



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 5

Public Hearing Date: December 9, 2021

Case No. and Project Name: VAR-21-71-4, Dubai Property

Owners/Applicants: Kyle Dubay and Jessica Dubay

Requested Action: Variance to Lake County Code, Land Development Regulations (LDR) Section 6.01.04(A)(1) to allow a single-family dwelling unit and accessory structures to be constructed 30-feet from the jurisdictional wetland line, in lieu of 50-feet.

Case Manager: Ryan Winkler, Planner

Subject Property Information

Size: 0.31 +/- acres

Location: Lot 11, Block 2, Harbor Shores Unit One subdivision, Leesburg

Alternate Key No.: 1526507

Future Land Use: Urban Low Density

Current Zoning District: Urban Residential District (R-6)

Flood Zones: "AE" and "X"

Joint Planning Area/ ISBA: N/A

Overlay Districts: N/A

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low	Urban Residential (R-6)	Residential	Single-Family Residence
South	Urban Low	Urban Residential (R-6)	Residential	Vacant Residential
East	Urban Low	Urban Residential (R-6)	Canal Right-of-Way and Residential	Pine Island Shores, Single-Family Dwelling Units east of ROW
West	Urban Low	Urban Residential (R-6)	Residential	Vacant

Summary of Request

The subject 0.31 +/- acre parcel is identified by Alternate Key Number 1526507. The parcel is zoned Urban Residential (R-6) and is designated Urban Low Density Future Land Use Category (FLUC). The subject parcel is currently undeveloped and the canal is situated along the eastern portion of the lot. The parcel is generally located south of Pine Island Road in the Harbor Shores Unit One Subdivision, in the Leesburg area.

The Owners submitted a variance request to LDR Section 6.01.04(A)(1) to allow a single-family dwelling unit to be constructed 30-feet from the jurisdictional wetland line in lieu of 50-feet (Attachment "A").

On February 5, 2020, the Owners filed for an Average Setback Application (Attachment "B", AS#2020-02-4) with the Office of Planning and Zoning. The following results from the average setback provided measurements comparable to the required 50-foot setback requirement per LDR Section 6.01.04(A)(1), which resulted with an average rear setback of 52.74 feet from the seawall.

The Owners provided the following statement (Attachment "C"), *"I feel our lot should be compared with similar shaped lots. We shouldn't be restricted to just the lots on our street on the same side of the canal. The homes on the cul-de-sacs in this neighborhood all appear to be closer then the required 50' setback. We are trying to build a home of average size for this neighborhood. This will help us retain value in the house that is comparable to other homes around us."*

The variance application was sent to the Public Works Department for a determination of consistency with their regulations. The Public Works Department reviewed the application and had no objections to the request, however provided the following conditions: *"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 application for the improvement/addition for 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.

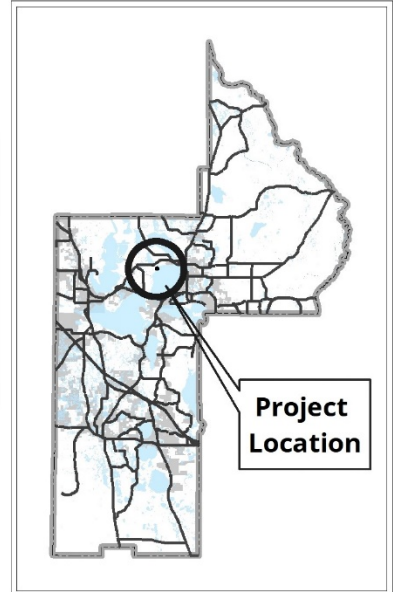
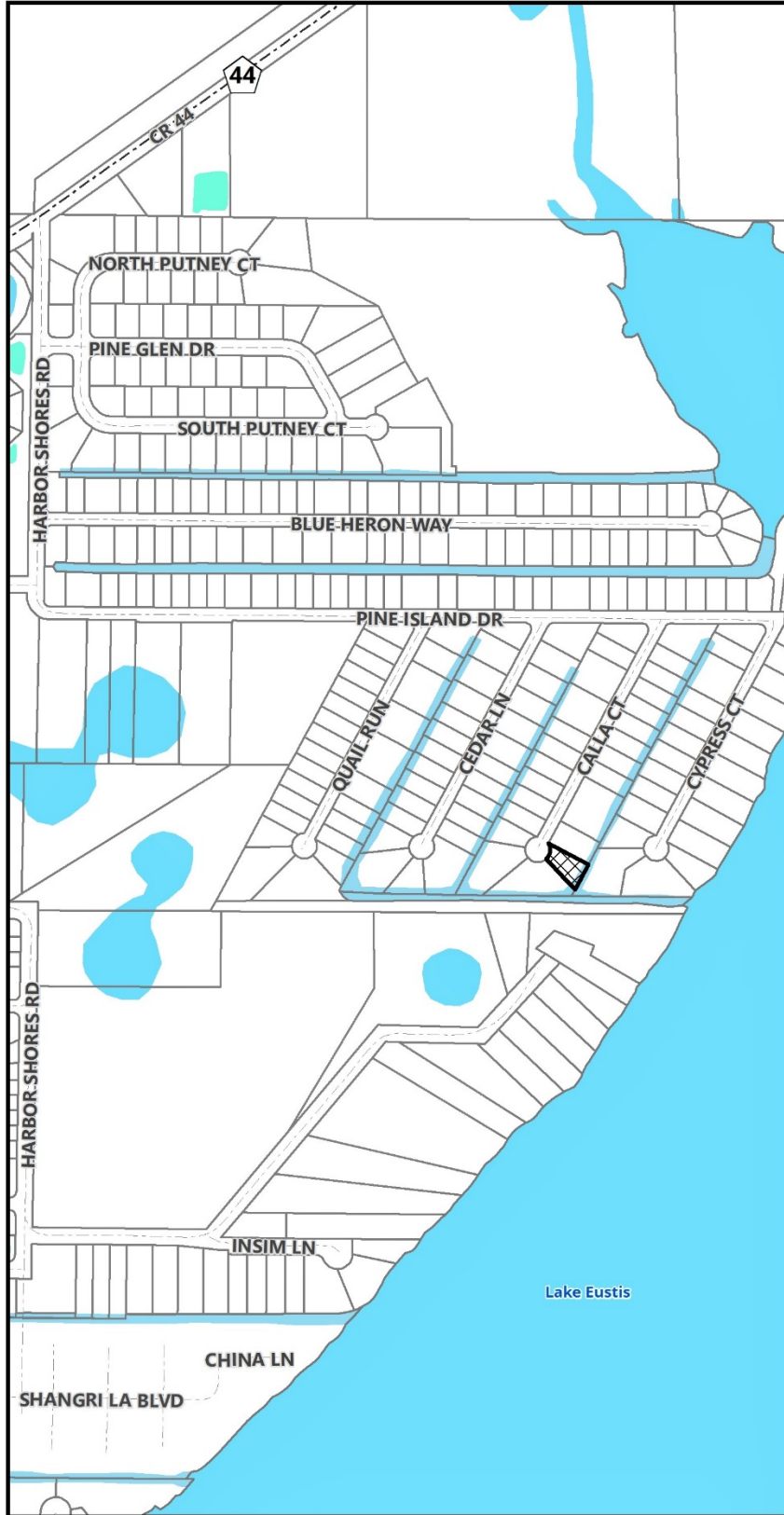
1. The purpose of the Land Development Regulation will be or has been achieved by other means.

The intent of the Code, LDR Section 6.01.01, 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 Owners provided the following statement as evidence that the intent of the Land Development Regulation will be or has been achieved by other means, *"It appears that others homes on the cul-de-sacs have either gotten a variance or were able to get a setback average. If a variance cannot be approved there will be no other way to build a home of average size for this neighborhood on this lot."* This statement indicates that the variance request follows the intent of LDR Section 6.01.01.

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 Owners provided the following statement, *"There is not enough room to build a home. Between the current front and rear setback there would only be around 40'. Our lot should be compared to other similar shaped lots, not just the lots on the same side of the canal. Other homes on the cul-de-sacs in the neighborhood are closer then the required 50' setback."* This statement indicates that a substantial hardship does exist for this variance request.

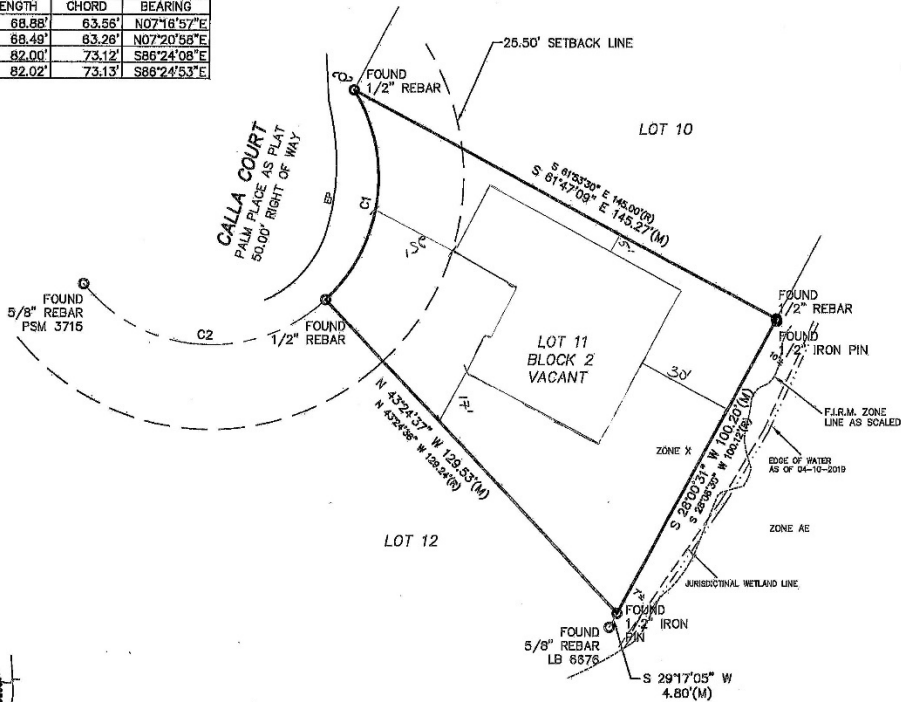


DESCRIPTION:

LOT 11, BLOCK 2, HARBOR SHORES, UNIT 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 15, PAGE 32, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA.

Plat of Boundary Survey for
Kyle & Jessica Dubay
Calla Court
Leesburg, Lake County,

CURVE TABLE				
CURVE	RADIUS	LENGTH	CHORD	BEARING
C1 (M)	50.00'	68.88'	63.56'	N07°16'57"E
C1 (R)	50.00'	68.49'	63.26'	N07°20'58"E
C2 (M)	50.00'	82.00'	73.12'	S86°24'08"E
C2 (R)	50.00'	82.02'	73.13'	S86°24'53"E



LEGEND:

○	IRON PIN SET (1/2" REBAR W/ CAP)
○	IRON PIN FOUND
○	CALCULATED POINT ONLY
■	CONCRETE MONUMENT
○	POWER POLE
○	LIGHT POLE
○	WATER VALVE
○	GAS VALVE
○	WELL
○	FIRE HYDRANT
○	SANITARY SEWER MANHOLE
○	STORM DRAIN MANHOLE
○	CATCH BASIN
○	CLEANOUT
○	CURB INLET
○	TRANSFORMER
○	OVERHEAD UTILITY
—	FENCE LINE
(M)	FIELD MEASURED
(R)	RECORD DESCRIPTION OR PLAT
O.R.	OFFICIAL RECORD BOOK
L.D.	IDENTIFICATION
P.B.	PLAT BOOK
P.P.	PAGE
R.B.	REBAR
R.P.	IRON PIPE
SEC.	SECTION
F.C.	FENCE CORNER
R/W	RIGHT-OF-WAY
EP	EDGE OF PAVEMENT

SCALE
30'

CERTIFIED TO:

Kyle Dubay
Jessica Dubay
Lake Michigan Credit Union
Brokers Title of Leesburg, LLC
Commonwealth Land Title Insurance Company

SURVEYOR'S NOTES

- Bearing Beas is a plat bearing of S 81°53'30" E along the North line of Lot 11.
- Subject to easements and restrictions of Record.
- All of the above captioned property lies within F.L.R.M. Zone "X" and "AE" according to F.L.R.M. panel No. 12069C 0365 E dated Dec. 18, 2012.
- This Survey is based on the Description provided, Plat Information, Found Monumentation and other data acquired by this firm.
- Foundations, Underground Structures, and Underground Improvements, if any, not located by this firm.
- Fences were located ONLY where dimensioned and may not run straight ownership of fences, if any, unknown.



Not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.

FREELAND - CLINKSCALES & ASSOCIATES, INC.	REF. PLAT BOOK	15/32
ENGINEERS * LAND SURVEYORS	REF. O.R. BOOK	1802/1314
201 2nd AVE. EAST	ALT KEY	1526507
HENDERSONVILLE, N.C. 28792	PARTY CHIEF	SCJ
(800) 697-8839	DRAWN	SMT
(202) 697-4192/(va)	DATE	APRIL 10, 2019
1910 S GROVE ST., ELIOTS, FL 32728	DWR. NO.	F30062
(352) 357-0415		
LB 7094		

Attachment "B" — AV#2020-02-4



February 13, 2020

Kyle & Jessica Dubay
34041 Highland Road
Leesburg, Florida 34788

RE: Average Setback Results (AS # 2020-02-4 Alternate Key # 1526507)

Dear Mr./Mrs. Dubay:

Upon your request for an average setback, staff visited the area and measured the structures at the following addresses:

1. 35650 Calla Ct., Leesburg 47.51 feet from seawall to attached porch.
2. 35646 Calla Ct., Leesburg 52.03 feet from seawall to single family residence.
3. 35524 Calla Ct., Leesburg 58.69 feet from seawall to single family residence.

The measurements resulted in an average rear setback of 52.74 feet from seawall.

If you have any questions, or if we can be of further service, please contact our office at (352) 343-9641 or email me at elora@lakecountyfl.gov.

Sincerely,

Eva Lora, Associate Planner

OFFICE OF PLANNING & ZONING

P.O. BOX 7800 • 313 W. MAIN ST., SUITE 510, TAVARES, FL 32778 • P 352.343.9641 • F 352.343.9767
Board of County Commissioners • www.lakecountyfl.gov

TIMOTHY I. SULLIVAN
District 1

SEAN M. PARKS, AICP, CCP
District 2

WENDY R. BREEDEN
District 3

LESLIE CAMPIONE
District 4

JOSH BLAKE
District 5

Attachment "C" – Owner Statement

Please review the below properties. I feel our lot should be compared with similar shaped lots. We shouldn't be restricted to just the lots on our street on the same side of the canal. The homes on the cul-de-sacs in this neighborhood all appear to be closer then the required 50' setback. We are trying to build a home of average size for this neighborhood. This will help us to retain value in the house that is comparable to other homes around us.

Alt Keys:

3445198
1489865
1526515
1526531
1526701
1526728
1526736
1526744
1674981

Final Development Order
VAR-21-71-4
Dubay Property

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

WHEREAS, Kyle and Jessica Dubay (the “Owners”), requested a variance to Lake County Code, Land Development Regulations (LDR) Section 6.01.04(A)(1) to allow a single-family dwelling unit to be constructed 30-feet from the jurisdictional wetland line, in lieu of 50-feet: and

WHEREAS, the subject property consists of 0.31 +/- acres, located on Lot 11, Block 2, Harbor Shores Unit One subdivision, in the Leesburg area of unincorporated Lake County, in Section 06, Township 19, Range 26, having Alternate Key Number 1526507, and more particularly described below; and

LOT 11, BLOCK 2, HARBOR SHORES UNIT ONE, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 15, PAGE 32, 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 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 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-21-71-4 to allow for a single-family dwelling unit and related accessory structures to be constructed 30-feet from the jurisdictional wetland line, in lieu of 50-feet from the jurisdictional wetland line; with the following condition:

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 application for the improvement/addition for the site.
2. 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 9th day of December 2021.

EFFECTIVE December 9, 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 December 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)