

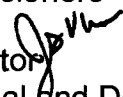


Interoffice Memorandum

AGENDA ITEM

May 1, 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: Lori Cunniff, CEP, CHMM, Deputy Director  
Community, Environmental and Development  
Services Department  
(407) 836-1405

SUBJECT: June 6, 2017 - Consent Item  
Environmental Protection Commission Recommendation for an  
After-the Fact Variance Request for the Park Place Advantage  
Dock Construction Permit BD-17-02-008

On February 6, 2017, the Orange County Environmental Protection Division (EPD) received an Application to Construct a Dock (after-the-fact) for property owned by Park Place Advantage LLC, located at 1206 41st Street on Lake Holden. The application included an Application for Variance (after-the-fact) to Section 15-342(c) (access walkway width).

The applicant has constructed a dock with an access walkway that is six-feet wide. Orange County Code states that the access walkway width shall be five feet maximum. The applicant is requesting approval to allow the dock to remain as constructed with the six-foot wide access walkway. EPD received two objections to the after-the-fact variance request.

During the April 26, 2017 public hearing, the Environmental Protection Commission (EPC) voted to uphold the recommendation of the Environmental Protection Officer (EPO) to deny the request for variance (after-the-fact) to Section 15-342(c) (access walkway width), and require the applicant modify the dock to have a five-foot wide access walkway.

**ACTION REQUESTED:** Acceptance of recommendation of the Environmental Protection Commission to uphold the Environmental Protection Officer's recommendation of denial of the request for Variance to Orange County Code, Chapter 15, Article IX, Section 15-342(c), and require the applicant modify the dock to have a five-foot wide access walkway for the Park Place Advantage LLC Dock Construction Permit BD-17-02-008. District 3

JVW/LC: mg

Attachments



ENVIRONMENTAL  
PROTECTION  
COMMISSION

David Ward  
Chairman

Jonathan Huels  
Vice Chairman

Sally Atwell

Alex Preisser

Mark Corbett

Mark Ausley

Flormari Blackburn

ENVIRONMENTAL PROTECTION DIVISION  
Lori Cunniff, CEP, CHMM, Deputy Director  
Community, Environmental and Development Services Department  
3165 McCrory Place, Suite 200  
Orlando, FL 32803-3727  
407-836-1400 • Fax 407-836-1499  
www.ocfl.net

ORANGE COUNTY  
ENVIRONMENTAL PROTECTION COMMISSION  
April 26, 2017

PROJECT NAME: Park Place Advantage LLC Boat Dock  
PERMIT APPLICATION NUMBER: BD-17-02-008  
LOCATION/ADDRESS: 1206 41<sup>st</sup> Street, Orlando, FL 32839

RECOMMENDATION:

**PURSUANT TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX,  
SECTION 15-350(B), DENY THE AFTER-THE-FACT REQUEST FOR  
VARIANCE TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX,  
SECTION 15-342(c) (ACCESS WALKWAY WIDTH).**

☒ EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED

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

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Signature of EPC Chairman:

EPC RECOMMENDATION DATE:

4-26-17



Interoffice Memorandum

April 11, 2017

TO: Environmental Protection Commission

FROM: Lori Cunniff, CEP, CHMM, Deputy Director  
Community, Environmental and Development Services Department

SUBJECT: Park Place Advantage LLC Private Dock After-the-Fact Variance Request

A handwritten signature in cursive script, appearing to read "L. Cunniff", written in dark ink.

**Reason For Public Hearing**

The applicant, Park Place Advantage LLC, is requesting an after-the-fact variance to Section 15-342(c) (access walkway width).

**Location of Property/Legal Description**

The project site is located at 1206 41<sup>st</sup> Street in unincorporated Orlando on Lake Holden. The Parcel ID is 10-23-29-0296-00-171. Park Place Advantage LLC is also the owner of the parcels located directly adjacent to the subject property to the west (1210 41<sup>st</sup> Street) and east (1204 41<sup>st</sup> Street). The subject property is located in Orange County Commission District 3.

**Public Hearing Notifications**

The applicant, agent, and objector were notified of the hearing on March 22, 2017.

**Staff Findings**

On February 6, 2017, the Environmental Protection Division (EPD) received an Application to Construct a Dock (after-the-fact) for the subject property in response to an open enforcement case (Incident #16-46280) for the expansion of the existing dock without a permit. Pursuant to Orange County Code, Chapter 15, Article IX, EPD staff evaluated the proposed application and required documents.

Included with the application was an Application for Variance (after-the-fact) to Section 15-342(c) (access walkway width).

Section 15-342(c) states that access walkways shall be limited to a width of five-feet. The dock was constructed with a six-foot wide access walkway. Therefore, the applicant is requesting approval to allow the dock to remain as constructed with the six-foot wide access walkway.

Notifications for the after-the-fact variance request were sent to all shoreline property owners within 300 feet of the subject property on February 15, 2017.

On February 15, 2017, EPD received a written response from Orange County Public Works regarding the affected Orange County owned stormwater management property (PID 10-23-29-0296-00-051). Public Works had no objection to allowing the dock to remain as constructed.

On March 16, 2017, EPD received a letter of objection from Mr. Lionel Robbins, who resides on the east shore of Lake Holden. Mr. Robbins stated that he is opposed to the after-the-fact variance because 1) the applicant owns several properties in the area and should be familiar with Orange County code; 2) the dock was likely installed by a contractor whom should be familiar with Orange County code; and 3) the property owner would not have had to request a variance after-the-fact if they had submitted a permit application before construction and it was approved.

On April 6, 2017, EPD also received a letter of objection from Ms. Tasha Golis, President of the Lake Holden Property Owners Association. Ms. Golis stated that she is opposed to the after-the-fact variance because the applicant owns several properties and has been associated with numerous businesses in Orange County; therefore the applicant should be familiar with Orange County code. Ms. Golis requests that the dock be removed and the applicant be required to comply with County regulations if the dock is to be rebuilt.

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

To address Section 15-350(a)(1)(1) the applicant has stated that, "*Applicant was not aware max walkway width was 5 feet and a variance was needed for a 6-foot walkway. More difficult to tear down and rebuild to 5-foot max.*"

To address Section 15-350(a)(1)(2) the applicant shall describe the effect of the proposed variance on abutting shoreline owners and has stated that, "*Applicant owns the adjacent properties.*"

### **Enforcement Action**

On November 1, 2016, EPD issued a Notice of Violation (NOV) to Park Place Advantage LLC for construction of a dock without a permit. The NOV required an administrative penalty of \$200.00 to be paid to the Conservation Trust Fund, which was paid on November 28, 2016. Review of a drawing of the dock's dimensions showed that the access walkway width was six-feet, instead of the maximum five-foot width allowed by Orange County code; therefore an application for variance was required. Approval of the after-the-fact variance will resolve the enforcement case. Denial of the variance will require the Applicant to rebuild the access walkway of the dock to meet the five-foot maximum width allowed by code.

### **Staff Recommendation**

The recommendation of the Environmental Protection Officer (EPO) is to deny the request for variance to Section 15-342(c) for the access walkway width based on the Applicant's failure to meet the provisions in 15-350(a)(1). The dock will need to be modified to have an access walkway with a maximum width of five feet.

**ACTION REQUESTED**

**PURSUANT TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX, SECTION 15-350(b), DENY THE REQUEST FOR VARIANCE TO ORANGE COUNTY CODE, CHAPTER 15, ARTICLE IX, SECTION 15-342(c) (ACCESS WALKWAY WIDTH), FOR THE PARK PLACE ADVANTAGE LLC BOAT DOCK CONSTRUCTION PERMIT BD-17-02-008 AND REQUIRE THE APPLICANT TO MODIFY THE DOCK TO HAVE A FIVE FOOT WALKWAY.**

SG/NT/ERJ/LC: mg

Attachments

# Application for Boat Dock Construction



## Application for Variance After-the-Fact

**District # 3**

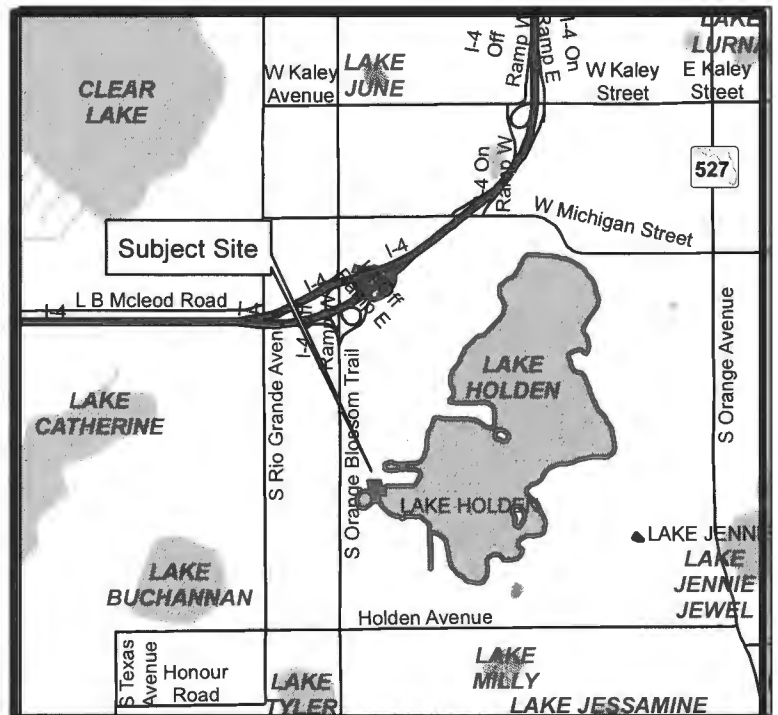
**Applicant:** Park Place Advantage LLC

**Parcel ID:** 10-23-29-0296-00-171

**Project Site**



**Property Location**





## APPLICATION TO CONSTRUCT A DOCK APPLICATION FOR VARIANCE

(Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(a)(1))

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

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

I Cheryl Hilderbrand on behalf of Albino Teixeira (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(1) am requesting a variance to section 15-342(c) of the Orange County Dock Construction Ordinance.  
(access walkway width)

1. Describe 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):

Applicant was not aware of max walkway width was 5' And a variance was needed for 6' walkway. more difficult to tear down & rebuild to 5' max

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

Applicant owns adjacent property

### Notice to the Applicant:

The environmental protection officer, environmental protection commission and the Board of County Commissioners may require additional information necessary to carry out the purposes of this article.

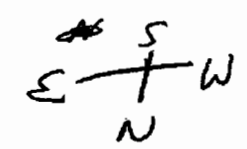
A variance application may receive an approval or approval with conditions when such variance: (1) would not be contrary to the public interest; (2) where, owing to special conditions, compliance with the provisions herein would impose an unnecessary hardship on the permit applicant; (3) that the hardship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

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 representation in this application is a violation of Sections 15-341 & 15-342, Orange County Code.

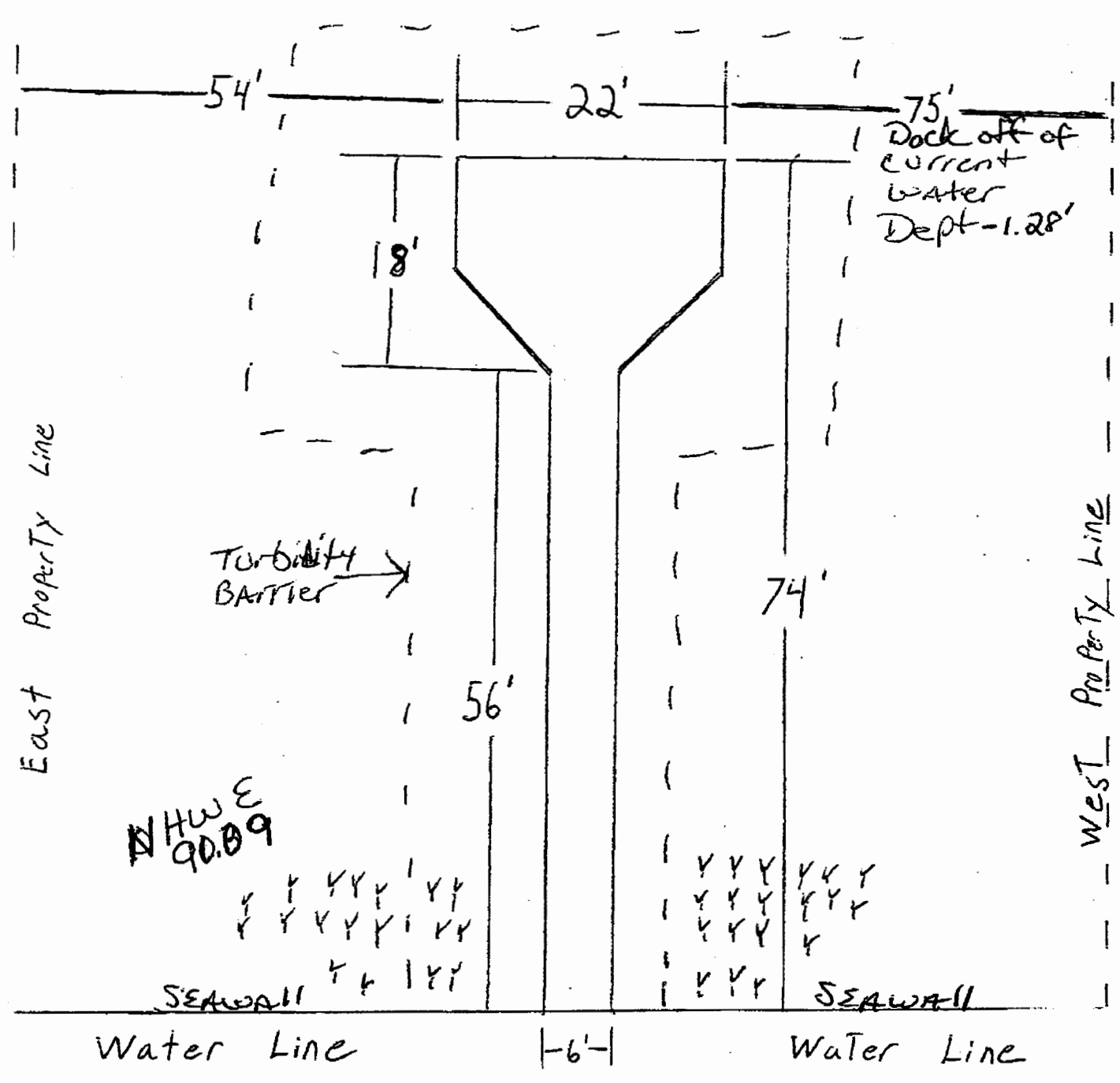
Name of Applicant: Cheryl Hilderbrand  
Signature of Applicant/Agent: Cheryl Hilderbrand Date: 11/28/2016  
Corporate Title (if applicable): Agent

SCALE  
1/2" = 6'

LAKE Holden



0CEPD FEB62017 11:27



width of shoreline  
As measured from  
NHWE 1/20'



PAGE 1 OF 1 | DRAWING NO.: armstrongacres17





Lionel J. Robbins  
3508 MacArthur Drive Orlando, FL 32806  
Cell: 407-948-6584

(CEPD) #AR152017-PH157

March 10, 2017

ENVIRONMENTAL PROTECTION DIVISION

Sarah A. Given  
3165 McCrory Place, Suite 200  
Orlando, FL 32803

RE: Application No. : BD-17-02-008. After-the-Fact Dock Variance @ 1206 41<sup>st</sup> Street,  
Orlando, FL

Specialist Given:

I appreciate the fact that from time to time a Variance may be granted to a County Resident that inadvertently does not adhere a County rule and/or regulation. Especially so if the resident acted on his or her own accord and the blunder truly could be explained because of lack of knowledge regarding the action.

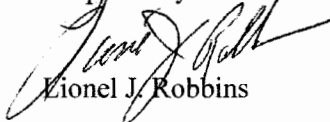
The construction of the new dock on the subject property does not fall into the innocent resident category. The Variance should be denied and the resident should be required to remove the dock and comply with County regulations if another dock is to be built.

Here are my reasons:

1. The registered agent for Park Place Advantage, LLC is Albino Teixeira who owns multiple properties in the Orlando area and has been associated with numerous businesses in Orange County. A background of property ownership and operation of a business within the County necessitates knowledge of County rules and regulations.
2. Because of the high-quality construction of the dock (see photo) I submit that it was not the resident that built the dock but an outside contractor that removed the previous dock and installed the new unpermitted structure. The experienced construction industry company also has vast knowledge of County rules and regulations and is obligated to advise the homeowner of need for a permit.
3. If a permit had been applied for and approved, the homeowner would not have to request a Variance.

Lastly, I would like to pose this question: If the homeowner had applied for a dock permit and the six-foot-wide walkway was included in the plan, would have the permit been approved?

Respectfully submitted:



Lionel J. Robbins



No turbidity CURTAIN



## Lake Holden

### Property Owners Association

April 6, 2017

Sarah A. Given  
Environmental Specialist II  
Environmental Protection Division  
3165 McCrory Place, Suite 200  
Orlando, FL 32803

RE: Application No. BD-17-02-008

After-the-Fact Dock Variance @ 1206 41<sup>st</sup> Street, Orlando, FL

Dear Ms. Given:

My capacity as President of the Lake Holden Property Owners Association requires me to justify many actions and non-actions of lakefront property owners. Most of the time I must refer to a regulation, a set of rules and/or other resources to respond fairly and justifiably. In this instance, I had no problem forming my opinion.

Many new docks have been constructed on Lake Holden, each have been permitted and inspected at a great cost to the property owner. It could be said that there are challenges to getting a new dock permitted, design costs, time at the permit office and the various inspections.

Albina Teixeira is the registered agent for Park Place Advantage, LLC. He is the owner of multiple properties in the Orlando area and has been associated with numerous businesses in Orange County. A background of property ownership and operation of a business within the County necessitates knowledge of County rules and regulations. He should have known that a permit would be required.

I have attached two photos that were posted May 6, 2016 on the Lake Holden Gardens facebook page advertising the property as an event venue. The photos show the then existing dock. The current dock was not built in that existing footprint. I believe the construction of the new dock demonstrates both a lack of regard for rules and the behaviors of a bad neighbor.

The Variance should be denied and the resident should be required to remove the dock and comply with County regulations if another dock is to be built.

Respectfully,

Tasha A. Golis  
President

Save to Wish List



19/100: Secluded Lakefront Mansion Downtown

Show photo list

Save to Wish List



20/100: Secluded Lakefront Mansion Downtown

Show photo list