

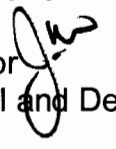


Interoffice Memorandum

AGENDA ITEM

April 11, 2017

TO: Mayor Teresa Jacobs  
—AND—  
Board of County Commissioners

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

CONTACT PERSON: Carol L. Knox, Zoning Manager, Zoning Division  
PHONE NUMBER: 407-836-5585

SUBJECT: May 9, 2017 – Consent Item  
Hold Harmless and Indemnification Agreement for  
Robert J. Barbour

On December 17, 2002, the Board of County Commissioners confirmed approval by the Board of Zoning Adjustment (BZA) of a zoning variance request for Melissa Gaudette (previous property owner) located at 5840 North Dean Road to construct a room addition onto an existing single-family residence 22 ft. from the normal high water elevation of Lake Georgia. Ms. Gaudette was the previous land owner and did not construct the room addition. Mr. Barbour is the current land owner and desires to build the room addition. Approval of this agreement will allow Mr. Barbour to construct the room addition.

The BZA's approval was conditioned on the recording of a Hold Harmless and Indemnification Agreement, which protects Orange County from any claims filed against it resulting from the County's granting of the variance on December 17, 2002.

**ACTION REQUESTED:** Approval and execution of Hold Harmless and Indemnification Agreement Parcel ID 06-22-31-0000-00-021 by and between Robert J. Barbour and Orange County to construct a room addition at 5840 N. Dean Road, Orlando, Florida. District 5

JVW/CH

Attachment

BCC Mtg. Date: May 9, 2017

Instrument prepared by:  
Robert J. Barbour  
5840 N. Dean Road  
Orlando, Florida 32817

Return to:  
Orange County Attorney's Office  
P.O. Box 1393  
Orlando, Florida 32802

**HOLD HARMLESS AND  
INDEMNIFICATION AGREEMENT  
Parcel ID: 06-22-31-0000-00-021**

This Hold Harmless and Indemnification Agreement (the "Agreement") is made by and between Robert J. Barbour, whose mailing address is 5840 N. Dean Road, Orlando, Florida 32817, (the "Homeowner") and Orange County, a charter county and political subdivision of the State of Florida, whose mailing address is c/o Orange County Administrator, P.O. Box 1393, Orlando, Florida 32802-1393 (the "County").

**WITNESSETH:**

**WHEREAS**, the Homeowner holds fee simple title to property located at 5840 N. Dean Road, Orlando, Florida 32817, which is more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference (the "Property"); and

**WHEREAS**, Melissa Gaudette, as prior owner of the Property ("Prior Owner"), requested a variance to convert a screened room into a permanent two-story addition ("Improvement") twenty-two (22) feet from the normal high water elevation ("NHWE") of Lake Georgia in lieu of fifty (50) feet ("Variance"); and

**WHEREAS**, on December 5, 2002, the County's Board of Zoning Adjustment ("BZA") approved the requested Variance and, as a condition of approval, required the Prior

Owner to record a hold harmless agreement prior to the issuance of a building permit for the Improvement; and

**WHEREAS**, on December 17, 2002, the Board of County Commissioners (“Board”) approved the BZA’s decision and granted approval of the Variance subject to the conditions ratified or established by the Board; and

**WHEREAS**, prior to the recording of the required hold harmless agreement or the issuance of any building permit(s), the Property was the subject of a foreclosure action and was purchased by the Homeowner on or about February 12, 2010, without the Improvement having been constructed; and

**WHEREAS**, the Homeowner desires to construct the Improvement in accordance with the Variance, which runs with the land; and

**WHEREAS**, the Homeowner understands and agrees that placing the Improvement within the fifty (50) foot setback area may significantly increase the likelihood of damage to structures, shoreline, and associated assets, and in spite of these risks the Homeowner desires to place the Improvement within this setback area; and

**WHEREAS**, because this Agreement will be executed and recorded in the Official Records of Orange County, this Agreement serves as notice that the Improvement may be constructed or may have been constructed within the fifty (50) foot setback from the normal high water elevation of Lake Georgia, as authorized by the Variance approved with conditions ratified or established by the Board on December 17, 2002.

**NOW, THEREFORE**, in consideration of these premises, the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and

sufficiency of which are hereby acknowledged, the Homeowner and the County hereby agree as follows:

1. **RECITALS.** The above recitals are true and correct and are hereby incorporated as a material part of this Agreement by this reference.

2. **HOLD HARMLESS AND INDEMNIFICATION.** The Homeowner, on behalf of himself and his successors, assigns, heirs, grantees, representatives, invitees, and permittees, hereby assumes sole and entire responsibility for any and all damage to property sustained as a result of the County's granting of the variance request on December 17, 2002. The Homeowner hereby agrees to release, indemnify, defend (with legal counsel acceptable to the County), and hold harmless the County, its Board members, officers, employees, contractors, agents, and elected and appointed officials from and against any and all claims, suits, judgments, demands, liabilities, damages, costs, and expenses (including but not limited to attorneys' fees, paralegals' fees, consultants' fees and costs at all administrative, pretrial, trial, and appellate levels) of any kind or nature whatsoever including, without limitation, damage to property, arising out of or related in any way to the activities or operations on or use of the Improvements resulting from the County's granting of the variance request on December 17, 2002.

3. **COVENANTS RUNNING WITH THE LAND.** This Agreement shall run with the Property, and shall be binding on all parties having any right, title or interest in the Property described herein or any portion thereof, their heirs, representatives, successors and assigns.

4. **AMENDMENT/TERMINATION.** This Agreement may be amended or terminated only by express written instrument approved by the Board and the Homeowner.

5. **APPLICABLE LAW.** This Agreement and the provisions contained herein shall

be construed, controlled, and interpreted according to the laws of the State of Florida.

6. **RECORDATION.** An executed original of this Agreement shall be recorded, at the Homeowner's expense, in the Official Records of Orange County, Florida.

7. **EFFECTIVE DATE.** This Agreement shall become effective on the date of execution by the County or the date of execution of the Homeowner, whichever is later.

**IN WITNESS WHEREOF,** the parties hereto have caused this Agreement to be duly executed by their respective duly authorized representatives on the dates set forth below.



**ORANGE COUNTY, FLORIDA**

By: Board of County Commissioners

By: *Teresa Jacobs*  
Teresa Jacobs  
Orange County Mayor

Date: 5.9.17

ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

By: *Katie Smith*  
Deputy Clerk

[REMAINING SIGNATURES ON FOLLOWING PAGE]

Signed, sealed and delivered in our presence as witnesses:

Signature: [Signature]

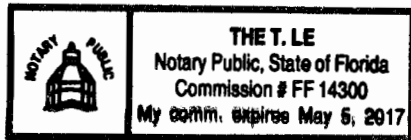
Printed Name: Paul Sumulong

Date: [Signature]  
Signature: [Signature]

Printed Name: Sabrina Bakka

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of April, 2017 by Robert J. Barbour, who is personally known to me or who has produced FLDL, as identification.



[Signature]  
Notary Public, State of Florida At Large

THE T. LE  
Notary Printed Name or Stamp

My Commission Expires: MAY 5, 2017

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**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**Parcel ID: 06-22-31-0000-00-021**

**BEG 30 FT W & 465 FT S OF NE COR OF SEC RUN S 105 FT S 50 DEG W 861.41 FT S  
89 DEG W 128.43 FT N DEG E 1027.41 FT TO POB BEING LOT 10 OF UNREC PLAT  
IN SEC 06-22-31**

S:kundiff/attorneys admin/tony cotter/ hold harmless agt/Barbour hold harmless agt final draft 3 29 17