

MINUTES

MARION COUNTY BOARD OF ADJUSTMENT March 4, 2024

A public hearing of the Marion County Board of Adjustment was held on March 4, 2024 at 2:00 pm in the Marion County Growth Services Training Room, 2710 E. Silver Springs Boulevard, Ocala, Florida.

The meeting was called to order at 2:00 pm. Members present creating a quorum were: Chairman Donald Barber and Vice-Chairman Jack Stackman, Members: C. Cadell Hager, Ernest Hemschot and Douglas Sherwood. Staff members present were: Chief Assistant County Attorney Dana Olesky, Growth Services Director Chuck Varadin, Deputy Director Kenneth Weyrauch, Staff Assistant IV Darlene A. Pocock, along with Planner II Kathleen Brugnoli.

Cadell Hager gave the Invocation, followed by Jack Stackman leading the Pledge of Allegiance.

Chairman Barber and Atty. Dana Olesky explained the procedures for hearing variance requests and Atty. Olesky administered the Oath en masse.

Kathleen Brugnoli proceeded by reading the provided Affidavit of Publication and the Proof of Required Mailing and Posting of Notice, and advised that the meeting was properly noticed.

2.1 **240303V** – James M. Luffman, request a Variance in accordance to Section 2.9 of the Marion County Land Development Code, to reduce the ESOZ (Environmentally Sensitive Overlay Zone) front setback (lakeside) from 75' to 70' and the ESOZ north side setback (canal-side) from 75' to 20' for a proposed 60'x10' inground pool and surrounding pool deck, in a Single-Family Dwelling (R-1) zone on Parcel Account Number 49129-019-00, addressed as 13206 SE 145th Avenue, Ocklawaha, FL 32179.

Clint Barkley presented the case and read the report into the record. Jeremy Craig assisted with the presentation.

8 homeowners were notified within 300' of the parcel and no letters of support nor letters of opposition were received.

Edward Abshier, 5614 SE 111th Street, Belleview, FL 34420, agent for the owner, stated that the 20' setback request is the same setback of the home and was previously approved for the SFR. Mr. Abshier also indicated that any overflow of water (pool or storm) has been designed to drain toward the lakefront area and not the canal area due to the property's existing berm and ESOZ mitigation plan that is in place. Mr. Abshier confirmed that this pool and deck will be further from the lake than several others in the area.

PUBLIC COMMENT:

There was no one in the audience to speak for, or against, the request and the chair closed the public portion of the hearing.

Cadell Hagar made a motion to **approve** the variance as requested and moved that, having heard competent substantial evidence, the Board finds that: 1. A special condition or circumstance exists on the property that does not exist on other properties within the same zoning and land use area; 2. The applicant did not cause the special condition or circumstance; 3. Literal enforcement of the regulations would create unnecessary and undue hardship and deprive the applicant of rights commonly enjoyed by other properties within the same zoning and land use area; 4. The variance is the minimal variance that will allow reasonable use of the property; 5. The variance will not confer any special privilege on the applicant that is denied to other properties within the same zoning and land use area; and 6. The granting of the variance will not be injurious to the neighborhood or detrimental to the public welfare; And that the Board grant the variance with the added condition of: *“cannot expand beyond the decking area granted with this variance”*.

Jack Stackman made a motion to second.

Motion to Approve - Passed 4 to 1 with Douglas Sherwood dissenting.

OTHER BUSINESS:

Jack Stackman requested that the ESOZ setback requirements be reviewed and also requested to have staff provide the board with more explanation regarding the historical change that was made to the 50’ setback and to the current 75’ setback requirement.

MINUTES:

The **February 4, 2024** Board of Adjustment Minutes were moved for Approval upon a motion by Ernest Hemschot with a second by Jack Stackman.

Motion for Approval - Passed 5 to 0.

ADJOURNED: The meeting adjourned at 2:42 PM.



Donald M. Barber, Chairman

Attest:



Darlene A. Pocock, Staff Assistant IV

VARIANCE ACTION FORM

ITEM NO: 240303V

DATE OF PUBLIC HEARING: MARCH 4, 2024

OWNER NAME(s): **James M. Luffman**
1204 Easton Drive
Lakeland, FL 33803

AGENT NAME(s): **Edward Abshier**
5614 SE 111th Street
Bellevue, FL 34420

LEGAL DESCRIPTION OF PROPERTY: Parcel Account No. **49129-019-00**, SEC 09 TWP 17 RGE 24, "The Sanctuary" in Marion County, Florida.

VARIANCE REQUESTED: Request to reduce the ESOZ front setback (lakeside) from 75' to 70' and the ESOZ North side setback (canal-side) from 75' to 20' for a proposed 60'x10' inground pool and surrounding pool deck, in a Single-Family Dwelling (R-1) zoning classification addressed as 13206 SE 145th Avenue, Ocklawaha, FL 32179.

FINDINGS OF BOARD OF ADJUSTMENT

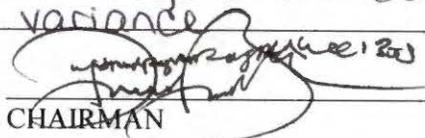
- 1. **Written Petition.** A written petition for a Variance has been submitted demonstrating that:
 - A. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings with the same zoning classification and land use area.
 - B. The special conditions and circumstances do not result from the actions of the applicant.
 - 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 of the applicant.
 - D. The Variance, if granted, in the minimum Variance that will allow the reasonable use of the land, building or structure.
 - E. Granting the Variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, buildings of structures in the same zoning classification and land use area.
 - F. The granting of the Variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

2. **X** **GRANTED:** Based on the Board of Adjustment's finding that the requirements of Paragraph 1 above have been demonstrated by the applicant for Variance.
4-1

3. **DENIED:** Based on the Board of Adjustment's finding that the requirements of Paragraph 1 above have not been demonstrated by the applicant for Variance.

4. **CONDITIONS & SAFEGUARDS:**
A. Should the structure be removed for any reason, any replacement structure must meet the then required setbacks or a variance must be requested.

B. Cannot expand beyond the decking granted with this variance


CHAIRMAN

03-04-2024
DATE