

**AENVIRONMENTAL PROTECTION COMMISSION**  
**3165 McCrory Place, Suite 200**  
**Orlando, FL 32803**  
**Panther Training Rooms I and II and Via WebEx**  
**August 4, 2021**

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**ENVIRONMENTAL PROTECTION  
COMMISSION (EPC)**

**MEMBERS PRESENT:**

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

**ABSENT MEMBERS:**

**Mark Corbett - Member**  
**Oscar Anderson - Vice Chairman**

**VACANT POSITION:**

Regulated Business or Municipality

**\*Denotes attending via WebEx**

**ENVIRONMENTAL PROTECTION  
DIVISION (EPD)**

**STAFF PRESENT:**

**Elizabeth R. Johnson, Assistant Manager – EPD**  
**Aleas Koos\* - OCAO**  
**Tim Hull - EPD**  
**Nicole Salvatico\* - EPD**  
**Jason Root\* - EPD**  
**Hayden Denton\* - EPD**  
**Hannah O'Neil\* - EPD**  
**Katie Grablow\* - EPD**

**GUESTS:**

**Ken Musculus**  
**Steve Kachelmeyer\***

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**I. Call to Order:**

Chairman Ausley called the meeting to order at 8:32 a.m. in Panther Training Rooms I & II.

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

None.

**III. Approval of Meeting Minutes – June 30, 2021**

**Upon a motion by Billy Butterfield; with a second by Elaine Imbruglia; with Oscar Anderson being absent and members being present voting AYE by voice vote; the June 30, 2021 Meeting Minutes were approved.**

#### IV. Public Hearings

1. Kenneth G Musculus Life Estate and Joyce M Musculus Life Estate – BD-21-04-060; Request for ATF variance to Section 15-342(g) (enclosed dock); 12748 S Lake Mary Jane Rd., Lake Mary Jane; District 4

Jason Root gave a presentation. The applicant, Ken Musculus, gave history on the project. Mr. Musculus stated his wife wanted to add to the dock. He had two different contractors come out who said they can do the work and told him the dock and any new work would be grandfathered and not require a permit. Two days after the work, a person complained and Orange County came out. He was told he needed a permit. Two days later he talked to Neal Thomas to find out what he needed to do and subsequently submitted the permit application. He said he wanted to make it right. Flormari Blackburn asked for confirmation that they added to the deck but didn't touch the enclosure. The applicant stated they added to the dock but are still under the allowed size. Jason Root confirmed the same. Chairman Ausley asked if the modifications caused them to lose grandfathering. Liz Johnson answered yes. Chairman Ausley closed the public hearing. Discussion ensued. Chairman Ausley said since the applicant acted in good faith and the neighbors don't object he didn't have a problem with the request.

**Upon a motion by Flormari Blackburn; with a second by Billy Butterfield; with Oscar Anderson and Mark Corbett being absent, voting AYE by voice vote; EPC voted to accept the findings and recommendations of the Environmental Protection Officer, and made a finding that the after-the-fact variance request is consistent with Orange County Code, Chapter 15, Article IX, Section 15-350(a)(1) and recommended approval of the request for after-the-fact variance to Section 15-342(g) to allow the enclosed dock to remain as constructed with the payment of a \$1,200 penalty to the Conservation Trust Fund within 60 days of the decision of the Board of County Commissioners for the Kenneth G Musculus Life Estate and Joyce M Musculus Life Estate Dock Construction Permit Modification BD-21-04-060. District 4. The motion passed unanimously.**

2. Steven and Sara Kachelmeyer – BD-20-08-143; Request for waiver to Section 15-342(b)(terminal platform size) and request for variance to Section 15-342(c) (access walkway height); 12128 McKinnon Road, Lake Crescent; District 1

Jason Root gave a presentation. The applicant's agent, Peter Fleck, stated an elevation greater than 30-inches requires a handrail. Peter Fleck showed some aerial photos of the lakehouse that previously existed on the property and a current aerial showing the house was demolished and removed. Chairman Ausley asked at what height you need a handrail. Jason Root and the applicant stated that 36 inches elevation above grade requires a handrail, but that he wasn't sure if that means 35 inches would not need a handrail; it's a Building code, not an EPD code. Chairman Ausley asked at what elevation the old dock starts. Peter Fleck stated it starts at the NHWE. He stated that the old dock is approximately 18 inches above grade. Chairman Ausley asked if the wetland was mostly N/E vegetation. Jason Root answered yes. The applicant, Steven Kachelmeyer stated their realtor told them the dock was grandfathered in. He stated Peter Fleck informed him that that was not entirely true. He stated he is trying to put in a useable dock, and going up over the wetland and back down the waterward side seems like an

inefficiency and a safety hazard. Chairman Ausley closed the public hearing. Discussion ensued. Chairman Ausley stated he had no hardship with the terminal platform size with the mitigation being provided. As far as the access walkway height is concerned, it's a unique situation where a house once stood, a wetland has now formed [at the lake], and he'd be supportive of the request but with some more mitigation such as additional plantings, or duck boxes. He stated the shading impacts to the N/E vegetation would actually be beneficial. Elain Imbruglia stated she had a problem with requiring mitigation for shading N/E vegetation. Flormari Blackburn stated she struggles with the variance not being self-imposed. He could raise the walkway. Billy Butterfield stated that is where he is at as well. He doesn't think the railing is an aesthetic problem as stated by the applicant and agent.

**Upon a motion by Billy Butterfield; with a second by Flormari Blackburn; with Oscar Anderson and Mark Corbett being absent, voting AYE by voice vote; EPC voted to accept the findings and recommendation of the Environmental Protection Officer and made a finding that the waiver request is consistent with Section 15-350(a)(2) and recommended approval of the request for waiver to Section 15-342(b) to increase the allowable terminal platform size from 910 square feet to 1,000 square feet with the condition that the applicant pay \$675 to the Conservation Trust Fund within 60 days of the decision of the Board of County Commissioners; and made a finding that the variance request is inconsistent with Section 15-350(a)(1) and recommended denial of the request for variance to Section 15-342(c) to reduce the required minimum access walkway height from 36 inches to 30 inches over wetlands for the Steven and Sara Kachelmeyer Dock Construction Permit BD-20-08-143. District 1. The motion passed unanimously.**

#### **V. Environmental Protection Division Report**

MMRB Sunset Review – Finalized letter was signed by Chairman Ausley and sent to MMRB.

#### **VI. Open Discussion**

Next EPC Meeting – September 29, 2021.

All four members present committed to be in person at next month's meeting.

#### **VII. Non-Agenda Items**

1. Liz Johnson stated that the blended (i.e., in-person and virtual) structure of the EPC meetings will continue at this time.
2. Liz Johnson stated that EPD is working with other County staff and the MMRB to pursue filling the vacant positions on the EPC and encouraged the members to let staff know if they have contacts that may be interested in the open seat for a Regulated Business.
3. Liz Johnson stated that on August 10, 2021, Flormari Blackburn is being reappointed to the EPC at the BCC.

#### **VIII. Adjournment**

The August 4, 2021 meeting adjourned at 9:35 a.m.

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Chairman, Environmental Protection Commission

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Date

*Elizabeth R. Johnson*

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

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