



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 16  
 Public Hearing Date: May 14, 2020  
 Case No. and Project Name: VAR-20-17-2, Cottrell Property  
 Applicant: Patrick Cottrell (the "Applicant")  
 Owners: Patrick Cottrell and Jennifer Pugh-Cottrell (the "Owners")  
 Requested Action: Variance to Land Development Regulation (LDR) Section 6.01.04.A.1, to allow a pool and deck to be located thirty-four (34) feet from the jurisdictional wetland line in lieu of fifty (50) feet.  
 Case Manager: Michele Janiszewski, Chief Planner

### Subject Property Information

Size: 1.94 +/- acres  
 Location: 15822 Tower View Rd., Clermont  
 Alternate Key No.: 1319781  
 Future Land Use: Urban Low Density  
 Current Zoning District: Medium Residential District (R-3)  
 Flood Zone: "X" and "AE"  
 Joint Planning Area/ISBA: Clermont JPA & ISBA  
 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 Residences
South	Urban Low Density	Medium Residential District (R-3)	Residential	Single-Family Residences
East	Lake Minneola	Lake Minneola	Water Body	Lake Minneola
West	Urban Low Density	Medium Residential District (R-3)	Residential	Single Family Residences

### Summary of Request.

The subject property is platted as Lot 9 of Block A of the Crystal Cove Subdivision and is developed with a single-family residence. The Owners are seeking to construct a pool and deck in the back yard which abuts Lake Minneola. Land Development Regulation (LDR) Section 6.01.04.A.1 requires structures, buildings, and impervious surface, excluding water dependent structures, to be located at least fifty (50) feet from the ordinary high water line, mean high water line, or jurisdictional wetland line, whichever is further landward. The Owners are seeking to develop the pool and decking thirty-four (34) feet from the seawall (which serves as the jurisdictional wetland line) (Attachment A.). As such, the Applicant is seeking a variance to LDR Section 6.01.04.A.1, to allow a pool and deck to be located thirty-four (34) feet from the jurisdictional wetland line in lieu of fifty (50) feet.

Comprehensive Plan Policy III-2.2.7 *Protection of Shorelines*, states that The County shall encourage, to the greatest extent possible, a setback of 50 (fifty) feet from the jurisdictional wetland line (JWL) for development abutting natural water bodies and wetland areas for existing residential and non-residential development. Existing development for this policy is any site plan or plat approved prior to March 2, 1993 with the conditions that the first one inch (1") of stormwater runoff shall be captured on site; and Development must be constructed as far landward on the lot as possible.

The subject property is a platted lot within the Crystal Cove Subdivision which was recorded in Lake County Public Records on July 3, 1956; the proposed pool and deck are located as far landward as possible; and a variance to any other LDR provisions would not accommodate the proposed development. A condition has been included in the Development Order which requires the first one (1) inch of stormwater runoff to be captured on site and an interceptor swale to be constructed between the proposed location and the house and the seawall. An engineered design which includes a plan and calculations must be submitted with the zoning permit application for the interceptor swale.

### 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 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 pool would go slightly past the 50 ft setback zone, only available room to fit pool is in the back of house. We are planning closer to house to be safe."*

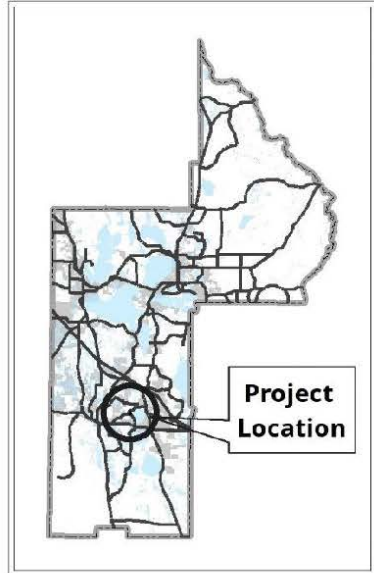
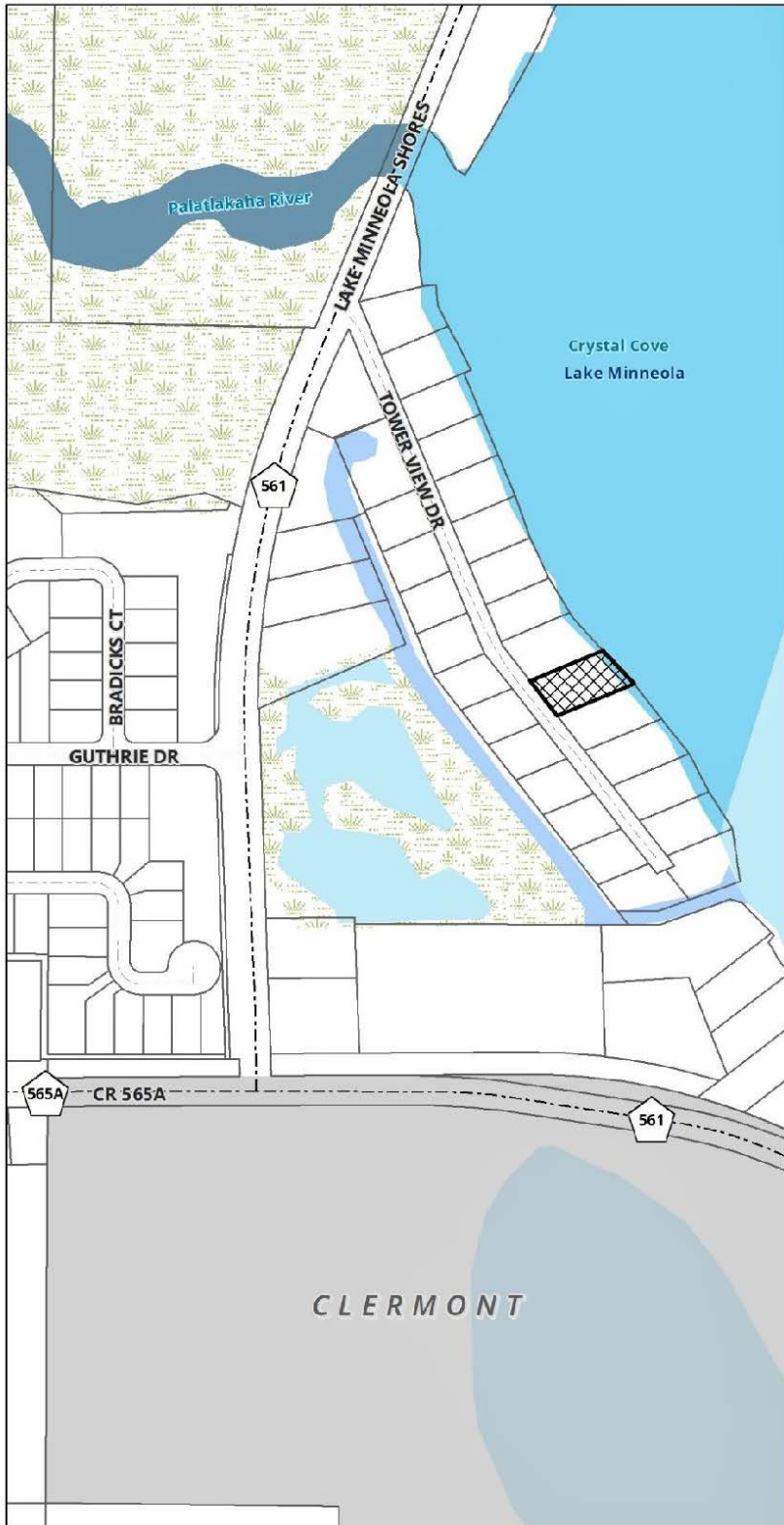
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- 2 The application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type 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.

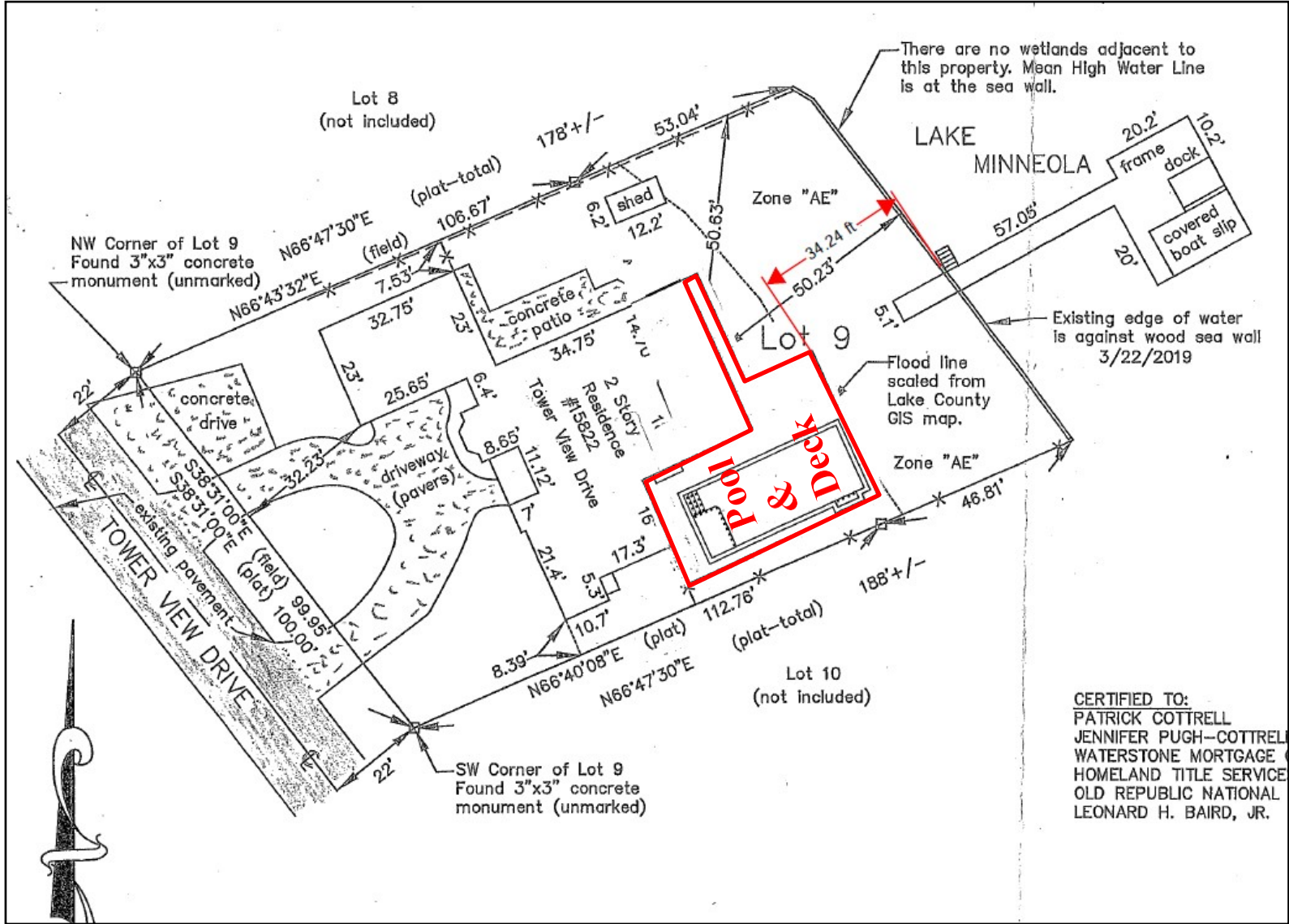
The Applicant submitted the following statement as proof of a substantial hardship: *"We currently have a seawall that protects the property and the lake. The yard will also be grasses to protect anything from getting close to the water. We also have property draining on property to keep the property free of water build up. Builder will also utilize a silt fence during construction to ensure to protect the waterline."*

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### Subject Property



Attachment A. Proposed Plot Plan.



CERTIFIED TO:  
PATRICK COTTRELL  
JENNIFER PUGH-COTTRELL  
WATERSTONE MORTGAGE  
HOMELAND TITLE SERVICE  
OLD REPUBLIC NATIONAL  
LEONARD H. BAIRD, JR.

**Final Development Order  
VAR-20-17-2  
Cottrell Property**

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

**WHEREAS**, Patrick Cottrell (the "Applicant"), on behalf of Patrick Cottrell and Jennifer Pugh-Cottrell (the "Owners"), submitted a variance request to Lake County Land Development Regulations (LDR) Section 6.01.04.A.1, to allow a pool and deck to be located thirty-four (34) feet from the jurisdictional wetland line in lieu of fifty (50) feet; and

**WHEREAS**, the subject property consists of 1.94 +/- acres and is located at 15822 Tower View Rd., in the Clermont area of unincorporated Lake County, in Section 14, Township 22 South, Range 25 East, Alternate Key Number 1319781, and is more particularly described as:

Lot 9, Block A, Crystal Cove, according to the Plat thereof as recorded in Plat Book 13, Page 34, 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 May 14, 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 May 14, 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-20-17-2 to Lake County Land Development Regulations (LDR) Section 6.01.04.A.1, to allow a pool and deck to be located thirty-four (34) feet from the jurisdictional wetland line in lieu of fifty (50) feet with the following conditions:

1. An interceptor swale will need to be constructed between the proposed location and the house and the seawall.
2. The first 1-inch of stormwater runoff must be captured on site. An engineered design that includes a plan and calculations must be submitted with the permit applications for the interceptor swale.
3. A Flood Determination will be required with building permitting. There may be additional FEMA and flood requirements which will be determined during the building permitting stage.

4. A pool or deck enclosure may be constructed on the existing and proposed footprint.

**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 14<sup>th</sup> day of May, 2020.

EFFECTIVE May 14, 2020.

BOARD OF ADJUSTMENT  
LAKE COUNTY, FLORIDA

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

State of Florida

County of Lake

Sworn to (or affirmed) and subscribed before me by means of  physical presence or  online notarization,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_  
\_\_\_\_\_.

Personally Known OR Produced Identification

Type of Identification Produced \_\_\_\_\_

\_\_\_\_\_  
Notary Signature  
(SEAL)