

RESOLUTION 20-29

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING A SPECIAL PERMIT FOR A BOAT DOCK EXTENSION 46-FEET FROM THE PROPERTY LINE FOR 1272 ORANGE COURT, MARCO ISLAND; MAKING FINDINGS; PROVIDING DEFINITIONS; APPROVING THE BOAT DOCK EXTENSION; PROVIDING FOR FAILURE TO OBTAIN OTHER DEVELOPMENT PERMITS; PROVIDING FOR FAILURE TO COMPLY WITH APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 54-115 of the of the Marco Island Waterways and Beaches Code relates to special permits to maximum protrusion lengths of a docking system; and

WHEREAS, the Owner/Developer submitted a boat dock extension plan for the Development of a boat dock extension for 1272 Orange Court, Marco Island, Florida; and

WHEREAS, the City of Marco Island staff has reviewed and recommended approval of BD-20-000013; and

WHEREAS, the proposed dock meets all other City requirements, including side-yard riparian setbacks and the inclusion of required warning reflectors for boating safety; and

WHEREAS, 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

WHEREAS, the total area of the dock over water is proposed to be 921 sq. ft. which City Staff believes will be the minimum area necessary to accommodate larger vessels as typically seen in Marco Island and to provide safe access for cleaning and maintenance; and

WHEREAS, 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 has 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; and

WHEREAS, 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; and

WHEREAS, the proposed dock will not protrude into any adjoining riparian setbacks and will not infringe upon the ingress or egress of neighbors' vessels; and

WHEREAS, 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; and

WHEREAS, this dock does not fall under regulations on Manatee protection zones since it is a single-family zoned lot; and

WHEREAS, the dock and moored vessels (including motor) will not protrude beyond the proposed protrusion of forty-six (46) feet; and

WHEREAS, the Planning Board finds that the application for a boat dock extension BDE-20-000013 meets all of the requirements of Section 54-115(f), City of Marco Island Code of Ordinances; and

WHEREAS, the Planning Board has found that granting of the special permit for the boat dock extension is in order, because the boat dock extension will promote the public health, safety, welfare, and aesthetics of the Subject Property by adding area for safely moving around the vessels for cleaning and maintenance; and

WHEREAS, the Planning Board has found that granting of the special permit for the Boat dock extension is in order, because given the size of the project and the adjacent docks of similar protrusion into the waterway, it is reasonable and will not create a special privilege, because the dock is being rebuilt within the existing general footprint; and

WHEREAS, the Planning Board has found that granting of the special permit for the boat dock extension is in harmony with the Boat Docking Facilities code, because it will promote the safety of the owner and their guests, it is aesthetically in order with other docks in the area such that it will not be injurious to the neighborhood; and

WHEREAS, the City's Planning Board has reviewed the staff report and the boat dock extension, taken public testimony, and hereby recommends approval of the special permit conditioned upon the boat dock extension submission package and subject to certain conditions set forth herein, as being in compliance with applicable Boat Docking Facilities regulations on August 7, 2020; and

WHEREAS, the City Council does hereby adopt the findings of the Planning Board and approves the special permit and the boat dock extension for BDE-20-000013, subject to the conditions of approval set forth in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

SECTION 1. Recitals; Definitions.

(a) That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

(b) That as used herein, unless the context hereof, or City Code of Ordinances, requires to the contrary, the following terms will be defined as set forth below:

(1) "City" means the City of Marco Island, a Florida Municipal Corporation.

(2) "Development" is defined as set forth in Section 163.3164, Florida Statutes.

(3) "Development Permit" is defined as set forth in Section 163.3164, Florida Statutes.

(4) "Boat Docking Facilities" means the City of Marco Island Codes which consists of Section 54-100 through 54-118, Code of Ordinances of the City of Marco Island.

(5) "Owner/Developer" means Brad and Stephanie Opel, 1272 Orange Court LLC, a Florida Limited Liability Company, and Rodney C. and Lisa Bushnell, as owners or developers of the Subject Property, and each of their respective successors and assigns.

(6) "Subject Property" means the following described parcel of land, lying, situate and being in the State of Florida, County of Collier, City of Marco Island, to-wit:

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.

(Said Legal Description has neither been reviewed nor examined by the City, Weiss Serota Helfman Cole & Bierman, P.L., Alan Gabriel, Esq., or Paul R. Gougelman, Esq., but is based upon and derived from the deed recorded on June 19, 2020, in Official Records Book 5777, Page 1657, Public Records of Collier County, Florida.)

(7) "Boat Dock Extension Plans" means the 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.

SECTION 2. Adoption. The Owner/Developer's special permit for the boat dock extension as set forth on the Boat Dock Extension Plans on the Subject Property is hereby approved. The boat dock extension is approved subject to the following conditions of approval set forth in Sections 3. and 4. of this Resolution.

SECTION 3. 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 on the Subject Property. This condition is included pursuant to Section 166.033, Florida Statutes, as amended.

SECTION 4. Failure to Adhere to Resolution. 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.

SECTION 5. Effective Date. That this Resolution shall take effect immediately upon adoption.

ADOPTED BY THE PLANNING BOARD OF THE CITY OF MARCO ISLAND, this 7th day of August 2020.

ATTEST:

CITY OF MARCO ISLAND, FLORIDA

Laura M. Litzan, City Clerk

By: _____
Claire Babrowski, Chair

Approved as to form and legal sufficiency:

Alan L. Gabriel, City Attorney