



Interoffice Memorandum

October 27, 2023

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

FROM: Andres Salcedo, P.E., Acting Director *Andrés*
Planning, Environmental, and Development
Services Department

CONTACT PERSON: **Renée H. Parker, LEP, Manager**
Environmental Protection Officer, Environmental
Protection Division
(407) 836-1420

SUBJECT: December 12, 2023 — Consent Item
Environmental Protection Commission Recommendation for
Request for After-the-Fact Variance for Mark and Kimberly
Marshall Dock Construction Permit BD-23-05-075

The applicants, Mark and Kimberly Marshall, are requesting a Dock Construction Permit with an after-the-fact variance to Orange County Code (Code), Chapter 15, Article IX, 15-342(a)(6) (walkway width and height) in order to authorize an existing structure. The project site is located at 9190 Cypress Cove Drive, Orlando, FL 32819 (Parcel ID number 28-23-28-0535-02-050) on Lake Tibet-Butler in District 1.

On July 16, 2001, the Environmental Protection Division (EPD) issued Boat Dock Permit BD 01-055 to Mr. and Mrs. Frank Myers (former property owners of the subject parcel) for the construction of a boat dock. During review of the application in 2001, EPD determined that the plans included a 16-foot long by 19.8-foot wide deck area that was integrated with the dock walkway but was located landward of the Normal High Water Elevation (NHWE) within uplands. Since the deck was in uplands and not associated with water-dependent activities, EPD requested this section of the structure be removed from the plans for the dock permit, to be included on a future application for a building permit. After issuance of BD 01-055, the permittees obtained a Residential Building Permit (B01010414) from the Orange County Building Safety Division to construct the dock and the associated deck area located in uplands.

In December 2021, EPD received an application for Maintenance and Repair of a Permitted Dock from the applicants' agent (Ms. Sheila Cichra) that included the original BD 01-055 permit and approved plans. On December 2, 2021, EPD approved a new Residential Building Permit (B21026825) to reconstruct the dock, stating in the approval: *"Proposed work falls under Maintenance and Repair of a Permitted Dock. Notice provided to EPD of the proposed work per Section 15-346(b). Dock shall be constructed in the same footprint as depicted in the previously-approved dock permit."*

In March 2022, EPD received a complaint (Incident No. 22-605242) from a neighbor concerning unauthorized boat dock construction at the subject parcel. Upon review of the

files, EPD determined that the construction was authorized per the aforementioned December 2021 approval, and the case was closed.

In May 2022, EPD received a second complaint (Incident No. 22-608852) regarding the installation of an unauthorized jet-ski lift on the subject boat dock. Upon review, EPD found that there had been an unauthorized jet-ski lift added to the dock and that the recent reconstruction had resulted in a different footprint than had been approved in BD 01-055. The terminal platform was rebuilt with the same dimensions, but the walkway had been shortened by approximately nine feet, resulting in an overall shorter boat dock; therefore, the dock was not constructed according to the original design and footprint of BD 01-055, as required by code. At that time, it was also discovered that although the applicants' submittal (in December 2021) for Maintenance and Repair of a Permitted Dock included the original BD 01-055 permit and approved plans, the construction plans submitted to the Building Safety Division, as part of B21026825, depicted the structure with the shorter walkway.

On July 18, 2022, a Notice of Violation (NOV) was issued to the applicants, in which EPD requested that they remit an administrative penalty in the amount of \$2,198, and either reconstruct the boat dock per BD 01-055 or apply for an After-the-Fact Application for Dock Construction to attempt to permit the dock in the new footprint. As a partial response to corrective actions listed in the NOV, the applicants removed the unauthorized jet-ski lift.

On August 17, 2022, EPD received an After-the-Fact Application to Construct a Dock (BD-22-08-152) on the subject parcel. Upon review of the application and current site conditions, it was determined that due to changes in the shoreline occurring over approximately the last 20 years, the deck area originally constructed in uplands (that was removed from the original plans during the review of BD 01-055) is currently located over wetlands, and therefore is now subject to design standards in Chapter 15, Article IX related to construction of boat docks over wetlands. After multiple meetings and discussions between EPD and the applicants' team, BD-22-08-152 was closed (with no permit issued) at the applicants' request.

On January 6, 2023, EPD issued an updated NOV that required remittance of the administrative penalty and reconstruction of the boat dock according to BD 01-055 and the approved plans.

On May 6, 2023, EPD received a second After-the-Fact Application to Construct a Dock (BD-23-05-075) for the subject property, with an Application for a Variance to Section 15-342(a)(6) to allow the existing height and width of the walkway to remain as constructed. Due to a scrivener's error, the Application for Variance was later revised, dated as received on August 9, 2023. The application also includes the installation of the previously removed jet-ski lift and relocation of a dock storage box to meet all other requirements of Chapter 15, Article IX.

Walkway Variance

Chapter 15, Article IX, Section 15-342(a)(6) of the Code states, "Access walkways shall be limited to five (5) feet in width... Access walkways traversing any wetland must be elevated a minimum of three (3) feet above the ground surface..." The applicants' dock includes the aforementioned 16-foot long by 20-foot wide deck area, which exceeds the allowed width by 15 feet. Additionally, the portion of the walkway over the shoreline wetland ranges in height from 2.2- to 3.4-feet above the ground surface, which is shorter than the allowed minimum height by 0.8 feet. The applicants are requesting an after-the-fact variance to allow the walkway to remain as constructed.

Variance Criteria

Pursuant to Section 15-350(a)(2), the applicants must, “Describe the impact of the requested variance on the surface water and the environment.”

To address Section 15-350(a)(2), Ms. Sheila Cichra states, “*The dock and deck over land were a replacement of an existing dock and deck in the exact same footprint, so there is no 'additional' impact. The dock over water was shortened by 9', so the impact was actually decreased.*”

Pursuant to Section 15-350(a)(3), the applicants must, “Explain the effect of the requested variance on any abutting or affected shoreline property owner(s).”

To address Section 15-350(a)(3), Ms. Cichra states, “*The adjacent property owners are not negatively impacted. In fact, they both have better access to their terminal platforms, due to the new location of the terminal platform - 9' closer to shore.*”

Pursuant to Section 15-350(a)(4), the applicants must, “Describe how strict compliance with the section(s) of this article would impose a unique, unreasonable, and unintended hardship on the applicant.”

To address Section 15-350(a)(4), Ms. Cichra states, “*When the dock was originally constructed, the NHWE was 6'-8' farther out and there was no "wetland" under the deck. The dock and deck were rebuilt in the exact same footprint and at the exact same elevation, but now they aren't compliant, due to the change in the NHWE and the discovery of a wetland fringe by the EPD.*”

Pursuant to Section 15-350(a)(5), the applicants must, “Explain why the hardship is not self-imposed.”

To address Section 15-350(a)(5), Ms. Cichra states, “*The Building permit application was reviewed and approved by the EPD. If the mistake in the dock length had been caught then, the dock length would have been changed from 41' to 50' and the project would have been an exact replacement, with no need for a variance of any kind.*”

Additionally, Section 15-350(c) states, “A variance application may receive an approval or an approval with conditions if granting the variance: (1) Would not negatively impact the surface water or the environment or if there is a negative impact, sufficient mitigation is proposed pursuant to paragraph 15-350(d), if appropriate; (2) Would not be contrary to the public interest; (3) Where, owing to special conditions, compliance with the provisions herein would impose a unique and substantial hardship on the applicant; (4) Where the environmental protection officer has determined that the hardship is not self-imposed on the applicant; and (5) Would not be contrary to the intent and purpose of this article.”

The additional shading impacts from the wider and shorter dock section over the wetland and surface water were evaluated by EPD staff using the Uniform Mitigation Assessment Method. The applicants have agreed to provide mitigation for the additional shading with a payment of \$300 to the Conservation Trust Fund (CTF).

Public Notification

On August 23, 2023, Notices of Application for the After-the-Fact Variance were sent to all shoreline property owners within a 300-foot radius. No objections were received.

On September 13, 2023, EPD received a letter from the adjacent neighbors to the north, Calvin and Chong Wimbish (9000 Easterling Drive) stating, “...have reviewed the after the fact construction permit BD-23-25-075 [sic] with a variance to Orange County Code, Chapter 15, Article IX, Section 15-342(a)(6), dated July 2023, for the property located at 9190 Cypress Cove Dr Orlando FL 32819 and have no objections.”

The applicants, their agent, and the neighbors that sent the letter of support were sent notices on October 3, 2023 to inform them of the Environmental Protection Commission (EPC) meeting on October 25, 2023.

Enforcement Action

The July 18, 2022 NOV and January 6, 2023 updated NOV required remittance of an administrative penalty in the amount of \$2,198. The applicants submitted the penalty payment on September 26, 2023. Approval of the after-the-fact variance and issuance of BD-23-05-075 will bring the property into compliance with code.

EPD Staff Evaluation/Recommendation

Staff evaluated the after-the-fact variance request for compliance with the criteria for approval. The recommendation of the Environmental Protection Officer (EPO) was to approve the request for after-the-fact variance to Section 15-342(a)(6) (walkway width and height) based on findings that the applicants have demonstrated that the request is not contrary to public interest or the intent and purpose of Chapter 15, Article IX, and that the hardship of reconstructing the dock is unique, substantial and not self-imposed, as the change from uplands to wetlands under the deck was due to natural causes over the course of 20 years, pursuant to Section 15-350(c). Additionally, negative effects to the environment due to shading impacts from the excess terminal platform size will be offset through a mitigation payment of \$300 to the CTF.

EPC Public Hearing

On October 25, 2023, EPD presented the applicants’ after-the-fact variance request to the EPC. Mr. Marshall (applicant) and Ms. Cichra (agent) were present.

Ms. Cichra explained that the original boat dock (authorized by permit BD 01-055 and built in 2001) had been damaged in a hurricane and had mostly fallen apart by the time the applicants purchased the property. With very little left of the structure, they believed (with the submittal of their 2021 building plans and reconstruction during 2022) they were replacing the dock terminal platform in the same design and footprint that had previously existed. Ms. Cichra also stated that the subject walkway area was rebuilt in the same footprint and at the same elevation as had previously been permitted (by B01010414, issued by the Orange County Building Safety Division), and that it was the location of the shoreline and wetlands that moved landward over the last 20 years.

Based upon evidence and testimony presented at the hearing, the EPC voted unanimously to accept the findings and recommendations of the EPO for the after-the-fact variance to walkway width and height, and recommended approval of the after-the-fact variance to Section 15-342(a)(6) with the condition that the applicants remit a payment in the amount of \$300 to the CTF as mitigation for the additional shading impacts.

ACTION REQUESTED: **Acceptance of the findings and recommendation of the Environmental Protection Commission and approval of the request for after-the-fact variance to Orange County Code, Chapter 15, Article IX, Section 15-342(a)(6) for the Mark and Kimberly Marshall Dock Construction Permit BD-23-05-075, with a mitigation payment of \$300 to the Conservation Trust Fund within 60 days of the decision of the Board. District 1**

AS/ERJ:js

Attachments

Dock Construction Application for After-the-Fact Variance



**Dock Construction
Application for
After-the-Fact Variance
BD-23-05-075
District #1
Applicant: Mark and Kimberly Marshall
Address: 9190 Cypress Cove Drive
Parcel ID: 28-23-28-0535-02-050**

Project Site 
Property Location 

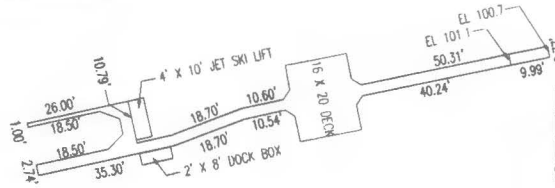
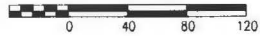


received
8/2/2023

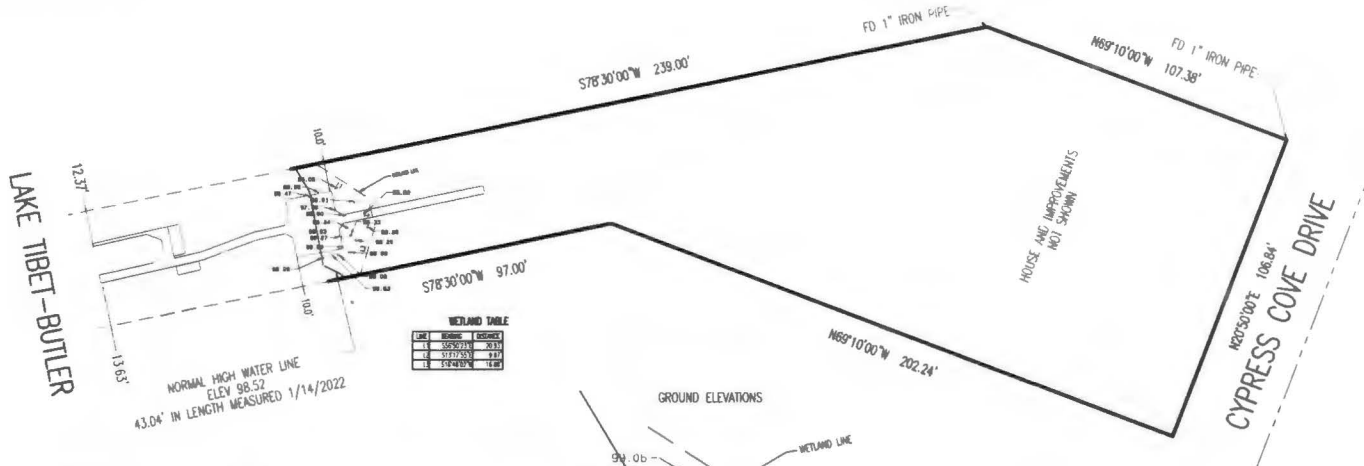
AS-BUILT DOCK
9190 CYPRESS COVE DRIVE
ORLANDO, FL 32819



SCALE 1" = 40'



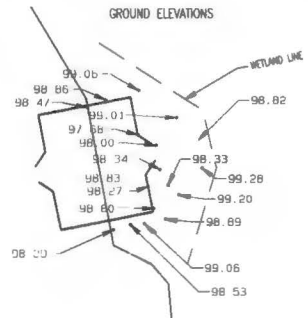
DETAIL SCALE 1" = 30'
NHWE = 98.48 NAVD
DECK & DOCK ELEV = 101.0
WATER DEPTH FROM END OF BOATHOUSE = 5'
ROOF HEIGHT FROM DECK = 11.4'
DECKING IS 1/4" BETWEEN BOARDS (TYPICAL)



NORMAL HIGH WATER LINE
ELEV 98.52
43.04' IN LENGTH MEASURED 1/14/2022

WETLAND TABLE

LINE	BEARING	DISTANCE
1	S89°52'30"W	35.30'
2	S47°50'30"W	18.70'
3	S78°40'00"W	10.60'



I HEREBY CERTIFY THAT THIS SURVEY HAS BEEN PREPARED UNDER MY DIRECTION AND THAT THIS SURVEY HAS BEEN PREPARED IN ACCORDANCE WITH THE ADOPTED "MINIMUM TECHNICAL STANDARDS" AS REQUIRED BY CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027, FLORIDA STATE STATUTES.

Edward Mizo
Digitally signed by Edward Mizo
Date: 2023.07.18
09:56:23 -04'00'

EDWARD J. MIZO
PROFESSIONAL SURVEYOR AND MAPPER NO. 3376
NOT VALID WITHOUT THE AUTHENTIC ELECTRONIC SIGNATURE AND SEAL OF A PROFESSIONAL SURVEYOR AND MAPPER.

JANUARY 14, 2022
AS-BUILT DOCK
NOVEMBER 7, 2022
JULY 18, 2023

AS-BUILT DOCK
REVISED - MEAS
ADDED WETLAND, JET SKI AND DOCK BOX
ADDED GROUND ELEVATIONS

AS BUILT DOCK
9190 CYPRESS COVE DRIVE
ORLANDO FL 32819

EDWARD MIZO
PROFESSIONAL LAND SURVEYOR
175 ANCONA AVE
DEARBORN, FL 32715
321-438-9591

MARSHALL BOAT DOCK SITE PLAN

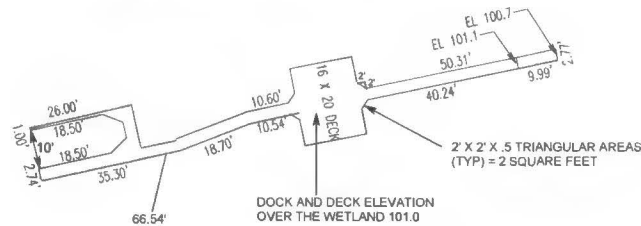
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8/9/2023

9190 CYPRESS COVE DRIVE
ORLANDO, FL 32819

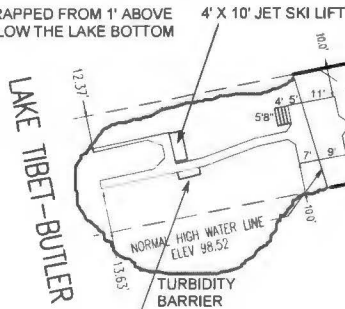
DETAIL SCALE 1" = 30'
NHWE = 98.52 NAVD
DECK & DOCK ELEV = 101.0
LAKE BOTTOM FROM NHWL = 5'
ROOF HEIGHT FROM DECK = 11.4'



TERMINAL PLATFORM:
13.74' X 26' BOATHOUSE
4' X 10' JETSKI LIFT
= 397.24 SQUARE FEET

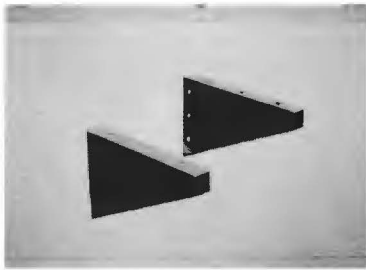


PILINGS WILL BE WRAPPED FROM 1' ABOVE THE NHWE TO 1' BELOW THE LAKE BOTTOM



AT THIS BACK CORNER, THE GRADE IS 98.8, WHICH PLACES A PORTION OF THE DECK 2.2' ABOVE THE WETLAND. MOST OF THE DECK IS 2.48' ABOVE THE NEW WETLAND FRINGE

2' X 8' X 1.5' CANTILEVERED DOCK BOX USING THESE BRACKETS
NO PART OF THE DOCK BOX OR BRACKET WILL EXTEND BELOW THE DOCK FRAMING



SITE PLAN DRAWN BY:
SHEILA CICHRA
MAY 6TH, 2023

AS-BUILT DOCK	AS-BUILT DOCK	AS-BUILT DOCK
REVISED DIMENSION	REVISED DIMENSION	REVISED DIMENSION
ADDED WETLAND, JETSKI LIFT AND DOCK BOX	ADDED WETLAND, JETSKI LIFT AND DOCK BOX	ADDED WETLAND, JETSKI LIFT AND DOCK BOX
AS BUILT DOCK 9190 CYPRESS COVE DRIVE ORLANDO FL 32819	AS BUILT DOCK 9190 CYPRESS COVE DRIVE ORLANDO FL 32819	AS BUILT DOCK 9190 CYPRESS COVE DRIVE ORLANDO FL 32819
EDWARD MIZO PROFESSIONAL LAND SURVEYOR 175 ANCONA AVE DEBARY, FL 32713 321-435-9391	EDWARD MIZO PROFESSIONAL LAND SURVEYOR 175 ANCONA AVE DEBARY, FL 32713 321-435-9391	EDWARD MIZO PROFESSIONAL LAND SURVEYOR 175 ANCONA AVE DEBARY, FL 32713 321-435-9391
JANUARY 14, 2022	AUGUST 4, 2022	NOVEMBER 7, 2022



APPLICATION TO CONSTRUCT A BOAT DOCK
APPLICATION FOR VARIANCE

(Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(a-d))

Enclose a check for \$409.00 payable to The Board of County Commissioners

received
8/9/2023

Mail or Deliver To: Orange County Environmental Protection Division
WetlandPermitting@ocfl.net
3165 McCrory Place, Suite 200
Orlando, Florida 32803
(407) 836-1402

I Sheila Cichra on behalf of Mark Marshall (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a-d) am requesting a variance to the Orange County Dock Construction Ordinance for the property located at 9190 Cypress Cove Drive.

- 1. Identify the section(s) of this article that the applicant seeks a variance for and the extent of the requested variance: Requesting a variance from 15-342 (a) (6) in order to allow a recently reconstructed deck to remain as constructed, in the same location as the previous deck, even though part of the dock is not elevated 3' over a wetland.
2. Describe the impact of the requested variance on the surface water and the environment: The dock and deck over land were a replacement of an existing dock and deck in the exact same footprint, so there is no 'additional' impact. The dock over water was shortened by 9', so the impact was actually decreased.
3. Explain the effect of the requested variance on any abutting or affected shoreline property owner(s): The adjacent property owners are not negatively impacted. In fact, they both have better access to their terminal platforms, due to the new location of the terminal platform - 9' closer to shore.
4. Describe how strict compliance with the section(s) of this article would impose a unique, unreasonable, and unintended hardship on the applicant: When the dock was originally constructed, the NHWE was 6'-8' farther out and there was no "wetland" under the deck. The dock and deck were rebuilt in the exact same footprint and at the exact same elevation, but now they aren't compliant.
5. Explain why the hardship is not self-imposed: due to the change in the NHWE and the discovery of a wetland fringe by the EPD. The Building permit application was reviewed and approved by the EPD. If the mistake in the dock length had been caught then, the dock length would have been changed from 41' to 50' and the project would have been an exact replacement, with no need for a variance of any kind.

Notice to the Applicant: The Environmental Protection Officer, the Environmental Protection Commission, or the Board may require the applicant to provide additional information necessary to carry out the purposes of this section pursuant to 15-350(c): A variance application may receive an approval or an approval with conditions if granting the variance: (1) would not negatively impact the surface water or the environment or if there is a negative impact, sufficient mitigation is proposed pursuant to paragraph 15-350(d), if appropriate; (2) would not be contrary to the public interest; (3) where, owing to special conditions, compliance with the provisions herein would impose a unique and substantial hardship on the applicant; (4) where the environmental protection officer has determined that the hardship is not self-imposed on the applicant; and (5) would not be contrary to the intent and purpose of this article.

By signing and submitting this application form, I am applying for a variance to the Orange County Dock Construction Ordinance identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained in this application, and represent that such information is true, complete, and accurate. I understand this is an application and not a permit, and that work conducted prior to approval is a violation. I understand that this application and any permit issued pursuant thereto, does not relieve me of any obligation for obtaining any other required federal, state, or local permits prior to commencement of construction. I understand that knowingly making any false statements or representations in this application may be a violation of Article IX, Dock Construction Ordinance.

Name of Applicant: Sheila Cichra
Signature of Applicant/Agent [Signature] Date: 08/09/2023
Corporate Title (if applicable):



received
9/13/2023

Notice of Application for Variance/Waiver

Commission District #1
Nicole Wilson, Commissioner

Project Manager:
Nicole Salvatico
Email: Nicole.Salvatico@ocfl.net
Phone #: 321-239-9870

Environmental Protection Division:
(407) 836-1400

Planning, Environmental & Development Services / EPD

Project Information

Project Number: BD-23-05-075

Project Name: 9190 Cypress Cove Dr - Marshall

Applicant: Mark and Kimberly Marshall

Parcel ID: 28-23-28-0535-02-050

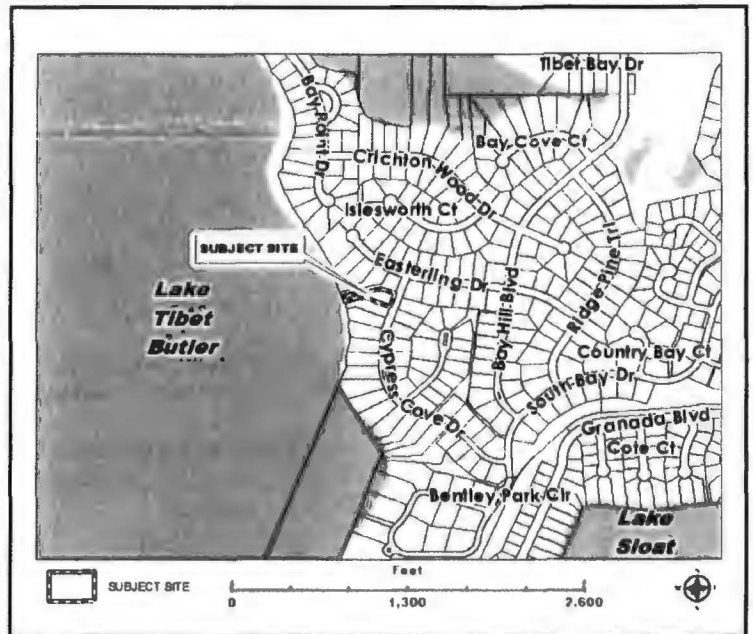
Location: 9190 Cypress Cove Dr, Orlando
FL 32819

Lake Name: Tibet-Butler

Request

The applicants, Mark and Kimberly Marshall, are requesting an after-the-fact dock construction permit with a variance to Orange County Code (Code), Chapter 15, Article IX, Section 15-342(a)(6), in order to authorize an existing dock walkway to remain as-is, which is 16-feet wide and ranges between 2.2-feet to 3.4-feet above the above the ground surface through the shoreline wetland. Per Code, the dock walkway is limited to 5-feet in width and must be elevated at least 3-feet above the ground surface in wetlands.

Subject Property Location Map



The plans can be viewed here:

https://fasttrack.ocfl.net/OnlineServices/Permit_Environmental.aspx or by contacting the project manager

Any objections must be in writing and must be received the Orange County Environmental Protection Division located at 3165 McCrory Place, Suite 200, Orlando, Florida 32803, within 35 days of receipt of this notice. If you have any questions regarding the public hearing, contact me at (407) 836-1400.

Citizens may access real-time development data, board meeting details, project locations and view new construction projects within Orange County in the palm of your hand through:

OCFL ATLAS (www.OCFL.net/atlas)
(Downloadable on Google Play and iTunes)

Android

Apple





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

Pursuant to Section 15-350, a waiver from the minimum side setback may be granted by the environmental protection officer if it is determined there is no negative impact to the environment and 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 reduced side setback request. The required setbacks are as follows:

Section 15-343(a) states: "Private docks on lots or parcels having a shoreline frontage of one hundred (100) feet or less, including designated mooring areas, must have a minimum side setback of ten (10) feet from any property line or projected property line."

Section 15-343(b) states: "Private docks on lots or parcels having a shoreline frontage of greater than one hundred (100) feet, including designated mooring areas, must have a minimum side setback of fifteen (15) feet from any property line or projected property line."

To submit this form, the information below is to be completed by the affected adjacent property owner and notarized as required by Section 15-350, Orange County Code.

I, Calvin and/or Chong Wimbish, a legal property owner of property located at 9000 Easterling Dr. Orlando, FL 32819
(Adjacent Property Owner Name) (Address)

have reviewed the after the fact dock construction permit BD-23-25-075 with a variance to Orange County Code, Chapter 15, Article IX, Section 15-342 (a)(6), dated July 2023, for the property located at 9190 Cypress Cove Dr Orlando FL 32819, and have no objections.

The dock construction plans include a side setback waiver request of _____ feet, in lieu of the minimum setback distance required by Code.

Chong S. Wimbish
(Signature - Adjacent Affected Property Owner)

9/11/23
(Date)

Chong S. Wimbish
(Print Name - Adjacent Affected Property Owner)

ACKNOWLEDGEMENT:

STATE OF FLORIDA
COUNTY OF

The foregoing instrument was acknowledged before me this _____ day of 20____, by _____

(Signature of Notary Public - State of Florida)

Personally Known OR Produced Identification


Type of Identification Produced *see Attachment*

State of Florida Acknowledgement Notary Certificate

STATE OF FLORIDA
COUNTY OF Orange

On 09/11/2023, before me, Daniel Alejandro Abad Hiciano, a notary public, personally appeared by physical presence, Chong Suk Wimbish who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the attached Affected Adjacent Property Owner Letter of Objection to Boat Dock Side-Setback Waiver Request [name of document] instrument and acknowledged to me that that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or entity upon behalf of which the person(s) acted executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State listed above that the foregoing paragraph is true and correct. WITNESS my hand and official seal.

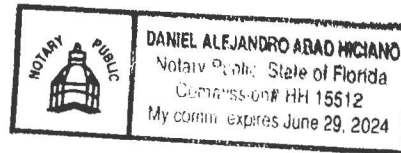
Personally known OR
Produced identification X Type of identification produced: Florida Driver License

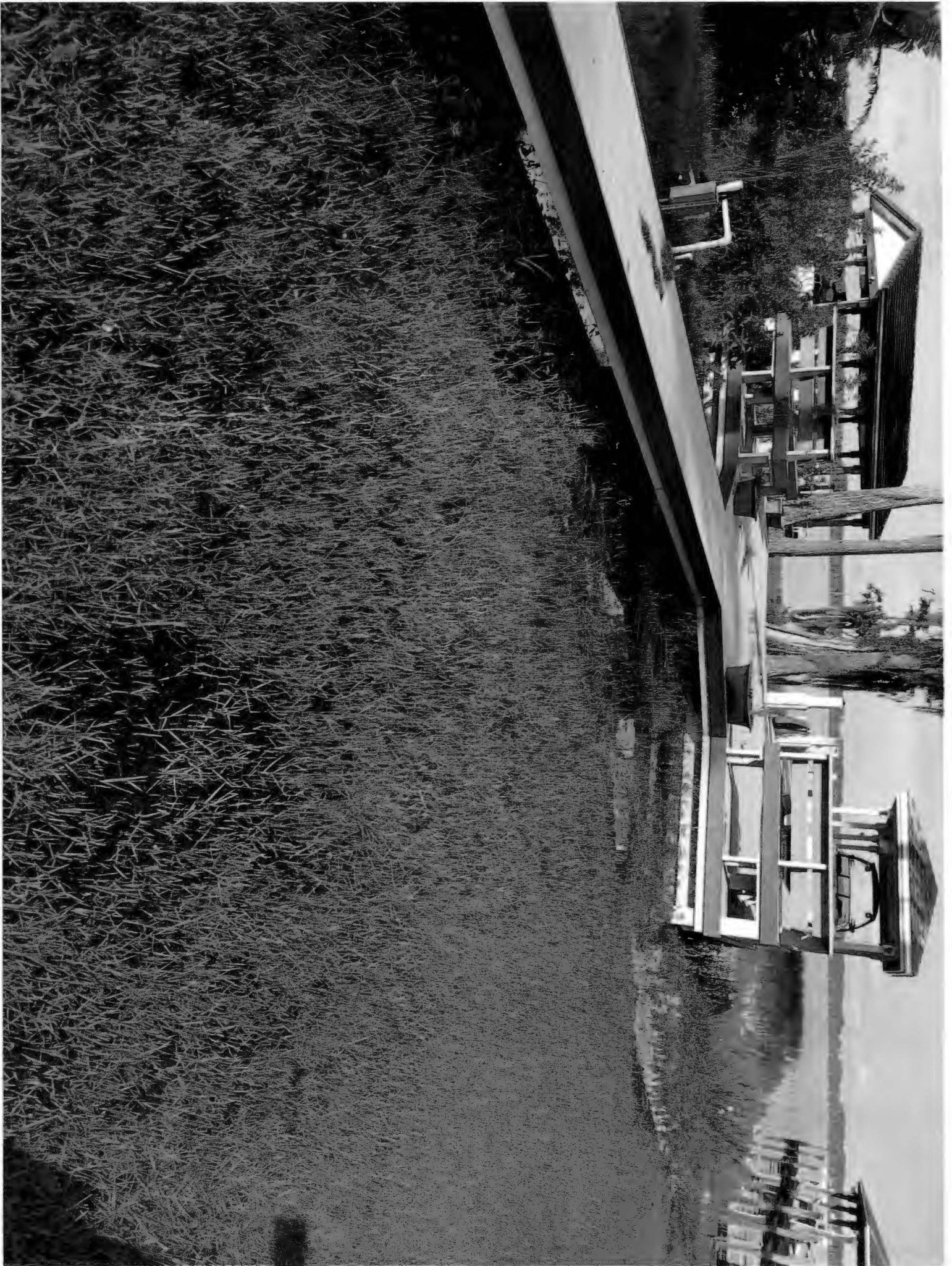


(Signature of notary public)

My commission expires: June 29, 2024

Official Seal









ENVIRONMENTAL PROTECTION DIVISION
BRUCE R. EASTMAN, Interim Manager
Leeds Commerce Center
800 Mercy Drive, Suite 4
Orlando, Florida 32808-7896
407-836-1400 • Fax 407-836-1499
www.onetgov.net

Boat Dock Permit

Permit No.: 01- 0055

Date Issued: July 16, 2001

Date Expires: July 16, 2002

A Permit Authorizing:

Construction of a Boat Dock on the property located adjacent to Lake Tibet as described by the referenced legal description. This permit is issued pursuant to Orange County Code, Chapter 15, Boat Dock Ordinance, Article IX, and is subject to the special conditions provided on the following pages:

Legal Description:

Bay Hill Section 5B, Lot 205
As Recorded in Plat Book 5, Page 117
Orange County Commission District: 1

Issued To: Mr. & Mrs. Frank Myers
5746 Masters Boulevard
9190 Cypress Cove Drive (Site location)
Orlando, Florida 32819

July 16, 2001
Boat Dock Permit No.: 01- 055
Page 2

Approved, subject to the following 1 Specific Condition and 8 General Conditions:

Specific Conditions:

1. Minimum height of the deck must be 1 foot above the Normal High Water Elevation (NHWE) of 99.50 feet above mean sea level for Lake Tibet. Maximum height of the boathouse shall be 13 feet above the NHWE.

General Conditions:

1. The permittee may clear an access corridor below the NHWE not to exceed 30 feet in width. The boat dock must be constructed within the allowed access corridor.
2. The removal of cypress trees is prohibited.
3. Construction shall be in accordance with stamped, approved drawings.
4. Turbidity must be confined to the permitted area of work by the use of Best Management Practices, such as screens, filter cloth, etc., unless it can be demonstrated that state water quality standards on turbidity are not being violated.
5. This permit must be posted in a conspicuous place on site, before activity begins and must remain until completion.
6. If Environmental Protection Division (EPD) determines at any time that activities are not in accordance with the conditions of the permit, the permit shall be revoked.
7. The permitted work must be completed within one year from the date of issuance of the permit.
8. A separate permit from the Florida Department of Environmental Protection, if applicable, will be obtained prior to this permit becoming valid.

A copy of this letter, along with EPD stamped, approved drawings should be taken to the Zoning Division for approval in order to obtain a building permit.

Note: A certified site plan will be required to obtain a building permit. For further information, please contact the Zoning Division at (407) 836-5525 or the Building Division at (407) 836-5550.

Issuance of this permit does not warrant in any way that the permittee has riparian or property rights to construct any structure permitted herein, and any such construction is done at the sole risk of the permittee. In the event that any part of the structure(s) permitted herein is determined, by a final adjudication issued by a court of competent jurisdiction, to encroach on or interfere with adjacent property owner's riparian or other property rights, the permittee agrees to either obtain written consent for the offending structure from the affected owner, or to remove the interference encroachment within sixty days from the date of the adjudication. Failure to comply shall constitute a material breach of this permit and shall be grounds for its immediate termination.

Sincerely,



Bruce R. Eastman
Interim Manager


KR/AB:UBRE:bk

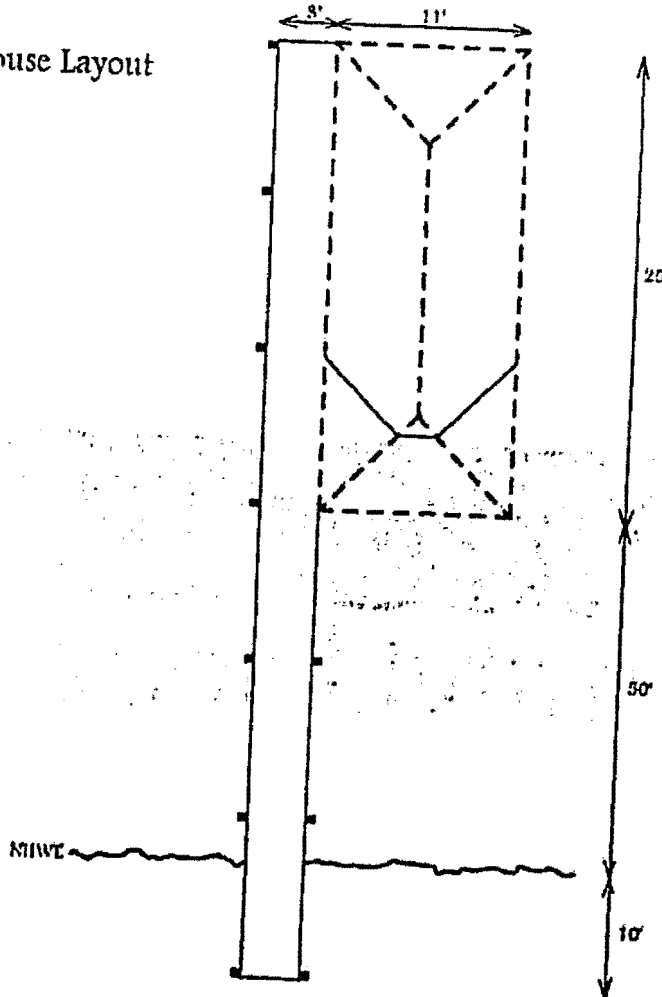
C Terry Zable, Florida Department of Environmental Protection
Hodaskin Outdoor Living, Inc., 6125 Hansel Avenue, Orlando, Florida 32809



HODGSKIN
Outdoor Living, Inc.
• Florida's Finest Custom Built •

6125 Hansel Avenue • Orlando, Florida 32809
Phone: (407) 857-1600 • (800) 957-3625 • Fax: (407) 857-0907

Boathouse Layout



Name	Mr & Mrs. Frank Meyers
Address	5746 Masters Blvd.

Robert Y. White
Professional Civil Engineer
P. Cert # 13191
2233 Ray Circle
Orlando FL 32807

APPROVED BY
ORANGE COUNTY
ENVIRONMENTAL PROTECTION DIV.
DATE: 7/26/01
INITIAL: RR

Drawings and Contractions contained herein are the property of Hodgskin Outdoor Living, Inc. and shall not be copied, reproduced, dig. listed, misused or misrepresented in any part or entirety, or made available for bidding purposes, without



HODGSKIN Outdoor Living, Inc.

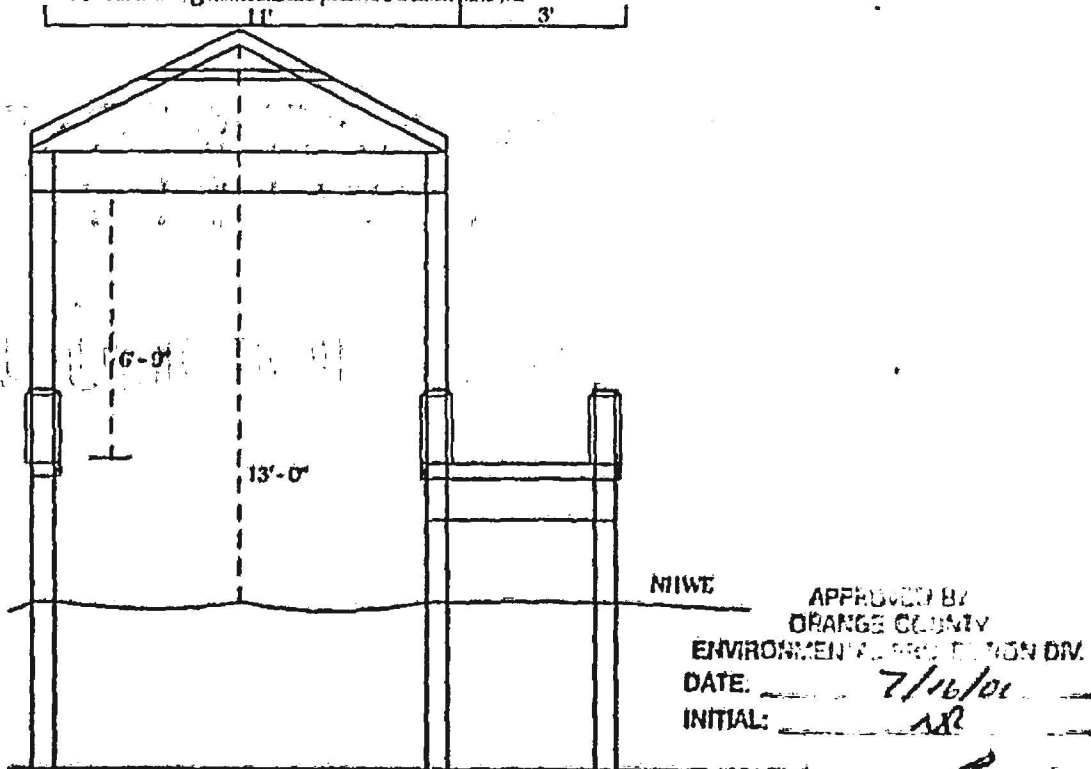
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TYPICAL DOCK SECTION

Scale 1/4" = 1'

- 1 - (2) 2" x 10" Headers nailed and bolted with 1/2" bolts to roof piles
- 2 - 6" x 6" CCA .80 Boothouse roof piles
- 3 - 2" x 6" Rafter @ 2' O.C. Connected to a 2" x 8" Ridge
- 4 - 2" x 6" Collar tie @ 4' O.C.
- 5 - 2" x 6" Triple Tier Fascia
- 6 - All poles to be trimmed out with 2" x 6" signature blocks
- 7 - Roof decking 5/8" T1-11 with extra layer of 1/2" CDX
- 8 - Roof pitch 4/12
- 9 - Joist for activity deck & walkway 2" x 6" @ 2' O.C.
- 10 - Crossies for activity deck 2" x 8", for walkway 2" x 6"
- 11 - Knee-bracing on each set of poles alternating
- 12 - The connection of the roof rafters to the 2" x 10" headers is by means of a 112.5 hurricane clip nailed with (4) 10d galv nails on each end of the clip.
- 13 - Structure to be constructed to meet all 100 MPH wind codes.
- 14 - All framing materials are pressure treated pine #2



Name	Mr. & Mrs. Frank Meyers
Address	5746 Masters Blvd.

Robert Y. White
Professional Civil Engineer
FL Cert # 13191
2233 Farr Circle
Orlando FL 32807

APPROVED BY
ORANGE COUNTY
ENVIRONMENTAL PROTECTION DIV.
DATE: 7/16/01
INITIAL: AB



4/17/07

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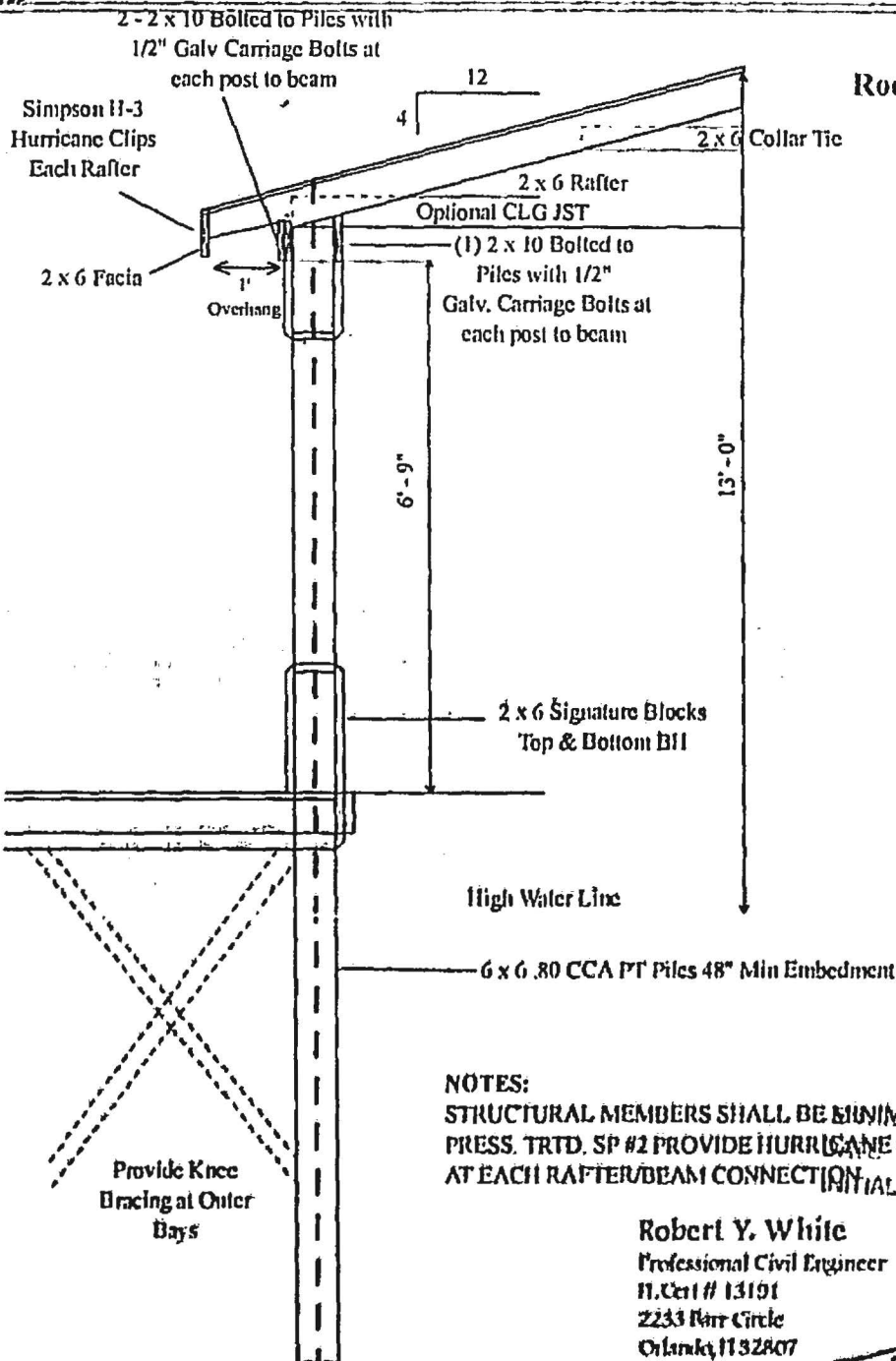


HODGSKIN

Outdoor Living, Inc.

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6125 Hansel Avenue • Orlando, Florida 32809
Phone: (407) 857-1600 • (800) 957-3625 • Fax: (407) 857-0907



Roof Dock Section

NOTES:
STRUCTURAL MEMBERS SHALL BE MINIMUM
PRESS. TRTD. SP #2 PROVIDE HURRICANE CLIPS
AT EACH RAFTER/BEAM CONNECTION

Robert Y. White
Professional Civil Engineer
Fl. Cert # 13191
2233 Parr Circle
Orlando, FL 32807

7/1/01
[Signature]

[Signature]
4/17/01

Contractor shall comply with all applicable codes including SBCCI SSTD 10-97

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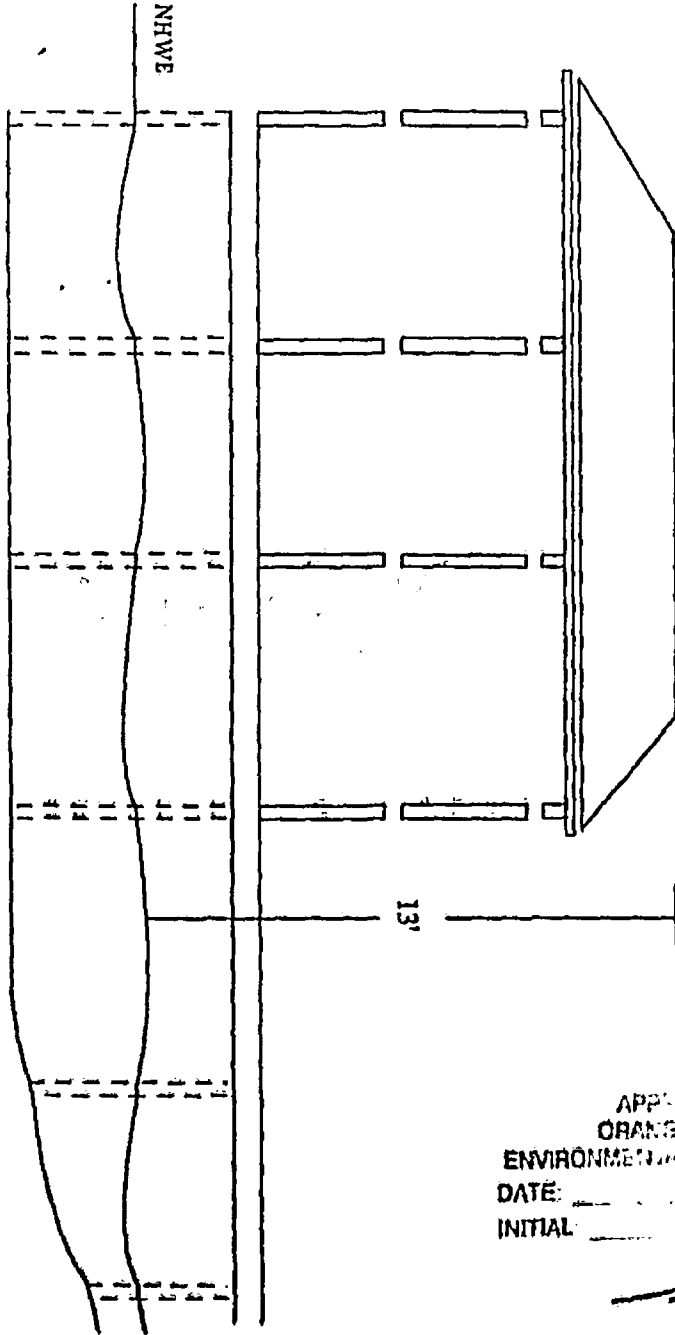
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6125 Hansel Avenue • Orlando, Florida 32809
Phone: (407) 857-1600 • (800) 957-3625 • Fax: (407) 857-0907

Robert Y. White
Professional Civil Engineer
Fl. Cert # 13191
2233 Barr Circle
Orlando, FL 32807

Name Mr. & Mrs. Frank Meyers
Address 5746 Masters Blvd.



Bathroom Profile

APPROVED BY
ORANGE COUNTY
ENVIRONMENTAL REGULATION DIV.
DATE: 7/16/01
INITIAL: MR

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License # FC 036954

Florida Marine Contractors Association Founding Member

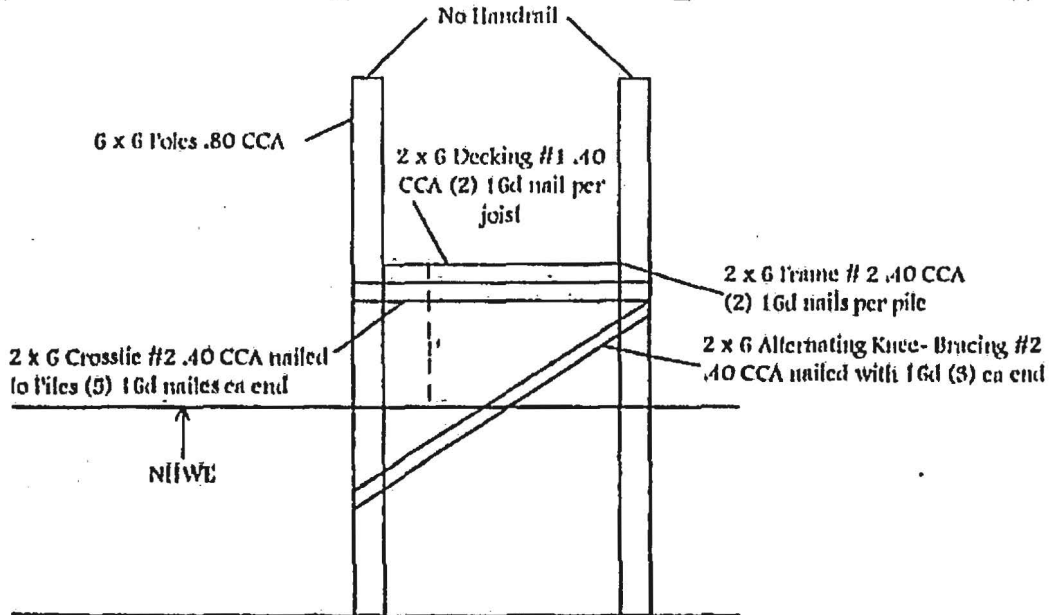
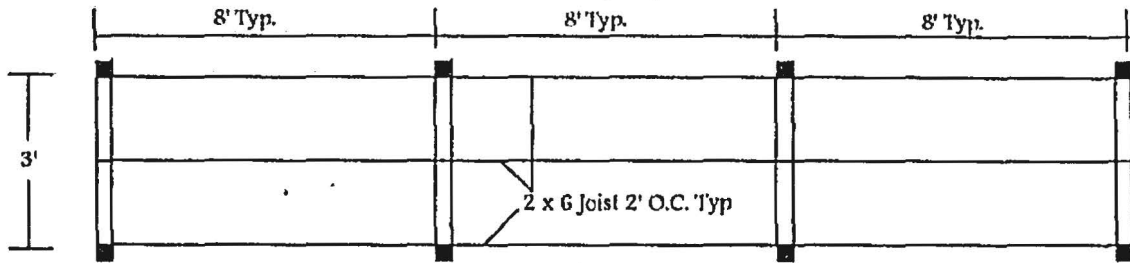
www.hodgskin.com



HODGSKIN
Outdoor Living, Inc.
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6125 Hansel Avenue • Orlando, Florida 32809
Phone: (407) 857-1600 • (800) 957-3625 • Fax: (407) 857-0907

Walkway Specs



Note: All framing, decking, crosslies and knee-bracing to be nailed with 16 penny ringshank
 Note: All poles to be emb. min. 48" into ground
 Note: Decking nail pattern to be 2 - 16 penny galvanized ringshank per board and per joist.
 Note: All fasteners and connectors shall be corrosion resistant.

ENGINEER
 DATE: 7/16/01
 INITIAL: [Signature]

Name Mr. & Mrs. Frank Meyers
 Address 5746 Masters Blvd.

Robert Y. White
 Professional Civil Engineer
 Fl. Cert # 13191
 2233 Deer Circle
 Orlando, FL 32807
 4/12/07

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HODGSKIN Outdoor Living, Inc.

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Phone: (407) 857-1600 • (800) 957-3625 • Fax: (407) 857-0907

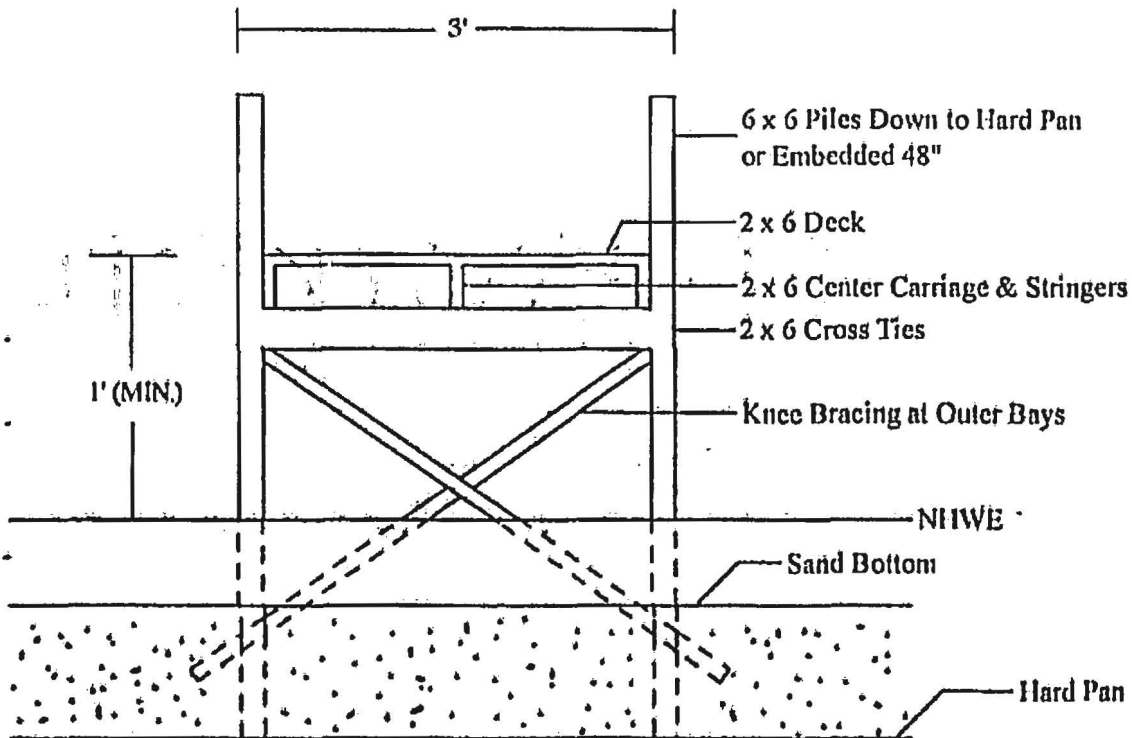
TYPICAL DOCK SECTION

Note: All Framing, Decking, Crossties, and Knee-Bracing to be nailed with 16 Penny Ringshank.

Note: Poles to be emb. min. 48" into ground.

Note: Decking nail pattern to be 2 - 16 Penny galvanized ringshank per board and per joist.

Note: All Fasteners and connectors shall be corrosion resistant.



ENVIRONMENTAL PROTECTION DIV.

DATE: 7/16/07

Name Mr. & Mrs. Frank Meyers

Address 5746 Masters Blvd.

Robert Y. White
Professional Civil Engineer
Fl. Cert # 13191
2233 Barr Circle
Orlando, FL 32807

[Handwritten signature]
4/17/07

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• CGC 026854

Florida Marine Contractors Association Formative Member

ISSUED FOR INFO • 02/07



ENVIRONMENTAL PROTECTION DIVISION

David D. Jones, P.E., CEP, Manager

3165 McCrocy Place, Suite 200
Orlando, FL 32803
407-836-1400 • Fax 407-836-1499
www.ocfl.net

July 18, 2022

EMAIL AND CERTIFIED MAIL: 9489 0090 0027 6381 4581 22

NOTICE OF VIOLATION

Mark and Kimberly Marshall
9190 Cypress Cove Drive
Orlando, FL 32819
Email: markandkimmarshall@gmail.com

RE: Boat Dock Construction Permit Violation
Parcel ID No.: 28-23-28-0535-02-050
Address: 9190 Cypress Cove Drive
Property Description: BAY HILL SECTION 5 B 5/117 LOT 205
Lake Tibet, Orange County Commission District: 1
Incident Number: 22-608852
Associated Permit: BD 01-055

Dear Mr. and Mrs. Marshall;

On May 25, 2022 the Environmental Protection Division (EPD) staff received a complaint concerning the existing boat dock at 9190 Cypress Cove Drive. EPD conducted a review of the files for Boat Dock Construction permit number 01-055 and aerials over time and has determined that your property is in violation of Orange County Codes listed in Attachment "A" of this Notice of Violation (NOV).

EPD has the authority and responsibility to control and prohibit unauthorized activities in the wetlands and waters of the County in accordance with the law, rules and regulations promulgated by Orange County. This NOV is part of an agency investigation and EPD is requesting your cooperation in resolving the matter. Any activities at your property, which may be further contributing to violations of the described County Codes, must be ceased.

Any person considering appealing the decision of the Environmental Protection Officer, pursuant to Orange County Code Chapter 15, Article II, Section 15-38, shall be financially responsible for payment of all applicable fees associated with such an appeal.

Should you have questions or concerns related to this matter, you may contact me either by email at Karen.Garrett-Kraus@ocfl.net, by letterhead address, or by calling 407-863-1496 to schedule a meeting.

Serving our community by conserving, protecting, and enhancing the environment for current and future generations.

Si no es posible leer esta notificación favor de llamar a nuestras oficinas al 407-836-1400.

Sincerely,

Karen Garrett-Kraus

Karen Garrett-Kraus
Team Leader – Environmental Compliance and Enforcement

KGK/TMH/ERJ: gfdjr

c: Sheila Cichra, Streamline Permitting, Inc., sheilacichra@gmail.com
Florida Department of Environmental Protection, DEP_CD@dep.state.fl.us
Neal Thomas, EPD, Neal.Thomas@ocfl.net

Attachments: Boat Dock Construction Permit 01-055 As-Built Survey
December 2021 Application for Maintenance and Permit 01-055
Application for Boat Dock Construction

ATTACHMENT "A"

RULES VIOLATED

Orange County Code Chapter 15, Article IX, Section 15-353 states in part that: *"If the environmental protection officer determines that construction is occurring without prior approval or not in accordance with these regulations, the environmental protection officer shall promptly issue a written notice of violation to the applicant and or designated contractor..."*

Orange County Code Chapter 15, Article IX, Section 15-346(b) states in part that: *"...All maintenance and repair activities must maintain the original design and original footprint of the dock, as approved in the county permit."*

PERMIT CONDITION VIOLATIONS

On July 16, 2001, EPD issued BD 01-055 to Mr. and Mrs. Frank Myers. Per Special Condition No. 3: *"Construction Shall be in accordance with stamp, approved drawings."*

REMARKS

On December 2, 2021, EPD received an application from Mark and Kimberly Marshall for the maintenance and repair of the permitted dock that indicated that the dock was to be reconstructed in the same footprint as Permit BD 01-055.

On May 25, 2022 the Environmental Protection Division (EPD) staff received a complaint concerning the existing boat dock. EPD conducted a review of the files for Boat Dock Construction permit number 01-055 including the as-built and aerials. EPD staff discovered the following:

- Based on measurements and dimensions depicted on the as-built survey following the repair and maintenance, it appears the dock was not reconstructed in the permitted location. Specifically, the dock has been re-constructed 39.8 feet waterward of the Normal High Water Elevation (NHWE) rather than the 75 feet waterward of the NHWE as approved in the permit.
- An unauthorized jet ski lift been added to the terminal platform.

EPD staff conducted a further review of online resources, which indicated that the dock was not re-built according to the permit. Based on the forgoing, the dock has lost its grandfathering under the prior dock code.

CORRECTIVE ACTIONS

1. Within 30 days of receipt of this NOV, attempt to keep the structure in its current location and configuration by submitting an after the fact Boat Dock Construction application (and any applicable waivers and/or variances) that meets the current requirements of Chapter 15.

Article IX to authorize the existing dock in its' current location and reflects the addition of the jet ski lift:

OR

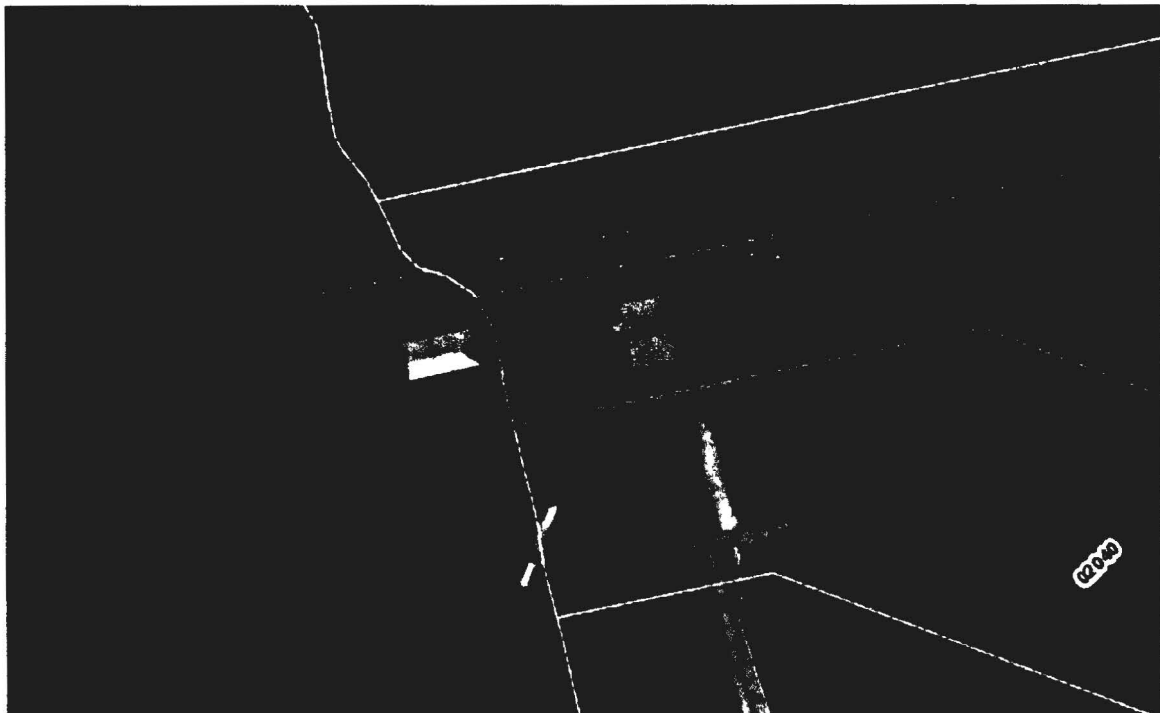
Within 45 days of receipt of this NOV, reconstruct the dock in accordance with Boat Dock Construction permit number 01-055 and remove the existing jet ski lift:

AND

2. Within 90 days of receipt of this NOV, remit payment in the amount of \$2198.00 to the Orange County Board of County Commissioners with a notation for the use in the Conservation Trust Fund, as a penalty for construction of a dock that is not in accordance with the permit conditions. Payment must be returned to EPD with a copy of this NOV.

EPD reserves the right to require additional corrective actions and additional administrative fees should we need to proceed to formal enforcement proceedings with the Orange County Special Magistrate. If you fail to complete the corrective actions as outlined in this NOV, it will be assumed that you are not interested in settling this matter according to the terms described herein, and this matter will be referred to the Orange County Code Enforcement Special Magistrate with a recommendation that formal enforcement action be taken against you.

Aerial with Outlines of the Previous Location in Red and the Current Dock Location





MAINTENANCE AND REPAIR OF A PERMITTED DOCK

(In Accordance with Orange County Code, Chapter 15, Article IX)

Mail or Deliver To: Orange County Environmental Protection Division
3165 McCrory Place, Suite 200
Orlando, Florida 32803
(407) 836-1400, Fax (407) 836-1499

SECTION 1

OWNER(S) OF THE LAND

Name: Mark and Kimberly Marshall
Title and Company: _____
Address: 9190 Cypress Cove Drive
City: Orlando State: FL Zip: 32819-4811
Telephone and Fax: _____ Email: markandkimmarshall@gmail.com

ENTITY TO RECEIVE PERMIT (IF OTHER THAN OWNER)

Name: _____
Title and Company: _____
Address: _____
City: _____ State: _____ Zip: _____
Telephone and Fax: _____ Email: _____

AGENT/CONSULTANT AUTHORIZED TO SECURE PERMIT

Name: Sheila Cichra
Title and Company: Streamline Permitting, Inc.
Address: 1002 Fort Mason Drive
City: Eustis State: FL Zip: 32726
Telephone and Fax: (407) 450-4241 Email: sheilacichra@gmail.com

CONTRACTOR (IF DIFFERENT FROM AGENT)

Name: _____
Title and Company: _____
Address: _____
City: _____ State: _____ Zip: _____
Telephone and Fax: _____ Email: _____

SECTION 2 - GENERAL INFORMATION

Name of water body: Tibet Butler Normal High Water Elevation (NHWF): 98.52 msl

Original EPD permit number: BD-01-055

Is the existing dock: Private Semi-Private Public

Brief Description of Work: Remove and rebuild a dock, deck and boathouse in the exact same footprint.

Brief description of sedimentation and erosion control measures: A turbidity barrier will be in place during demolition and construction and until water clarity returns to normal.

What is the total square footage of existing terminal platform: 364 sq. ft.

Any access restrictions to the property (locked gate loose dogs): no

REQUIRED ATTACHMENTS:

- A copy of the permit with the approved plans.
- If built after May 18, 2004 a copy of an as-built survey of the real property which accurately depicts current conditions
- Agent Authorization Form

Chapter 2019-165, Florida Statutes (House Bill 7103), establishes timeframes for applicant and agency responses. By checking this box, you are providing written authorization for EPD to waive the mandatory timeframes established by law.

PERSON AUTHORIZING ACCESS TO THE PROPERTY MUST COMPLETE THE FOLLOWING:

I either own the property described in this application or I have legal authority to allow access to the property and I consent to any site visit on the property by agents or personnel from Orange County, Florida necessary for the review and inspection of the proposed project specified in this application. I authorize these agents or personnel to enter the property as many times as may be necessary to make such review and inspection. Further, I agree to provide entry to the project site for such agents or personnel to monitor permitted work if a permit is granted.

Sheila Cichra



12/1/2021

Typed Printed Name

Signature

Date

Corporate Title (if applicable)

PROPERTY OWNER OR AUTHORIZED AGENT MUST COMPLETE THE FOLLOWING:

By signing and submitting this application form, I am applying for the permit identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained in this application, and represent that such information is true, complete, and accurate. I understand this is an application and not a permit, and that work conducted prior to approval is a violation. I understand that this application and any permit issued pursuant thereto, does not relieve me of any obligation for obtaining any other required federal, state, water management district or local permit prior to commencement of construction. I understand that Orange County will make no representation as to the proposed dock's impact on navigability or safety. For that reason, I understand that it may be advisable for me to consult with an expert in navigability and safety issues. I agree, or I agree on behalf of my corporation, to operate and maintain the permitted system unless the permitting agency authorizes transfer of the permit to a responsible operation entity; I understand that knowingly making any false statements or representation in this application is a violation of Sections 15-341 & 15-342, Orange County Code.



12/1/2021

Signature of Applicant Agent

Date

Corporate Title (if applicable)



ENVIRONMENTAL PROTECTION DIVISION

David D. Jones, P.E., CEP, Manager

3165 McCrary Place, Suite 200

Orlando, FL 32803

407-836-1400 • Fax 407-836-1499

www.ocfl.net

January 6, 2023

CERTIFIED MAIL: 9489 0090 0027 6353 2558 72

UPDATED NOTICE OF VIOLATION

Mark and Kimberly Marshall

9190 Cypress Cove Drive

Orlando, FL 32819

RE: Boat Dock Construction Permit Violation

Parcel ID No.: 28-23-28-0535-02-050

Address: 9190 Cypress Cove Drive

Property Description: BAY HILL SECTION 5 B 5/117 LOT 205

Lake Tibet, Orange County Commission District: 1

Incident Number: 22-608852

Associated Permit: BD 01-055

Associated Application (Closed): BD-22-08-152

Dear Mr. and Mrs. Marshall.

This updated Notice of Violation (NOV) reflects information and direction conveyed by you in a conversation with EPD on January 4, 2023, in regard to the referenced Incident and Application. In your discussion with EPD, you indicated that you were no longer interested in pursuing an after-the-fact Boat Dock Construction Permit or the required waivers/variances.

The following Corrective Actions were set forth in the original NOV; the updated items are identified in bold.

CORRECTIVE ACTIONS

1. Within 30 days of receipt of this NOV, attempt to keep the structure in its current location and configuration by submitting an after-the-fact Boat Dock Construction Application (and any applicable waivers and/or variances) that meets the current requirements of Chapter 15, Article IX to authorize the existing dock in its' current location and reflects the addition of the jet ski lift.

UPDATE: Based on your conversation with EPD on January 4, 2023, it is EPD's understanding that you will no longer pursue the after-the-fact Boat Dock Construction Permit or required variance to keep the dock as constructed. Accordingly, EPD will close Application #BD-22-08-152.

Serving our community by conserving, protecting, and enhancing the environment for current and future generations.

Page 2

Updated Notice of Violation

Address: 9190 Cypress Cove Drive

Incident Number: 22-608852

2. Within 45 days of receipt of this NOV, reconstruct the dock in accordance with Boat Dock Construction Permit #01-055 and remove the existing jet ski lift;

UPDATE: Within 45 days of this updated NOV, reconstruct the boat dock in accordance with Boat Dock Permit #01-055 and remove the jet ski lift.

AND

3. Within 90 days of receipt of this NOV, remit payment in the amount of \$2,198.00 to the Orange County Board of County Commissioners with a notation for the use in the Conservation Trust Fund, as a penalty for construction of a dock that is not in accordance with the permit conditions. Payment must be returned to EPD with a copy of this NOV.

UPDATE: Within 60 days of receipt of this updated NOV, remit payment in the amount of \$2,198.00 to the Orange County Board of County Commissioners with a notation for the use in the Conservation Trust Fund, as a penalty for construction of a dock that is not in accordance with the approved permit plans and conditions. Payment must be returned to EPD with a copy of this updated NOV.

EPD reserves the right to require additional corrective actions and additional administrative fees should we need to proceed to formal enforcement proceedings with the Orange County Special Magistrate. If you fail to complete the corrective actions as outlined in this NOV, it will be assumed that you are not interested in settling this matter according to the terms described herein, and this matter will be referred to the Orange County Code Enforcement Special Magistrate with a recommendation that formal enforcement action be taken against you.

Should you have questions or concerns related to this matter, you may contact me either by email at Karen.Garrett-Kraus@ocfl.net, by letterhead address, or by calling 407-863-1496 to schedule a meeting.

Sincerely,

Karen Garrett-Kraus

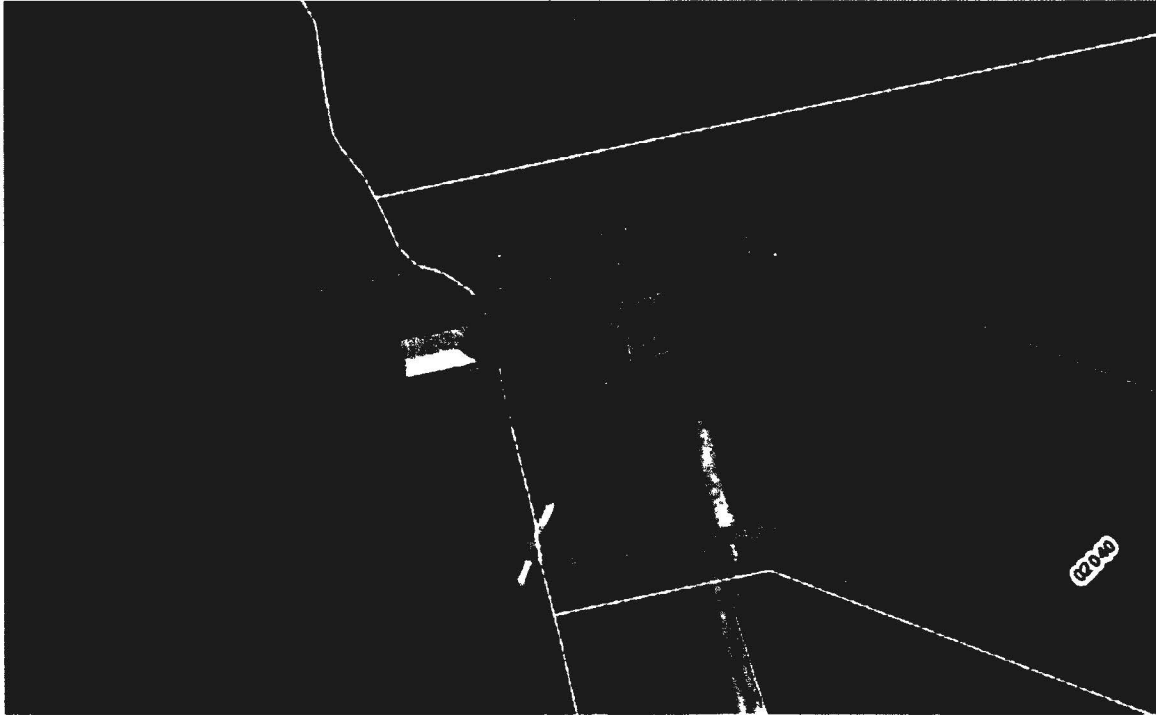
Karen Garrett-Kraus
Team Leader – Environmental Compliance and Enforcement

KGK/TKH/PRJ: gfdjr

c: Sheila Cichra, Streamline Permitting, Inc., sheilacichra@gmail.com
Florida Department of Environmental Protection, DEP_CD@dep.state.fl.us
Tim Hull, EPD, Tim.Hull@ocfl.net
Jason Root, EPD, Jason.Root@ocfl.net
Nicole Salvatico, EPD, Nicole.Salvatico@ocfl.net

Attachments: Boat Dock Construction Permit 01-055

**Aerial with Outlines of the Permitted Dock
Location/Configuration in Red and the Current
Location/Configuration**





ENVIRONMENTAL PROTECTION DIVISION

Renée H. Parker, LEP, 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 October 25, 2023

R. Alan Horn Chairman

Peter J. Fleck Vice Chairman

Billy Butterfield

Kelly Eger-Smith

Jared A. Gasper

Karin Leissing

Margaret Shan Atkins

Applicants: Mark and Kimberly Marshall

Permit Application Number: BD-23-05-075

Location/Address: 9190 Cypress Cove Drive, Orlando, FL 32819

RECOMMENDATION: Accept the findings and recommendation of the Environmental Protection Officer, and make a finding that the request for after-the-fact variance is consistent with Orange County Code, Chapter 15, Article IX, Section 15-350(c), and recommend approval of the request for the after-the-fact variance to Section 15-342(a)(6) to increase the maximum allowable walkway width from 5 feet to 20 feet and decrease the minimum allowable walkway height over wetlands from 3 feet to 2.2 feet above the ground surface with a mitigation payment of \$300 to the Conservation Trust Fund within 60 days of the decision of the Board of County Commissioners for the Mark and Kimberly Marshall Dock Construction Permit BD-23-05-075. District 1

- Checked box: EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED
Unchecked box: EPC DISAGREES WITH THE ACTION REQUESTED, AS PRESENTED AND HAS MADE THE FOLLOWING RECOMMENDATION:

Blank lines for providing a recommendation if the second option is selected.

Signature of EPC Chairman: [Handwritten Signature]

DATE EPC RECOMMENDATION RENDERED: _____