



Planning Board Staff Report

Meeting Date: August 7th, 2020

TO: Marco Island Planning Board
FROM: Daniel J. Smith, AICP – Director of Community Affairs
DATE: July 27, 2020
RE: Boat Dock Extension: 20-000013 – Request to extend a dock to approximately 46-feet

APPLICANT:

Rod Bushnell
421 W. Elkcarn Cir.
Marco Island, FL 34145

OWNERS:

Rodney C. and Lisa Bushnell
421 W. Elkcarn Cir.
Marco Island, FL 34145

Brad and Stephanie Opel
881 Partridge Ct.
Marco Island, FL 34145

1272 Orange Court LLC, a Florida Limited Liability Company
881 Partridge Ct.
Marco Island, FL 34145

PROJECT ADDRESS:

1272 Orange Ct.
Marco Island, FL 34145

LEGAL DESCRIPTION:

Lot 10, Block 128, Marco Beach Unit 4, according to the plat thereof,
as recorded in Plat Book 6, Pages 32-37, Public Records of Collier County

Parcel Id Number: 56943120004

PROJECT DESCRIPTION:

The Petitioner is proposing a boat dock extension which will be a total of 46-feet past the platted property line into the waterway, which is 16-feet further than allowed in the Boat Dock Facilities code. The applicant has stated that the additional length is necessary to accommodate the homeowners' vessels at times of low water adjacent to the property's seawall.

The property in question is approximately a 0.34-acre residential lot located in zoning district RSF-3. The lot is currently being developed with a primary structure. The contractor states that the additional protrusion into the waterway is necessary to accommodate the mooring of vessels with sufficient mean-low water depths during extreme low-water events, and to allow for the owner to accommodate larger vessels than what would be possible with a dock only allowed to protrude the 30' maximum provided for in Chapter 54 "Boat Docking Facilities."

LAND USE AND ZONING:

Neighboring Conditions:

North:	1278 Orange Ct Developed lot	RSF-3 Zoning
South:	1264 Orange Ct Developed lot	RSF-3 Zoning
West:	Factory Bay Open Water	N/A
East:	1271 Orange Ct Developed Lot	RSF-3 Zoning



1. Site Aerial (pre construction)



2. Zoning Map

DEVIATIONS TO CODE:

The proposed dock will require a Boat Dock Extension variance laid-out in the City's Boat Docking Facilities Code Sec. 54-114

STAFF ANALYSIS:

As the applicant indicated in their submittal material, BD 16-004459, for 1264 Orange CT (adjacent to this property) was approved by the City Council on June 19, 2017 for a 16.5-foot boat dock extension. In fact, Mr. Bushnell was the petitioner for that request. In researching 1248 Orange, it appears an extension was approved in 2012, however, a permit to change two pilings indicated the dock at 49 feet and was classified as non-conforming.

Below is the criteria, Sec. 54-115.(f). 1-10, used to review for a boat dock protrusion:

- 1. Does the proposed docking facility meet the other standards set forth in the City's Land Development Code?**
 - The proposed dock would meet all other City requirements, including side-yard riparian setbacks and the inclusion of required warning reflectors for boating safety.
- 2. Is the water depth where the proposed vessel(s) is to be located sufficient (as a general guide, four feet mean low water is deemed to be sufficient) to allow for safe mooring of the vessel, thereby necessitating the extension requested?**
 - According to the contractor's profile of the bay bottom, this area experiences the minimum mean-low water depth of 4-feet within the 30' buildable area allowed for in the code. The 4-foot depth is considered the minimum necessary to moor a vessel for safe ingress and egress from the dock.

1. Does the proposed boat docking facility meet the other standards (setbacks, height, etc.) set forth in Ordinance 03-7

Yes it meets all other standards set forth

2. Is there sufficient water depth where the proposed vessel(s) is to be located (as a general guide, -4 feet mean low water is deemed to be sufficient) to allow for safe mooring of the vessel?

The current water depths along the seawalls are very low along the bay side of Orange Ct. approximately 1 ft. in depth. during periods of full moon it dips to 6" or less making it impossible to get a boat of any substantial size off the lift.

3. Are there special conditions related to the subject property or waterway which justify the proposed dimensions and location of the proposed boat docking facility?

- o The contractor indicated that it is a hardship to have shallow water so close, which restrict the type of vessel the property owner may want—particularly during extreme low-tide events--which necessitates this variance.

4. Does the proposed boat docking facility and moored vessel(s) protrude greater than 25 percent of the width of the navigable waterway, and whether or not a minimum of 50 percent of the waterway width between boat docking facilities and moored vessel(s) on the opposite side of the waterway is maintained in order to ensure reasonable waterway width for navigation?

- o The dock and associated vessels will not protrude more than 25% of the total width of the waterway and will leave more than 50% of the waterway width open for safe navigation, considering that the proposed location sits on an open body of water.

5. Is the proposed boat docking facility of the minimum dimensions necessary in order to adequately secure the moored vessel while providing reasonable access to the boat for routine maintenance without the use of excessive deck area?

- o The total area of the dock over water is proposed to be 921 sq. ft. Staff believes that this proposed dock will be the minimum area necessary to accommodate vessels and to provide safe access for cleaning and maintenance.

3. Are there any special conditions related to the subject property or waterway which justify the proposed dimensions and location of the proposed boat docking facility?

See above answer as to special conditions. It becomes a hardship to not be so restricted in the size of vessel you wish to have due to the shallow waters.

There is precedent on the street with both the properties at 1248 Orange and 1264 Orange Ct. with the same extension of dockage. Its also prudent to note that the designated boat channel is on the opposite side of the bay additionally the proposed extension does not impede or create a hazard for boat traffic.

4. Does the proposed boat docking facility and moored vessel protrude greater than 25% of the width of the navigable waterway and is a minimum of 50% of the waterway width between dock structures/moored vessel(s) on the opposite side of the waterway maintained in order to ensure reasonable waterway width for navigability?

NO does not protrude greater than 25%

Yes Waterway is fully navigable with extended dock.

5. Is the proposed dock of minimal dimensions necessary in order to adequately secure the moored vessel while providing reasonable access to the boat for routine maintenance without the use of excessive deck area?

Yes

6. Is the proposed boat docking facility of minimal dimensions and located to minimize the impact of view to the channel by surrounding property owners?

- o Based on aerial photos, the proposed dock will have a minimal impact on views down the shoreline, particularly for neighbors to the south of the subject property considering that the adjacent neighbor at 1264 Orange Ct currently have a dock which protrudes a similar distance into the waterway (approximately 46.5') and both adjacent neighbors have provided letters stating that the proposed dock is of no concern to them.

7. Are the proposed vessel(s) in excess of 50 percent of the length of the water frontage on the subject property such that the extension of the boat docking facility may adversely impact the view to the channel by surrounding property owners?

- The proposed docking system drawing (dated 7/6/20) and vessels collectively will not exceed 50% of the total length of the lot's water frontage.
- 8. Is the proposed location and design of the boat docking facility and moored vessel(s) in combination such that it may infringe upon the use of neighboring properties, including any existing boat docking facilities?**
- The proposed dock will not protrude into any adjoining riparian setbacks and will not infringe upon the ingress or egress of neighbors' vessels.

6. Is the proposed structure of minimal dimensions and located (designed) to minimize the impact of view to the channel by surrounding property owners?

Yes

7. Is the moored vessel in excess of 50% of the length of the waterfrontage such that the addition of a dock structure will increase the impact on or negatively impact the view to the waterway by surrounding property owners? (In the case of multi-family developments and public marinas, the 50 percent provision may be exceeded).

No it is not in excess of 50%

8. Will the proposed location and design of the boat docking facility and moored vessel(s) be such that it may infringe upon the use of neighboring properties, including any existing dock structures?

No

9. Are there seagrasses located within 200 feet of the proposed boat docking facility?

- The contractor has asserted in official documents that there are no seagrass beds on the site or within 200 ft. of the proposed dock.

10. Regarding existing benthic organisms in the vicinity of the proposed extension:

a. Are seagrasses located within 200 feet of the proposed dock?

No there are no sea grasses

10. Is the proposed dock subject to the manatee protection requirements set forth in section 54-117 of the City's Boat Docking Facilities Code?

- o The contractor has stated that the Manatee Protection areas are not relevant to this site because of the nature of the proposed dock and it being constructed on a single-family lot which is not addressed in this section.

b. Is the proposed dock subject to the manatee protection requirements in Sec 10 of Ordinance 00-04?

No it is not

STAFF RECOMMENDATION AND FINDINGS:

Staff recommends Planning Board approve of BD-20-000013 with the below findings:

1. The dock and associated vessels will not protrude more than 25% of the total width of the waterway and will leave more than 50% of the waterway width open for safe navigation, considering that the proposed location sits on an open body of water
2. The total are of the dock over water is proposed to be 921 sq. ft. Staff believes that this proposed dock will be the minimum area necessary to accommodate larger vessels as typically seen in our area and to provide safe access for cleaning and maintenance.
3. Based on aerial photos, the proposed dock will have a minimal impact on views down the shoreline, particularly for neighbors to the South of the subject property considering that the adjacent neighbor at 1264 Orange Court currently have a dock which protrudes a similar distance into the waterway (approximately 45') and both adjacent neighbors have provided letters stating that the proposed dock is of no concern to them.
4. The proposed docking system drawing (dated 7/6/20) and vessels collectively will not exceed 50% of the total length of the lot's water frontage.
5. The proposed dock will not protrude into any adjoining riparian setbacks and will not infringe upon the ingress or egress of neighbors' vessels.
6. The contractor states that there are no seagrass beds in the immediate area of the dock, although the submission package does not include documentation to that effect and no draft boat dock application which will be provided to the State was included.
7. This dock does not fall under regulations on Manatee protection zones since it is a single-family zoned lot.
8. The dock and moored vessels (including motor) will not protrude beyond the proposed protrusion of forty-six (46) feet.

Conditions:

1. BD-20-000013 includes a 6 page document, including:
 - (a) The 5-page set of drawings prepared by Marco Surveying & Mapping of Naples, Florida, under Work Order Number 19-759, dated October, 2019 without revision, including Sheets 1 (Location Sheet), and 2 through 5 (Cross Section Exhibit; and
 - (b) A one-page hand written revised dock drawing.
2. Failure to Obtain Other Permits. That issuance of this approval by the City does not in any way create any right on the part of the Owner/Developer to obtain a permit from a state or federal agency and does not create any liability on the part of the City for issuance of the approval if the Owner/Developer fails to obtain the requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in the violation of state or federal law. All applicable state and federal permits must be obtained before commencement of the Development. This condition is included pursuant to Section 166.033, Florida Statutes, as amended.
3. Failure to Adhere to Resolution of Resolution of Approval. That failure to adhere to the approval terms and conditions contained in this Resolution shall be considered a violation of this Resolution and the City Code, and persons found violating this Resolution shall be subject to the penalties prescribed by the City Code, including but not limited to the revocation of any of the approval(s) granted in this Resolution and any other approvals conditioned on this approval. The Owner/Developer understands and acknowledges that it must comply with all other applicable requirements of the City Code before it may commence construction or operation, and that the foregoing approval in this Resolution may be revoked by the City at any time upon a determination that the Owner/Developer is in non-compliance with the City Code.

Daniel J. Smith, AICP

Director of Community Affairs