Interoffice Memorandum



07-27-17 A11:15 RCVD

-27-17A11:11

July 21, 2017

TO: Katie Smith, Manager Comptroller Clerk's Office

Cheryl Gillespie, Agenda Development Supervisor THROUGH: Agenda Development

David D. Jones, P.E., CEP, Manager FROM: **Environmental Protection Division** (407) 836-1405

Elizabeth R. Johnson, Environmental Programs Administrator **STAFF PERSON: Environmental Protection Division PHONE #:** 407-836-1511

SUBJECT: Request for Public Hearing on August 22, 2017, at 2:00 p.m., for an Appeal to the Recommendation of the Environmental Protection Commission regarding an after-the-fact Boat Dock Variance located at 8325 Via Rosa, on Little Sand Lake, in Section 34, Township 23 South, Range 28 East; Parcel ID No. 34-23-28-5670-00-200

Appellant: Sreeram Maddipatla

N/A

Type of Hearing:

Appeal of the recommendation of the Environmental Protection Commission to deny the request for an after-the-fact boat dock variance to reduce the side setback from ten (10) feet to seven (7) feet.

Hearing required by Florida Statute # or Code:

Chapter 15, Article IX, Section 15-349(b).

Advertising requirements: None.

Advertising timeframes: N/A.

Notification requirements:

The applicant, agent, and appellant will be notified at least seven The applicant, agent, and appendix will be notified at least 21 and a protection days prior to public hearing by the Environmental Protection Division (EPD). AuSust 22, 2017

Lake Advisory Board to be notified:

LEGISLATIVE FILE # ___

July 21, 2017 Request for Public Hearing – Maddipatla Appeal Page 2 of 2

Estimated time required For public hearing:	2 minutes.
Hearing Controversial:	No.
Municipality or other Public Agency to be notified:	N/A
District #:	1.

Materials being submitted as backup for public hearing request:

- 1. Location Map
- 2. Boat Dock Permit (BD-15-11-121)
- 3. As-Built Survey
- 4. Boat Dock After-The-Fact Variance Application
- 5. Objection Letter(s)
- 6. EPC Minutes (draft June 2017)
- 7. EPC Recommendation Letter
- 8. Appeal from Sreeram Maddipatla (C/O Mr. Robin Lopez)

Special Instructions to Clerk:

1. Once the Board of County Commissioners makes a decision on the Boat Dock Permit Application, please submit the decision letter to Michelle Gonzalez of EPD. EPD will issue the decision to the applicant.

Attachments AK/N/F/ERJ/DJ: mg

c: Chris Testerman, Assistant County Administrator Jon V. Weiss, P.E., Director, Community, Environment and Development Services Joel D. Prinsell, Deputy County Attorney

After-the-Fact Variance Request



After-the-Fact Variance Request

District #1

Applicant: Sreeram Maddipatla Parcel ID: 34-23-28-5670-00-200

Project Site

Property Location





Environmental Protection Division

DOCK CONSTRUCTION PERMIT

Permit Number: BD-15-11-121

Date Issued: November 20, 2015

A Permit Authorizing:

The construction of a dock not to exceed the measurements identified on the Environmental Protection Division (EPD) stamp on the plans dated as received by EPD on November 4, 2015 and November 16, 2015.

This permit is issued pursuant to Orange County Code, Chapter 15, Article IX, Dock Construction Ordinance of Orange County and is subject to the permit conditions provided on the following pages.

Activity Location:

8325 Via Rosa Orlando, FL 32836 Little Sand Lake Parcel ID: 34-23-28-5670-00-200 Orange County Commission District: 1

Permittee / Authorized Agent:

Sreeram Maddipatla Authorized Agent: Robin Lopez, Summertime Deck and Dock E-mail: robin@summertimedocks.com

> Orange County Environmental Protection Division 800 Mercy Drive, Suite 4 Orlando, Florida 32808-7896. 407-836-1400/ Fax: 407-836-1499 www.OCEPD.org

As the permit holder, you are responsible to ensure that all the conditions are met. If you are using a contractor to construct the dock, you are <u>BOTH</u> responsible for meeting the conditions of your permit. If you fail to meet any of the conditions, you and/or your contractor may be subject to penalties.

Approval of this permit is subject to the following conditions:

Specific Conditions:

- 1. This permit shall become final and effective upon expiration of the fifteen (15) calendar day appeal period following the date of issuance, unless an appeal has been filed within this timeframe. Any appeal shall stay the effective date of this permit until any and all appeals are resolved.
- 2. The operational phase of this permit is effective upon the completion of the construction and continues in perpetuity.
- 3. Construction activities shall be completed in accordance with the 'Maddi Dock' proposed dock plans submitted by Matthew Langbehn of Summertime Deck and Dock, dated as received on November 4, 2015 and November 16, 2015 by the EPD and shall not exceed the measurements identified on the stamp on the plans. The permitted work must be completed within one year from the date of issuance of the permit. Requests for permit extension must be submitted to the EPD prior to the expiration date.
- 4. Minimum height of the deck must be 1 foot above the Normal High Water Elevation (NHWE) of NHWE feet above mean sea level for Little Sand Lake. Maximum height of the roof shall be no higher than 12 feet above the floor elevation.
- 5. The access walkway shall be elevated a minimum of three (3) feet above ground over any wetland. Please be advised that the Florida Department of Environmental Protection (FDEP) or the appropriate Water Management District may have additional height requirements. Please contact the appropriate agency for information regarding additional walkway height requirements.
- 6. The dock must be constructed within the access corridor according to Chapter 15, Article VII. No access corridor is allowed through any conservation area and/or easement.
- 7. The structure and its use shall not significantly impede navigability in the waterbody.
- 8. There shall be no dredging or filling associated with construction of the structure(s) authorized herein, other than that required for installation of structural pilings.
- 9. The dock must be constructed to meander around native trees to minimize the impact. If any trees are removed (dead or alive), EPD must be notified immediately and a Restoration Plan must be submitted to EPD for approval. At a minimum, the plan must consist of native wetland plants on 2-foot centers and native wetland trees on 10-foot centers. The ratio will be at least 4:1 ratio for any trees that are removed.
- 10. If any fallen trees are located within the proposed dock location they may be cut in place and left within the wetland/conservation area. If it must be removed only hand removal is

permitted; no heavy equipment or machinery is permitted. Debris must be removed without displacing soils.

- 11. Unless expressly authorized by this permit and approved site plans, no floating platform structure (including, but not limited to, jetski platforms) has been approved with the issuance of this permit. If, at any time, any addition to the terminal platform (including, but not limited to, a floating platform) is proposed, the permittee or future owners of the property may be required to apply for, and obtain, a new Dock Construction Permit.
- 12. All excess lumber, scrap wood, trash, garbage, etc shall be removed from the project area and/or surface waters immediately.
- 13. The permit holder and/or designated agent must submit a notice of completion to the EPD within thirty days of completion of the construction or repair of the permitted structure so that a compliance check may be performed by EPD staff. The permit holder and/or designated agent must provide as-built drawings on a final survey, signed and sealed by an appropriate professional licensed by the State of Florida, with the notice of completion. The signed and sealed as-built survey shall consist of an aerial view and a side view of dock structure as well as any other information required to demonstrate compliance with the permitted structure. The following items must be included on the survey:
 - a. North arrow;
 - b. Name of water body;
 - c. Reference point;
 - d. Setback distance from all portions of the boat dock;
 - e. Normal High Water Elevation (NHWE)
 - f. Floor elevation (measured from the NHWE);
 - g. Roof elevation (measured from the top of the floor to the top of the roof);
 - h. Length of dock below the NHWE;
 - i. Access walkway width;
 - j. Conservation easements, wetlands, buffers, berm and swale/drainage easements;
 - k. Floor elevation of the dock through easements, wetlands or buffers.
 - 1. Complete dimensions of the terminal platform.
- 14. A copy of this permit, along with EPD stamped and approved drawings should be taken to the Orange County (OC) Zoning Division at 201 South Rosalind Avenue, first floor. For further information, please contact the OC Zoning Division at (407) 836-5525.
- 15. After approved by OC Zoning, the certified site plans will need to be reviewed by the OC Division of Building Safety in order to obtain a building permit. For further information, please contact the OC Division of Building Safety at (407) 836-5550.
- 16. At least 48-hours prior to commencement of activity authorized by this permit, the permittee shall submit to EPD, a 'Construction Notice' indicating the actual start date and expected completion date.
- 17. The permittee shall notify EPD, in writing, within thirty days of any sale, conveyance, or other transfer of ownership or control of the real property subject to this permit. The permittee shall remain liable for all permit conditions and corrective actions that may be required as a result of any permit violations which occur prior to the transfer of the permit by Orange

County to a subsequent owner. If applicable, no permit shall be transferred unless and until adequate financial assurance has been provided and approved by Orange County.

General Conditions:

- 18. Subject to the terms and conditions herein, the permittee is hereby authorized to perform or cause to be performed, the impacts shown on the application and approved drawings, plans, and other documents attached hereto or on file with EPD. The permittee binds itself and its successors to comply with the provisions and conditions of this permit. If EPD determines at any time that activities, including without limitation the performance of the required mitigation, are not in accordance with the conditions of the permit, work shall cease and the permit may be revoked immediately by the Environmental Protection Officer. Notice of the revocation shall be provided to the permit holder promptly thereafter.
- 19. Prior to construction, the permittee shall clearly designate the limits of construction on-site. The permittee shall advise the contractor that any work outside the limits of construction, including clearing, may be a violation of this permit.
- 20. Construction plans shall be submitted to EPD prior to initiating any construction activities for review and approval. The construction plans shall include, but are not limited to, a site plan clearly depicting the location and acreage of the impacts and preservation.
- 21. The permittee shall require the contractor to maintain a copy of this permit, complete with all approved drawings, plans, conditions, attachments, exhibits, and modifications in good condition at the construction site. The permittee shall require the contractor to review the permit prior to commencement of the activity authorized by this permit. The complete permit shall be available upon request by Orange County staff.
- 22. 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, permittee agrees to either obtain written consent or to remove the offending structure or 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 revocation.
- 23. This permit does not release the permittee from complying with all other federal, state, and local laws, ordinances, rules and regulations. Specifically, this permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities upon property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 15, Article VI of the Orange County Code. If these permit conditions conflict with those of any other regulatory agency the permittee shall comply with the most stringent conditions. Permittee shall immediately notify EPD of any conflict between the conditions of this Permit and any other permit or approval.

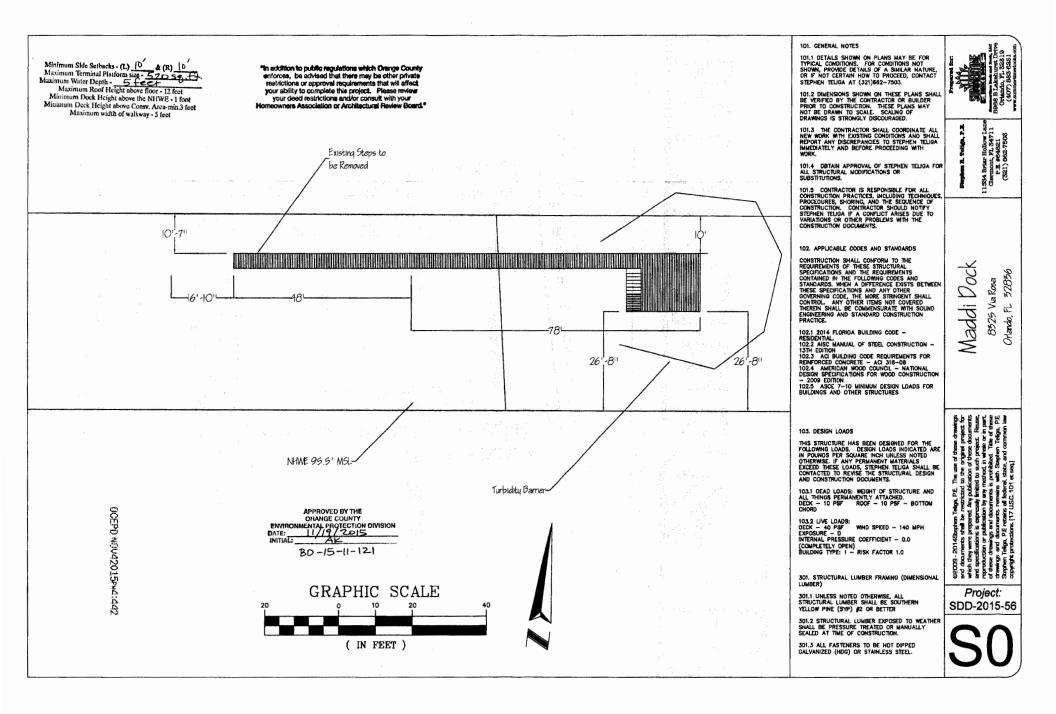
- 24. The permittee is hereby advised that Section 253.77, Florida Statutes, states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
- 25. Should any other regulatory agency require changes to the property, permitted activities, or approved mitigation, the permittee shall provide written notification to EPD of the change prior to implementation so that a determination can be made whether a permit modification is required.
- 26. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
- 27. The permittee shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
- 28. EPD staff, with proper identification, shall have permission to enter the site at any reasonable time to either, at a minimum: inspect, sample, or test to ensure conformity with the plans and specifications approved by the permit.
- 29. The permittee shall hold and save the County harmless from any and all damages, claims or liabilities, which may arise by reason of the activities authorized by the permit.
- 30. All costs, including attorney's fees, incurred by the County in enforcing the terms and conditions of this permit shall be required to be paid by the permittee.
- 31. Permittee agrees that any dispute arising from matters relating to this permit shall be governed by the laws of Florida, and initiated only in Orange County.
- 32. Turbidity and sediments shall be controlled to prevent violations of water quality pursuant to Rule 62-302.500, 62-302.530(70) and 62-4.242 Florida Administrative Code (FAC). Best Management Practices, as specified in the Florida Stormwater, Erosion, and Sedimentation Control Inspector's Manual, shall be installed and maintained at all locations where the possibility of transferring suspended solids into wetlands and/or surface waters due to the permitted activity. If site-specific conditions require additional measures, then the permittee shall implement them as necessary to prevent adverse impacts to wetlands and/or surface waters.
- 33. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

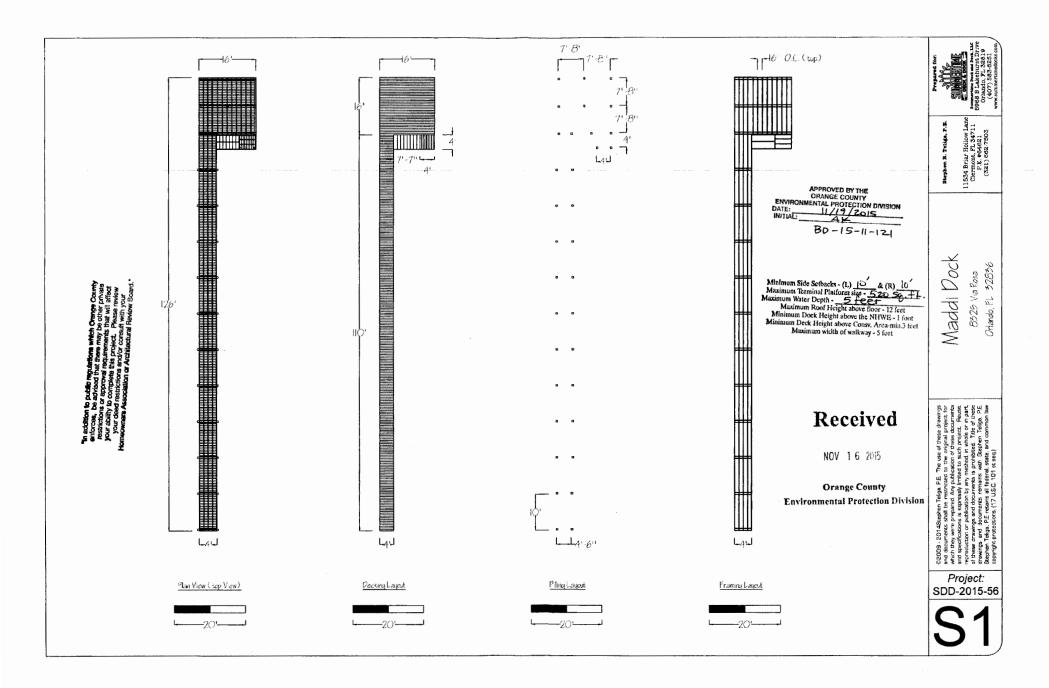
If you should have any questions concerning this review, please contact Aimée Krivan at (407) 836-1496 or <u>Aimee.krivan@ocfl.net</u>.

Project Manager:

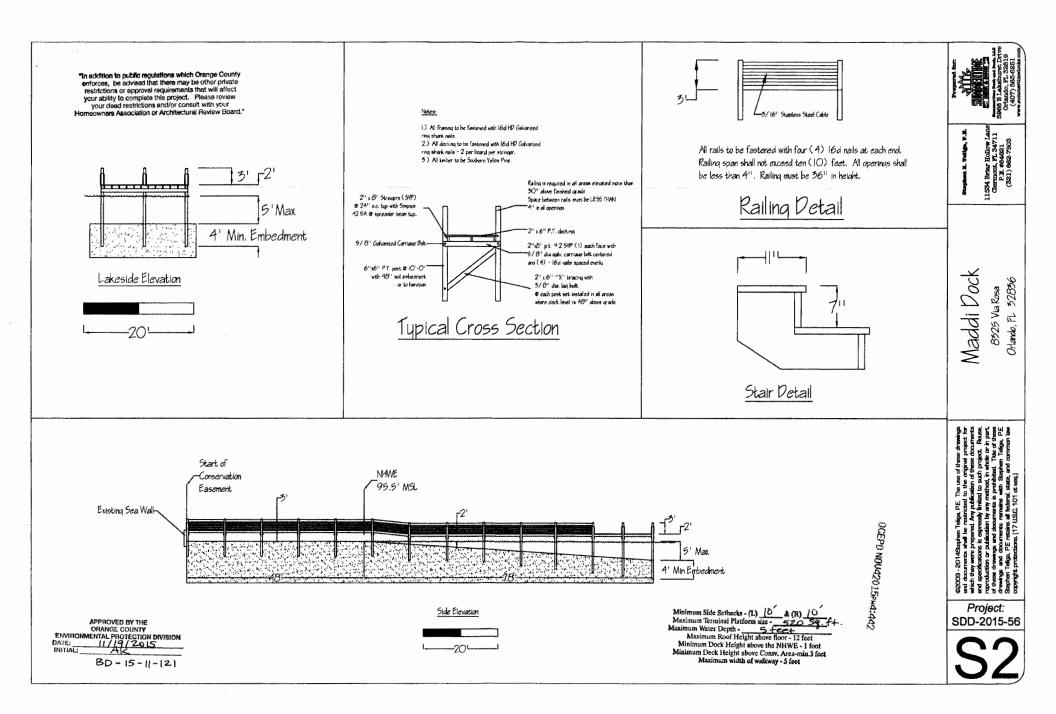
Aimée Krivan, Senior Environmental Specialist Authorized for the Ørange Quinty Environmental Protection Division by: Lori Cunnit, Environmental Protection Officer AK/NT/ERJ/LC:gfdjr Enclosure(s): "Construction Notice"

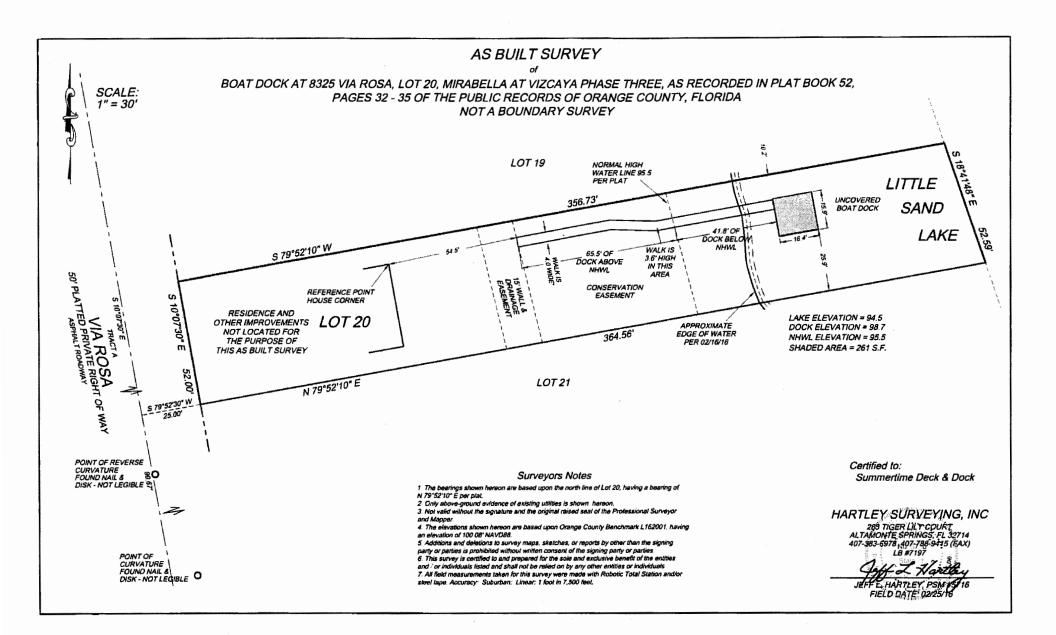
c: Sreeram Maddipatla, sreeram08@yahoo.com

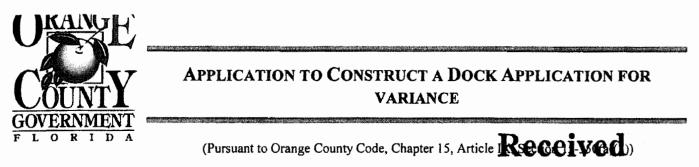




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Mail orOrange County Environmental Protection DivisionDeliver To:3165 McCrory Place, Suite 200
Orlando, Florida 32803
(407) 836-1400, Fax (407) 836-1499

MAR 3 0 2017

Enclose a check for \$409.00 payable to <u>The Board of County Commissioners</u> Orange County

 I
 Ram Maddipatia
 Environmental Protection Division (if applicable) pursuant to Orange County Code

 Chapter 15, Article IX, Section 15-350(a)(1) am requesting a variance to section
 15-343(a)
 of the Orange County Dock

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):

The developer installed one access gate per property in the powder coated aluminum railing. We aligned our dock starting point with the developer provided gate and put a jog in the walkway in order to comply with the side setback requirements. This existing gate is the only access point to the waterfront so the walkway of the dock had to be placed in this location.

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

The dock starting point in this location decreases the distance of the walkway from the property line.

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: Robin Lopez	1 1	
Signature of Applicant/Agent	Nº S-	Date: 03/30/2017
Corporate Title (if applicable):	Summertime Deck and dock	
		and the second se

Received

April 27, 2017

APR 2 7 2017

Elizabeth R. Johnson, CEP, PWS Environmental Programs Administrator Environmental Protection Division Orange County Government Via Email: Ltz Johnson@ocfl.net

Orange County Environmental Protection Division

Re: Application No: BD-15-11-121 Applicant: Sreeram Maddipatla Site Address: 8325 Via Rosa OBJECTION TO VARIANCE

Dear Ms. Johnson,

Please accept this letter as my objection to the applicant's request for an after-the-fact variance to Orange County Code, Chapter 15, Article IX, Section 15-343(a) Setbacks. Application No. BD-15-11-121. Objection submitted as a citizen of Orange County owner of 8319 Via Rosa, Orlando, FL 32836, property abutting the petitioner's property.

The applicant obtained a permit from Orange County, as well as approval from Mirabella at Vizcaya Architectural Review Board ARB, to build a dock with a proposed dock with a straight walkway meeting required setbacks, however, the applicant's dock builder ended up building a dock with a crooked walkway encroaching on setbacks.

Part of the dock walkway was built in violation of the 10 ft. setback as required by Orange County Code, as well as violation the setbacks required by Mirabella at Vizcaya Covenants Conditions and Restrictions, CC&R which also requires 10 ft. setbacks for dock structures.

The dock walkway was built encroaching onto the setback area that is next to my property, thus I'm the most affected neighbor, as a result my backyard feels smaller to me and to many of my guests, and part of the lake area visibility was blocked due to the close proximity of the neighbor's dock walkway.

It appears the applicant does not demonstrate that the strict compliance with terminal platform size would impose a unique and unnecessary hardship on the applicant. Furthermore, it clearly appears the hardship to be self-imposed by dock builder/applicant.

The effect of the proposed variance on abutting shoreline owners would be detrimental to my property, resulting in reduced view of the lake area, reduced enjoyment of my backyard, and may detrimentally affect the resale value and sales marketability of my property.

As mentioned above, the structure was built in violation of Mirabella HOA governing documents which require boat dock structures to be 10 ft. from the surveyed property line.

To my understanding, Mirabella at Vizcaya HOA officially notified our neighbors demanding the walkway to be moved to meet setbacks or the dock structure to be removed.

If EPD grants a waiver, and the owner does not rectify the walkway, then it may cause the HOA to seek all available remedies allowed to get the owner to comply. Hence it would be very helpful to the community for EPD to deny the waiver and to request the owner to rectify the walkway to meet setbacks or remove the structure to be in compliance.

Relocating the walkway and the fence gate appear to be a simple and feasible solution to rectify the setback violation. I am sympathetic towards our neighbors and I regret all the problems due to their built dock. I hope that the builder compensates them accordingly for his company's created violation and problems.

We look forward a satisfactory resolution to this matter, which is the relocation of our neighbor's dock's walkway to meet setbacks requirements.

In summary, this objection is to the variance requested given the applicant's negative impact on current/future abutting shoreline owners, and the possibility for this variance to be against the public's interest.

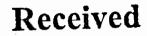
I sincerely hope for the Environmental Protection Commission to deny the request for after-the-fact variance of setbacks.

Thanks for the attention to this matter.

Sincerely,

Hasan A. Baig Mirza H. Baig

Owner 8319 Via Rosa, Orlando FL 32836 Mail: P.O.Box 690913, Orlando, FL 32869



APR 2 7 2017

Orange County Environmental Protection Division

Received

May 15, 2017

MAY 1 5 2017

Elizabeth R. Johnson, CEP, PWS Environmental Programs Administrator Environmental Protection Division Orange County Government Via Email: Liz.Johnson@ocfl.net Orange County Environmental Protection Division

Re: Application No: BD-15-11-121 Applicant: Sreeram Maddipatla Site Address: 8325 Via Rosa OBJECTION TO VARIANCE

Dear Ms. Johnson,

Please accept this letter as my objection to the applicant's request for an after-the-fact variance to Orange County Code, Chapter 15, Article IX, Section 15-343(a), Setbacks. Application No. BD-15-11-121. Objection submitted as a citizen of Orange County owner of 8319 Via Rosa, Orlando, FL 32836, property abutting the petitioner's property.

The applicant obtained a permit from Orange County, as well as approval from Mirabella at Vizcaya Architectural Review Board ARB, to build a dock with a proposed dock with a straight walkway meeting required setbacks, however, the applicant's dock builder ended up building a dock with a crooked walkway encroaching on setbacks.

Part of the dock walkway was built in violation of the 10 ft. setback as required by Orange County Code, as well as violation the setbacks required by Mirabella at Vizcaya Covenants Conditions and Restrictions, CC&R which also requires 10 ft. setbacks for dock structures.

The dock walkway was built encroaching onto the setback area that is next to my property, thus I'm the most affected neighbor, as a result my backyard feels smaller to me and to many of my guests, and part of the lake area visibility was blocked due to the close proximity of the neighbor's dock walkway.

It appears the applicant does not demonstrate that the strict compliance to side setbacks would impose a unique and unnecessary hardship on the applicant. Furthermore, it clearly appears the hardship to be self-imposed as the dock was built differently than the approved plans which showed the proposed structure to be in compliance of setbacks.

The effect of the proposed variance on abutting shoreline owners would be detrimental to <u>my property</u>, resulting in reduced view of the lake area, reduced enjoyment of my backyard, and may detrimentally affect the resale value and sales marketability of my property.

As mentioned above, the structure was built in violation of Mirabella HOA governing documents which require boat dock structures to be 10 ft. from the surveyed property line.

To my understanding, Mirabella at Vizcaya HOA officially notified our neighbors demanding the walkway to be moved to meet setbacks or the dock structure to be removed.

If EPC grants approval for a variance, and the owner does not rectify the walkway, then it may cause the HOA to seek all available remedies allowed to get the owner to comply.

<u>The EPC approval may be against the public interest</u>, as the applicant seeks after-the-fact permission from the County to keep a structure which is currently in violation of Orange County Code, and violates the governing rules of Mirabella at Vizcaya HOA.

An approval decision by the EPC may detrimentally affect the community and may incur the HOA in legal action with fees against the property owners.

Hence it would be very helpful to the community for EPD to deny the variance requested by the applicant, and to request the owner to rectify the walkway to meet setbacks or remove the structure to be in compliance.

Relocating the walkway and the fence gate appear to be a simple and feasible solution to rectify the setback violation. I am sympathetic towards our neighbors and I regret all the problems due to their built dock. I hope that the builder compensates them accordingly for his company's created violation and problems.

We look forward a satisfactory resolution to this matter, which is the relocation of our neighbor's dock's walkway to meet setbacks requirements.

In summary, this objection is to the variance requested given the applicant's negative impact on current/future abutting shoreline owners, and the possibility for this variance to be against the public's interest.

<u>I hope for the Environmental Protection Commission to deny the request for after-the-fact</u> variance of setbacks as I am not sure how this matter will be resolved as my neighbor is a very good person but has been involved with a contractor who did not care about the regualations.

Thanks for the attention to this matter.

Sincerely,

Hasan A. Baig

Mirza H. Baig Owner 8319 Via Rosa, Orlando FL 32836 Mail: P.O. Box 690913, Orlando, FL 32869

Received

June 27, 2017

JUN 2 7 2017

Elizabeth R. Johnson, CEP, PWS Environmental Programs Administrator Environmental Protection Division Orange County Government Via Email: Liz.Johnson@ocfl.net

Orange County Environmental Protection Division

Re: Application No: BD-15-11-121 Applicant: Sreeram Maddipatla Site Address: 8325 Via Rosa OBJECTION TO AFTER-THE-FACT VARIANCE

Dear Ms. Johnson:

Please accept this letter as my objection to the applicant's request for an after-the-fact variance to Orange County Code, Chapter 15, Article IX, Section 15-343(a) Setbacks. Application No. BD-15-11-121. Objection submitted as a citizen of Orange County.

I agree with the objection sent by the abutting property owner, Mr. Hasan Baig, whose objection include:

- 1. Reduced side setback will be detrimental to his property;
- 2. Will result in the reduced view of the lake;
- 3. Reduces enjoyment of his back yard; and
- 4. The side setbacks may detrimentally affect the resale value and market value of his property.

Additionally, upon review of the application for variance submitted by the dock builder, Mr. Robin Lopez, the following deficiencies apparently exist:

• <u>The application may include a false statement</u>: In the application, the builder stated:

"The developer installed one access gate per property in the aluminum railing. . . "

(Excerpt from Variance Application. See Exhibit A)

Such statement made by the builder appears to be false as many shoreline properties in the subdivision Mirabella at Vizcaya do not have gates on the railing fence.

It is a violation of Section 15-341 & 15-342, Orange County Code, if the builder made a false statement in the application.

• <u>The hardship is self-imposed</u>: The builder was approved building plans by the County indicating a straight walkway, however the builder ended up building a crooked walkway in violation of setbacks.

The builder may have known of the location of the fence and gate at the time of submitting plans. The gate could have been moved by a fence/gate contractor at the time of dock construction avoiding violation. The builder built the dock contrary to approved plans, hence a self-imposed hardship.

Furthermore, <u>the variance would be contrary to the public interest</u>. It is to the public interest for the dock walkway to be rectify to meet setbacks pursuant to Orange County Code and Mirabella at Vizcaya HOA governing documents (See exhibit B – Mirabella at Vizcaya Phase III Declaration Article Six, Section 6.2 Boat Docks).

In addition of the mentioned damage to the abutting shoreline owner, the structure is in violation of Mirabella at Vizcaya HOA governing documents, and to our understanding the Association officially notified the owner demanding the correction of the walkway or the dock to be removed.

I am sympathetic towards the owners of the offending structure and I hope this issue is promptly rectified by the builder at no cost to the owners. Regrettably, the owners contracted a dock builder, possibly without being aware of the builder's long history of violations recorded in Orange County.

I support the <u>recommendation of the Environmental Protection Officer to deny</u> the request for variance to side setback.

<u>I pray for the Environmental Protection Commission to deny the request for after-the-fact</u> variance of side setbacks.

Thanks for the attention to this matter.

Sincerely,

Sergio Divine 8226 Livorno Dr. Orlando, FL 32836

cc: Mirabella at Vizcaya Homeowners Association, Inc. Vizcaya Master Homeowners' Association, Inc.



APPLICATION TO CONSTRUCT A DOCK APPLICATION FOR VARIANCE

(Pursuant to Orange County Code, Chapter 15, Article IRSEGEI-VCC))

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

MAR 3 0 2017

Orange County

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

Environmental Protection Division

on behalf of Ram Maddipatla Robin Lopez (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(1) am requesting a variance to section 15-343(a) of the Orange County Dock Construction Ordinance.

I. 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):

The developer installed one access gate per property in the powder coated aluminum railing. We aligned our dock starting point with the developer provided gate and put a jog in the walkway in order to comply with the side setback requirements. This existing gate is the only access point to the waterfront so the walkway of the dock had to be placed in this location.

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

The dock starting point in this location decreases the distance of the walkway from the property line.

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 13-341 & 15-342, Orange County Code

Robin Lopez Name of Applicant:

Signature of Applicant/Agent

Corporate Title (if applicable):

Owner; Summertime Deck and dock

Date: 03/30/2017

Rev 09-01-2015



This instrument prepared by and should be returned to:

Harry W. Carls, Esquire TAYLOR & CARLS, P.A. 850 Concourse Parkway South Suite 105 Maitland, Florida 32751 (407) 660-1040 INSTR 20050466057 OR BK 08070 PG 1190 P6S=2 MARTHA O. HAYNIE, COMPTROLLER ORANGE COUNTY, FL 07/14/2005 12:27:03 PM REC FEE 18.50

CERTIFICATE OF FIRST AMENDMENT TO THE DECLARATION OF COVENANTS AND RESTRICTIONS FOR MIRABELLA AT VIZCAYA PHASE III

THIS IS TO CERTIFY THAT the following language amending Article SIX, Section 6.24 constitutes the First Amendment to the Declaration of Covenants and Restrictions for Mirabella at Vizcaya Phase III ("Declaration") which was originally recorded in Official Records (O.R.) Book 6653, Page 4882, of the Public Records of Orange County, Florida. This First Amendment was duly and properly adopted on November 17, 2004, pursuant to the provisions of Article 9, Section 9.5 of the Declaration which requires approval by not less than two-thirds (2/3) vote of the membership.

Article SIX, Section 6.24 is hereby amended to read as follows:

Section 6.24 <u>Boat Docks</u>. No boat docks shall be permitted. Owners shall be prohibited from constructing any boat docks, mooring posts, floating docks or other structures along the shore of any lake or pond.

Section 6.24 <u>Boat Docks</u>. Boat docks & boat hoists shall be permitted subject to the following conditions:

a) All governmental permits must be obtained if required.

b) Each lot is limited to one dock & one boat hoist.

c) All structures must be 10 feet from surveyed property lines & shall not extend into another homeowner's zoned or riparian property lines.

d) Material, components & construction must be aesthetic in appearance as determined by the Architectural Review Board. ARB approval is required. All docks must be made of wood materials. No aluminum docks are allowed.

e) The structure must be maintained to sustain its original appearance.

f) The HOA & ARB maintains the right to demand removal or improvement of any structure not in compliance with this covenant 6.24.

Executed at Orlando (city), Orange County, Florida, on this the 5^{th} day of 300^{th} , 2005.

Signed and delivered in the presence of:

Signature of Witness rRou onte

Print Name

ASSOC	ELERAT VIZCAYA HOMEOWNERS	
ву:		
Print Nan	ne: Brian MeDonald	
	President	_

ature of Witness Print Name Signat e of Witness P

Address: 8125 Via Rosa Onlando, FC 32836

Attest: ind Print Name: Print Secretary Address: 8125

Name

Signature of Witness Isie Print Name

STATE OF FLORIDA COUNTY OF ORANGE

THE FOREGOING INSTRUMENT was acknowledged before me this ______ day of _______, 2005, by <u>BRIAM Monelo</u> and <u>LTMOA Methodo</u> who are personally known to me to be the President and Secretary, respectively, of **MIRABELLA AT VIZCAYA HOMEOWNERS ASSOCIATION, INC.** or Phave produced ______ OL. ______(type of identification) as identification. They acknowledged executing this

document in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation.

WITNESS my hand in the County and State last aforesaid on this <u>5</u> day of $\underline{J}\underline{U}\underline{\gamma}$, 2005.



Notary Public-State of Florida Print Name: <u>Reston</u> Monte Moneo Commission No.:_____ My Commission Expires:

Mav001 cert1

ENVIRONMENTAL PROTECTION COMMISSION 3165 McCrory Place, Suite 200 Orlando, FL 32803 Panther Training Rooms I and II June 28, 2017

ENVIRONMENTAL PROTECTION COMMISSION (EPC)

MEMBERS PRESENT: Jonathan Huels - Chairman Mark Ausley - Vice Chairman Flormari Blackburn - Member Alex Preisser - Member Sally Atwell - Member Mark Corbett - Member David Ward - Chairman

ENVIRONMENTAL PROTECTION DIVISION (EPD)

STAFF PRESENT: Georgiana Holmes - OGAttorney's Office (OCAO) Lori Cunniff - EPD Elizabeth "Liz" Johnson David Jones - EPD Arnaldo Mencado - EPD Neal Thomas - EPD Sarah Given - EPD Jason Root - EPD Renee Parker - EPI Godfrey Dickson EPD Denise Cochran mily Lawson - EPD Annee Krivan - EPD Beth Jackson - EPD Carolyn Schultz - El **GUESTS:** Rick Articld Sheila Cichra



I. Call to Order:

Chairman Huels called the meeting to order at 8:33 a.m. in Panther Training Rooms I & II.

Sergio Divine Robin Lopez David Bottomli

- II. Public Comment(s) (Resolution No. 2013-M-41) None.
- **III.** Approval of May 31, 2017 Meeting Minutes:

Upon a motion by Mark Ausley; seconded by Alex Preisser; all members present voting AYE by voice vote; the May 31, 2017 Meeting Minutes were approved.

IV. Environmental Protection Division Report

1. Naming of a Green PLACE Property: State Road 520 (PID 01-23-32-0000-00-002, presented by Beth Jackson, Environmental Program Supervisor. Beth Jackson gave a presentation. Board Discussion ensued.

Upon a motion by David Ward; seconded by Flormari Blackburn with all members present voting AYE by voice; the Environmental Protection Commission voted to support the proposed name of Hidden Pond Preserve. Mattern passes unanimously.

IV. Public Hearings

1. Maddipatla BD-15-11-121, After-the-Fact Variance to side setback, Section 5-343(a), Little Sand Lake. Neal Thomas, Environmental Program Supervisor, gave a presentation. Robin Lopez spoke in favor of request. Sergio Divine spoke against the project. Chairman Huels opened the floor to public comments – none were provided. After closing the public hearing, Board discussions ensued.

Upon a motion by Alex Preisser; accorded by Sally Atwels with all members present voting AYE by voice vote; the Environmental Protection Commission voted to uphold the recommendation of the EPO and deny Machipetta BD-15-11-121, After-the-Fact Variance to side setback, Section 15-343(a), Little Sand Lake. Motion passes unanimously.

- Moore BD-15-05-072, Waiver to terminal platform size, Section 15-342(b), Variance to side setback, Section 15-343(a), Late Rose. Neal Thomas gave a presentation. Mr. Moore and Sheila Cichra spoke in favor of project. Chairman Huels opened the floor to public comments none were provided. Board discussions ensued.
- Upon a motion by David Ward; seconded by Flormari Blackburn; with all but Jonathan Huels and Sally Atwell voting nay, the Environmental Protection Commission voted to overturn the EPO recommendation and approve the Moore BD-15-05-072, Waiver to terminal platform size, Section 15-342(b), Variance to side setback, Section 15-343(a) and require a mitigation payment of \$550.00. Motion passes 5-2.
- 3. Bradford BD-17-04-042, Variance to side setback Request, Section 15-343(a), Lake Butler. Neal Thomas gave a presentation. Sheila Cichra spoke in favor of the request. Chairman Huels opened the floor to public comments – none were provided. Board discussion ensued.

Upon a motion by Flormari Blackburn; seconded by Mark Ausley; all members present voting AYE by voice vote; the Environmental Protection Commission voted to approve the Bradford BD-17-04-042, Variance to side setback Request, Section 15-343(a). Motion passes unanimously.

June 28, 2017 Meeting Minutes Environmental Protection Commission P a g e 3

VI. Open Discussion

1. The next EPC meeting will be July 26, 2017.

VII. Non-Agenda Items – None.

VIII. Adjournment

The June 28, 2017 meeting adjourned at 9:53 a.m.

Chairman, Environmental Protection Commission

End of Minutes, Prepared by Godfrey F. Dickson,



ENVIRONMENTAL PROTECTION COMMISSION

> Jonathan Huels Chairman

Mark Ausley Vice Chairman

Sally Atwell

Mex Preisser

Glenn Dunkelberger

Mark Corbett

David Ward

ENVIRONMENTAL PROTECTION DIVISION Lori Cunniff, CEP, CHMM, Deputy Director Community, Environmental and Development Services Department 3165 McCroy Place, Suite 200

Orlando, FL 32803-3727 407-836-1400 • Fas 407-836-1499 www.oofl.net

ORANGE COUNTY ENVIRONMENTAL PROTECTION COMMISSION

PROJECT NAME: Maddipatla

PERMIT APPLICATION NUMBER: BD-15-11-121

LOCATION/ADDRESS: 8325 Via Rosa, Orlando, Little Sand Lake

RECOMMENDATION:

 χ EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED

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

ACTION REQUESTED PURSUANT TO ORANGE COUNTY CODE. **CHAPTER 15. ARTICLE IX. SECTION** 15-350(B). DENY THE REQUEST FOR VARIANCE AFTER ORANGE COUNTY THE FACT то CODE, CHAPTER 15, ARTICLE IX, SECTION 15-343(A) THE **MODIFICATION** TO THE FOR DOCK CONSTRUCTION MADDIPATLA PERMIT # BD-15-11-121.

1 /28/14 Signature of EPC Chairman: Date EPC Recommendation Rendered:

Aimee, Liz, and Neal,

Please accept this email as a formal notice of appeal for the BD-15-11-121 After-the-Fact Variance to side setback, Section 15-343(a) decision handed down by the Environmental Protection Commission on June 28th, 2017.

The appeal is being brought on behalf of Sreeram Maddipatla of 8325 Via Rosa, Orlando, FL 32836, whose phone number is 407.404.4276.

The EPC ruling was based on the impact to the neighboring property due to the reduction in side setback from 10' to 7'. The neighbor cites an impact to the view from his property as well as an impact to home value. Due to the location of the infringing portion of the dock, relocation would result in greater visual impact to the neighboring property. The aesthetic design of the non-linear walkway adds value to the surrounding properties, when compared to the monotony of a straight line walkway.

The appeal is also being brought forward on the basis that the side setback concern does not create any environmental impact. However, relocation of the dock will certainly impact the conservation easement over which the walkway is presently constructed.

This notice of appeal requests formal reconsideration of the decision regarding Section 15-343(a).

Payment for the appeal has been made in full.

Please let me know should there be any additional items necessary in order to fully consider the request for appeal of the aforementioned decision to the Orange County Board of County Commissioners.

Respectfully, Robin Lopez



DECK & DOCK Robin Lopez | Owner

Florida License #CGC1511647 Ph: 407-583-6251 | Fax: 866-649-9449 5968 Lakehurst Drive | Orlando, FL | 32819 On the Web | Facebook | Our Work