



Interoffice Memorandum

December 18, 2018

AGENDA ITEM

TO: Mayor Jerry L. Demings
-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: January 15, 2019 – Consent Item
Environmental Protection Commission Recommendation for
Requests for Variance and Waiver for the Herrington Dock
Construction Permit BD-18-07-076

Dan and Vickie Herrington are requesting approval of a variance to Orange County Code, Chapter 15, Article IX, Section 15-343(a), side setback distance, and a waiver to Section 15-342(b), terminal platform size. The requests are needed to re-authorize the zero-foot eastern setback for the existing dock, as previously approved in 1989 (BD #89-095), and to authorize a proposed increase in terminal platform size. The project site is located at 552 Wheatstone Place. The Parcel ID number is 34-22-28-4731-00-120. The subject property is located on Lake Rose in District 1.

The shoreline for the above-referenced property measures approximately 58 feet at the Normal High Water Elevation; therefore, the side setback requirement is 10 feet to the projected property lines. Because the applicants are requesting a side setback of zero feet to the eastern property line, a variance to Section 15-343(a) is required. In addition, the applicants are proposing a terminal platform that is 720 square feet, 140 square feet larger than allowed by Orange County Code. Therefore, a waiver to Section 15-342(b) is required. The additional shading impacts from a larger than allowed terminal platform were evaluated by Environmental Protection Division (EPD) staff using the Uniform Mitigation Assessment Method, and the applicants have agreed to provide mitigation for the additional shading with a payment of \$551 to the Conservation Trust Fund (CTF).

The central portion of the subject parcel contains an Orange County drainage easement that restricts the location of a dock on this property. The parcel to the east (to which the reduced setback is requested) comprises a retention pond on a parcel owned by Orange County. Staff from the Orange County Public Works Department reviewed the site plan, conducted a site visit and determined they have no objection to the proposed dock.

Pursuant to Orange County Code, Chapter 15, Article IX, EPD staff evaluated the proposed variance and waiver applications and required documents. Notifications of the applications for variance to side setback and waiver to terminal platform size were sent to all shoreline owners within 300 feet of the subject property on August 31, 2018. EPD did not receive any objections to the variance and waiver requests.

During the December 12, 2018 Environmental Protection Commission (EPC) public hearing, the EPC voted to uphold the recommendation of the Environmental Protection Officer (EPO) and approve the request for variance to Orange County Code, Chapter 15, Article IX, Section 15-343(a) (side setback distance). Additionally, the EPC voted to uphold the recommendation of the EPO and approve the request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-342(b) (terminal platform size) with the condition that the applicants pay \$551 to the CTF as mitigation to offset the additional shading from the larger terminal platform.

ACTION REQUESTED: Acceptance of recommendation of the Environmental Protection Commission to approve the request for variance to Orange County Code, Chapter 15, Article IX, Section 15-343(a) (side setback) and approve the request for waiver to Section 15-342(b) (terminal platform size), with the condition that the applicant pay \$551 to the Conservation Trust Fund within 60 days of the decision of the Board for the Herrington Dock Construction Permit BD-18-07-076. District 1.

JVW/DJ: mg
Attachments

Dock Construction Application for Waiver and Variance



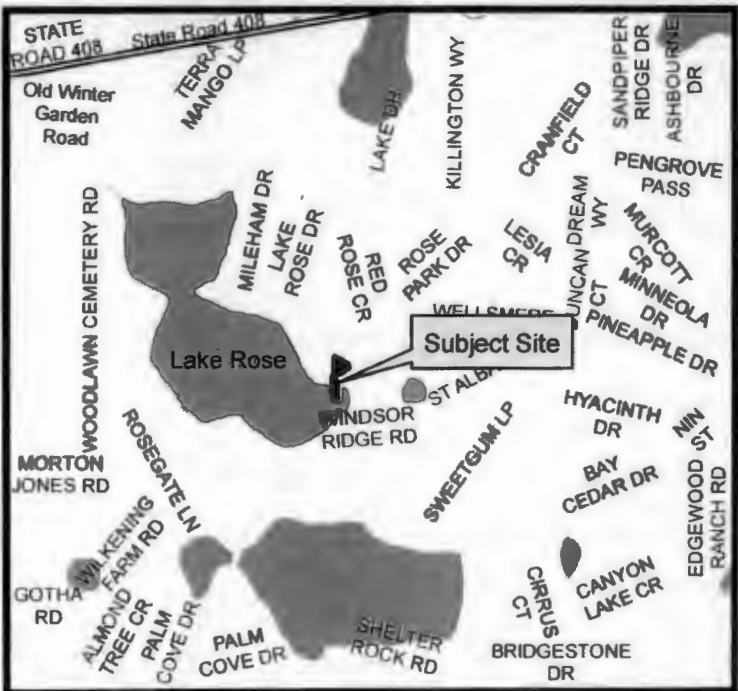
Dock Construction Application for Waiver and Variance BD-18-07-076 District #1

Applicant: Dan and Vickie Herrington
Address: 552 Wheatstone Place
Parcel ID: 34-22-28-4731-00-120

Project Site



Property Location





ENVIRONMENTAL
PROTECTION
COMMISSION

Jonathan Huels
Chairman

Mark Ausley
Vice Chairman

Oscar Anderson

Perry Barnas

Florian Blackburn

Mark Corbett

Theodore Gertz

ENVIRONMENTAL PROTECTION DIVISION

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

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ORANGE COUNTY
ENVIRONMENTAL PROTECTION COMMISSION
December 12, 2018

PROJECT NAME: Dan and Vickie Herrington Boat Dock

PERMIT APPLICATION NUMBER: BD-18-07-076

LOCATION/ADDRESS/LAKE: 552 Wheatstone Place, Lake Rose

RECOMMENDATION:

Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(b), approve the request for variance to Orange County Code, Chapter 15, Article IX, Section 15-343(a) (side setback) and approve the request for waiver to Section 15-342(b) (terminal platform size), with the condition the applicant pay \$551 to the Conservation Trust Fund within 60 days of the decision of the Board of County Commissioners, for the Herrington Dock Construction Permit BD-18-07-076.



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: _____

EPC Recommendation Date: 12/13/18



Interoffice Memorandum

November 26, 2018

To: Environmental Protection Commission

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

A handwritten signature in black ink, appearing to be "DJ", located to the right of the "From:" field.

Subject: Dan and Vickie Herrington Request for Variance and Waiver for Dock Construction Permit BD-18-07-076

Reason for Public Hearing

Dan and Vickie Herrington are requesting approval of a variance to Orange County Code, Chapter 15, Article IX, Section 15-343(a), side setback, and a waiver to Section 15-342(b), terminal platform size.

Location of Property/Legal Description

The project site is located at 552 Wheatstone Place. The Parcel ID number is 34-22-28-4731-00-120. The subject property is located on Lake Rose in District 1.

Public Notifications

On August 31, 2018, a Notice of Applications for Variance and Waiver was sent to all shoreline property owners within a 300-foot radius of the property.

The applicants were notified of the December 12, 2018 meeting of the Environmental Protection Commission in accordance with the requirements of Orange County Code, Chapter 15, Article IX.

Side Setback Variance

Chapter 15, Article IX, Section 15-343(a) of the Orange County Code states, "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." The shoreline measures approximately 58 feet; therefore, the side setback requirement is 10 feet to the projected property lines. The applicants are requesting a side setback of zero feet to the eastern property line. There is an existing dock currently on the property that has a zero foot setback to the eastern property line. A Dock Construction Permit was issued in 1989 (BD #89-095) that indicates the dock abutting the eastern property boundary was approved with a zero foot setback.

The central portion of the subject parcel contains an Orange County drainage easement. The dock is purposefully situated to avoid the drainage easement. The affected property to the east is a retention pond parcel owned by Orange County.

The proposed site plan was sent to the Orange County Public Works Department (Public Works) for review. Staff from Public Works met with Mr. Herrington at his property and determined they have no objection to the proposed dock.

Pursuant to Section 15-350(a)(1), "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."

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 states, "*Existing 15 foot easement restricting dock-plans.*"

To address Section 15-350(a)(1)(2), the applicant states, "*Affected property is Orange County Retention Pond.*"

Terminal Platform Waiver

Section 15-342(b) of the Orange County Code 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..." The shoreline length of 58 feet would allow a terminal platform size of 580 square feet. The applicants are proposing a dock that is 720 square feet.

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, "*Rebuilding existing dock in similar location.*"

To address Section 15-350(a)(2)(2), the applicant states, "*The proposed structure will not affect or change, for the adjacent property owners, their view or navigation.*"

The additional shading impacts from the larger-than-allowed terminal platform were evaluated by the Environmental Protection Division (EPD) staff using the Uniform Mitigation Assessment Method. The applicants have agreed to provide mitigation for the additional shading with a payment of \$551 to the Conservation Trust Fund.

Enforcement Action

There is no current enforcement action for this property.

Staff Recommendation

The onsite drainage easement affects the applicant's ability to locate the dock in a location that meets the setback requirements per Orange County Code. These special conditions were not self-imposed by the applicant, but rather by Orange County. Compliance with the required setback would impose an unnecessary hardship on the permit applicant. Furthermore, Orange County is the affected property owner and Public Works has indicated they have no objection to the project. The recommendation of the Environmental Protection Officer (EPO) is to approve the request for variance to side setback. The applicant has agreed to pay \$551 as mitigation to offset the additional shading from the larger terminal platform. Additionally, no objections to the request were received by EPD. Therefore, the recommendation of the EPO is to approve the request for waiver for terminal platform size.

ACTION REQUESTED: Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(b), approve the request for variance to Orange County Code, Chapter 15, Article IX, Section 15-343(a) (side setback) and approve the request for waiver to Section 15-342(b) (terminal platform size), with the condition the applicant pay \$551 to the Conservation Trust Fund within 60 days of the decision of the Board of County Commissioners, for the Herrington Dock Construction Permit BD-18-07-076.

JR/NT/TMH/ERJ/DJ: gfdjr/mg

Attachments

DRY RETENTION POND

