Marion County
Board of County Commissioners
Growth Services
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ZONING SECTION STAFF REPORT
March 4, 2024
BOARD OF ADJUSTMENT PUBLIC HEARING

Case Number	251002v
CDP-AR	33007
Type of Case	Variance to allow for a reduced Environmentally Sensitive Overlay Zone (ESOZ) waterfront setback from 75' to 30' for the Construction of an SFR, inground pool.
Owner	Rebecca Rosin and Johnny Busciglio
Applicant	Michael Alan Homes
Street Address	12640 SE 141st Avenue Road, Ocklawaha, FL
Parcel Number	49007-001-00
Property Size	±.084 acres
Future Land Use	Medium Residential (MR)
Zoning Classification	Single Family Dwelling (R-1)
Overlay Zone/Scenic Area	Environmentally Sensitive Overlay Zone (ESOZ), Secondary Springs Protection Zone (SSPZ)
Project Planner	Clint Barkley, Zoning Technician
Related Case(s)	960201V – Variance granted for reduction from 75' to 50' for a single-family residence in an ESOZ area.

I. ITEM SUMMARY

Michael Alan Homes, on behalf of property owner Rebecca Rosin & Johnny Busciglio, filed a request for a variance from the Land Development Code (LDC) Section 5.2.4.A and 5.2.4.G(4) ESOZ Development Standards, to allow for an SFR, and an inground swimming pool and deck. The property is zoned Single-Family Residential R-1 and within the ESOZ area. Waterfront properties in the ESOZ area consider the front yard as the waterfront side and allow for a pool with a deck in this area as stated in Sec. 5.2.4.G(3) of the LDC.

FIGURE 1
General Location Map

II. PUBLIC NOTICE

Notice of the public hearing was mailed to eight (13) property owners within 300 feet of the subject property on September 19, 2025. A public notice sign was posted on the subject property on August 25, 2025 (see Attachment I). Notice of the public hearing was published in the Star Banner on September 22nd, 2025. Evidence of the public notice requirements is on file with the Growth Services Department and is incorporated herein by reference. We have received no letters in opposition.

III. PROPERTY CHARACTERISTICS

The subject 0.84-acre property is located within the Medium Residential, Single-Family Dwelling (R-1) Zoning Classification. The subject property is located in the Southeastern portion of Marion County and is a lot in the Weir Park subdivision established on June 1, 1885.

LDC Section 4.2.9A provides the intent of the Single-Family Dwelling (R-1) Zoning Classification, intended to provide areas for medium-density residential development.

The .84-acre subject property consists of a Lot within the Weir Park subdivision. The aerial and site plan show the property (See Figures 1,2 & 3). The site plan has the property dimensions and shows the location of the proposed structures on the property. (See Figure 3)

The subject lot fronts on Lake Weir, and the subject site is required to meet ESOZ setbacks of 75’ from the southern safe upland line unless a variance for reduction is granted.

Figure 2
Aerial

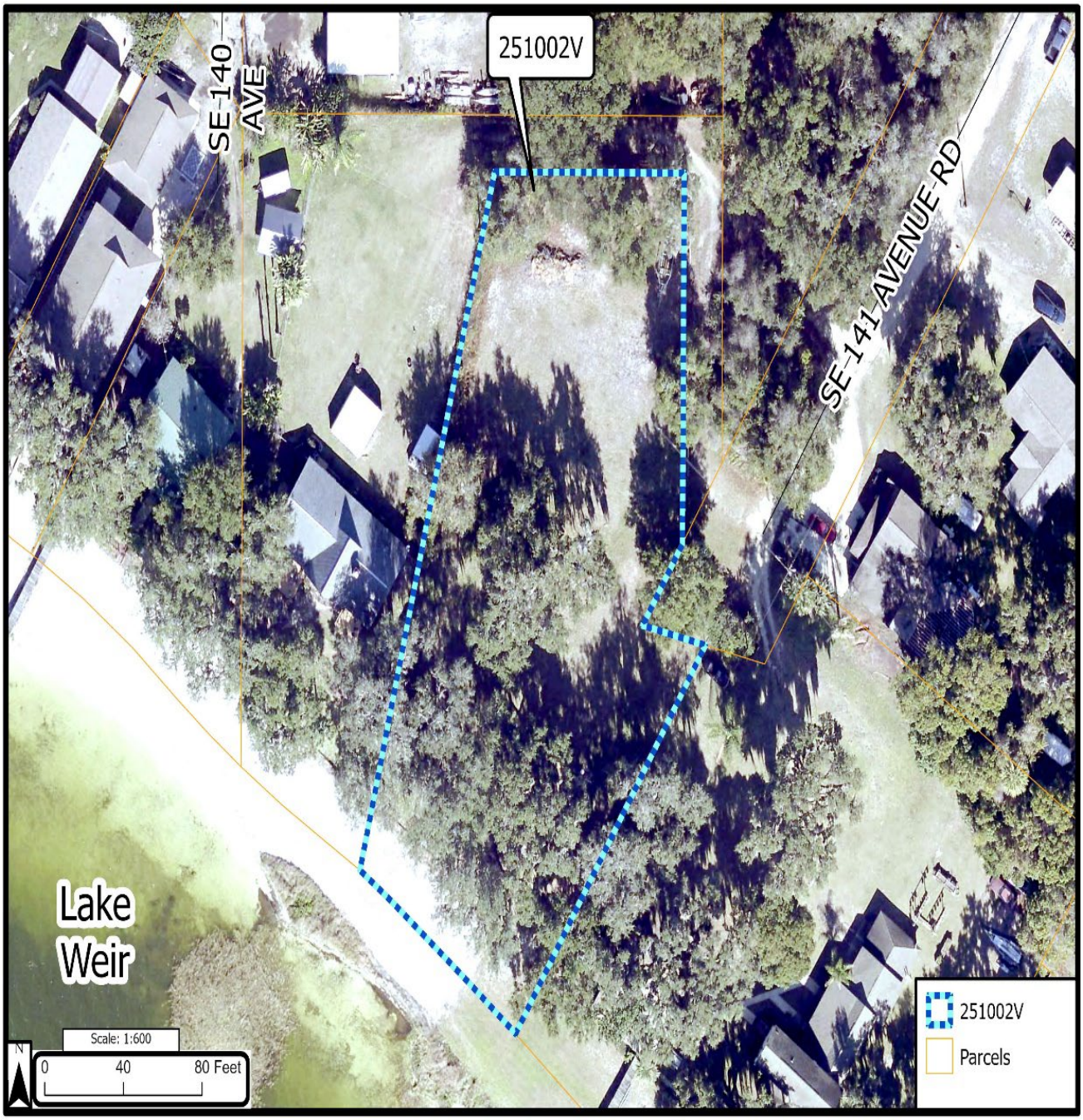
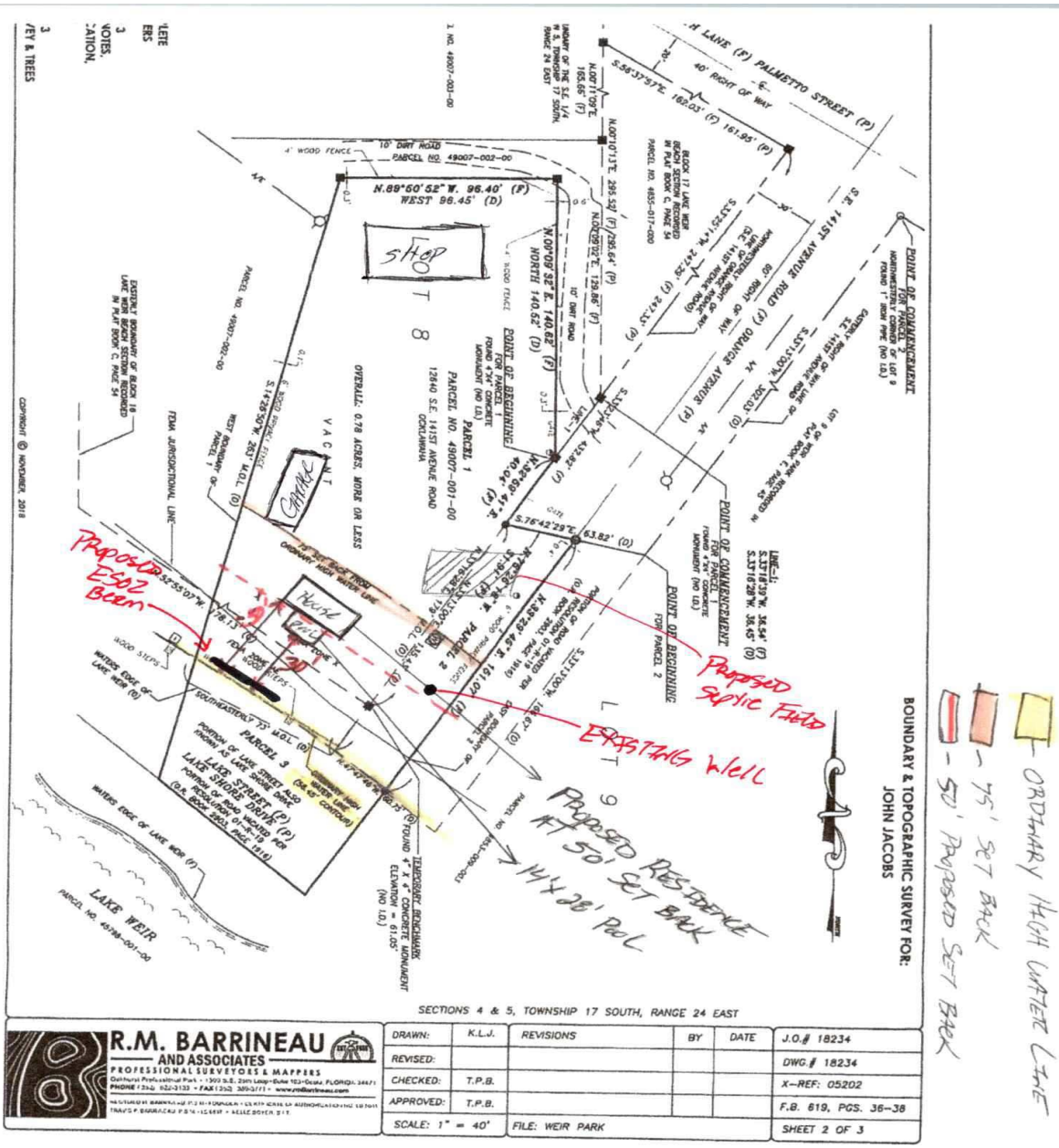


Figure 3
Owners sketch (Site Plan)



IV. REQUEST STATEMENT

The applicant requests a variance for the reduction of the waterfront ESOZ setback from 75' to 30' for an SFR and inground pool.

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. Marion County Staff analysis of compliance with the six (6) criteria is provided below.

1. 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 that we are requesting a 45' variance to make the setback 30' to the proposed house and swimming pool from the ordinary high-water line, as opposed to the 75' setback currently assessed. Additionally, a detached garage and a detached workshop will be constructed on the property.

   Staff finds: The Weir Park subdivision was platted in 1885. Current LDC requirements for properties located in an ESOZ area were established in 2013. A setback of 30' to the proposed pool with deck and 50' for SFR from the ordinary high-water line. The owner could move the proposed house and pool to meet the current setbacks of 75' from the ordinary high-water line.

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

   Analysis: The applicant states the irregular shape of the subject lot width, style, and egress point onto the property makes it difficult to build the proposed structures and meet the minimum setback requirements for the well, septic, and potentially incur undue cost in construction for relocating power lines, well, and septic on the property.

   Staff finds: A variance is required when zoning requirements cannot be met. Per the survey, all proposed structures, if moved or reconfigured, can at least meet the 75' ESOZ setback.

3. 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 cause unnecessary and undue hardship on the applicant.

Analysis: The applicant states that homes adjacent to and within the immediate vicinity have been built on similar irregular parcels and have been granted similar requests that have been allowed for the efficient and complete use of their properties. without this variance approval, the design and installation of the proposed structures, include the well and septic systems, would be drastically impacted, and the full use of the property by the owner would be greatly diminished. This home if not approved, would not conform to the surrounding homes and like properties, potentially reducing the home's value and restricting the full use of the property by the owner.

Staff finds: The requested variance has been similarly requested in 1996 and 2011. Variance 960201V was granted for a 25' ESOZ setback reduction to 50', also 110706V for a 20' ESOZ reduction to 55'.

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

Analysis: The applicant states Yes, a new home and pool would be constructed under the current building codes, and would properly provide for the use of the land as provided for under the Marion County Land Development Code.

Staff finds: The requested variance is not the minimum required; as per the survey attached, the structure could be moved to meet the 75' ESOZ setback.

5. 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 that it is understood that this variance, if approved, would apply solely to Marion County Parcel ID #49007-001-00.

Staff finds: That granting the variance will not confer the applicant a special privilege because the other surrounding lots also have homes with accessory structures located within the same area, and many of them were granted some sort of reduced setback for development similar to that being requested.

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

Analysis: The applicant states that this home will be a similar distance from the lake as the nearby homes.

Staff finds: If the variance is granted, it would not be injurious to the neighborhood as long as the applicant pulls the correct permits and gets them approved. Also, the applicant has a berm depicted on the survey to catch any stormwater runoff, not allowing it to go into the body of water.

VI. LIST OF ATTACHMENTS

A. Deed
B. Sign posting
C. Survey
D. Property Card
E. Aerial provided by owner
F. Vicinity Map Mailer
G. Application
H. Photos
I. Floor Plan