




Interoffice Memorandum

BCC Mtg. Date: July 12, 2016

AGENDA ITEM

June 3, 2016

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

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

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

SUBJECT: July 12, 2016 – Consent Item
Environmental Protection Commission Recommendation
for a Waiver and Two Variance Requests for a Dock for
Nilkanth Kapadia

The project site is located at 8801 Charles E. Limpus Road on Pocket Lake. The Parcel ID No. is 10-24-28-0000-00-009. The subject property is located in Orange County Commission District 1.

On January 28, 2016, the Environmental Protection Division (EPD) received an Application to Construct a Dock in order to add a walkway and terminal platform to an existing enclosed boathouse. It came to EPD's attention that modifications had been done to the boathouse. These modifications included an increase to the roof height. The modification to the roof height causes the existing boathouse to lose its "grandfathered" status and the entire structure will need to meet current code. The applicant submitted an Application for Variance to Section 15-342(g) (enclosed dock).

Finally, the shoreline length requires a 25 foot setback. The applicant proposes a 7.1 foot side setback along the southern property line and a 9.9' side setback along the northern property line. Therefore, an Application for Waiver to Section 15-343(b) (side setback) was submitted.

Enclosed Dock and Roof Height Variances

Section 15-342(g) states "enclosed docks are prohibited." Section 15-342(e) states, "The maximum roof height shall be no higher than twelve (12) feet above the floor elevation." The enclosed portion of the dock has a roof height of 13.47 feet.

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Environmental Protection Commission Recommendation for a Waiver and Two Variance Requests for a Dock for Nilkanth Kapadia

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 Section 15-350(a)(1)(1), the applicant has stated that “the enclosed boathouse is existing, but there is no dock or deck extending out into the lake. The owner wants to add a small sitting area. The existing boathouse is partially over land and is only 1.47’ over the allowable height limit, when measured from grade. It does not constitute a view obstruction or cause any negative environmental impact.”

To address Section 15-350(a)(1)(2), the applicant has stated that “the enclosed boathouse has been there for many years and does not negatively impact the adjacent property owner’s view or navigability. The lots have quite an elevation change down to the water, so the additional height is of no consequence.”

Side Setback Waiver

Pursuant to 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...At the point where the distance between the projected property lines is equal to or less than seventy-five (75) feet the minimum setback shall be ten feet.”

The applicant proposes a 7.1 foot side setback along the southern property line and a 9.9’ side setback along the northern property line. The setbacks (10’) are met where the projected property lines becomes less than 75 feet and the required setback is reduced to 10 feet.

Pursuant to Section 15-350(a)(2), Waivers, “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 has stated that “the aquatic vegetation is consistent along the shoreline. The location of the dock in one place versus another does not alter the impact to the lake.”

To address Section 15-350(a)(2)(2), the applicant has stated “the proposed structure will not adversely affect the adjacent property owner’s view or navigability.”

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Environmental Protection Commission Recommendation for a Waiver and Two Variance Requests for a Dock for Nilkanth Kapadia

Notification and Objection Letter

Pursuant to Section 15-347(a), notices of the variance requests for the enclosed dock and roof height were sent to the neighboring shoreline property owners within 300 feet. Notice of the side setback waiver requests were sent to the adjacent property owners.

On April 30, 2016, EPD received a written objection from the adjacent neighbor to the north, Ms. Margaret Taylor (8836 Darlene Drive).

The recommendation of the Environmental Protection Officer is to approve the requests for variance and waiver to Orange County Code. To address the concerns about navigation raised by Ms. Taylor, EPD requested the Applicant's contractor stake the limits of the terminal end of the proposed platform, and requested that the Orange County Sheriff's Office (OSCO) visit the site to determine if the proposed new terminal platform will create a navigational hazard. On May 14, 2016, the OCSO made a determination that the proposed platform is not a navigational hazard.

Based upon the evidence and testimony presented at the May 25, 2016 public hearing, the Environmental Protection Commission made a recommendation to approve the request for variances to Orange County Code, Chapter 15, Article IX, Section 15-342(e) (roof height) and Section 15-342(g) (enclosed dock); and approve the waiver to Section 15-343(b) (side setback) for the Kapadia Dock Construction Permit BD-16-01-009.

ACTION REQUESTED: Acceptance of the Recommendation of the Environmental Protection Commission to approve the request for variances to Orange County Code, Chapter 15, Article IX, Section 15-342(e) (roof height) and Section 15-342(g) (enclosed dock); and approve the waiver to Section 15-343(b) (side setback) for the Kapadia Dock Construction Permit BD-16-01-009. District 1

JVW/LC: mg

Attachments

Boat Dock Waiver and Variance Requests



Boat Dock Waiver and Variance Requests

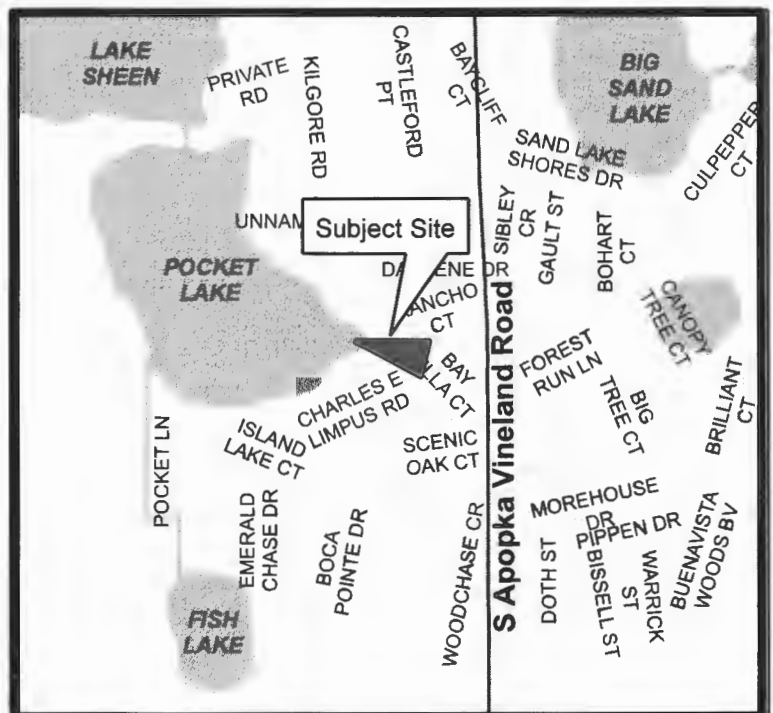
District #1

Applicant: Nilkanth Kapadia

Parcel IDs: 10-24-28-0000-00-009

Project Site

Property Location



From: [Beth Taylor](#)
To: [Root, Jason](#)
Subject: Lake Pocket Kapadia: BD-16-01-009
Date: Saturday, April 30, 2016 7:47:58 PM

Dear Jason Root,

I would like to object to approving the 50 foot and 16 foot hexagon deck at the end because this is a cove and would be a navigational hazard. People have been killed by decks as extensive as this.

The walkway along the shoreline is enough. The existing boathouse should be brought to code in order to add the shoreline deck. That would be 897.3 sq feet for both.

The other 506 sq feet extending out into the cove should not be allowed. You should examine this closely and turn Variance down. If approved the total square footage would be 1403.3 square feet. It will hamper others from getting to their docks.

Could you email me when the hearing on this please.

Other than neighbors on each side, others should be notified as well. This will have a serious impact on Pocket Lake.

Margaret G. Taylor



ENVIRONMENTAL PROTECTION DIVISION
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**ENVIRONMENTAL
 PROTECTION
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David Ward
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Sally Atwell

Alex Preisser

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Mark Ausley

**ORANGE COUNTY
 ENVIRONMENTAL PROTECTION COMMISSION**

Recommendation regarding a request for approval of variances to Orange County Code, Chapter 15, Article IX, Section 15-342(e) (roof height) and Section 15-342(g) (enclosed dock), and a waiver to Section 15-343(b) (side setback) for Dock Construction Permit BD-16-01-009; Nilkanth Kapadia, 8801 Charles E. Limpus Road, Pocket Lake.

ACTION TAKEN BY THE ENVIRONMENTAL PROTECTION COMMISSION (“EPC”) on the above application was as follows:

REQUEST: Nilkanth Kapadia (the “Applicant”) is requesting approval of variances to Orange County Code, Chapter 15, Article IX, Section 15-342(e) (roof height) and Section 15-342(g) (enclosed dock), and a waiver to Section 15-343(b) (side setback).

BACKGROUND: On January 28, 2016, the Environmental Protection Division (EPD) received an Application to Construct a Dock in order to add a walkway and terminal platform to an existing enclosed boathouse. At that time the applicant also submitted an Application for Variance to Section 15-342(g) (enclosed dock) and an Application for Waiver to Section 15-343(b) (side setback). EPD reviewed the application and site plans and discovered that the roof height of the “grandfathered” boathouse structure was 13.47 feet and would also require a variance. On March 31, 2016, EPD received a revised Application for Variance for roof height. The modification to the roof height causes the existing boathouse to lose its “grandfathered” status and the entire structure will need to meet current code.

Enclosed Dock and Roof Height Variances

Section 15-342(g) states “enclosed docks are prohibited.” Section 15-342(e) states, “The maximum roof height shall be no higher than twelve (12) feet above the floor elevation.” The enclosed portion of the dock with the roof height of 13.47 feet already exists on the property and no changes are being proposed to the size or location. The newly constructed walkway and terminal platform will not be enclosed or have a roof.

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 Section 15-350(a)(1)(1), the applicant has stated that “the enclosed boathouse is existing, but there is no dock or deck extending out into the lake. The owner wants to add a small sitting area. The existing boathouse is partially over land and is only 1.47’ over the allowable height limit, when measured from grade. It does not constitute a view obstruction or cause any negative environmental impact.”

To address Section 15-350(a)(1)(2), the applicant has stated that “the enclosed boathouse has been there for many years and does not negatively impact the adjacent property owner’s view or navigability. The lots have quite an elevation change down to the water, so the additional height is of no consequence.”

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Side Setback Waiver

Pursuant to 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...At the point where the distance between the projected property lines is equal to or less than seventy-five (75) feet the minimum setback shall be ten feet."

Due to the irregular lot shape the dock must meet a 25 foot setback near the shoreline; however, as the dock extends into the lake the distance between the projected property lines becomes less than 75 feet and the required setback is reduced to 10 feet. Since portions of the dock near the shoreline are less than the required 25 feet to each adjacent property a waiver is required to reduce the setback.

Pursuant to Section 15-350(a)(2), Waivers, "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 has stated that "the aquatic vegetation is consistent along the shoreline. The location of the dock in one place versus another does not alter the impact to the lake."

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

Notification and Objection Letter

Pursuant to Section 15-347(a), notices of the variance requests for the enclosed dock and roof height were sent to the neighboring shoreline property owners within 300 feet. Notice of the side setback waiver requests were sent to the adjacent property owners.

On April 30, 2016 EPD received a written objection from the adjacent neighbor to the north, Ms. Margaret Taylor (8836 Darlene Drive).

The recommendation of the Environmental Protection Officer is to approve the requests for variance and waiver to Orange County Code. To address the concerns about navigation raised by Ms. Taylor, EPD requested the Applicant's contractor stake the limits of the terminal end of the proposed platform, and requested that the Orange County Sherriff's Office (OSCO) visit the site to determine if the proposed new terminal platform will create a navigational hazard. On May 14, 2016, the OCSO made a determination that the proposed platform is not a navigational hazard.

RECOMMENDATION: Approval. Based upon the evidence and testimony presented at the May 25, 2016 public hearing, the Environmental Protection Commission made a recommendation to approve the request for variances to Orange County Code, Chapter 15, Article IX, Section 15-342(e) (roof height) and Section 15-342(g) (enclosed dock); and approve the waiver to Section 15-343(b) (side setback) for the Kapadia Dock Construction Permit BD-16-01-009.

Signature of EPC Chairman: David R. Ward

DATE EPC RECOMMENDATION RENDERED: May 25, 2016

00EPD JUN182016AM8:57

NW CORNER, S. 1/2 OF NW 1/4 OF NW 1/4 OF SECTION 10-24-28

NORTH LINE, S. 1/2 NW 1/4, NW 1/4 SECTION 10-24-28

FND 1/2" IR NO #

N00°00'00"E
12.8' DESC

POCKET LAKE

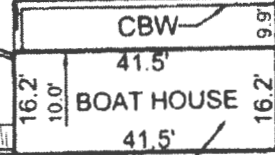
10' MIN
APPROXIMATE
EDGE OF WATER

16'
NORMAL HIGH WATER
ELEVATION=98.48

25'
MIN

N66°30'39"W 171.44' DESC

2.0' 1.8'



FFE = 101.80
HEIGHT = 115.27

SURVEY LINE FOR CLOSURE ONLY
N114°56'11"W 104.12' MEAS

NOT PLATTED

APPROXIMATE
EDGE OF WATER

20.8± TO
NHWL

FND 1/2" IR
LB #7615

N
1" = 30'

WEST LINE, SECTION 10-24-28

KAPADIA SITE PLAN
8801 CHARLES E. LIMBUS RD,
ORLANDO, FL 32816