



**Marion County
Board of County Commissioners**

Growth Services

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**PLANNING & ZONING SECTION
STAFF REPORT**

BOA Date	4/6/2026 <u>5/4/2026</u>
Case Number	260401V
EPL Number	Z Variance-000246-2026
Type of Case	Variance to reduce lakeside setback from 75' to 55' for a pool and deck
Owner	Mealy & Betty Reed
Applicant	Edward Abshier
Street Address/Site Location	10410 SE 138 th Place Road, Summerfield, FL 34491
Parcel Number(s)	45568-000-00
Property Size	±0.52 AC
Future Land Use	Medium Residential (MR)
Zoning Classification	Single-Family Dwelling (R-1)
Overlays Zones/Special Areas	Lake Weir Environmentally Sensitive Overlay Zone (ESOZ), Secondary Springs Protection Zone (SSPZ) & Flood Prone Area
Project Planner	Jared Rivera-Cayetano
Related Cases	Permit No. 2025110129 – In-Ground Concrete Swimming Pool

I. ITEM SUMMARY

Edward Abshier, on behalf of Mealy and Betty Reed, filed for a variance from Section 5.2.4.A of the Marion County Land Development Code (LDC) to reduce the required Environmentally Sensitive Overlay Zone (ESOZ) waterfront setback from seventy-five (75) feet to fifty-five (55) feet to the ordinary high-water line. The subject property is located at 10410 SE 138th Place Road, Summerfield, FL. The Parcel Identification Number for the subject property is 45568-000-00. The legal descriptions are provided within the submitted deed (see Attachment A). The variance request is in response to Zoning comments related to Permit No. 2025110129 for an in-ground swimming pool.

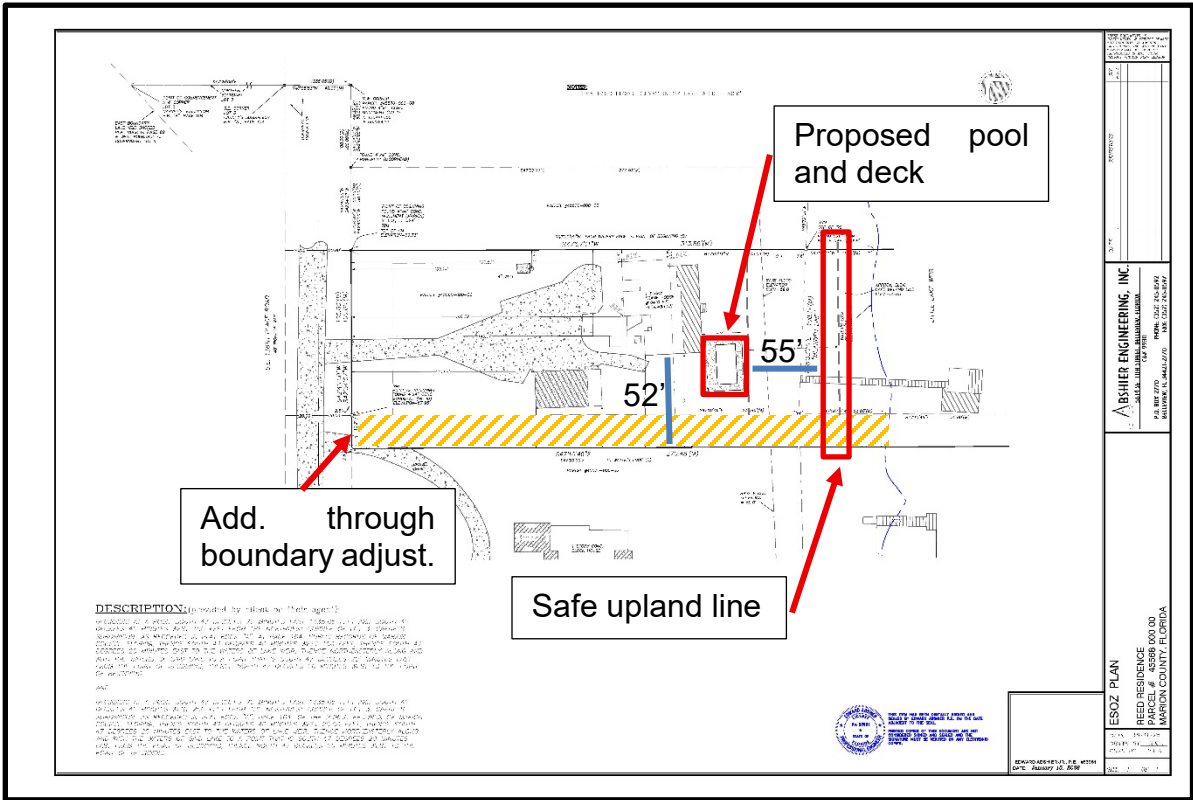
Figure 1 is a general location aerial displaying existing site conditions and Figure 2 provides the submitted ESOZ plan for the proposed pool and deck. The submitted ESOZ plan indicates the location of the existing single-family residence, accessory structure, well, driveway, and dock. The pool and deck are approximately 770 square feet in size and fifty-five (55) feet from the "safe upland line." Within the Lake Weir ESOZ, the waterfront property boundary is considered the front of the subject property for setback purposes. Although accessory structures are typically prohibited along the front yard of properties, pools and screen enclosures are explicitly allowed, provided minimum setbacks of seventy-five (75) feet are observed, pursuant to LDC Section 5.2.4.A.

**The Board of Adjustment (BOA) hearing for this variance request was re-scheduled to May 4, 2026 due to a lack of quorum. This report has been edited to make general improvements, including references to BOA hearing dates and a boundary adjustment.*

Figure 1
General Location Map



**Figure 2
Submitted ESOZ Plan**



II. NOTICE OF PUBLIC HEARING

Consistent with Land Development Code (LDC) Section 2.9.3., notice of public hearing was mailed to all property owners (13 owners) within 300 feet of the subject property on March 20, 2026, public notice was initially posted on the subject property on March 6, 2026 and re-posted on April 17, 2026, and due public notice was published through the Marion County website on March 23, 2026. Evidence of the above-described public notices are on file with the Growth Services Department and is incorporated herein by reference. As of the date of the initial distribution of this staff report, no letters of opposition or support have been received.

III. PROPERTY CHARACTERISTICS

The subject property is approximately 0.52 acres in size, with a Single-Family Dwelling (R-1) zoning and a Medium Residential (MR) Future Land Use (FLU) designation. The site is located outside the Urban Growth Boundary (UGB) and within the Secondary Springs Protection Zone (SSPZ). The subject property is directly adjacent to Little Lake Weir and is thus within the Lake Weir Environmentally Sensitive Overlay Zone (ESOZ). The subject property is not part of an existing subdivision. Consistent with LDC Section 2.9.3.B., a site visit was conducted by Growth Services Department staff on March 6, 2026. An additional site visit was conducted on April 17, 2026.

Staff observed several homes along Little Lake Weir. Within the subject property, Staff found a one-story single-family residence. Small trees and other vegetation are located directly along SE 138th Place road, with a single gravel driveway that can park several vehicles. An additional carport/accessory structure used for storage is located towards the front of the single-family residence (i.e. considered the rear of the subject property for setback purposes). A dock is located towards the “front” yard (lakeside) of the subject single-family residence. Several tables and chairs are found along this portion of the subject property. Site photos are attached to this report (see Attachment C).

According to the Marion County Property Appraiser (MCPA), the primary single-family residence was constructed in 1963. A boundary adjustment between subject property and PID 45572-000-00 to the south of the subject property was conducted between 2017 and 2025 to provide an additional twenty-foot strip to the subject property, approximately 1,600 square feet (SF) in size (see Figure 2).

IV. REQUEST STATEMENT

The applicant requests a variance from LDC Section 5.2.4.A to reduce the waterfront setback from seventy-five (75) feet to fifty-five (55) feet for a pool and deck in R-1 zoning. Pursuant to LDC Section 5.2.4.A, the Board of Adjustment may grant a variance from this setback.

V. ANALYSIS

LDC Section 2.9.2.E provides that the Board of Adjustment shall not grant a variance unless the petition demonstrates compliance with six (6) criteria. Staff's analysis of compliance with those criteria are provided below.

- A. *Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings with the same zoning classification and land use area.*

Analysis: The applicant states, “This home was constructed in 1963. There were no ESOZ at this time. There was no way of knowing that future requirements would not allow for the addition of a pool on the lake side of the home. This type of variance is common on Lake Weir.”

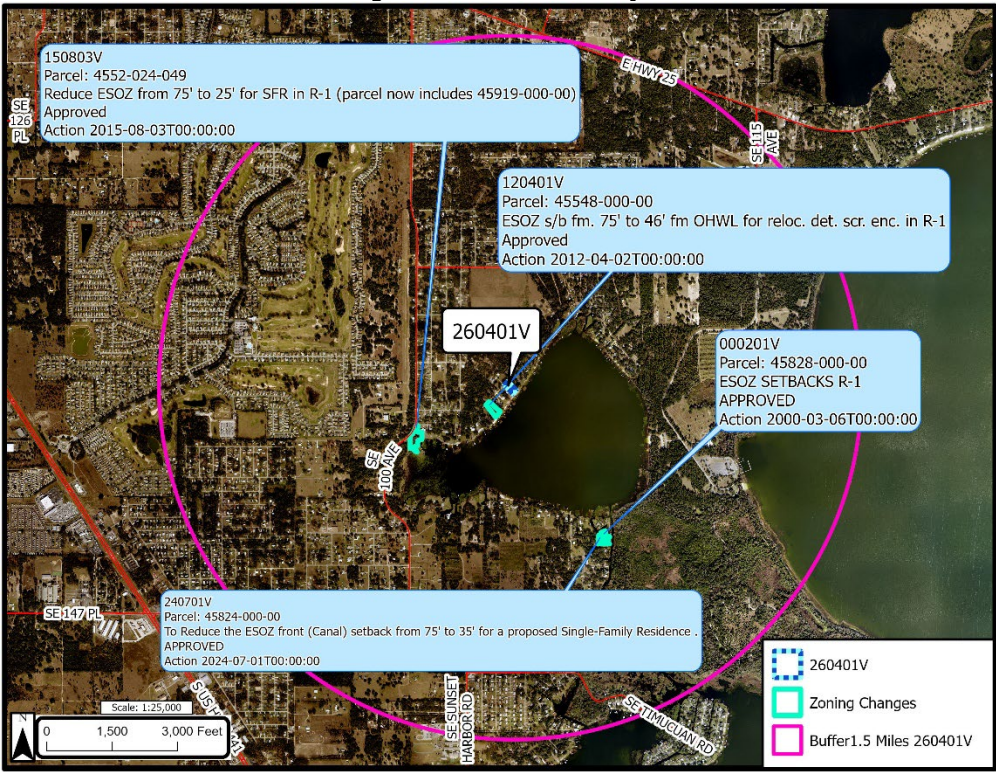
Marion County Property Appraiser (MCPA) confirms that the primary single-family residence was constructed in 1963. The single-family residence is approximately eighty (80) feet from the “safe upland line.”

Staff notes that zoning regulations, including ESOZ standards, went into effect in 1992 with the adoption of the Marion County Land Development Code (LDC). ESOZ Ordinary High Water Line standards were changed in 2001 from a minimum waterfront setback of fifty (50) feet to seventy-five (75) feet from the ordinary high-water line. ESOZ standards were changed in 2013 to allow pools and screen enclosures along the “lakeside” yard of all waterfront properties, provided that

minimum setback requirements of seventy-five (75) feet are met. Furthermore, the Marion County LDC still allows pools within the “side” and “rear” yards of the subject property (i.e. toward the front and sides of an existing single-family residence), as long as minimum setbacks of eight (8) feet are met. Staff notes a total of fifty-two (52) feet of side yard to the south of the existing residence, as a result of a boundary adjustment between subject property and PID 45572-000-00 to the south of the subject property.

Figure 3 displays properties nearby that have been approved or denied variances from ESOZ standards. In total, Staff identifies approximately 92 variance cases directly along Lake Weir (including Little Lake Weir); approximately 89 of such cases have been approved. Three (3) cases were withdrawn or denied.

Figure 3
Nearby Variance Requests



B. The special conditions and circumstances do not result from the actions of the applicant.

Analysis: The applicant states, “This home was constructed in 1963. There were no ESOZ requirements at this time. There was no way of knowing that future requirements would not allow for the addition of a pool on the lake side of the home. This type of variance is common on Lake Weir.”

Staff notes the subject property owner, Mealy and Betty Reed, purchased the site in 2025. Most changes following the development of the site have been primarily regulatory in nature and such regulatory changes are

intended to alter how lakeside residential properties develop. Although the lake side is now considered the “front” of the property, Staff notes the LDC continues to allow pools to be constructed in the “lakeside,” “side,” and “rear” yards of all waterfront residential properties, provided minimum setback requirements are met.

- C. *Literal interpretation of the provisions of applicable regulations would deprive the applicant of rights commonly enjoyed by other properties with the same zoning classification and land use area under the terms of said regulations and would work unnecessary and undue hardship on the applicant.*

Analysis: The applicant states, “As mentioned above, most of the lots on Lake Weir were developed long before there were any ESOZ requirements. Almost all of these lots require a variance for the addition of a pool. This pool will be further from the lake [than] other homes on Lake Weir.”

Staff notes the LDC allows pools to be constructed within the lakeside yard of residential properties provided minimum setbacks observed. Staff notes pools and screen enclosures would also be permitted in the “rear” and “side” yards of the subject property. Staff finds that a pool—especially towards the southeast side of the existing single-family residence—would likely meet both side and waterfront setback requirements, given a total of fifty-two (52) feet of side yard and irrespective of applicant request for a pool wholly within the “lakeside” yard.

Staff therefore concludes that this variance may be irregular.

- D. *The variance, if granted, is the minimum variance that will allow the reasonable use of the land, building or structure.*

Analysis: The applicant states, “A [24’ x 32’] pool and deck is not [large]. The western end of the pool and deck will be about 55’ from the mean high water line.” Site photos of the proposed area for the proposed pool and deck are attached.

Staff notes that the applicant has not provided additional alternative designs to show that the requested variance from the minimum setback is required.

- E. *Granting the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, buildings or structures in the same zoning classification and land use area.*

Analysis: The applicant states, “As state above, because these lots were developed and homes constructed prior to the ESOZ requirements added to the LDC, it is common for the homes to be granted variances for the addition of a pool or deck to the lake side of their home.”

Staff finds that granting a variance is a privilege and each variance has its own special circumstances. Regardless of whether the Board grants or does not grant this variance request, the decision should not create a precedence for the surrounding area.

- F. *The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

Analysis: The applicant states, “As stated above, there are homes closer to the lake than this pool will be. Denying this request would not be consistent with other waivers approved on Lake Weir and Little Lake Weir.”

Staff has provided facts related to previous variances along Lake Weir (including Little Lake Weir).

As indicated in LDC Section 5.2.1, Staff notes the intent of ESOZ standards is to protect and conserve “environmentally sensitive areas from the adverse effects of development while protecting the rights of property owners.” Enhanced setbacks are explicitly listed as a measure to protect surface water and groundwater quality.

No berm or other form of stormwater mitigation system is provided within the submitted ESOZ plan. If granted, Staff notes that the applicant would still be required to undergo appropriate permitting processes, including the submission of an ESOZ plan depicting stormwater management systems in accordance with LDC Section 5.2.6.

VI. BOARD OF ADJUSTMENTS ACTION

To be determined. [Re-scheduled for May 4, 2026 at 2:00 PM.](#)

VII. LIST OF ATTACHMENTS

- A. Application Package
- B. Site Photos
- C. LDC Article 5, Division 2, Environmentally Sensitive Overlay Zone
- D. Property Appraiser Map 275C-3
- E. Permit No. 2025110129