



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 5

Public Hearing Date: November 12, 2020

Case No. and Project Name: VAR-20-51-1, Marcella Property

Owner/Applicant: Robert Marcella

Requested Action: Variance to Lake County Code, Land Development Regulations (LDR) Section 6.01.04(A)(1), to allow a paver area and stairs to be constructed twenty-five (25) feet from the jurisdictional wetland line in lieu of the required fifty (50) feet.

Case Manager: Janie Barrón, Senior Planner

Subject Property Information

Size: 0.44 +/- acres

Location: 11203 Preston Cove Road, Clermont

Alternate Key No.: 3489250

Future Land Use: Urban Low Density

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

Flood Zones: "AE" and "X"

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

Overlay Districts: None

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	N/A	N/A	Lake	Lake Willaimée
South	Urban Low Density	Medium Residential District (R-3)	Righ-of-Way, Residential	Preston Cove Road, Single-Family Dwelling Units South of R-O-W
East	Urban Low Density	Medium Residential District (R-3)	Residential	Single-Family Dwelling Units
West	Urban Low Density	Medium Residential District (R-3)	Residential	Single-Family Dwelling Units

Summary of Request.

The subject 0.44 +/- acre parcel is identified by Alternate Key Number 3887020; is located in the Preston Cove subdivision; the parcel is zoned Agriculture (A); is part of the Urban Low Density Future Land Use Category (FLUC). The parcel is currently developed with a single-family dwelling unit, driveway, pool area, paver and stair area (Attachment "A"). The paver and stair area is existing and was constructed in 2009 at the time the retaining wall was installed. However, the Owner was unaware of the permitting and setback requirements until he inquired about the replacement of the paver and stair area.

LDR Section 6.01.04(A)(1) requires a 50-foot setback to the jurisdictional wetland line for all development. The Owner has submitted a variance request to LDR Section 6.01.04(A)(1)(a), to allow a paver area and stairs to be constructed twenty-five (25) feet from the jurisdictional wetland line in lieu of the required fifty (50) feet.

The subject parcel is located within the City of Clermont JPA; therefore, variance application was sent to the City of Clermont for a determination of consistency with their regulations. The City of Clermont had no comments or objections to 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 Section 6.01.04, is to protect the wetland area from erosion, sedimentation, water pollution, and other negative impacts that may be associated with land use activities. The Development Order includes a condition to mitigate any potential negative impacts to the lake.

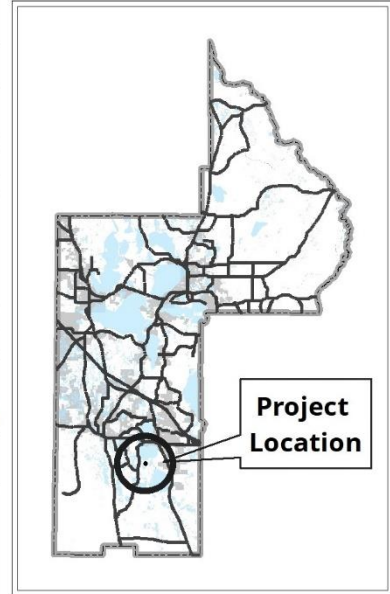
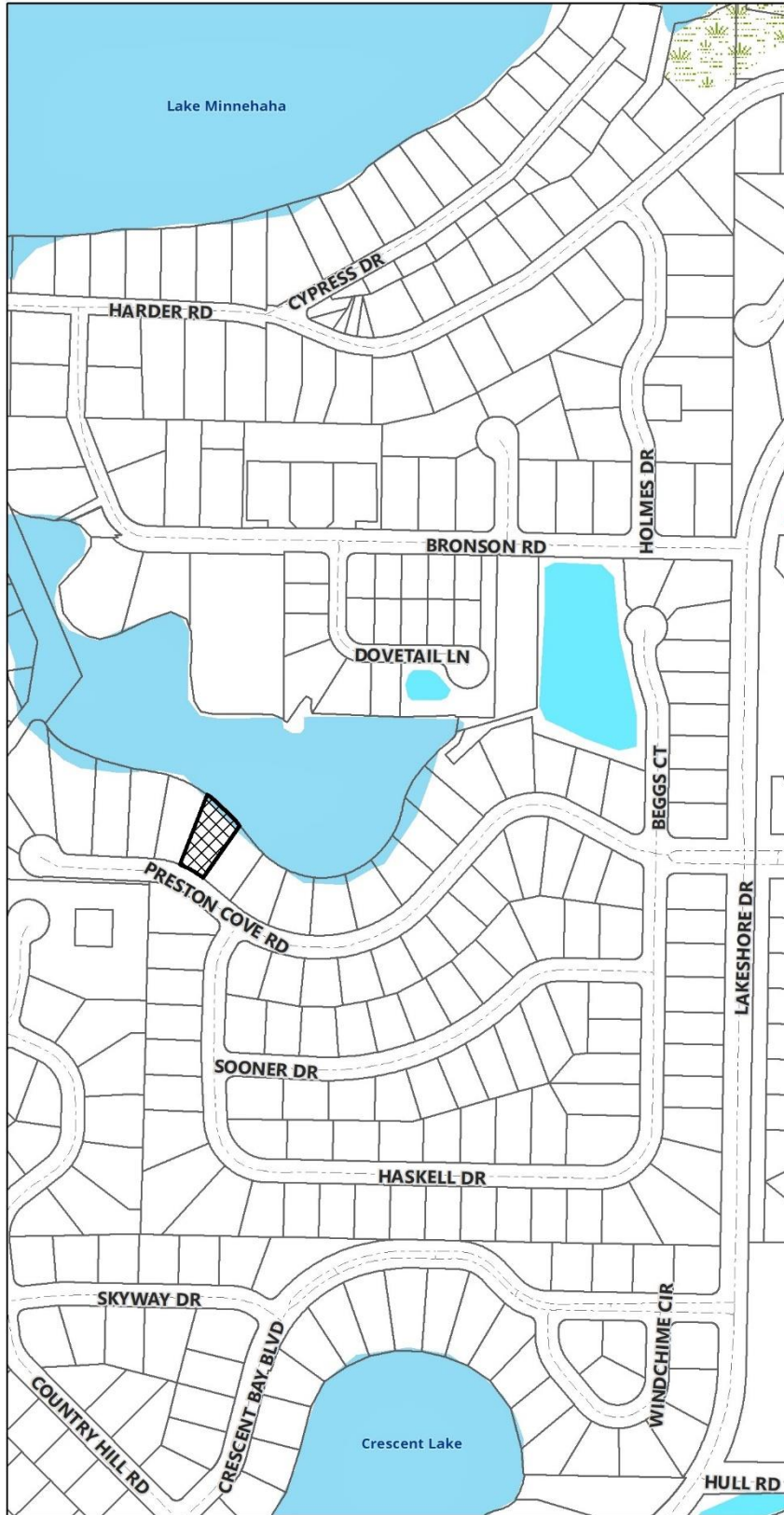
The Owner has submitted the following intent of the Code statement: *"Existing walls and pavers have been installed since 2017 and water drainage displacement of areas has been met with no flooding issues. There is a low lying area to the right of the proposed deck to allow for flood waters if needed during storms. No new dirt to be affected in the installation process as pavers and wall are currently installed. A silk fence will be placed along the back of the deck during construction. Deck will not cross the 100 year flood line. Deck drains to be installed for property drainage of area."*

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 Owners submitted the following statement and setback table as proof that the LDR would create a substantial hardship or would violate principles of fairness: *"Proposing the usage of land within the 50' wetland jurisdictional line for paver installation. The right side of the deck will site 25' and the left side of the deck will sit 30' from the wetland line. Pavers are permeable for water displacement. "Principles of Fairness" are violated as the neighbors on Lot 93 Preston Cove have been granted a variance for a similar usage of land. Owner states, a paver deck is needed with the installation of new pool for family use."*

Map of Subject Property



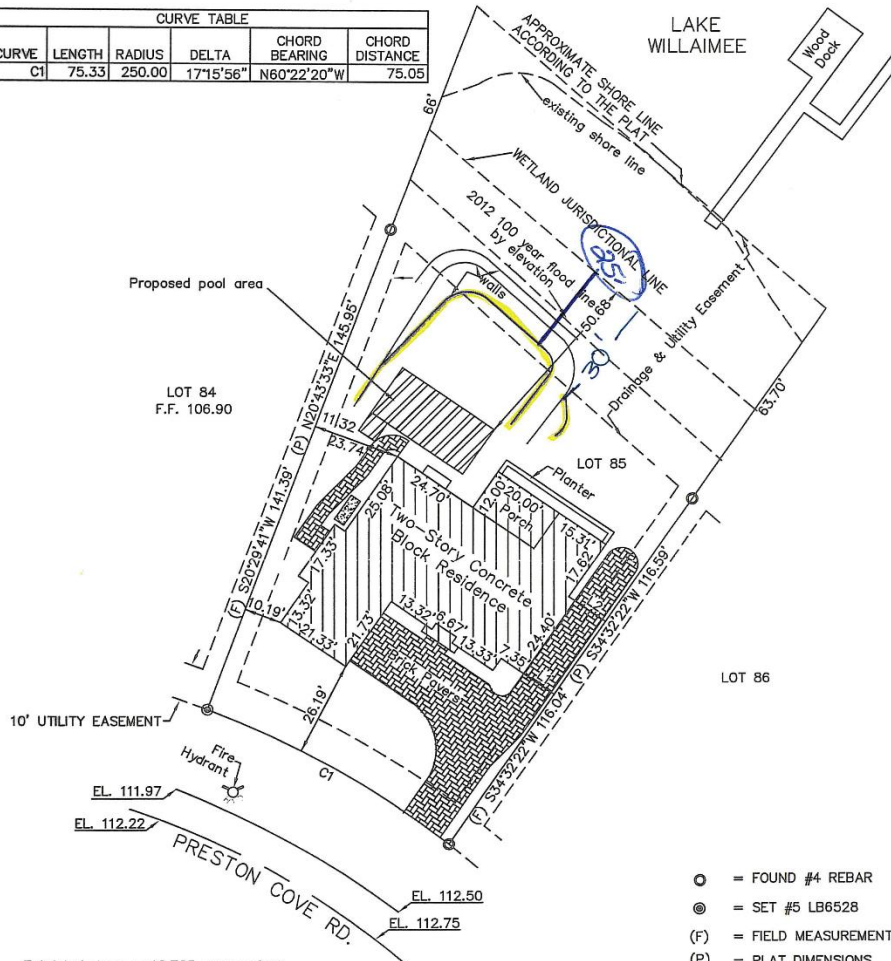
Attachment "A", Survey.

DESCRIPTION
 LOT 85, PRESTON COVE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGES 34-36, INCLUSIVE, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA.

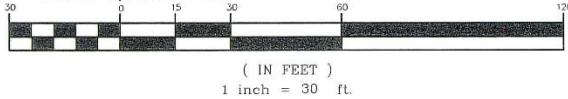
NOTES:

1. BEARINGS BASED ON THE PLAT BEARING OF N.50°41'50"W. ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF PRESTON COVE ROAD.
2. ABOVEGROUND ENCROACHMENTS, IF ANY, AS SHOWN.
3. UNDERGROUND ENCROACHMENTS OR IMPROVEMENTS, IF ANY, NOT LOCATED.
4. THIS SURVEY IS SUBJECT TO ANY FACTS THAT MIGHT BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.
5. THIS PROPERTY IS SUBJECT TO ALL EASEMENTS, RIGHT OF WAY, SETBACKS OR RESTRICTIONS.
6. PROPERTY SHOWN HEREON LIES IN FLOOD ZONE "X" AND "AE".
7. ELEVATIONS BASED UPON NAVD88.

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD DISTANCE
C1	75.33	250.00	17°15'56"	N60°22'20"W	75.05



Total Lot Area = 18,785 square feet
 Total Impervious = 4,641 square feet
 Percent Impervious = 25%



- = FOUND #4 REBAR
- ⊙ = SET #5 LB6528
- (F) = FIELD MEASUREMENTS
- (P) = PLAT DIMENSIONS
- ⊕ = FIRE HYDRANT

Blackburn Surveying, Inc.
 L.B. # 6528
 642 West Highway 50
 P.O. Box 121022
 Clermont, Florida 34712
 (352) 394-4417
 Email: pmk4423@aol.com

REVISED 7/18/07 FOR FINAL HOUSE & IMPROVEMENTS LOCATION
 REVISED 2/23/2009 TO SHOW 100 YEAR FLOOD LINE BY ELEVATION
 Revised 3/13/2020 for proposed pool area.

Patrick M. Kelley
 3/13/2020

PATRICK M. KELLEY, P.L.S. FLORIDA SURVEYOR'S CERTIFICATE NO. 4423
 NOT VALID WITHOUT THE ORIGINAL RAISED SEAL AND SIGNATURE OF A FLORIDA LICENSED SURVEYOR & MAPPER.
 THE SURVEY DEPICTED HERE IS NOT COVERED BY PROFESSIONAL LIABILITY INSURANCE.

BOUNDARY SURVEY FOR:
 ROBERT MARCELLA

SCALE: 1" = 30'	APPROVED BY: PMK	DRAWN BY: Trish V./trh
DATE: 02/07/2006	FB/PAGE:	Revised: 2/1/07 Foundation Loc.

PRESTON COVE
 LAKE COUNTY, FLORIDA

PAGE NO. 1 DRAWING NO. PRESTONCOVE85

**Final Development Order
VAR-20-51-1
Marcella Property**

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

WHEREAS, Robert Marcella (the “Owner” and “Applicant”) submitted a variance request to Lake County Land Development Regulations (LDR) Section 6.01.04(A)(1), to allow a paver area and stairs to be constructed twenty-five (25) feet from the jurisdictional wetland line in lieu of the required fifty (50) feet; and

WHEREAS, the subject property consists of 0.44 +/- acres, is located at 11203 Preston Cove Road, in the Clermont area of unincorporated Lake County, Florida, in Section 01, Township 23 South, Range 25 East, having Alternate Key Number 3489250 and more particularly described as:

Lot 85, Preston Cove, according to the plat thereof, recording in Plat Book 34, Pages 34, 35 and 36, of the Public Records of Lake County, Florida.

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 November 12, 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 November 12, 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-20-51-1, to allow a paver area and stairs to be constructed twenty-five (25) feet from the jurisdictional wetland line in lieu of the required fifty (50) feet with the following conditions:

1. Stormwater calculations must be submitted at the time of issuance of each individual zoning permit, capturing the first one inch (1”) of stormwater runoff on the site.
2. Stormwater calculations must be reviewed and approved by the Lake County Public Works Department staff.
3. The stormwater abatement system must be depicted on the to-scale plot plan when applying for the zoning permit, installed prior to any final inspection, inspected and approved by the Lake County Public Works Department staff.

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 November, 2020.

EFFECTIVE November 12, 2020.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

James Argento, Chairman

State of Florida

County of Lake

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 12th day of November, 2020, by James Argento, as Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

Notary Signature

(SEAL)