



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 4

Public Hearing Date: December 12, 2019

Case No. and Project Name: VAR-19-50-2, Filmer Property

Applicant: Matt Pospisil (the "Applicant")

Owner: Brian D. and Julia A. Filmer (the "Owners")

Requested Action: Variance to Lake County Land Development Regulations (LDR) Table 15.02.01C, to allow for a driveway to be replaced/constructed five (5) feet, in lieu of ten (10) feet, from the southern property line; and to LDR Section 3.02.05.1.2, to allow for a driveway to encroach into a drainage easement.

Case Manager: Emily W. Johnson, Planner

Subject Property Information

Size: 0.29 +/- acres

Location: 12441 Lake Valley Drive Clermont, Florida 34711

Alternate Key No.: 3781951

Future Land Use: Urban Low Density

Current Zoning District: Medium Residential District (R-3)

Flood Zone: "X"

Joint Planning Area/ISBA: Clermont JPA

Overlay Districts: N/A

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low Density	Medium Residential District (R-3)	Residential	Single-Family Residence
South	Urban Low Density	Medium Residential District (R-3)	Residential	Single-Family Residence
East	N/A	N/A	Road	Lake Valley Drive
West	Urban Low Density	Medium Residential District (R-3)	Water Retention	Lake Valley Tract "C"

Summary of Request.

The subject property, identified as Alternate Key Number 3781951, contains 0.29 +/- acres, and is generally located west of Lake Valley Drive, in the unincorporated Clermont area. The parcel is zoned Medium Residential District (R-3), and is designated as Urban Low Density Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. The parcel is described as being Lot 58 of Lake Valley Subdivision (Plat Book 40, Pages 11-12), and the GIS aerial map shows no indication of wetlands or flood zone. The subject property is located within the Clermont Joint Planning Area (JPA); the City of Clermont reviewed the application and did not identify any concerns, comments, or objections to the variance request.

The Applicant is requesting a variance to Lake County Land Development Regulations (LDR) Table 15.02.01C, to allow for a driveway to be replaced/constructed five (5) feet, in lieu of ten (10) feet, from the southern property line as depicted in the survey (Attachment "A"). Although the proposed driveway requires a variance to LDR Table 15.02.01C, Setbacks within Clermont JPA, the location of the proposed driveway meets the 5-foot side setback required by LDR Table 3.02.05, Setback Requirements, for the R-3 zoning district. The Applicant intends to replace the existing driveway and add an extension to the existing footprint, which will encroach into the ten (10) foot side setback required of properties zoned R-3 in the Clermont JPA, and a seven and one-half (7.5) foot drainage easement shown on the recorded plat. Because of the location of the drainage easement, a variance to LDR Section 3.02.05.1.2, which mandates that impervious surfaces are prohibited from encroaching into right-of-ways and easements, is also required. The Lake County Department of Public Works reviewed the application and did not identify and concerns, comments, or objections to the variance request.

Additionally, the Applicant submitted a petition signed by neighbors (Attachment "B") in support of the request.

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 Table 15.02.01C is to supersede and replace the setback conditions contained within LDR Table 3.02.05, Setback Requirements, for properties located within the Clermont JPA; the purpose of the setback regulation is to ensure the adherence of safe distances between structures and right-of-ways, and to avoid impediment of proper drainage.

The intent of the Code, LDR Section 3.02.05.1.2 is to ensure that right-of ways and easements for access and drainage remain clear, and to avoid impediment of access and/or proper drainage.

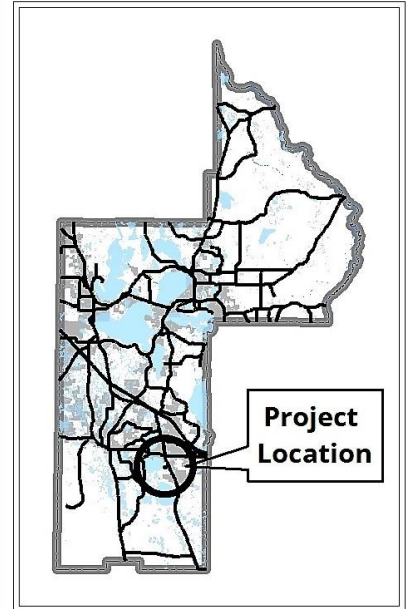
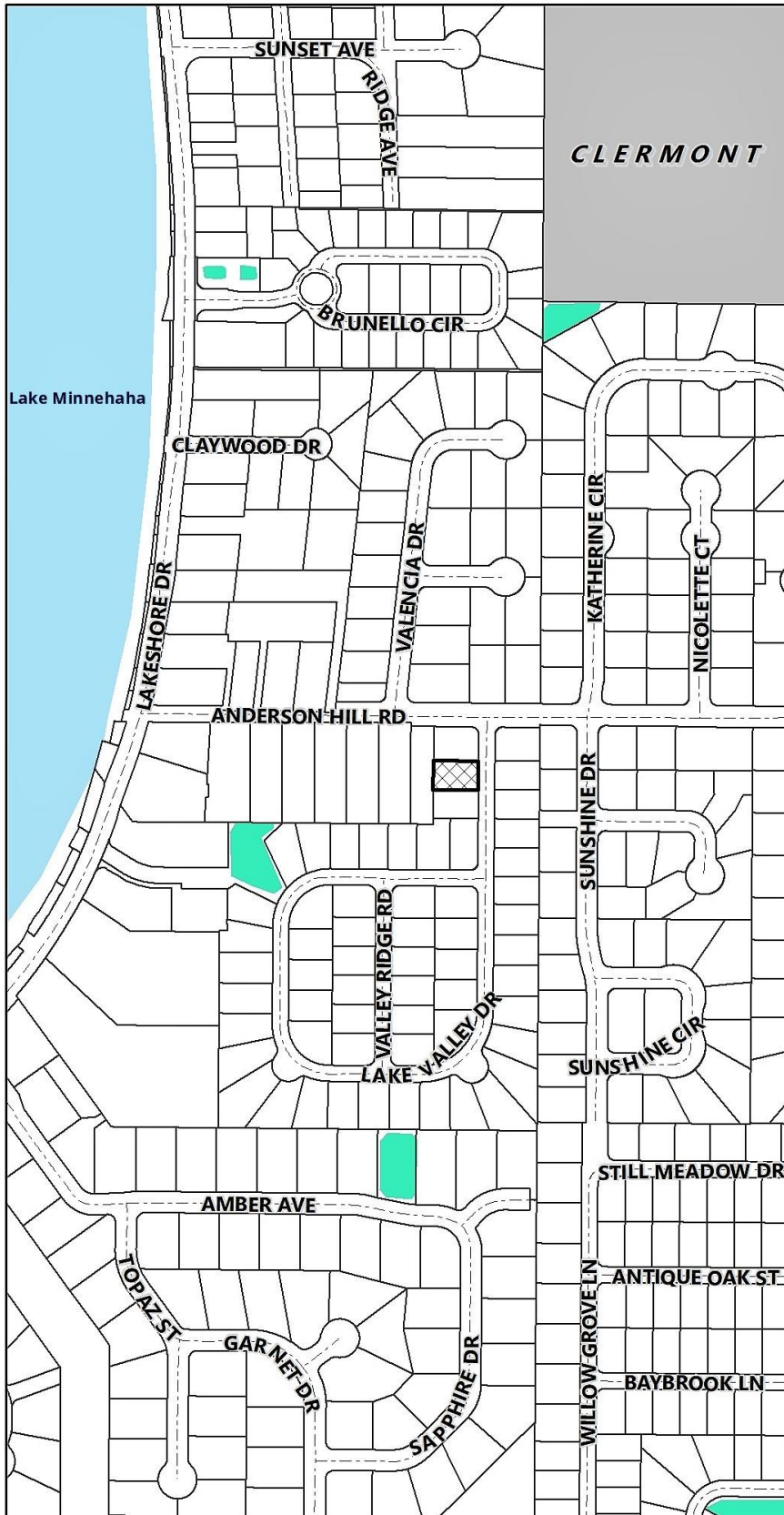
The Applicant submitted the following statement as proof that the purpose of the Land Development Regulation will be or has been achieved by other means; *"With the new 8' extension to the drive it will not effect [sic] the 10' setback on the back of the property. Since the house was purchased by owner in 1999 the existing drive has not effected [sic] drainage by any means and is proposed to go back in the same spot."*

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.

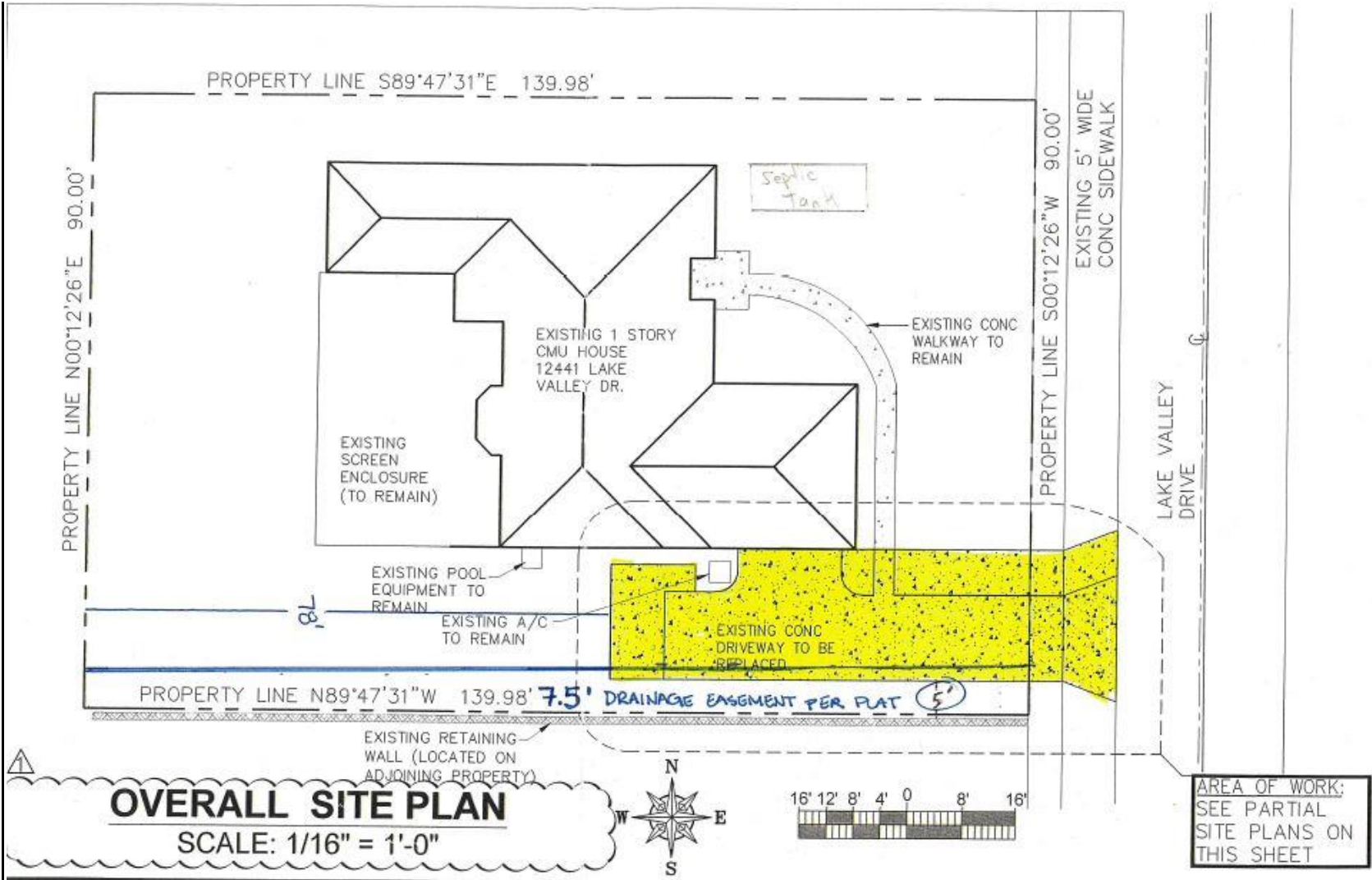
LDR Section 14.15.04 states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.

The Applicant submitted the following statement as proof of a substantial hardship; *"If we were to put the edge of the new driveway [at the required setback] pulling into the garage would be impossible with out [sic] executing a six point turn."*

SUBJECT PROPERTY



ATTACHMENT A - Survey



ATTACHMENT B – Petition

Brian and Julie Filmer
12441 Lake Valley Drive
Lot 58, Lake Valley Subdivision
Clermont, FL 34711

November 18, 2019

Subject: Lake County building variance

Dear Lake Valley Neighbors,

I am writing in regards to a variance submitted to the Lake County building department on my behalf. I have hired a contractor to remove and replace the concrete driveway at my residence. The existing driveway is less than the 7.5 feet required by the county from the south property line, bordering Glen and Pat Colvin's property. The original builder never applied for a variance from the county to allow for the existing driveway to be less than 7.5 feet from the property line. My contractor applied for a variance with the county so he can pour the new concrete driveway the same distance from the property line as our existing driveway, which is approximately 3 feet from the property line.

If the variance is not approved, our new driveway would be too narrow for our needs. The county council votes on our variance the first week in December and the public will be notified ahead of time. Your signature on this letter, indicating you have no objections to the variance, will help get it approved.

Thank you for your time.
Yours faithfully,
Brian Filmer

Glen and Pat Colvin
12435 Lake Valley Drive Clermont, FL 34711

Printed name: Pat Colvin Signature: Pat Colvin

Joseph and Linda Morello
12442 Lake Valley Drive Clermont, FL 34711

Printed name: JOE MORELLO Signature: Joe Morello

Doug and Pam Jackson
12436 Lake Valley Drive Clermont, FL 34711

Printed name: Doug Jackson Signature: Doug Jackson

**Final Development Order
VAR-19-50-2
Filmer Property**

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

WHEREAS, Matt Pospisil (the “Applicant”), on behalf of Brian D. and Julia A. Filmer (the “Owners”), submitted a variance request to Lake County Land Development Regulations (LDR) Table 15.02.01C, to allow for a driveway to be replaced/constructed five (5) feet, in lieu of ten (10) feet, from the southern property line; and to LDR Section 3.02.05.1.2, to allow for a driveway to encroach into a drainage easement; and,

WHEREAS, the subject property consists of 0.29 +/- acres and is located at 12441 Lake Valley Drive, in the Clermont area of unincorporated Lake County, in Section 31, Township 22 South, Range 26 East, having an Alternate Key Number 3781951 and is more particularly described below as:

LOT 58, LAKE VALLEY SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS
RECORDED IN PLAT BOOK 40, PAGE 11 AND 12, 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 December 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 December 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-19-50-2 to Lake County Land Development Regulations (LDR) Table 15.02.01C, to allow for a driveway to be replaced/constructed five (5) feet, in lieu of ten (10) feet, from the property line; and to LDR Section 3.02.05.1.2, to allow for a driveway to encroach into a drainage easement.

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 12th day of December, 2019.

EFFECTIVE December 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 December, 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