



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 4

Public Hearing Date: June 10, 2021

Case No. and Project Name: VAR-21-16-3, Dapena Property

Owner/Applicant: Devin Alexander Dapena

Requested Action: Variance to Land Development Regulations (LDR) Section 6.01.04.A.1, to allow a pool, pool deck and associated screen enclosure to be located five (5) feet from the jurisdictional wetland line (seawall), in lieu of fifty (50) feet.

Case Manager: Ruth Mitchell, Associate Planner

Subject Property Information

Size: 0.24 +/- acres

Location: 11349 Davison Lanes, Tavares

Alternate Key No.: 1186439

Future Land Use: Urban Low Land Use Category (FLUC)

Current Zoning District: Rural Residential (R-1)

Flood Zone: "X"

Joint Planning Area/ ISBA: City of Tavares Interlocal Service Boundary Area (ISBA)

Overlay Districts: None

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low	Rural Residential (R-1)	Canal, Residential	Canal connecting to Lake Harris, Single Family Dwelling Units
South	Urban Low	Rural Residential (R-1)	Right-of-Way, Undeveloped	Davison Lane, Single-Family Dwelling Units south of R-O-W
East	Urban Low	Rural Residential (R-1)	Residential	Single-Family Dwelling Unit
West	Urban Low	Rural Residential (R-1)	Residential	Single-Family Dwelling Unit

Summary of Request.

The subject parcel, identified as Alternate Key Number 1186439, contains 0.24 +/- acres, is zoned Rural Residential (R-1), and is designated with an Urban Low Density Future Land Use Category by the 2030 Comprehensive Plan. Generally, the subject property is located north of Davison Lane and west of Cove Road, in unincorporated Tavares area of Lake County. The subject parcel is currently developed with a single-family dwelling unit and related accessory uses, including a seawall.

The Applicant has requested a variance to LDR Section 6.01.04.A.1, to allow a pool, pool enclosure and associated deck to be located five (5) feet from the jurisdictional wetland line (seawall) in lieu of fifty (50) feet; the plot plan (Attachment "A") depicts the proposed location of pool and pool deck.

The variance application was sent to the Public Works Department for a determination of consistency with their regulations. The Public Works Department had no objections to the request and provided the following comments: "An interceptor swale to capture the first inch (1") of stormwater runoff shall be provided on site; the proposed improvements cannot be any closer than 10-feet from the seawall and may require additional setback based on the engineered retention required for the proposed addition to the site."

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 valuable natural resources requiring protection from erosion, sedimentation, water pollution and other negative impacts, which may be associated with land use activities. It is the intent of this section to minimize such negative impacts through protection standards for development of adjacent lands.

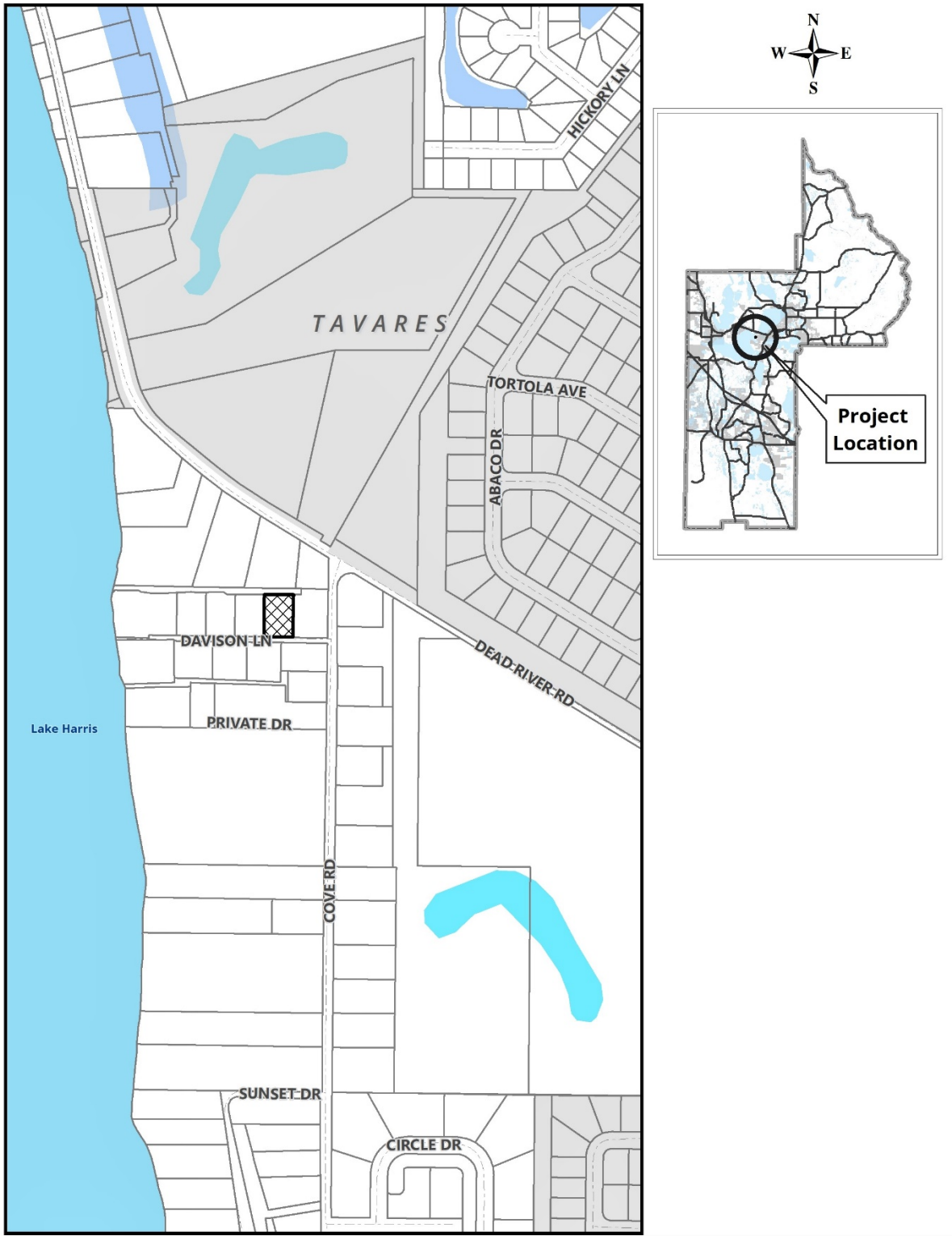
"The proposed patio and pool will be using permeable pavers with a sand base and no footer. The pool will be setback towards the house as close as possible. There will be 10' or more of grass area left behind the patio as well more than 10-15' or more left as grass areas on either side of the patio. There will be no issue with flooding or water infiltration, the man made canal also site 3-4' below the top edge of the seawall. Many neighbors have structures built closer or touching their seawall."

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.

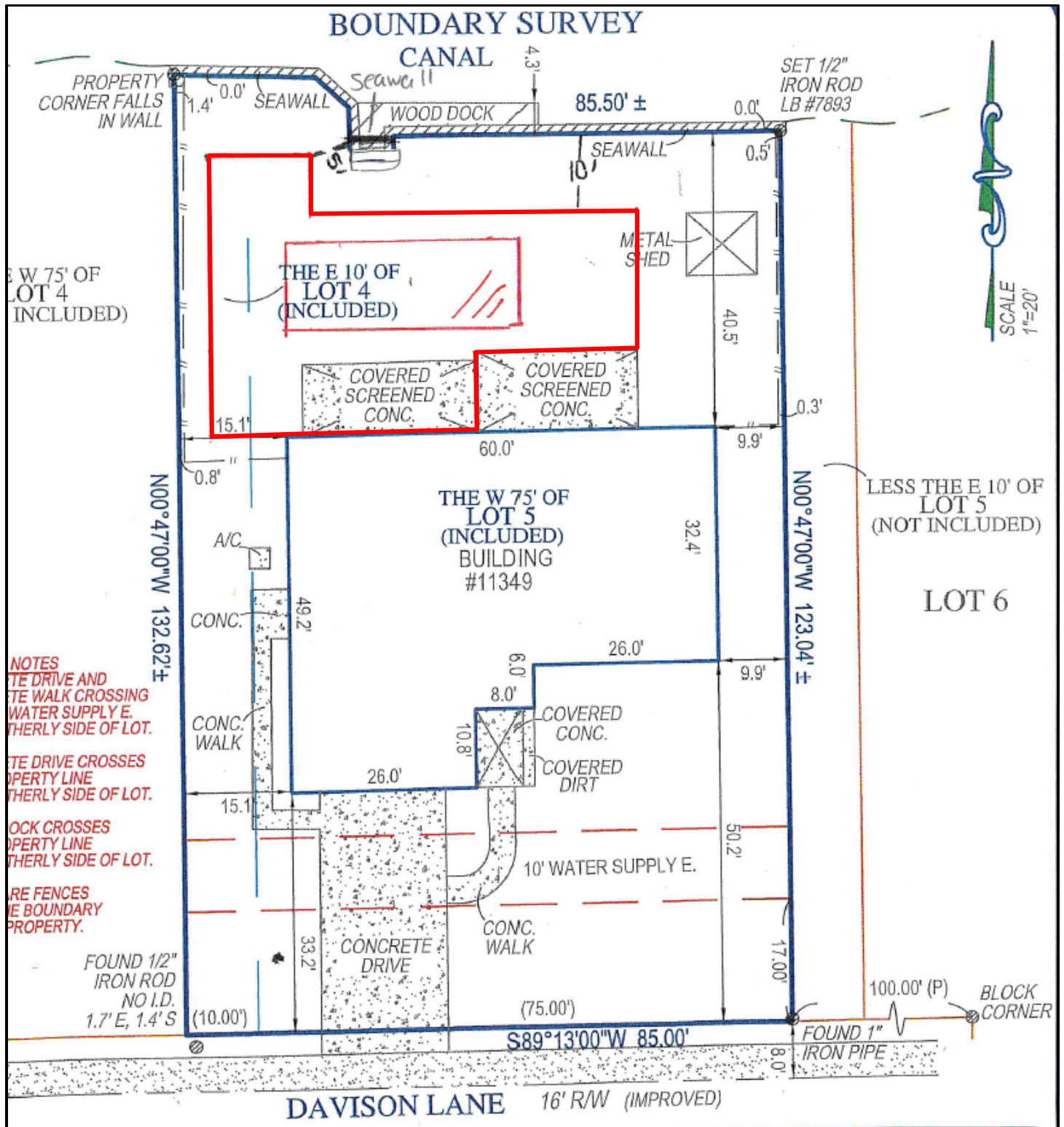
LDR Section 14.15.04 states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.

"The hardship in meeting the specific code requirement is the house already sit approx. 27=-' from the seawall. Therefore, any structure built at the rear of the home is hardship to have approved for the homeowner. Since there are many other homes within the same neighborhood that have structures closer to their seawall or build right to the seawall; denying approval would prevent this homeowner from enjoying their property as to the reason it being purchased."

Map of Subject Property



Attachment A. Concept Plan.



**Final Development Order
VAR-21-16-3
Dapena Property**

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

WHEREAS, Devin Alexander Dapena (the “Applicant” and the “Owner”), requested a variance to Land Development Regulation (LDR) Section 6.01.04.A to allow a pool, pool deck and associated screen enclosure to be located five (5) feet from the jurisdictional wetland line (seawall) in lieu of fifty (50) feet; and

WHEREAS, the subject property consists of 0.24 +/- acres, is located at 11349 Davison Lane, in the unincorporated Tavares area of Lake County, Florida, in Section 25, Township 19, Range 25, having Alternate Key Number 1186439, and more particularly described in “**Exhibit A – Legal Description**”.

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 June 10, 2021; 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 June 10, 2021, 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-21-16-3 to allow a pool, pool deck and associated pool enclosure to be located five (5) feet from the jurisdictional wetland line (seawall) in lieu of fifty (50) feet with the following conditions:

1. An interceptor swale to capture the first inch (1”) of stormwater runoff shall be provided on site.

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 10th day of June, 2021.
EFFECTIVE June 10, 2021.**

**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 10th day of June, 2021, by James Argento, as Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

**Notary Signature
(SEAL)**

Exhibit "A" – Legal Description

Lot 5, less the East 10 feet thereof and the East 10 feet of Lot 4 of Davison Manor, according to the map or plat thereof as recorded in Plat Book 15, Page 24, of the Public Records of Lake County, Florida.