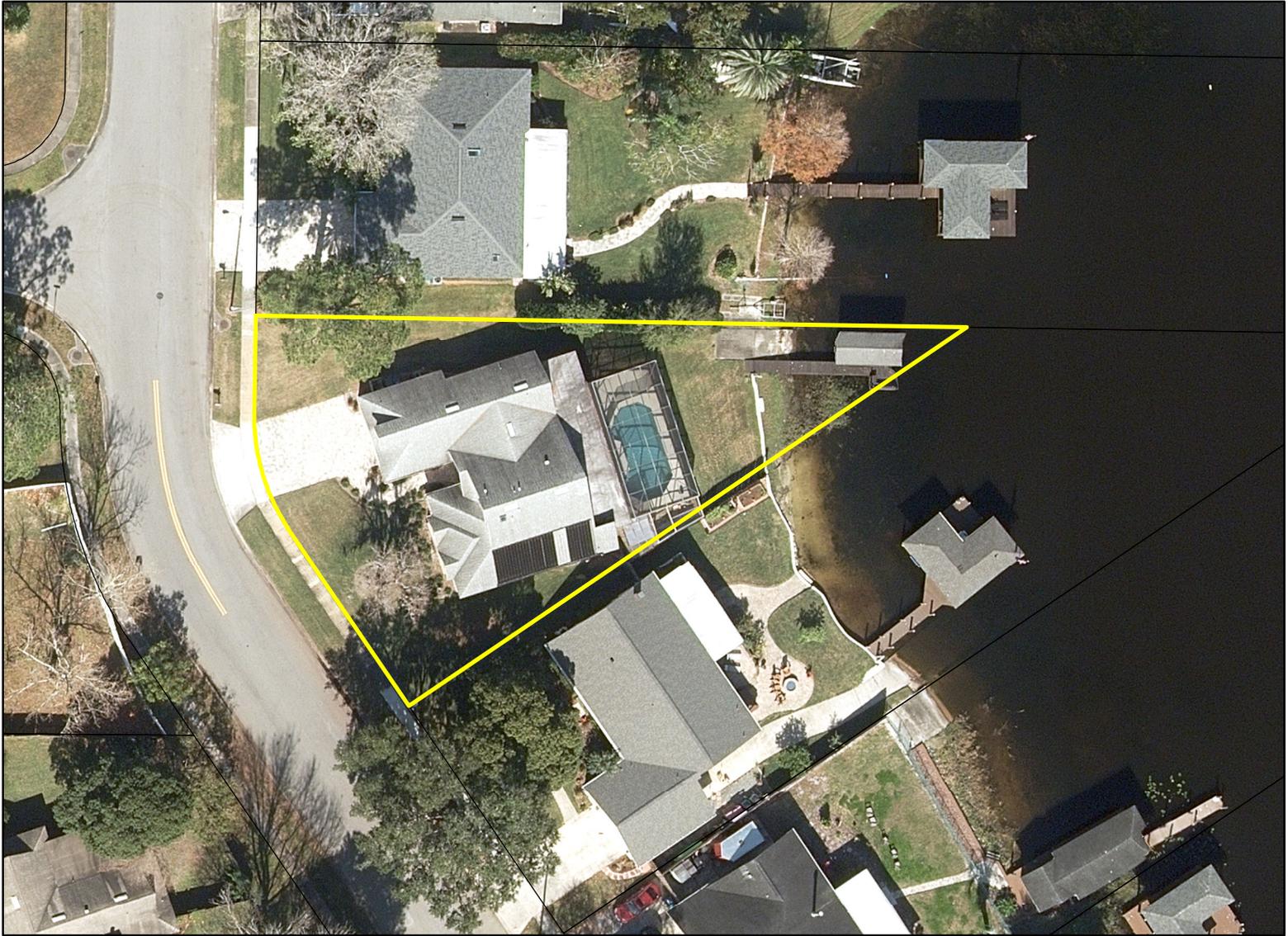


# After-the-Fact Application for Dock Construction Permit with Waiver and Variance



## After-the-Fact Application for Dock Construction Permit with Waiver and Variance

BD-25-03-022

District #5

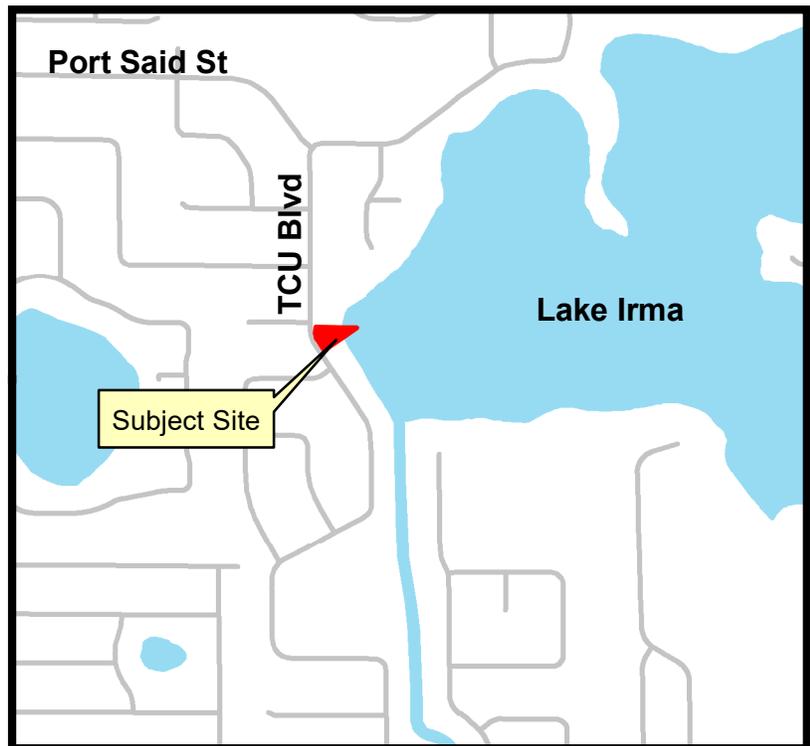
**Applicant:** Kathryn Cowden

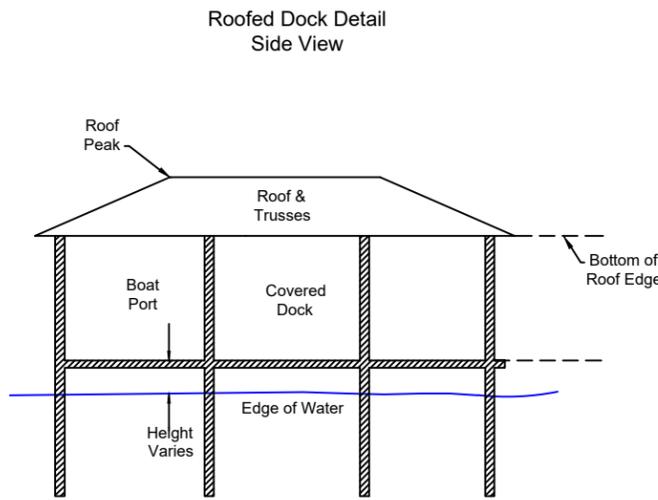
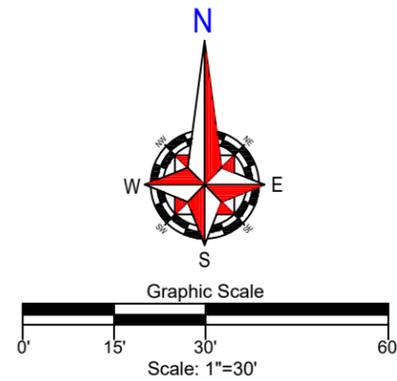
**Address:** 3513 TCU Blvd

**Parcel ID:** 12-22-30-3378-01-670

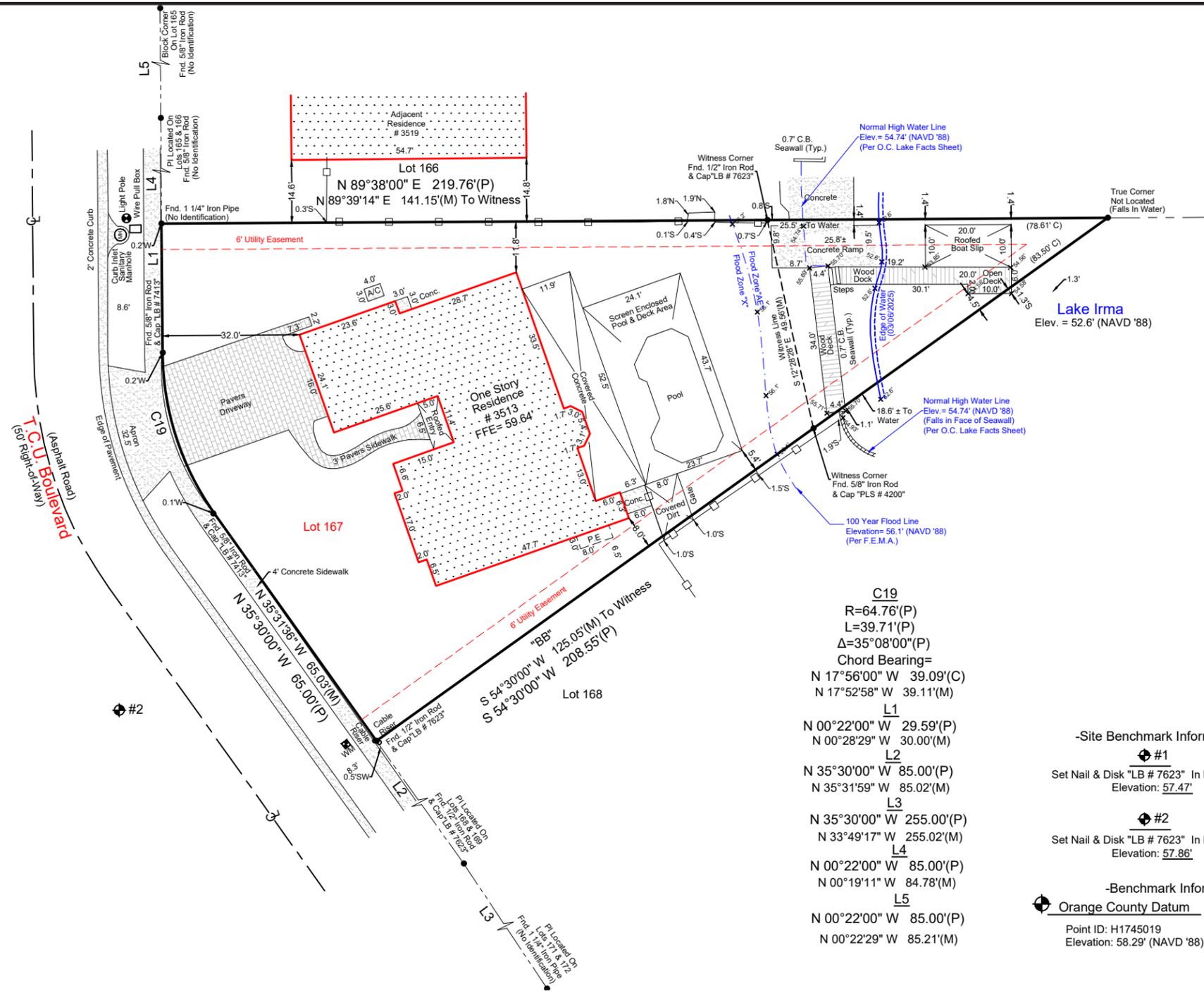
**Project Site** 

**Property Location** 





**Elevation Information for Dock:**  
 Water Elevation: 52.6'  
 Electrical Outlet: N/A  
 Finished Floor Elevation of Roofed Dock: 54.57'  
 Lake Bottom Elev. = 49.6'  
 Highest Point of Dock: 54.58'  
 Lowest Elevation of Dock: 54.58'  
 Highest Elevation of Roof: 65.19'



**C19**  
 R=64.76'(P)  
 L=39.71'(P)  
 Δ=35°08'00"(P)  
 Chord Bearing=  
 N 17°56'00" W 39.09'(C)  
 N 17°52'58" W 39.11'(M)  
**L1**  
 N 00°22'00" W 29.59'(P)  
 N 00°28'29" W 30.00'(M)  
**L2**  
 N 35°30'00" W 85.00'(P)  
 N 35°31'59" W 85.02'(M)  
**L3**  
 N 35°30'00" W 255.00'(P)  
 N 33°49'17" W 255.02'(M)  
**L4**  
 N 00°22'00" W 85.00'(P)  
 N 00°19'11" W 84.78'(M)  
**L5**  
 N 00°22'00" W 85.00'(P)  
 N 00°22'29" W 85.21'(M)

**-Site Benchmark Information-**  
**#1**  
 Set Nail & Disk "LB # 7623" In Pavement  
 Elevation: 57.47'  
**#2**  
 Set Nail & Disk "LB # 7623" In Pavement  
 Elevation: 57.86'  
**-Benchmark Information-**  
**Orange County Datum**  
 Point ID: H1745019  
 Elevation: 58.29' (NAVD '88)

3513 TCU BOULEVARD, ORLANDO, FLORIDA 32817

**AS-BUILT SURVEY**

**Legal Description:**

LOT 167, HARBOR EAST UNIT 2, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 93, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

**Flood Information:**

BY PERFORMING A SEARCH WITH THE LOCAL GOVERNING MUNICIPALITY OR WWW.FEMA.GOV, THE PROPERTY APPEARS TO BE LOCATED IN ZONE AE, X. THIS PROPERTY WAS FOUND IN ORANGE COUNTY, COMMUNITY NUMBER 120179, DATED 09/25/2009.

**CERTIFIED TO:**  
 KATHY COWDEN



Field Date: 3/6/2025

Date Completed: 03/10/25

Drawn By: G.S.

File Number: 15-140193 DOCK AS-BUILT

**-Legend-**

C	- Calculated	PC	- Point of Curvature
CL	- Centerline	Pg.	- Page
CB	- Concrete Block	PI	- Point of Intersection
CM	- Concrete Monument	P.O.B.	- Point of Beginning
Conc.	- Concrete	P.O.L.	- Point on Line
D	- Description	PP	- Power Pole
DE	- Drainage Easement	PRM	- Permanent Reference Monument
Esmt.	- Easement	PT	- Point of Tangency
F.E.M.A.	- Federal Emergency Management Agency	R	- Radius
FFE	- Finished Floor Elevation	Rad.	- Radial
Fnd.	- Found	R&C	- Rebar & Cap
IP	- Iron Pipe	Rec.	- Recovered
L	- Length (Arc)	Rfd.	- Roofed
M	- Measured	Set	- Set 1/2" Rebar & Cap "LB 7623"
N&D	- Nail & Disk	Typ.	- Typical
N.R.	- Non-Radial	UE	- Utility Easement
ORB	- Official Records Book	WM	- Water Meter
P	- Plat	Δ	- Delta (Central Angle)
P.B.	- Plat Book	○	- Chain Link Fence
□	- Wood Fence		

**-NOTES-**  
 >Survey is Based upon the Legal Description Supplied by Client.  
 >Abutting Properties Deeds have NOT been Researched for Gaps, Overlaps and/or Hiatus.  
 >Subject to any Easements and/or Restrictions of Record.  
 >Bearing basis shown hereon, is Assumed and Based upon the Line Denoted with a "BB".  
 >Building Ties are NOT to be used to reconstruct Property Lines.  
 >Fence Ownership is NOT determined.  
 >Roof Overhangs, Underground Utilities and/or Footers have NOT been located UNLESS otherwise noted.  
 >Septic Tanks and/or Drainfield locations are approximate and MUST be verified by appropriate Utility Location Companies.  
 >Use of This Survey for Purposes other than Intended, Without Written Verification, Will be at the User's Sole Risk and Without Liability to the Surveyor. Nothing Hereon shall be construed to give ANY Rights or Benefits to Anyone Other than those Certified.

NONE VISIBLE

**-POINTS OF INTEREST-**

I hereby Certify that this Boundary Survey of the above Described Property is True and Correct to the Best of my Knowledge and Belief as recently Surveyed under my Direction on the Date Shown, Based on Information furnished to Me as Noted and Conforms to the Standard of Practice for Land Surveying in the State of Florida in accordance with Chapter 5J-17.052 Florida Administrative Codes, Pursuant to Section 472.027 Florida Statutes.



*Patrick K. Ireland*

PATRICK IRELAND 6637 LB: 7623  
 This survey is intended ONLY for the use of said certified parties. This survey is NOT valid without signature and embossed with Surveyors Seal.

**Ireland & Associates Surveying, Inc.**  
 800 Currency Circle | Suite 1020  
 Lake Mary, Florida 32746  
 www.irelandsurveying.com  
 Office-407.678.3366 Fax-407.320.8165



1. Describe how this waiver would not negatively impact the environment:

There is no negative impact on the environment as the dock has been reconstructed under appropriate conditions as the project was believed to be replacement under the Grandfather rule, which we understood to require replacing the structure in the same place and the same dimensions as what previously existed. The replacement structure is now free of termites, structurally sound and therefore safe and much more visually pleasing to the surrounding community. Any disturbance of vegetation and shoreline was minimal and has regrown and thrived in the short time since construction was completed.

2. Describe the effect of the proposed waiver on abutting shoreline owners:

The dock as reconstructed is in the exact location with the same overall dimensions as the dock that was previously in place as of its original construction over 30 years ago. The only exception being the landing at the end of the dock (furthest in the lake from the shoreline) previously extended over the property line of the neighbor to the south which was reduced in size and believed to have been placed within the property line. Upon survey, it was discovered a small piece of the dock still extends over the furthest corner of the property line and as such, an easement was agreed to, executed and recorded with the neighbor for that portion of the deck. As a result, the only effect on the neighbors would be positives in that the dilapidated, 30+ year-old dock is now a brand new, solidly structured, much safer and more visually appealing version of its previous self.



---

## APPLICATION TO CONSTRUCT A BOAT DOCK APPLICATION FOR VARIANCE

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

**\*\*Process fee: \$409.00 (administrative) or \$3,924 (if public hearing required)\*\***

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

I Kelly McLoughlin on behalf of Kathryn Cowden (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 3513 TCU Blvd, Orlando, FL 32817.

1. Identify the section(s) of this article that the applicant seeks a variance for and the extent of the requested variance:

Chapter 15, Article IX, Section 15-342(a)(8)

2. Describe the impact of the requested variance on the surface water and the environment:

There will be no impact on the surface water and the environment.

3. Explain the effect of the requested variance on any abutting or affected shoreline property owner(s):

There will be no impact on any abutting shoreline property owners' view or navigability, and there are no affected shoreline property owners.

4. Describe how strict compliance with the section(s) of this article would impose a unique, unreasonable, and unintended hardship on the applicant:

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 based on precedent set by approval given to the neighbor to the south (3507 TCU Blvd) on January 5, 2021 for the same request, and so that the dock does not have to be torn down and rebuilt. In addition, due to the actual normal high water level in Lake Irma, an additional 12 inches difference between the deck height and the water level would impose a significant safety hazard for getting into and out of a boat from the dock given the significant height difference it would create between the two.

5. Explain why the hardship is not self-imposed:

Due to circumstances that are public record, when the new deck was constructed, we believed it was being done so under the Grandfather rule and was being rebuilt in the same manner and at the same height as it had previously existed for 30+ years. As it was ultimately determined a permit for construction was required, we have submitted all required permitting documents and are requesting this variance as the final piece to receiving an after the fact permit for the rebuilt dock structure as it is currently built.

**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: Kelly McLoughlin as agent for Kathryn Cowden \_\_\_\_\_

Signature of Applicant/Agent     *K McLoughlin*     Date: 10/15/2025 \_\_\_\_\_

Corporate Title (if applicable): \_\_\_\_\_

Rev. 06-04-2024  
EPC-017-2018-02

RECEIVED  
O.C. ENVIRONMENTAL  
PROTECTION DIVISION

2025 SEP 24 PM 1:06

James Miller  
3519 TCU Blvd  
Orlando, FL 32817

Hello,

I'm responding to the letter dated September 12, 2025, from the Environmental Protection Division concerning the following:

Applicant: Kathryn Cowden

Subject Site Address 3513 TCU Blvd

Application No: BD-25-03-022

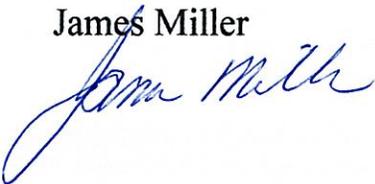
Lake Name: Irma, Orange County Commission District : 5

I object to the requested 1.4-foot setback. Orange County Code, Chapter 15, Article IX, Section 15-343(a) states that the required setback for the parcel is 10 feet from the property line. This is the 2<sup>nd</sup> request for the setback. After the first setback was requested and refused by the EPD, both the owner and contractor, without hesitation or regard, went forward with the new construction of the boathouse and deck. Knowing that the required setback of 10 feet is required from the property line. This both infringes on my view of the lake as well as reducing my property value. My hope is that the EPD will enforce the code as it is intended to both protect the lake and homeowners.

I have enclosed a copy of the first request of "Notice OF APPLICATION FOR WAIVER or VARIANCE" application # BD-24-02-008

Regards,

James Miller





**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

February 19, 2024

**CERTIFIED MAIL: 9489 0090 0027 6388 9911 89**

James D. Miller  
3519 T C U Blvd  
Orlando, FL 32817

**NOTICE OF APPLICATION**  
**FOR WAIVER or VARIANCE**

In accordance with the rules and regulations that have been adopted by Orange County, the Environmental Protection Division (EPD) hereby notifies you that an application to construct a dock has been received for the following property:

**Applicant: Kathryn L Cowden**  
**Subject Site Address: 3513 T C U Boulevard**  
**Application No.: BD-24-02-008**  
**Lake Name: Irma, Orange County Commission District: 5**

The applicant, Kathryn L. Cowden, is requesting a waiver/variance to Orange County Code, Chapter 15, Article IX, Section 15-343(a) (side setback). The applicant is requesting a side setback of 0 feet from both the east and west projected property lines in lieu of the minimum required 10 feet from the projected property lines.

Any objections must be **in writing** and must be received by the Orange County EPD located at 3165 McCrory Place, Suite 200, Orlando, FL 32803, or [Amanda.Freed@ocfl.net](mailto:Amanda.Freed@ocfl.net) within twenty-one (21) calendar days of receipt of this notice.

All permits and permit applications are public documents that are available for examination by citizens. You are welcomed to view any of these records online at <http://fasttrack.ocfl.net>.

If you should have any questions concerning this review, please contact me at [Amanda.Freed@ocfl.net](mailto:Amanda.Freed@ocfl.net) or 407-836-1497.

Sincerely,

A handwritten signature in cursive script that reads "Amanda M. Freed".

Amanda Freed  
Senior Environmental Specialist

AF/KGK/TMH/ERJ/RHP: gfdjr

c: Sheila Cichra, Streamline Permitting, Inc., [SheilaCichra@gmail.com](mailto:SheilaCichra@gmail.com)

James Miller

3519 TCU Blvd.

Orlando, Florida 32817

[jimmiller3519@gmail.com](mailto:jimmiller3519@gmail.com)

407-924-7798

November 13th 2025

Orange County Environmental Protection Division

3165 McCrory place sweet 200,

Orlando FL 32803

Objection notice for neighbor's application for variance/waiver.

Kathryn Cowden

3513 TCU Blvd.

Orlando FL 32817

Project Number :BD-25-03-022

Dear Jason Root,

I am writing to formally object to the variance and waiver requested by my neighbor, Kathryn Cowden. The neighbor has asserted that the new structure was exempt from requiring a permit due the original structure being "Grandfathered". The EPD had sent multiple communications on what was "Grandfathered" and what required a permit. Per the Orange County EPD investigation letter, dated June 21, 2024 from Miola Aganovic it was discovered that the structure was completed as one complete project as well as the structure having a larger footprint and not being built in the original location as the older existing structure. **At present 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 10 feet from the property line or projected property line"**. My best estimate is that the new structure is two to three feet from the common property line. My concerns are that my property value will be negatively impacted with the neighbor's structure so close to the property line as well as impeding my view of the lake.

I examined the "Application To Construct A Dock" document

and found that there appears to be misinformation on the application.

On **Section 2-General Information** document, the brief description of proposed work reads as “We are applying for an ATF permit for the reconstruction of our dock in the footprint it has been since original construction”. That is incorrect per the Orange County EPD investigation. Kelly McLoughlin, who is the agent, signed the document.

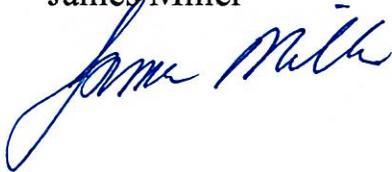
After examining the “**Application To Construct A Boat Dock Application For Waiver**” document, there is again incorrect statements regarding the agent’s description of the new boat dock. The agent states, “The dock as reconstructed is in the exact location with the same overall dimensions as the dock that was previously in place as of its original construction over 30 years ago. This is a false statement, signed and dated by the agent. There was a certified letter: 9489 0090 0027 6388 9970 44, mailed to the neighbor on 6/21/2024. It is a letter of “NOTICE OF VIOLATION” for Unauthorized Boat Dock and Seawall Construction.

Enclosed for your review are the letters of “Notice Of Violation”, “Application To Construct a Dock”, and “Application To Construct A Boat Dock Application For Waiver”.

It is my hope that the Environmental Protection Division will uphold the 10-foot setback code and either have the boat dock removed or relocated.

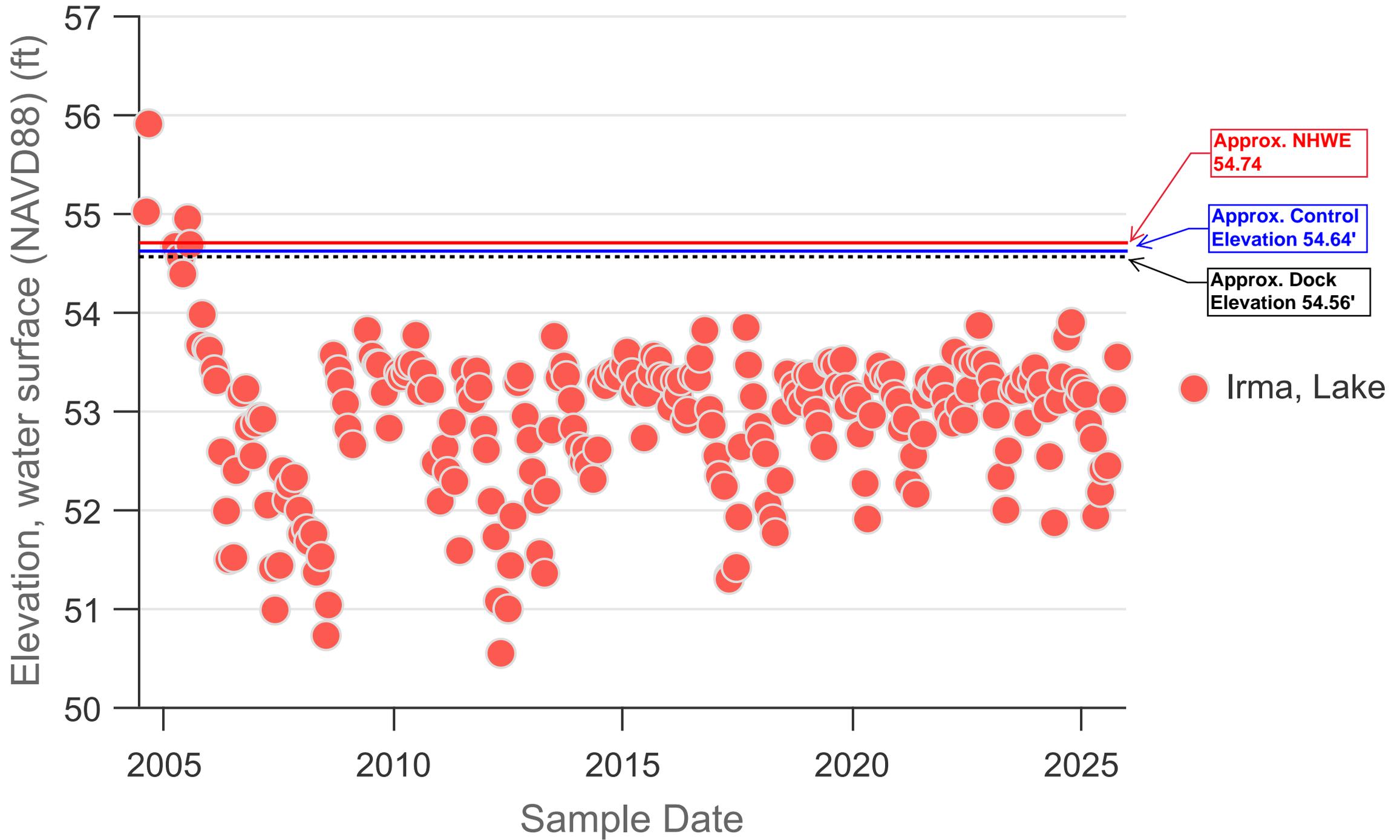
Sincerely,

James Miller

A handwritten signature in blue ink that reads "James Miller". The signature is written in a cursive style with a large, looping initial "J".



# Elevation, water surface (NAVD88) (ft)





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

ORANGE COUNTY  
ENVIRONMENTAL PROTECTION COMMISSION  
December 3, 2025

ENVIRONMENTAL  
PROTECTION  
COMMISSION

Peter Fleck - *Chairman*

Kelly Eger-Smith - *Vice  
Chairman*

Sergio Alvarez

Dawson Amico

Shan Atkins

Karin Leissing

J. Gordon Spears

Applicant: Kathryn Cowden

Permit Application Number: BD-25-03-022

Location/Address: 3513 TCU Blvd, Orlando, FL 32817

**RECOMMENDATION:** Accept the findings and recommendations of the Environmental Protection Officer, and make a finding that the request for waiver is inconsistent with Section 15-350(e) and recommend denial of the request for waiver to Section 15-343(a) (side setback) to reduce the northern side setback from 10 feet to 1.4 feet; and make a finding that the request for variance is inconsistent with Section 15-350(c), and recommend denial of the request for variance to Section 15-342(a)(8) (floor elevation) to reduce the minimum floor elevation from 1 foot above to 0.07 feet below the control elevation of Lake Irma for the Kathryn Cowden Dock Construction Permit BD-25-03-022. District 5

EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED

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

Reject the findings and recommendations of the Environmental Protection Officer, and make a finding that the request for waiver is consistent with Section 15-350(e) and recommend approval of the request for waiver to Section 15-343(a) (side setback) to reduce the northern side setback from 10 feet to 1.4 feet; and make a finding that the request for variance is consistent with Section 15-350(c), and recommend approval of the request for variance to Section 15-342(a)(8) (floor elevation) to reduce the minimum floor elevation from 1 foot above to 0.07 feet below the control elevation of Lake Irma with the condition that a Hold Harmless Agreement is recorded between the applicant and Orange County for the Kathryn Cowden Dock Construction Permit BD-25-03-022. District 5.

Signature of EPC Chair:

DATE EPC RECOMMENDATION RENDERED: 12-3-2025



## Interoffice Memorandum

**November 4, 2025**

**To:** Environmental Protection Commission *Elizabeth R. Johnson*

**From:** Renée H. Parker, LEP, Environmental Protection Officer  
Manager, Environmental Protection Division

**Subject:** Kathryn Cowden Request for Waiver and Variance for After-the-Fact Dock Construction Permit BD-25-03-022

### **Reason for Public Hearing**

The applicant, Kathryn Cowden, is requesting a Dock Construction Permit with a waiver to Orange County Code (Code), Chapter 15, Article IX, Section 15-343(a) (side setback) and a variance to Section 15-342(a)(8) (floor elevation).

### **Location of Property/Legal Description**

The project site is located at 3513 TCU Blvd, Orlando, FL 32817 (Parcel ID No. 12-22-30-3378-01-670) on Lake Irma in District 5.

### **Background**

On February 12, 2024, the Environmental Protection Division (EPD) received an Application to Construct a Dock at the subject property (BD-24-02-008). The application stated they were requesting to rebuild an existing dock in roughly the same location and included an Application for Waiver to reduce the side setback requirements. According to historic aerial photographs the original dock appears to be constructed in the 1987 aerial photograph and therefore was in place prior to the adoption of Chapter 15, Article IX on December 12, 1988. The existing dock extended over the property line to the south. At that time, EPD received objection letters from both adjacent property owners (Thomas Hagood at 3507 TCU Blvd and James Miller at 3519 TCU Blvd). During the review process, the applicant decided they were going to follow Section 15-346(c) Maintenance of unpermitted “grandfathered” docks in the code and asked EPD to stop contacting them. The application was closed.

Section 15-346(c) Maintenance of unpermitted “grandfathered” docks states, “Docks constructed on or before December 19, 1988, are allowed to remain as originally constructed. Maintenance activities of unpermitted docks constructed on or before December 19, 1988, do not require a permit under this article, unless repair or replacement occurs to more than fifty (50) percent of the dock.”

On May 14, 2024, EPD received a complaint from an adjacent neighbor (Thomas Hagood) stating the subject boat dock was being demolished with the intent to replace it. On May 20, 2024, EPD staff conducted a site visit and observed dock construction at the subject property and a Field Warning was issued. On June 7, 2024, EPD staff met with the applicant onsite and observed new posts were in place for a boathouse and half of the original walkway had been removed. Since more than fifty (50) percent of the dock was being replaced which included a larger terminal platform size, the dock required a new permit, to be reviewed under the current Dock Construction Code, Chapter 15, Article IX.

On June 21, 2024, EPD issued a Notice of Violation (NOV) (Incident 24-637359) requiring that the unauthorized boat dock be removed or to submit an Application to Construct a Dock to attempt to permit the dock after-the-fact. On October 23, 2024, EPD issued a Notice of Hearing for the Special Magistrate after the response timeframes lapsed with no response to the NOV. On December 9, 2024, the case was heard before the Special Magistrate. The corrective actions in the Order from the Special Magistrate required the applicant to completely remove the unauthorized boat dock or to submit an Application to Construct a Dock by March 9, 2025. The Special Magistrate did not impose the penalty recommended by EPD as one of the corrective actions.

On March 7, 2025, EPD received an Application to Construct a Dock for the subject property. The application includes a request for waiver to reduce the side setback to both adjacent property lines and a variance for the floor elevation not meeting the minimum height requirement of one foot over the Normal High Water Elevation (NHWE) or established control elevation.

### **Waiver – Side Setback**

Chapter 15, Article IX, 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.” The applicant has a shoreline that measures approximately 43 feet; therefore, requiring a side setback of 10 feet. The applicant is requesting a side setback of 1.4 feet from the northern property line and negative (-)1.3 feet from the southern property line.

EPD received a Letter of No Objection (LONO) from the property owner to the south, Thomas Hagood. Additionally, an access easement has been provided between the applicant and Mr. Hagood to allow a portion of the dock to remain over the property line. In accordance with Section 15-350(e), the Environmental Protection Officer (EPO) has determined that there is no negative impact to the environment, and a LONO has been received; therefore, the waiver request of negative (-)1.3 feet from the southern property line can be administratively approved by EPD. Although the EPO has determined that there is no negative impact to the environment for the side setback to the northern property line, a LONO has not been received from the adjacent property owner to the north, James Miller; therefore, the waiver for the side setback to the northern property line cannot be administratively approved by EPD.

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

To address Section 15-350(e), the applicant’s agent (Kelly McLoughlin) states, “*There is no negative impact on the environment as the dock has been reconstructed under appropriate conditions as the project was believed to be replacement under the Grandfather rule, which we understood to require replacing the structure in the same place and the same dimensions as what previously existed. The replacement structure is now free of termites, structurally sound and therefore safe and much more visually pleasing to the surrounding community. Any disturbance of vegetation and shoreline was minimal and has regrown and thrived in the short time since construction was completed.*

*The dock as reconstructed is in the exact location with the same overall dimensions as the dock that was previously in place as of its original construction over 30 years ago. The only exception being the landing at the end of the dock (furthest in the lake from the shoreline) previously extended over the property line of the neighbor to the south which was reduced in size and believed to have*

*been placed within the property line. Upon survey, it was discovered a small piece of the dock still extends over the furthest corner of the property line and as such, an easement was agreed to, executed and recorded with the neighbor for that portion of the deck. As a result, the only effect on the neighbors would be positives in that the dilapidated, 30+ year old dock is now a brand new, solidly structured, much safer and more visually appealing version of its previous self.*

### **Variance – Floor Elevation**

Section 15-342(a)(8) states, “The floor elevation must be a minimum of one (1) foot above the established control elevation or NHWE.” The NHWE of Lake Irma is 54.74’ and has an outfall control elevation of 54.64’ requiring the floor elevation to be a minimum of 55.64’. The dock has a floor elevation of 54.57’ which is 1.07’ below the minimum allowed elevation.

Section 15-350(a) states, “An applicant may apply to EPD for a variance from a requirement of this article... At a minimum, the applicant must: (1) Identify the section(s) of this article that the applicant seeks a variance for and the extent of the requested variance; (2) Describe the impact of the requested variance on the surface water and the environment; (3) Explain the effect of the requested variance on any abutting or affected shoreline property owner(s); (4) Describe how strict compliance with the section(s) of this article would impose a unique, unreasonable, and unintended hardship on the applicant; and (5) Explain why the hardship is not self-imposed.”

The applicant’s agent has provided the following responses to Section 15-350(a)(1)-(5):

- (1) Chapter 15, Article IX, Section 15-342(a)(8)*
- (2) There will be no impact on the surface water and the environment.*
- (3) There will be no impact on abutting shoreline owners’ view or navigability, and there are no affected shoreline property owners.*
- (4) 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 based on precedent set by approval given to the neighbor to the south (3507 TCU Blvd) on January 5, 2021 for the same request, and so that the dock does not have to be torn down and rebuilt. In addition, due to the actual normal high water level in Lake Irma, an additional 12 inches difference between the deck height and the water level would impose a significant safety hazard for getting into and out of a boat from the dock given the significant height difference it would create between the two.*
- (5) Due to circumstances that are public record, when the new deck was constructed, we believed it was being done so under the Grandfather rule and was being rebuilt in the same manner and at the same height as it had previously existed for 30+ years. As it was ultimately determined a permit for construction was required, we have submitted all required permitting documents and are requesting this variance as the final piece to receiving an after the fact permit for the rebuilt dock structure as it is currently built.*

In regards to water elevations of Lake Irma, the current elevation of the dock is 54.57’ 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. According to measurements from the Orange County Water Atlas, the water levels have not exceeded 54 feet since August 2005.

In regards to precedent referenced by the applicant in item #4 above, at the January 27, 2021, meeting of the Environmental Protection Commission (EPC), a similar variance request was heard

for the adjacent property to the south at 3507 TCU Blvd. The height of that dock was 0.22 foot above the NHWE. The EPO recommended denial of the variance request; however, the EPC voted to overturn the recommendation and approved the variance with the condition that the applicant enter into a Hold Harmless Agreement with Orange County.

### **Public Notification and Objection**

On September 12, 2025, a Notice of Application for Waiver was sent to the adjacent property owner to the north, James Miller. On September 24, 2025, EPD received an objection letter from Mr. Miller regarding the request for waiver. The objection states that the required setback is 10 feet and this is the second request for the reduced setback. Mr. Miller states that after the first request was refused, the owner and contractor went forward with construction of the boathouse and deck. Mr. Miller states that this infringes on his view of the lake and reduces his property value.

On October 21, 2025, a Notice of Application for Variance was sent to all shoreline property owners within 300 feet of the subject property. On November 13, 2025, EPD received another objection letter from Mr. Miller. He states that he is formally objecting to the variance and waiver request. The letter reiterates his concerns with impacting his view and affecting his property value.

On November 12, 2025, the applicant, agent, and objector were sent a notice to inform them of the Environmental Protection Commission meeting on December 3, 2025.

### **Enforcement Action**

There is an open enforcement case (24-637359) for the subject property for the unpermitted dock and an unpermitted seawall. The seawall application (SADF-25-02-006) is scheduled for Public Hearing before the Orange County Board of County Commissioners on December 2, 2025. Issuance of a dock and seawall permit will resolve the enforcement case. If either or both of the applications are denied, the unpermitted structure(s) will be required to be removed in order for the property to be in compliance.

Additionally, Chapter 15, Article IX, Section 15-353(d) states in part, “Any person determined to have violated section 15-324 for failure to obtain a permit prior to constructing a dock or modifying an existing dock such that a variance or waiver would be required, may be subject to an additional administrative penalty in the amount of one dollar (\$1.00) per square foot of the entire structure.” Therefore, an administrative penalty of \$380.40 was assessed for failure to obtain a permit prior to construction. The penalty amount was remitted on November 5, 2025.

### **Staff Recommendation**

Staff has evaluated the request for waiver for compliance with the criteria for approval. Although the EPO has determined that there is no negative impact to the environment, the recommendation of the EPO is to deny the request for waiver to Chapter 15, Article IX, Section 15-343(a) (side setback) to the northern property line based on a finding that the applicant has failed to demonstrate there will be no negative effects on the abutting shoreline owner pursuant to Section 15-350(e), as an objection has been received.

Staff has evaluated the request for variance for compliance with the criteria for approval. Pursuant to Chapter 15, Article IX, Section 15-350(c), Variance criteria. 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 15-250(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 EPO has concluded that the variance request is self-imposed as a dock could be constructed that meets the floor elevation requirement. Therefore, the recommendation of the EPO is to deny the request for variance to Chapter 15, Article IX, Section 15-342(a)(8) (floor elevation).

**ACTION REQUESTED: Accept the findings and recommendations of the Environmental Protection Officer, and make a finding that the request for waiver is inconsistent with Section 15-350(e) and recommend denial of the request for waiver to Section 15-343(a) (side setback) to reduce the northern side setback from 10 feet to 1.4 feet; and make a finding that the request for variance is inconsistent with Section 15-350(c), and recommend denial of the request for variance to Section 15-342(a)(8) (floor elevation) to reduce the minimum floor elevation from 1 foot above to 0.07 feet below the control elevation of Lake Irma for the Kathryn Cowden Dock Construction Permit BD-25-03-022. District 5**

JR/KGK/TMH/ERJ/RHP: ae

Attachments