



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Public Hearing Date: May 9, 2019

Tab Number: 1

Case No. and Project Name: VAR-19-11-4, Donaldson Property

Applicant: Scott and Rachael Donaldson

Owner: Scott and Rachael Donaldson

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 twenty-two (22) feet from the property line in lieu of thirty (30) feet from the property line.

Staff Determination: Application is consistent with the Land Development Regulations and the Comprehensive Plan.

Case Manager: Ruth Mitchell, Associate Planner

Subject Property Information

Size: .51 +/- acres (no wetlands or water bodies on subject property)

Location: 23451 Shallow Avenue, Sorrento Area

Alternate Key No.: 3864720

Future Land Use: Urban Low Density

Current Zoning District: Rural Residential (R-1)

Floodzone: N/A

Joint Planning Area/ ISBA: N/A

Overlay Districts: Mount Plymouth Sorrento Special Community and Wekiva Study Area

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Mt. Plymouth-Sorrento Neighborhood	Urban Residential (R-6)	Residential	Single-family dwelling unit
South	Mt. Plymouth-Sorrento Neighborhood	Urban Residential (R-6)	Street	Shallow Avenue
East	Mt. Plymouth-Sorrento Neighborhood	Urban Residential (R-6)	Residential	Single-family dwelling unit
West	Mt. Plymouth-Sorrento Neighborhood	Urban Residential (R-6)	Vacant	Tract B of Plymouth Creek Estates

Summary of Request.

The subject property is developed with a single family residence and the Owner 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 structure does not meet code requirements.

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 purposed of the 30’ building setback as described by the Lake County Office of Planning & Zoning is, in the event of a fire, to prevent its spread due to the lack of fire hydrants in the Plymouth Estates subdivision. The proposed project consists of a swimming pool, concrete deck and screen room, all items which are not flammable. Additionally, the proposed swimming pool would contain 13,000 gallons of water, adding a readily available water source to the neighborhood that could be accessed in the event of fire. Furthermore, the plumbing system contains both a 2” union and a hose bib that can quickly be uncoupled and affixed with a hose to pump 100+ gallons of water per minute. Granting us the variance to build this project inside the setback actually provides the very benefit to the community that the setback was originally designed to achieve.”

The intent of the code, LDR Section 9.08.01, is to ensure that there is adequate fire protection measures in subdivisions when a public or private water systems 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 have a pool and pool enclosure constructed on their property located less than thirty (30) feet from the rear property line. A pool is any structure intended for swimming, recreational bathing or wading that contains water over 24 inches (610mm) deep, per Florida Building Code, 6th Edition (2017). A pool retains water and would not be affected if a fire were to occur within the single family residence. The Chief Fire Inspector of Lake County reviewed the variance application and did not identify any concerns or objections with the variance request.

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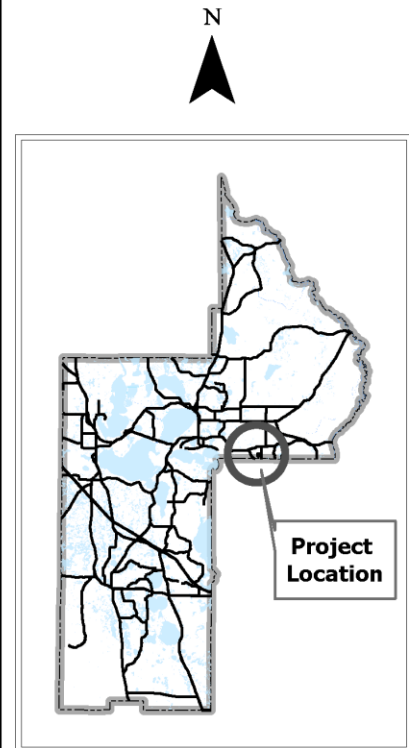
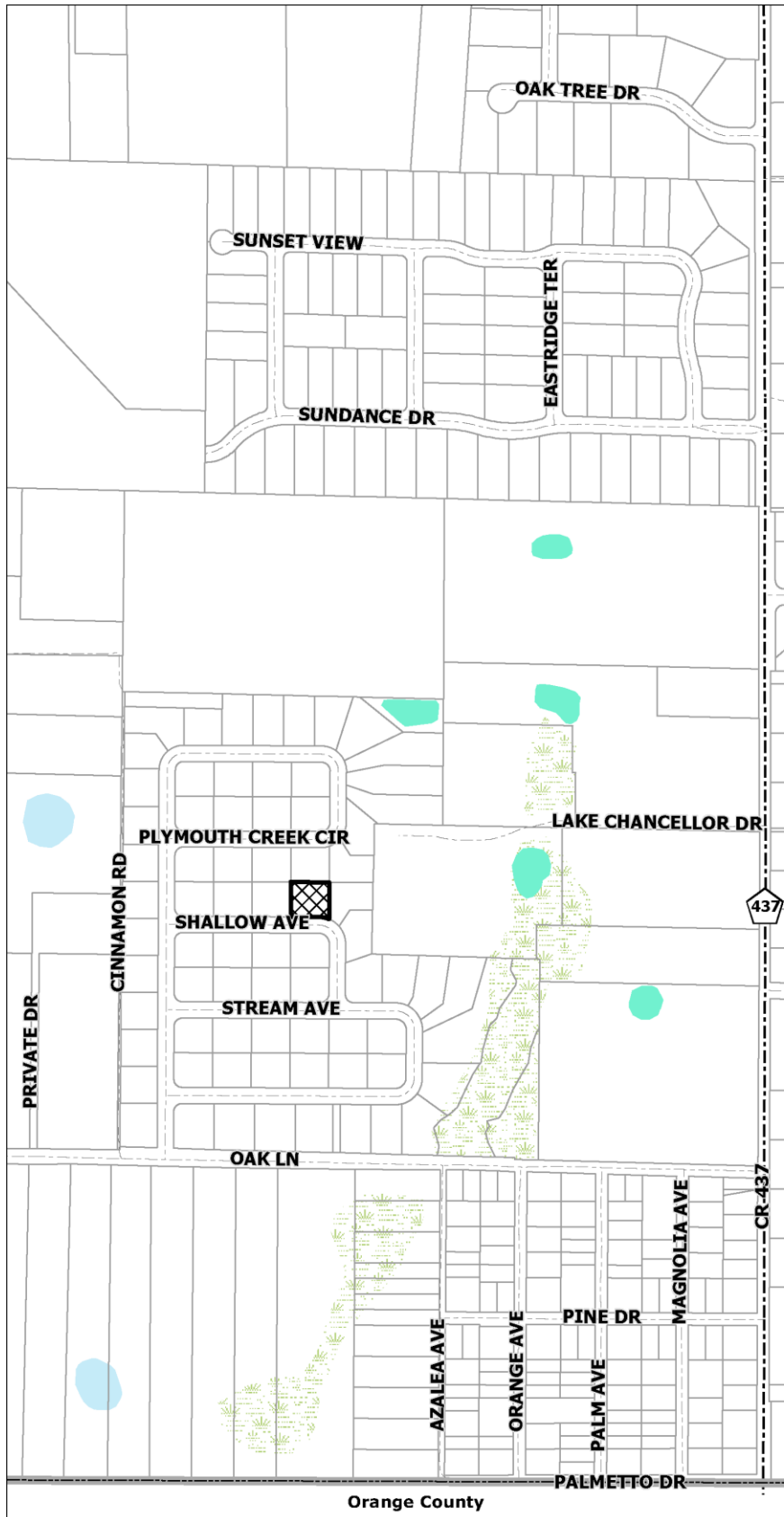
- 2. The application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. 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 substantial hardship suffered is that we are being denied the use of our property in a manner consistent with that of numerous other property owners in our community as well as the vast majority of homeowners in Lake County; i.e., the construction of a swimming pool. The installation of a swimming pool would increase both the economic value and the overall enjoyment of our home and we are being denied that opportunity.

There are several properties located within the same subdivision that have received permits to build a pool and pool enclosure. If the Owners are not allowed to construct a pool and pool enclosure on their property, the "principle of fairness" would be violated.

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Subject Property



**Final Development Order
Donaldson Property
VAR-19-11-4**

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

WHEREAS, Scott and Rachael Donaldson (the “Owners”) submitted an application to request a variance from Land Development Regulations (LDR) Section 9.08.02(A)(2)(c)(2), to allow an accessory structure (pool and pool enclosure) to be located twenty-two (22) feet from the property line in lieu of thirty (30) feet from the property line; and

WHEREAS, the subject property consists of .51 +/- acres and is located at 23541 Shallow Avenue, in the Sorrento area, in Section 36, Township 19 South, Range 27, Alternate Key Number 3864720 and is more particularly described below (the “Property”);

Lot 60, Plymouth Creek Estates, according to map or plat thereof as recorded in Plat Book 62, Page(s) 12, 13 and 14, of the Public Records of Lake County, Florida.

Parcel ID No.: 36-19-27-001000006000

WHEREAS, after giving notice of a hearing on a petition for a variance to the Lake County Land Development Regulations, including notice that the request for a variance would be presented to the Board of Adjustment of Lake County, Florida, on May 9, 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 May 9, 2019, the Lake County Board of Adjustment approved the variance for the above to allow an accessory dwelling unit that is different in architectural style than the principal dwelling unit.

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-19-11-4 to allow an accessory structure (pool and pool enclosure) to be located twenty-two (22) feet from the property line in lieu of thirty (30) feet from the property line.

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.

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

ENACTED this 9th day of May, 2019.

EFFECTIVE May 9, 2019.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Lloyd Atkins, Jr., Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this May 9, 2019 by Lloyd Atkins, Jr., who is personally known to me.

(SEAL)

Signature of Acknowledger