

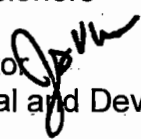


Interoffice Memorandum

AGENDA ITEM

September 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  
407-836-5585

SUBJECT: October 3, 2017 - Consent Item  
Hold Harmless and Indemnification Agreement for  
Shane and Yessenia Myers

On June 20, 2017, the Board of County Commissioners confirmed approval by the Board of Zoning Adjustment (BZA) for zoning variance requests for Shane and Yessenia Myers (owners) and Jonathan McGrath (applicant) located at 10330 Pocket Lane to 1) construct a detached accessory structure (summer kitchen and bathroom) 20 ft. from the normal high water elevation of Pocket Lake in lieu of 50 ft. and 2) construct a swimming pool and a pool deck 20 ft. from the normal high water elevation of Pocket Lake in lieu of 50 ft.

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 June 20, 2017.

**ACTION REQUESTED:** Approval and execution of Hold Harmless and Indemnification Agreement Parcel ID: 09-24-28-5844-00-398 between Shane M. Myers and Yessenia C. Myers and Orange County to construct a detached accessory structure, pool and pool deck addition at 10330 Pocket Lane, Orlando, Florida. District 1

JVW/CH

Attachment

BCC Mtg. Date: October 3, 2017

Instrument prepared by and return to:  
Orange County Attorney's Office  
P.O. Box 1393  
Orlando, Florida 32802-1393

**HOLD HARMLESS AND  
INDEMNIFICATION AGREEMENT**  
**Parcel ID: 09-24-28-5844-00-398**

This Hold Harmless and Indemnification Agreement (the "Agreement") is made by and between Shane M. Myers and Yessenia C. Myers, as husband and wife, whose mailing address is 10330 Pocket Lane, Orlando, Florida 32836 (the "Homeowners"), 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 Homeowners hold fee simple title to property, which is homestead of the Homeowners, located at 10330 Pocket Lane, Orlando, Florida 32836, which is more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference (the "Property"); and

**WHEREAS**, the Homeowners desire to construct a detached accessory structure (a roofed pavilion with a kitchen and half bathroom), and a swimming pool and pool deck (collectively, the "Improvements"), no closer than twenty feet from the normal high water elevation ("NHWE") of the Pocket/Fish Lake Canal in lieu of the required fifty foot setback; and

**WHEREAS**, the Homeowners sought a variance from the County to permit construction of the Improvements at the reduced setback; and

**WHEREAS**, on June 1, 2017, the County's Board of Zoning Adjustment ("BZA") approved the requested variance and required the Homeowners to record a Hold Harmless Agreement prior to the issuance of building permits for the Improvements; and

**WHEREAS**, on June 20, 2017, the Orange County Board of County Commissioners (the "Board") approved the BZA's decision and granted approval of the Homeowners' requested variance subject to the conditions ratified and established by the Board; and

**WHEREAS**, the Homeowners understand and agree that placing the Improvements at the reduced setback within the fifty foot setback area may significantly increase the likelihood of damage to structures, shoreline, and associated assets, and in spite of these risks the Homeowners desire to place the Improvements 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 Improvements may be constructed or may have been constructed at the reduced setback within the fifty foot setback from the normal high water level of Pocket/Fish Lake Canal, as authorized by a variance approved with conditions ratified or established by the Board on June 20, 2017.

**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 parties 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 Homeowners, on behalf of themselves and their successors, assigns, heirs, grantees, representatives, invitees, and

permittees, hereby assume sole and entire responsibility for any and all damage to property sustained as a result of the County's granting of variance request #VA-17-06-042 on June 20, 2017. The Homeowners hereby agree 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 variance request #VA-17-06-042 on June 20, 2017.

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 Homeowners.

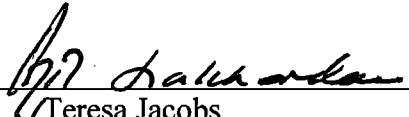
5. **APPLICABLE LAW.** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

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

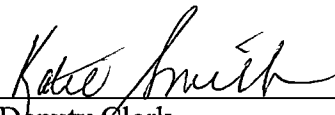
7. **EFFECTIVE DATE.** This Agreement shall become effective on the date of execution by the County or the date of execution of the Homeowners, whichever is later.

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.

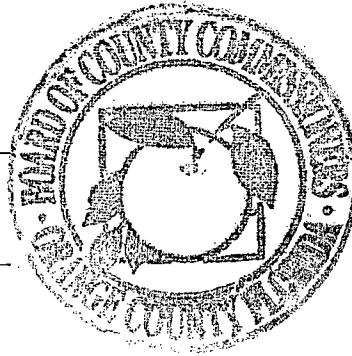
ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

By:   
Teresa Jacobs  
Orange County Mayor

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

By:   
Deputy Clerk

Date: OCT 03 2017



Signed, sealed and delivered in our presence as witnesses:

Signature: [Signature]

Printed Name: Jason D. Greaney

Signature: [Signature]

Printed Name: Warren Gottlieb

HOMEOWNER:

By: [Signature]  
Shane M. Myers

STATE OF FLORIDA

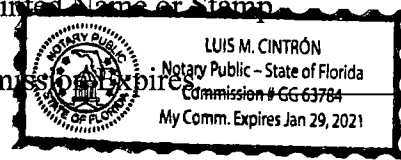
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 29 day of August, 2017, by Shane M. Myers, who is personally known to me or who has produced FL Drivers license as identification.

[Signature]  
Notary Public, State of At Large

Notary Printed Name or Stamp

My Commission Expires



Signed, sealed and delivered in our presence as witnesses:

Signature: [Signature]

Printed Name: JASON D. GREGORY

Signature: [Signature]

Printed Name: Warren Gottlieb

HOMEOWNER:

By: [Signature]  
Yessenia C. Myers

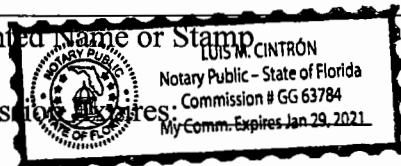
STATE OF FLORIDA  
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 29 day of August, 2017, by Yessenia C. Myers, who is personally known to me or who has produced FL Drivers license as identification.

[Signature]  
Notary Public, State of At Large

Notary Printed Name or Stamp

My Commission Expires



**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**Parcel ID: 09-24-28-5844-00-398**

**WILLIS R MUNGERS LAND SUB E/22 COMM SE COR LOT 39 RUN N00-01-28W 360 FT TH RUN N89-24-08W 60FT TH RUN S00-01-28E 34.28 FT FOR POB TH RUN N44-36-00W 280.9 FT N25-42-59E 7.74 FT N63-54-55W 44.06 FT N26-11-20E 7.72 FT N44-36-00W 62.34 FT TO A PT ON W LINE OF SAID LOT 39 S 180 FT E TO A POINT 260 FT N OF SE COR OF LOT 39 N TO POB & E 5 FT OF W 35 FT OF LOT 39 & LANDS TO N WHICH WERE RETAINED IN DB 906/683 2606/1356 (LESS S 6.72 FT OF N 306.72 FT OF E 60 FT OF LOT 39) & (SUBJECT TO CANAL ESMT ON W 30 FT PER 46/472)**