

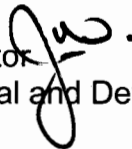



Interoffice Memorandum

AGENDA ITEM

October 2, 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: David D. Jones, P.E., CEP, Manager 
Environmental Protection Division
(407) 836-1405

SUBJECT: October 31, 2017 - Consent Item
Environmental Protection Commission Recommendation
Concerning an After-the-Fact Waiver Request for the Brandon
Singer Dock Construction Permit BD-15-08-098

Mr. Brandon Singer is requesting an after-the-fact waiver to Dock Construction Permit BD-15-08-098. The project site is located at 17806 Westbay Court on Johns Lake in unincorporated Orange County. The Parcel ID for the site is 30-22-27-1985-00-200. The subject property is located in District 1.

On September 4, 2015, the Environmental Protection Division (EPD) issued a Dock Construction Permit (BD-15-08-098) to Gary Butler with Dock Pro, who is the Authorized Agent for the property owner, Mr. Brandon Singer. The approved plans depicted the dock would meet the minimum side setback of 25 feet from the eastern projected property line. When the as-built survey was received on May 8, 2017, the survey showed the dock was actually constructed only 18.34 feet from the projected property line. The applicant was notified that they would need an after-the-fact waiver for a reduced side setback in order to keep the dock as constructed. On June 22, 2017, EPD received an Application for Waiver (after-the-fact) from Mr. Singer.

EPD sent notice of the after-the-fact waiver application to the affected property owners, Thomas and Cynthia Houk, at 17802 Westbay Court. On July 14, 2017, EPD received a letter of objection from the Deer Isle Homeowners Association and Architectural Review Board. On July 26, 2017, EPD received a written objection from the attorney for the affected property owners, Mr. and Mrs. Houk. They objected to the after-the-fact waiver request due to the affected lake view, decreased property value, and an alleged history of the applicant ignoring HOA rules and regulations (summarized).

Page Two

October 31, 2017 – Consent Items

Environmental Protection Commission Recommendation Concerning an After-the-Fact Waiver Request for the Brandon Singer Dock Construction Permit BD-15-08-098

The recommendation of the Environmental Protection Officer (EPO) was to deny the request for the after-the-fact waiver since the Applicant was unable to meet the waiver criteria as established in 15-350(a)(2)(2). During the September 27, 2017 Environmental Protection Commission (EPC) public hearing, the EPC voted unanimously to uphold the recommendation of the EPO to deny the request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-343(b) (side setback).

ACTION REQUESTED: Acceptance of recommendation of the Environmental Protection Commission to deny the request for the after-the-fact waiver to Orange County Code, Chapter 15, Article IX, Section 15-343(b), for the Brandon Singer Dock Construction Permit Modification # BD-15-08-098. District 1

JVW/DJ: mg

Attachments



ENVIRONMENTAL
PROTECTION
COMMISSION

Jonathan Huels
Chairman

Mark Ausley
Vice Chairman

David Ward

Flormari Blackburn

Mark N. Corbett

Oscar Anderson

Sally Atwell

ENVIRONMENTAL PROTECTION DIVISION

David D. Jones, P.E., CEP

Community, Environmental and Development Services Department

3165 McGraw Place, Suite 200

Orlando, FL 32803-3727

407-836-1400 • Fax 407-836-1499

www.ocfl.net

ORANGE COUNTY
ENVIRONMENTAL PROTECTION COMMISSION
September 27, 2017

PROJECT NAME: Singer Boat Dock
PERMIT APPLICATION NUMBER: BD-15-08-098
LOCATION/ADDRESS: 17806 Westbay Court, Winter Garden, FL 34787

RECOMMENDATION:

Pursuant To Orange County Code, Chapter 15, Article IX, Section 15-350(b), deny the request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-343(b), for the Brandon Singer Dock Construction Permit Modification # BD-15-08-098.

☒ EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED

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

Signature of EPC Chairman: _____

EPC RECOMMENDATION DATE: _____

[Handwritten Signature]
9/27/13



August 31, 2017

To: Environmental Protection Commission

From: David D. Jones, P.E., CEP, Manager
Environmental Protection Division

A handwritten signature in black ink, appearing to read "David D. Jones".

Subject: Brandon Singer Request for an After-the-Fact Boat Dock Waiver

Reason for Public Hearing

The applicant, Brandon Singer, is requesting approval of an after-the-fact waiver to Orange County Code, Chapter 15, Article IX, Section 15-343(b) for a reduced side setback.

Location of Property/Legal Description

The project site is located at 17806 Westbay Court, Winter Garden, Florida 34787. The Parcel ID number is 30-22-27-1985-00-200. The subject property is located on Johns Lake in Orange County Commission District 1.

Public Notifications

The applicant, dock contractor, and objectors were notified of the public hearing on August 31, 2017.

Staff Findings

On September 4, 2015, the Orange County Environmental Protection Division (EPD) issued Dock Construction Permit BD-15-08-098. The approved plans depicted a side setback of 25 feet to the eastern projected property line.

On May 8, 2017, EPD received the as-built survey of the dock which showed the side setback from the eastern projected property line to be 18.34 feet (6.66 feet closer than was permitted). The applicant, Brandon Singer, and the dock contractor, Gary Butler, were notified that the dock was built too close to the projected property line and that a permit modification and an after-the-fact waiver would be required.

On June 22, 2017, EPD received an Application for Waiver from Brandon Singer.

Section 15-343(b) states that "on lots or parcels having a shoreline frontage of seventy-five (75) feet or greater, docks, including designated mooring areas, shall have a minimum side setback of twenty-five (25) feet from the projected property line, unless such requirement is reduced by an appropriate waiver...." The applicant's shoreline measures approximately 125 feet so the side setback requirement for the dock would be 25 feet.

Pursuant to Section 15-350(a)(2), waivers, "the applicant shall describe (1) how this waiver would not negatively impact the environment; and (2) the effect of the proposed waiver on abutting shoreline owners."

To address 15-350(a)(2)(1), the property owner has stated that, *"there was no vegetation removed or dredging done for the replacement of this dock."*

To address 15-350(a)(2)(2), the applicant has stated, *"it does not block their view of the lake. It does not cross riparian lines..."*

A Notice of Application letter was sent by EPD to the affected property owners, Thomas and Cynthia Houk, at 17802 Westbay Court.

Objections

On July 14, 2017, EPD received a letter of objection from the Deer Island HOA and Architectural Review Board. The letter states that *"generally speaking we have found that variances are not positive for our community and we do not support them. Variances often create bad will between neighbors and serve as unfortunate precedent for other homeowners wanting a similar variance."*

On July 26, 2017, EPD received a written objection from the attorney of the affected neighbors at 17802 Westbay Court (Mr. and Mrs. Houk). They have stated that they have objections to the waiver request due to the affected lake view, decreased property values, and a history of the applicant ignoring HOA rules and regulations (summarized).

Also included with the objection were letters from a realtor and an appraiser stating the placement of the dock would have a negative impact on Mr. and Mrs. Houk's property values.

Enforcement Action

Although no formal enforcement action has been initiated in this case, should the after-the-fact waiver be approved, EPD will assess a \$200.00 administrative penalty for construction of a dock that is not in compliance with the approved plans which requires an after-the-fact waiver and permit modification.

Staff Recommendation

The recommendation of the Environmental Protection Officer (EPO) is to deny the after-the-fact request for waiver to Section 15-343(b). The Applicant has not been able to meet the criteria as established in 15-350(a)(2)(2); therefore, requiring the re-location or modification of the dock to meet the minimum side setback of 25 feet, as originally approved in BD-15-08-098.

ACTION REQUESTED

Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(b), deny the request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-343(b) for the Brandon Singer Dock Construction Permit Modification # BD-15-08-098.

NT/ERJ/DJ: mg

Attachments

After-the-Fact Boat Dock Waiver Request



After-the-Fact Boat Dock Waiver Request

District #1

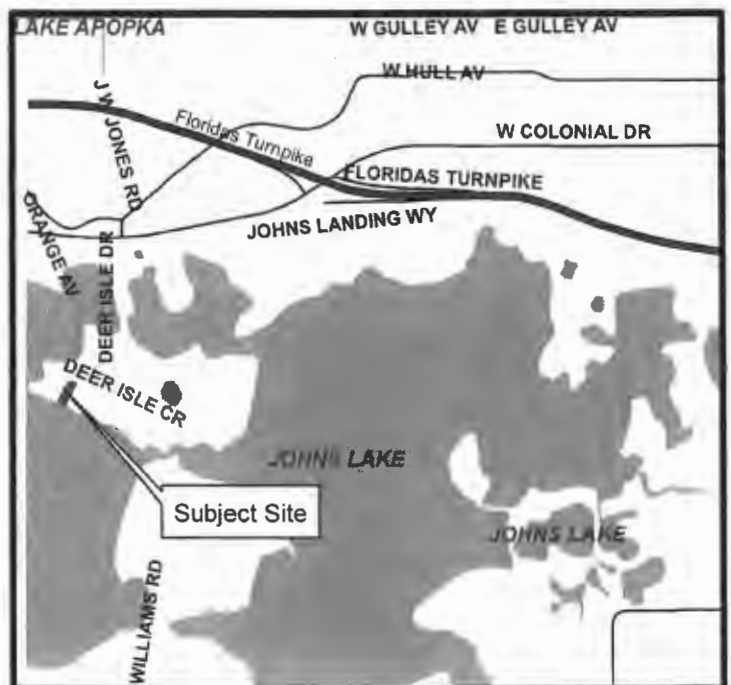
Applicant: Brandon Singer

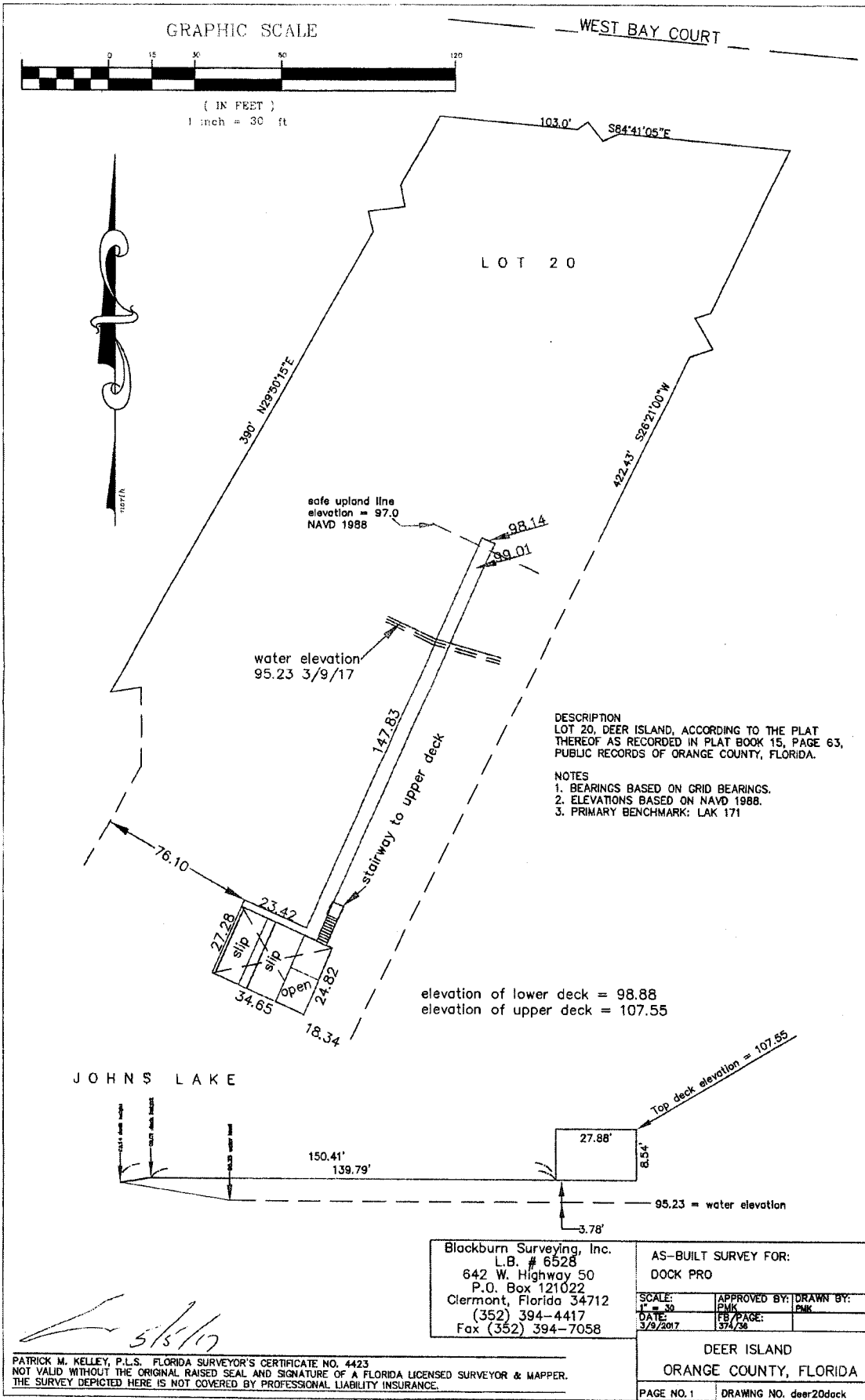
Parcel ID: 30-22-27-1985-00-200

Project Site



Property Location









**APPLICATION TO CONSTRUCT A BOAT DOCK
APPLICATION FOR WAIVER**

(Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2))

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

17806 Westbay Ct
Winter Garden, FL 34787

I Brandon Singer on behalf of _____ (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(2) am requesting a waiver to section (choose and circle from the following: 15-342(b), 15-343(b), 15-344(a) and 15-345(a)) of the Orange County Dock Construction Ordinance.

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

There was no vegetation removed or dredging done for the replacement of this dock.

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

It does not block their view of the lake. It does not cross riparian lines.

It has a greater setback than the minimum required by the state and county environmental. Lake frontage is greater than 75' and has not been impacted to where neighborings docks can be located.

The environmental protection officer and the board may require of the applicant information necessary to carry out the purposes of this article.

By signing and submitting this application form, I am applying for a waiver to the Section indicated of 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: Brandon Singer

Signature of Applicant/Agent  Date: 6/22/17

Corporate Title (if applicable): _____

Jason Root

Orange County Community, Environmental and Development Services Department
3165 McCrory Place, Suite 200
Orlando, FL 32803

July 13, 2017

Applicant: Brandon Singer

Subject Site Address: 17806 Westbay Court

Application No.: BD-15-08-098

Johns Lake, Orange County Commission District: 1

Dear Mr. Root:

On behalf of Deer Island of Killarney ("Deer Island") the HOA Board of Directors and its Architectural Review Board ("ARB"), we would like to submit our comments concerning the above-captioned matter.

Let us first offer some context based on Deer Island's Board approximately thirty years experience with regard to variances either to government rules or our own Governing Documents. Generally speaking we have found that variances are not positive for our community and we do not support them. Variances often create bad will between neighbors and serve as an unfortunate precedent for other homeowners wanting a similar variance. This may involve our community in potentially costly litigation. As a result granted variances can have a lasting negative effect on our community and our property values.

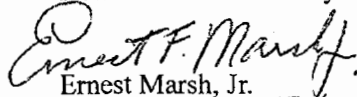
We believe Deer Island is a unique community in many ways. Our typical lot is approximately 1.25 acres. This creates a unique ambiance which we refer to as a "park-like" atmosphere offering considerable privacy. Our lakeside lots have ample lakefronts. The two lots in question with 110 ft and 120 ft of lakefront are typical.

In order to maintain our "park-like" setting, setback provisions between our lots including the county's setback rule on dock siting are in our opinion among the the most important property protection rules. The setback rules are a key element in resident privacy and in turn property value. To the best of our knowledge the Deer Island Board and ARB in their long history have never granted a variance to our side setback rules. Likewise we have never supported a County variance.

For the above-stated reasons, we believe that a variance should not be granted in the above captioned matter.

Sincerely,

Deer Island of Killarney HOA


Ernest Marsh, Jr.

President

7/14/17

Deer Island Architectural Review Board


Michael D. Dinkel

Chairman

KORSHAK & ASSOCIATES, P.A.
ATTORNEYS AT LAW

STEPHEN D. KORSHAK †
skorshak@korshaklaw.com

LEE KARINA DANI
lkd@korshaklaw.com

BRADFORD PETRINO
bpetrino@korshaklaw.com

† ALSO ADMITTED IN ILLINOIS

July 26, 2017

Environmental Protection Division
Orange County, Florida
3165 McCrory Place, Suite 200
Orlando, FL 32803

VIA CERTIFIED MAIL

RE: Objection to After-The-Fact Waiver
Applicant: Brandon Singer
Application No. BD-15-08-098

Dear Sir or Madam:

This firm represents Thomas and Cynthia Houk, who object to Mr. Singer's request for an after-the-fact waiver of his code violation, for the following reasons:

As the EPD is aware, § 15-343(b) required Mr. Singer to build his dock with a 25-foot setback from the property lines. But at the dock's closest point, it is 18.34 feet from the Houk's property line, which violates the code.

In reviewing this waiver request, the EPD should consider the factors stated in Code § 15-350(a)(2): the effect on the environment and the effect on abutting shoreline owners. The Houks are the closest abutting shoreline owners, and the close positioning of the dock negatively affects their view of the lake.¹ And consequently, that also decreases the value of their property. Conversely, Mr. Singer's lake-view is enhanced by the offset positioning of his dock. It would be unfair for the EPD to allow Mr. Singer to violate County code in a way that improves his property to the detriment of the Houks'.

Mr. Singer also has a history of ignoring the homeowners' association's rules and regulations as well as the HOA violation notices issued for his property. Indeed, he neglected to seek the HOA's approval before building this dock, too. Orange County should demand higher standards of behavior from its citizens, and Mr. Singer's disregard for the rules should not be further rewarded by the EPD.

The Houks respectfully request the EPD deny the waiver.

¹ Enclosed please find a photograph of the Houks' current view of the lake—Mr. Singer's dock intrudes into the right side of the frame.

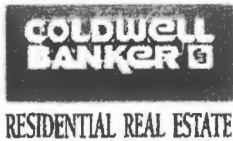
Sincerely,

A handwritten signature in cursive script that reads "Bradford Petrino". The signature is fluid and elegant, with the first name and last name clearly distinguishable.

Bradford Petrino

Enclosures





GEORGE STRINGER
REALTOR*

"EXEMPLARY SERVICE"

CELL (407) 222-7047

OFFICE (407) 841-6060

georgestringer@mindspring.com

<http://georgestringer.cbintouch.com>



July 25, 2017

To Whom It May Concern

Re: Lakeview and Dock Obstruction of Waterfront Views

It is my opinion as a Realtor in the Central Florida Market for 29 years, that real estate value is one of the most important and protected considerations when purchasing and residing in a home. Waterfront property is the most sought after real estate and along with it, comes many benefits, including value protection, personal enjoyment, and hopefully, appreciation. Water views from the back of homes or property are often the top selling point for the potential new buyer when considering the sale and purchase. If the view is obstructed or compromised, the view, appeal, demand, salability and potential for appreciation, are slowed and/or, significantly lessened. Variances, as an avenue to changing a neighborhood's existing guide lines through a county process for such things as boat dock setbacks, typically have a negative impact on the property resale and value.


George Stringer

REALTOR

Coldwell Banker Residential Real Estate

Orlando

Operated by a subsidiary of NRT LLC.



MICHAEL J CHAMBERS, P.A.
DOCK ENCROACHMENT

File No. 170726-242

Borrower NA

Property Address 17802 WESTBAY CT

City WINTER GARDEN County ORANGE State FL Zip Code 34787

Lender/Client THOMAS & CINDY HOUK Address 17802 WESTBAY CT, WINTER GARDEN, FL 34787

FINDINGS FROM INSPECTION 07/21/2017

FROM ON-SITE VISUAL INSPECTION AND AERIAL VIEW, IT IS CLEAR THAT THE ADJACENT PROPERTY OWNER HAS CONSTRUCTED A DOCK THAT ENCROACHES BEYOND THE PERMITTED SETBACK AS SET FORTH BY ORANGE COUNTY REGULATIONS.

AS A LAKEFRONT HOMEOWNER, THE INTRINSIC LAND VALUE IS FOR USE AND VIEW ENJOYMENT OF THE LAKEFRONTAGE, DISRUPTED IN THIS CASE BY THE ENCROACHMENT OF THE NEIGHBORING STRUCTURE.

FROM THE FNMA APPRAISAL FORM 1004:

"ARE THERE ANY ADVERSE SITE CONDITIONS OR EXTERNAL FACTORS (EASEMENTS, ENCROACHMENTS, ENVIRONMENTAL CONDITIONS, LAND USE, ETC)?"

THE ANSWER IS "YES"


THIS ADVERSE ENCROACHMENT WOULD NEED TO BE DISCLOSED IN FUTURE REAL ESTATE TRANSACTIONS AND COULD PRESENT FINANCING OBSTACLES FOR POTENTIAL BUYERS

FROM MY ON-SITE INSPECTION, THE SINGER DOCK'S PLACEMENT IS A VIEW DISRUPTION AND ALSO QUESTION THE QUALITY OF THE STRUCTURE AS WELL. IT DOES NOT APPEAR TO BE OF THE QUALITY THAT THE MARKET EXPECTS OF HOMES AT THIS PRICE POINT.

MICHAEL J CHAMBERS
FLA STATE CERT RESID RIA RD 360
FL RE BROKER BK405783

MICHAEL J CHAMBERS, P.A.
P.O. BOX 911
WINTER PARK, FL 32790
APPRAISING CENTRAL FLORIDA SINCE 1985

Appraiser Name


MICHAEL J CHAMBERS

Supervisor Name

MICHAEL J. CHAMBERS, P.A.
SUBJECT PHOTO ADDENDUM

File No. 170726-242

Borrower	NA						
Property Address	17802 WESTBAY CT						
City	WINTER GARDEN	County	ORANGE	State	FL	Zip Code	34787
Lender/Client	THOMAS & CINDY HOUK	Address	17802 WESTBAY CT, WINTER GARDEN, FL 34787				



ORANGE COUNTY AERIAL



VIEW FROM SCREENED
PORCH

