



# VARIANCE STAFF REPORT

## OFFICE OF PLANNING & ZONING

Tab Number: 2

Public Hearing Date: July 9, 2020

Case No. and Project Name: VAR-20-24-1, Ball Property

Applicant: Kelly Cary

Owner: John and Anita Ball

Requested Action: Variance to Lake County Land Development Regulations (LDR) Table 3.02.05 and LDR Table 15.02.01C to allow a single family residence to be located 3.1 feet from the side property line with a driveway 3.9 feet from the side property line in lieu of five (5) feet per LDR Table 3.02.05 and seven and a half (7.5) feet per LDR Table 15.02.01C.

Case Manager: Heather N. Croney, Planner

### Subject Property Information

Size: 0.61 +/- acres

Location: 10907 Lakeshore Drive, in the Clermont area

Alternate Key No.: 3562615

Future Land Use: Urban Low

Current Zoning District: Urban Residential (R-6)

Flood Zone: "AE/X"

Joint Planning Area/ISBA: Clermont Joint Planning Area (JPA)

Overlay Districts: None

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low	Urban Residential (R-6)	Residential	Single-Family Dwelling Unit
South	Urban Low	Urban Residential (R-6)	Vacant Residential	Vacant Residential and Wetlands
East	Not Applicable	Not Applicable	Roadway	Lakeshore Drive
West	Not Applicable	Not Applicable	Wetlands / Lake	Crescent Lake

### Summary of Request.

The subject 0.61 +/- acre parcel is identified by Alternate Key Number 3562615. The parcel is zoned Urban Residential (R-6), is part of the Urban Low Future Land Use Category (FLUC), and located within the Clermont Joint Planning Area. The subject parcel is currently vacant.

In November of 2019, the Office of Planning and Zoning received a call from the property owner, Anita Ball, and she indicated that they found out that the residence that is under construction is located within the left side minimum five (5) foot setback. The owners were advised the Planning and Zoning will not hold up the permit, and recommendation was given that they obtain a variance.

The Applicant seeks approval to allow a single family residence to be located 3.1 feet from the side property line with a driveway 3.9 feet from the side property line. This is in lieu of five (5) feet per LDR Table 3.02.05 and seven and a half (7.5) feet per LDR Table 15.02.01C. LDR Table 3.02.05, Setback Requirements, requires that all structures in the R-6 zoning district must be at least five (5) feet from the side and rear property lines. LDR Table 15.02.01C, Residential Side Setback Requirements, requires a 7.5 side setback in the R-6 zoning district for all structures and accessory uses within the Clermont Joint Planning Area (JPA). The survey provided (Attachment A) shows the subject property developed with the house and driveway at 3.1' and 3.9 feet from the side property line, respectively.

Lake County Public Works has no objections to this variance but recommends the roof gutter down spouts be directed to the rear of the lot to minimize the runoff being directed to neighboring properties.

### 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 3.02.05, *Setback Requirements*, is to promote a logical development pattern, provide for safe setbacks between structures, and encourage a visually pleasing environment. The intent of the Code, LDR Table 15.02.01C, *Residential Side Setback Requirements*, is to supplement, and where inconsistent, supersede other provisions within the Lake County Land Development Regulations (LDR).

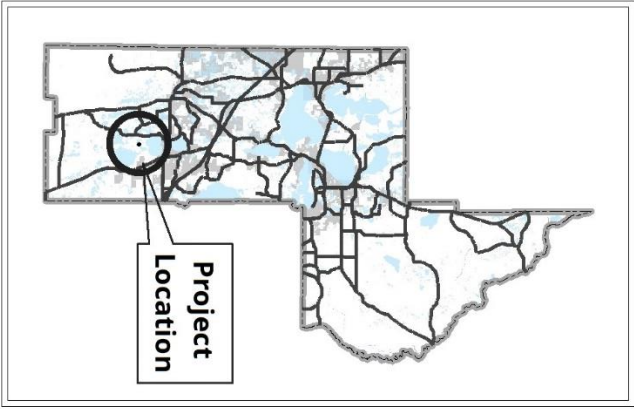
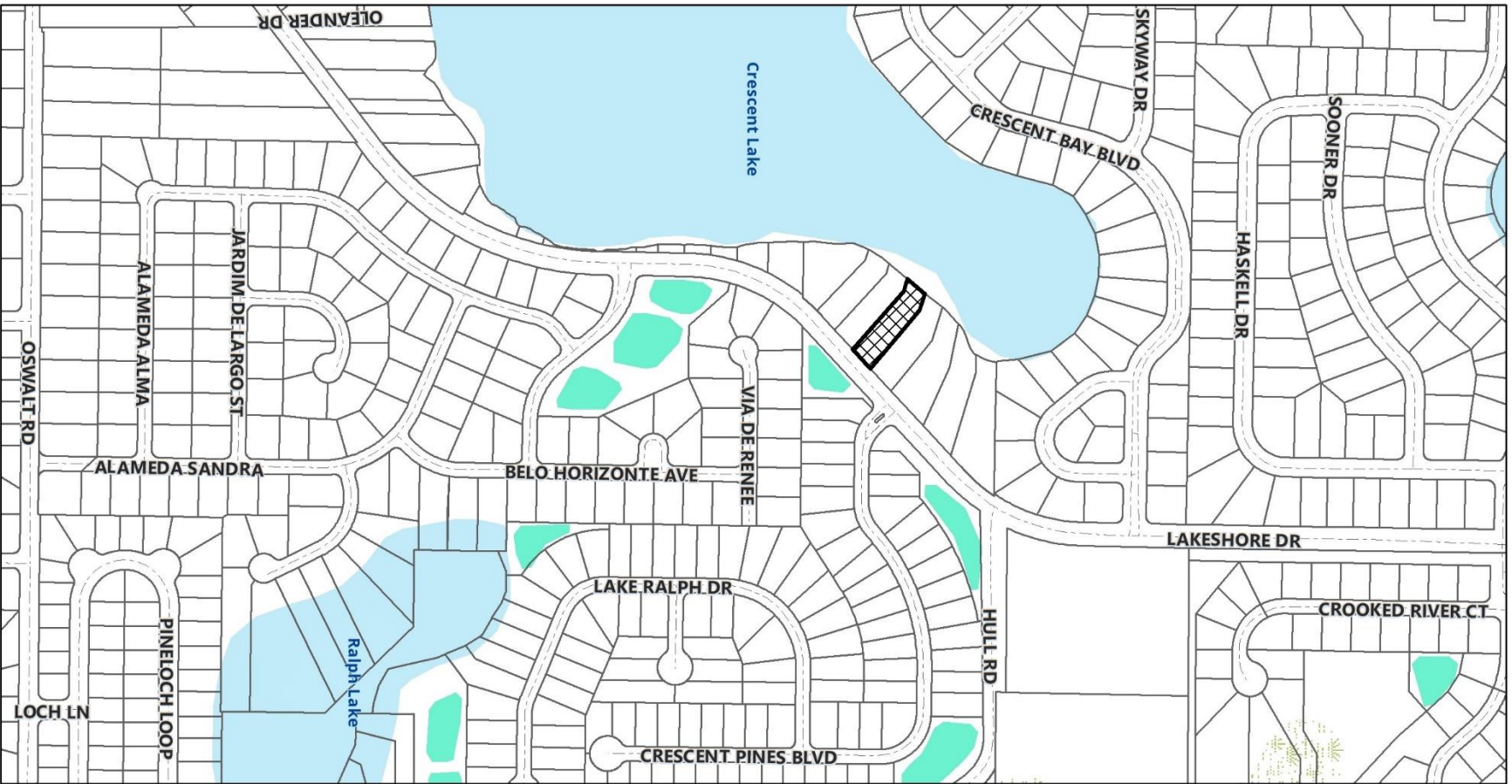
The Applicant provided the following statement as proof that the intent of the Land Development Regulation will be or has been achieved by other means, *"The front and rear setbacks for the single family residence have been met. Facing the property, the property to the left of the single family residence is vacant. The driveway and the house do not interfere with any easements or drainage 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.**

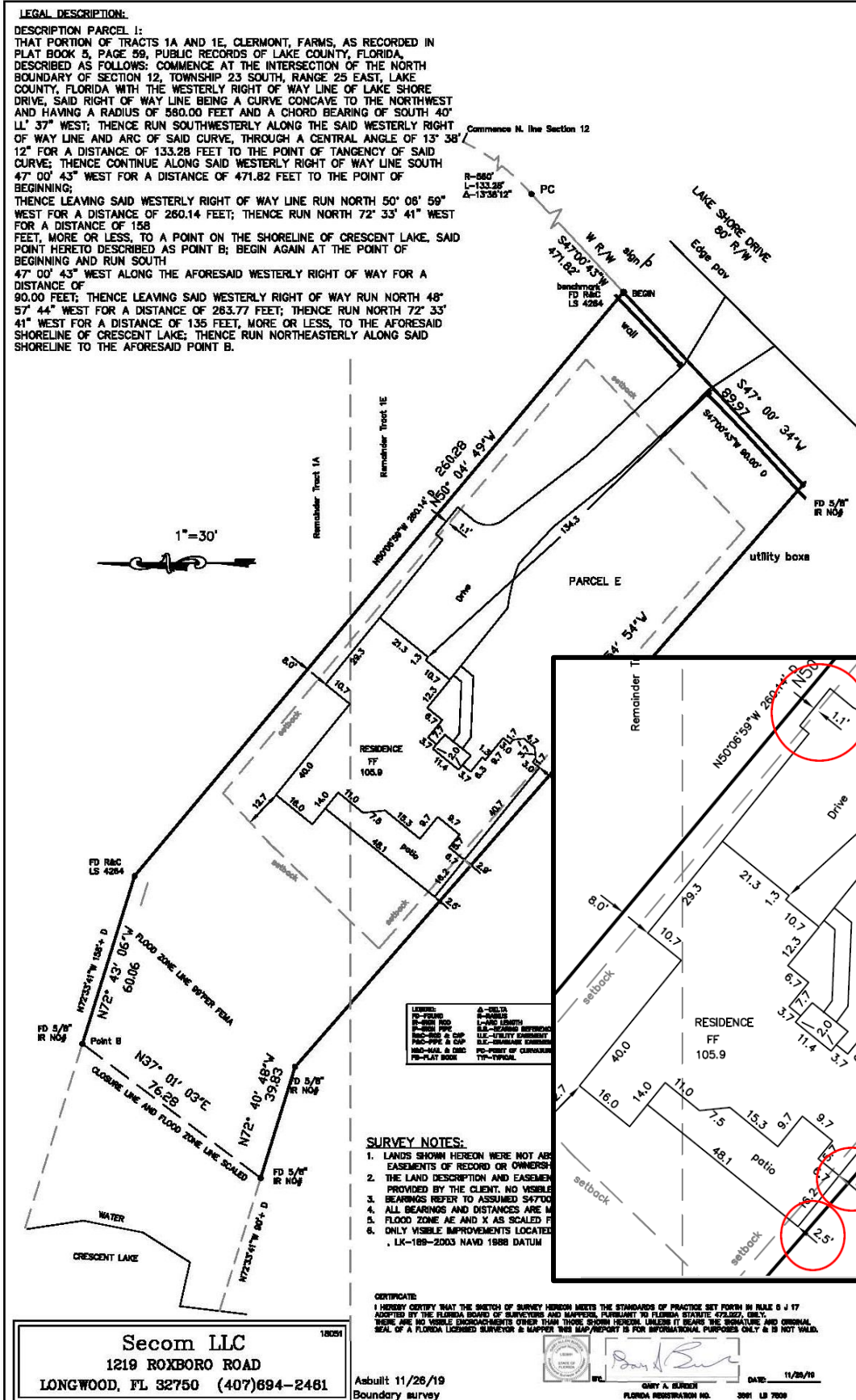
LDR Section 14.15.04 states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.

The Applicant provided the following statement, *"The house was inadvertently built in the setback and would result in an extreme financial hardship to move the home. The placement of the home was not the fault of the applicants. The driveway has been installed and would also be a financial hardship to remove it and replace. The applicants believe the driveway offers a safer means of exiting the home with their children."*

# Map of Subject Property



# Attachment A, Property Survey



**Final Development Order  
VAR-20-24-1  
John and Anita Ball**

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

**WHEREAS**, Kelly Cary (the “Applicant), representing John and Anita Ball (“the Property Owners”), requested a variance to Lake County Land Development Regulations (LDR) Section 3.02.05, to allow a single family residence to be located 3.1 feet from the side property line with a driveway 3.9 feet from the side property line in lieu of five (5) feet per LDR Table 3.02.05 and seven and a half (7.5) feet per LDR Table 15.02.01C; and

**WHEREAS**, the subject property consists of 0.61 +/- acres and is located at 10907 Lakeshore Drive, in the Clermont area of Lake County, Florida, in Section 12, Township 23 South, Range 25 East, having Alternate Key Number 3562615 and is more particularly described in Attachment A; and

**WHEREAS**, after giving notice of the hearing on the 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 July 9<sup>th</sup>, 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 July 9<sup>th</sup>, 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-20-24-1 to allow a single family residence to be located 3.1 feet from the side property line with a driveway 3.9 feet from the side property line in lieu of five (5) feet per LDR Table 3.02.05 and seven and a half (7.5) feet per LDR Table 15.02.01C.

**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 July, 2020.**

**EFFECTIVE July 9<sup>th</sup>, 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)**

**ATTACHMENT A:**

That portion of Tracts 1A and 1E of CLERMONT FARMS, according to the plat thereof recorded in Plat Book 5 Page 59 of the Public Records of Lake County, Florida, described as follows:

Commence at the intersection of the North boundary of Section 12, Township 23 South, Range 25 East, Lake County Florida, with the Westerly right-of-way line of Lakeshore Drive, said right-of-way line being a curve concave to the Northwest and having a radius of 560.00 feet and a chord bearing of South 40° 11' 37" West; thence run Southwesterly along the said Westerly right-of-way line and arc of said curve; thence continue along said Westerly right of way line South 47° 00' 43" West for a distance of 471.82 feet to the Point of Beginning; thence leaving said Westerly right-of-way line, run North 50° 06' 59" West for a distance of 260.14 feet; thence run North 72° 00' 43" West along the aforesaid Westerly right-of-way line for a distance of 90.00 feet; thence leaving said Westerly right-of-way line, run North 48° 57' 44" West for a distance of 263.77 feet; thence run North 72° 33' 41" West for a distance of 135 feet, more or less, to the aforesaid shoreline of Crescent Lake; thence run Northeasterly along said shoreline to the aforesaid Point "B".