal Description

The project site is located at 15526 Avenue of The Arbors. The Parcel ID number is 21-23-27-8132-09-910. The subject property is located on Lake Hancock. The project is located in District 1.

Background

On October 26, 2017, the Environmental Protection Division (EPD) received an Application to Construct a Dock for Monica and Michael Gould. The applicants are proposing to construct a dock on Lake Hancock and the proposed configuration is designed to cross over the projected property lines to the east; therefore, a waiver to Section 15-343(b) (side setback) is required.

On February 8, 2018, EPD received an Application for Waiver to Section 15-343(b) (side setback). Pursuant to Orange County Code, Chapter 15, Article IX, EPD staff has evaluated the proposed waiver application and associated documents.

Public Notifications

On March 9, 2018, a notification of the application for waiver to side setback distance was sent to the adjacent property owner to the east, Independence Community Association, Inc.

The applicant, agent and objector's attorney were notified of the May 30, 2018 Environmental Protection Commission meeting on April 16, 2018 and May 16, 2018.

Side Setback Waiver

Section 15-343(b) states, "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 (25) feet from the projected property line, unless such requirement is reduced by an appropriate waiver which shall be reviewed by the Environmental Protection Division." The Gould shoreline length is 78.26 linear feet. Therefore, the proposed dock requires a 25-foot side setback from all portions of the dock. Lake Hancock is considered sovereignty submerged lands, therefore, the property lines as depicted on the Orange County Property Appraiser's website are not the projected property lines (PPL). The PPL are a continuation of, and

extension to, the upland property line. Therefore, the PPL are extended into Lake Hancock at the Normal High Water Elevation. The applicant is requesting approval to encroach 69 feet into the neighboring projected property lines to the east at 5820 New Independence Parkway, Tract P 1, owned by the Independence Community Association, Inc.

Pursuant to Section 15-350(a)(2), "the applicant shall also 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 Section 15-350(a)(2)(1), the applicant states, "*As a side setback is not an environmental issue, there will be no negative impact on the environment.*"

To address Section 15-350(a)(2)(2), the applicant states, "*Building within the riparian water rights would place the dock squarely behind our neighbors to the west, Daphne and Walton Miller of 15532 Avenue of The Arbors. We are requesting to construct the dock towards the east, adjacent to the parcel owned by the HOA, thus allowing Mr. and Mrs. Miller the ability to build a dock in the future. The parcel to the east is a park and the HOA is not authorized to construct a dock in that location, therefore, we would not be creating a situation that would impede the HOA from building a dock in the future.*"

On April 3, 2018, EPD received an objection to the proposed waiver from the attorney representing the affected parcel to the east, the Independence Community Association, Inc.

The Association's letter of objection states:

- 1) *The placement of a dock on the Homeowners Association's (HOA) parcel will create a future title issue if a title company opines that the Association did not have authority to grant an easement.*
- 2) *It should be noted the site plan shows the applicants have room within their riparian water rights of Lot 991 to construct a dock which does not encroach onto the Association's property.*
- 3) *We recommend that the owners look for alternative dock designs which do not extend beyond the boundaries of the owner's riparian water rights.*

Enforcement Actions

There has been no enforcement action associated with the subject property.

Staff Recommendation

The recommendation of the Environmental Protection Officer is to deny the waiver to 15-343(b) (side setback distance) since the Applicant has not been able to meet the waiver requirements set forth in Section 15-350(a)(2)(2).

ACTION REQUESTED: Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(b), deny the request for a waiver to Orange County Code, Chapter 15, Article IX, Section 15-343(b) (side setback distance) for the Monica and Michael Gould Dock Construction Permit BD-17-10-114.

AK/NT/ERJ/DDJ: gd/mg

Attachments

Application for Waiver



Request for Boat Dock Waiver

BD-17-10-114

District # 1

Applicants: Michael and Monica Gould

Address: 15526 Avenue of The Arbors

Parcel ID: 21-23-27-8132-09-910

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 Monica Gould on behalf of _____ (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:

As a side setback is not an environmental issue, there will be no negative impact on the environment

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

Building within the riparian water rights would place the dock squarely behind our neighbors to the west, Daphne and Walton Miller of 15532 Avenue of the Arbors. We are requesting to construct the dock towards the east, adjacent to the parcel owned by the HOA. Thus allowing Mr. and Mrs. Miller the ability to build a dock in the future. The parcel to the east is a park and the HOA is not authorized to construct a dock in that location, therefore we would not be creating a situation that would impede the HOA from building a dock in the future.

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: Monica Gould

Signature of Applicant/Agent Monica Gould

Date: 2/8/17

Corporate Title (if applicable): _____

Received

FEB - 8 2018

BOUNDARY FOR/CERTIFIED TO: Michael Alan & Monica Kerlin Gould; First American Title Insurance Company; Taylor Morrison Home Funding

[illegible]

PROPOSED - FINISHED SPOT GRADE ELEVATION
PER DRAINAGE PLANS
V = PROPOSED DRAINAGE FLOW
(OT GRAZING TYPE BW)
PROPOSED I.P. PER PLANS = 1102'

PLOT PLAN AREA CALCULATIONS:
LOT SQ. FT. = 82,421± OR 1.43 ACRES
IMPROVED AREA = 4,235± SQ. FT. OR 7.5%

GRUSENMEYER-SCOTT & ASSOC., INC. - LAND SURVEYORS

[illegible]



MARTELL & OZIM, P.A.

2018 APR -3 PM 12:53

RECEIVED
ORANGE COUNTY ENVIRONMENTAL
PROTECTION DIVISION

MAIN OFFICE:
213 S. Dillard Street, Suite 210
Winter Garden, FL 34787

BY APPOINTMENT ONLY:
37 N. Orange Avenue, Suite 500
Orlando, FL 32801

PH: (407) 377-0890 Fax: (407) 674-2543
email: info@martellandozim.com web: www.martellandozim.com
Attorneys at Law

Orange County Environmental Protection Division
David D. J. Jones, P.E. CEP, Manager
ATTENTION AIMEE KRIVAN
3165 McCrory Place, Suite 200
Orlando, FL 32803

RE: FORMAL OBJECTION TO APPLICATION OF WAIVER
Applicants: Michael and Monica Gould
Subject Site Address: 15526 Avenue of the Arbors
Application Number: BD-17-10-114
Lake Name: Hancock
Orange County Commission District: 1

Dear Mrs. Aimee Krivan,

The Association would like to file its formal objection to the waiver request to construct a 69 foot dock by applicants Michael and Monica Gould of 155256 Avenue of the Arbors. Our law firm, Martell & Ozim, P.A., has the pleasure of representing Independence Community Association, Inc. (the "Association"). The proposed dock would cross over into the riparian water rights of the adjacent property, the Association's Park - Tract P1. The Association objects to the construction of any private dock over its property and/or its riparian water ways.

All Owners have easement rights over the Association's common areas. Per Section 2.3 of the Declaration, the Association may grant additional easements over its common areas "for the proper operation and maintenance of the Subject Property, or any portion thereof, or for the health, safety or welfare of the OWNERS, or to comply with any governmental requirement, or for any other reasonable purpose." The proposed boat dock does not meet the requirements for an easement grant. In addition, a dock crossing over into the Association's riparian water rights would create a future title issue if a title company opines that the Association did not have authority to grant an easement. The Owners have submitted an architectural application to the Association for the dock which was denied on January 31, 2018 for the same reasons. It should be noted that the site plan shows that the Owners have room within their riparian water rights of Lot 991 to construct a dock which does not encroach onto the Association's property. We recommend that the Owners look for alternative dock designs which do not extend beyond the boundaries of the Owner's riparian water rights.

Based on the foregoing, the Association requests for Orange County EPD to deny the request for the waiver request. Thank you for time and attention to this matter. Please feel free to contact the undersigned if you have any questions or concerns.

Sincerely,

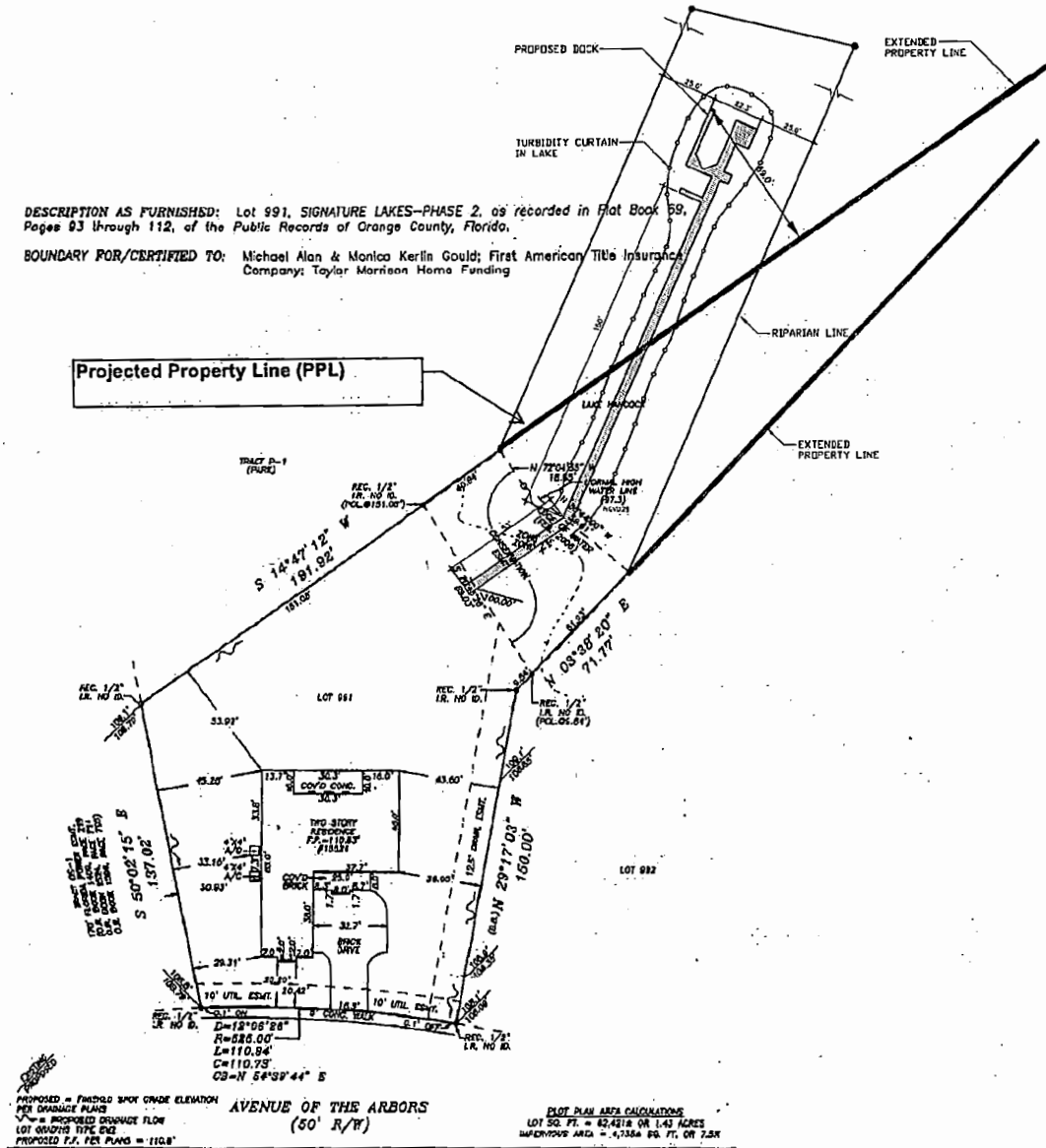
P Ozim

Patryk Ozim, Esquire

DESCRIPTION AS FURNISHED: Lot 991, SIGNATURE LAKES-PHASE 2, as recorded in Plat Book 59, Pages 93 through 112, of the Public Records of Orange County, Florida.

BOUNDARY FOR/CERTIFIED TO: Michael Alan & Monica Kerlin Gould; First American Title Insurance Company; Taylor Morrison Home Funding

Projected Property Line (PPL)



GRUSEMEYER-SCOTT & ASSOC., INC. - LAND SURVEYORS			
2400 E. COLONIAL DR. ORLANDO, FL 32807 (407)-277-3232			
<p>1. THE UNDERSIGNED AND HIS/HERS CERTIFY THAT THIS SURVEY MEETS THE HIGHEST TECHNICAL STANDARDS AND THAT IT IS A TRUE AND CORRECT REPRESENTATION OF THE FACTS AS KNOWN BY THE UNDERSIGNED AND HIS/HERS.</p> <p>2. THE UNDERSIGNED AND HIS/HERS CERTIFY THAT THIS SURVEY MEETS THE HIGHEST TECHNICAL STANDARDS AND THAT IT IS A TRUE AND CORRECT REPRESENTATION OF THE FACTS AS KNOWN BY THE UNDERSIGNED AND HIS/HERS.</p> <p>3. THE UNDERSIGNED AND HIS/HERS CERTIFY THAT THIS SURVEY MEETS THE HIGHEST TECHNICAL STANDARDS AND THAT IT IS A TRUE AND CORRECT REPRESENTATION OF THE FACTS AS KNOWN BY THE UNDERSIGNED AND HIS/HERS.</p> <p>4. THE UNDERSIGNED AND HIS/HERS CERTIFY THAT THIS SURVEY MEETS THE HIGHEST TECHNICAL STANDARDS AND THAT IT IS A TRUE AND CORRECT REPRESENTATION OF THE FACTS AS KNOWN BY THE UNDERSIGNED AND HIS/HERS.</p> <p>5. THE UNDERSIGNED AND HIS/HERS CERTIFY THAT THIS SURVEY MEETS THE HIGHEST TECHNICAL STANDARDS AND THAT IT IS A TRUE AND CORRECT REPRESENTATION OF THE FACTS AS KNOWN BY THE UNDERSIGNED AND HIS/HERS.</p> <p>6. THE UNDERSIGNED AND HIS/HERS CERTIFY THAT THIS SURVEY MEETS THE HIGHEST TECHNICAL STANDARDS AND THAT IT IS A TRUE AND CORRECT REPRESENTATION OF THE FACTS AS KNOWN BY THE UNDERSIGNED AND HIS/HERS.</p> <p>7. THE UNDERSIGNED AND HIS/HERS CERTIFY THAT THIS SURVEY MEETS THE HIGHEST TECHNICAL STANDARDS AND THAT IT IS A TRUE AND CORRECT REPRESENTATION OF THE FACTS AS KNOWN BY THE UNDERSIGNED AND HIS/HERS.</p> <p>8. THE UNDERSIGNED AND HIS/HERS CERTIFY THAT THIS SURVEY MEETS THE HIGHEST TECHNICAL STANDARDS AND THAT IT IS A TRUE AND CORRECT REPRESENTATION OF THE FACTS AS KNOWN BY THE UNDERSIGNED AND HIS/HERS.</p> <p>9. THE UNDERSIGNED AND HIS/HERS CERTIFY THAT THIS SURVEY MEETS THE HIGHEST TECHNICAL STANDARDS AND THAT IT IS A TRUE AND CORRECT REPRESENTATION OF THE FACTS AS KNOWN BY THE UNDERSIGNED AND HIS/HERS.</p> <p>10. THE UNDERSIGNED AND HIS/HERS CERTIFY THAT THIS SURVEY MEETS THE HIGHEST TECHNICAL STANDARDS AND THAT IT IS A TRUE AND CORRECT REPRESENTATION OF THE FACTS AS KNOWN BY THE UNDERSIGNED AND HIS/HERS.</p>			
<p>CERTIFIED BY: <i>[Signature]</i></p> <p>DATE: 04-18-14</p> <p>SCALE: 1" = 50'</p> <p>PLAT: 04-18-14</p> <p>FOUNDATION: 04-18-14</p> <p>FINAL: 04-18-14</p> <p>ADDED CERTIFICATIONS: 03-12-18</p>			
<p>THIS BUILDING: 04-18-14</p> <p>THE ESTABLISHED 150' TYPICAL FLOOR PLANS AS PER 100' TYPICAL</p> <p>DATE: 04-18-14</p> <p>TIME: 10:00 AM</p> <p>BY: 10:00 AM</p>			



Proposed Dock Location

