



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 3

Public Hearing Date: March 6, 2024

Case No. and Project Name: PZ2023-81 McCahey Property

Owners/Applicants: William Robert McCahey and Karen Joan McCahey

Requested Action: Variance to Land Development Regulations (LDR) Section 6.01.04(A)(1)(a) to allow a residential addition to be constructed 5-feet from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required 50-feet.

Case Manager: Shari Holt, Planner

Subject Property Information

Size: 0.29 +/- acres

Location: 10211 Lake Louisa Road, in the unincorporated Clermont area

Alternate Key No.: 1663423

Future Land Use: Green Swamp Ridge (Attachment "A")

Current Zoning District: Urban Residential (R-6) (Attachment "B")

Flood Zones: "X" and "AE"

Joint Planning Area (JPA) / ISBA: Clermont Joint Planning Area and Clermont Interlocal Service Boundary Agreement

Overlay Districts: Green Swamp Area of Critical State Concern Overlay District (GSACSC)

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low	Urban Residential (R-6)	Right-of-Way and Common Area/Residential	Residential Common Area north of Lake Louisa Road
South	N/A	N/A	Lake	Lake Louisa
East	Green Swamp Ridge	Residential Professional (RP)	Residential	Single-Family Residence

Direction	Future Land Use	Zoning	Existing Use	Comments
West	Green Swamp Ridge	Urban Residential (R-6)	Residential	Single-Family Residence

Summary of Request

The subject property, identified as Alternate Key Number 1663423, contains 0.29 +/- acres, is zoned Urban Residential (R-6), designated with a Green Swamp Ridge Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. The subject property is located at 10211 Lake Louisa Road, in the unincorporated Clermont area. The Plot Plan (Attachment “C”) indicates that the subject parcel is developed with a single-family residence, attached garage, boat dock, and boathouse. GIS maps indicate that there are wetlands on the site and that the subject parcel is located within Flood Zones “AE” and “X.”

The Applicant has requested a variance to LDR Section 6.01.04(A)(1)(a) to allow a residential addition to be constructed 5-feet from the seawall, in lieu of the required 50-feet from the ordinary high-water line, mean high water line, or jurisdictional wetland line as depicted in the Attachment “C” – Plot Plan. LDR Section 6.01.04(A)(1)(a) requires that principal structures, structures, buildings, and impervious surface, excluding water dependent structures, be located at least fifty (50) feet from the ordinary high-water line, mean high water line, or jurisdictional wetland line, whichever is further landward. The variance application was sent to the City of Clermont for review for and determination of consistency with their regulations. The City of Clermont had no comments or objections to the request.

The variance application was sent to the Public Works Department and the Chief Fire Plans Examiner for review for and determination of consistency with their regulations. The Chief Fire Plans Examiner did not identify any comments or objections to the request. The Public Works Department provided the following comments:

1. The parcel is within the special flood hazard area and will require both a flood determination and flood permitting for the addition to the existing house.
2. Elevation certificates provided by a Florida licensed surveyor will be required for the addition to the existing house during the construction and after building permit approval.
3. The finished floor for the addition must be elevated a minimum 18-inches above the base flood elevation. Additional flood construction requirements may apply and will be further reviewed at time of building permit application. A plan by a Florida licensed professional engineer will be required at time of building permit application.
4. Compensating storage will be required for areas within the flood hazard are filled for the construction of the proposed addition. A Florida licensed professional engineer will need to design the grading plan and provide compensating calcs for the fill within the flood hazard area.
5. The property is within the Green Swamp Area of Critical State Concern where development in the Most Effective Recharge Areas (Type “A” Hydrologic Soil Group) must retain the first three inches (3”) of runoff. The applicant/property owner must demonstrate and the must retain the first three inches (3”) of runoff from the impervious area. An engineered design, plan, and calculations by a State of Florida license engineer will be required to be submitted with the zoning and building permit applications. The interceptor/environmental swale will need to be between the addition and the Lake Lousia. The swale must be in the uplands portion of the property and not within the jurisdictional wetlands. The minimum requirement for the swale is 1:4 side slopes with minimum one foot (1’) deep.

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 6.01.00, *Protection of Wetlands and Waterbodies*, is to protect and ensure that the natural structure and functional values of wetlands and waterbodies are maintained.

The Applicant provided the following statement as evidence that the intent of the Land Development Regulations will be or has been achieved by other means, *“No other means to add a bedroom.”*

The property owner has agreed to install a stormwater abatement system for the entire site, to be installed prior to final inspection of permits, and will not exceed the impervious surface ratio designated for R-6 zoning (55 percent).

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 the following statement, *“Presently the house has only one bedroom and we are looking to add an additional bedroom.”*

3. Other Relevant Information. On January 9, 1997, the Board of Adjustment approved case number 42-96-2 (Attachment “D”), to allow an addition to the existing residence to be constructed less than 5-feet from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required 50-feet with the following conditions:

1. The owner will provide and install a stormwater abatement system for the entire site (both existing and proposed additions), to be installed prior to final inspection of permits.
2. The proposed additions shall not be located closer than five feet from the existing seawall.
3. The owner will be responsible for correcting or providing any shoreline mitigation or alternation permits from the required agencies.
4. The site shall not exceed the impervious surface ratio designated for R-6 zoning (55 percent).

Building permit records indicate that a 3-foot by 47-foot wooden deck extension was constructed in 2015 utilizing the provisions of the 1997 variance five-feet from the existing seawall.

Additionally, Comprehensive Plan Policy I-4.2.2, *Green Swamp Ridge Future Land Use Category*, establishes that the maximum impervious surfaces ratio shall be 0.45. The proposed residential addition is consistent with this plan policy, as the subject parcel currently has an impervious surface ratio of 0.42.

LDR Section 14.15.04, establishes additional criteria for variances to the setback requirement from an ordinary high-water line, mean high water line, or jurisdictional wetland line. A variance to the setback requirements from an ordinary high-water line, mean high water line, or jurisdictional wetland line may be granted if:

A. The lot is a developable Lot of Record, or the lot was legally created through a development order prior to March 2, 1993.

Pursuant to LDR, Chapter II, *Definitions*, a Lot of Record is “a Lot in a Plat recorded in Plat Books 1—22, Public Records of Lake County. A Lot created by a deed which was recorded in the Public Records of Lake County prior to May 20, 1981 and legally describes a Parcel of Land by metes and bounds; A Lot created by a Contract for Deed which was recorded in the Public Records of Lake County prior to May 20, 1981 and legally describes a Parcel of Land by metes and bounds; or a Lot in an unrecorded Plat, recognized by Lake County and identified on the official Zoning Map of Lake County.”

The subject parcel complies with the Lot of Record definition as the subject parcel was identified by a deed recorded in the Public Records of Lake County on April 3, 1978, and describes the property through metes and bounds.

B. All other remedies have been exhausted, such as a variance to all other setback requirements.

The Applicant indicates that no other remedy is available to construct an addition and no other setback is applicable.

C. The maximum developable area shall be limited to 30 feet in width or depth.

Yes. As seen in Attachment “C”, the residential addition proposed dimension is 15-feet in width by 23-feet in depth.

D. The first one inch (1”) of storm water runoff shall be captured on site.

Should the variance request be approved, the following conditions are included in the final development order in order for the requirements to be met:

1. The parcel is within the special flood hazard area and will require both a flood determination and flood permitting for the addition to the existing house.
2. Elevation certificates provided by a Florida licensed surveyor will be required for the addition to the existing house during the construction and after building permit approval.
3. The finished floor for the addition must be elevated a minimum 18-inches above the base flood elevation. Additional flood construction requirements may apply and will be further reviewed at time of building permit application. A plan by a Florida licensed professional engineer will be required at time of building permit application.
4. Compensating storage will be required for areas within the flood hazard are filled for the construction of the proposed addition. A Florida licensed professional engineer will need to design the grading plan and provide compensating calcs for the fill within the flood hazard area.
5. An interceptor/environmental swale that is sized to capture the first 1-inch of stormwater runoff from the imperious area of the parcel 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.

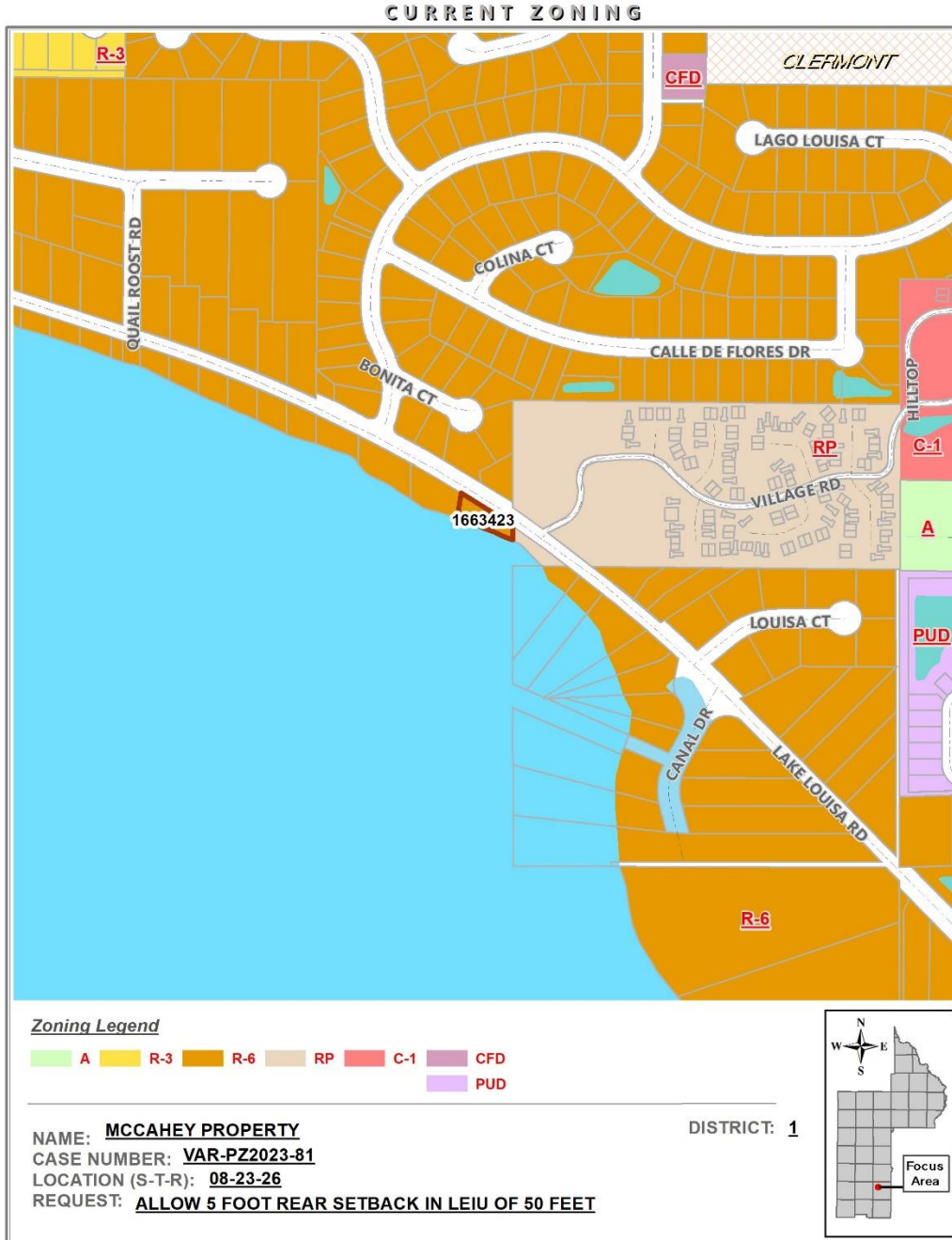
E. Development is constructed as far landward on the lot as possible.

Yes. As depicted in Attachment "C", the proposed residential addition is proposed to be constructed the same distance from the seawall as the existing single-family residence.

Attachment "A" – Future Land Use Map

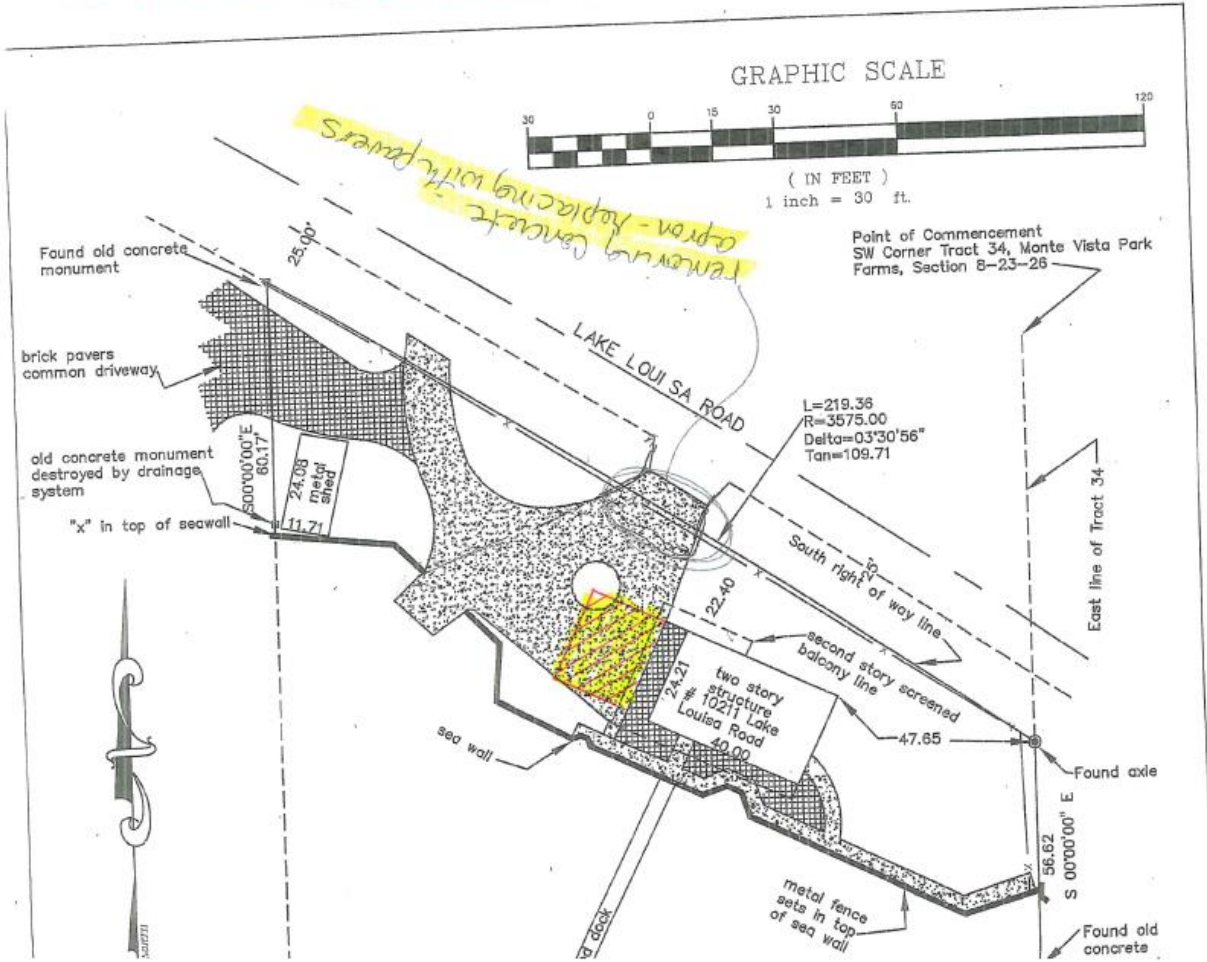


Attachment "B" – Zoning Map



Attachment "C" – Plot Plan

SITE PLAN WITH PROPOSED EXTENSION IN RED



Attachment "D" – 1996 Variance (Page 1 of 4)

97 03031

REC 1700
TF 250

BOOK 1490 PAGE 782

ORDER OF THE LAKE COUNTY BOARD OF ADJUSTMENT

OWNER: Anthony A. Sarandes/Kevin S. Campbell BOA#42-96-2

LAKE COUNTY, a political subdivision of the State of Florida, hereby grants a variance(s) from the Lake County Land Development Regulations, as amended, for the property legally described in EXHIBIT "A" requesting a variance(s) as outlined in EXHIBIT "B" and as approved in EXHIBIT "C".

This Order hereby incorporates by reference, the Board of Adjustment Minutes, Hearing Exhibits, and Lake County Staff file. These items are located at 315 West Main Street, Tavares, Florida 32778, and may be acquired through a public records request.

LAKE COUNTY, A Political Subdivision
of the State of Florida

Paul A. Bergmann
PAUL BERGMANN, DIRECTOR, AICP, AIA
Development & Regulation Services

STATE OF FLORIDA
COUNTY OF LAKE


The foregoing instrument was acknowledged before me this 9 day of JAN., 1997, by PAUL BERGMANN, who is personally known to me.

Sheila M. Short
Signature of Acknowledger

Sheila M. Short
Name of Acknowledger (Typed or Print)

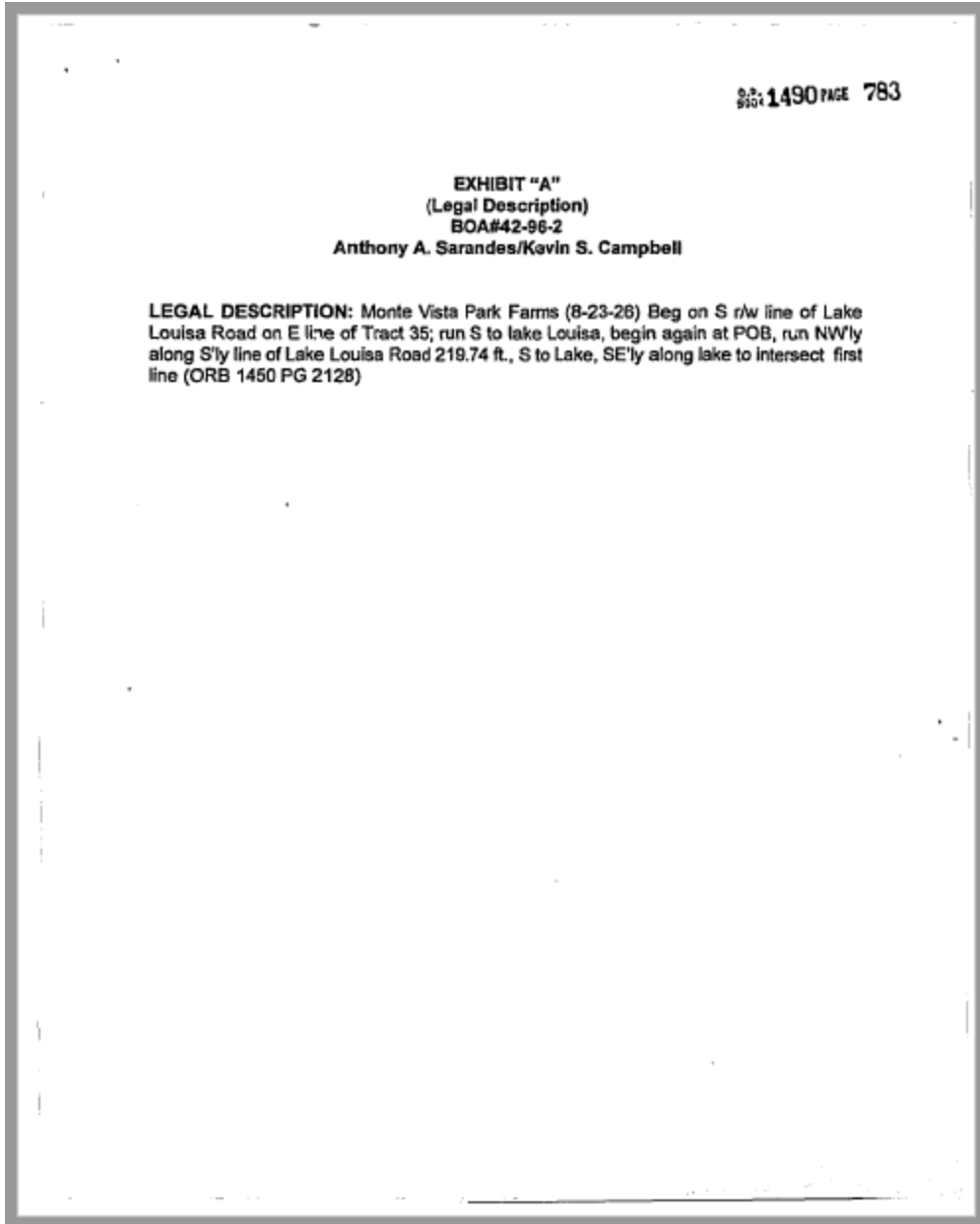
Land Use Dept.
Title or Rank

Serial Number, if any
MY COMMISSION EXPIRES: (SEAL)

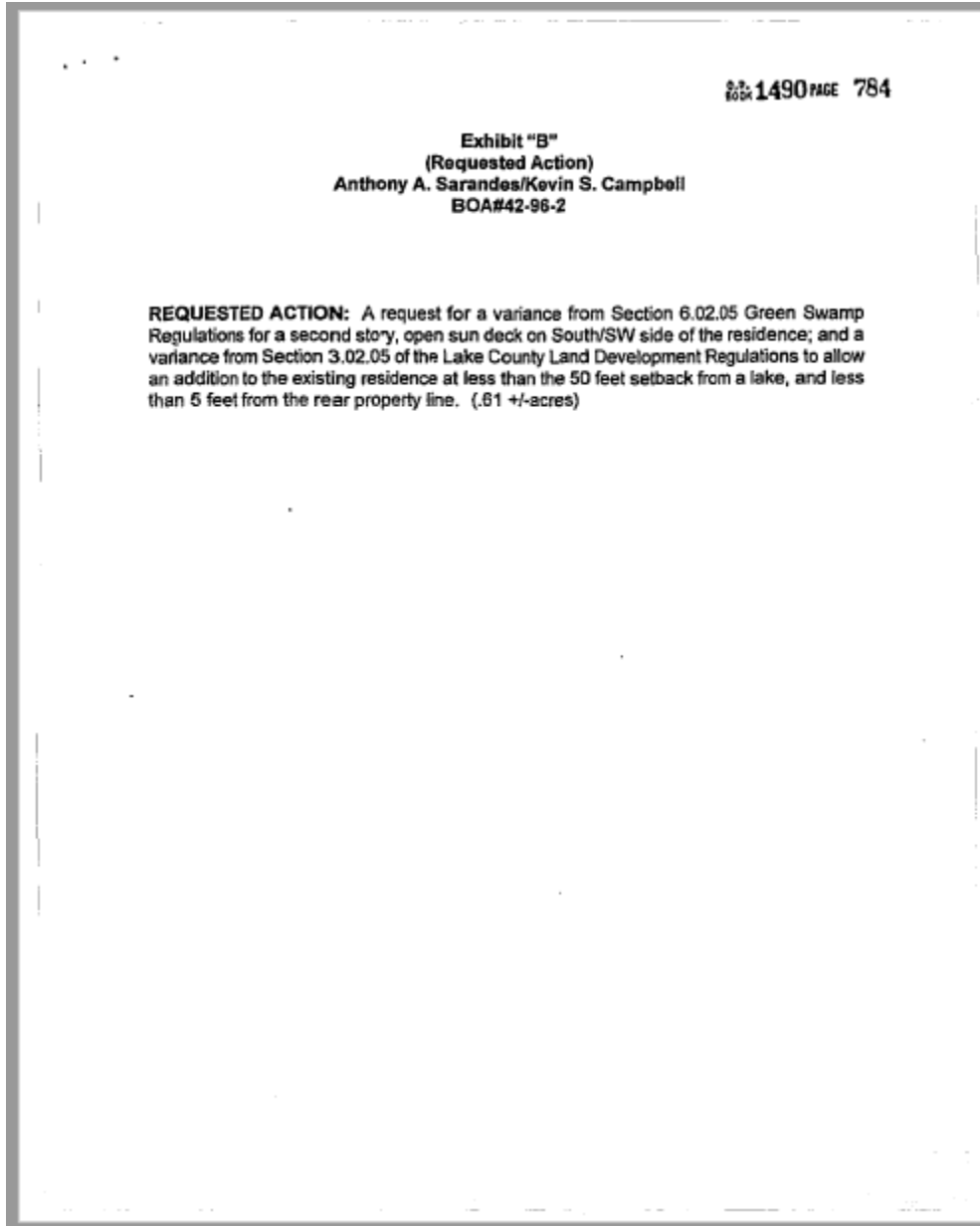


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CLERK COUNTY COURT

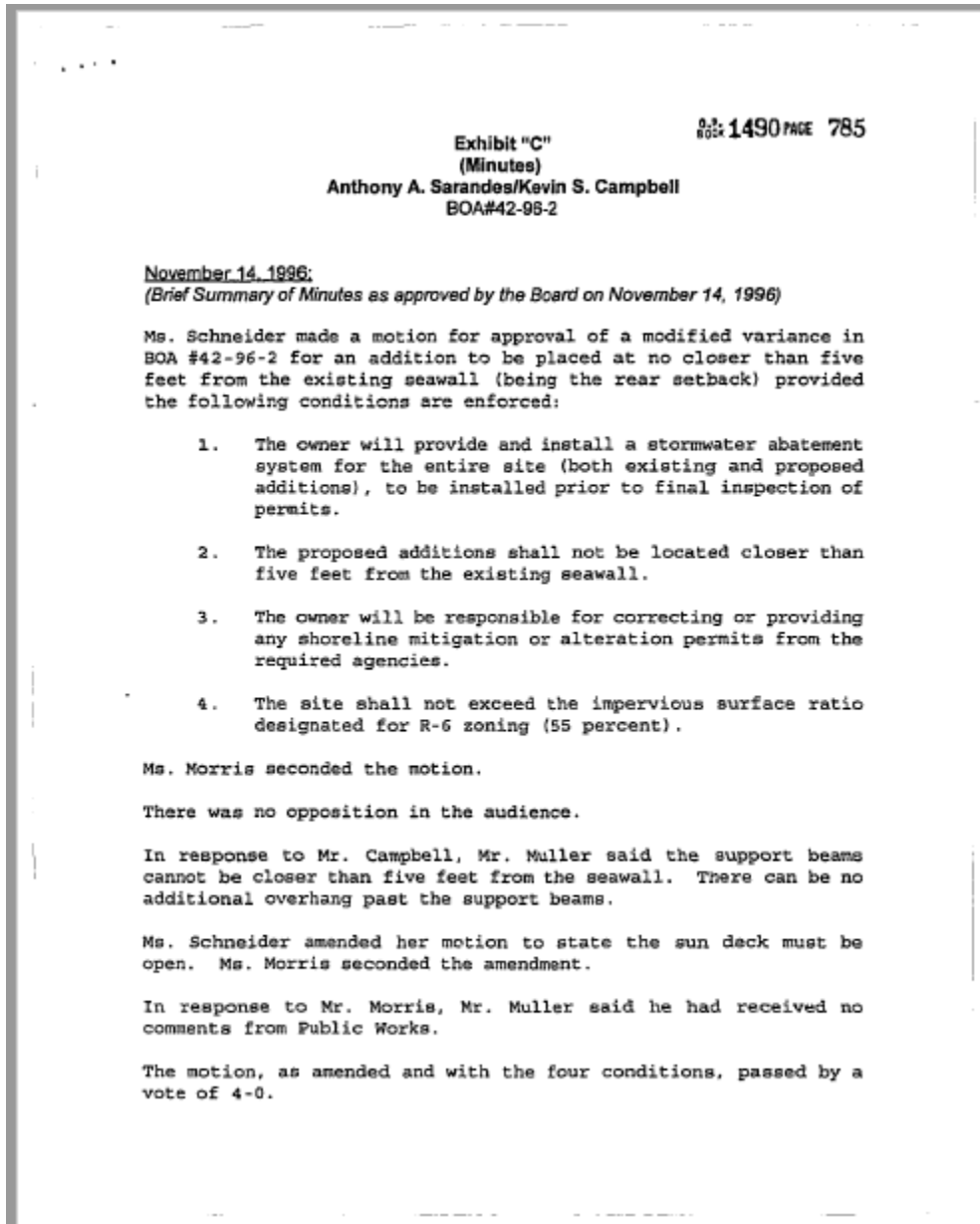
Attachment "D" – 1996 Variance (Page 2 of 4)



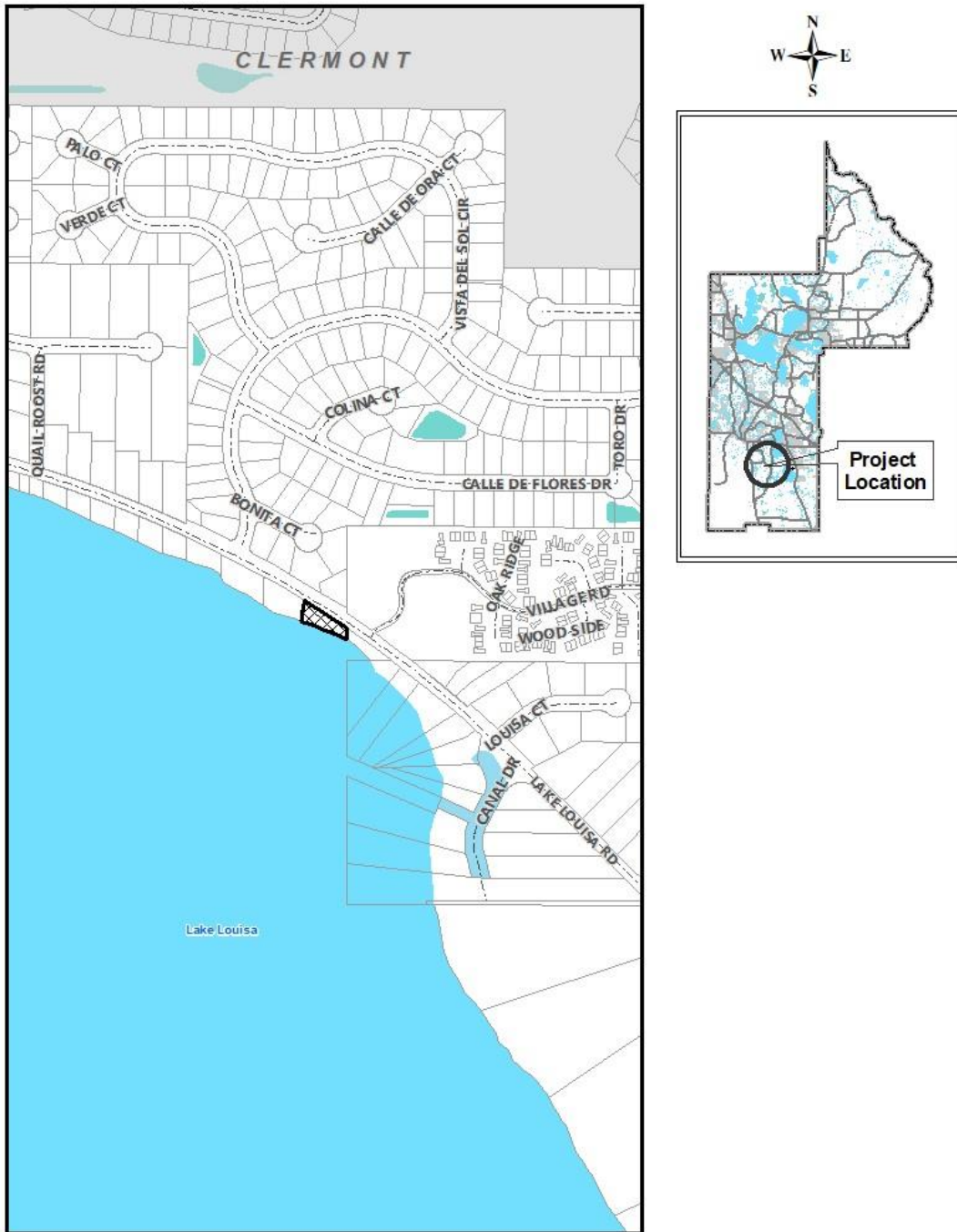
Attachment "D" – 1996 Variance (Page 3 of 4)



Attachment "D" – 1996 Variance (Page 4 of 4)



Map of Subject Property



Aerial Map of Subject Property



Final Development Order

WHEREAS, William Robert McCahey and Karen Joan McCahey, (the “Owners” and “Applicants”) requested a variance to Land Development Regulations (LDR) Section 6.01.04(A)(1)(a) to allow a residential addition to be constructed 5-feet from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required 50-feet; and

WHEREAS, the subject property consists of 0.29 +/- acres, is located at 10211 Lake Louisa Road, in the unincorporated Clermont area of Lake County, in Section 08, Township 23, Range 26, having Alternate Key Number 1663423, and more particularly described in Exhibit A, attached hereto and incorporated herein by reference; and:

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 March 6, 2024; 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.

DONE AND ORDERED by the Board of Adjustment of Lake County, Florida, that:

Variance Granted: A variance to Section 6.01.04(A)(1)(a) to allow to allow a residential addition to be constructed 5-feet from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required 50-feet is hereby granted, with the following conditions:

- a. The parcel is within the special flood hazard area and will require both a flood determination and flood permitting for the addition to the existing house.
- b. Elevation certificates provided by a Florida licensed surveyor will be required for the addition to the existing house during the construction and after building permit approval.
- c. The finished floor for the addition must be elevated a minimum 18-inches above the base flood elevation. Additional flood construction requirements may apply and will be further reviewed at time of building permit application. A plan by a Florida licensed professional engineer will be required at time of building permit application.
- d. Compensating storage will be required for areas within the flood hazard are filled for the construction of the proposed addition. A Florida licensed professional engineer will need to design the grading plan and provide compensating calcs for the fill within the flood hazard area.
- e. The property is within the Green Swamp Area of Critical State Concern where development in the Most Effective Recharge Areas (Type “A” Hydrologic Soil Group) must retain the first three inches (3”) of runoff. The applicant/property owner must demonstrate and the must retain the first three inches (3”) of runoff from the impervious

area. An engineered design, plan, and calculations by a State of Florida license engineer will be required to be submitted with the zoning and building permit applications. The interceptor/environmental swale will need to be between the addition and the Lake Lousia. The swale must be in the uplands portion of the property and not within the jurisdictional wetlands. The minimum requirement for the swale is 1:4 side slopes with minimum one foot (1') deep.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Addie Owens, Chairman

State of Florida

County of Lake

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 6th day of March, 2024, by Addie Owens, as Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

(SEAL)

Notary Signature

Pursuant to Section 286.0105, Florida Statutes, if any person desires to appeal any decision with respect to a matter considered at a public meeting or hearing of the Board of Adjustment, such person will need a record of the proceedings, and such person may need to ensure that a verbatim record for such purpose is made, which record includes the testimony and evidence upon which the appeal is based.

A final administrative order of the Board of Adjustment may be appealed to the Circuit Court in Lake County, Florida. Such an appeal shall be filed within thirty (30) days of the execution of this Order. Those filing an appeal of an administrative order must comply with all applicable Florida Rules of Appellate Procedure.

Exhibit "A"

Commence at the Southwest corner of Tract 34, Section 8, Township 23 South, Range 26 East, Lake County, Florida, PLAT OF MONTE VISTA PARK FARM; run South to the Southerly right of way line of Lake Louisa Road and the Point of Beginning; thence continue South to the waters of Lake Louisa; Begin again at the Point of Beginning; thence Northwesterly along aforesaid Southerly right of way line being a curve to the left and having a radius of 3575.00 feet an arc distance of 219.74 feet; thence South to the waters of Lake Louisa; thence Southeasterly along said waters to intersect first line.

Parcel Identification Number: 1323250700-035-00001