



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 2

Public Hearing Date: September 12, 2019

Case No. and Project Name: VAR-19-33-3, Leady Property

Applicant: Douglas P. and Crystal F. Leady

Owner: Douglas P. and Crystal F. Leady

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 6.01.04.A.1.a.2, to allow a pool and enclosure to be located 41-feet from the jurisdictional wetland line, in lieu of 50-feet from the jurisdictional wetland line.

Staff Determination: Staff recommends approval of the variance request subject to the conditions contained in the draft development order.

Case Manager: Christine Rock, AICP, Senior Planner

Subject Property Information

Size: 0.26 +/- acres

Location: West of the intersection of Virginia Drive and James Place, in the Leesburg area.

Alternate Key No.: 3849669

Future Land Use: Urban Medium

Current Zoning District: Urban Residential District (R-6)

Flood Zone: "AE" and "X"

Joint Planning Area / ISBA: Leesburg ISBA

Overlay Districts: None

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	N/A	N/A	Canal	Subject property is adjacent to Canal
South	N/A	N/A	Street	Subject property is Virginia Drive
East	Urban Medium	Urban Residential District (R-6)	Residential	Single-Family Dwelling Unit
West	Urban Medium	Urban Residential District (R-6)	Residential	Single-Family Dwelling Unit

Summary of Request.

The subject property, identified as Alternate Key Number 3849669, contains 0.26 +/- acres and is zoned Urban Residential District (R-6) with an Urban Medium Future Land Use designation. The GIS Aerial Map indicates that the subject property lies partially within the flood zone. The property is generally located west of the intersection of Virginia Drive and James Place, in the Leesburg area of unincorporated Lake County. The subject property is Lot 77 within the Western Shores subdivision, less a portion pursuant to Lot Line Deviation #2006-017. The subject property is developed with a single-family residence and the northern property line abuts a canal.

The Applicant has requested a variance from Lake County Land Development Regulations (LDR) Section 6.01.04.A.1.a.2, to allow a pool and enclosure to be located 41-feet from the jurisdictional wetland line, in lieu of 50-feet from the jurisdictional wetland line. The reduced wetland setback is from a canal, rather than a lake or natural wetland.

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 intent of the Code, LDR Section 6.01.01, is to conserve and protect wetlands, and to ensure that the natural structure and functional values of wetlands are maintained. The intent of this section is to avoid any net loss of wetlands whether by functional value or extent within Lake County.

The property owner provided a statement (Attachment B) as proof of meeting the intent of the code.

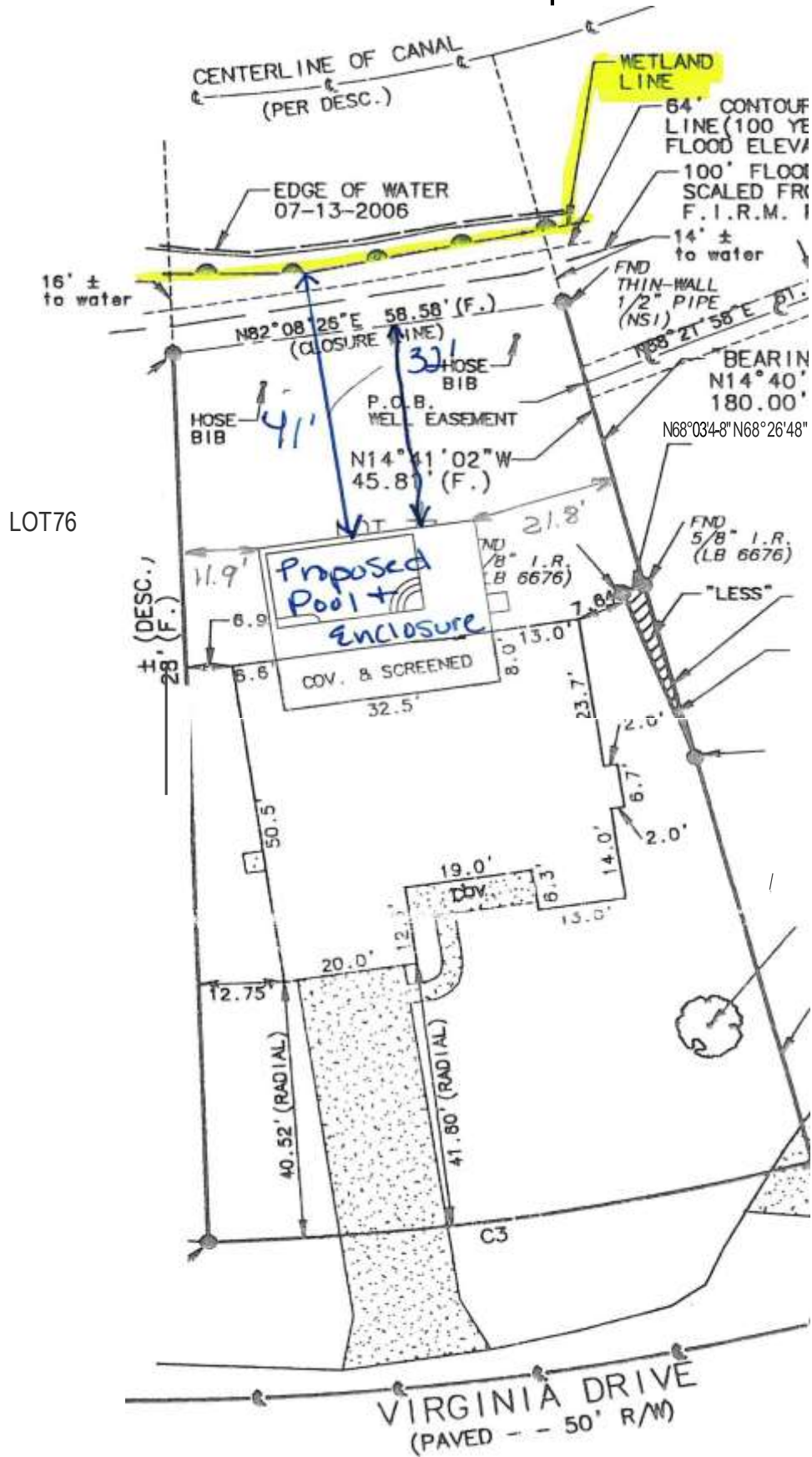
The proposed pool and enclosure will be located 41-feet from the jurisdictional wetland line as depicted on the survey (Attachment A). The location of the proposed pool and enclosure will not result in a loss of wetlands. In order to obtain a zoning permit for the proposed pool and enclosure, a survey must be provided which demonstrates that the proposed location of the pool and enclosure meets all remaining requirements.

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 provided the following statement, *"Crystal has arthritis and needs knee replacement #2 – she will benefit from non-impact movement in water. Douglas had a serious injury w/multiple fractures of foot. Water therapy will be greatly beneficial. * See Note"*. The Applicant's letter (Attachment B) includes the statement, *"In driving our Neighborhood there are several houses that are on the canal/water that have in ground pools. We feel that we should be awarded the same..."* Please see Attachment B for the Applicant's complete letter.

LDR Section 14.15.04 states that for the purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. The Applicant has indicated that they have health conditions and that the proposed pool and enclosure will be beneficial to them, as it will allow for non-impact exercise. Additionally, the Applicant has indicated that several houses within their community have pools and enclosures.

Attachment A – Concept Plan



12017 Pine Ct

33730 Linda Lane

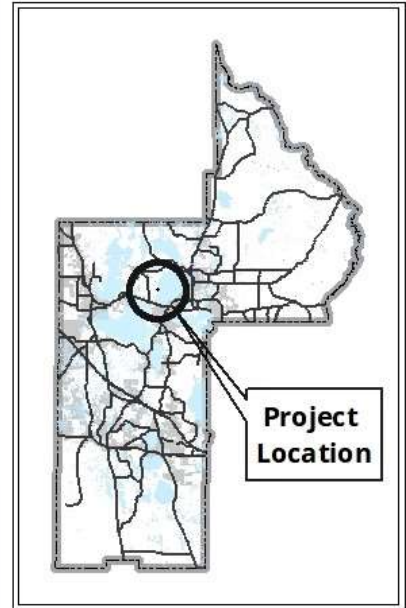
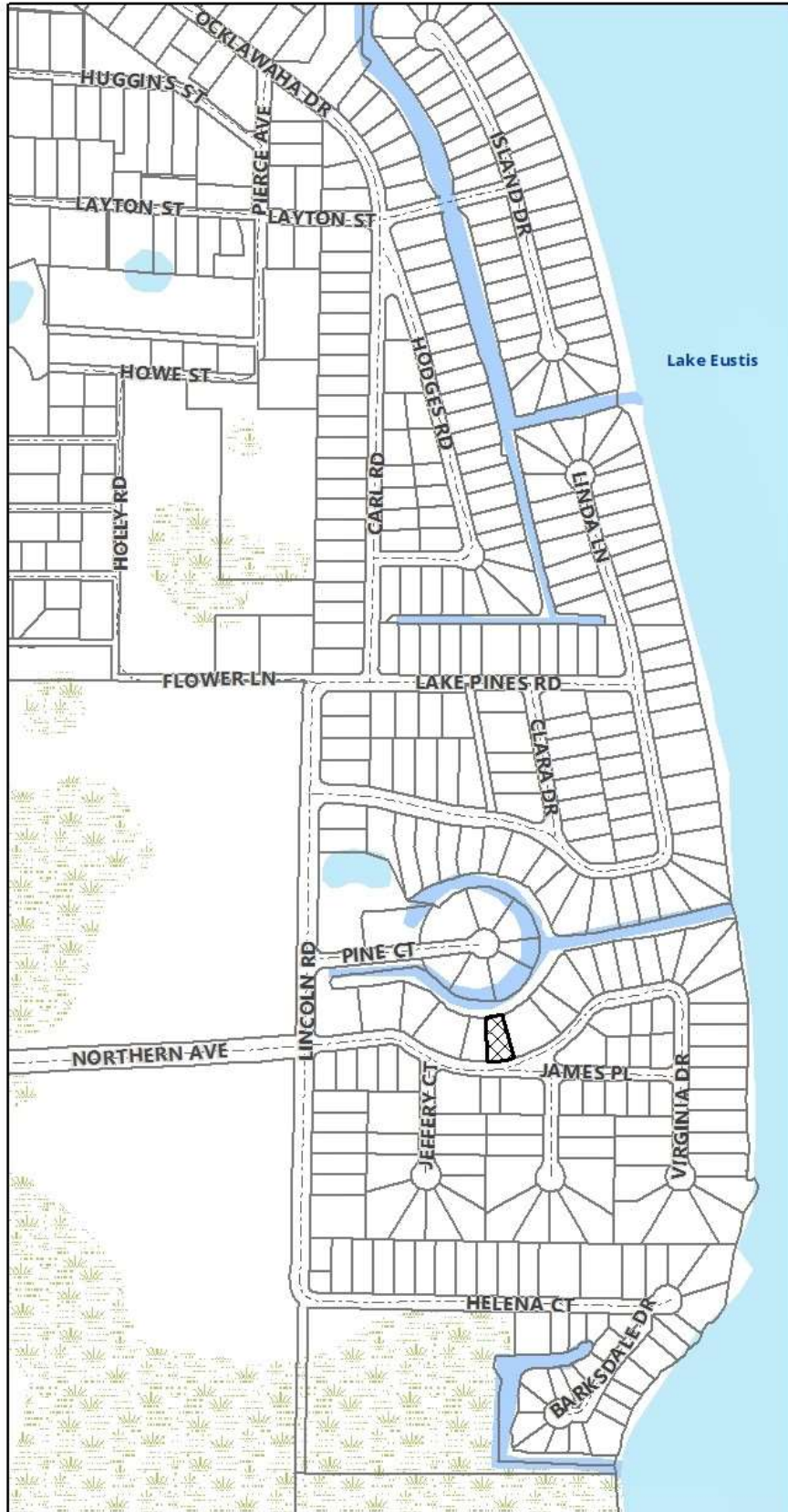
33948 Linda Lane

33930 Linda Lane

34002 Linda Lane

34016 Linda Lane

Map of Subject Property



**Final Development Order
VAR-19-33-3
Leady Property**

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

WHEREAS, Douglas P. Leady and Crystal F. Leady (the "Applicants" and "Owners") request a variance from Land Development Regulations (LDR) Section 6.01.04.A.1.a.2, to allow a pool and enclosure to be located 41-feet from the jurisdictional wetland line, in lieu of 50-feet from the jurisdictional wetland line; and

WHEREAS, the subject property consists of 0.26 +/- acres and is located west of the intersection of Virginia Drive and James Place, in the Leesburg area of unincorporated Lake County, in Section 07, Township 19 South, Range 26 East, having Alternate Key Number 3849669, and more particularly described in Exhibit "A"; and

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 September 12, 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 September 12, 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-19-33-3 to allow a pool and enclosure to be located 41-feet from the jurisdictional wetland line, in lieu of 50-feet from the jurisdictional wetland 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 12th day of September, 2019.
EFFECTIVE September 12, 2019.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Lloyd Atkins, Chairman

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this 12th day of September, 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

Exhibit "A" – Legal Description

Commencing at the Northwest corner of Section 18, Township 19 South, Range 26 East, Lake County, Florida, run thence South 00°54'40" West along the West Section line a distance of 1236.40 feet, thence run North 82°44'50" East a distance of 261.53 feet to the beginning of a 100.00 foot radius curve to the right, thence run Easterly along the arc of said 100.00 foot radius curve through a central angle of 44°34'50" for a distance of 77.81 feet to the end of said 100.00 foot radius curve, thence run North 37°19'40" East a distance of 25.00 feet to the beginning of a 400.00 foot radius curve to the right, thence run Easterly along the arc of said 400.00 foot radius curve through a central angle of 39°00'00" for a distance of 272.271 feet to the point of beginning, run thence along the arc of said 400.00 foot radius curve through a central angle of 13°00'00" for a distance of 90.757 feet, thence run North 14°40'20" West along a line radial to said 400.00 foot radius curve a distance of 180.00 feet more or less, to the centerline of a canal, thence run Southwesterly along and with the centerline of said canal to a point that is North 01°40'20" West of the point of beginning, thence run South 01°40'20" East along a line radial to said 400.00 foot radius curve a distance of 180.00 feet, more or less, to the point of beginning. Said tract also known as Lot 77 of Western Shores Subdivision, an unrecorded plat;

LESS

Commencing at the Northwest corner of Section 18, Township 19 South, Range 26 East, Lake County, Florida, run thence South 00°54'40" West along the West Section line a distance of 1236.40 feet, thence run North 82°44'50" East a distance of 261.53 feet to the beginning of a 100.00 foot radius curve to the right, thence run Easterly along the arc of said 100.00 foot radius curve through a central angle of 44°34'50" for a distance of 77.81 feet to the end of said 100.00 foot radius curve, thence run North 37°19'40" East a distance of 25.00 feet to the beginning of a 400.00 foot radius curve to the right, thence Easterly along the arc of said 400.00 foot radius curve through a central angle of 52°00' for 363.028 feet, thence North 14°40'20" West along a line radial to said 400.00 foot radius curve 65.78 feet to the point of beginning, run thence North 21°38'02" West 28.24 feet, thence North 68°26'48" East 3.45 feet to the intersection of said radial line, thence South 14°40'20" East along said radial line 28.44 feet to the point of beginning; being a part of Lot 77, according to an unrecorded plat of Western Shores Subdivision.

TOGETHER WITH a 5.00 feet wide well easement lying 2.50 feet on both sides of the following described centerline:

Commencing at the Northwest corner of Section 18, Township 19 South, Range 26 East, Lake County, Florida, run thence South 00°54'40" West along the West Section line a distance of 1236.40 feet, thence run North 82°44'50" East a distance of 261.53 feet to the beginning of a 100.00 foot radius curve to the right, thence run Easterly along the arc of said 100.00 foot radius curve through a central angle of 44°34'50" for a distance of 77.81 feet to the end of said 100.00 foot radius curve, thence run North 37°19'40" East a distance of 25.00 feet to the beginning of a 400.00 foot radius curve to the right, thence Easterly along the arc of said 400.00 foot radius curve through a central angle of 52°00' for 363.028 feet, thence North 14°40'20" West along a line radial to said 400.00 foot radius curve 127.14 feet to the point of beginning, run thence North 68°21'58" East 61.48 feet to the point of terminus.