

ENVIRONMENTAL PROTECTION COMMISSION
3165 McCrory Place, Suite 200
Orlando, FL 32803
Panther Training Rooms I and II and Via WebEx
April 28, 2021

**ENVIRONMENTAL PROTECTION
COMMISSION (EPC)**

MEMBERS PRESENT:

Mark Ausley - Chairman
Oscar Anderson* - Vice Chairman
Flormari Blackburn - Member
Billy Butterfield - Member
Elaine Imbruglia - Member

ABSENT MEMBERS:

Mark Corbett - Member

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
Nicole Salvatico* - EPD
Jason Root - EPD
Katie Grablow - EPD

GUESTS:

Sheila Cichra*
Mark Kane* (applicant)
Jason Smithwick*

I. Call to Order:

Chairman Ausley called the meeting to order at 8:30 a.m. in Panther Training Rooms I & II.

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

None.

III. Approval of Meeting Minutes - March 31, 2021

Upon a motion by Flormari Blackburn; with a second by Billy Butterfield; with Mark Corbett being absent and members being present voting AYE by voice vote; the March 31, 2021 Meeting Minutes were approved.

IV. Public Hearings

1. Anthony and Kathryn Kane - BD-19-07-066; Request for variance to Section 15-342(c) (walkway height); 5436 Water Creek Drive, Lake William Davis; District 1

Neal Thomas gave a presentation. The applicant (Anthony Kane) interjected during the presentation that he had no knowledge that the dock had been built out of compliance with the regulations, that he had trusted his contractor and was physically in England when the dock was built. Chairman Ausley asked the applicant to hold his comments and he would be given a chance to speak later in the hearing. Mr. Thomas completed the presentation. Board discussion ensued. Flormari Blackburn asked who filed the original permit application. Nicole Salvatico stated it was the same applicants. Chairman Ausley asked if the previous modification was approved. Tim Hull said it was, but offered the clarification that the request before the Board is the second modification request. Oscar Anderson asked who is making the current request. Neal Thomas stated it was the applicants, the Kanes. Chairman Ausley asked if there was a planting plan for the conservation easement. Liz Johnson explained that it had been sodded and maintained for a long time, years prior to the applicants' purchase of the lot. She said that we did not request a planting plan, but the applicants have agreed to not mow it. The applicants' agent, Sheila Cichra, spoke on their behalf and provided a presentation. Ms. Cichra stated that the applicants had nothing to do with the original permit, as they hired Kona Docks (who then hired CVS Restorations) to handle the permitting paperwork. She stated that raising the walkway would be costly and would cause more environmental harm than leaving it at the current elevation. She pointed out the lot to the south, which has a bare shoreline and small sand beach. She states that if the variance is granted, the applicant has proposed to remove the sod within the conservation easement and replant with native, wetland vegetation. Chairman Ausley asked if a planting plan was received by the County. Sheila stated that a plan has been submitted, but that the County had deferred the proposal for planting to the applicants to present to the Board, and the applicants had already been issued a formal letter requesting they cease mowing of the area. The applicant, Mr. Kane, spoke and reiterated he hired Kona Docks to obtain the permit and construct the dock while he was living in England. Mr. Kane said he was unaware the dock was not built correctly until he received a Notice of Violation. Chairman Ausley closed the public hearing. Mr. Ausley stated the purpose of the elevated walkway was to protect wetlands and this area was not a wetland. He stated he would be supportive of a restoration plan for the conservation easement in lieu of raising the boardwalk. Flormari Blackburn stated that the applicant was made aware of the issue from the beginning and are now asking to allow it to remain because of the cost to fix it. Ms. Blackburn said that she thinks the issue with the walkway height is a self-imposed hardship. Elaine Imbruglia stated that she thinks this is not self-imposed because Mr. Kane said he was unaware of the requirements, and asked if requiring them to raise the walkway, rather than considering the restoration of the area, was the best option. Billy Butterfield asked if there was an existing dock prior to the current dock. The applicant stated that this is a new dock and there was not a previous dock. Mr. Butterfield stated that he would agree with allowing the dock to remain as-is if it had been existing prior to the 2019 permit, but since this is a recently built dock it shouldn't have been built this way to begin with. Oscar Anderson stated that the applicant probably has some legal recourse when it comes to his dock builder. Mr. Butterfield stated the walkway and the conservation area plantings are two separate issues. Liz Johnson clarified that the conservation easement is a wetland; though it may not look or act like a wetland due to previous unauthorized impacts. She further stated that EPD could request the current property owners (i.e., the applicants) restore the area. Mr. Butterfield stated that the some of the same issues come before this commission every month and that EPC should try to fix them if possible.

Upon a motion by Flormari Blackburn; with a second by Billy Butterfield; with Mark Corbett being absent, with Oscar Anderson, Flormari Blackburn, and Billy Butterfield

voting AYE by voice vote, Mark Ausley and Elaine Imbruglia voting NAY; the EPC voted to accept the findings and recommendations of the Environmental Protection Officer, and make a finding that the after-the-fact variance request is inconsistent with Orange County Code, Chapter 15, Article IX, Section 15-350(a)(1) and recommend denial of the request for after-the-fact variance to Section 15-342(c) and require the permittee to reconstruct the access walkway as shown on the site plans previously approved in the October 27, 2020 permit modification within 90 days of approval by the Board of County Commissioners for the Anthony and Kathryn Kane Dock Construction Permit Modification BD-19-07-066. District 1. The motion passed 3-2.

V. Environmental Protection Division Report

None.

VI. Open Discussion

Next EPC Meeting - May 26, 2021. The meeting will be a blended meeting again with a requirement for an in-person quorum. Members Ausley, Blackburn, Butterfield and Imbruglia have agreed to attend in person at EPD.


Oscar Anderson stated that he does not like after-the-fact requests and would like to look into a recourse to fix the issue. Discussion ensued. No action was taken.

VII. Non-Agenda Items

None

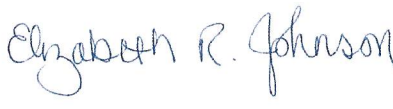
VIII. Adjournment

The April 28, 2021 meeting adjourned at 9:30 a.m.



Chairman, Environmental Protection Commission

5-26-21
Date



for

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