

LAKE COUNTY OFFICE OF PLANNING AND ZONING VARIANCE STAFF REPORT

Project Information	
Project Name and Case No.	Messner Property, VAR-19-03-4
Applicant	Oswald Messner
Owner	Oswald Messner
Requested Action	Variance to Lake County Land Development Regulations (LDR) Section 9.08.02.A.2.c.2, to allow an accessory structure (pool and pool enclosure) to be located seventeen (17) feet from the rear property line and twenty-six (26) feet from the western side property line, in lieu of thirty (30) feet from the property lines.
Board of Adjustment Board Hearing Date	April 11, 2019
Staff Analysis/Determination	Staff recommends Approval of the variance request.
Case Manager	Emily W. Johnson, Planner

Subject Property Information	
Size	0.50 net acres (no wetlands or water bodies on subject property)
Location	24042 Plymouth Hollow Circle, Sorrento, FL 32776
Alternate Key No.	3839322
Future Land Use	Mt. Plymouth-Sorrento Neighborhood
Current Zoning District	Urban Residential (R-6)
Floodzone	X
Joint Planning Area/ ISBA	N/A
Overlay Districts	Mount Plymouth-Sorrento Special Community and Wekiva Study Area

Land Use Table				
Direction	Future Land Use	Zoning	Existing Use	Comments
North	Mt. Plymouth-Sorrento Neighborhood	Agriculture (A)	Agricultural	Large tract of Agriculturally Exempt land
South	N/A	N/A	Road	Plymouth Hollow Circle
East	Mt. Plymouth-Sorrento Neighborhood	Urban Residential (R-6)	Residence	Single Family Residence
West	Mt. Plymouth-Sorrento Neighborhood	Urban Residential (R-6)	Residence	Single Family Residence

Summary of Request
<p>The applicant has submitted the variance request for lesser setbacks in order to facilitate the issuance of a zoning permit for the accessory structure (pool and pool enclosure) as the proposed structures do not meet code requirements. The Applicant is requesting a variance to Lake County Land Development Regulations (LDR) 9.08.02.A.2.c.2, to allow an accessory structure (pool and pool enclosure) to be located seventeen (17) feet from the rear property line and twenty-six (26) feet from the western side property line, in lieu of thirty (30) feet from the property lines.</p> <p>The subject property, identified as Alternate Key Number 3839322, is 0.50 +/- acres and is located north of Plymouth Hollow Circle in the Sorrento area. The property is zoned Urban Residential (R-6) and is designated by the 2030 Comprehensive Plan as Mt. Plymouth-Sorrento Neighborhood Future Land Use Category. The Federal Emergency Management Agency (FEMA) Flood Zone Maps do not indicate that the parcel is located within a flood-prone area.</p>

Summary of Request

The subject property is Lot 8 of the Plymouth Hollow Subdivision as recorded in Plat Book 55, Page 27, Public Records of Lake County, Florida. The Plymouth Hollow plat was approved by the Board of County Commissioners, and recorded in Public Records on May 25, 2005. The plat identifies a ten (10) foot drainage, utility, and sidewalk easement along the front property line. The Department of Public Works reviewed the variance application and did not identify any concerns or objections with the variance request.

Pursuant to Land Development Regulations (LDR) Section 10.01.01 *General Requirements for Accessory Structures*, accessory structures are an allowed use in conjunction with a single-family residence (SFR). The subject property is developed with an SFR, which received a certificate of occupancy from the Office of Building Services on March 8, 2007.

Staff Analysis.

LDR Section 14.15.02 states that variances will be granted when the person subject to a Land Development Regulation demonstrates that the purpose of the Land Development Regulation will be or has been achieved by other means, and when application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness.

1. The purpose of the Land Development Regulation will be or has been achieved by other means.

The Applicant submitted the following statement as proof that the purpose of the Land Development Regulations will be or has been achieved by other means; *“The 30 ft. setback is due to the fact there are no fire hydrants in the subdivision. We are requesting building a pool, and the water from the pool can be used to put out a fire.”*

The intent of the Code, Land Development Regulations (LDR) 9.08.01, is to ensure that there is adequate fire protection measures in subdivisions when a public or private water system is not available to provide an alternative means of fire protection water supply. LDR Section 9.08.01.A.1.c allows alternative means of fire protection water supply to mean either a residential fire sprinkler system or spacing residences sixty (60) feet apart with a minimum of thirty (30) feet clear open space on all sides of the structure. The single family residence does not have a sprinkler system.

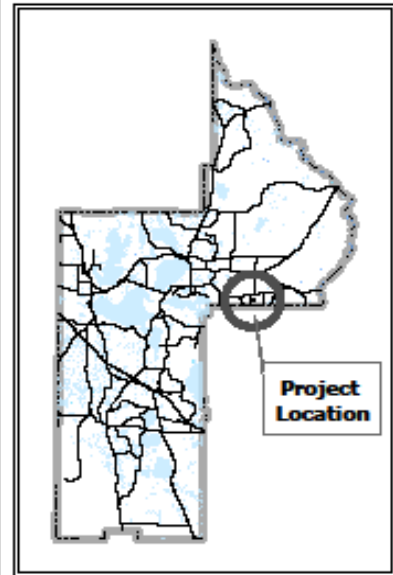
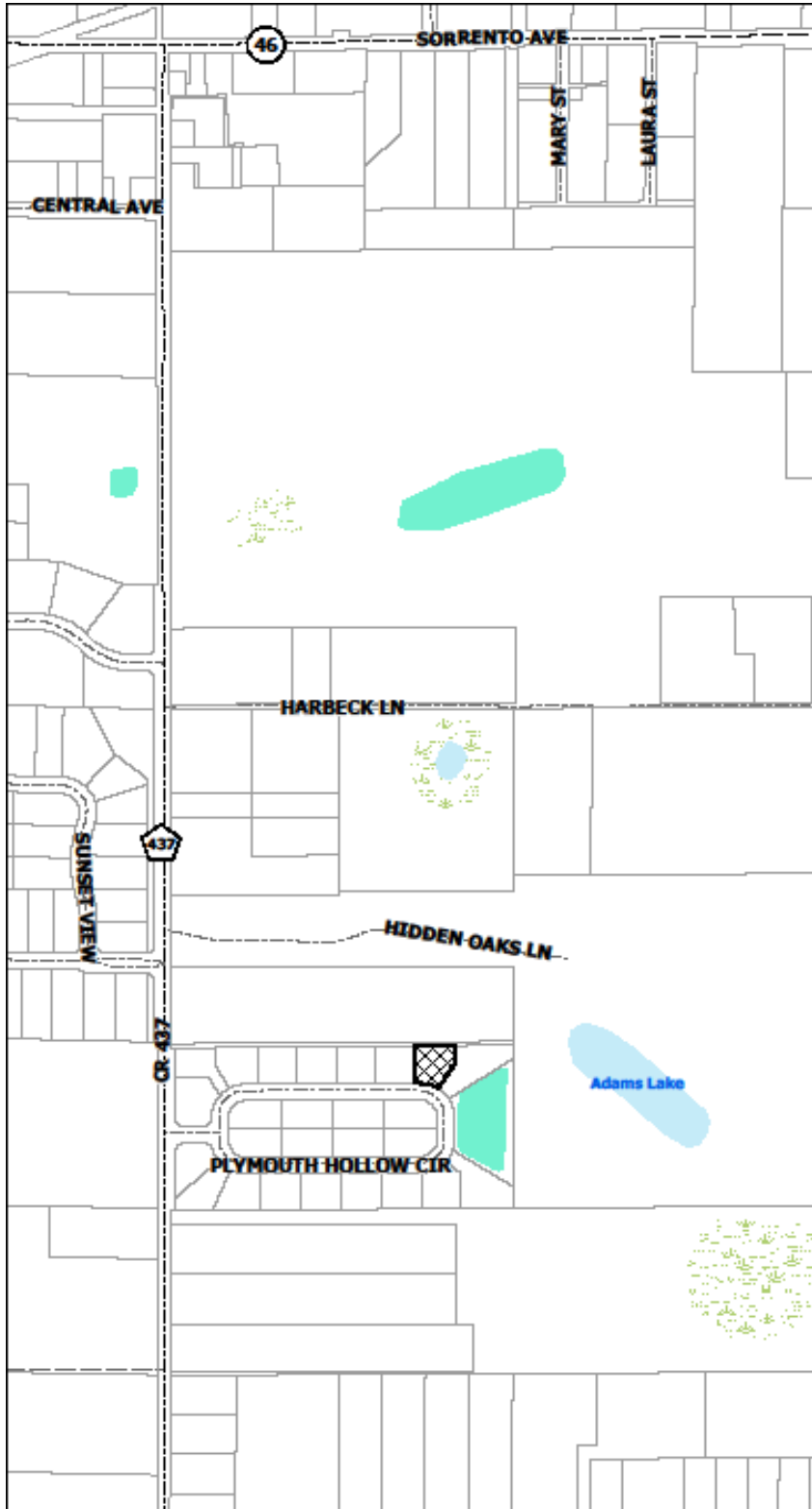
The Owners would like to construct a pool and pool enclosure on their property in a location that is less than thirty (30) feet from the rear and side property lines. Per the Florida Building Code, 6th Edition (2017), a pool is any structure intended for swimming, recreational bathing or wading that contains water over 24 inches (610 mm) deep. A pool retains water and would not be affected if a fire were to occur within the single family residence. The Chief Fire Plans Examiner and Inspector of Lake County reviewed the variance application and did not identify any concerns or objections with the variance request.

2. The application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. For purposes of this Section, "principles of fairness" are violated when the literal application of a Land Development Regulation affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the Land Development Regulation.

The Applicant submitted the following statement as evidence of a hardship; *“The standard size pool and enclosure we have designed meets our needs for our backyard and lifestyle. In order to adhere to 30 ft. setback, the pool, as designed, would be too close to the house to be safe. A smaller pool and enclosure would not be worth building.”*

24036 Plymouth Hollow Circle and 24024 Plymouth Hollow Circle are both located on the same street, within the same subdivision, and received permits to build a pool and pool enclosure at a reduced setback. If the Owners are not allowed to construct a pool and pool enclosure on their property, the “principles of fairness” would be violated.

Subject Property



Final Development Order
VAR-19-03-4
Messner Property

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

WHEREAS, Oswald Messner (the “Owner” and “Applicant”) made a variance request to Lake County Land Development Regulations (LDR) 9.08.02.A.2.c.2, to allow an accessory structure (pool and pool enclosure) to be located seventeen (17) feet from the rear property line and twenty-six (26) feet from the western side property line, in lieu of thirty (30) feet from the property lines; and,

WHEREAS, the subject property consists of 0.50 +/- acres and is located east of north of Plymouth Hollow Circle in the Sorrento area, in Section 31, Township 19, Range 28, having an Alternate Key Number 3839322 and is more particularly described below as:

Lot 8, Plymouth Hollow, according to map or plat thereof as recorded in Plat Book 55, Page(s) 27 and 28, of the Public Records of Lake County, Florida.

WHEREAS, after giving notice of a hearing on a petition for a variance to the Lake County Land Development Regulations, including notice that the variance would be presented to the Board of Adjustment of Lake County, Florida, on April 11, 2019; and

WHEREAS, the Board of Adjustment reviewed the 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 April 11, 2019, 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:

Section 1. Terms: The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-19-03-4 to Lake County Land Development Regulations (LDR) 9.08.02.A.2.c.2, to allow an accessory structure (pool and pool enclosure) to be located seventeen (17) feet from the rear property line and twenty-six (26) feet from the western side property line, in lieu of thirty (30) feet from the property lines.

Section 2. Severability: If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, the holding will in no way affect the validity of the remaining portions of this Ordinance.

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Section 3. Effective Date. This Ordinance will become effective as provided by law.

ENACTED this 11th day of April, 2019.

EFFECTIVE April 11, 2019.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Lloyd Atkins, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 11th day of April, 2019, by _____, who is personally known to me or who has produced _____, as identification and who did _____ or did not _____ take an oath.

(SEAL)

Signature of Acknowledger