



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 5

Public Hearing Date: September 9, 2021

Case No. and Project Name: VAR-21-61-4, Swift Property

Owners: Kimberly L. Swift (Klinger), Harold O. Swift Jr & Martha A. Swift

Applicant: Kimberly L. Swift Klinger

Requested Action: Variance to Lake County Land Development Regulations (LDR) Table 3.02.05 to allow a pool, pool deck and pool enclosure to be located thirty-three (33) feet from the center line of the road in lieu of twenty-five (25) feet from the right-of-way.

Case Manager: Ruth Mitchell, Planner

Subject Property Information

Size: 0.15 +/- acres

Location: 2122 Briarcliff Circle, Mount Dora.

Alternate Key Nos.: 3859595

Future Land Use: Urban Low Density

Current Zoning District: Mixed Residential (RM)

Flood Zones: "X"

Joint Planning Area/ ISBA: Mount Dora

Overlay Districts: N/A

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low Density	Mixed Residential (RM)	Road, Residential	Briarcliff Circle, Single-Family Dwelling Unit
South	Urban Low Density	Mixed Residential (RM)	Residential	Single-Family Dwelling Unit
East	Urban Low Density	Mixed Residential (RM)	Residential	Single-Family Dwelling Unit
West	Urban Low Density	Mixed Residential (RM)	Road, Residential	Briarcliff Circle, Single-Family Dwelling Unit

Summary of Request.

The Owner has requested a variance to LDR Table 3.02.05 to allow a pool, pool deck and pool enclosure to be located thirty-three (33) feet from the center line of the road in lieu of twenty-five (25) feet from the right-of-way.

The subject parcel is zoned Mixed Residential (RM) and is designated as Urban Low Density Future Land Use Category by the 2030 Comprehensive Plan. The concept plan (Attachment "A") shows that the parcel is developed with a single-family dwelling unit.

The subject parcel is located within the Mount Dora Interlocal Service Boundary Agreement (ISBA) Area; therefore, the variance application was sent to the City of Mount Dora for a determination of consistency with their regulations. Mount Dora had no comments nor objections to the request.

The variance application was sent to the Public Works Department for a determination of consistency with their regulations. The Public Works Department Had no comments nor 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 3.02.05, is to ensure structures are located a safe distance from roads and there is enough area for safe passage of vehicles.

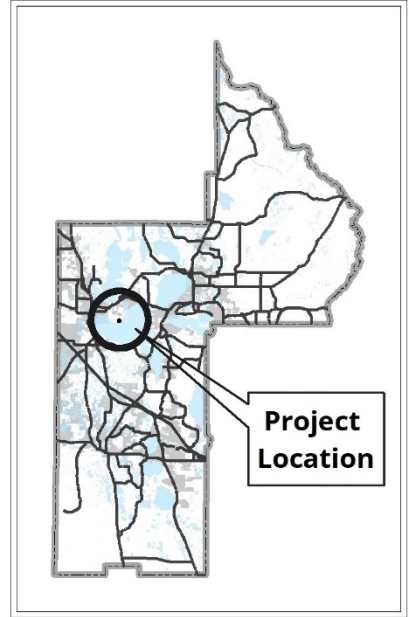
The Applicant provided the following statement as proof that the intent of the Land Development Regulation will be or has been achieved by other means, *"The purpose of this Land Development Regulation is for public safety. The setback creates a buffer between a structure and roadway. I currently have a 6' tall white vinyl fence enclosing my backyard. I want to build an in-ground pool with deck that will be completely behind the existing fence. This fence creates the same desired safety buffer between the road and any structures. I am able to meet all other setbacks beside the setback regarding this variance."*

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.

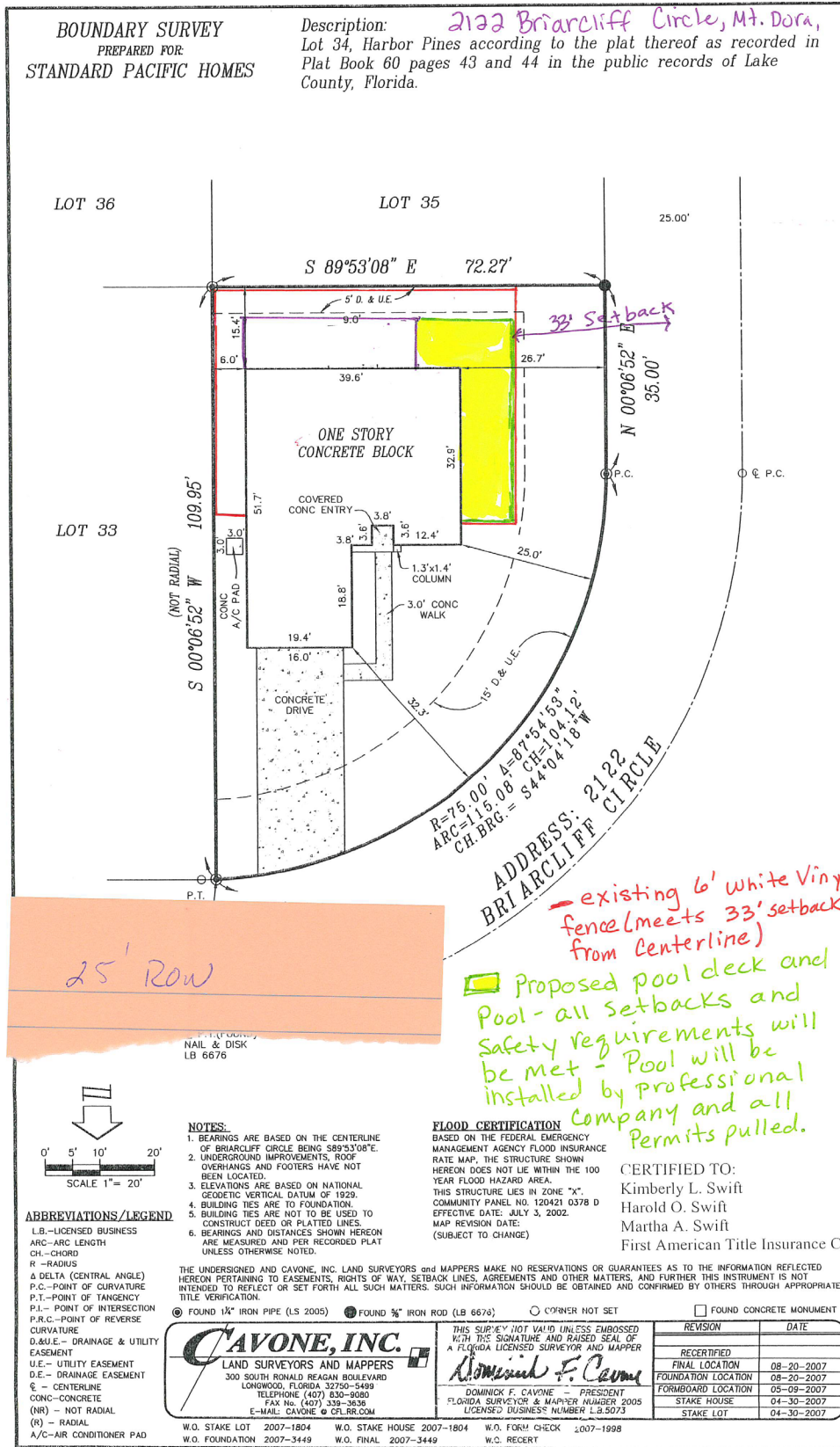
LDR Section 14.15.04 states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.

The Applicant provided the following statement, *"My property is on a corner lot. The majority of my fenced-in backyard is on the side of my house. Therefore, it is considered frontage. I am requesting a variance to adjust the setbacks on the side of my property in order to install an in-ground pool and deck. With the existing setback of my fenced-in backyard (which is mostly on the side of my house) being larger than the other properties in the neighborhood, I am unable to utilize my backyard with the same flexibility compared to my neighbors (one has a pool)."*

Map of Subject Property



Attachment "A" - Concept Plan



**Final Development Order
VAR-21-61-4
Swift Property**

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

WHEREAS, Kimber Klinger (the “Applicant”) requested a variance on behalf of Kimberly Swift, Martha Swift and Harold Swift (the “Owners”) to Lake County Land Development Regulations (LDR) Table 3.02.05, to allow a pool, pool deck and pool enclosure to be located thirty-three (33) feet from the center line of the road in lieu of twenty-five (25) feet from the right-of-way; and

WHEREAS, the subject property consists of 0.15 +/- acres and is located 2122 Briarcliff Circle, in the Mount Dora area of unincorporated Lake County, Florida, in Section 21, Township 19, Range 27, having Alternate Key Number 3859595, and more particularly described below;

Lot 34 of HARBOR PINES, according to the plat thereof as recorded in Plat Book 60, Page(s) 43 and 44, 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 September 9, 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 September 9, 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-21-61-4, to allow a pool, pool deck and pool enclosure to be located thirty-three (33) feet from the center line of the road in lieu of twenty-five (25) feet from the right-of-way.

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.

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Section 3. Effective Date. This Ordinance will become effective as provided by law.

ENACTED this 9th day of September 2021.

EFFECTIVE September 12, 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 9th day of September 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)**