



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 4

Public Hearing Date: November 6, 2024

Case No. and Project Name: PZ2024-157 Sims Property

Applicant/Owners: Chad Sims and Marilyn Sims

Requested Action: Variance to Land Development Regulations (LDR) Section 6.01.04(A)(1), to allow their existing deck and pergola to remain constructed within one (1) foot from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required 50' setback.

Case Manager: Meagan Bracciale, Planner I

Subject Property Information

Size: 0.22 +/- acres

Location: 12345 Pine Island Drive, in the unincorporated Leesburg area

Alternate Key No.: 1250498

Future Land Use: Urban Low Density (Attachment "A")

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

Flood Zones: "X" and "AE"; LOMA Determination (02-04-6314A)

Joint Planning Area (JPA) / ISBA: N/A

Overlay Districts: N/A

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low Density	Urban Residential District (R-6)	Canal, Residential	Single-Family Residence North of the Canal
South	Urban Low Density	Urban Residential District (R-6)	Right-Of-Way, Residential	Single-Family Residence South of Pine Island Drive
East	Urban Low Density	Urban Residential District (R-6)	Residential	Single-Family Residence
West	Urban Low Density	Urban Residential District (R-6)	Residential	Single-Family Residence

– Summary of Analysis –

The subject property, identified as Alternate Key Number 1250498, contains 0.22 +/- acres, is zoned Urban Residential District (R-6), is designated with an Urban Low Density Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. The subject property is located at 12345 Pine Island Drive in the unincorporated Leesburg area of Lake County. The Plot Plan (Attachment “C”) indicates that the subject parcel is developed with single-family residence and water dependent dock.

The Applicant has requested a variance to Land Development Regulations (LDR) Section 6.01.04(A)(1), to allow their existing deck and pergola to remain constructed within one (1) foot from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required 50’ setback, as depicted in Attachments “C” and “D”. This structure is attached to the previously existing dock, but the structure is not over the water. Pursuant to LDR Section 6.01.04(A)(1) entitled Development near Wetlands and Waterbodies, 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. Pursuant to LDR 6.01.04(A)(1)(e), exceptions to this requirement include a variance to the setback requirements listed above.

On August 21, 2024, the variance application was sent to the Public Works Department and the Chief Fire Plans Examiner to review for a determination of consistency with their regulations. Neither the Chief Fire Plans Examiner, nor the Public Works Department, had any comments.

Approval of this variance request would assist in resolving open Code Case #2024010077.

– 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 Applicant provided the following statement as evidence that the intent of the Land Development Regulations will be or has been achieved by other means, *“We have neighbors that are just as close and closer to the water.”*

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, *“We did not realize we needed to pull a permit. We started by replacing the deck that was already there and built on to that. This is a major improvement to our value to our home and spent around \$12,000.00 building this. This would be a major hardship for us if not approved.”*

LDR Section 14.15.04 states that variances 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 Chapter II, Lake County Code, Appendix E, Land Development Regulations, a Lot of Record is defined as 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.

Per Lake County's 2030 Comprehensive Plan Policy I-7.1.3 (B): There shall be an exception to the density requirements of this Comprehensive Plan for lots or combination of lots created through a subdivision approved by the Board of County Commissioners and recorded in the Public Records of Lake County in Plat Books 1 through 22.

A dwelling unit and accessory uses thereto, may be permitted on the lot, or combination of lots, provided that each of the following requirements are met:

1. The lot shall front on a publicly maintained road, or an easement. If the lot fronts on an easement, the easement must connect to a publicly maintained road, and the lot shall be within 1320 feet of a publicly maintained road;
2. The lot shall be accessible by public safety and other public (i.e. sanitation) agencies;
3. The lot shall have a minimum frontage of forty (40) feet; and
4. The lot shall contain a minimum of 12,500 square feet (excluding open water bodies), unless the lot will be served by central water and wastewater utility service.

The subject parcel complies with the Lot of Record definition and Lot Exception for Density pursuant to Comprehensive Plan Policy I-7.1.3(B) as the subject parcel is located within the Harbor Shores Unit 2 subdivision, a Recognized Neighborhood of Lake County, Florida.

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

Staff reviewed previously approved average setbacks for neighboring properties and found that the closest measurement is 13.62-feet from the seawall. The applicant has elected not to proceed with an average setback application as the owner has already constructed an extended deck with pergola, bordering the canal property line, connected to a previously existing wood dock.

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

As seen in Attachment "C" below, the deck addition to the previously existing dock runs the length of the subject parcel's North property line, while respecting the parcel's five (5) foot side setbacks, as it approaches each side property line, to the East and West. The impervious pergola structure at issue is 16-feet by 12-feet, which meets the maximum developable area.

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

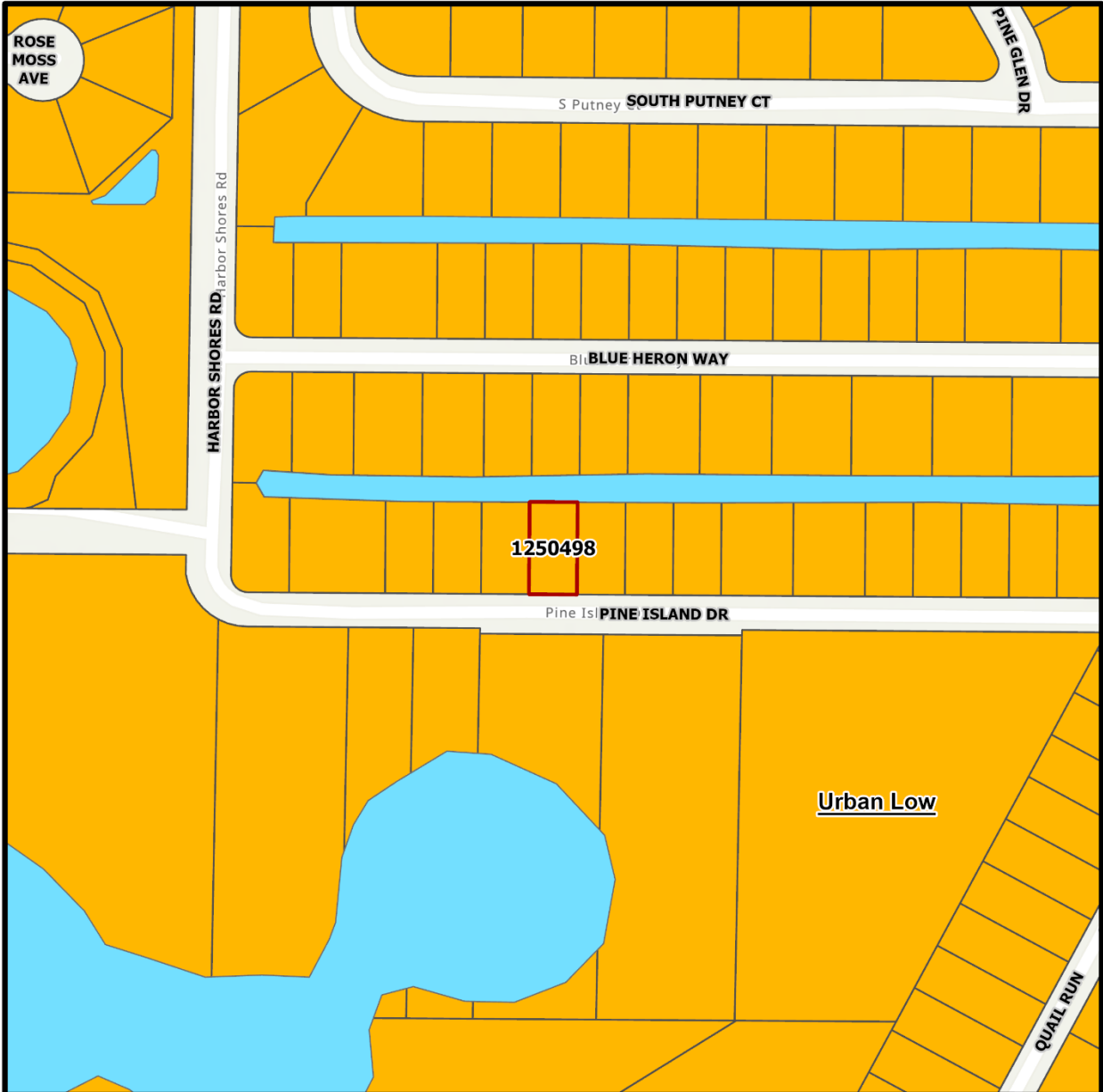
Stormwater runoff shall be released into wetlands (canal) in a manner approximating the natural flow regime.

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

The deck extension to the existing dock and subject pergola have been constructed at the water's edge, set back just enough so as to not impede our impact the existing, protected cypress trees, bordering the canal, along the rear property line.

Attachment "A" – Future Land Use Map

CURRENT FUTURE LAND USE



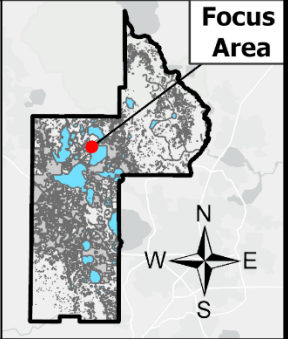
FLU

Urban Low

NAME: SIMS PROPERTY
CASE NUMBER: VAR-PZ2024-157
LOCATION (S-T-R): 06-19-26

DISTRICT: 3

REQUEST: REQUESTING A VARIANCE TO LAND DEVELOPMENT REGULATIONS (LDR) SECTION 6.01.04(A)(1), TO ALLOW THEIR EXISTING DECK AND PERGOLA TO REMAIN CONSTRUCTED WITHIN ONE (1) FOOT FROM THE ORDINARY HIGH-WATER LINE, MEAN HIGH WATER LINE, OR JURISDICTIONAL WETLAND LINE, IN LIEU OF THE REQUIRED 50' SETBACK.

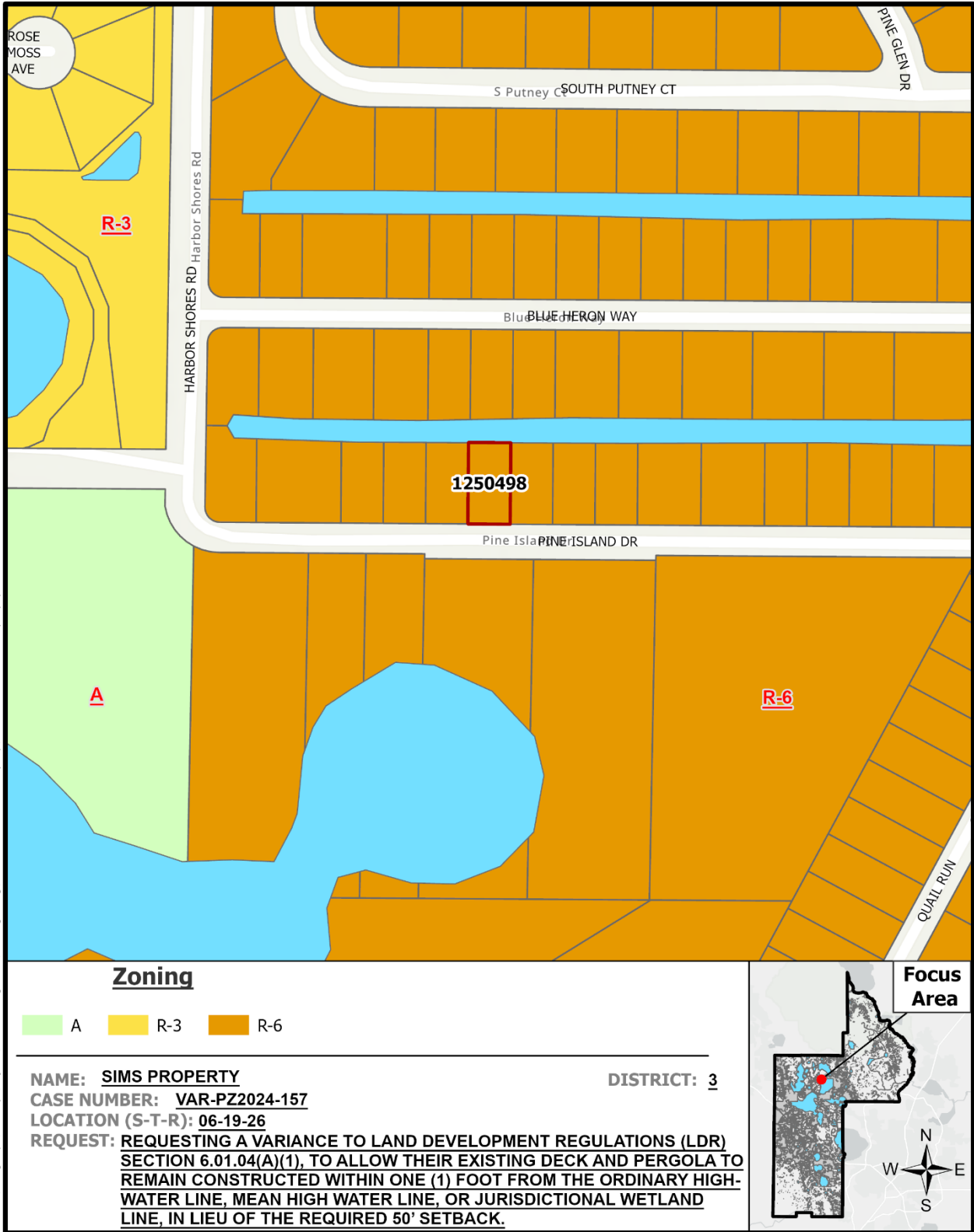


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9/5/2024

Attachment "B" – Zoning Map

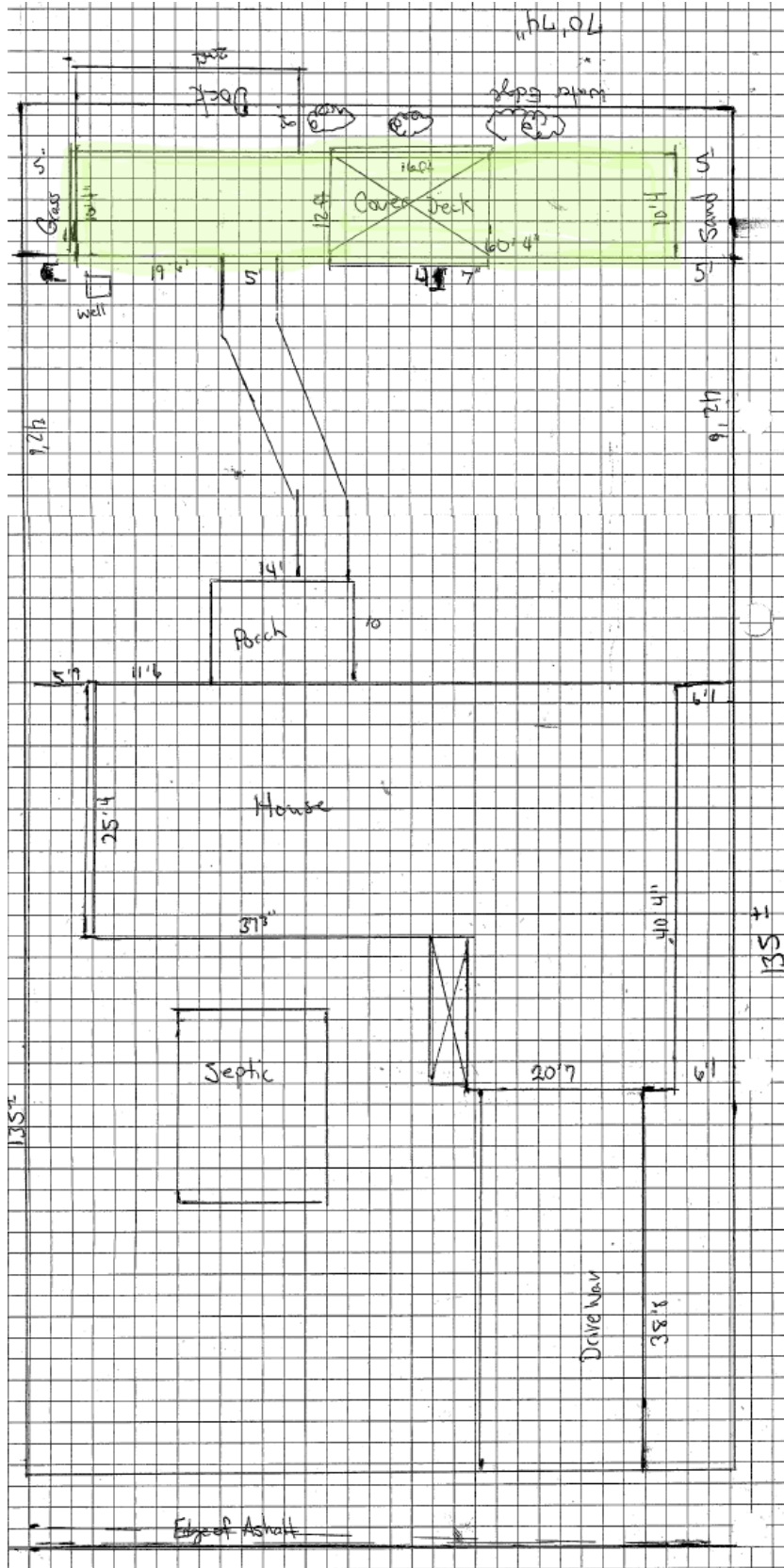
CURRENT ZONING



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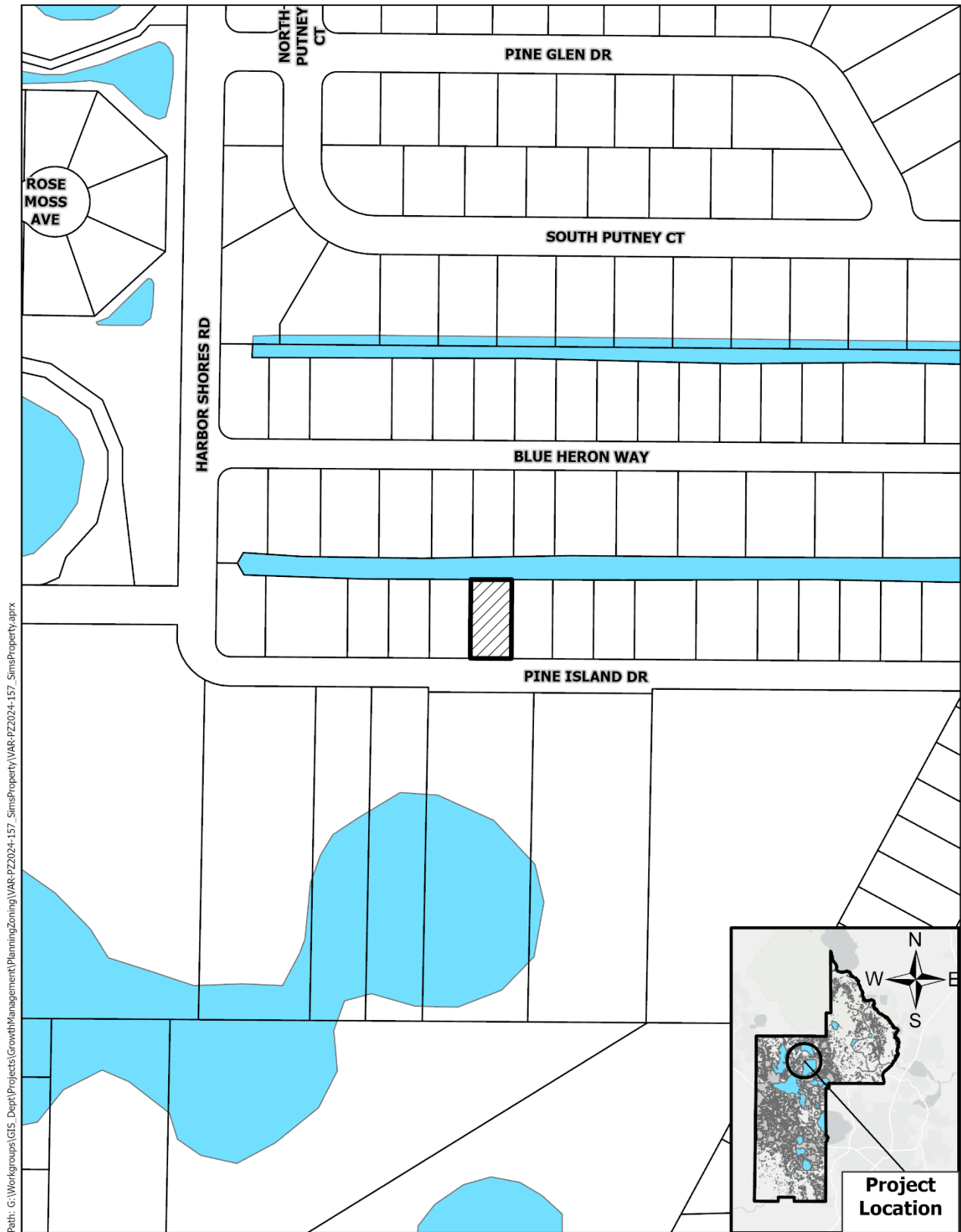
Attachment "C" – Plot Plan



Attachment "D" – Photographs



Map of Subject Property



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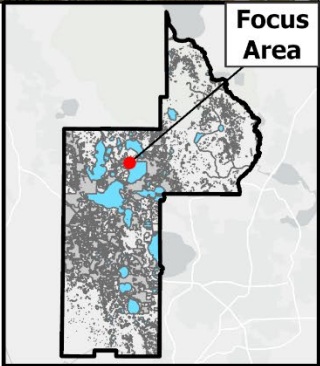
Aerial Map of Subject Property

**VAR-PZ2024-157
Sims Property**



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Requesting a variance to Land Development Regulations (LDR) Section 6.01.04(A)(1), to allow their existing deck and pergola to remain constructed within one (1) foot from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required 50' setback.



9/5/2024

Final Development Order

WHEREAS, Marilyn Sims and Chad Sims (the “Applicants” and “Owners”) requested a variance to Land Development Regulations (LDR) Section 6.01.04(A)(1), to allow their existing deck and pergola to remain constructed within one (1) foot from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required 50’ setback; and

WHEREAS, the subject property consists of 0.22 +/- acres, is located at 12345 Pine Island Drive, in the unincorporated Leesburg area of Lake County, in Section 6, Township 19 South, Range 26 East, having Alternate Key Number 1250498, and more particularly described as:

Lot 33, Block 5, Harbor Shores Unit No. 2, according to the Plat thereof, recorded in Plat Book 17, Page(s) 8 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 November 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: To Land Development Regulations (LDR) Section 6.01.04(A)(1), to allow Applicant to keep existing deck and pergola within one (1) foot from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required 50’ setback.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Bea L. Meeks, 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 November 2024, by Bea L. Meeks, 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.