



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 1

Public Hearing Date: June 9, 2022

Case No. and Project Name: VAR-22-07-3, McGowan Property

Applicant: Filipe Bianco

Owner: Daniel E. McGowan

Requested Action: Variance to Lake County Land Development Regulations (LDR) Sections 1.08.02(B) and 6.01.04(A)(1) to allow the reconstruction of a nonconforming deck attached to the existing residence, and replacement of nonconforming accessory structures including pool, pool deck and associated pool enclosure to be located ten (10) feet from the seawall, in lieu of 50-feet.

Case Manager: Ryan Winkler, Planner

Subject Property Information

Size: 0.26 +/- acres

Location: 27936 Lois Drive, Tavares

Alternate Key No.: 1402913

Future Land Use: Rural Transition

Current Zoning District: Agriculture (A)

Flood Zones: "AE" and "X"

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

Overlay Districts: N/A

Adjacent Property Land Use Table

| Direction | Future Land Use | Zoning | Existing Use | Comments |
|-----------|------------------|-----------------|------------------------|--|
| North | Rural Transition | Agriculture (A) | Residential | Single-Family Dwelling Units |
| South | Rural Transition | Agriculture (A) | Residential | Single Family Dwelling Units |
| East | Conservation | Agriculture (A) | Canal, Conservation | Canal, Conservation |
| West | Rural Transition | Agriculture (A) | Right-of-Way | Lois Drive, Single-Family Dwelling Unit West of R-O-W |

Summary of Request.

The subject 0.26 +/- acre parcel is identified by Alternate Key Number 1402913; is zoned Agriculture (A) and is designated with a Rural Transition Future Land Use Category (FLUC). The subject parcel is developed with a two-story single-family dwelling unit with screened porch, driveway, three (3) sheds, wood deck, pad, wood dock, boat slip and seawall.

The Applicant has submitted a variance request to LDR Sections 1.08.02(B) and 6.01.04(A)(1) to allow the reconstruction of a nonconforming deck attached to the existing residence, and replacement nonconforming accessory structures including a pool, pool deck and associated pool enclosure to be located ten (10) feet from the seawall, in lieu of 50-feet, as depicted on the Concept Plan (Attachment "A").

LDR Section 1.08.02(B) allows for normal maintenance and incidental repair (e.g., painting, replacing a roof, replacing windows or doors, rescreening an existing porch, etc.) and the repair of nonconforming principal and accessory structure the structure(s) have been damaged or destroyed by fire or natural disaster as long as a certificate of occupancy is issued for the rebuilt nonconforming principal or accessory structure within two (2) years from the date that it was damaged or destroyed as so long as the nonconformity is not increase. According to the Applicant, the replacement of the nonconforming structure is not due to a natural disaster. Pursuant to the LDR Sections 1.08.03(F), *nonconforming uses*, and Table 3.02.06, the maximum impervious surface ratio (ISR) for the subject parcel shall be 55%, consistent with the lot dimensions required within the R-4 zoning district. The existing impervious surface ratio (ISR) is 48.74% (Attachment "B"), the proposed ISR following the replacement of the accessory structures is expected to be 38.38% (Attachment "C").

The subject parcel is located within the City of Tavares ISBA; therefore, variance application was sent to the City of Tavares for a determination of consistency with their regulations. The City of Tavares had no comments or objections to the request.

The application was submitted to Public Works for review. Public Works provided the following comments:" According to the Flood Map (Attachment "D"), it appears the proposed improvement is very close to the flood zone. The improvement/replacement is within 5-ft of the property line which does not meet the minimum setback for lot grading. Additionally, the improvement in the wetland setback would be impacted." Public Works provided the following conditions:

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 directed 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. Flood permitting may be required at time of building permit application. Any compensating storage for fill within the floodplain shall be provided on 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 intent of the Code, LDR Section 1.08.02, is to allow for the lawful repair and reconstruction of nonconforming uses, provided that (1) the repair is for normal maintenance or is incidental in nature; or (2) the nonconforming structure was damaged or destroyed by a fire or natural disaster within 2 years of the date of the repair/reconstruction or; (3) the repair is a structural alteration.

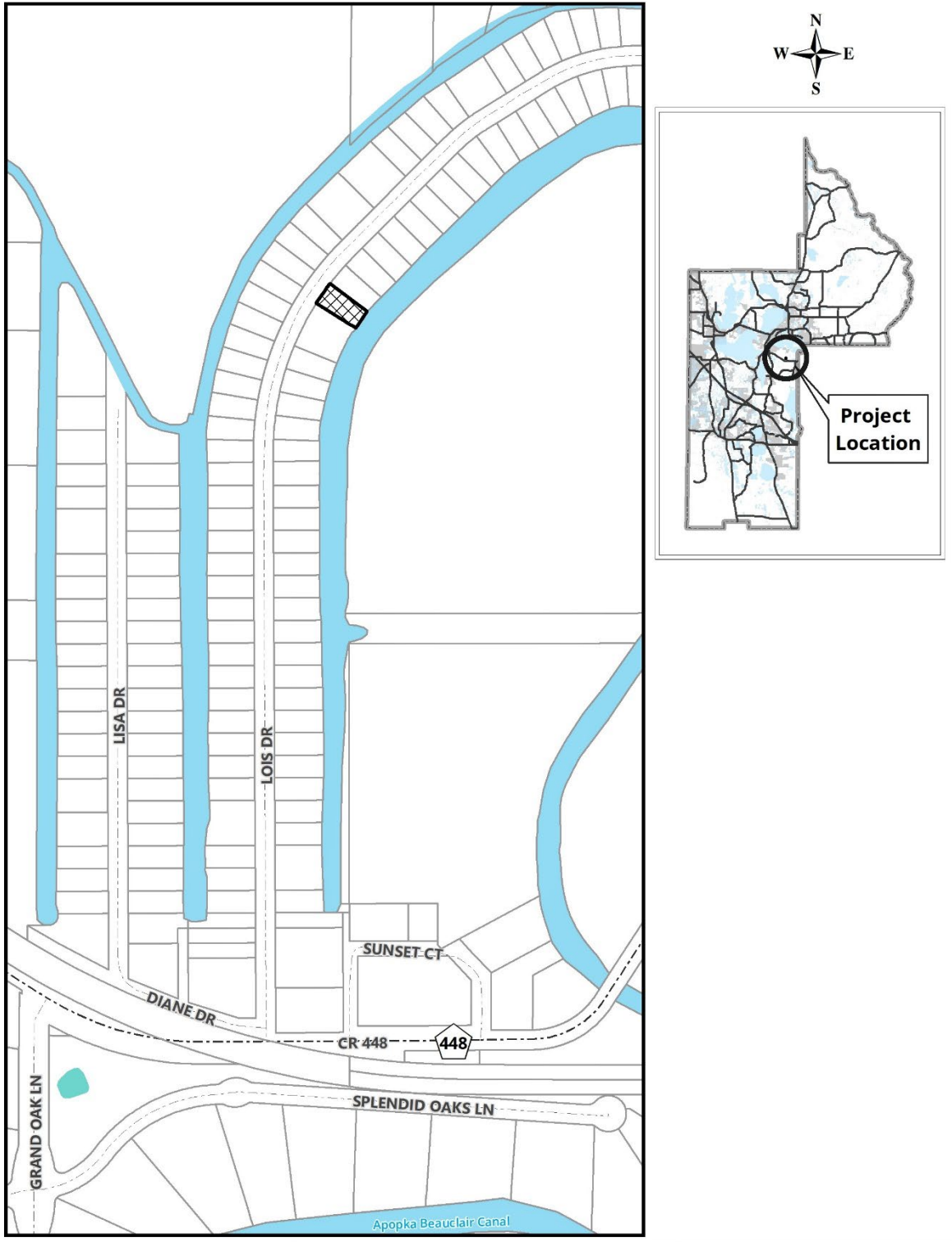
The Applicant provided the following statement as proof that the intent of the LDR will be or has been achieved by other means, *“The deck and the pool & deck already exist. We would be removing old deck and deck/pool and replace with new under small size.”*

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.**

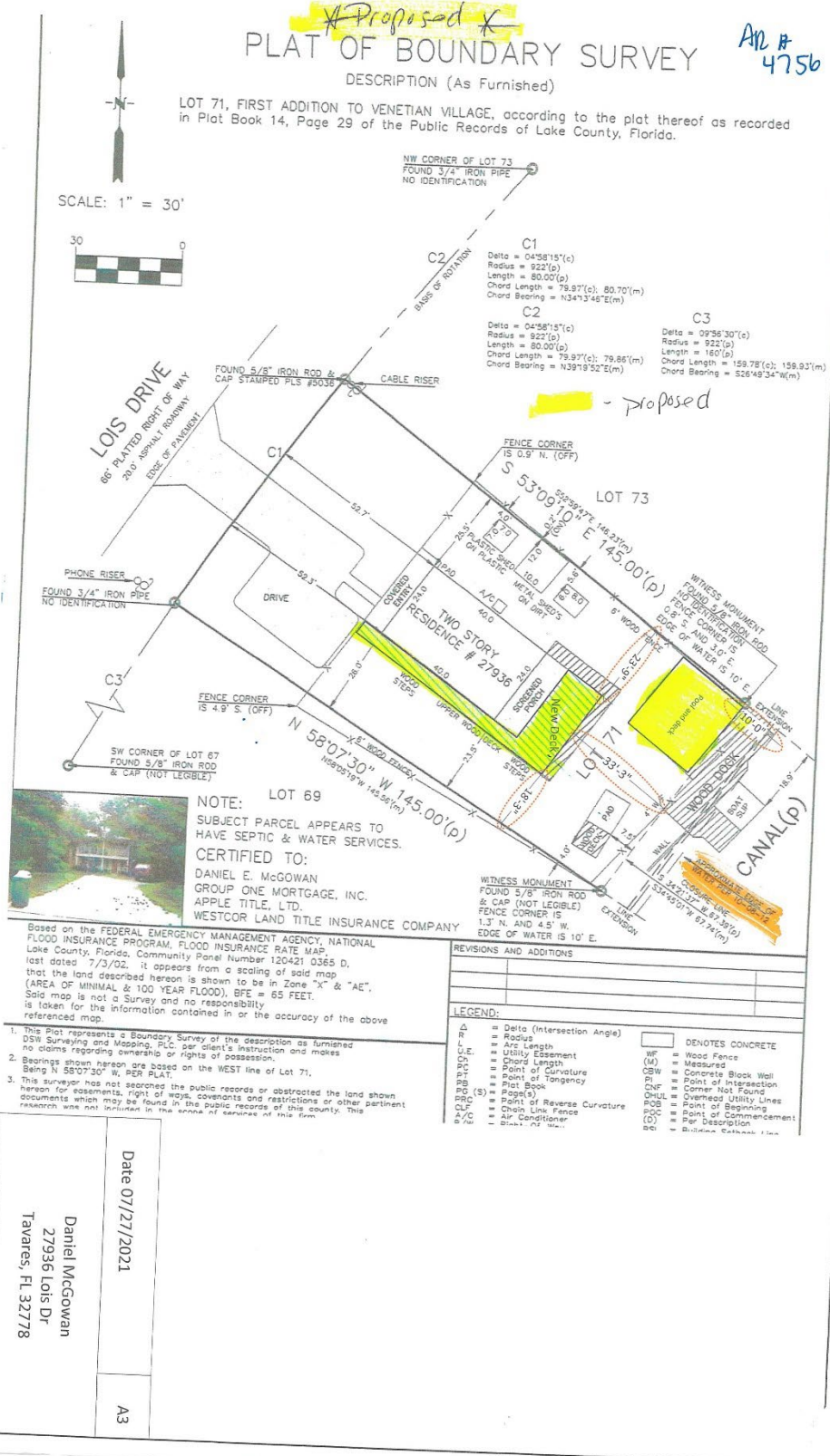
LDR Section 14.15.04 states that for the purposes of this section “substantial hardship” means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.

The Applicant provided the following statement, *“House has existing deck within the 50ft to canal. We would like to remove and replace the deck & deck w/pool.”*

Map of Subject Property



Attachment "A" - Concept Plan



Attachment "B" – Existing Impervious Surface Ratio

Existing Survey

IMPERVIOUS AREA CALCULATION WORKSHEET

PERMIT #: ----

ADDRESS: 27936 Lois Dr, Tavares, Florida 32778

PARCEL ID#: 11 20 26 0200 000 07100

IMPERVIOUS AREA IN SQUARE FEET:

| | |
|--|------|
| TOTAL HOUSE FOOT PRINT | 1920 |
| TOTAL PORCH AND DECK/LANAI | 810 |
| TOTAL DRIVEWAYS | 1180 |
| TOTAL WALKWAYS | 40 |
| TOTAL A/C PADS AND POOL EQUIPMENT | 16 |
| TOTAL OUT BUILDINGS | 215 |
| TOTAL POOL DECK SURFACE (NOT INCLUDING ANY WATER SURFACES) | 1370 |

TOTAL IMPERVIOUS AREA IN SQUARE FEET **A**

TOTAL LOT SQUARE FEET **B**

TOTAL % IMPERVIOUS COVERAGE **(A ÷ B) x 100** %

CITY CODE OF ORDINANCES – DEFINITION OF IMPERVIOUS SURFACE

IMPERVIOUS SURFACE MEANS A SURFACE WHICH HAS BEEN COMPACTED OR COVERED WITH A LAYER OF MATERIAL SO THAT IT IS HIGHLY RESISTANT TO INFILTRATION BY WATER. IT INCLUDES MOST CONVENTIONALLY SURFACED STREETS, ROOFS, SIDEWALKS, PARKING LOTS, PATIOS, WET POND SURFACE AREAS AT NORMAL OR CONTROL ELEVATION, AND OTHER SIMILAR NONPOROUS SURFACES, BUT DOES NOT INCLUDE DRY BOTTOM STORMWATER FACILITIES OR WOOD DECKS OVER SOIL (WITH SPACES BETWEEN PLANKS). ANY DETERMINATIONS REGARDING PERMEABILITY OF MATERIAL OR SURFACE SHALL BE AT THE SOLE DISCRETION OF THE CITY ENGINEER OR DESIGNEE.

NOTE: PAVERS ARE IMPERVIOUS.

Attachment "C" – Proposed Impervious Surface Ratio

Proposed Survey

IMPERVIOUS AREA CALCULATION WORKSHEET

PERMIT #: _____

ADDRESS: 27936 Lois Dr, Tavares, Florida 32778

PARCEL ID#: 11 20 26 0200 000 07100

IMPERVIOUS AREA IN SQUARE FEET:

| | |
|--|-------------|
| TOTAL HOUSE FOOT PRINT | <u>1920</u> |
| TOTAL PORCH AND DECK/LANAI | <u>920</u> |
| TOTAL DRIVEWAYS | <u>1180</u> |
| TOTAL WALKWAYS | <u>40</u> |
| TOTAL A/C PADS AND POOL EQUIPMENT | <u>16</u> |
| TOTAL OUT BUILDINGS | _____ |
| TOTAL POOL DECK SURFACE (NOT INCLUDING ANY WATER SURFACES) | <u>295</u> |

TOTAL IMPERVIOUS AREA IN SQUARE FEET **A**

TOTAL LOT SQUARE FEET **B**

TOTAL % IMPERVIOUS COVERAGE **(A ÷ B)X100** %

CITY CODE OF ORDINANCES – DEFINITION OF IMPERVIOUS SURFACE

IMPERVIOUS SURFACE MEANS A SURFACE WHICH HAS BEEN COMPACTED OR COVERED WITH A LAYER OF MATERIAL SO THAT IT IS HIGHLY RESISTANT TO INFILTRATION BY WATER. IT INCLUDES MOST CONVENTIONALLY SURFACED STREETS, ROOFS, SIDEWALKS, PARKING LOTS, PATIOS, WET POND SURFACE AREAS AT NORMAL OR CONTROL ELEVATION, AND OTHER SIMILAR NONPOROUS SURFACES, BUT DOES NOT INCLUDE DRY BOTTOM STORMWATER FACILITIES OR WOOD DECKS OVER SOIL (WITH SPACES BETWEEN PLANKS). ANY DETERMINATIONS REGARDING PERMEABILITY OF MATERIAL OR SURFACE SHALL BE AT THE SOLE DISCRETION OF THE CITY ENGINEER OR DESIGNEE.

NOTE: PAVERS ARE IMPERVIOUS.

Attachment "D" – Flood Map



This map is NOT an official Floodplain Determination, only a snap shot of FEMA's Flood Insurance Rate Map.
Alt key number 1402913 VAR-22-07-03



1 inch = 25 feet

0 0.0015 0.003 0.006 Miles

This map graphic is a general representation and in no way does Lake County certify its accuracy.
Base Flood Elevations for all zones are not official unless issued on a Lake County Flood Determination Form.
Date: 5/4/2022

**Final Development Order
VAR-22-07-3
McGowan Property**

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

WHEREAS, Felipe Bianco (the “Applicant”), on behalf of Daniel E. McGowan (the “Owner”), requested a variance to Lake County Land Development Regulations (LDR) Sections 1.08.02(B) and 6.01.04(A)(1) to allow the reconstruction of a nonconforming deck attached to the existing residence, and replacement of nonconforming accessory structures including pool, pool deck and associated pool enclosure to be located ten (10) feet from the seawall, in lieu of 50-feet; and

WHEREAS, the subject property consists of 0.26 +/- acres, located at 27936 Lois Drive, in the unincorporated Tavares area of Lake County, Florida, in Section 15 and Section 14, Township 20 South, Range 26 East, having Alternate Key Number 1402913 and more particularly described in Exhibit A – Legal Description; and

WHEREAS, after giving notice of the hearing on the petition for a variance to the Lake County Land Development Regulations (LDR), including notice that the variance would be presented to the Board of Adjustment of Lake County, Florida, on June 9, 2022; 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 9, 2022, 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-22-07-3, to allow the reconstruction of a nonconforming deck attached to the existing residence, and replacement of nonconforming accessory structures including pool, pool deck and associated pool enclosure to be located ten (10) feet from the seawall, in lieu of 50-feet, with the following condition:

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 directed 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. Flood permitting may be required at time of building permit application. Any compensating storage for fill within the floodplain 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 9th day of June 2022.

EFFECTIVE June 9, 2022.

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 June 2022, by James Argento, 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 71, First Addition To Venetian Village, a subdivision in Lake County, Florida, according to the plat thereof, recorded in Plat Book 14, Page(s) 29, of the Public Records of Lake County, Florida.