



Interoffice Memorandum

**AGENDA ITEM**

February 4, 2021

TO: Mayor Jerry L. Demings  
-AND-  
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 23, 2021 — Consent Item  
Environmental Protection Commission Recommendation for  
Request for After-the-Fact Variance for Thomas Hagood Dock  
Construction Permit BD-18-01-002.

The applicant, Thomas Hagood, is requesting approval of an after-the-fact dock permit modification and variance to Orange County Code (Code), Chapter 15, Article IX, Section 15-342(d) (floor elevation). The project site is located at 3507 TCU Blvd, Orlando, FL 32817. The Parcel ID number is 12-22-30-3378-01-680. The subject property is located on Lake Irma in District 5.

On February 13, 2018, the Environmental Protection Division (EPD) issued Dock Construction Permit BD-18-01-002 to construct a boat dock at the subject property. On June 29, 2020, EPD received the as-built survey of the dock. Upon review of the survey, EPD discovered that the floor elevation did not meet the required one-foot minimum elevation over the Normal High Water Elevation (NHWE) of Lake Irma. The constructed floor elevation according to the as-built survey is 0.22 foot above the NHWE. On July 24, 2020, EPD received an after-the-fact Application for Variance to Section 15-342(d) to attempt to authorize the dock to remain as constructed with the reduced floor elevation.

Notification of the after-the-fact variance request was sent to all shoreline property owners within a 300-foot radius of the property. No objections were received.

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 agent for the applicant, Ms. Sheila Cichra, stated in the after-the-fact variance request that "*Due to a survey error, the dock was built too low, but the NHWE of this lake is not 'normal'. Even in extreme high water, the lake doesn't reach the NHWE. We are requesting a variance, so that the dock does not have to be torn down and rebuilt.*"

To address Section 15-350(a)(1)(2), Ms. Cichra states, "*The proposed structure will not adversely affect the adjacent property owner's view or navigability.*"

The current elevation of the dock is 54.96' NAVD88 and the highest recorded water elevation on Lake Irma was 55.9 feet NAVD88 (in September 2004). Since the 2004 recorded high water elevation on Lake Irma, there has been one other recorded instance of the water level above the NHWE; 54.94 feet NAVD88 in July 2005. Additionally, water levels have been within one foot less than the NHWE seven times since 2005. The highest of those readings was 53.97 feet NAVD88 in November 2005 (0.77 feet below the NHWE).

Staff evaluated the after-the-fact variance request for compliance with the criteria for approval. The applicant has demonstrated that there will be no adverse effects from the proposed variance on abutting shoreline owners pursuant to Section 15-350(a)(1)(2), as no objections were received. However, the recommendation of the Environmental Protection Officer (EPO) was to deny the request for the after-the-fact variance to Section 15-342(d) (floor elevation) based on a finding that the applicant has not demonstrated that the hardship was not self-imposed pursuant to Section 15-350(a)(1)(1).

EPD presented the variance request in a public hearing before the Environmental Protection Commission (EPC) at their January 27, 2021 meeting. The EPC discussed whether or not a survey error represented a self-imposed hardship and whether the result was a major or minor deviation from the code requirement. The EPC did not reach unanimous agreement on whether or not the hardship was self-imposed with the dissenting member stating that the homeowner is responsible for who they hire and needs to make sure the work is done in accordance with the permit. The dissenting member also thought that the deviation was not minor. Ultimately, the consensus of the EPC was that the request for variance appears to be minor compared to other requests that have come before the EPC. In addition, the dock would still be visible if the water level were to rise over the deck and therefore should not be a significant concern from a navigation and boating safety perspective, which is the primary purpose of the code criterion for which a variance is being requested. Based upon evidence and testimony presented at the hearing, the EPC voted to overturn the findings and recommendation of the EPO by a vote of 4 to 1, and recommended approval of the after-the-fact variance to 15-342(d) to allow the dock to remain as constructed with the added conditions that the applicant enter into a Hold Harmless and Indemnification Agreement with Orange County and make a payment of \$799 to the Conservation Trust Fund within 60 days of the decision of the Board as a penalty for not constructing the dock according to the permit.

**ACTION REQUESTED:** Acceptance of the findings and recommendation of the Environmental Protection Commission and approval of the after-the-fact variance to Orange County Code, Chapter 15, Article IX, Section 15-342(d) (floor height) to allow the dock to remain as constructed with the conditions that the applicant enter into a Hold Harmless and Indemnification Agreement with Orange County, and make a payment of \$799 to the Conservation Trust Fund within 60 days of the decision of the Board of County Commissioners for the Thomas Hagood Dock Construction Permit BD-18-01-002. District 5.

# Dock Construction Application for Variance



## Dock Construction Application for Variance

**BD-18-01-002**

**District #5**

**Applicant:** Thomas Hagood

**Address:** 3507 TCU Blvd

**Parcel ID:** 12-22-30-3378-01-680

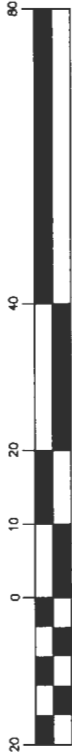
**Project Site**



**Property Location**



GRAPHIC SCALE

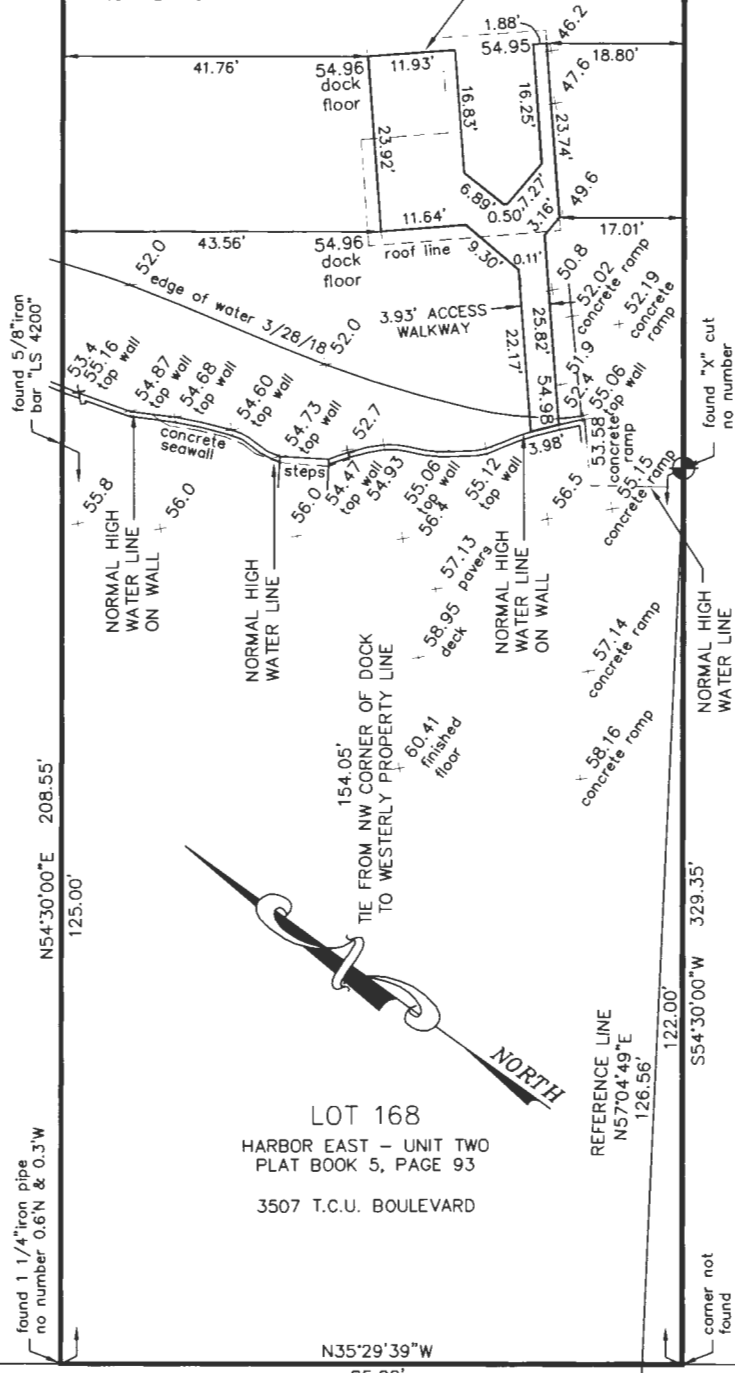


( IN FEET )  
1 inch = 20 ft.

LAKE IRMA

WATER ELEVATION =  
52.02 3/28/18  
NORMAL HIGH WATER  
ELEVATION = 54.74 (NAVD88)  
(PER ORANGE COUNTY LAKE FACT SHEET)

WOOD DOCK STRUCTURE WITH  
COMPOSITE DECK AND SHINGLED ROOF  
- TOP OF DECK IS 0.22 ABOVE NHWE  
- HEIGHT OF LOWEST ROOF EAVE  
STRUCTURE IS 6.90' ABOVE TOP OF DECK  
- TOP PEAK OF ROOF IS 10.55' ABOVE DECK



found "X" cut  
no number  
in concrete  
REFERENCE POINT 1  
"X" CUT IN CONCRETE  
ELEVATION = 55.11 (NAVD88)

LOT 168  
HARBOR EAST - UNIT TWO  
PLAT BOOK 5, PAGE 93  
3507 T.C.U. BOULEVARD

LEGEND:

- 55.0 = ONE DECIMAL PLACE INDICATES GROUND ELEVATION
- NHWE = NORMAL HIGH WATER ELEVATION
- NAVD88 = NORTH AMERICAN VERTICAL DATUM OF 1988

T.C.U. BOULEVARD

REFERENCE POINT 2  
MAGNETIC SPIKE NAIL  
SET OFF EDGE OF SIDEWALK

SEE SHEET 1 OF 2 FOR NOTES AND LEGAL DESCRIPTION.

DATE 3/29/18  
SCALE 1" = 20'  
DRAWING 20683AB  
PROJECT 20683  
2 OF 2  
SHEET NUMBER

ASBUILT SURVEY  
BOAT DOCK / LAKE IRMA  
3507 T.C.U. BOULEVARD  
ORLANDO, FLORIDA  
PREPARED FOR  
THOMAS A. HAGOOD, JR.

THOMAS L. CONNER, PSM  
SURVEY AND MAPPING CONSULTANT  
5424 SOUTH BRACKEN COURT  
WINTER PARK, FLORIDA 32792-9405  
TELEPHONE: (407) 538-9137  
FLORIDA LICENSED SURVEYOR AND MAPPER  
BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS  
LICENSE NUMBER LS0004340









**ENVIRONMENTAL PROTECTION DIVISION**

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

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Orlando, FL 32803

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**ORANGE COUNTY  
ENVIRONMENTAL PROTECTION COMMISSION  
January 27, 2021**

**ENVIRONMENTAL  
PROTECTION  
COMMISSION**

**Mark Ausley  
Chairman**

**Oscar Anderson  
Vice Chairman**

**Flormari Blackburn**

**Billy Butterfield**

**Mark Corbett**

**Elaine Imbruglia**

**Vacancy - Regulated  
Business or  
Municipality**

**PROJECT NAME: Thomas Hagood Boat Dock**

**PERMIT APPLICATION NUMBER: BD-18-01-002**

**LOCATION/ADDRESS: 3507 TCU Blvd, Orlando**

**RECOMMENDATION: Accept the findings and recommendations of the Environmental Protection Officer and make a finding that the after-the-fact variance request is not consistent with Section 15-350(a)(1), and recommend denial of the after-the-fact variance to Section 15-342(d) and require the dock to be reconstructed to meet the minimum floor height elevation requirement of one foot above the Normal High Water Elevation within 60 days of the decision of the Board of County Commissioners, for the Thomas Hagood Dock Construction Permit BD-18-01-002. District 5.**

EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED

EPC DISAGREES WITH THE ACTION REQUESTED, AS PRESENTED AND HAS MADE THE FOLLOWING RECOMMENDATION:  
Overturn the recommendation of the Environmental Protection Officer and recommend approval of the after-the-fact variance to Section 15-342(d) (floor height) to allow the dock to remain as constructed, with the condition that the applicant enter into a Hold Harmless and Indemnification Agreement with Orange County, and payment of \$799 to the Conservation Trust Fund for the Thomas Hagood Dock Construction Permit BD-18-01-002. District 5.

Signature of EPC Chairman: Mark Ausley 1-27-21

DATE EPC RECOMMENDATION RENDERED: 1-27-2021





**Interoffice Memorandum**

**January 5, 2021**

**To:** Environmental Protection Commission

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

A handwritten signature in black ink, appearing to be "DJ", written over the name of the sender.

**Subject:** Thomas Hagood Request for After-the-Fact Variance for Dock Construction Permit  
BD-18-01-002

**Reason for Public Hearing**

The applicant, Thomas Hagood, is requesting approval of an after-the-fact boat dock permit modification and variance to Orange County Code (Code), Chapter 15, Article IX, Section 15-342(d) (floor elevation).

**Location of Property/Legal Description**

The project site is located at 3507 TCU Blvd, Orlando, FL 32817. The Parcel ID number is 12-22-30-3378-01-680. The subject property is located on Lake Irma in District 5.

**Background**

On February 13, 2018, the Environmental Protection Division (EPD) issued Dock Construction Permit BD-18-01-002 to construct a boat dock at the subject property. On June 29, 2020, EPD received the as-built survey of the dock. Upon review of the survey, EPD discovered that the floor elevation was not meeting the required one-foot minimum elevation over the Normal High Water Elevation (NHWE) of Lake Irma. The constructed floor elevation according to the as-built survey is 0.22 foot above the NHWE.

On July 24, 2020, EPD received an after-the-fact Application for Variance to Section 15-342(d) to attempt to authorize the dock to remain as constructed with the reduced floor elevation.

**Public Notifications**

On September 9, 2020, a Notice of Application for Variance was sent to all property owners within a 300-foot radius of the property. The applicant and agent were sent notices on January 5, 2021 to inform them of the Environmental Protection Commission meeting on January 27, 2021.

**Floor Height Variance**

Chapter 15, Article IX, Section 15-342(d) of the Code states, "The floor elevation shall be a minimum of one (1) foot above the established control elevation or NHWE." The NHWE for Lake Irma is 54.74' (NAVD88) and the floor elevation of the dock is 54.96' (NAVD88), which is only 0.22 foot above the NHWE. The applicant is requesting a variance to keep the dock floor elevation as constructed.

**Page Two**

**January 27, 2021 Environmental Protection Commission**

**Thomas Hagood Request for After-the-Fact Variance for Dock Construction Permit BD-18-01-002**

Section 15-350(a)(1) *Variances* 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 agent for the applicant, Sheila Cichra, states, “*Due to a survey error, the dock was built too low, but the NHWE of this lake is not ‘normal’. Even in extreme high water, the lake doesn’t reach the NHWE. We are requesting a variance, so that the dock does not have to be torn down and rebuilt.*”

To address Section 15-350(a)(1)(2), Ms. Cichra states, “*The proposed structure will not adversely affect the adjacent property owner’s view or navigability.*”

The current elevation of the dock is 54.96’ NAVD88 and the highest recorded water elevation on Lake Irma was 55.9 feet NAVD88 (in September 2004). Since the 2004 recorded high water elevation on Lake Irma, there has been one other recorded instance of the water level above the NHWE; 54.94 feet NAVD88 in July 2005. Additionally, water levels have been within one foot (less than) the NHWE seven times since 2005. The highest of those readings was 53.97 feet NAVD88 in November 2005 (0.77 feet below the NHWE).

### **Objections**

EPD has received no objections to the request.

### **Enforcement Action**

EPD has not initiated a formal enforcement action; however, a \$799 penalty has been assessed for non-compliance with the permitted plans, the permit conditions, and the Code.

### **Staff Recommendation**

Staff has evaluated the after-the-fact variance request for compliance with the criteria for approval. The applicant has demonstrated that there will be no adverse effects from the proposed variance on abutting shoreline owners pursuant to Section 15-350(a)(1)(2), as no objections have been received; however, the applicant has not demonstrated that the hardship was not self-imposed per Section 15-350(a)(1)(1). Therefore, the recommendation of the Environmental Protection Officer is to deny the request for the after-the-fact variance to Code, Chapter 15, Section 15-342(d) (floor elevation).

**Page Three**

**January 27, 2021 Environmental Protection Commission**

**Thomas Hagood Request for After-the-Fact Variance for Dock Construction Permit BD-18-01-002**

**ACTION REQUESTED:**      **Accept the findings and recommendations of the Environmental Protection Officer and make a finding that the after-the-fact variance request is not consistent with Section 15-350(a)(1), and recommend denial of the after-the-fact variance to Section 15-342(d) and require the dock to be reconstructed to meet the minimum floor height elevation requirement of one foot above the Normal High Water Elevation within 60 days of the decision of the Board of County Commissioners, for the Thomas Hagood Dock Construction Permit BD-18-01-002. District 5.**

JR/NT/TMH/ERJ/DJ: mg

Attachments