



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 4

Public Hearing Date: November 10, 2022

Case No. and Project Name: VAR-22-32-3, Johnson Property

Owner: Margaret Johnson

Applicant: Gregory Seghers, Creative Dock Design

Requested Action: Variance request to Land Development Regulations (LDR) Section 6.01.04(A)(1), to allow for the removal of the existing concrete slab that is located 5-feet from the seawall, and replacement with a covered wooden deck that will be 7-feet from the seawall and remain 5-feet from the boat slip, in lieu of the required 50-foot setback from the ordinary high water line, mean high water line, or jurisdictional wetland line. On (date) an Average Setback of 23.04-feet from the seawall was issued (AS 2022-08-3).

Case Manager: James Frye, Planner

Subject Property Information

Size: 0.25 +/- acres

Location: 26605 East Cove Drive, in the Tavares area of unincorporated Lake County.

Alternate Key No.: 1724732

Future Land Use: Rural Transition

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

Flood Zone: "X"

Joint Planning Area (JPA) / ISBA: Not Applicable

Overlay Districts: N/A

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural Transition	Urban Residential District (R-6)	Residential	Single-Family Residence
South	Rural Transition	Urban Residential District (R-6)	Residential	Single-Family Residence
East	Rural Transition	Urban Residential District (R-6)	Residential	Single-Family Residences, adjacent to East Cove Drive
West	Canal	Canal	Canal	"Blue Bream Cove" according to the recorded Plat of Lake Harris Shores Unit 2 (PB 17, PG 36)

Summary of Request.

The subject property, identified by Alternate Key Number 1724732, consists of 0.25 +/- acres, is zoned Urban Residential District (R-6), and is designated with a Rural Transition Future Land Use Category by the 2030 Comprehensive Plan. The subject property is located North of Country Club Drive, and east of East Cove Drive in the Tavares area of unincorporated Lake County, specifically at 26605 East Cove Drive. An existing single-family residence with accessory uses are located on the property. There is a canal located along the rear of the property that allows boat access to Lake Harris. A seawall is located along the rear of the property adjacent to the water's edge of the canal. According to the Property Appraiser's database, the seawall was constructed in 1991. An examination of historical aerial photographs reveals the canal to be manmade and is depicted on the plat, which was approved in 1964.

The Applicant has requested a Variance to LDR Section 6.01.04(A)(1), to allow for the removal of an existing concrete slab that is located 5-feet from the seawall, and replace said slab with a covered wooden deck that will be 7-feet from the seawall and remain 5-feet from the boat slip in lieu of the required 50-foot setback from the ordinary high water line of the canal, of which the seawall is located adjacent to. On May 5, 2022, an Average Setback determination was issued to allow a setback of 23.04-feet from the water's edge of the canal in lieu of the required 50-feet. The existing concrete slab is 25 feet by 12 feet, and is proposed to be replaced with a wooden deck that is 25 feet by 10 feet, along with a pan roof. The Applicant submitted a Plot Plan (Attachment "A") which indicates proposed 25-feet by 10-feet covered deck.

As stated above, there is an existing single-family residence located on the property. According to the Property Appraiser's database, the residence was constructed in 1979. The front of the existing single-family residence is approximately 77-feet from the water's edge of the canal, based on measurements from the Property Appraiser's database. According to the Property Appraiser's database, the seawall was constructed in 1991, and the boat dock was constructed in 1999. The property owner purchased the home in 2012 according to the Property Appraiser's database.

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 acknowledge the wetlands of Lake County are valuable natural resources which provide beneficial functions contributing to the quality of life of County residents and visitors. It is the purpose of this Section that wetlands be conserved and protected to ensure that the natural structure and functional values are maintained. The intent of this Section is no net loss of wetlands whether by functional value or extent within Lake County. LDR Section 6.01.04(A)(1) states principal structures, structures, buildings, and impervious surface, excluding water dependent structures, shall be located at least (50) feet from the ordinary high water line, mean high water line, or jurisdictional wetland line, whichever is further landward.

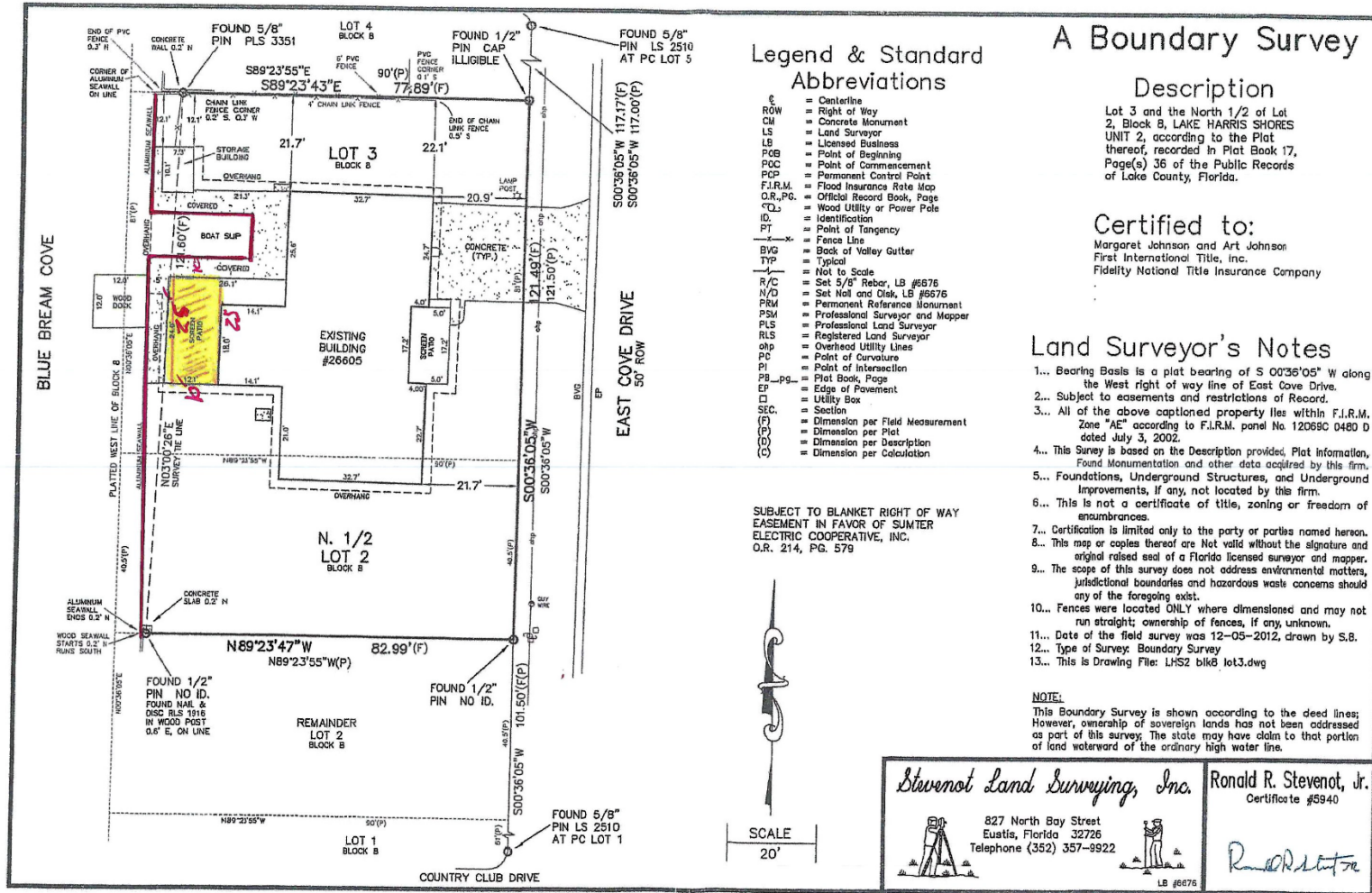
Additionally, LDR Section 6.01.04(A)(1)(d) allows for average setback determinations on lots that front on a canal; in cases that the average setback determination results do not result in a desired outcome, and applicant may further pursue a variance request.

The Applicant provided the following statement as proof that the intent of the Code will be or has been achieved by other means: *"The slab which is original to the home is approximately 5' from the seawall and there is a concrete walkway which is also original to the home, both of which are pushing the seawall out causing damage. We are proposing to remove the 25' x 12' concrete section and rebuild a smaller 25' x 10' wooden deck with a pan roof. This will relieve the pressure on the seawall and stop further damage to the seawall from occurring."*

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 Applicant provided a written statement (Attachment "B") as proof of a substantial hardship.

Attachment "A" - Plot Plan



Legend & Standard Abbreviations

- CL = Centerline
- ROW = Right of Way
- CM = Concrete Monument
- LS = Land Surveyor
- LB = Licensed Business
- LB = Point of Beginning
- PCC = Point of Commencement
- PCP = Permanent Control Point
- F.I.R.M. = Flood Insurance Rate Map
- O.R., P.G. = Official Record Book, Page
- ID = Identification
- IT = Point of Tangency
- Fence Line = Fence Line
- BVG = Back of Valley Gutter
- TYP = Typical
- Not to Scale = Not to Scale
- R/C = Set 5/8" Rebar, LB #6876
- N/D = Set Nail and Disk, LB #6876
- PRM = Permanent Reference Monument
- PSM = Professional Surveyor and Mapper
- PLS = Professional Land Surveyor
- RLS = Registered Land Surveyor
- o/p = Overhead Utility Lines
- PC = Point of Curvature
- PI = Point of Intersection
- pg. = Plot Book, Page
- EP = Edge of Pavement
- U = Utility Box
- SEC. = Section
- (F) = Dimension per Field Measurement
- (M) = Dimension per Map
- (D) = Dimension per Description
- (C) = Dimension per Calculation

A Boundary Survey

Description

Lot 3 and the North 1/2 of Lot 2, Block B, LAKE HARRIS SHORES UNIT 2, according to the Plat thereof, recorded in Plat Book 17, Page(s) 36 of the Public Records of Lake County, Florida.

Certified to:

Margaret Johnson and Art Johnson
First International Title, Inc.
Fidelity National Title Insurance Company

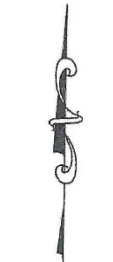
Land Surveyor's Notes

- 1... Bearing Basis is a plat bearing of S 00°36'05" W along the West right of way line of East Cove Drive.
- 2... Subject to easements and restrictions of Record.
- 3... All of the above captioned property lies within F.I.R.M. Zone "AE" according to F.I.R.M. panel No. 12069C 0480 D dated July 3, 2002.
- 4... This Survey is based on the Description provided, Plat Information, Found Monumentation and other data acquired by this firm.
- 5... Foundations, Underground Structures, and Underground Improvements, if any, not located by this firm.
- 6... This is not a certificate of title, zoning or freedom of encumbrances.
- 7... Certification is limited only to the party or parties named hereon.
- 8... This map or copies thereof are Not valid without the signature and original raised seal of a Florida licensed surveyor and mapper.
- 9... The scope of this survey does not address environmental matters, jurisdictional boundaries and hazardous waste concerns should any of the foregoing exist.
- 10... Fences were located ONLY where dimensioned and may not run straight; ownership of fences, if any, unknown.
- 11... Date of the field survey was 12-05-2012, drawn by S.B.
- 12... Type of Survey: Boundary Survey
- 13... This is Drawing File: LHS2 blk8 lot3.dwg

NOTE:

This Boundary Survey is shown according to the deed lines; However, ownership of sovereign lands has not been addressed as part of this survey. The state may have claim to that portion of land waterward of the ordinary high water line.

SUBJECT TO BLANKET RIGHT OF WAY EASEMENT IN FAVOR OF SUMTER ELECTRIC COOPERATIVE, INC. O.R. 214, PG. 579



Stevenot Land Surveying, Inc.



827 North Bay Street
Eustis, Florida 32726
Telephone (352) 357-9922



Ronald R. Stevenot, Jr.
Certificate #5940

Ronald R. Stevenot, Jr.

LB #6876

Attachment "B" – Proof of Hardship

To Whom It May Concern:

Margaret Johnson has a back porch/patio that is a part of the original home build.

It is a 25'x12' concrete slab on a 2' stem wall with an aluminum pan roof. The slab, which is original to the home, is approximately 5' away from the seawall and there is a concrete walkway which is also original to the home, both of which are pushing the seawall out causing damage.

We are proposing to remove the 25'x12' concrete section and rebuild a smaller 25'x10' wooden deck with a pan roof.

This will relieve the pressure on the seawall and stop further damage to the seawall from occurring.

The structure is original to the home & attached to the house, the longer we wait to repair this, the more the slab will continue to push on the seawall causing the seawall to fail.

We have been trying to get this through zoning for about eight months now, we were originally told that we needed to have an average setback done, we paid for that and were told that someone would be out within a few days to complete that, we did not get anything back for a month or so.

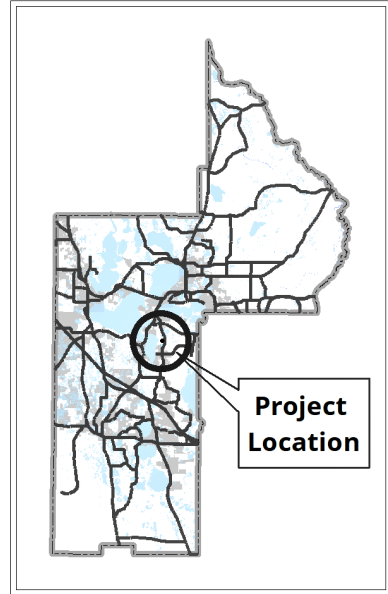
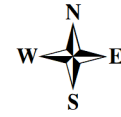
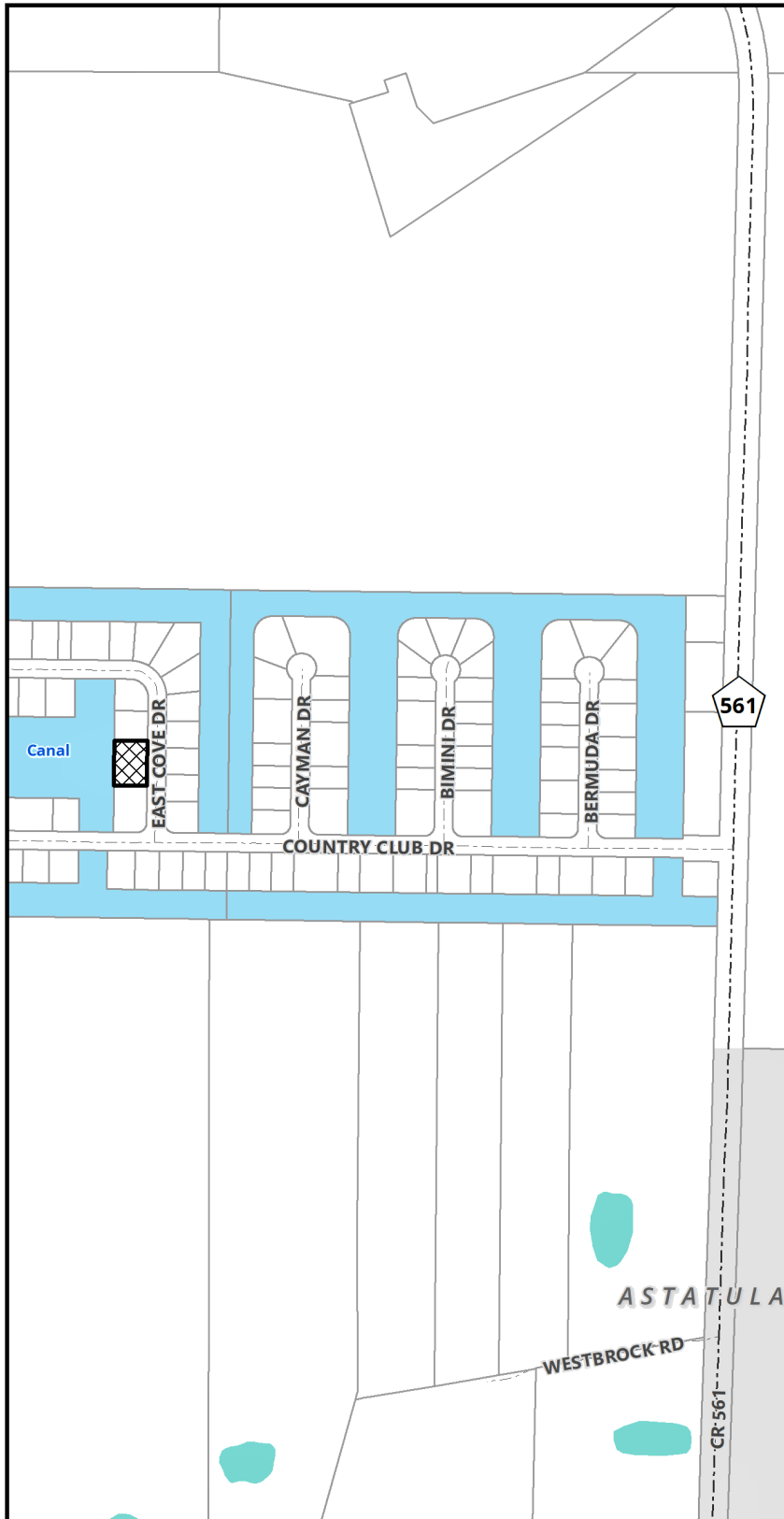
Rainy season is approaching and this needs to be repaired as soon as possible.

Thank you,



Gregory Seghers
Creative Dock Design - Vice President
352-299-7982

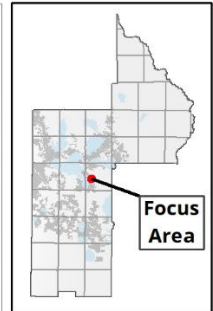
Map of Subject Property



Aerial Map



VAR-22-32-3
Johnson Property



Wetland Setback
Adjustment

**Final Development Order
VAR-22-32-3
Johnson Property**

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

WHEREAS, Gregory Seghers, Creative Dock Design (the “Applicant”), on behalf of Margaret Johnson (the “Owner”), requested a variance to Lake County Land Development Regulations (LDR) Section 6.01.04(A)(1), to allow for the removal of the existing concrete slab that is located 5-feet from the seawall, and replacement with a covered wooden deck that will be 7-feet from the seawall and remain 5-feet from the boat slip, in lieu of the required 50-foot setback from the ordinary high water line, mean high water line, or jurisdictional wetland line; and

WHEREAS, On May 5, 2022, an Average Setback (AS 2022-08-3) of 23.04-feet from the seawall was granted; and

WHEREAS, the subject property consists of 0.25 +/- acres and is located at 26605 East Cove Drive in the unincorporated Tavares area of Lake County, in Section 20, Township 20, Range 26, having Alternate Key Number 1724732, and more particularly described below; and

LAKE HARRIS SHORES, UNIT 2 N 1/2 OF LOT 2, LOT 3, BLK 8 PB 17 PG 36 ORB
4252 PG 2464 ORB 6002 PG 1464

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 November 10, 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 November 10, 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-22-32-3, to allow for the removal of the existing concrete slab that is located 5-feet from the seawall, and replacement with a covered wooden deck that will be 7-feet from the seawall and remain 5-feet from the boat slip.
- 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 November 2022.
EFFECTIVE November 10, 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 10th day of November 2022, by James Argento, as Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

**Notary Signature
(SEAL)**