

LAKE COUNTY PLANNING AND ZONING DIVISION
BOARD OF ZONING ADJUSTMENT STAFF REPORT

Board of Zoning Adjustment
March 11, 2016



Requested Action: A variance from Lake County Land Development Regulation Table 3.02.05 "Setback Requirements" to allow an existing pool screen enclosure to remain 0.5 ft. from the side (east) property line in lieu of 5 ft.

Owner: Anson E. Proseus, Sr., and Evelyn M. Proseus, as Trustees for the Anson E. Proseus, Sr. and Evelyn M. Proseus Revocable Trust dated 12-20-2000

Applicant: Michael A. Proseus

- Site Location & Information -

Size	0.26 acres
Location	4268 Lake Eleanor Dr; Located at the southeast corner of Bay Rd and Lake Eleanor Dr, approximately 750 ft north of Lakeshore Dr.
Alternate Key #	1396085
Future Land Use	Urban Low
Existing Zoning District	R-3 (Medium Residential District)
Joint Planning Area	N/A

Land Use Table

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
North	Urban Low	R-3	Single Family Residence	N/A
South	Urban Low	R-1	Single Family Residence	N/A
East	Urban Low	R-3	Single Family Residence	N/A
West	Urban Low	R-3	Single Family Residence	N/A

- Summary of Staff Determination -

STAFF RECOMMENDATION: Staff recommends **APPROVAL** of the variance to Lake County Land Development Regulations, specifically Table 3.02.05 "Setback Requirements" to allow an existing pool screen enclosure to remain 0.5 ft. from the side (east) property line in lieu of 5 ft.

- Summary of Analysis -

The subject property is +/- 0.26 acres and is located at the southeast corner of Bay Rd and Lake Eleanor Dr. The Lake County Geographic Information Services (GIS) wetland map does not indicate that wetlands exist on the parcel; and according to the 2012 Federal Emergency Management Agency (FEMA) maps, the lot lies within Flood zone X. The property is zoned R-3 (Medium Residential District) and is part of the Urban Low Future Land Use Category. The property is surrounded by R-3 (Medium Residential District) and R-1 (Rural Residential District) zoning districts are all surrounding properties are part of the Urban Low Land Use Category. The property is currently developed as a single-family residence.

The applicant is requesting a variance to Land Development Regulations Table 3.02.05 *Setback Requirements* to allow an existing pool screen enclosure to remain 0.5 ft. from the side (east) property line in lieu of 5 ft. The pool was properly permitted in 1984 and is located 5 ft. from the side (east) property line. The subsequent pool enclosure and deck were properly permitted in 2005 and showed a setback of 5 ft. from the side (east) property line. However during construction of the pool enclosure, said enclosure was placed 0.5 ft. from the side (east) property line in lieu of 5 ft. The setback issue was never discovered during the inspection phase of building review.

The **intent** of the Code (Table 3.02.05) is to ensure the adherence of safe distances between structures and right-of-ways.

The applicants submitted the following reasons as proof of **meeting the intent of the Code**:

"The pool, deck and screen enclosure were all properly permitted with the Planning and Zoning Division. During the subsequent construction of the deck and screen enclosure were inadvertently placed too close to the property line and was never caught during the physical inspection by the Building Department."

The applicant submitted the following as proof that the application of the Land Development Regulations would create a **substantial hardship or would violate principles of fairness**:

“Both of the owners have passed away and the sale of the property is necessary. Banks have required the pool enclosure issue be rectified prior to any sale of the property.”

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

1. Allowing the pool screen enclosure to remain will have limited to no impact to the surrounding properties and will not negatively affect the adjacent property as it has been in place for over 10 years with no objection from neighboring property owners.

CONCLUSION

The owner/applicant has 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 allow an existing pool screen enclosure to remain 0.5 ft. from the side (east) property line in lieu of 5 ft.

WRITTEN COMMENTS FILED:

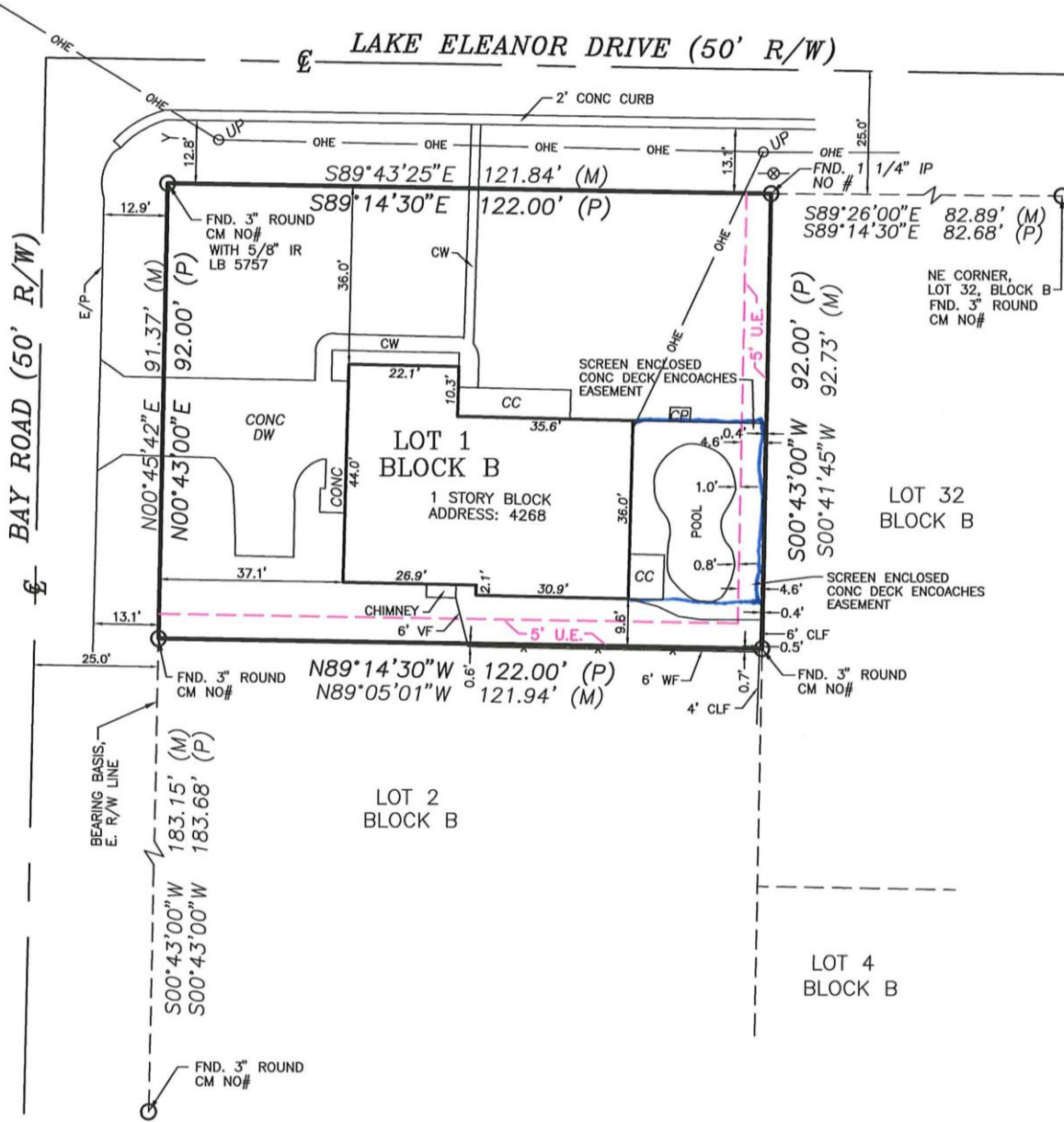
Supportive: -0-

Concern: -0-

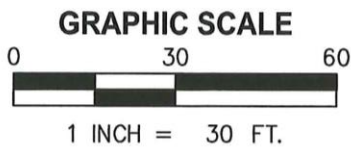
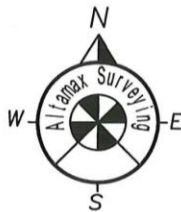
Opposition: -0-

BOUNDARY SURVEY

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Altamax Surveying
 910 Belle Avenue, Suite 1140
 Casselberry, FL 32708
 Phone: 407-677-0200
 Licensed Business No. 7833
 www.altamaxsurveying.com



Final Development Order
Anson E. Proseus, Sr. and Evelyn M. Proseus,
as Trustees for the
Anson E. Proseus, Sr. and Evelyn M. Proseus Revocable Turst dated 12/20/00.
VAR-16-08-4

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

WHEREAS, Michael A. Proseus, (the "Applicant"), requested a variance to Land Development Regulation (LDR) Section 3.02.05 to allow an existing pool screen enclosure to remain 0.5 ft. from the side (east) property line in lieu of 5 ft; and

WHEREAS, the subject property consists of 0.26+/- acres and is located in Mount Dora, at the southeast corner of Bay Rd and Lake Eleanor Dr, approximately 750 ft north of Lakeshore Dr., in Section 35, Township 19, Range 26, Alternate Key Number 1396085 and is more particularly described and depicted in Exhibit A (hereinafter referred to as the "Property"); and

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 March 10, 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 March 10, 2016, the Lake County Board of Adjustment approved the variance for the above described 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 above foregoing recitals are correct and incorporated herein.

Section 2. Terms: The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-16-08-4 to allow an existing pool screen enclosure to remain 0.5 ft. from the side (east) property line in lieu of 5 ft.

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 10th day of March, 2016.
EFFECTIVE March 10, 2016.**

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Donald Schreiner, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this March 10, 2016 by DONALD SCHREINER, who is personally known to me.

(SEAL)

Signature of Acknowledger

Exhibit A.

Lot 1 in Block B in Second Addition to Golden Heights, a subdivision in Lake County, Florida, according to the plat thereof as recorded in Plat Book 16, Page 63, Public Records of Lake County, Florida.

