



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 3  
 Public Hearing Date: December 9, 2021  
 Case No. and Project Name: VAR-21-65-2, Graham Property  
 Owners: Mark Graham and Nicole Graham  
 Applicant: Alex Custom Homes and Remodeling, LLC  
 Requested Action: Variance to Land Development Regulations (LDR) Section 6.01.04(A)(1), to allow a single-family dwelling unit to be constructed 15-feet from the jurisdictional wetland line.  
 Case Manager: Ruth Mitchell, Planner

### Subject Property Information

Size: 0.59 +/- acres  
 Location: South of Lake Minneola Shores, Clermont.  
 Alternate Key No.: 3432231  
 Future Land Use: Rural Transition  
 Current Zoning District: Estate Residential (R2)  
 Flood Zones: "AE" and "X"  
 Joint Planning Area (JPA) / ISBA: City of Groveland ISBA  
 Overlay Districts: N/A

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	N/A	N/A	Road	Lake Minneola Shores, City of Groveland
South	N/A	N/A	Lake	Lake Minneola
East	Rural Transition Density	Estate Residential (R2)	Residential	Single-Family Residence
West	Rural Transition Density	Estate Residential (R2)	Residential	Single-Family Residence

### Summary of Request.

The subject property, identified as Alternate Key Number 3432231, contains .59 +/- acres, is zoned Estate Residential (R2), and is designated with a Rural Transition Future Land Use Category by the 2030 Comprehensive Plan. Based on the conceptual plan (Attachment "A"), the subject parcel lies with flood zones "A" and "X" and wetlands exist on the site. The subject parcel is generally located south of Lake Minneola Shores in the unincorporated Clermont area.

The subject property abuts Lake Minneola. Per the recorded plat (PB 31 PG 38) Lot 5 is 145.35-feet deep. The front setback for this parcel is 25-feet from the right-of-way and the rear setback is 50-feet from the jurisdictional wetland line. The setbacks would provide a buildable envelope, of 161-feet by 40-feet (6,440 square feet). The applicant is requesting a buildable area of 161-feet by 76-feet (12,236).

The Applicant has requested a variance to LDR Section 6.01.04(A)(1), to allow a single-family dwelling unit to be constructed 15-feet from the jurisdictional wetland line.

The variance application was sent to the Public Works Department for a determination of consistency with their regulations. Should the variance request be approved, the Department of Public Works identified the following conditions for inclusion in the draft development order:

1. *An interceptor/environmental swale that is sized to capture the first 1-inch of stormwater runoff from the impervious area of the parcel shall be provided on site. The proposed structures roof drainage will need to be direct to this swale. An engineered design that includes a plan and calculations must be submitted with the permit application for the improvement/addition for the site.*
2. *The existing historic drainage from the culvert pipe, under Lake Minneola Shores to Lake Minneola, shall be maintained along the eastern side of the property. Details for this will need to be included in the lot grading plan for the parcel at time of building permit.*
3. *Flood permitting will be required at time of building permit application. Any compensating storage for fill within the floodplain shall be provided onsite.*

The subject parcel is located within the City of Groveland Interlocal Service Boundary Area (ISBA). The variance application was sent to the City of Groveland for a determination of consistency with their regulations. The City of Groveland 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 conserve and protect wetlands, to ensure that the natural structure and functional values are maintained, and to maintain no net loss of wetlands.

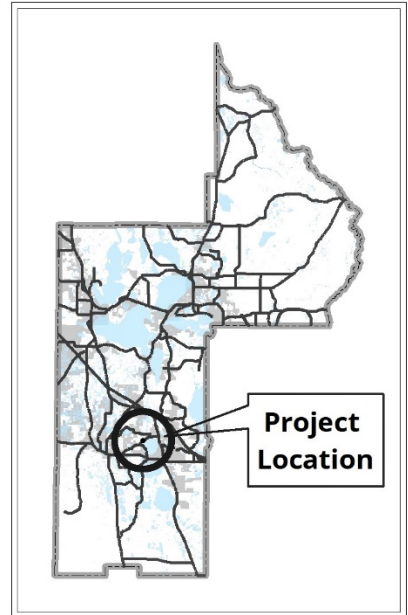
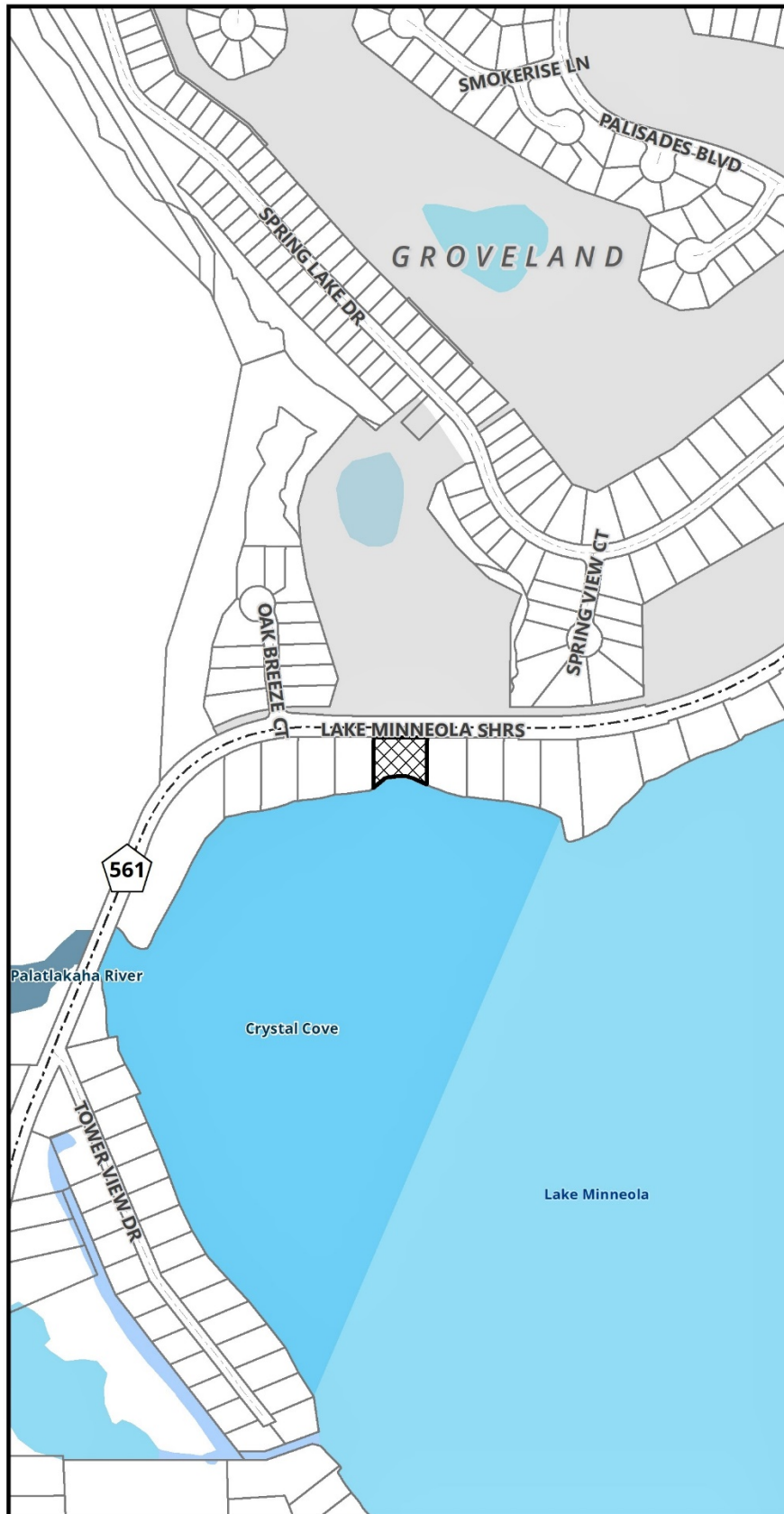
To show that the intent of the code will be or has been achieved by other means, the Applicant provided a written statement, *"Request a 10' setback from wetlands jurisdictional line to provide a suitable building site comparable to homes east and west sides of property per topographical survey. Our intension to maintain waterfront property without affecting any surrounding wetlands, will be primary as required an engineer will create retention area calculated by minimum requirement of Lake County."*

- 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.**

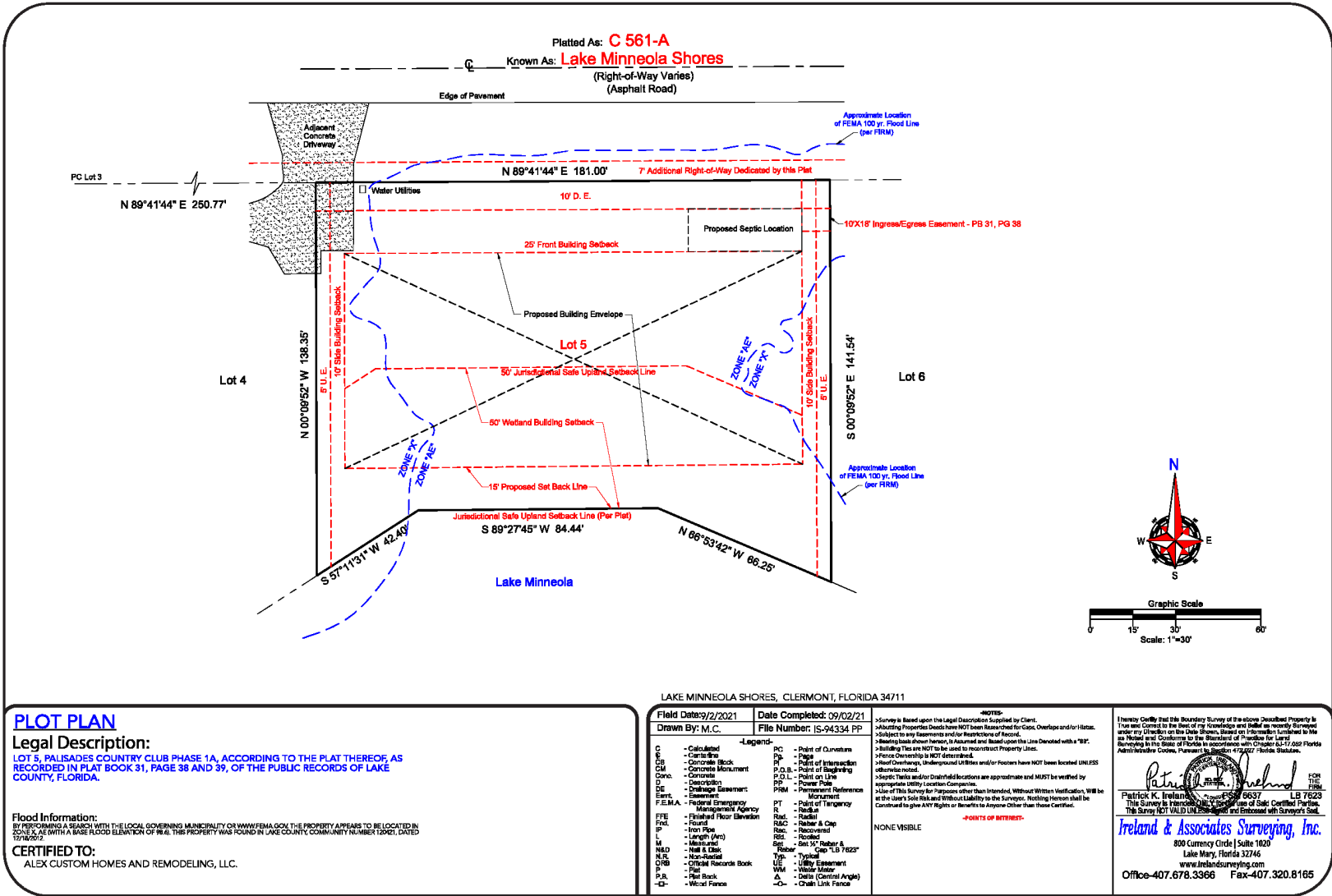
The subject property is lot 5 of the Palisades Country Club Phase 1A subdivision. Palisades Country Club Phase 1A was platted in 1989. At the time of plating zoning staff approved the subdivision by the rules and regulations in the 1988 Lake County Zoning Regulations, which did not have setbacks to jurisdictional wetland lines for parcels that were not zoned planned unit development.

To show substantial hardship, the Applicant provided, *"A substantial intrusion of wetlands jurisdictional lines compare to adjacent property line and is not compatible with site topographical elevations."*

# Map of Subject Property



# Attachment "A" – Concept Plan



**PLOT PLAN**

**Legal Description:**

LOT 5, PALISADES COUNTRY CLUB PHASE 1A, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 31, PAGE 38 AND 39, OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA.

**Flood Information:**

BY PERFORMING A SEARCH WITH THE LOCAL GOVERNING MUNICIPALITY OR WWW.FEMA.GOV, THE PROPERTY APPEARS TO BE LOCATED IN ZONE X, AS WITH A BASE FLOOD ELEVATION OF 96.8. THIS PROPERTY WAS FOUND IN LAKE COUNTY, COMMUNITY NUMBER 12901, DATED 10/18/2021.

**CERTIFIED TO:**

ALEX CUSTOM HOMES AND REMODELING, LLC.

LAKE MINNEOLA SHORES, CLERMONT, FLORIDA 34711

Field Date: 02/2021 Date Completed: 09/02/21  
 Drawn By: M.C. File Number: IS-94334 PP

Legend:	
C	- Calculated
CB	- Certificate
CM	- Concrete Block
CM	- Concrete Monument
CM	- Concrete
DE	- Description
DE	- Drainage Easement
DE	- Easement
F.E.M.A.	- Federal Emergency Management Agency
F.F.E.	- Finished Floor Elevation
FP	- Found
L	- Length (Aps)
M	- Measured
N&D	- Nail & Disk
N&D	- Non-Noticed
ORB	- Official Records Book
P	- Plat
P.U.R.	- Plat Book
-CH-	- Metal Fence
PC	- Point of Curvature
PP	- Page
PI	- Point of Intersection
P.O.I.	- Point of Beginning
P.O.I.	- Point on Line
PT	- Power Pole
PRM	- Permanent Reference Monument
PT	- Point of Tangency
R	- Radius
R&C	- Rebar & Cap
R&C	- Rebar
RS	- Rebar
RS	- Rebar
RS	- Rebar
RS	- Rebar & Cap "LB 7622"
RS	- Rebar
TR	- Typical
UE	- Utility Easement
VM	- Value Money
Δ	- Delta (Central Angle)
-C-	- Chain Link Fence

**NOTES:**  
 > Survey is based upon the Legal Description supplied by Client.  
 > Existing Property Deeds have NOT been researched for Easements and/or Restrictions of Record.  
 > Subject to any Easements and/or Restrictions of Record.  
 > Building Setbacks are NOT to be used to reconstruct Property Lines.  
 > Hence Ownership is NOT Guaranteed.  
 > Septic Tanks and/or Drainfield locations are approximate and MUST be verified by appropriate Utility Location Companies.  
 > Use of this Survey for purposes other than intended, without written verification, will be at the User's Sole Risk and Without Liability to the Surveyor. Nothing Hereon shall be construed to give ANY Rights or Benefits to anyone other than those Certified.

**POINTS OF INTEREST:**  
 NONE VISIBLE



I hereby certify that this Boundary Survey of the above described Property is true and correct to the best of my knowledge and belief as recently surveyed under my direction on the date shown, based on information furnished to me as stated and conforms to the standards of practice for land surveying in the State of Florida in accordance with Chapter 62-77, Florida Administrative Code, pursuant to Section 475.007, Florida Statutes.

*Patrick K. Ireland*  
 Patrick K. Ireland, Surveyor No. 6637, LB 7623  
 This Survey is Intended for the use of Said Certified Parties. This Survey IS NOT VALID UNLESS SIGNED and Endorsed with Surveyor's Seal.

**Ireland & Associates Surveying, Inc.**  
 800 Currency Circle, Suite 1002  
 Lake Mary, Florida 32746  
 www.Irelandsurveying.com  
 Office-407.678.3366 Fax-407.320.8165

**Final Development Order  
VAR-21-65-2  
Graham Property**

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

**WHEREAS**, Alex Custom Homes and Remodeling, LLC (the “Applicant”), on behalf of Mark and Nicole Graham (the “Owners”) requested a variance to Land Development Regulations (LDR) Section 6.01.04(A)(1), to allow a single-family dwelling unit to be constructed 15-feet from the jurisdictional wetland line, in lieu of 50-feet from the jurisdictional wetland line; and

**WHEREAS**, the subject property consists of 0.59 +/- acres and is located south of Lake Minneola Shores, in the Clermont area of unincorporated Lake County, in Section 11, Township 22, Range 25, having Alternate Key Number 3432231, and more particularly described below; and

Lot 5, Palisades Country Club, Phase 1-A, according to the plat thereof as recorded in Plat Book 31, Page 38, 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 October 14, 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 December 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-21-65-2, to allow a single-family dwelling unit to be constructed 15-feet from the jurisdictional wetland line, in lieu of 50-feet from the jurisdictional wetland line; 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. The proposed structures roof drainage will need to be direct to this swale. An engineered design that includes a plan and calculations must be submitted with the permit application for the improvement/addition for the site.
2. The existing historic drainage from the culvert pipe, under Lake Minneola Shores to Lake Minneola, shall be maintained along the eastern side of the property. Details for this will need to be included in the lot grading plan for the parcel at time of building permit.
3. Flood permitting will be required at time of building permit application. Any compensating storage for fill within the floodplain shall be provided onsite.

- 4. The septic, if applicable, shall meet the 100-foot setback from the jurisdictional wetland line or shall be an advanced treatment system designed to remove nutrients from the effluent.

**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 December 2021.

**EFFECTIVE** December 9, 2021.

**BOARD OF ADJUSTMENT  
LAKE COUNTY, FLORIDA**

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**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 9<sup>th</sup> day of December 2021, by James Argento, as Chairman of the Lake County Board of Adjustment.**

**Personally Known OR Produced Identification**

**Type of Identification Produced** \_\_\_\_\_

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**Notary Signature**

**(SEAL)**