



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 1

Public Hearing Date: December 10, 2020

Case No. and Project Name: VAR-20-58-2, Ulery Property

Owners: Robin and Jeffery Ulery

Applicant: Robin Ulery

Requested Action: Variance to Land Development Regulations (LDR) Sections 6.01.04.A and 6.15.04(A), to allow for an accessory structure (pool, spa, deck, and/or pool enclosure) to be located 22.5-feet from the Normal High Water Line, in lieu of 50-feet.

Case Manager: Emily W. Johnson, Senior Planner

### Subject Property Information

Size: 0.75 +/- acres

Location: 13228 Shore Drive, in the unincorporated Winter Garden area of Lake County.

Alternate Key No.: 2668415

Future Land Use: Urban Low

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

Flood Zones: "AE" and "X"

Joint Planning Area (JPA) / ISBA: Clermont JPA

Overlay Districts: Lake Apopka Basin

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low	R-3	Water Retention	Lago Vista Tract "B"
South	Urban Low	A	Residential	Single-Family Residence
East	N/A	N/A	Lake	Johns Lake
West	Urban Low	R-3	Residential	Single-Family Residence

### Summary of Request.

The subject property, identified as Alternate Key Number 2668415, contains 0.75 +/- acres, is zoned Medium Residential District (R-3), and designated with an Urban Low Future Land Use Category by the 2030 Comprehensive Plan. The property is described as Lot 31 of Citrus Cove Unit One Subdivision, as recorded in Plat Book 24 Page 39, on the 10th of July 1979. Generally, the subject property is located north of Shore Drive and west of Johns Lake, in the unincorporated Winter Garden area of Lake County. The subject property is located within the Clermont Joint Planning Area (JPA); the City of Clermont was provided with the variance application and indicated that they have no comments or objections to the request. The subject property is currently developed with a single-family dwelling unit and related accessory structures.

The Applicant has requested a variance to LDR Section 6.01.04.A.1, to allow for an accessory structure (pool, spa, deck, and/or pool enclosure) to be located 22.5-feet from the Normal High Water Line, in lieu of 50-feet. While researching the request, Staff found that the parcel is located within the Lake Apopka Basin Overlay District; LDR Section 6.15.04(A) establishes a natural buffer of 50-feet, upland of wetlands, which is to be classified as a "no-build" zone. Therefore, a variance to LDR Section 6.15.04 is also required.

The plot plan (Attachment "A") depicts the location of the Normal High Water Line and proposed accessory structure. The Department of Public Works reviewed the variance application and identified the following conditions to be included in the development order, should the variance request be approved:

1. An interceptor swale that is sized to capture the first 1-inch of stormwater runoff shall be provided on site. An engineered design that includes a plan and calculations must be submitted with the permit applications for the interceptor swale.
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.
4. Compensating storage for fill within the floodplain will be required. An engineered design for the lot grading and flood compensating storage along with compensating storage calculations will be required at time of permitting.
5. Additional flood determination and permitting may be required during the site permitting.

### 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 LDR Section 6.01.04 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 intent of LDR Section 6.15.04 is to conserve and protect the natural resources found within the Lake Apopka Basin Overlay District, to balance economic development and resource protection with sound land management practices, and to improve water quality within the Lake Apopka Basin.

The Applicant provided the following statement as proof that the intent of the code will be or has been achieved by other means, "*Stormwater calculations, if needed.*"

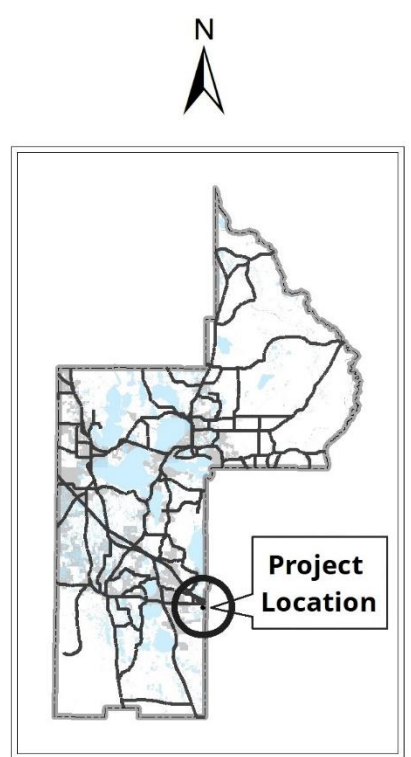
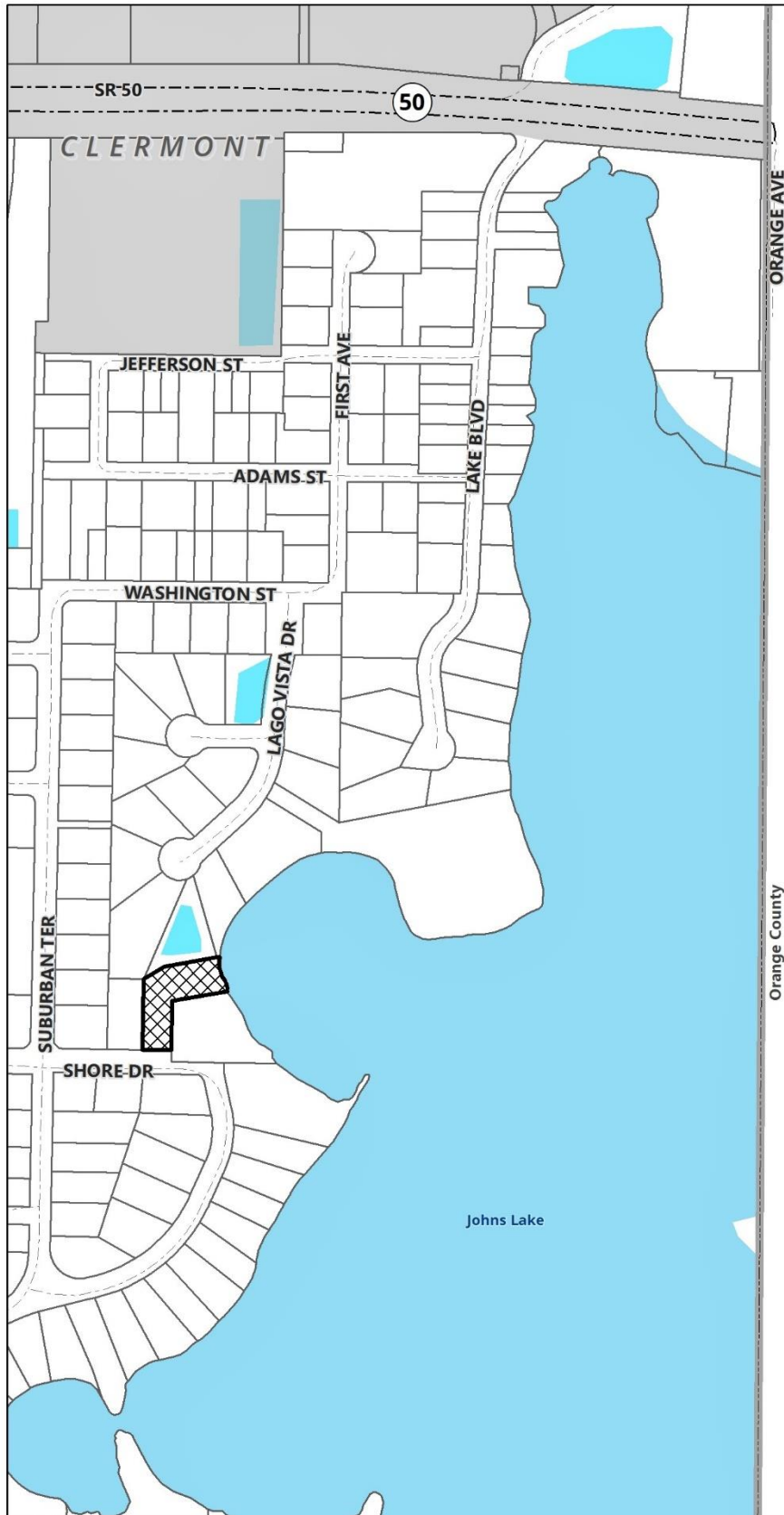
2. **The application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.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

VAR-20-58-2, Ulery Property

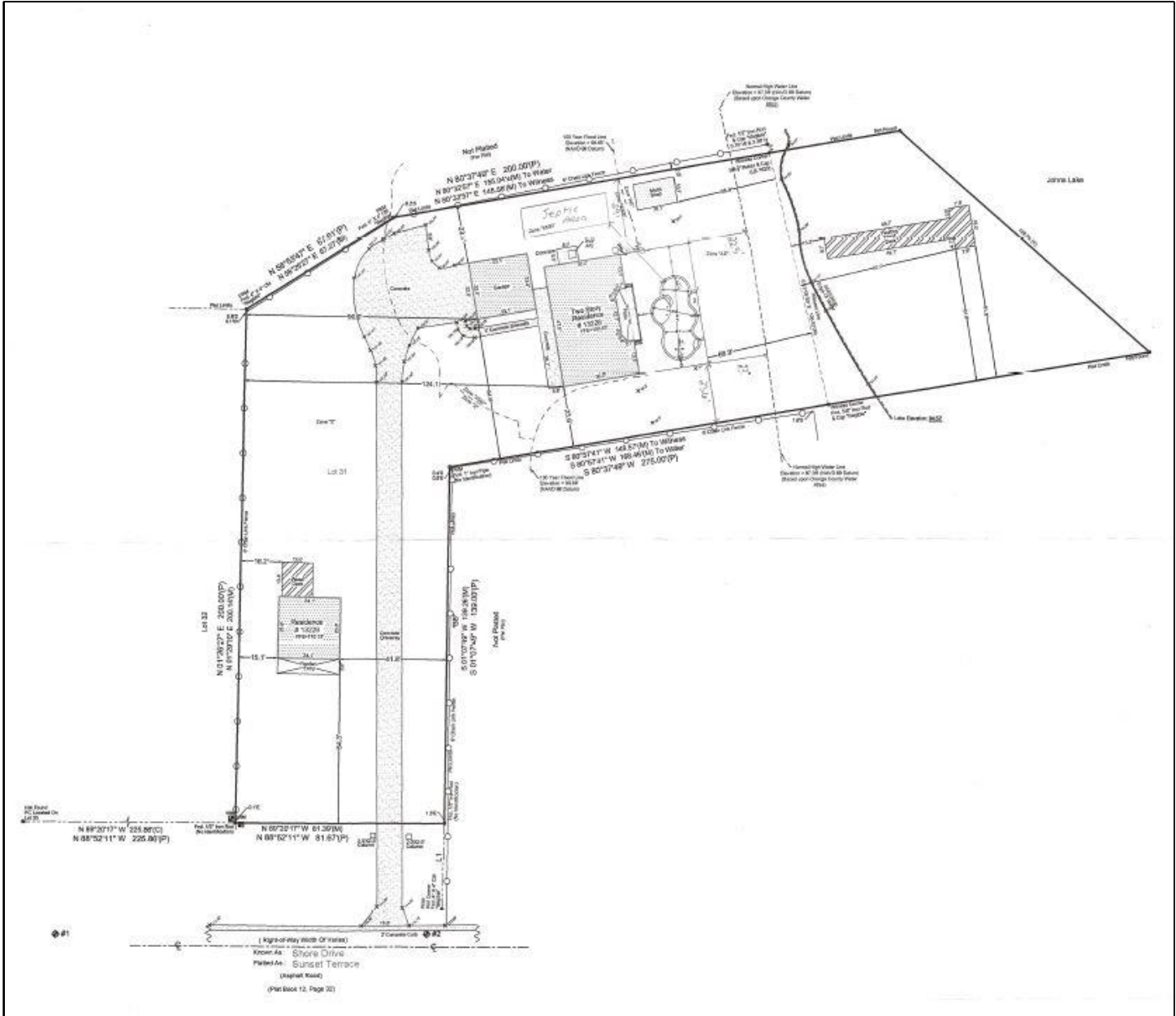
LDR Section 14.15.04, states that for the purposes of this section “substantial hardship” means a demonstrated economic, technological, legal, or other type of hardship to the person requested the variance.

The Applicant provided the following statement, *“Large disparity in wetland designation between current and purchase or property. Waterline has never approached high water mark.”*

# Map of Subject Property



# Attachment "A" – Plot Plan



**Final Development Order  
VAR-20-58-2  
Ulery Property**

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

**WHEREAS**, Robin Ulery (the “Applicant”), on behalf of Robin and Jeffery Ulery (the “Owners”), requested a variance to Land Development Regulations (LDR) Sections 6.01.04.A and 6.15.04 to allow for an accessory structure (pool, spa, deck, and/or pool enclosure) to be located 22.5-feet from the Normal High Water Line, in lieu of 50-feet; and

**WHEREAS**, the subject property consists of 0.75 +/- acres and is located at 13228 Shore Drive, in the Winter Garden area of unincorporated Lake County, in Section 25, Township 22, Range 26, having Alternate Key Number 2668415, and more particularly described below; and

Lot 31, Citrus Cove, Unit 1, according to the Map or Plat thereof, as recorded in Plat Book 24, Page(S) 39, of the 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 request for a variance would be presented to the Board of Adjustment of Lake County, Florida, on December 10, 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 December 10, 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-20-58-2, to allow for an accessory structure (pool, spa, deck, and/or pool enclosure) to be located 22.5-feet from the Normal High Water Line, in lieu of 50-feet, with the following conditions:

1. An interceptor swale that is sized to capture the first 1-inch of stormwater runoff shall be provided on site. An engineered design that includes a plan and calculations must be submitted with the permit applications for the interceptor swale.
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.
4. Compensating storage for fill within the floodplain will be required. An engineered design for the lot grading and flood compensating storage along with compensating storage calculations will be required at time of permitting.
5. Additional flood determination and permitting may be required during the site permitting.

**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 10<sup>th</sup> day of December, 2020.**

**EFFECTIVE December 10, 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 \_\_\_\_\_ day of \_\_\_\_\_, 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)**