

LAKE COUNTY PLANNING AND ZONING ANALYSIS VARIANCE REQUEST



Board of Adjustment

**LAKE COUNTY
FLORIDA**

November 12, 2015

VAR-15-18-4	Case Manager: Michele Janiszewski, Planner	Agenda Item #2
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REQUESTED ACTION: The applicant is requesting a variance from **Lake County Land Development Regulations 6.01.04 (A) (1)** to allow the construction of a pool and screen room closer than the required fifty (50) feet from the top of the canal bank/seawall.

- Site Location and Information -

Subject property shown in red



Owners	Suzanne Rufrano
Applicant	Suzanne Rufrano
Address of Property	35550 Quail Run, Leesburg
General Location	South of County Road 44, between Eustis and Tavares
Size	0.43 Acres
Alternate Key	1644321
Future Land Use (FLU)	Urban Low
Zoning District	Urban Residential (R-6)
Overlay Districts	NA
Joint Planning Area	NA
ISBA	NA
Flood Zone / FIRM Panel	X and AE/ 12069C0355E
Commissioner's District	4; Campione

Property Posted: October 22, 2015

-Land Use Table-

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Urban Low	Urban Residential (R-6)	Single Family Residence
South	Urban Low	Urban Residential (R-6)	Single Family Residence
East	Urban Low	Urban Residential (R-6)	Canal and Single Family Residence
West	Urban Low	Urban Residential (R-6)	Single Family Residence

-ANALYSIS-

The subject property is +/- 0.43 acres and is located south of County Road 44, between Eustis and Tavares. The property abuts a canal which connects to Lake Eustis. The Lake County Geographic Information Services (GIS) wetland map indicate that there are wetlands on the rear of the property along the canal. According to the 2012 Federal Emergency Management Agency (FEMA) maps, a small portion of the lot lies within the AE flood zone along the canal. The property is zoned Urban Residential (R-6) and is part of the Urban Low Future Land Use Category.

The subject lot is 130 feet long and 105 foot wide and butts up to a 100 foot wide canal. The setbacks for this property are as follows: Front: 62 feet from the centerline of the road; Side: five (5) feet from the property lines; and Rear: Fifty (50) feet from the centerline of the seawall. The rear setback is established by LDR Section 6.01.04 (A) (2) which states that all principal structures, structures, buildings, and impervious surface, excluding water dependent structures, must be located a minimum of (50) feet from the ordinary high water line, mean high water line, or jurisdictional wetland line, whichever is further landward. On lots which front a canal, the top of the canal bank or centerline of the seawall serves as the jurisdictional wetland line.

In May the owner submitted an average front and rear setback application, consistent with LDR Section 3.02.05 (D) and 6.01.04 (A) (1) (d), and obtained a reduced rear setback of 30.68 feet to the centerline of the seawall. This setback was applied to the single family residence when it was permitted in June. The owner is now seeking a variance to further reduce the rear setback to 8.38 feet from the centerline of the seawall to accommodate a twenty-two (22) foot by forty-four (44) foot pool and screen enclosure.

The properties on either side of the property are developed with pools and screen enclosures; 35544 Quail Run was used for the average setback application and has a verified rear setback of 15.12 feet to the centerline of the seawall. The other adjacent property, 35608 Quail Road, was not used for the average setback application but based on aeriels appears to be closer than 15.12 feet to the centerline of the seawall.

The **purpose and intent of the Code**, Section 6.01.01, is to recognize that wetlands are a valuable natural resource which provide beneficial functions contributing to the quality of life in Lake County and to make sure that Lake County's wetlands are conserved and protected to ensure that the natural structure and functional values are maintained. The wetlands on the property are only located within the canal and there is no indication that the proposed development would negatively impact the wetlands or the canal.

The applicants submitted the following reasons as proof of **meeting the intent of the Code** and proof that the application of the Land Development Regulation would create a **substantial hardship or would violate principles of fairness**:

"In early 2015 my husband and I decided to relocate to Lake County and construct our retirement home. We chose the lot on Quail Run thinking it would be a perfect location for the home and pool design we had chosen. Upon submission of our swimming pool permit, we were informed that we did not meet the setback requirements; this came as a total shock to us, because the neighbors on both sides of our property have swimming pools that extend much further into the setback than our proposed plan. Our neighbor to the right of us has approximately a 7 foot setback and our neighbor to the left of us has approximately a 6 foot setback. Our proposed setback is approximately 9 feet. (Please see the attached aerial photographs taken directly from the Lake County Property Appraisers website.) In addition, at least one other pool on the block is within the setback as well as several structures. Based on the aforementioned precedence we are requesting a variance to construct our pool.

Without this variance and the construction of the pool, our retirement home will fall well short of our hopes and dreams. We feel strongly the rejection of this application will violate the "Principle of Fairness" as stated in the application for a variance submittal guide.

We appreciate your consideration of this request and anxiously await your response."

FINDINGS OF FACT: Staff has reviewed the application for this variance request and found:

1. This request is consistent with LDR 6.01.01 which seeks to conserve and protect the wetlands and their functions because there are no anticipated adverse impacts from the proposed development; and
2. This area is developed with structures located closer to the top of the canal bank than the established fifty (50) foot setback; and
3. Imposing the required fifty (50) foot setback would violate the principles of fairness defined within LDR Section 14.15.02; and
4. The request is consistent with LDR Section 14.15.04 (B) which states that all other remedies have been exhausted to allow a variance to the ordinary high water line, mean high water line, or jurisdictional wetland line which has been achieved by seeking an average rear setback determination; and
5. The applicant is allowed a maximum of 55% impervious surfaces on the lot, per LDR chart 3.02.06, and the applicant is only proposing 35% impervious surfaces on the lot.

The owner and applicant have submitted proof of meeting the intent of the Code and have shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. Based on the Findings of Fact and Analysis stated above, Staff recommends **approval with conditions** of the variance request to allow a reduced rear setback of eight (8) feet from the centerline of the seawall to accommodate a pool and screen enclosure.



PINE ISLAND DR

**SUBJECT
PROPERTY**

QUAIL RUN

CEDAR LN

CALLA CT

HARBOR SHORES RD

Final Development Order
Rufrano Setback
VAR-15-18-4

A VARIANCE OF THE LAKE COUNTY BOARD OF ADJUSTMENT AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Suzanna Rufrano (the “Owner” and “Applicant”), requested a variance to Land Development Regulation (LDR) Section 6.01.04 (A) (1) *Development near Wetlands and Waterbodies* to allow the construction of a pool and screen room closer than the required fifty (50) feet from the top of the canal bank as established by the centerline of the seawall; and

WHEREAS, the subject property consists of 0.43+/- acres and is located South of County Road 44, between Eustis and Tavares in the Harbor Shores Subdivision, in Section 06, Township 19 South, Range 26 East, Alternate Key Number 1644321 and is more particularly described below (hereinafter referred to as the “Property”):

Lot A and the South ½ of Lot 10, Block 4, of the Harbor Shores Unit One Subdivision, according to the Plat thereof, recorded in Plat Book 15, Page 32 of the Public Records of Lake County, Florida

WHEREAS, after giving Notice of Hearing on petition for a variance to the Lake County Land Development Regulations, including notice that said variance would be presented to the Board of Adjustment of Lake County, Florida, on November 12, 2015; and

WHEREAS, the Board of Adjustment reviewed said petition, staff report and any comments, favorable or unfavorable, from the public and surrounding property owners at a public hearing duly advertised; and

WHEREAS, on November 12, 2015, the Lake County Board of Adjustment approved the variance for the above property.

NOW THEREFORE, BE IT ORDAINED by the Board of Adjustment of Lake County, Florida, that the Land Development Regulations of Lake County, Florida, be altered and amended as they pertain to the above subject property, subject to the following terms:

Section 1. Recitals: The foregoing recitals are true and correct and incorporated herein by reference.

Section 2. Terms: The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-15-18-4 to allow the construction of a pool and screen room closer than the required fifty (50) feet from the top of the canal bank as established by the centerline of the seawall, on the property described above in accordance with the Concept Plan depicted in Exhibit A, attached hereto and made a part of hereof by this reference, on the subject Property in accordance with the following conditions:

1. Only the pool and screen enclosure, as depicted in Exhibit A, shall be permitted to be located 8.38 feet from the centerline of the seawall; and
2. Consistent with LDR Section 14.15.04 (D) the first one inch (1") of storm water shall be captured on the site; and
3. Any subsequent development on the property must adhere to the setbacks as established within the Land Development Regulations.

Section 3. Severability: If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 4. Effective Date. This Ordinance shall become effective as provided by law.

ENACTED this 12th day of November, 2015.

EFFECTIVE November 12, 2015.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Donald Schreiner, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this November 12, 2015 by DONALD SCHREINER, who is personally known to me.

(SEAL)

Signature of Acknowledger

Exhibit A.

