



Interoffice Memorandum

AGENDA ITEM

February 4, 2020

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental, and Development
Services Department

CONTACT PERSON: David D. Jones, P.E., CEP, Manager
Environmental Protection Division
(407) 836-1406

SUBJECT: March 10, 2020 – Consent Item
Environmental Protection Commission Recommendation for
Request for Waiver and Variance for the Jeffrey S. Sobek
Revocable Trust Dock Construction Permit BD-19-11-129

Jeffrey S. Sobek Revocable Trust (applicant) is requesting approval of a waiver to Orange County Code (Code), Chapter 15, Article IX, Section 15-342(b) (terminal platform size) and a variance to Section 15-343(a) (side setback distance). The project site is located at 12036 Sandy Shores Drive, Windermere, Florida 34786. The Parcel ID number is 24-23-27-7808-00-052. The subject property is located on Lake Butler in District 1.

The applicant is requesting a terminal platform size of 504 square feet. The maximum allowed terminal platform size for the subject parcel is 481.5 square feet. Additionally, the applicant is requesting to construct a dock three feet over the projected property line to the north in lieu of the required 10 feet setback from the projected property line as required by Code. There is an existing dock on the parcel that was built by a previous owner and the applicant is proposing to construct the new dock in the same footprint and location as the existing dock.

Notification of the Application for Waiver and Application for Variance was sent to all shoreline property owners within a 300-foot radius of the property. No objections were received. A Letter of No Objection (LONO) was received from the affected property owner to the north, James Brandt, who resides at 12030 Sandy Shores Drive.

Staff has evaluated the waiver and variance requests for compliance with the criteria for approval. The recommendation of the Environmental Protection Officer (EPO) is to approve the waiver to Section 15-342(b) (terminal platform size) based on a finding that the applicant has demonstrated there will be no effect from the proposed waiver on abutting shoreline owners pursuant to Section 15-350(a)(2)(2) as no objections have been received. Additionally, pursuant to Section 15-350(a)(2)(1), negative effects to the environment from additional shading due to the excess in terminal platform size will be offset through the payment of \$435 to the Conservation Trust Fund (CTF) as mitigation.

Page Two

March 10, 2020 – Consent Item

Environmental Protection Commission Recommendation for Request for Waiver and Variance for the Jeffrey S. Sobek Revocable Trust Dock Construction Permit BD-19-11-129

The recommendation of the EPO is to approve the variance to Section 15-343(a) (side setback distance) based on a finding that the applicant has demonstrated that compliance with the provisions from which a variance is sought would create a unique and unnecessary non-self-imposed hardship pursuant to Section 15-350(a)(1)(1), since the dock was built by a prior owner in the same location. Additionally, pursuant to Section 15-350(a)(1)(2), the applicant has demonstrated that there will be no effect from the proposed variance on abutting shoreline owners as no objections have been received and a LONO from the affected property owner to the north was included with the application.

Based upon evidence and testimony presented at the January 29, 2020 Environmental Protection Commission (EPC) public hearing, the EPC voted to accept the findings and recommendation of the EPO and made a recommendation to approve the request for waiver to Section 15-342(b) (terminal platform size) with the condition that the applicant pay \$435 to the CTF as mitigation; and approve the request for variance to Section 15-343(a) (side setback distance) to reduce the side setback to -3.0 feet from the northern projected property line.

ACTION REQUESTED: Accept the findings and recommendation of the Environmental Protection Commission and approve the request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-342(b) to increase the allowable terminal platform size by 22.5 square feet to a total of 504 square feet with the condition that the applicant pay \$435 to the Conservation Trust Fund within 60 days of the decision of the Board, and approve the request for variance to Section 15-343(a) to reduce the side setback to -3.0 feet from the northern projected property line for the Jeffrey S. Sobek Revocable Trust Dock Construction Permit BD-19-11-129. District 1

JWW/DJ: mg

Attachments

Dock Construction Application for Waiver and Variance



Dock Construction Application for Waiver and Variance

BD-19-11-129

District #1

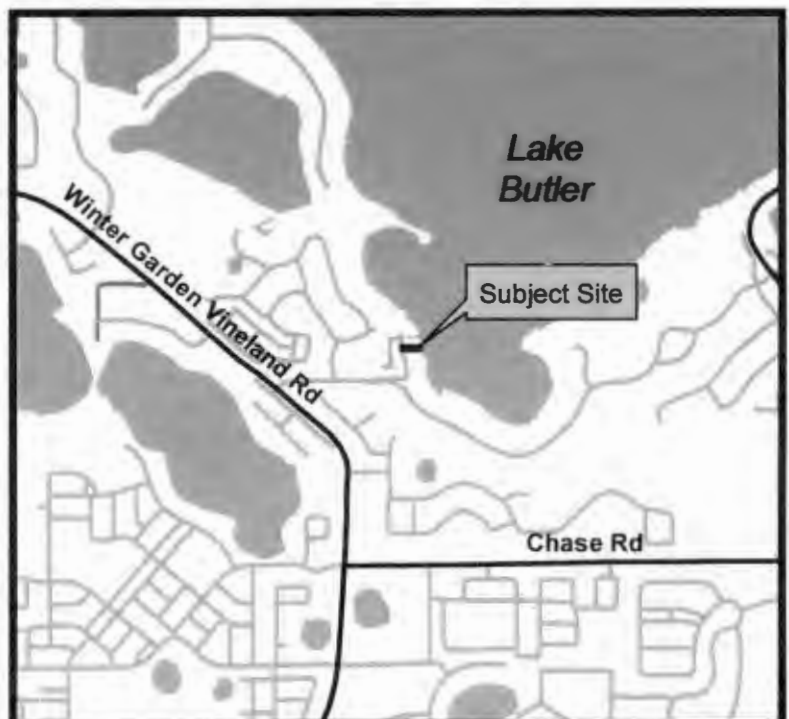
Applicant: Jeffrey S. Sobek
Revocable Trust

Address: 12036 Sandy Shores Drive

Parcel ID: 24-23-27-7808-00-052

Project Site 

Property Location 





ENVIRONMENTAL PROTECTION DIVISION
 David D. Jones, P.E., CEP, Manager
 3165 McCrory Place, Suite 200
 Orlando, FL 32803
 407 836-1400 • Fax 407-836-1499
 www.ocfl.net

ENVIRONMENTAL
 PROTECTION
 COMMISSION

ORANGE COUNTY
 ENVIRONMENTAL PROTECTION COMMISSION
 January 29, 2020

Jonathan Huels
Chairman

PROJECT NAME: Jeffrey S. Sobeck Revocable Trust

Mark Ausley
Vice Chairman

PERMIT APPLICATION NUMBER: BD-19-11-129

Oscar Anderson

ADDRESS/LAKE: 12036 Sandy Shores Drive/ Lake Butler

Perry Barnasi

RECOMMENDATION:

Floman Blackburn

Billy Butterfield

Mark Corbett

Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(b), accept the findings and recommendation of the Environmental Protection Officer and make a finding that the waiver request is consistent with Section 15-350(a)(2), and recommend approval of the request for waiver to Section 15-342(b) to increase the allowable terminal platform size by 22.5 square feet to a total of 504 square feet with the condition that the applicant pay \$435 to the Conservation Trust Fund within 60 days of the decision of the Board of County Commissioners, and make a finding that the variance request is consistent with Section 15-350(a)(1) and recommend approval of the request for variance to Section 15-343(a) to reduce the side setback to -3.0 feet from the northern projected property line for the Jeffrey S. Sobeck Revocable Trust Dock Construction Permit BD-19-11-129. District 1.



EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED

EPC DISAGREES WITH THE ACTION REQUESTED, AS PRESENTED AND HAS MADE THE FOLLOWING RECOMMENDATION:

Signature of EPC Chairman: *Jonathan Huels*

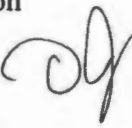
EPC Recommendation Date: 1/29/20



Interoffice Memorandum

January 3, 2020

To: Environmental Protection Commission

From: David D. Jones, P.E., CEP, Manager
Environmental Protection Division 

Subject: Jeffrey S. Sobeck Revocable Trust Request for a Waiver and Variance for Dock Construction Permit BD-19-11-129

Reason for Public Hearing

Jeffrey S. Sobeck Revocable Trust is requesting approval of a dock construction permit with a waiver to Orange County Code (Code), Chapter 15, Article IX, Section 15-342(b) (terminal platform size) and a variance to Section 15-343(a) (side setback distance).

Location of Property/Legal Description

The project site is located at 12036 Sandy Shores Drive, Windermere, Florida 34786. The Parcel ID number is 24-23-27-7808-00-052. The subject property is located on Lake Butler in District 1.

Background

On November 12, 2019, the Environmental Protection Division (EPD) received an Application to Construct a Dock for the subject property. Included with the application was an Application for Waiver to construct a dock larger than allowed by Code and an Application for Variance to reduce the side setback from what is allowed by Code. There is an existing dock on the subject parcel and the applicant is proposing to construct the new dock in the same footprint as the existing dock. Normally, this type of repair work would not require a new permit from EPD; however, upon review of historic aerial photographs, it was determined that the dock configuration (footprint) changed sometime between 2004 and 2006. Therefore, rebuilding the dock in the same footprint is no longer a "repair of a grandfathered dock" and the dock now needs to meet current Code requirements. The current property owner did not own the parcel when the unauthorized dock modifications occurred.

Public Notifications

In accordance with Chapter 15, Article IX, Section 15-347(a) of the Code, on November 21, 2019, a Notice of Application (NOA) for waiver to terminal platform size and variance to side setback were sent to all shoreline property owners within a 300-foot radius of the property.

Terminal Platform Size Waiver

Chapter 15, Article IX, Section 15-342(b) of the Code states, "the maximum square footage of the terminal platform shall not exceed the square footage of ten times the linear shoreline frontage for the first seventy-five (75) feet of shoreline and five times the linear shoreline frontage for each foot in excess of

seventy-five (75) feet, not to exceed a maximum of 1,000 square feet.” The applicant has a shoreline that measures approximately 48.15 linear feet at the Normal High Water Elevation (NHWE), allowing for a maximum terminal platform size of 481.5 square feet. The applicant is requesting a terminal platform of 504 square feet (22.5 square feet larger than allowed).

Pursuant to Section 15-350(a)(2), “the applicant shall describe (1) how this waiver would not negatively impact the environment, and (2) the effect of the proposed waiver on abutting shoreline owners.”

To address Section 15-350(a)(2)(1), the applicant’s agent states, “*The terminal platform will be constructed over open water, exactly where it has been for many years, so there will not be any impact to wetland vegetation. The proposed terminal platform is only 22.5 square feet over the allowed limit.*”

To address Section 15-350(a)(2)(2), the applicant’s agent states, “*The proposed structure will not adversely affect the adjacent property owner’s view or navigability, as evidenced by the attached LONO.*”

A Letter of No Objection (LONO) from the adjacent property owner to the north, James Brandt, was included with the application. The shading impacts from the larger-than-allowed terminal platform were evaluated by EPD staff using the Uniform Mitigation Assessment Method. The applicant has agreed to provide mitigation for the additional shading impacts with a one-time payment of \$435 to the Conservation Trust Fund (CTF).

Side Setback Variance

Chapter 15, Article IX, Section 15-343(a) of the Code states, “On lots or parcels having a shoreline frontage of less than seventy-five (75) feet, docks, including designated mooring areas, shall have a minimum side-setback of ten (10) feet from the projected property line.” The applicant has a shoreline that measures approximately 48.15 linear feet at the NHWE, requiring a minimum side setback of 10 feet. The applicant is requesting a side setback of -3.0 feet from the northern projected property line. A LONO was received from the affected property owner to the north, James Brandt, who resides at 12030 Sandy Shores Drive.

Section 15-350(a)(1) *Variations* states, “A variance application may receive an approval or approval with conditions when such variance: (1) would not be contrary to the public interest; (2) where, owing to special conditions, compliance with the provisions herein would impose an unnecessary hardship on the permit applicant; (3) that the hardship is not self-imposed; and (4) the granting of the variance would not be contrary to the intent and purpose of this article.”

Pursuant to Section 15-350(a)(1), “The applicant shall also describe (1) how strict compliance with the provisions from which a variance is sought would impose a unique and unnecessary hardship on the applicant - the hardship cannot be self-imposed; and (2) the effect of the proposed variance on abutting shoreline owners.”

To address Section 15-350(a)(1)(1), the applicant’s agent states, “*We are just trying to rebuild the terminal platform in the same location, instead of tearing everything down and starting over. The boathouse has been in this location for over 20 years.*”

To address Section 15-350(a)(1)(2), the applicant’s agent states, “*There is no navigational hazard or view obstruction, as evidenced by the attached LONO from the affected adjacent property owner.*”

Objections

EPD has received no objections to the request.

Enforcement Action

There is no current enforcement action for this property.

Staff Recommendation

Staff has evaluated the waiver and variance requests for compliance with the criteria for approval. The recommendation of the Environmental Protection Officer (EPO) is to approve the waiver to Section 15-342(b) (terminal platform size) based on a finding that the applicant has demonstrated there will be no effect from the proposed waiver on abutting shoreline owners pursuant to Section 15-350(a)(2)(2) as no objections have been received. Additionally, pursuant to Section 15-350(a)(2)(1), negative effects to the environment from additional shading due to the excess in terminal platform size will be offset through the payment of \$435 to the CTF as mitigation.

The recommendation of the EPO is to approve the variance to Section 15-343(a) (side setback distance) based on a finding that the applicant has demonstrated that compliance with the provisions from which a variance is sought would impose a unique and unnecessary non-self-imposed hardship pursuant to Section 15-350(a)(1)(1), since the dock was built by a prior owner in the same location. Additionally, pursuant to Section 15-350(a)(1)(2), the applicant has demonstrated that there will be no effect from the proposed variance on abutting shoreline owners as no objections have been received and a LONO from the affected property owner to the north was included with the application.

ACTION REQUESTED: Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(b), accept the findings and recommendation of the Environmental Protection Officer and make a finding that the waiver request is consistent with Section 15-350(a)(2), and recommend approval of the request for waiver to Section 15-342(b) to increase the allowable terminal platform size by 22.5 square feet to a total of 504 square feet with the condition that the applicant pay \$435 to the Conservation Trust Fund within 60 days of the decision of the Board of County Commissioners, and make a finding that the variance request is consistent with Section 15-350(a)(1) and recommend approval of the request for variance to Section 15-343(a) to reduce the side setback to -3.0 feet from the northern projected property line for the Jeffrey S. Sobeck Revocable Trust Dock Construction Permit BD-19-11-129. District 1.

JR/NT/TMH/ERJ/DDJ: mg

Attachments



AFFECTED ADJACENT PROPERTY OWNER
NOTARIZED STATEMENT OF NO OBJECTION
TO BOAT DOCK SIDE-SETBACK WAIVER REQUEST

OCEPD NOV42019AM10:19

The following is to be completed by the affected adjacent property owner as required by Section 15-343, Orange County Code. Section 15-343(b) states: "On lots or parcels having a shoreline frontage of seventy-five (75) feet or greater, docks shall have a minimum side setback of twenty-five (25) feet from the projected property line, unless such requirement is reduced by an appropriate waiver which shall be reviewed by the environmental protection division. **Waivers from side-setback requirements may be granted by the environmental protection officer if a notarized letter of no objection to the waiver is received from the shoreline property owner abutting the applicant's property line affected by the waiver.**"

I, James A. Bates, a legal property owner of property located at 7645 Green Mountain Way
(Adjacent Property Owner Name) (Address)

have reviewed the dock construction plans dated 11/27/18, for the property located at
7639 Green Mountain Way, and have no objections.

The dock construction plans include a side setback waiver request of 9.3 feet, in lieu of the minimum ~~25~~¹⁰ feet required by Code.

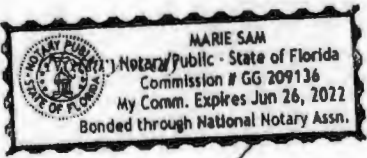
[Signature]
(Signature - Adjacent Affected Property Owner)
JAMES BATES
(Print Name - Adjacent Affected Property Owner)

11/29/19
(Date)

ACKNOWLEDGEMENT:

STATE OF FLORIDA
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 29 day of 2019 by James Bates



[Signature]
(Signature of Notary Public - State of Florida)

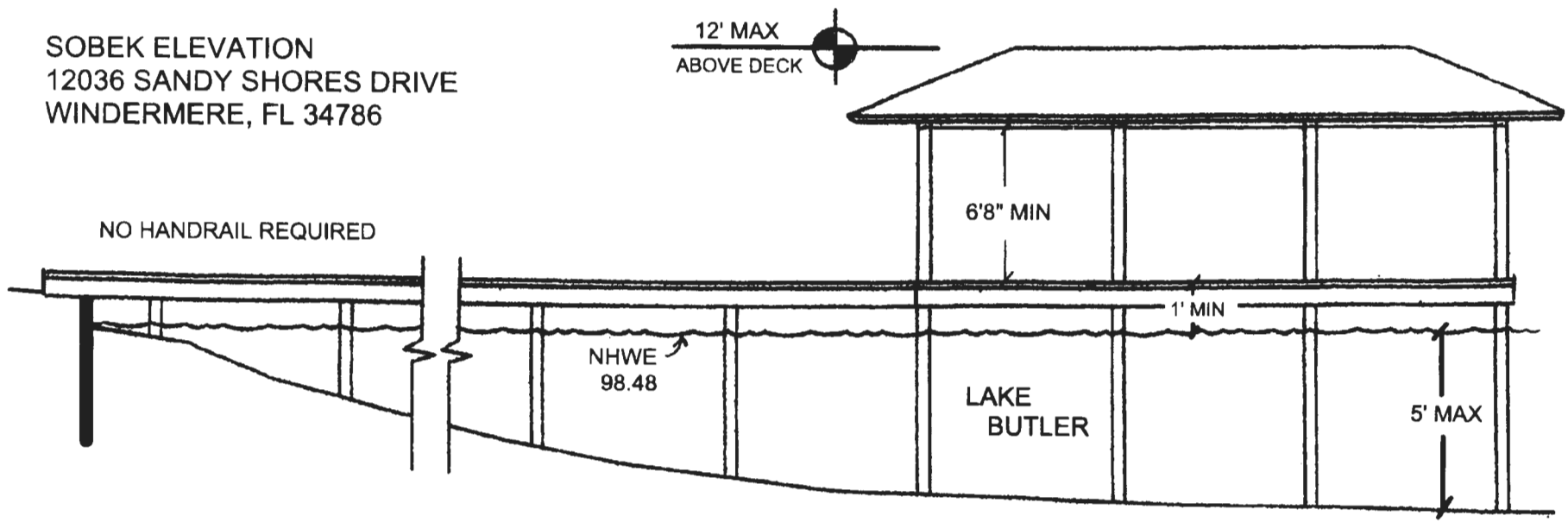
Personally Known OR Produced Identification

Type of Identification Produced _____

SOBEK ELEVATION
12036 SANDY SHORES DRIVE
WINDERMERE, FL 34786

12' MAX
ABOVE DECK

NO HANDRAIL REQUIRED



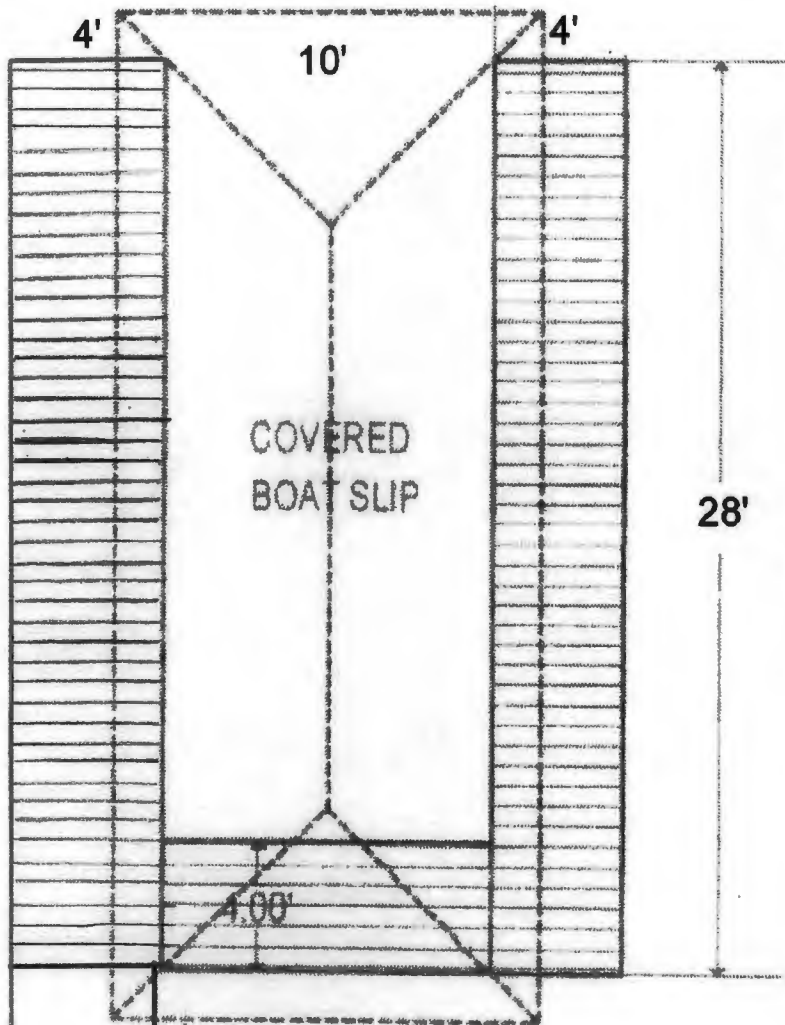
NHWE
98.48

6'8" MIN

1' MIN

LAKE
BUTLER

5' MAX



REMOVE AND REBUILD
TERMINAL PLATFORM IN
THE SAME FOOTPRINT

28'

LAKE
BUTLER

SOBEK PLAN VIEW
12036 SANDY SHORES DRIVE
WINDERMERE, FL 34786

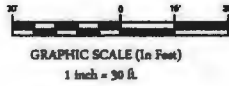
35'

EXISTING DOCK NOT TO BE ALTERED

NHWE
98.48

4'





ABBREVIATION DESCRIPTION:

- A/C AIR CONDITIONER
- C/L CENTERLINE
- I.D. IDENTIFICATION
- LB LICENSED BUSINESS
- N.A.V.D. NORTH AMERICAN VERTICAL DATUM
- PSM PROFESSIONAL SURVEYOR MAPPER
- R/W RIGHT OF WAY
- TOPO TOPOGRAPHIC ELEVATION

LEGAL DESCRIPTION:

THE SOUTH 45 FEET OF LOT 5, SANDY SHORES, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 8, PAGE 57, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

FLOOD ZONE: B
COMMUNITY NUMBER: 120185
PANEL: 0005
SUFFIX: C

ORIGINATION BENCHMARK

ORANGE COUNTY BRASS DISK
"J" 12"
N.A.V.D. 1988 ELEVATION = 107.84



LOCATION MAP NOT TO SCALE

ORIGINAL FIELD WORK
COMPLETED BY:
TARGET SURVEYING, LLC
DATED: 05-08-2018
SURVEY #326931

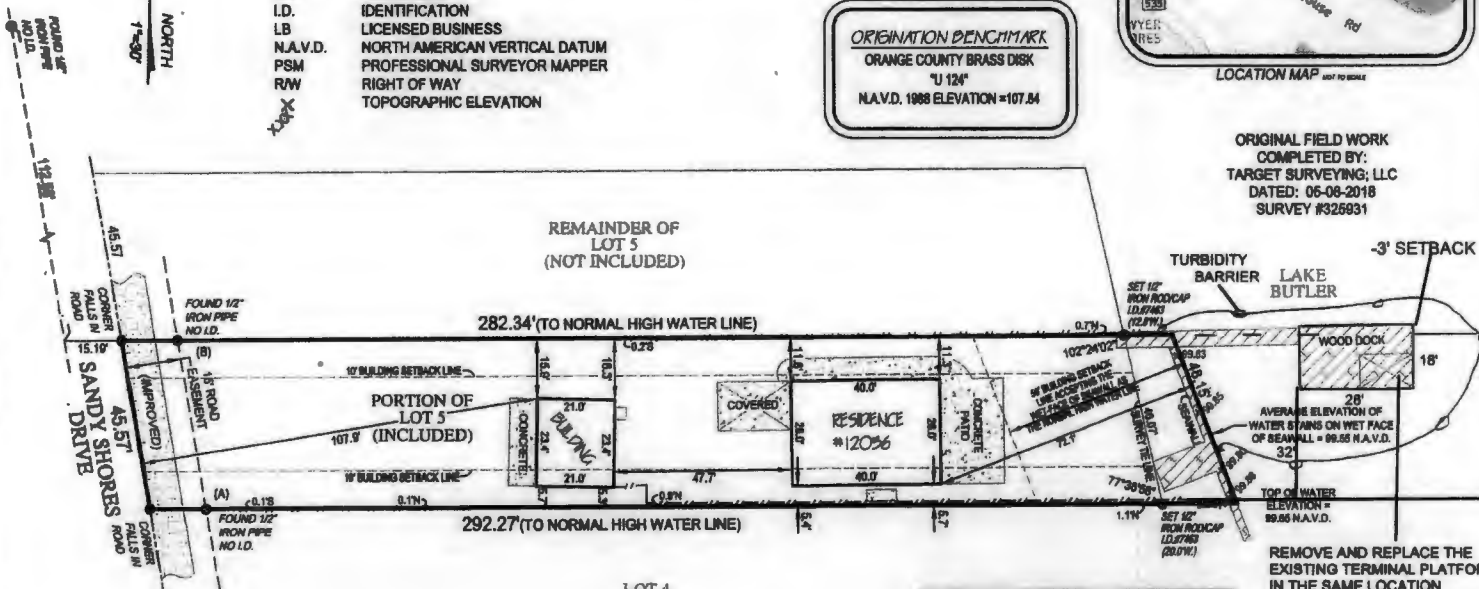
BOUNDARY SURVEY OF
12036 SANDY SHORES DRIVE
WINDERMERE, FL 34796
PREPARED FOR
JEFFREY SODEK

C-17882
05-25-2019
1" = 30' 1 of 1

6250 N. MILITARY TRAIL, SUITE 102
WEST PALM BEACH, FL 33407
www.compassurveying.net

COMPASS SURVEYING

LB. 7463 PHONE: 561.640.4800 FAX: 561.640.0576



SETBACK DATA BASIC REQUIREMENTS
ORANGE COUNTY CODE SECTION 38-1501
DISTRICT: R-CE
FRONT YARD: 35 FEET
REAR YARD: 50 FEET
SIDE YARD: 10 FEET
MAXIMUM BUILDING HEIGHT: 35 FEET

CORNER ANGLE DATA
(A) 90°05'00"
(B) 80°55'00"
(C) 102°24'02"
(D) 77°35'58"

NORMAL HIGH WATER LINE ELEVATION IS LOCATED WATERWARD OF THE WET-FACE OF SEAWALL. THE WET-FACE OF THE SEAWALL IS THE NORMAL HIGH WATER LINE.

NORMAL HIGH WATER LINE BASED ON ELEVATION 98.539'(NAVD88) PER ORANGE COUNTY STORMWATER MANAGEMENT

REMOVE AND REPLACE THE EXISTING TERMINAL PLATFORM IN THE SAME LOCATION

NOTES:

1. LEGAL DESCRIPTION PROVIDED BY CLIENT
2. NO SEARCH OF THE PUBLIC RECORD FOR THE PURPOSE OF ABSTRACTING TITLE WAS PERFORMED BY THIS OFFICE
3. NO SUBSURFACE IMPROVEMENTS WERE LOCATED AS PART OF THIS SURVEY
4. ALL ANGLES AND DISTANCES SHOWN HEREON ARE BOTH RECORD AND MEASURED UNLESS OTHERWISE NOTED

SITE PLAN DRAWN BY:
SHEILA CICHRA
OCTOBER 28, 2019

Kenneth J. Osborne PSM #6415
THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER