



Town of Lake Park, Florida

Planning and Zoning Board Meeting Minutes

Monday, February 05, 2024 at 6:30 PM

535 Park Avenue Lake Park, Florida

Richard Ahrens	—	Chair
Jon Buechele	—	Vice-Chair
Evelyn Harris Clark	—	Regular Member
Gustavo Rodriguez	—	Regular Member
Patricia Leduc	—	Regular Member

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision of the Planning & Zoning Board, with respect to any matter considered at this meeting, such interested person will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Persons with disabilities requiring accommodations in order to participate in the meeting should contact the Town Clerk's office by calling 881-3311 at least 48 hours in advance to request accommodations.

CALL TO ORDER

6:33 pm

PLEDGE OF ALLEGIANCE

Led by Vice-Chair Buechele

ROLL CALL

PRESENT:

Vice-Chair Buechele

Board Member Clark

Board Member Rodriguez

Board Member Leduc

ABSENT:

Chair Ahrens

APPROVAL OF AGENDA:

Motion made to accept the meeting agenda made by Board Member Clark, Seconded by Board Member Rodriguez. Voting Aye: All.

1. APPOINTMENT OF CHAIR

Motion made to appoint Richard Ahrens as Chair made by Board Member Leduc. Seconded by Board Member Rodriguez. Voting Aye: All.

2. APPOINTMENT OF VICE-CHAIR

Motion made to appoint John Buechele as Vice-Chair made by Board Member Clark, Seconded by Board Member Rodriguez. Voting Aye: All

APPROVAL OF MINUTES:

3. October 2, 2023 Meeting Minutes

Motion made to approve minutes made by Board Member Clark, Seconded by Board Member Leduc. Voting Aye: All.

PUBLIC COMMENTS ON AGENDA ITEMS:

Any person wishing to speak on an agenda item is asked to complete a Public Comment Card located on either side of the Commission Chambers, and provide it to the Recording Secretary. Cards must be submitted before the agenda item is discussed.

NONE

ORDER OF BUSINESS:

The normal order of business for Hearings on agenda items as follows:

- Staff Presentation
- Applicant Presentation (when applicable)
- Board Member questions of Staff and Applicant
- Public Comments -3 minute limit per speaker
- Rebuttal or closing arguments for quasi-judicial items
- Motion on the floor
- Vote of Board

Vice-Chair Buechele read the order of business.

NEW BUSINESS:

4. 1021 Seminole Boulevard Variance Request- Quasi-Judicial Hearing

Town Attorney Baird asked if any Board members had any ex-parte communications to disclose.

Board Member Clark had no disclosures

Board Member Rodriguez had no disclosures

Vice-Chair Buechele had no disclosures

Board Member Leduc stated that she is friends with Greg Sawyer and Angie and did have a brief conversation about the pool and they mentioned they had applied for a pool and been denied.

Town Attorney Baird swore in all witnesses.

Town Planner Viane provided a summary of the item. He discussed each criteria and provided reasons as to why this application does not meet those criteria. (Exhibit A). He stated that staff recommends denial of the request.

Applicant Greg Sawyer argued that staff's decision was based on the pool being requested on the side of the house, but he considers that area to be the back of the house based on where the front door is. He stated he had requested to see previous variances that the Town approved, but the Town did not have any. He believes it is a reasonable use of property to build a pool on his property and to be able to see it from his back patio. Mr. Sawyer doesn't see how the pool would be contrary to the Town's comprehensive plan. Mr. Sawyer advised that it would not be feasible to build a pool on the side of the house due to sewer and electrical lines that run through that area.

Board Member Clark asked if the applicant was concerned for the safety of their grandchildren if they couldn't see them near the pool from the house. The applicant responded that this would be an issue. Board Member Rodriguez asked if the location of the utility lines would even allow for them to place a pool on the side of the house and asked about the cost of moving them. Mr. Sawyer responded that the cost of moving the irrigation well would be \$3500.

Board Member Leduc agrees that the front of the house lies on the side. Vice-Chair Buechele also agrees with the placement of the front of the house. He expressed a concern with setting a precedence but doesn't believe there would be many people asking for the same thing.

Town Planner Viane spoke about criteria #6 again and clarified that the criteria was only partially met on this item. Board Member Clark asked about the utilities on the side of the home and if the pool would impede the utility companies ability to access the equipment. Town Planner Viane stated he doesn't believe it would. Board Member Clark also expressed concern with setting a precedence. Town Planner Viane stated that each variance request is reviewed and decided on its own merits. He stated that the applicant had requested copies of all variance requests within the last 5 years and he had provided the one and only application the Town had received in the last 5 years, which had been denied, to the applicant. Vice-Chair Buechele asked for confirmation that these applications were reviewed on a case by case basis. Town Planner Viane confirmed that this is true.

Motion made to deny variance request made Board Member Rodriguez, Seconded by Board Member Clark. Voting Aye: Board Member Rodriguez.

Motion to approve applicants request made by Board Member Clark, Seconded by Vice-Chair Buechele. Voting Aye: Vice-Chair Buechele, Board Member Clark, Board Member Leduc.

PLANNING & ZONING BOARD MEMBER COMMENTS:

NONE

COMMUNITY DEVELOPMENT DIRECTOR COMMENTS AND PROJECT UPDATES:

Community Development Director Nadia DiTommaso stated that staff had no further comments. Vice-Chair Buechele asked about the progress of the steakhouse. Community Development Director DiTommaso state that they do not have a date yet but progress is moving quickly.

ADJOURNMENT:

Motion to adjourn made by Board Member Leduc, Seconded by Board Member Rodriguez.

Meeting adjourned 7:17pm.

FUTURE MEETING DATE: March 4, 2024

_____, Chair

Town of Lake Park Planning & Zoning Board

Town Seal

Town Clerk, Vivian Mendez, MMC

Deputy Town Clerk, Laura Weidgans

Approved on this _____ of _____, _____



**TOWN LAKE OF PARK
PLANNING AND ZONING BOARD
Meeting Date: February 5, 2024
PZ-24-01**

Applicant(s): Gregory Sawyer
Owner: Gregory Sawyer
Agent: N/A
Address: 1021 Seminole Boulevard
Net Acreage: 0.2834
Legal: KELSEY CITY LTS 27, 28, 29, 30 BLK 102
Existing Zoning: R-1A
Future Land Use: Single-Family Residential

Adjacent Zoning

North: R-1A residence district
South: R-1A residence district
East: R-1A residence district
West: R-1A residence district

Adjacent Future Land Use

North: Single-Family Residential
South: Single-Family Residential
East: Single-Family Residential
West: Single-Family Residential

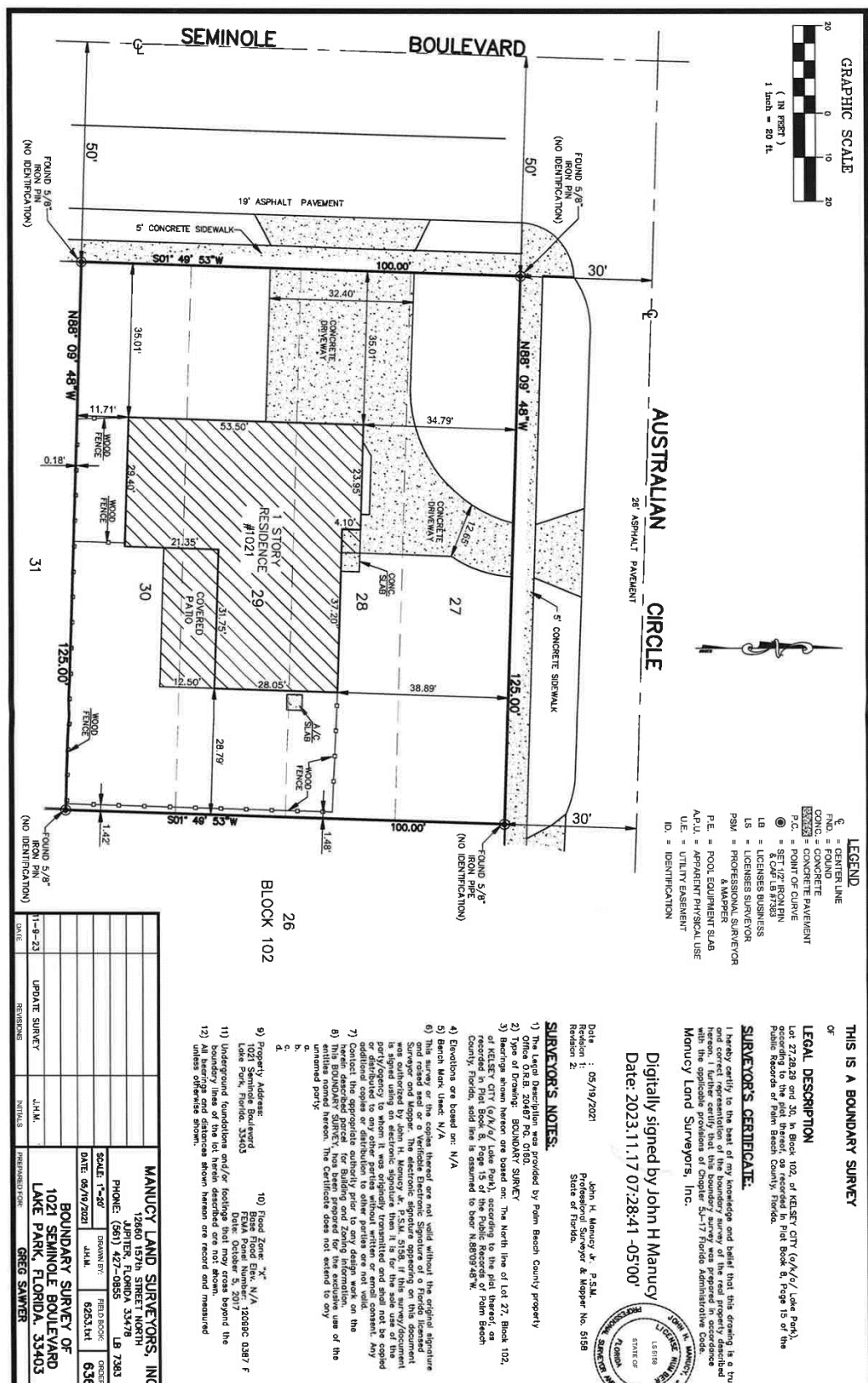
I. VARIANCE REQUEST

Decrease pool setback from property line from the required 10 feet to 5 feet, on both the side and rear of the property.

II. BACKGROUND INFORMATION AND SUMMARY OF REQUEST:

Background of Request

This variance request is being brought forward in advance of planned improvements to 1021 Seminole Boulevard; no building permit application has been pulled at this time as the applicant is waiting for the outcome of the Board's consideration of their variance request before proceeding. The applicant is contemplating a new swimming pool for their property, which they would like configured in the way they feel most compliments their existing home. Specifically, they would like the pool placed in the southeastern corner of their lot where it will be visible from the home's kitchen and living rooms. This configuration would require that the width of the pool be abnormally skinny (approximately 5' width) to accommodate the required 10' side yard setback for swimming pools; as a result, the applicant is seeking a variance to provide a 5' setback instead of the required 10', which would allow them a pool width of approximately 10 feet. Planning staff discussed alternative configurations prior to the applicant's variance submittal such as placing the pool along the eastern side of the lot, however the proposed configuration is their preference. Consequently, they have submitted this variance request to determine whether their preferred configuration can be accommodated under the allowances of the variance code.



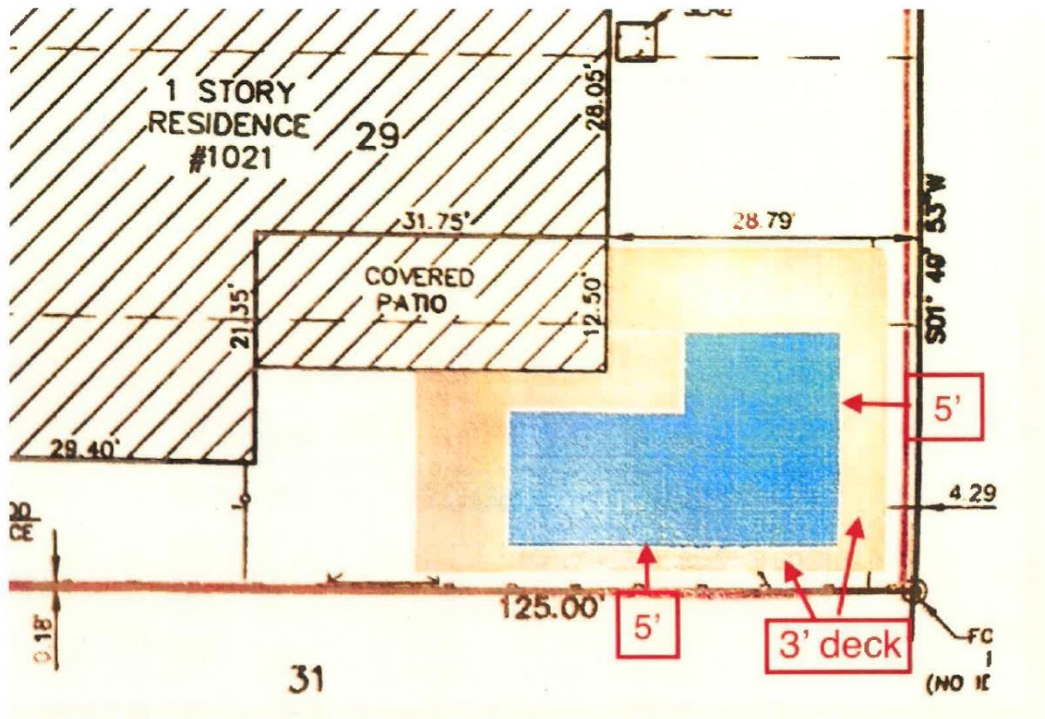


Figure 2 – Conceptual Diagram



Figure 3 - Illustrative Diagram

Summary of Request

The applicant requests a variance from Sec. 26-61 so that he can provide 5' rear and side yard setbacks rather than the required 10'. The language of the governing code section is as follows:

“The outside rim of a private swimming pool shall be set back not less than ten feet from both rear and side property lines.”

The provision, like all setbacks, is designed to ensure harmony and compatibility between uses and structures. Without this variance, the pool would need an approximate 5' width in order to accommodate the minimum 10' setback and a 5' setback from the existing home as recommended by the pool builder. The applicant states granting this variance will be a positive benefit to the property and surrounding properties, improving their aesthetics.

Variance Number	Section:	Required:	Proposed:
1	26-61	10 feet	5 feet

III. CONSISTENCY WITH THE COMPREHENSIVE PLAN

The following Comprehensive Plan statements are applicable in this case:

Policy 5.4: Utilize such techniques as distance requirements, buffering, landscaping, lower-intensity development, and scale-down requirements to provide appropriate transitions between uses and districts of different intensities, densities, and functions.

IV. LAWS ON VARIANCES

Section 55-63 (2) of the Town Code vests the Planning and Zoning Board with final authority regarding variances. Section 78-185 of the Town Code establishes criteria which must be met to entitle an applicant to a variance. The Board must find that all 7 criteria have been met to entitle an applicant to the requested variance relief. The 7 criteria are:

- (1) Special conditions and circumstances exist which are peculiar to the land, structure, or building;
- (2) The special conditions or circumstances are not a result of actions by the Owner/applicant;
- (3) Granting the variance will not confer on the Owner any special privilege that is denied to others;
- (4) A literal interpretation of the land development regulations would deprive the Owner of rights commonly enjoyed by other properties in the same zoning district;
- (5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure;
- (6) The granting of the variance will be in harmony with the general intent and purpose of the land development regulations and will not be injurious to the area involved or otherwise detrimental to the public welfare and;
- (7) Granting the variance would not be contrary to the comprehensive plan.

In evaluating these criteria, Courts have placed emphasis on criteria # 4, by holding the owner/applicants for variance relief and the governing board evaluating the application to the rigorous standard of whether the denial of the variance would render the Property virtually unusable. See Bernard v. Town of Palm Beach, 569 So. 2d 853 (Fla. 4th DCA 1990).

IV. ANALYSIS OF CRITERIA AND FINDINGS FOR VARIANCE

Below are listed the seven (7) variance criteria from Code Section 78-185 which all must be met before a variance can be granted.

CRITERIA 1: That 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 in the same zoning district.

Applicant Response: “Residence has a shallow back yard depth. We would like the pool in the back so it can be seen from inside the home’s living/kitchen area.”

Staff Response: Staff does not agree that special circumstances exist.

Firstly, the lot generally conforms to the minimum required setbacks and lot area. According to a survey performed by Manucy Land Surveyors on 5/19/21 and updated 11/9/23, a 28.79’ rear yard setback exists which would be available for new construction. On the south side yard, the side yard setback is at least 11.71’ at the narrowest and as large as 20.6’ between the covered patio and the side yard property line. This ~20’ area is where the applicant is proposing their pool and thus they cannot meet the required 10’ setback from the edge of the pool to the property line and a 5’ setback from their home. Additionally, the plot of land is over the minimum required lot area for a corner lot in the R-1A district at 12,500 SF.

While the front street side setback along Australian Circle is above the code minimum at 39.79’ instead of the required 15’, there nevertheless remains the 28.79’ rear yard area where an ~13’ wide pool could be accommodated. There is no entitlement in the code that guarantees a home owner can build on any given side of their property; most other single family home owners in the R-1A district observe a 10’ side yard setback between their home and property line and thus could not place pools in their side yards in most cases. As it pertains only to corner lots, there are numerous other single-family properties with configurations which would not permit new development on all sides given the unique orientations of their homes; as a result, their designs have to respond to the existing site conditions. If there was no other outlet for the property owner to install improvements whatsoever, staff would be more inclined to accept this is a special condition or circumstance unique to the land, but since that is not the case we cannot find they meet criteria 1.

Criteria 1 is failed.

CRITERIA 2: That the special conditions and circumstances do not result from the actions of the applicant.

Applicant Response: “These are the existing property dimensions. We did not alter any of the back yard dimensions or add any structures.”

Staff Response: Staff did not find special conditions or circumstances to exist on this property in the strict sense intended by the variance criteria guidelines. The lot is typical in size and configuration for many single family corner parcels in that the structure does not strictly observe the minimum required setbacks and instead has a larger setback in one area, here being the side yard. The conflict between the required setback and the proposed pool placement does not qualify as a special condition or unique circumstance because it derives from the actions of the applicant.

Criteria 2 is failed.

CRITERIA 3: That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in the same zoning district.

Applicant Response: “There is no special privilege given to the applicant that would be denied to other homeowners who also request construction of a pool in the same zoning district.”

Staff Response: The granting of this variance would confer upon the applicant the special privilege of building within a required setback based solely on their preference. This is not permitted elsewhere in the R-1A district or anywhere in the entire Town. Staff does not support variances that are based on the applicant’s preference when other code-compliant alternative designs are possible.

Criteria 3 is failed.

CRITERIA 4: That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter, and would work unnecessary and undue hardship on the applicant.

Applicant Response: “We would like to have the same rights commonly enjoyed by other neighbors who also have pools. The reason for the requested variance is because the pool builder requires a 5’ buffer from any foundations of the existing structures. Without this variance, our pool would only be 5 feet wide.”

Staff Response: The applicant is not being deprived of rights commonly enjoyed by other properties in the same zoning district; regardless of the above-required side yard setback on Australian and the resultant smaller side yard, there remains ample area in the backyard to provide the required setback from the property line and the builder's recommended setback from the home, so the applicant is not being deprived of their ability to build a pool.

Additionally, the Applicant is not subject to unnecessary and undue hardship by the denial of this request. While staff acknowledges the applicant's desire to have the pool visible from their living room and kitchen, this is not a right explicitly granted in our code and we do not feel being denied the preferred pool configuration constitutes an unnecessary and undue hardship.

Criteria 4 is failed.

CRITERIA 5: That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

Applicant Response: "We are requesting a variance of 5 feet to the back and side yard property lines. The pool cannot be moved closer to the house because pool builder requires a foot buffer from existing foundations and structures."

Staff Response: While this variance would be the minimum necessary to allow for a pool in the side yard, staff does not believe it would be the minimum necessary to make reasonable use of the land. If "reasonable use of the land" were construed as the owner's ability to create a pool, per the provided survey, this property is still entitled to ~13 feet of buildable area in the rear yard (where most pools are built) behind the building meeting the required pool builder and zoning setbacks. The applicant has not compellingly demonstrated how having their pool in the side yard is essential to making reasonable use of their property; on the contrary, there is no reasonable expectation of using a setback for construction.

Criteria 5 is failed.

CRITERIA 6: That the granting of the variance will be in harmony with the general intent and purpose of the land development regulations of the Code, and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant Response: "We will be in harmony with the code. There will be no detriment to the public welfare as we have a safety barrier fence consisting of at least 5 feet with gates that are self-closing."

Staff Response: While staff notes that this variance would likely not be injurious to the immediate area or otherwise detrimental to the public welfare, the requested variance is simply not consistent with the general intent and purpose of the code by attempting to waive the code-mandated setbacks without a compelling and essential reason for doing so.

Criteria 6 is failed.

CRITERIA 7: That the variance would not be contrary to the comprehensive plan of the town.

Applicant Response: “Approval of this variance would not be contrary to the comprehensive plan of the Town. There would still be room for the Town to access the property lines if needed.”

Staff Response: This proposal is contrary to the intent of Policy 5.4 of the Goals, Objectives, and Policies section of the comprehensive plan, which requires adequate buffering be provisioned for all properties to ensure harmony and minimize adverse impacts between uses. In this case, a variance would be an inconsistent and capricious exercise of zoning power that would be unfair to other property owners who have observed the requirements of our code and the underlying Comprehensive Plan principles even when it is not their preference. This variance would serve to undermine both the code and Comprehensive Plan, setting a poor precedent for the use of variances going forward.

Criteria 7 is failed.

V. STAFF RECOMMENDATION

Staff recommends DENIAL of the requested variance because it does not meet any of the 7 criteria required for the granting of a variance.

Summary of Consistency with Criteria for variance request

		Consistent	Inconsistent
1.	Special Conditions		X
2.	Actions of the Applicant		X
3.	Special Privilege		X
4.	Literal Interpretations		X
5.	Minimum Variance		X

6.	Public Interest		X
7.	General Harmony		X

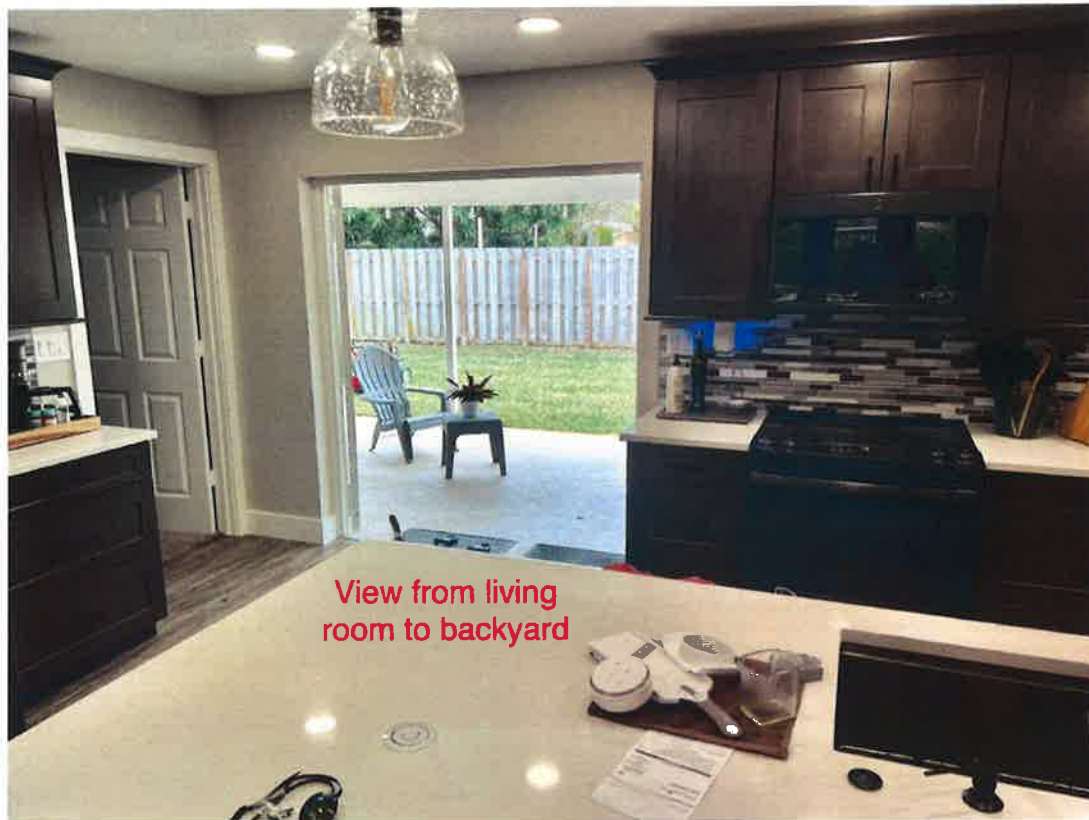
VI. MOTION FOR THE BOARD TO CONSIDER:

I move to **DENY** variance request.

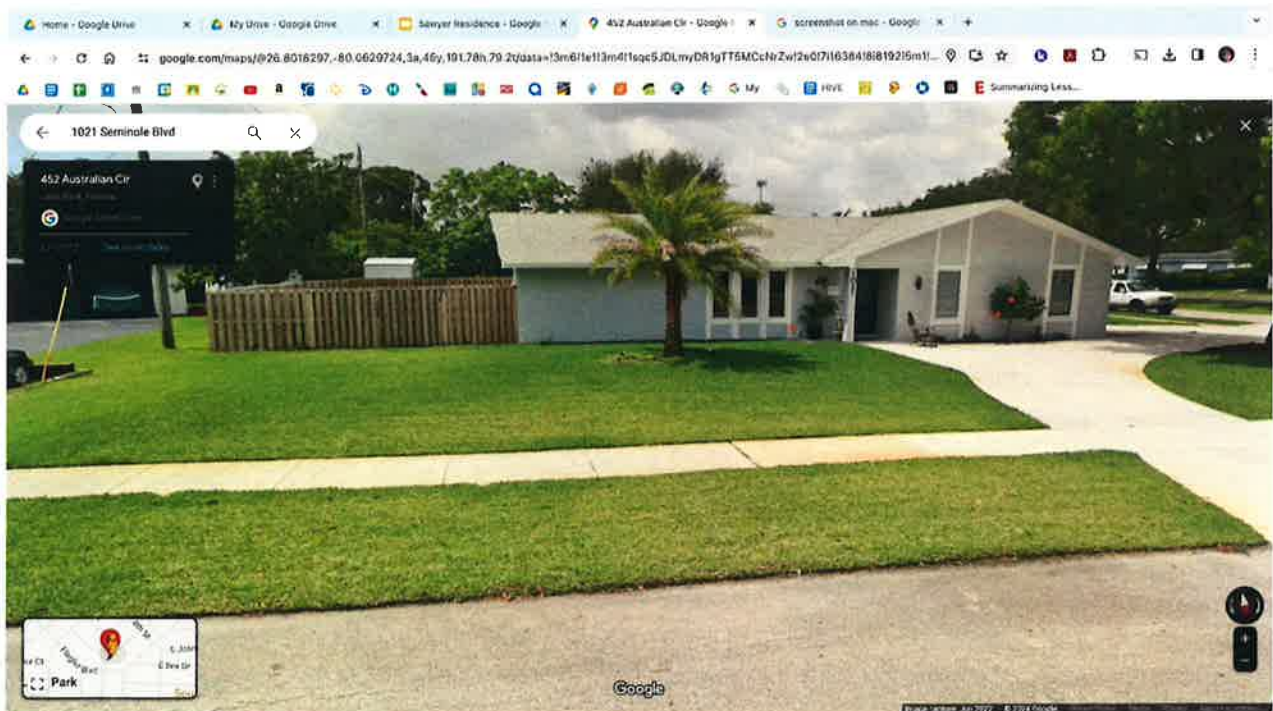
Exhibit B

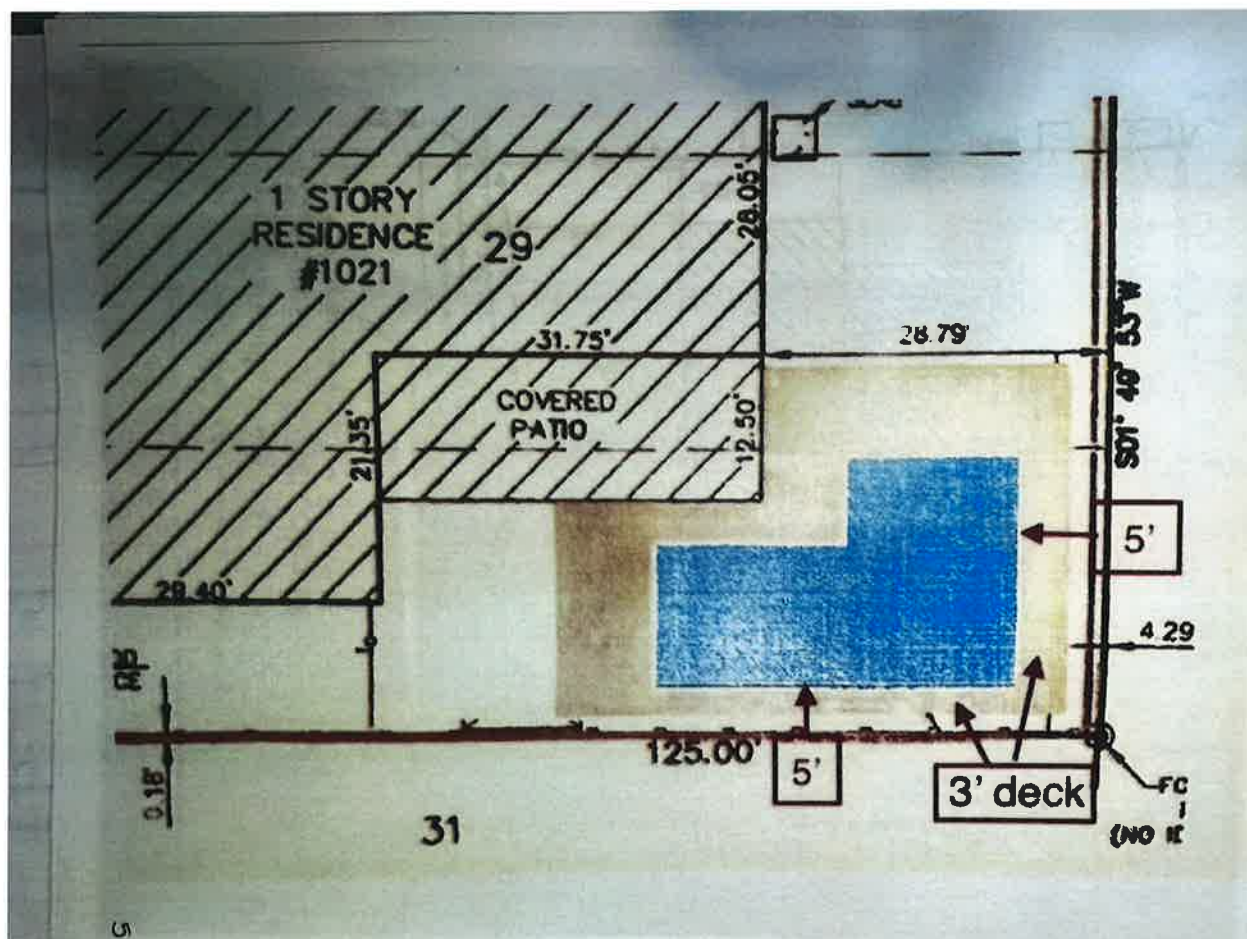
**Sawyer Residence
1021 Seminole Blvd.
Lake Park**

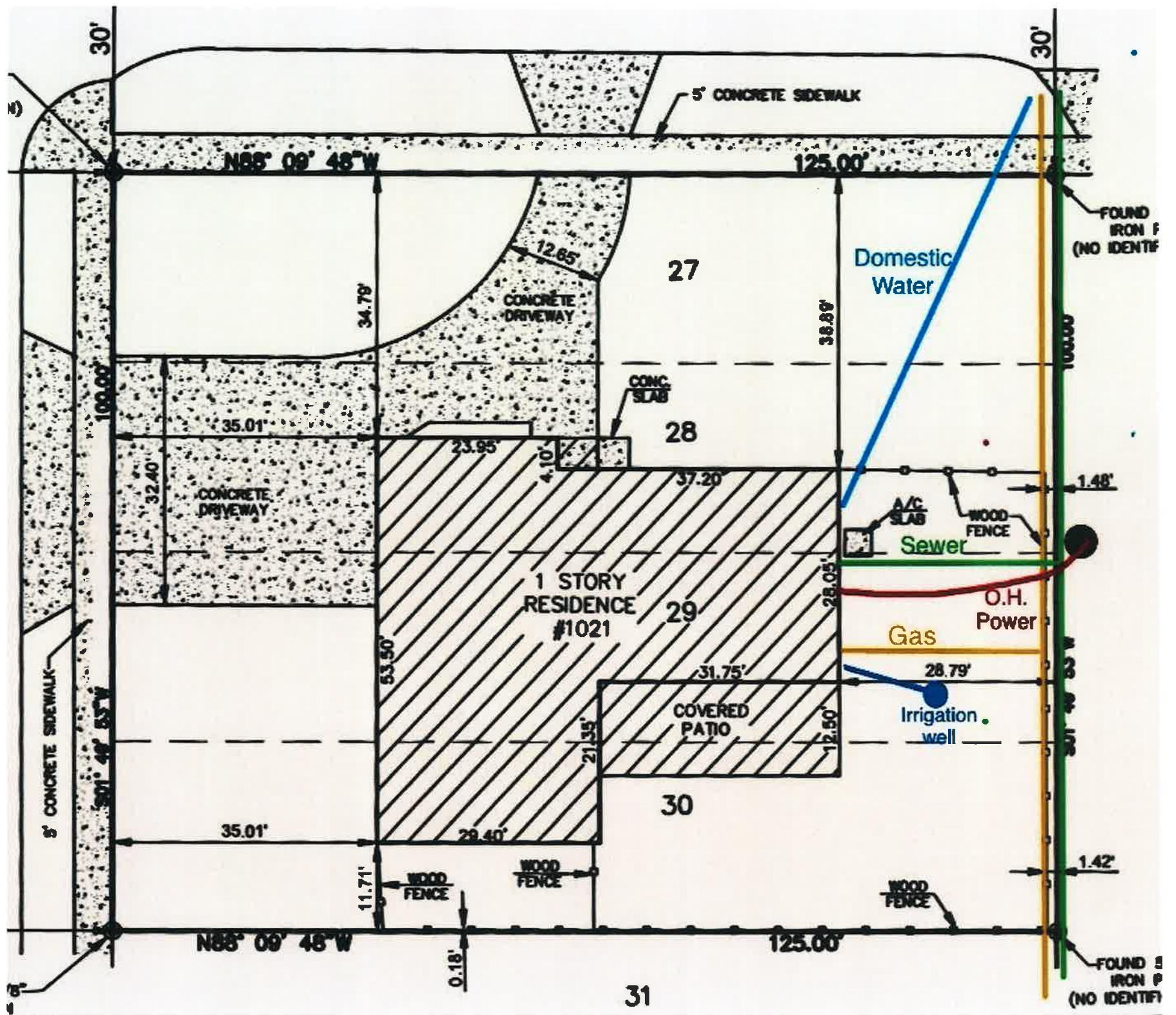




View from living
room to backyard







February 5, 2024

To the P and Z Board at the Town of Lake Park Florida,

I am writing to share my support for Greg Sawyer in his pursuit to build a pool in his backyard at the property address 1021 Seminole Blvd, Lake Park. I have no doubt that he will build a lovely pool that will work for his family to use and it will be well cared for. As his neighbor next door, I do not see any problem with him building a pool within 5 feet of my property line. Please take my feelings into consideration when deciding on this matter. It is my feeling that Greg Sawyer should be allowed to build a pool using a 5 foot easement from the property line that I share with him.

Sincerely,

Robert Kiselak & Victoria Comstock
1015 Seminole Blvd.
Lake Park, FL 33403

Two handwritten signatures in blue ink. The top signature is for Robert Kiselak, and the bottom signature is for Victoria Comstock. Both signatures are fluid and cursive.

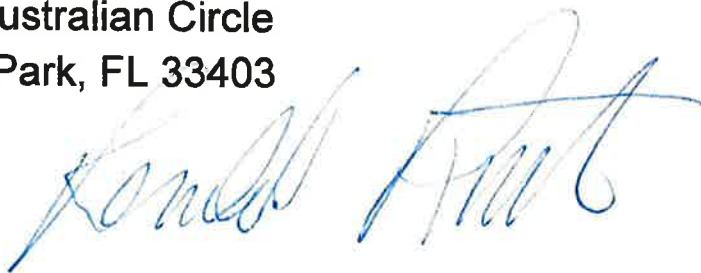
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Sincerely,

Ronald L. Pinkston
452 Australian Circle
Lake Park, FL 33403

A handwritten signature in blue ink, appearing to read "Ronald Pinkston", is written over the printed name and address.