

LAKE COUNTY PLANNING AND ZONING DIVISION
VARIANCE STAFF REPORT

Board of Adjustment



June 16, 2016

VAR-16-18-2 Phoenix Realty Homes, Inc.	District 2	Agenda Item # 4
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Requested Action: A variance to Land Development Regulation (LDR) Section 9.07.14(A)(4) to allow a retaining wall 14 feet in height in lieu of 6 feet.

Owner: Oliver Frot

Applicant: Phoenix Realty Homes, Inc.

- Site Location & Information -

Size	1.0 +/- acres
Property Address	15141 Pendio Drive, Montverde, FL 34756
Location	Directly north on Pendio Drive, west of Vinci Way
Alternate Key No.	3825815
Future Land Use	Bella Collina
Zoning District	PUD (Planned Unit Development)
Overlay Districts	NA
Joint Planning Area/ISBA Area	NA

-Land Use Table-

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
North	Lake Siena	Lake Siena	Lake Siena	
South	Bella Collina	PUD	Single Family Residence	
East	Bella Collina	PUD	Single Family Residence	
West	Bella Collina	PUD	Single Family Residence	

- Summary of Staff Determination -

STAFF RECOMMENDATION: Staff recommends **APPROVAL** of the variance to Land Development Regulation (LDR) Section 9.07.14(A)(4) to allow a retaining wall 14 feet in height in lieu of 6 feet.

-Staff Analysis-

The subject property is 1.0 +/- acres and is located on the north side of Pendio Drive, west of Vinci Way in the Montverde area. The Lake County Geographic Information Services (GIS) wetland maps indicate that there are no wetlands on the property. According to the 2012 Federal Emergency Management Agency (FEMA) maps, there are no Flood Zones on the property. The property is zoned PUD (Planned Unit Development) and is part of the Bella Collina Future Land Use Category. There is a single family residence currently under construction on the subject property.

The owner/applicant is applying for a variance to Land Development Regulation (LDR) Section 9.07.14(A)(4) to allow a retaining wall 14 feet in height in lieu of 6 feet (Exhibit A & B). The existing topography and existing lot grading Land Development Regulations make construction of the residence unmanageable without a variance.

The **intent of the Code**, LDR Section 9.07.14 for lot grading to not adversely affect surrounding or downstream wetlands, floodplains or neighboring properties.

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**

“The existing topography of the lot makes it impossible to comply with existing retaining wall requirements.”

“Meeting the requirements cannot be achieved by any other means outside of a taller retaining wall. In the past, retaining wall heights have exceeded these guidelines on lots with far greater slope.”

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

1. Without the variance, due to the topography and slope of the lot, any grading of the lot would adversely affect the surrounding/neighborhood properties.

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** of the variance to Land Development Regulation (LDR) Section 9.07.14(A)(4) to allow a retaining wall 14 feet in height in lieu of 6 feet.

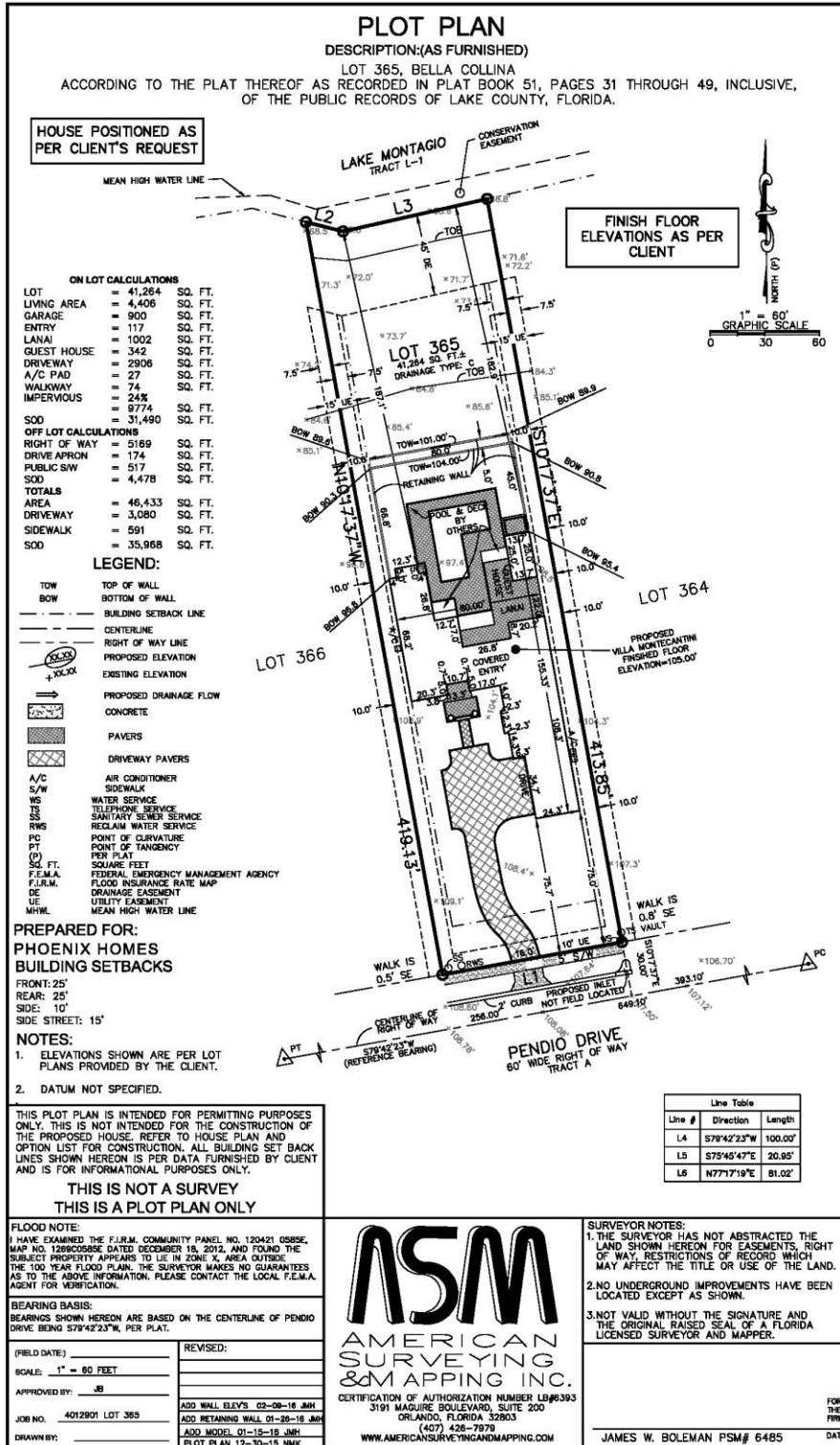
WRITTEN COMMENTS FILED:

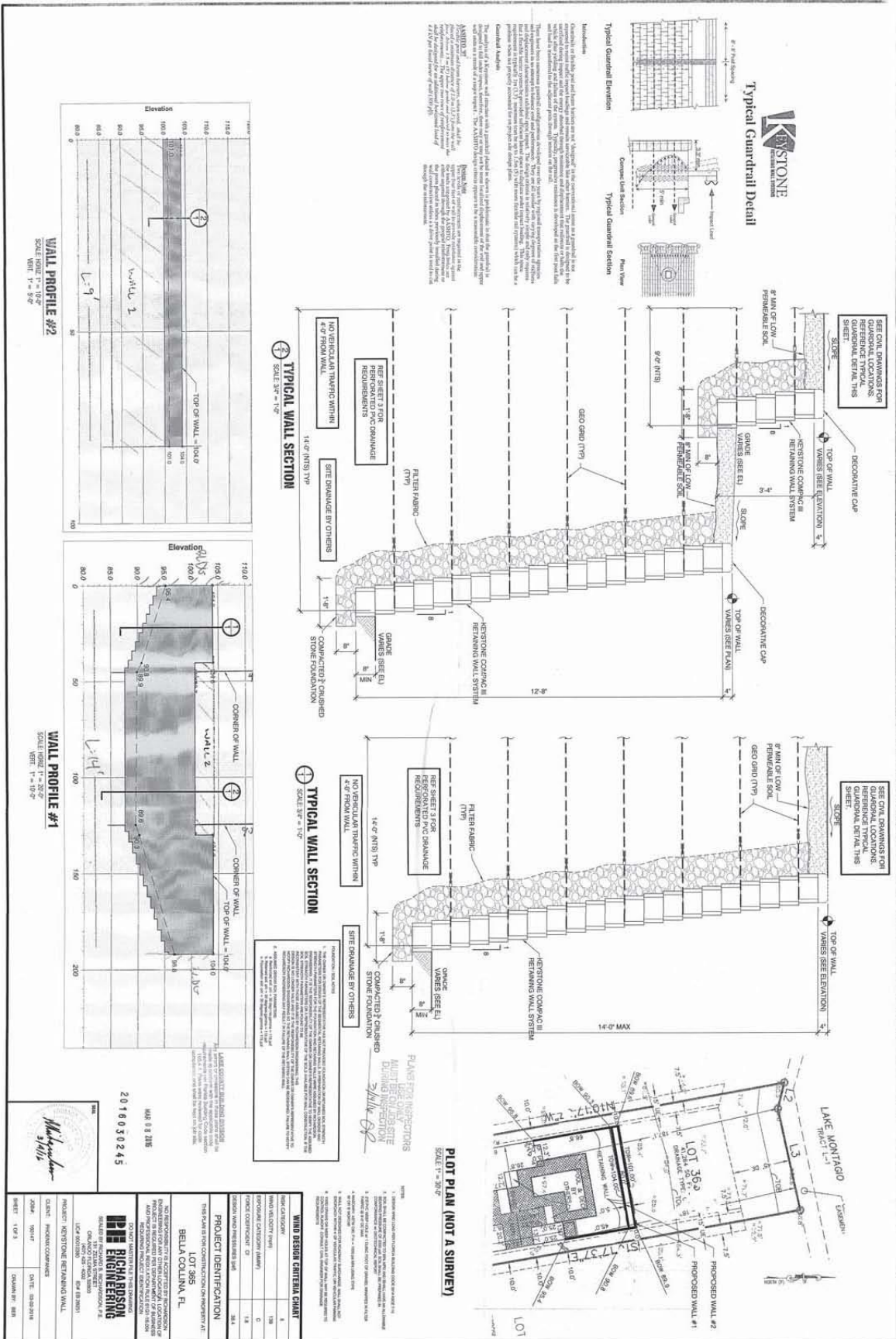
Support: -0-

Questions: -0-

Opposition: -0-

Case Planner: Tim McClendon





Final Development Order
Oliver Frot and Phoenix Realty Homes, Inc.
VAR-16-18-2

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

WHEREAS, Oliver Frot and Phoenix Realty Homes, Inc. (the “Applicants” and the “Owners”) requested a variance to Land Development Regulation (LDR) Section 9.07.14(A)(4) to allow a retaining wall 14 feet in height in lieu of 6 feet; and

WHEREAS, the subject property consists of 1.0+/- acres and is located directly north on Pendio Drive, west of Vinci Way in the Montverde area, in Section 12, Township 22 South, Range 26, Alternate Key Number 3825815 and is more particularly described below (hereinafter referred to as the “Property”):

BELLA COLLINA SUB LOT 365 BEING IN 13-22-26 PB 51 PG 31-49

ORB 4723 PG 107

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 June 16, 2016; 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 June 16, 2016, 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-16-19-5 to allow a retaining wall 14 feet in height in lieu of 6 feet.

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.

VAR 16-18-2

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

ENACTED this 16th day of June, 2016.

EFFECTIVE June 16, 2016.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Donald Schreiner, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this June 16, 2016 by DONALD SCHREINER, who is personally known to me.

(SEAL)

Signature of Acknowledger