

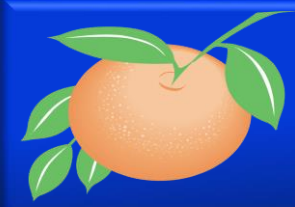
***Board of County Commissioners***

# **Appeal of the Recommendation of the Environmental Protection Commission**

**Application for Waiver (Side-setback) for the Richard Benton  
Boat Dock Permit (BD-20-04-067)**

**Appellant: Michael Underwood**

**June 22, 2021**



# Location Map

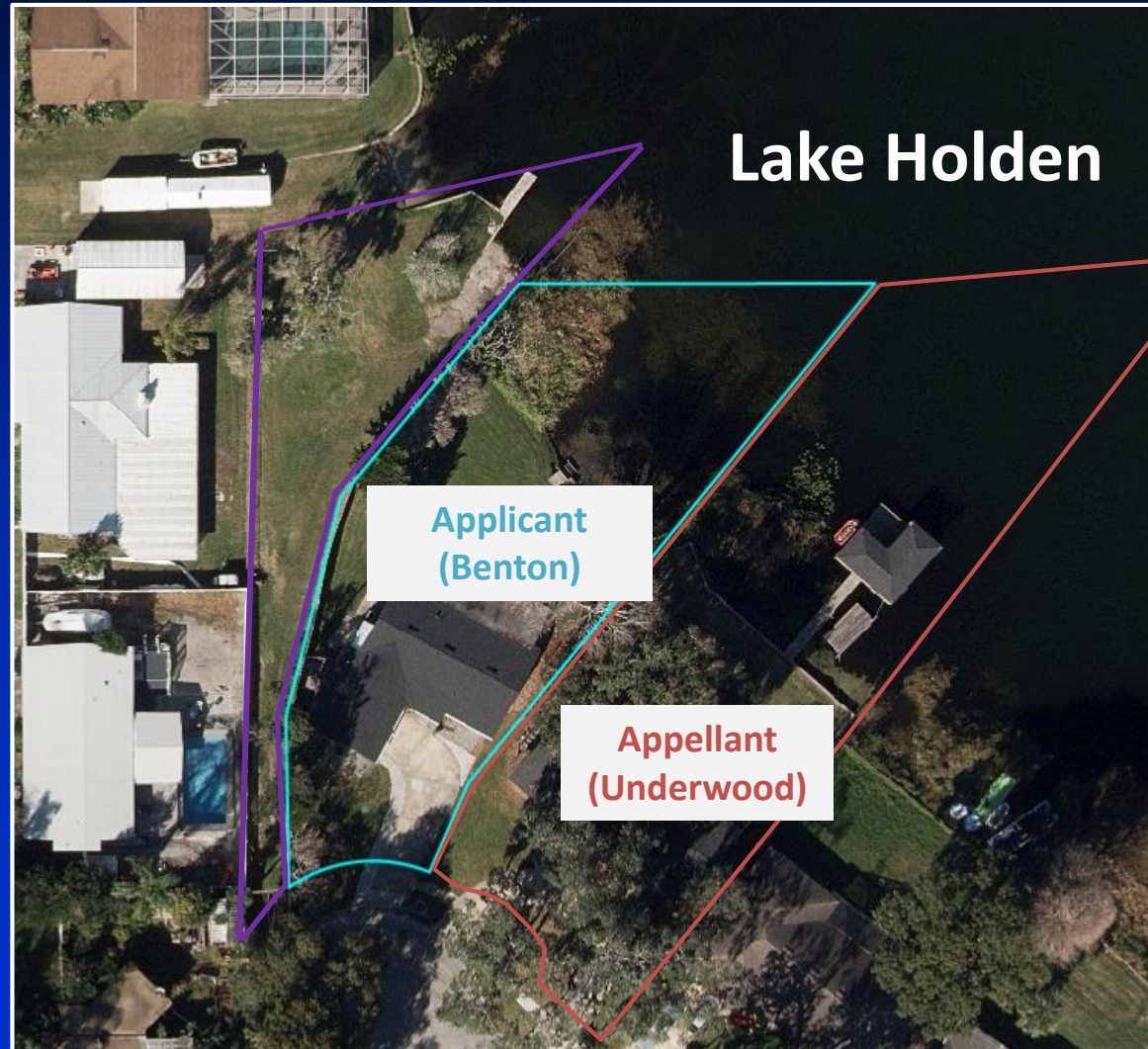
919 Springwood Drive



Parcel ID No.: 11-23-29-9592-04-010



# Location Map





## Background

- On April 22, 2020, the Environmental Protection Division (EPD) received an Application to Construct a Dock. The proposed site plan indicated that a waiver to Section 15-343(b) (side setback) was required.
- The applicant submitted an Application for Waiver requesting to reduce the required side setback on the eastern projected property line from 25 feet to 10 feet.
- Subsequent plan revisions were modified based on review by Orange County Sheriff's Office.



## Background

- There is no open EPD enforcement action on the property. However, there was a case (#20-567848) for unauthorized shoreline clearing and an unpermitted jetski lift that had been constructed. The applicant removed the jet ski lift, replanted the shoreline, and paid an administrative penalty. The case was closed on May 19, 2021.

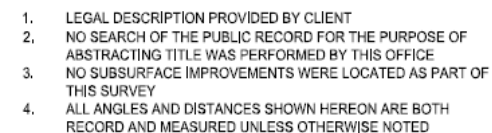


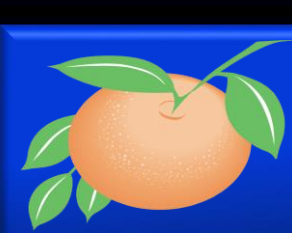


# Existing Conditions







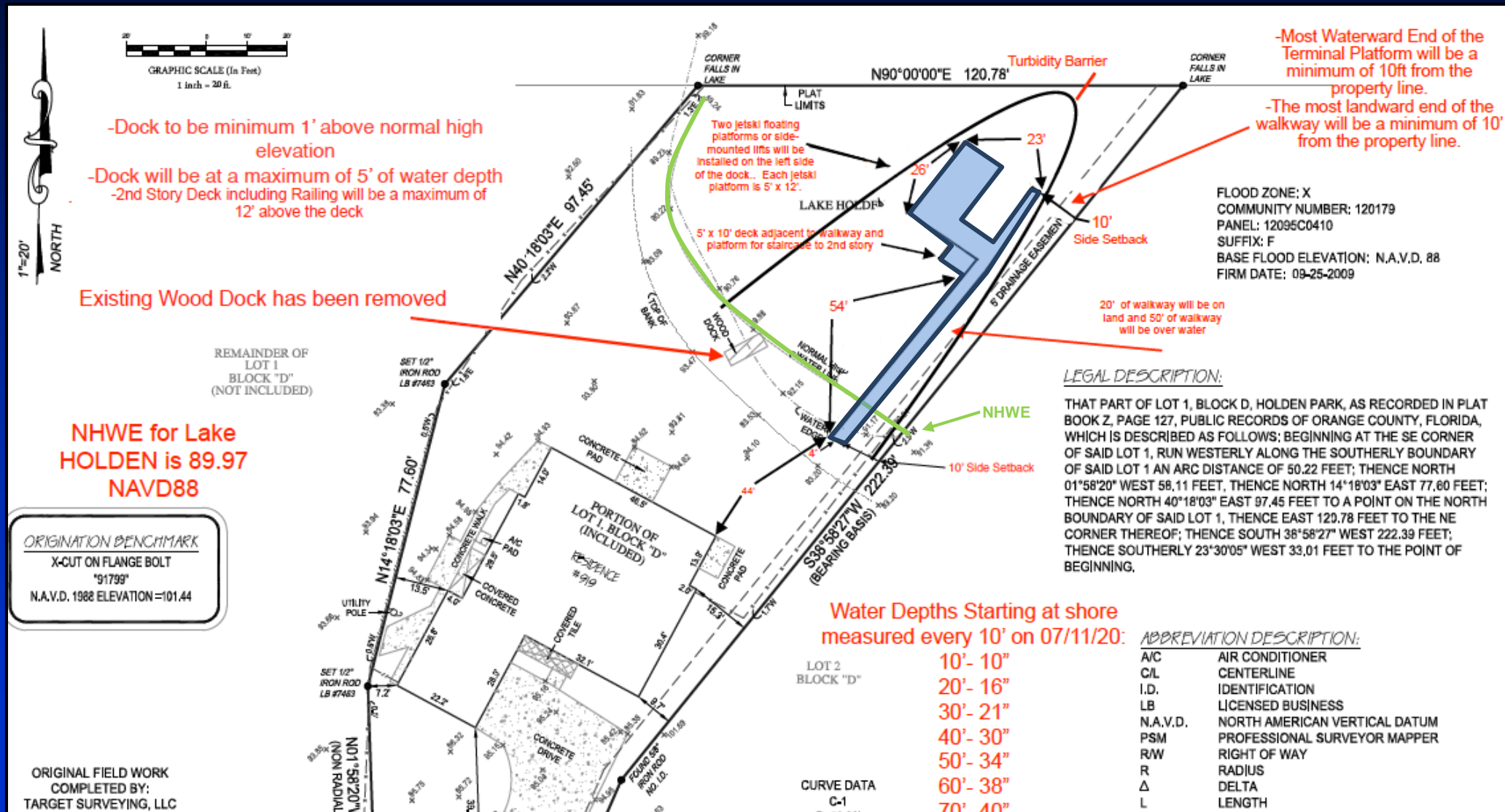


## Waiver Request - Side Setback

- Section 15-343(b) states, “On lots or parcels having a shoreline frontage of seventy-five (75) feet or greater, docks shall have a minimum side setback of twenty-five (25) feet from the projected property line.”
  - The applicant has a shoreline that measures approximately 90 linear feet at the NHWE, requiring a minimum side setback of 25 feet.
  - The applicant is requesting a side setback of 10 feet from the eastern projected property line.

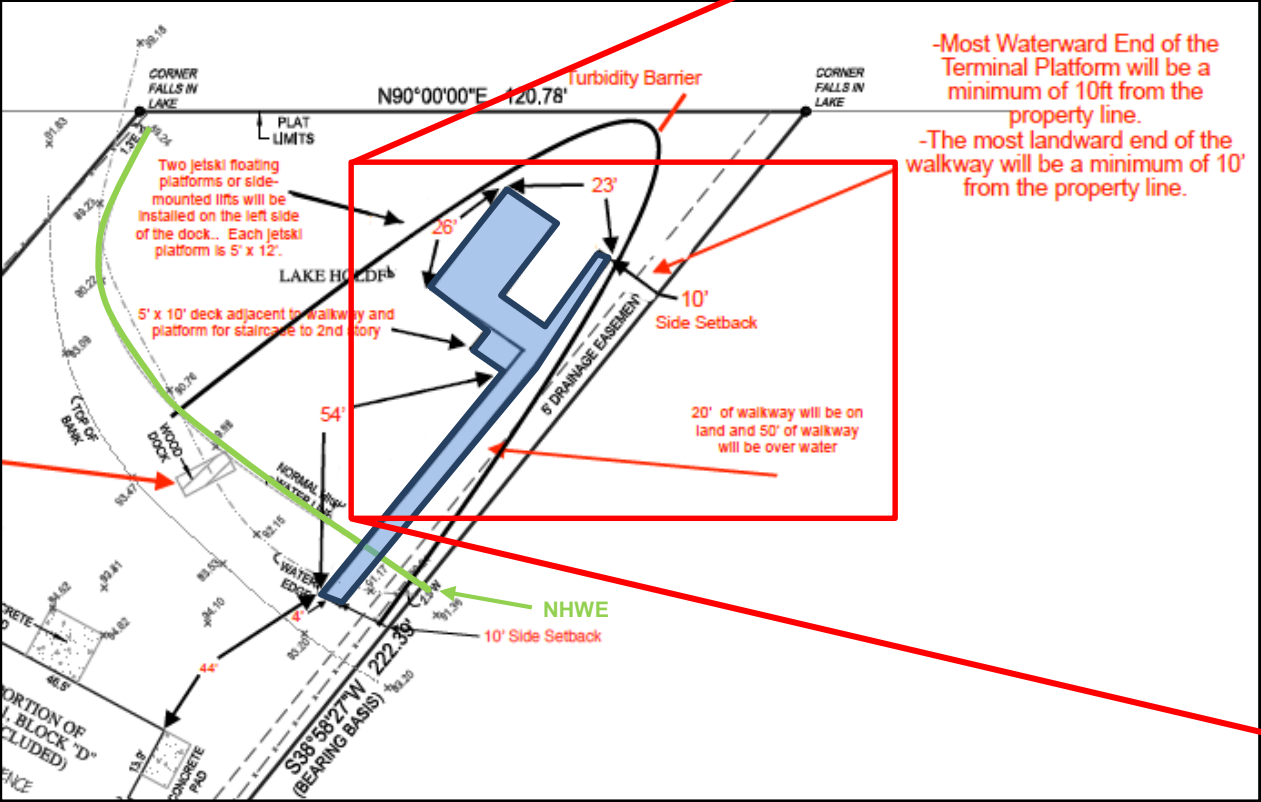


# Waiver Request – Side Setback





# Waiver Request – Side Setback





# Waiver Criteria

- Pursuant to Section 15-350(a)(2), “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 these criteria, Kyle Goonen, the applicant’s agent stated:
  - (1) *“Adjusting the dock to be closer to the property line will not have a negative impact due to there not being any vegetation or wildlife that will be removed or affected in any way for this adjustment.”*
  - (2) *“The proposed plan does not effect [sic] any abutting shoreline owners. Abutting shoreline owners already have docks installed.”*





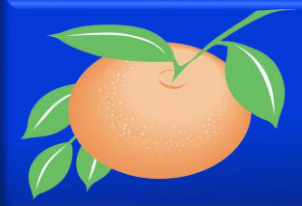
# Public Notification & Objection

- On September 1 and December 15, 2020, a Notice of Application for Waiver was sent to the affected neighbor.
- On February 3, 2021, EPD received a written letter of objection from Michael Underwood stating: *“I object to any variance and would like the 25-set foot [sic] back rule observed.”*



# Environmental Protection Commission

- On February 24, 2021 the EPC held a public hearing. The following is a summary of the proceedings:
  - The EPO recommended denial of the waiver application to Section 15-343(b) (side setback distance) based on a finding that the applicant has not demonstrated that there will be no negative effect on the abutting shoreline owner(s) pursuant to Section 15-350(a)(2)(2), as an objection was received.
  - Amy Giannotti and Kyle Goonen, the applicant's agents, spoke in favor of the request.
  - Mr. Benton spoke in favor of the request.
  - Sheila Cichra, on behalf of Michael Underwood, spoke against the proposed request.



# **Environmental Protection Commission**

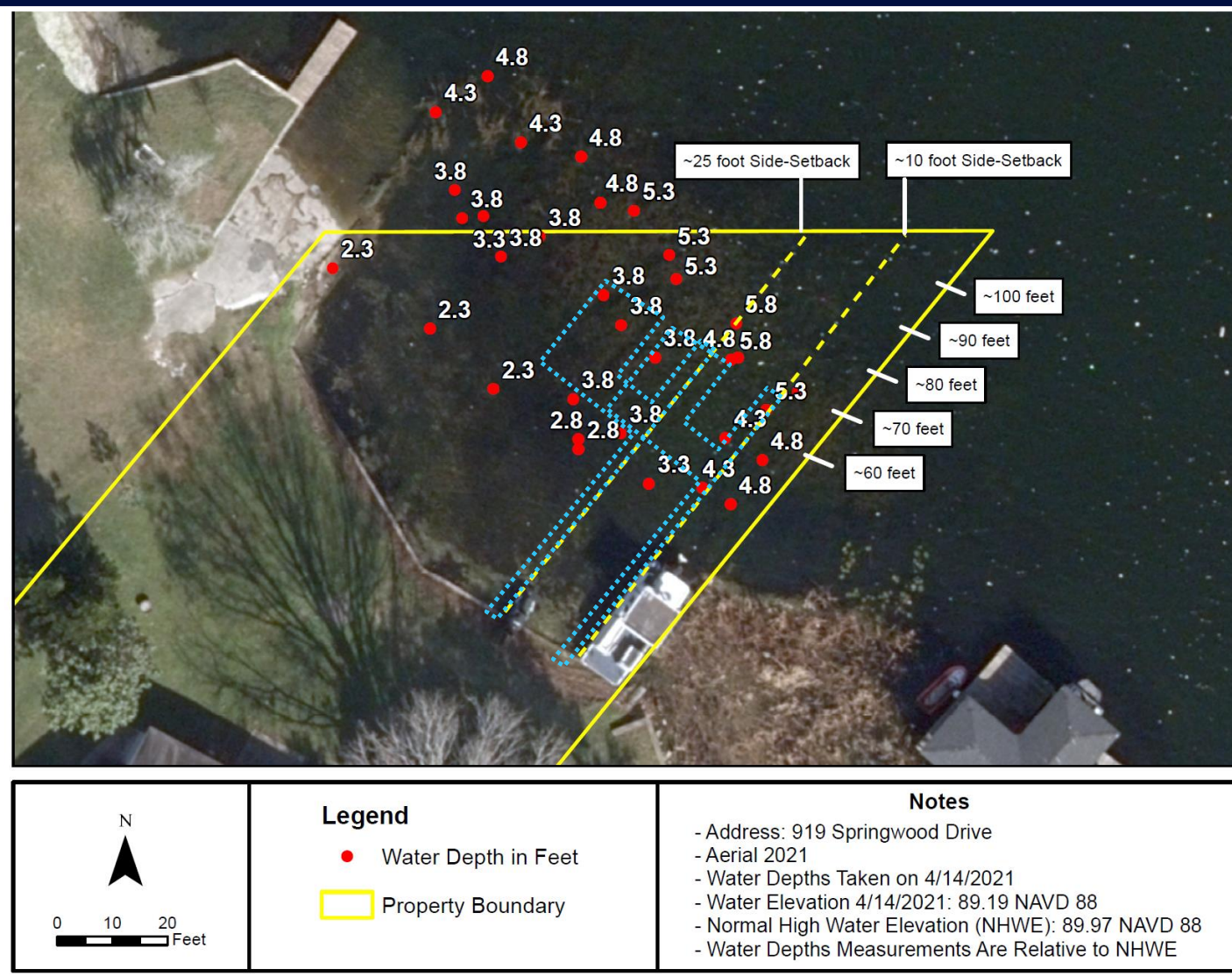
- **EPC overturned the recommendation of the EPO and made a finding that the request for waiver was consistent with Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2) and recommended approval of the request for waiver to Section 15-343(b) to reduce the minimum side setback from 25 feet to 10 feet on the eastern projected property line for the Richard Benton Dock Construction Permit BD-20-04-067. The motion passed unanimously.**





## **EPC Appeal**

- **On March 3, 2021, Michael Underwood (represented by Sheila Cichra), submitted an appeal of the decision of the EPC. An updated appeal was received on March 22, 2021 on behalf of Michael Underwood, represented by Ms. Mary Solik, Esquire, of Doty Solik Law.**
  - **The Orange County Attorney's Office confirmed that the appeal was timely and complete.**
- **On May 7, 2021, Mr. Benjamin Lytle acquired the property from Richard Benton and has also submitted all required documentation to proceed with the permit application.**





## Action Requested

- To affirm, reverse, or modify the recommendation of the Environmental Protection Commission to approve the waiver to Orange County Code, Chapter 15, Article IX, Section 15-343(b) (side setback) to reduce the minimum side setback from the eastern projected property line from 25 feet to 10 feet for the Richard Benton Dock Construction Permit BD-20-04-067. District 3