



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 5

Public Hearing Date: January 9, 2020

Case No. and Project Name: VAR-19-55-1, Hernandez Property

Applicant: Alejandra Hernandez (the "Applicant")

Owner: Alberto and Alejandra Hernandez (the "Owners")

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 6.01.04.A.1 to allow a pool, spa, deck, and pool enclosure to be constructed twenty-two (22) feet from the jurisdictional wetland line (JWL), in lieu of fifty (50) feet.

Case Manager: Emily W. Johnson, Planner

### Subject Property Information

Size: 0.52 +/- acres

Location: 11317 Preston Cove Road, Clermont

Alternate Key No.: 3489438

Future Land Use: Urban Low Density

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

Flood Zone: "AE" and "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	Preston Cove Road
West	N/A	N/A	Lake	Lake Willaimee

### Summary of Request.

The subject property, identified as Alternate Key Number 3489438, contains 0.52 +/- acres, and is generally located west of Preston Cove Road, and east of Lake Willaimiee, 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 subject property is described as being Lot 93 of the Preston Cove subdivision, as recorded on August 11, 1993, in Plat Book 34, Pages 34-36, Public Records of Lake County. The plat indicates a drainage easement in the rear of the property; the survey (Attachment "A") indicates the proposed pool deck will be located approximately twenty-two (22) feet from the jurisdictional wetland line (JWL) at the closest point.

Pursuant to Comprehensive Plan Policy III-2.2.7, Protection of Shorelines, Lake County shall **encourage**, to the greatest extent possible, a setback of fifty (50) feet from the ordinary high water line (OHWL), mean high water line (MHWL), or jurisdictional wetland line (JWL), whichever is further landward. This setback is established in Land Development Regulations (LDR) Section 6.01.04.A.1. The Applicant is requesting a variance to Lake County Land Development Regulations (LDR) Section 6.01.04.A.1 to allow a pool, spa, deck, and pool enclosure to be constructed less than fifty (50) feet from the jurisdictional wetland line (JWL).

### 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 6.01.04.A.1, is to conserve and protect wetlands, to ensure that the natural structure and functional values are maintained, and to maintain no net loss of wetlands.

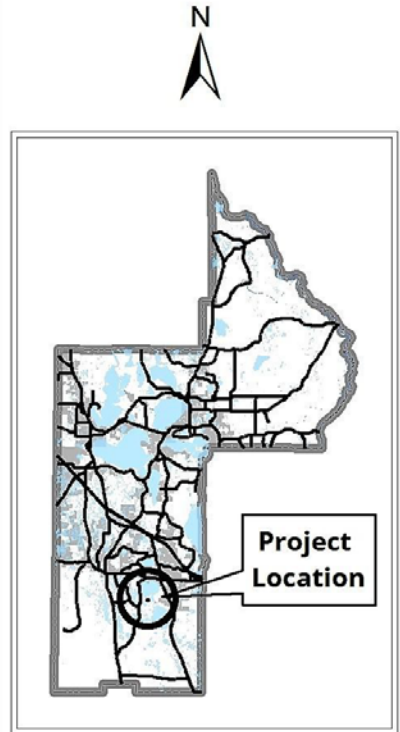
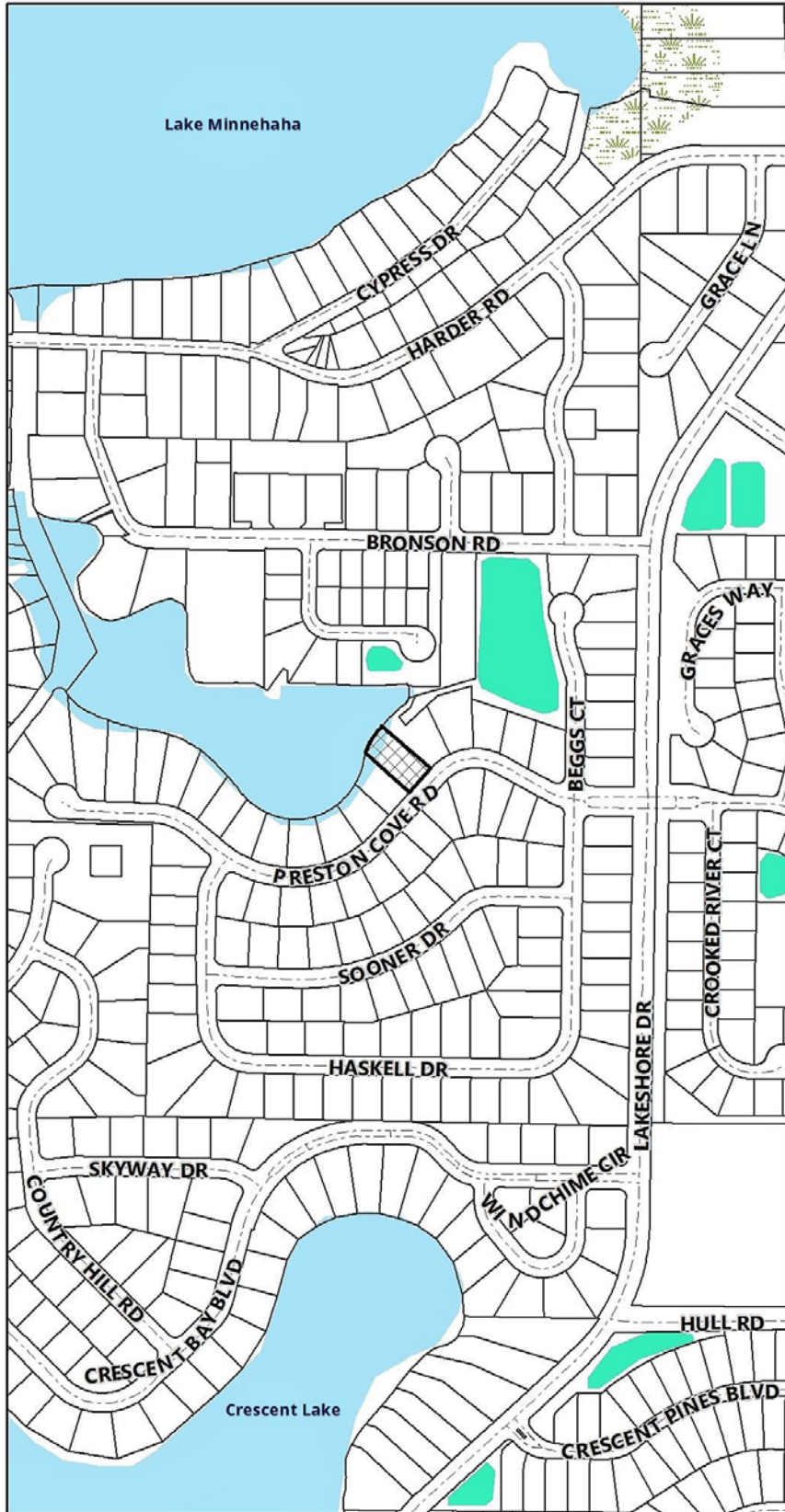
The Applicant submitted the following statement as proof that the purpose and intent of the Land Development Regulations will be or has been achieved by other means, *"The area will be protected by silt fence."*

**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.

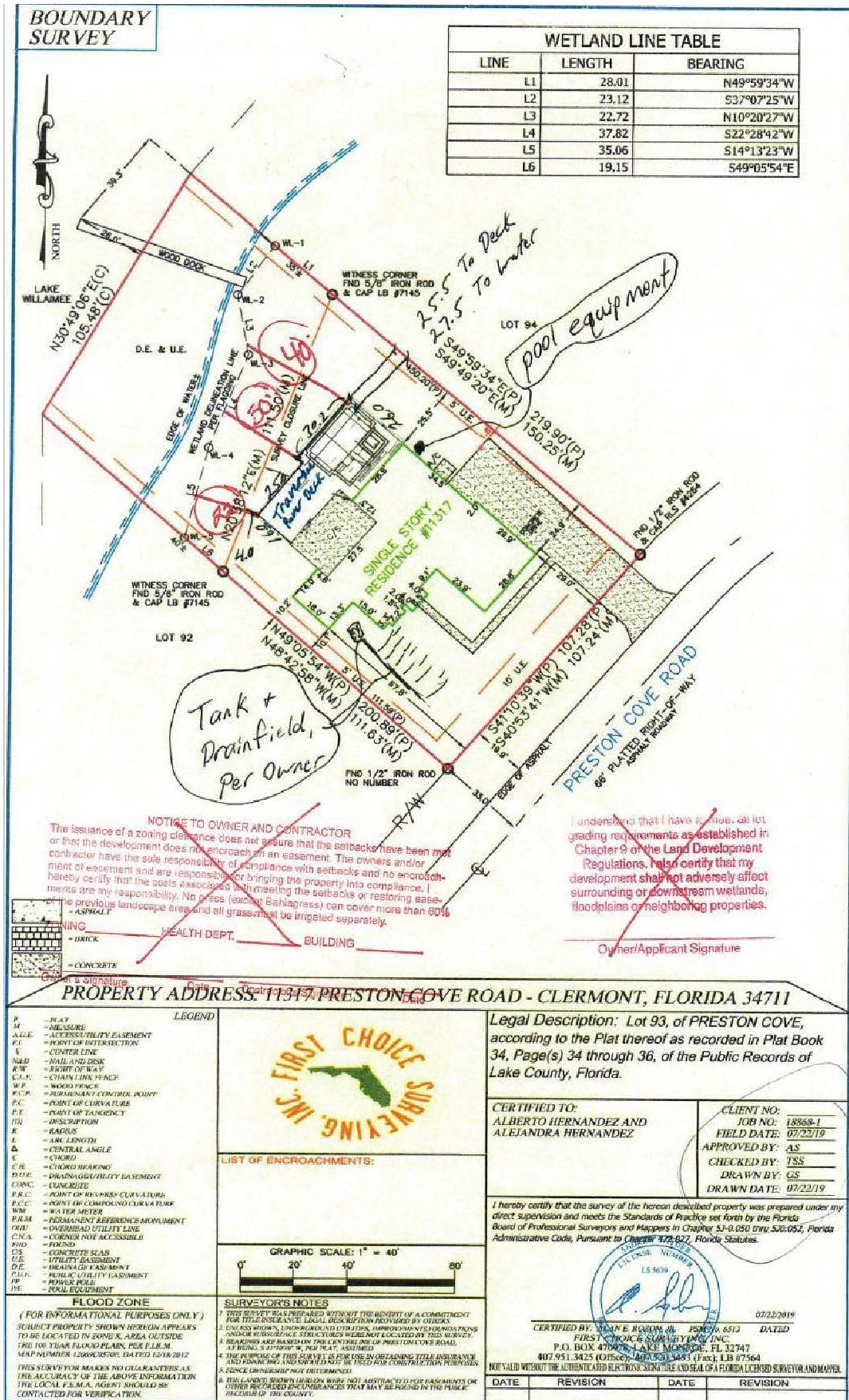
The Applicant submitted the following statement as proof of a substantial hardship, *"Pool and deck needs to be bigger. All homes around have pools and decks that are very close to setback lines."*

### Subject Property





# Attachment "A" - Plot Plan



**Final Development Order**  
**VAR-19-55-1**  
**Hernandez Property**

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

**WHEREAS**, Alejandra Hernandez (the "Applicant"), on behalf of Alberto and Alejandra Hernandez (the "Owners"), submitted a variance request to Lake County Land Development Regulations (LDR) Section 6.01.04.A.1 to allow a pool, spa, deck, and pool enclosure to be constructed less than fifty (50) feet from the jurisdictional wetland line (JWL); and,

**WHEREAS**, the subject property consists of 0.52 +/- acres and is located at 11317 Preston Cove Road, in the Clermont area of unincorporated Lake County, in Section 1, Township 23 South, Range 25 East, having an Alternate Key Number 3489438, and is more particularly described below as:

Lot 93, PRESTON COVE, a subdivision according to the plat thereof as recorded in Plat Book 34, Page(s) 34 to 36, 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 January 9, 2020; 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 January 9, 2020, 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-19-55-1 to Lake County Land Development Regulations (LDR) Section 6.01.04.A.1 to allow a pool, spa, deck, and pool enclosure to be constructed twenty-two (22) feet from the jurisdictional wetland line (JWL) in lieu of fifty (50) feet from the jurisdictional wetland line, with the following conditions:

1. Development permits from the Office of Planning and Zoning and the Office of Building Services must be obtained for the pool, spa, deck, and pool enclosure; and
2. A scaled, sealed boundary survey depicting the Jurisdictional Wetland Line (JWL), 2012 Flood Zones, existing development, and the proposed improvements must be submitted upon permitting for review and approval by the Office of Planning and Zoning.

**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 9<sup>th</sup> day of January, 2020.

EFFECTIVE January 9, 2020.

BOARD OF ADJUSTMENT  
LAKE COUNTY, FLORIDA

\_\_\_\_\_  
Lloyd Atkins, Chairman or  
James Argento, Vice Chairman

STATE OF FLORIDA  
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of January, 2020, 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