



Marion County

Board of Adjustment

Meeting Agenda

Monday, March 4, 2024

2:00 PM

**Growth Services Building -
Training Room**

Call to Order and Roll Call

Invocation and Pledge of Allegiance

Explanation of Procedure for Hearing Variance Requests

- 1. Acknowledgment of Proof of Publication, Mailing and Posting of Notice**
- 2. Consider the following Variance Requests**
 - 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.](#)**
- 3. Other Business**
- 4. Consider the Minutes of Previous Meeting**
 - 4.1. [February 5, 2024](#)**

Adjourn



Marion County Board of Adjustment

Agenda Item

File No.: 2024-14197

Agenda Date: 3/4/2024

Agenda No.: 2.1.

SUBJECT:

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.

DESCRIPTION/BACKGROUND:

Variance Request



**Marion County
Board of County Commissioners**

Growth Services

2710 E. Silver Springs Blvd.
Ocala, FL 34470
Phone: 352-438-2600
Fax: 352-438-2601

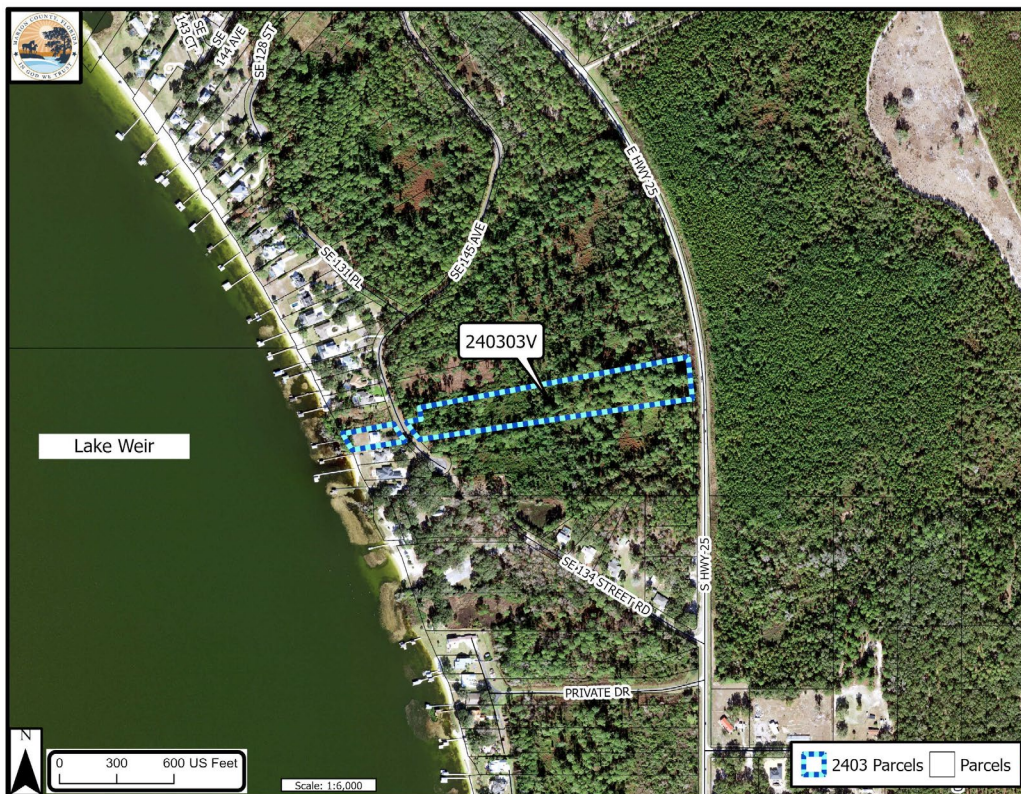
**ZONING SECTION STAFF REPORT
March 4, 2024
BOARD OF ADJUSTMENT PUBLIC HEARING**

Case Number	240303V
CDP-AR	30996
Type of Case	Variance to allow for a reduced Environmentally Sensitive Overlay Zone (ESOZ) waterfront setback from 75' to 70' and northside canal setback from 75' to 20' for the construction of a 60' x 10' pool and deck surround.
Owner	James M. Luffman
Applicant	Edward Abshier
Street Address	13206 SE 145 th Ave. Ocklawaha, FL
Parcel Number	49129-019-00
Property Size	±6.24 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)	021105V – Variance granted for North (canal) side reduction from 75' to 20' for single-family residence in an ESOZ area.

I. ITEM SUMMARY

Ed Abshier, on behalf of property owner James Luffman, 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 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 water front side and allow for a pool with a deck in this area as stated in Sec. 5.2.4.G(3) of the LDC. The lot configuration, existing structures, septic, well, and body of water limit the area that the pool with deck can be placed.

FIGURE 1
General Location Map



II. PUBLIC NOTICE

Notice of the public hearing was mailed to eight (8) property owners within 300-feet of the subject property on February 16, 2024. A public notice sign was posted on the subject property on January 19, 2024 (see Attachment I). Notice of the public hearing was published in the Star Banner on February 19th, 2024. Evidence of the public notice requirements are on file with the Growth Services Department and are incorporated herein by reference. We have received no letters in opposition.

III. PROPERTY CHARACTERISTICS

The subject 6.24 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 part of The Sanctuary subdivision established on April 22, 1987.

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.

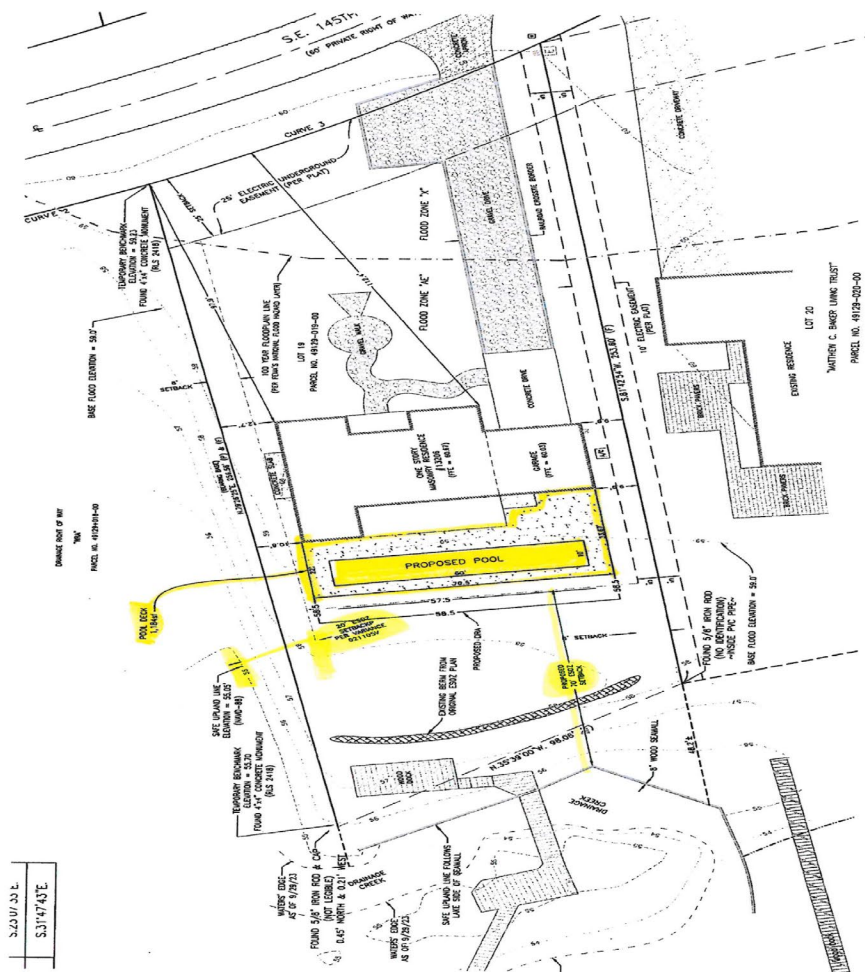
The 6.24 acre subject property consists of Lot 19 within The Sanctuary subdivision. The aerial and site plan shows the property (See Figures 1,2 & 3). The site plan has the property dimensions and shows the location of the existing structures on the property as well as the proposed pool and deck. (See Figure 3)

The subject lot fronts on Lake Weir and is contiguous to a platted water retention area to the north. This northern contiguous parcel also has a canal running from Lake Weir eastward on the property and abutting the subject parcel. With both waterfront and canal present, the subject site is required to meet ESOZ setbacks of 75' from both western and northern safe upland lines 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 70' and the northside ESOZ setback from 75' to 20' for an inground pool with deck.

V. ANALYSIS

LDC Section 2.9.2.E provides 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 are 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 the subdivision was platted in 1988. The county ESOZ requirements drastically changed the ability to use this lot.

Staff finds: The Sanctuary subdivison was platted in 1987. Current LDC requirements for properties located in an ESOZ area were established in 2013. Additionally, this lot considers two sides as being “waterfront” limiting areas for development due to the required 75’ setback.

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

Analysis: The applicant states that the county added the ESOZ requirements not the property owner.

Staff finds: The home predates the LDC’s ESOZ setback requirements and was not constructed by the current owner who purchased it as-is with its current setbacks. Proposed placement of the pool and deck, however, is a result of the current owner’s request.

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 they are only requesting a reduction of the front yard setback from 75’ to 70’ and the northside ESOZ setback from 75’ to 20’.

Staff finds: The requested variance has been similarly requested, and granted, for a majority of the surrounding properties. Unique characteristics of the subdivision including shape and size of parcels, wetland areas not considered buildable, and larger setbacks based on established ESOZ requirements.

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 that a reduction of the front yard setback from 75’ to 70’ and the northside ESOZ setback from 75’ to 20’ would be the minimum variance needed.

Staff finds: The requested variance is the minimum required as the northside setback will be meeting the already granted 20' setback, and the lakeside setback is limited due to the footprint of the home and the required 75' setback from Lake Weir.

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 the pool and deck will be further from the lake than others in the area.

Staff finds: That granting the variance will not confer the applicant a special privilege because the other surrounding lots also have 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 already has a berm in place 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. Plat
- H. Photos
- I. SFR variance

F-7A

R No. 50

CS 47000

This Instrument Prepared By:
 Landis V. Curry, Jr., Esquire
 AYRES, CLUSTER, CURRY,
 McCALL & BRIGGS, P.A.
 Post Office Box 1148
 Ocala, Florida 34478

OR Book/Page: 2093/0419

Frances E. Thiggin, Clerk of the Circuit Court
 File: 94084950
 12/07/94 14:52
 Marion County - *Ma Alexander* DC.

Grantee's Name and SS No.:

JAMES MARTIN LUFFMAN

SS: [REDACTED]

6417 Butternut Drive

Lakeland, Florida 33813

Property Appraiser's Parcel

Identification No.: 49129-019-00

WARRANTY DEED

This Indenture, made this 1st day of December, 1994, between HARRY T. MANGURIAN, JR., of the County of Broward, in the State of Florida, hereinafter called the Grantor, to JAMES MARTIN LUFFMAN, whose post office address is 6417 Butternut Drive, Lakeland, Florida 33813, hereinafter called the Grantee:

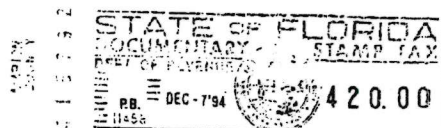
WITNESSETH, That the said party of the first part, for and in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable considerations to him in hand paid by said parties of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said parties of the second part, their heirs and assigns forever, the following described land, situate, lying and being in the County of Marion, State of Florida, to-wit:

- ✓ Lot 19, THE SANCTUARY, as per plat thereof, recorded in Plat Book Y, pages 93 through 96, Public Records of Marion County, Florida.

SUBJECT TO the following:

1. Covenant with the Board of County Commissioners of Marion County, Florida, recorded in Official Records Book 1421, page 1000, Public Records of Marion County, Florida.
2. Declaration of Private Roads recorded in Official Records Book 1421, page 1001, Public Records of Marion County, Florida.
3. Notice of Special Restrictions recorded in Official Records Book 1421, page 1002, Public Records of Marion County, Florida.
4. Declaration of Restrictive Covenants recorded in Official Records Book 1421, page 1003, First Amendment to Declaration of Restrictive Covenants, recorded in Official Records Book 1446, page 0896, Second Amendment to Declaration of Restrictive Covenants, recorded in Official Records Book 1579, page 1052, and Third Amendment to Declaration of Restrictive Covenants recorded in Official Records Book 1908, Page 227, Public Records of Marion County, Florida.
5. Easement from Drexel Investments, Inc. to James H. Hodge d/b/a Sunshine Utility, recorded in Official Records Book 1584, page 0380, Public Records of Marion County, Florida.
6. Claims by the State of Florida to lands lying below the ordinary high water mark of Lake Weir.
7. Utility Easements of record.

LCURR\37434



File: 94084950
OR Book/Page: 2093/0420

2 of 2

GRANTOR HEREBY CERTIFIES the above described lands do not constitute his homestead, as defined by Article 10, Section 4 of the Florida Constitution, nor are said lands contiguous to lands upon which he claims or maintains his homestead.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the party of the first part hereby covenants with said parties of the second part that he is lawfully seized of said land in fee simple; that he has good right and lawful authority to sell and convey said land; that he hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes for the year 1995.

IN WITNESS WHEREOF, The said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed, sealed and delivered
in our presence, as witnesses:

[Signature]
Name S.G. METALLIS
Please Print

[Signature]
Name Joyce M. Camarda
Please Print

[Signature]
Harry T. Mangurian, Jr.
2477 East Commercial Boulevard
Fort Lauderdale, Florida 33308

STATE OF FLORIDA
COUNTY OF Broward

I HEREBY CERTIFY that on this 15th day of December, 1994, the foregoing instrument was acknowledged before me by Harry T. Mangurian, Jr.

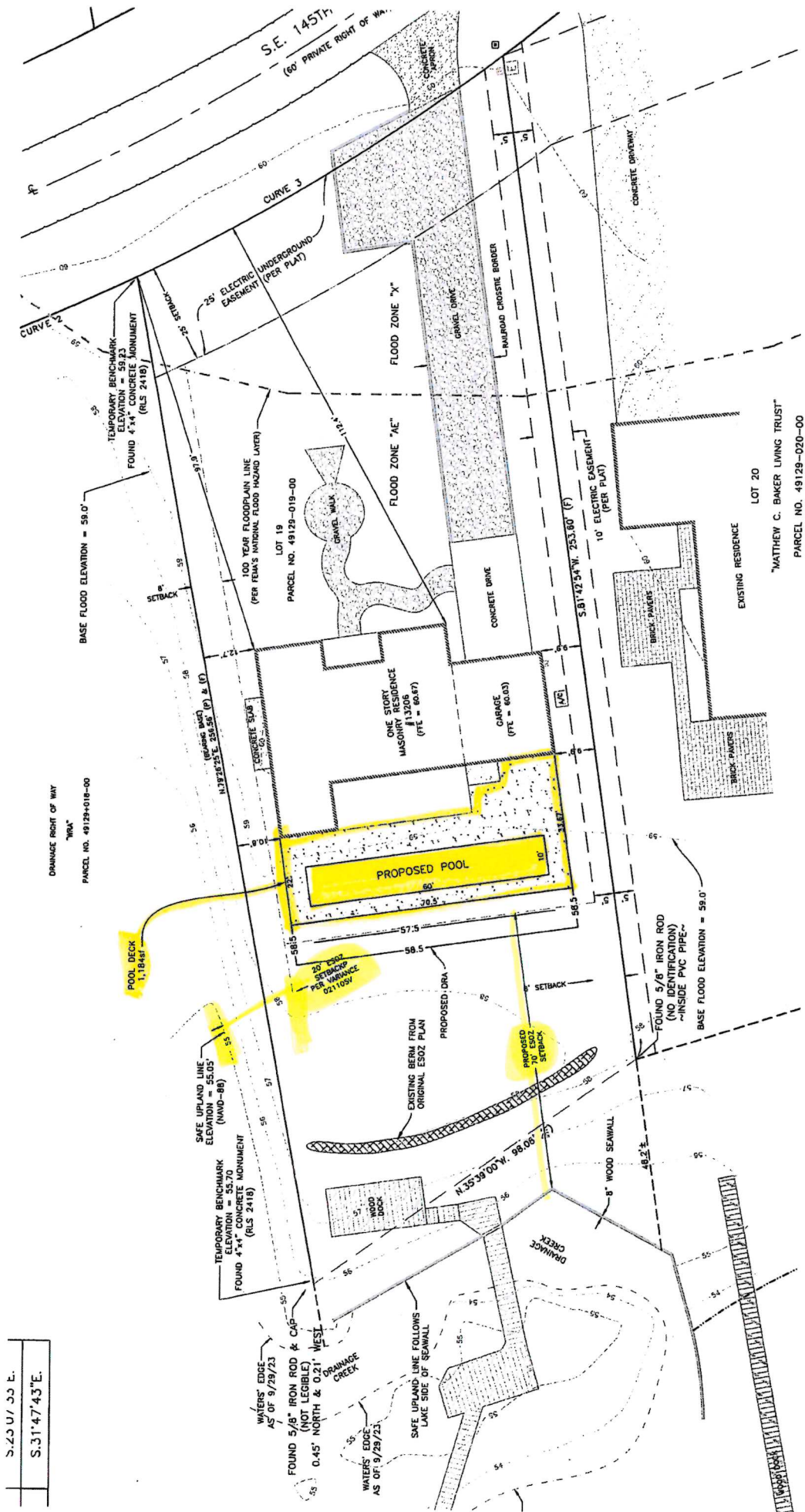
NOTARY PUBLIC,
STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES 10-13-95
Bonded By Fred S. James & Co. of Florida, Inc.

[Signature]
Notary Public
Name: NORA GILLARY
Please Type or Print
Serial Number: CC 145201
My Commission Expires: 10-13-95

Please check one:

☒ Personally known OR ☐ Produced Identification
Type of Identification Produced _____





Jimmy H. Cowan, Jr., CFA

Marion County Property Appraiser



2024 Property Record Card

Real Estate

49129-019-00 ✓

[GOOGLE Street View](#)

Prime Key: 2330040

[Beta MAP IT+](#)

Current as of 12/27/2023

Property InformationM.S.T.U.

PC: 01

/ Acres: 6.24

LUFFMAN JAMES M ✓
1204 EASTON DR
LAKELAND FL 33803-2334

Taxes / Assessments:

Map ID: 313

Millage: 9001 - UNINCORPORATED

✓ Situs: 13206 SE 145TH AVE
OCKLAWAHA

2023 Certified Value

Land Just Value	\$309,785		
Buildings	\$326,728		
Miscellaneous	\$8,180		
Total Just Value	\$644,693		
Total Assessed Value	\$561,104	Impact	
Exemptions	\$0	<u>Ex Codes:</u>	(\$83,589)
Total Taxable	\$561,104		
School Taxable	\$644,693		

History of Assessed Values

Year	Land Just	Building	Misc Value	Mkt/Just	Assessed Val	Exemptions	Taxable Val
2023	\$309,785	\$326,728	\$8,180	\$644,693	\$561,104	\$0	\$561,104
2022	\$304,591	\$297,118	\$8,382	\$610,091	\$510,095	\$0	\$510,095
2021	\$252,214	\$203,610	\$7,899	\$463,723	\$463,723	\$0	\$463,723

Property Transfer History

Book/Page	Date	Instrument	Code	Q/U	V/I	Price
<u>2093/0419</u>	12/1994	07 WARRANTY	2 V-SALES VERIFICATION	Q	V	\$60,000
<u>1906/1374</u>	03/1993	06 SPECIAL WARRANTY	8 ALLOCATED	U	V	\$72,800

Property Description

SEC 09 TWP 17 RGE 24 ✓
PLAT BOOK Y PAGE 093
THE SANCTUARY ✓
LOT 19

Land Data - Warning: Verify Zoning

Use	CUse	Front	Depth	Zoning	Units	Type	Rate	Loc	Shp	Phy	Class Value	Just Value
0130		98.0	255.0	R1	98.00	FF						
9902		.0	.0	R1	1.75	AC						
9610		.0	.0	R1	3.92	AC						

Neighborhood 8090 - LAKE WEIR

Mkt: 10 70

Traverse

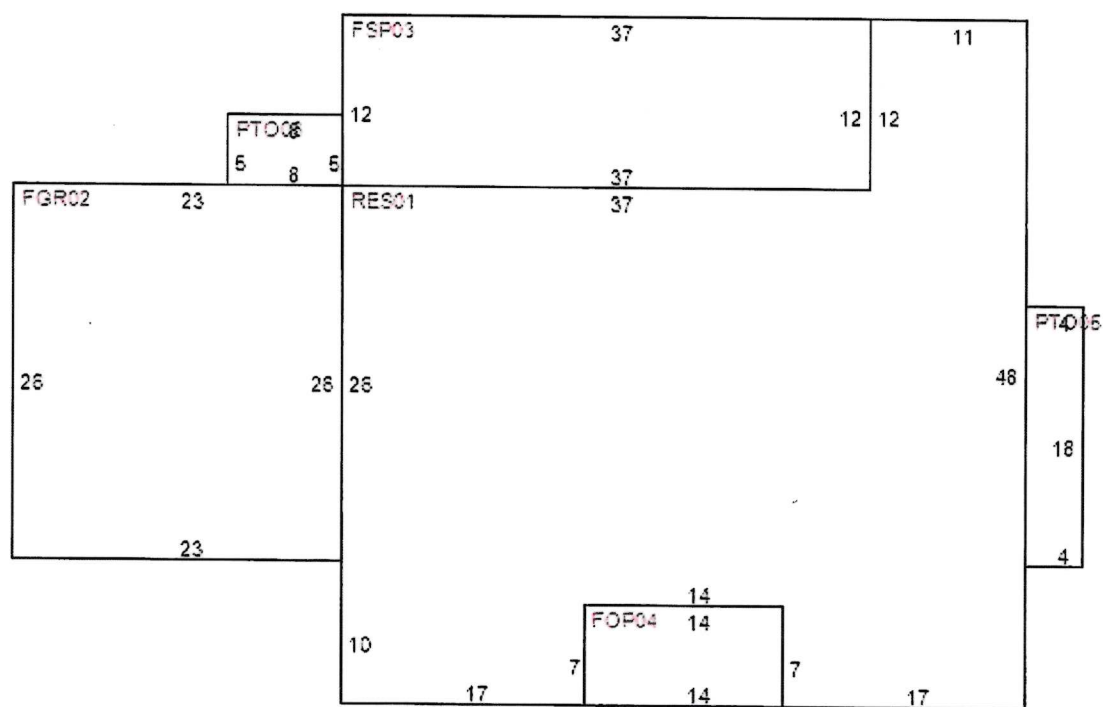
Building 1 of 1

RES01=D10R17U7R14D7R17U48L11D12L37D26.FG

R02=U26L23D26R23.U26FSP03=U12R37D12L37.D

36R17FOP04=U7R14D7L14.R31U10PTO05=R4U18L

4D18.U31L48PTO06=L8D5R8U5.



Building Characteristics

Improvement	1F - SFR- 01 FAMILY RESID
Effective Age	2 - 05-09 YRS
Condition	1

Year Built 2003
Physical Deterioration 0%
Obsolescence: Functional 0%

12/27/23, 3:54 PM

MCPA Property Record Card

Quality Grade 700 - GOOD
Inspected on 11/2/2021 by 187

Obsolescence: Locational 0%
Architecture 0 - STANDARD SFR
Base Perimeter 206

Type	Exterior Walls	Stories	Year Built	Finished Attic	Bsmt Area	Bsmt Finish	Ground Floor Area	Total Flr Area
RES 0139	- HARDEE BOARD	1.23	2003	N	0 %	0 %	1,762	2,167
FGR 0239	- HARDEE BOARD	1.00	2003	N	0 %	0 %	598	598
FSP 0301	- NO EXTERIOR	1.00	2003	N	0 %	0 %	444	444
FOP 0401	- NO EXTERIOR	1.00	2003	N	0 %	0 %	98	98
PTO 0501	- NO EXTERIOR	1.00	2003	N	0 %	0 %	72	72
PTO 0601	- NO EXTERIOR	1.00	2003	N	0 %	0 %	40	40

Section: 1

Roof Style: 12 HIP
Roof Cover: 16 GALVANIZED MTL
Heat Meth 1: 22 DUCTED FHA
Heat Meth 2: 00
Foundation: 6 MONOLITC SLAB
A/C: Y

Floor Finish: 34 HARDWD ON CONC
Wall Finish: 16 DRYWALL-PAINT
Heat Fuel 1: 10 ELECTRIC
Heat Fuel 2: 00
Fireplaces: 0

Bedrooms: 3
4 Fixture Baths: 1
3 Fixture Baths: 1
2 Fixture Baths: 0
Extra Fixtures: 5

Blt-In Kitchen: Y
Dishwasher: Y
Garbage Disposal: Y
Garbage Compactor: N
Intercom: N
Vacuum: N

Miscellaneous Improvements

Type	Nbr Units	Type	Life	Year In	Grade	Length	Width
190 SEPTIC 1-5 BTH	1.00	UT	99	2003	2	0.0	0.0
256 WELL 1-5 BTH	1.00	UT	99	2003	2	0.0	0.0
BTH BOAT HOUSE	288.00	SF	40	2003	2	12.0	24.0
030 DOCK WOOD	804.00	SF	10	2003	3	0.0	0.0
159 PAV CONCRETE	850.00	SF	20	2003	3	0.0	0.0
DCK DECK-WOOD	819.00	SF	40	2008	2	0.0	0.0

Appraiser Notes

(LOWHOUSE) = 50%. ALL ACREAGE IN THIS SUBDIVISION HAS BEEN CLASSIFIED INCLUDING THE ONES UNDER 5 ACRES 09-15-2008 TMC

Planning and Building

**** Permit Search ****

Permit Number	Issued Date	Complete Date	Description
M090658	9/1/2002	8/1/2003	SFR

Marion County Florida - Interactive Map



12/27/2023, 10:17:27 AM

Marion County
 Streets
 Aerial 2023
 Green: Band_2
 Red: Band_1
 Blue: Band_3

Parcels

1:564

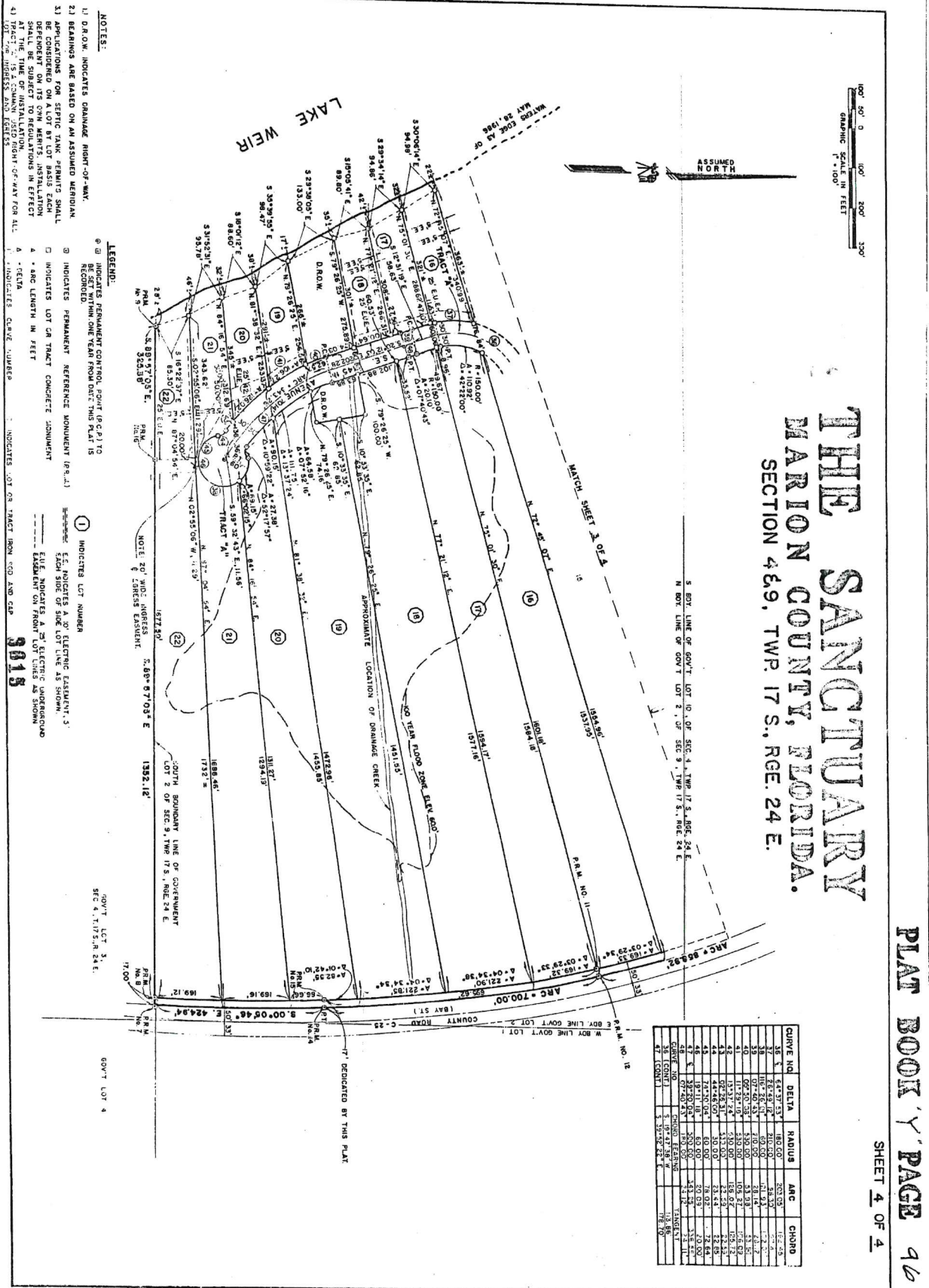
0 0 0.01 0.02 mi

0 0.01 0.01 0.02 km

Marion County Property Appraiser, Esri Community Maps Contributors,
Marion County Property Appraiser, FDEP, © OpenStreetMap, Microsoft, Esri,

Marion County Board of County Commissioners

This map is provided "as is" without any warranty or representation of accuracy, timeliness, completeness, merchantability, or fitness. The user is responsible for verifying any information and assumes all risk for reliance on any information herein.





Looking west from roadside at house.



Looking west at house with natural creek to right.



Looking west at natural creek.



Looking south where proposed pool and deck, water to right.



Standing on dock looking east at home. (Where proposed pool and deck will be located.)



Looking east from dock at house. (Wooded area is a natural Buffer.)



Looking east at southside of home.



Looking north at proposed pool and deck area.



Looking west where proposed pool and deck will be located.



Looking east at vegetative buffer left, and house on right.



Looking west at southside roadside of home.

ITEM NO: 021105V

DATE OF PUBLIC HEARING: November 4, 2002

APPLICANT'S NAME: James Martin Luffman

ADDRESS: 1204 Easton Drive
Lakeland, FL 33803

LEGAL DESCRIPTION OF PROPERTY: 49129-019-00, Lot 19, The Sanctuary.

VARIANCE REQUESTED: North side of house 20 ft. from edge of wetland in ESOZ in R-1 zone.

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. **GRANTED:** Based on the Board of Adjustment's finding that the requirements of Paragraph 1 above have been demonstrated by the applicant for Variance.
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:**
5. **TIME LIMIT:**

~~CHAIRMAN~~

DATE _____

4 Nov. 2002



Marion County Board of Adjustment

Agenda Item

File No.: 2024-14198

Agenda Date: 3/4/2024

Agenda No.: 4.1.

SUBJECT:
February 5, 2024

DESCRIPTION/BACKGROUND:
Previous BOA Meeting Minutes

MINUTES

MARION COUNTY BOARD OF ADJUSTMENT February 5, 2024

A public hearing of the Marion County Board of Adjustment was held on February 5, 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 Hagar, Ernest Hemschot, Thomas Phillips, Nathanael Ramos, Douglas Sherwood. Alternate Jackie Alsobrook was present as an observer, as a full board was present. 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

Vice-Chairman Stackman gave the Invocation, followed by 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.

Kenneth Weyrauch 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.

1. 2.1 **240201V** – CLJS, LLC – Sarah Marotta Geltz, request a **Variance** in accordance to Section 2.9 of the Marion County Land Development Code, to reduce the front setback from 25' to 18' for an existing SFR under construction, in a Single-Family Dwelling (R-1) zone on Parcel Account Number 4203-052-018 addressed as 4633 SE 135th Place, Summerfield, FL 34491.

Kathleen Brugnoli presented the case and read the report into the record.

20 homeowners were notified within 300' of the parcel with 1 letter of support received (from an adjacent tenant/renter of a duplex) and no letters of opposition received.

Jessica Gow, Cobb Cole Attorneys at Law, 149 S. Ridgewood Avenue, Suite 700, Daytona Beach, FL 32114, Attorney for the owner, stated that this is a unique strip of parcels as some front on 484 and others on 135th Place and the surveyor issue was a genuine human error that was made with no malicious intent. Ms. Gow explained that the setback issue was discovered during an inspection and a stop order was issued, the permit was put on hold and no additional building commenced and the variance application was requested promptly. The home's interior is complete and only the driveway is left to be finished.

Jeff Hartley, 283 Tiger Lily Court, Altamont Springs, FL 32714, surveyor for the applicant, explained that this unfortunate situation was a result of a newer employee's error on calculations when adjusting for the septic allowance. Mr. Hartley stated that the original intent was to push the home back further by 7', not closer. The property corners were checked several times during the setup, but with the coordinates in the data collector already entered (in error), it was reading the figures/coordinates to be correctly meeting the 25' setback. Mr. Hartley confirmed that this 'newbie' error has initiated the company to make several updates to their training and will now emphasize also having "experienced visual inspections", as well as, confirming the calculated figures prior to building.

After much discussion and additional questions from the board with the surveyor and attorney, it was noted by Atty. Gow that the hardship on the owner, who in good faith contracted to have a home built to code, would be monumental, as the owner would have to demo and rebuild the entire completed structure, secure additional housing and would have to sue the surveyor with no guarantee that the surveyor's insurance company/policy would cover this unique situation.

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.

Donald Barber 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 Conditions and Safeguards. (*"Should the structure be removed for any reason, any replacement structure must meet the then required setbacks or a variance must be requested."*)

Nathanael Ramos made a motion to second.

Motion to Approve - Passed 4 - 3 with Ernest Hemschot, Thomas Phillips and Jack Stackman dissenting.

MINUTES:

The **January 8, 2024** Board of Adjustment Minutes were moved for Approval upon a motion by Douglas Sherwood, with a second by Ernest Hemschot.

Motion for Approval - Passed 7 to 0.

ADJOURNED: The meeting adjourned at 2:56 PM.

Donald M. Barber, Chairman

Attest:

Darlene A. Pocock, Staff Assistant IV