

**ENVIRONMENTAL PROTECTION COMMISSION
3165 McCrory Place, Suite 200
Orlando, FL 32803
Panther Training Rooms I and II and Via WebEx
February 24, 2021**

**ENVIRONMENTAL PROTECTION
COMMISSION (EPC)**

MEMBERS PRESENT:

Mark Ausley - Chairman
Oscar Anderson* - Vice Chairman
Mark Corbett - Member
Billy Butterfield - Member
Elaine Imbruglia - Member
Flormari Blackburn - Member (arrived at 8:42am)

ABSENT MEMBERS:

VACANT POSITION:

Regulated Business or Municipality

*Denotes attending via WebEx

**ENVIRONMENTAL PROTECTION
DIVISION (EPD)**

STAFF PRESENT:

David Jones*, Manager - EPD
Elizabeth R. Johnson, Assistant Manager – EPD
Renee Parker*, Assistant Manager - EPD
Georgiana Holmes* - OC Attorney's Office (OCAO)
Aleas Koos* - OCAO
Tim Hull - EPD
Neal Thomas* - EPD
Elois Lindsey* - EPD
Rebecca Bowden* - EPD
Jason Root* - EPD
Taina Torres* - EPD

GUESTS:

Amy Giannotti*
James Phillips*
Bill Herb*
Cathy Curnan*
Richard Benton
Sheila Cichra
Majid Heydari
Anna Long (Attorney for Merks and Phillips)
Mary Solik (Attorney for Heydari)
Richard Benton
Kyle Goonen
Ms. Hardy (Court reporter for Anna Long)

I. Call to Order:

Chairman Ausley called the meeting to order at 8:33 a.m. in Panther Training Rooms I & II.

II. Public Comment(s) (Resolution No. 2013-M-41)

None.

III. Approval of Meeting Minutes – January 27, 2021

Upon a motion by Billy Butterfield; with a second by Mark Corbett; with Flormari Blackburn being absent and members being present voting AYE by voice vote; the January 27, 2021 Meeting Minutes were approved.

Flormari Blackburn arrived at 8:42am

IV. Public Hearings

1. This item was continued from the September 20, 2020, October 28, 2020 and January 27, 2021 meeting of the Environmental Protection Commission: Majid Heydari - BD-20-04-070; Request for waiver to Section 15-343(b) (side setback distance); 11533 Waterstone Loop Drive, Lake Butler; District 1.

Neal Thomas gave a presentation. Elaine Imbruglia asked if the Heydari lot is identified as a lakefront lot. Tim Hull said the Heydari lot is listed as a lakefront lot in the deed restrictions. Liz Johnson stated that this lot has riparian rights. Sheila Cichra of Streamline Permitting, Inc., spoke on behalf of the applicant. Anna Long spoke representing the Merks and James and Dian Phillips. Ms. Long stated that if the dock can be reconfigured to meet the required side setbacks then her clients would not object. Mary Solik, attorney for Dr. Heydari, spoke on behalf of the applicant. Dr. Heydari spoke about the purchase price of the lot. Chairman Ausley closed the public hearing. Oscar Anderson asked if the land north of the proposed dock is wetland and Neal Thomas stated it was. Mr. Anderson stated that if the Phillips were to relocate their dock it would most likely be where the current citrus grove is located, not in the nearby wetlands. Mr. Anderson asked if the water level decreased would the proposed Heydari dock then be considered to be on the Phillips property. Neal Thomas stated that it would not be on Mr. Phillips property. Tim Hull clarified that the OHWE which determines the state owned sovereignty land is a fixed elevation and does not change with the water level in the event of a drawdown. Elaine Imbruglia asked if there was a navigational assessment completed as part of the review. Rebecca Bowden said the Orange County Sheriff's Office (OCSO) conducted a study and stated that the proposed dock would not present any navigational hazard. Billy Butterfield asked if there was any way they could build a dock without a waiver. Neal Thomas stated that there would be no way they could meet the 25' setback requirement so they would need a waiver to construct any dock. Billy Butterfield asked if Mr. Phillips would be able to construct a dock through the wetland area adjacent to the proposed dock. Liz Johnson said that docks are allowed to traverse wetlands as long as the walkway is elevated three feet, but there needs to be a principal use established on the upland parcel. Elaine Imbruglia stated that this is a lakefront lot that has riparian rights and the code allows for waivers and variances for situations like this. Oscar Anderson stated he's inclined to support the request because they have a lakefront lot and are allowed access to the lake.

Upon a motion by Oscar Anderson; with a second by Elaine Imbruglia, with Mark Ausley, Oscar Anderson, Mark Corbett, Elaine Imbruglia, and Flormari Blackburn voting AYE by voice vote, and Billy Butterfield voting NAY; EPC voted to overturn the recommendation of the Environmental Protection Officer, and make a finding that the waiver request is consistent with Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2)(2) and recommends approval of the request for waiver to Section 15-343(b) to reduce the side setback distance for the Majid Heydari Dock Construction Permit BD-20-04-070. District 1. The motion passed 5 to 1.

2. Richard Benton – BD-20-04-067; Request for waiver to Section 15-343(b) (side setback distance); 919 Springwood Drive, Lake Holden; District 3.

Neal Thomas gave a presentation. Chairman Ausley asked how the OCSO gets engaged with the dock applications. Liz Johnson explained that EPD requests navigation assessments from the OCSO since they are the experts. Oscar Anderson asked how far the dock would need to go out if the 25-foot setback were to be met. Neal Thomas said the OCSO's recommendation was to keep the dock at a 10-foot setback and 70 feet in length. Flormari Blackburn asked for clarification on the location of the request for the dock. Neal responded that the OCSO stated they recommend the dock be moved to the 10-foot setback from the property line. Amy Giannotti with AquaSTEM Consulting spoke on behalf of the applicant, stating that to reach 4.5 feet of water depth at the 25-foot setback, the dock would extend 100 feet from shore. The applicant, Richard Benton, stated in order to meet the 25-foot setback he would have to extend the dock out into the lake 100 feet. He said he is concerned about safety as it relates to the adjacent boat ramp if he was required to meet the 25-foot setback. Oscar Anderson asked how many people use the adjacent boat ramp. Mr. Benton stated there were about 50 homes that use the ramp and it is used fairly regularly. Flormari Blackburn asked what the objection stated. Liz Johnson read the objection. Kyle Goonen spoke on behalf of the applicant. Sheila Cichra with Streamline Permitting, Inc., spoke on behalf of the objector, Michael Underwood. She said if the dock is constructed in this location it will obstruct his view of downtown. Chairman Ausley asked for the context of what EPD requested of the OCSO. Taina shared the email that was sent to the OCSO and the response from the OCSO. Chairman Ausley closed the public hearing. Chairman Ausley stated the OCSO is very clear on where they thought the dock should be located based on water depth and safety, and their position holds a lot of weight. Oscar Anderson said that his opinion is that the waiver should be approved so the dock can be shortened.

Upon a motion by Oscar Anderson; with a second by Billy Butterfield; with all members voting AYE by voice vote; EPC voted to overturn the findings and recommendation of the Environmental Protection Officer, and make a finding that the request for waiver is consistent with Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2) and recommend approval of the request for waiver to Section 15-343(b) to reduce the minimum side setback from 25 feet to 10 feet on the eastern projected property line for the Richard Benton Dock Construction Permit BD-20-04-067. District 3. The motion passed unanimously.

3. James Herb – BD-20-08-139; Request for an after-the-fact waiver to Section 15-343(b) (side setback distance); 5307 Brosche Road, Lake Barton; District 3.

Neal Thomas gave a presentation. Oscar Anderson asked about the timeline from when the violation occurred and when the application and waiver request were received. The applicant, James Herb, asked if this forum was where he would ask for a reduction in the penalty. Liz Johnson stated that the administrative penalty of \$799 is in the action requested and the board has the opportunity to keep that penalty or modify the language to allow for EPD to work with the applicant to change the amount. Flormari Blackburn asked if the new dock stayed 10 feet from the property line, where the old dock was located, would he still need to obtain a waiver since it was a new dock. Liz Johnson said he would need a waiver because the required setback is 25 feet. Ms. Blackburn also asked for clarification of whether the request is after-the-fact and Ms. Johnson clarified that it was in fact an after-the-fact request. Chairman Ausley closed the public hearing. Oscar Anderson said the only way he

would agree to approve the waiver is if the penalty is increased because it is after-the-fact and the length of time it took to submit the application. Discussion ensued.

Upon a motion by Billy Butterfield; with a second by Elaine Imbruglia, with Mark Ausley, Billy Butterfield, Mark Corbett, and Elaine Imbruglia voting AYE, Oscar Anderson and Flormari Blackburn voting NAY by voice vote; EPC voted to accept the findings and recommendation of the Environmental Protection Officer, and make a finding that the request for waiver is consistent with Section 15-350(a)(2) and recommend approval of the request for waiver to 15-343(b) to reduce the minimum side setback from 25 feet to 7.3 feet from the western projected property line with the condition that the applicant pay an administrative penalty of \$799 to the Conservation Trust Fund within 60 days of the decision of the Board of County Commissioners for the Herb Dock Construction Permit BD-20-08-139. District 3. The motion passed 4-2.

V. Environmental Protection Division Report

None.

VI. Open Discussion

Next EPC Meeting – March 31, 2021. The meeting will be a blended meeting again with a requirement for an in-person quorum. At this time, it is expected that Members Butterfield, Blackburn, Corbett and Ausley will participate at EPD.

Chat Notes:

from Tim Hull to everyone: 8:53 AM
I have a 2020 aerial of the Heydari lot ready if the Board needs it.
from Tim Hull to everyone: 9:21 AM
That wetland area is under conservation easement to the SFWMD as well. Thank you.
from Amy Giannotti (privately): 9:50 AM
Hi Liz...I have a short presentation on behalf of my client. When it is time, please allow me to share my screen.

VII. Non-Agenda Items

None

VIII. Adjournment

The February 24, 2021 meeting adjourned at 11:12 a.m.

Chairman, Environmental Protection Commission

Date

Elizabeth R. Johnson

for

2-25-21

End of Minutes, Prepared by Godfrey F. Dickson, Jr