

THE TOWN OF
Windermere



DEVELOPMENT REVIEW BOARD

Chair: Frank Chase

Peter Fleck

Jennifer Roper

Norma Sutton

Stephen Withers

Roger Heinz

Gregg Anderson

Council Liaison: Bill Martini

Agenda

Agenda

May 17, 2022

6:30 PM

TOWN HALL

520 MAIN STREET

WINDERMERE, FL 34786

PLEASE TURN OFF ALL CELL PHONES AND PAGERS

PLEASE NOTE: IN ACCORDANCE WITH F.S. 286.26: Person with disabilities needing assistance to participate in any such proceedings should contact the Office of the Clerk at least 48 hours beforehand at (407) 876-2563.

Pursuant to Resolution No. 2005-12 adopted on December 13, 2005, the following Civility Code shall govern all proceedings before the Town of Windermere Development Review Board:

1. All electronic devices, including cell phones and pagers, shall be either turned off or otherwise silenced.
2. Prolonged conversation shall be conducted outside Council meeting hall.
3. Whistling, heckling, gesturing, loud conversations, or other disruptive behavior is prohibited.
4. Only those individuals who have signed the speaker list and/or/who have been recognized by the Mayor (or Chair) may address comments to the Council.
5. Comments at public hearings shall be limited to the subject being considered by the Council
6. Comments at Open Forums shall be directed to Town issues.
7. All public comments shall avoid personal attacks and abusive language
8. No person attending a Development Review Board meeting is to harass, annoy, or otherwise disturb any other person in the room.

Any member of the public whose behavior is disruptive and violates the Town of Windermere Civility Code is subject to removal from the Development Review Board meeting by an officer and such other actions as may be appropriate. PLEASE NOTE: IN ACCORDANCE WITH F.S. 286.0105: Any person who desires to appeal any decision at this meeting will need a record of this proceeding. For this, such person may need to ensure that a verbatim record of such proceeding is made which includes the

AGENDA

- **THE MEETING IS CALLED TO ORDER BY THE CHAIRMAN**

1. OPEN FORUM / PUBLIC COMMENT (3 Minute Limit)

2. NEW BUSINESS

a. Minutes

i. Development Review Board Meeting Minutes April 19, 2022 (Attachment - Board Option)

b. General Items for Consideration

i. Z21-10: 11 Main Street - Ashley Walker - Variance to allow a reduced setback from the Normal High-Water Line for a swimming pool (Tabled per applicant)

ii. Z22-07: 1069 W 2nd Ave – Jane and Mark Shafer - Variance to allow for an alteration to an existing pool deck that results in a setback of 45 feet from the Normal High Water Line.

3. ADJOURN

TOWN OF WINDERMERE

**Development Review Board
Meeting Minutes**

April 19, 2022

Present were Chair Frank Chase, Board Members; Norma Sutton, Roger Heinz, Stephen Withers, Gregg Anderson, Jennifer Roper and Peter Fleck. Town Manager Robert Smith, Town Planner Brad Cornelius, Town Council Liaison Bill Martini, and Town Clerk Dorothy Burkhalter were also present.

Chair Chase called the meeting to order at 6:31pm. He then led everyone in the Pledge of Allegiance.

Chair Chase welcomed Mr. Gregg Anderson to the DRB as this is his first meeting.

1. OPEN FORUM/PUBLIC COMMENTS:

There were no public speakers.

2. NEW BUSINESS:

a. MINUTES:

i. February 15, 2022 Meeting Minutes

Member Sutton made a motion to approve the minutes. Member Withers seconded the motion. All were in favor.

Member Fleck and Member Heinz read their Form 8B for the record.

b. General Items for Consideration:

i. Z21-10: 11 Main Street – Ashley Walker – Variance to allow a reduced setback from the Normal High-Water Line for a swimming pool

This item was tabled per the applicant.

ii. 50-Foot Waterfront Setback Requirement Discussion

- 1. Should the Town consider reducing the required pool 50-foot Waterfront setback requirement?**
- 2. If the DRB does endorse reducing the required setback, then does the DRB have a recommended alternative?**

Chair Chase turned the floor over to Mr. Brad Cornelius. Mr. Cornelius introduced this item. He explained that due to recent pool variances and the 50-foot setback, the Town Council request that the DRB review the Code to see if there is any interest in changing the setback. Mr. Cornelius gave a report regarding the research into other municipalities setbacks, Outstanding Florida Water bodies, past variances, zoning district and setbacks; Orange County zoning RCE rear 50', Orange County small area on Lake Down zoning A has a rear set back of 30', Clermont on Outstanding Florida Water Body 25', and Winter Park 50' unless on canal or stream with approval 20', Agencies contacted, Town's lake consultant keep 50', potential mitigation avenues; on-site retention and seawalls, changing to an administration act if approved and legal advice of adding hold harmless if changed. Discussion from the Board members began. Comments were made regarding difference between salt and chlorine pools, concerns with existing fertilizers/chemicals

TOWN OF WINDERMERE

**Development Review Board
Meeting Minutes**

April 19, 2022

entering lakes from yards, seawalls/retention, protecting the lakes, and concerns of changing the setback and future variances to those setbacks. Member Withers made a motion to recommend no changes be made to the current 50' setback requirements. Member Fleck seconded the motion. All were in favor.

Discussion was made regarding well abandonments. Chair Chase turned the floor over to Ms. Ashley Walker of 11 Main Street who asked to speak. She then commented on her existing seawall and 100-year flood plan retention. Ms. Walker questioned if she would need to present this information to the DRB. Manager Smith stated that this item has been tabled and noticed as tabled and shouldn't be discussed. Mr. Cornelius stated that this item will come back before the DRB. Member Roper thanked Mr. Cornelius on his presentation. She then stated that with the chain of lakes and the designation, the setback did not need to change. Member Sutton stated she would like to know the difference between salt and chlorine.

4. ADJOURN:

Member Anderson made a motion to adjourn. Member Heinz seconded the motion. All were in favor.

The meeting adjourned at 7:19pm.

Dorothy Burkhalter, Town Clerk

Frank Chase, Chair

Town of Windermere

614 Main Street Windermere, FL 34786
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor

JIM O'BRIEN



Town Manager
ROBERT SMITH

Clerk

DOROTHY BURKHALTER

Development Review Board May 17, 2022

Town Council June 14, 2022

Case No.: Z22-07

Applicant/Representative: Mark and Jane Shafer

Property Owners: Shafer Family Revocable Trust

Requested Action: Variance to allow for an alteration to an existing pool deck that results in a setback of 45 feet from the Normal High Water Line.

Property Address: 1069 W 2nd Avenue. Windermere, FL 34786

Legal Description: ALADAR REPLAT DB 926/234 REPLAT OF PT OF LOT 21 LOT 1 DESC AS FROM CENTER OF SECOND AVE & ON THE SELY LINE OF LOT 21 TH N20-39W 164.68 FT TO POB TH N20-39W 4.55 FT TO PT OF CURVE TO THE LEFT HAV RAD OF 72.78 FT & AN INTERAL ANGLE OF 42-46 TH AROUND CURVE TO A PT OF TANGENT TH N63-25W 71.4 FT TO POINT A TH N44-58E 215 FT TO LAKE BUTLER TH SELY ALONG LAKE TO POINT OF N44-58E FROM POB TH S44-58W 190 POB & THAT PT DESC AS FROM INTERSECTIONOF CENTER LINE OF 2ND AVE AND THE SELY BOUNDARY OF LOT 21 TH N45-2-13W 150 FT TH N44-57-47E 115.07 FT TH N57-16-13W 3.03 FT TH N78-42-13W 49.8 FT TH N63-25-13W 28 FT TH ALONG CURVE TO THE RIGHT WITH RAD OF 20 FT & INTERSECTION ANGLE OF 52-17 & DISTANCE OF 18.25 FT TH N11-8-13W 13 FT TH ALONG CURVE TO THE LEFT WITH RAD OF 45 FT & CENTRAL ANGLE OF 33-54 & A DISTANCE OF 26.68 FT TO POB TH CONTINUE ALONG CURVE TO LEFT WITH RAD OF 45 FT & CENTRAL ANGLE OF 90 & DISTANCE OF

1 of 4

70.685 FT TH N45-2-13W 135+/- TO A PT IN THE WATERS OF LAKE BUTLER TH NELY & ELY ALONG WATERS EDGE TO A PT WHICH BEARS N27-52-47E FROM POB TH S27-52-47W 182+/- FT TO POB

Future Land Use/Zoning: Residential/Residential

Existing Use: Residential (Single Family)

Surrounding Future Land Use/Zoning

North: Residential/Residential

East: Lake

South: Residential/Residential

West: Residential/Residential

CASE SUMMARY:

The applicant proposes to make an alteration to their existing pool deck, which is 50-feet from the Normal High Water Elevation, to address safety concerns and to install an overflow basin and steps, which encroach no more than 5 feet into the required 50-foot setback from the Normal High-Water Line and results in a setback of 45 feet. However, the contractor states that they only may need to encroach 2 feet.

Division 10.02.00 of the LDC empowers the Development Review Board to review and make recommendations for approval, approval with conditions or denial to the Town Council on variance requests.

Division 10.02.00 of the LDC requires the Town Council to consider the recommendation of the Development Review Board and to take final action to either approve or deny the variance request.

CASE ANALYSIS:

Section 10.02.02 of the LDC provides the specific standards by which the Development Review Board and Town Council are to review to consider the approval or denial of a variance application. In addition, this Section requires a positive finding, based on substantial competent evidence, for each of the standards. These standards are summarized as follows:

1. The need for the variance arises out of the physical surroundings, shape, topographical condition or other physical or environmental conditions that are unique to the subject property. Variances should be granted for conditions peculiar to the property and not the result of actions of the property owner;
2. There are practical or economic difficulties in carrying out the strict letter of the

regulation;

3. The variance request is not based exclusively upon a desire to reduce the cost of developing the site;
4. The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire or other hazard to the public;
5. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site;
6. The effect of the proposed variance is in harmony with the general intent of this Land Development Code and the specific intent of the relevant subject areas of this Land Development Code; and
7. The variance will not encourage further requests for changes where such a land use would not be deemed appropriate.

It is also important to note that this Section also provides specific standards that are not to be considered in the review of a variance application. These standards are:

1. That the implementation of these regulations would impose an economic hardship on the cost of the building or redevelopment project;
2. That these regulations impose a hardship by decreasing the maximum density of a property in terms of the number of units, square footage of buildings, etc.; and
3. That other adjacent lands, structures or buildings not in conformance with these regulations provide a rationale for a lessening of their application in this specific case.

Section 10.02.02(c) of the LDC allows the imposition of conditions and restrictions as may be necessary to allow a positive finding to be made on any of the variance standards to minimize the negative effect of the variance. The conditions and restrictions should further the interest of the LDC.

The applicant submitted a site plan and other materials in support of the variance request. The following is a summary of the information provided by the applicants in support of their variance request:

1. The applicant states the alterations are need to address safety issues with the pool and pool deck.

PUBLIC NOTICE:

Public notices were mailed to property owners within 500 feet of the subject property. As of May 10, 2022, no responses were received. Responses received after May 10, 2022, will be provided at the DRB meeting.

April 18, 2022

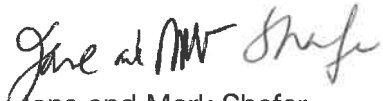
Dorothy Burkhalter ,Town Clerk
Town of Windermere
Windermere , Florida 34786

Dear Mrs. Burkhalter,

Please see the attached letter from Paradise Pools who we have hired to make some necessary changes needed for updating to the current safety code requirements for our pool and pool patio area.

Please note we are asking the Town Council, DRB, and the Town of Windermere to kindly please take the time to review all the required documents that pertain to our requested variance ; whereby allowing us the opportunity to make the necessary safety code changes as well as enhancing our property value in the Town of Windermere .

Thank you so much for your consideration .



Jane and Mark Shafer
1069 W. 2nd Ave.
Windermere , Florida 34786

April 14, 2022


Paradise Waterfalls, LLC
104 Shady Lane
Longwood, Fl. 32750

The residence at 1069 West 2nd Ave. Windermere, Florida has a pool located in the back yard in need of repair and updating to current code compliance. Included in the code compliance is the installation of 2 channel drains according to the Virginia Graeme Baker act of 2008. These are to be installed in an overflow basin to be located along the rear edge of the pool toward the lake. This basin will slightly encroach the 50 foot flood line to current waters edge by approximately 12 inches.

An additional safety feature was noted along the northeastern most part of the rear of the house. There is currently a drop of approximately 12 inches from a rear door to grade that should be replaced by two steps. The homeowner wishes to correct this issue by implementing a two step wrap around of the northeastern wall to the edge of the pool. This would encroach that same flood line by an additional 24 inches.

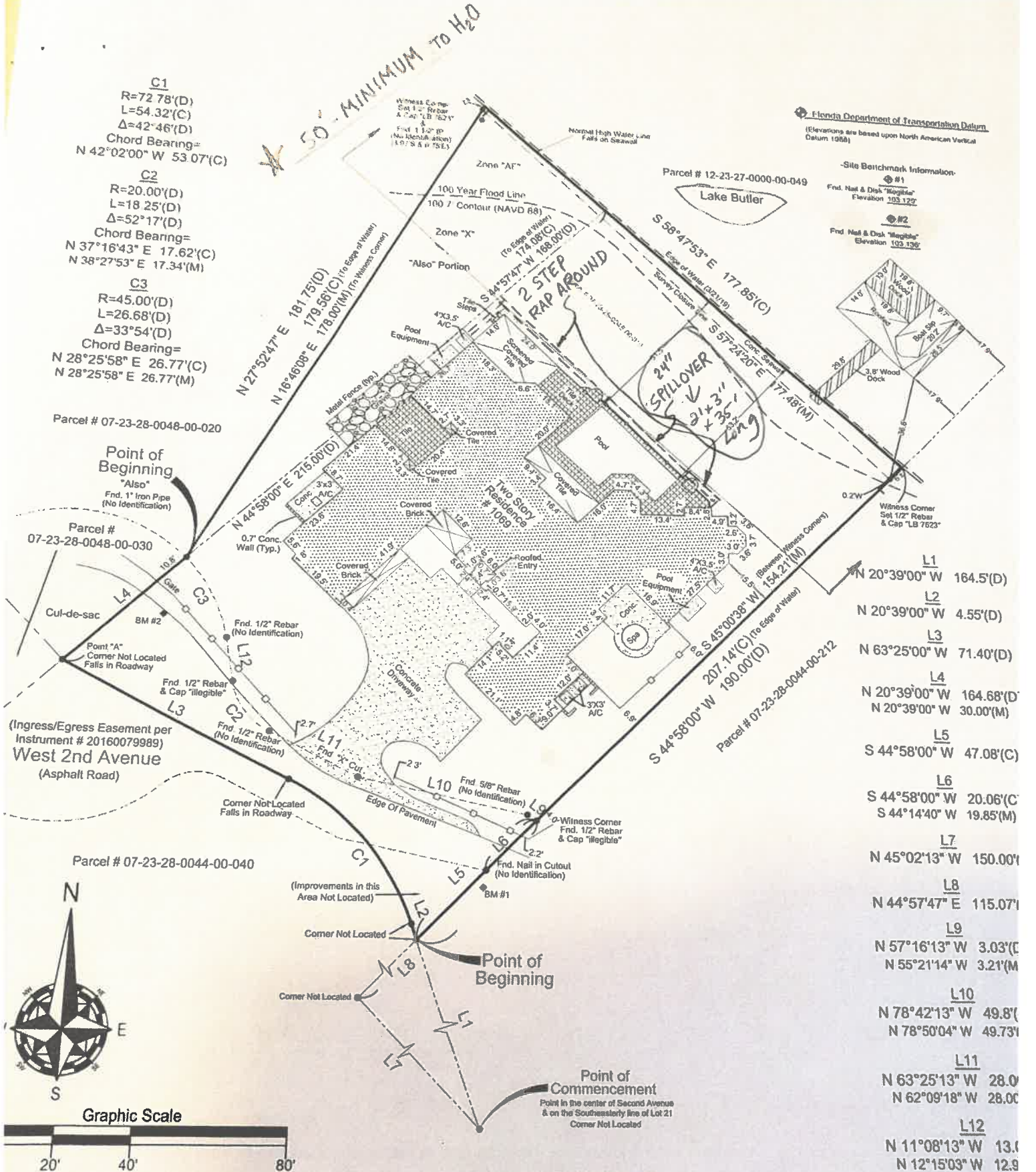
The engineering firm of Richardson Engineering has informed the homeowner to file for this variance in order to properly accommodate these repairs. They have asked for a variance of up to 5 foot, although we expect to use only 2 foot.

We thank you for your consideration in accommodating this request.


Ron McLaughlin
Pres. Paradise Waterfalls, LLC.

Florida Department of Transportation Datum
 (Elevations are based upon North American Vertical Datum 1988)

Site Benchmark Information:
 #1
 Fnd. Nail & Disk "illegible"
 Elevation 103.125'
 #2
 Fnd. Nail & Disk "illegible"
 Elevation 103.136'

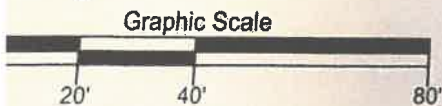


C1
 R=72.78'(D)
 L=54.32'(C)
 $\Delta=42^\circ 46'(D)$
 Chord Bearing=
 N 42°02'00" W 53.07'(C)

C2
 R=20.00'(D)
 L=18.25'(D)
 $\Delta=52^\circ 17'(D)$
 Chord Bearing=
 N 37°16'43" E 17.62'(C)
 N 38°27'53" E 17.34'(M)

C3
 R=45.00'(D)
 L=26.68'(D)
 $\Delta=33^\circ 54'(D)$
 Chord Bearing=
 N 28°25'58" E 26.77'(C)
 N 28°25'58" E 26.77'(M)

- L1** N 20°39'00" W 164.5'(D)
- L2** N 20°39'00" W 4.55'(D)
- L3** N 63°25'00" W 71.40'(D)
- L4** N 20°39'00" W 164.68'(D)
N 20°39'00" W 30.00'(M)
- L5** S 44°58'00" W 47.08'(C)
- L6** S 44°58'00" W 20.06'(C)
S 44°14'40" W 19.85'(M)
- L7** N 45°02'13" W 150.00'
- L8** N 44°57'47" E 115.07'
- L9** N 57°16'13" W 3.03'(C)
N 55°21'14" W 3.21'(M)
- L10** N 78°42'13" W 49.8'(C)
N 78°50'04" W 49.73'(M)
- L11** N 63°25'13" W 28.0'
N 62°09'18" W 28.0'
- L12** N 11°08'13" W 13.1'
N 12°15'03" W 12.9'



Scale: 1"=40'

Revised Survey: 3-21-19 M.K.S.

BOUNDARY SURVEY

LEGAL DESCRIPTION:

SEE ATTACHED EXHIBIT A FOR LEGAL DESCRIPTION.

FLOOD INFORMATION:

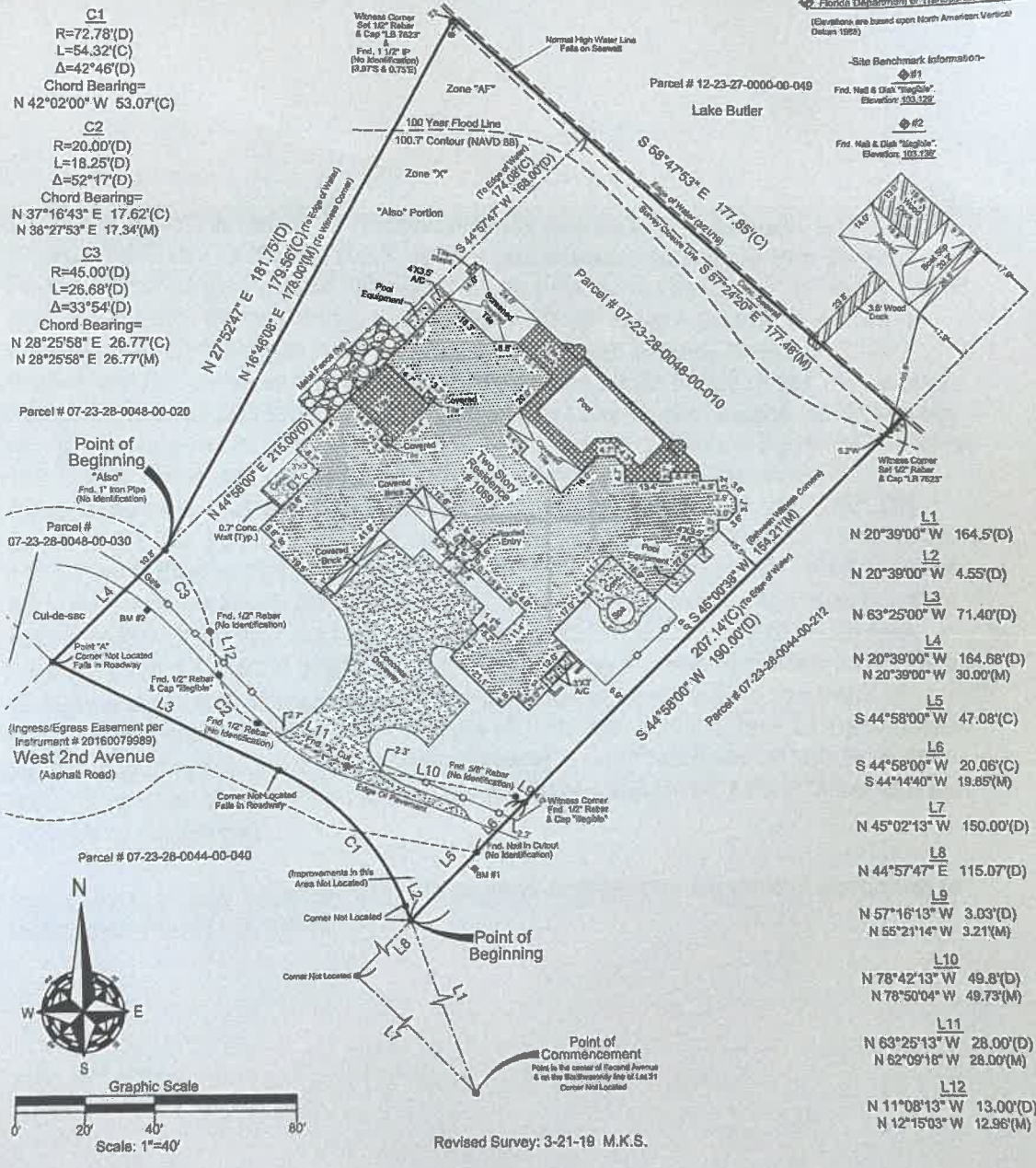
BY PERFORMING A SEARCH WITH THE LOCAL GOVERNING MUNICIPALITY OR WWW.FEMA.GOV, THE PROPERTY APPEARS TO BE LOCATED IN ZONE X, AE. THIS PROPERTY WAS FOUND IN TOWN OF WINDERMERE, COMMUNITY NUMBER 120381, DATED 9/25/2009.

CERTIFIED TO:

MARK SHAFER AND BEVERLY JANE SHAFER



1069 WEST 2ND AVENUE, WINDERMERE, FLORIDA 34766



- C1**
R=72.78'(D)
L=54.32'(C)
Δ=42°46'(D)
Chord Bearing=
N 42°02'00\" W 53.07'(C)
- C2**
R=20.00'(D)
L=18.25'(D)
Δ=52°17'(D)
Chord Bearing=
N 37°16'43\" E 17.62'(C)
N 38°27'53\" E 17.34'(M)
- C3**
R=45.00'(D)
L=26.68'(D)
Δ=33°54'(D)
Chord Bearing=
N 28°25'58\" E 26.77'(C)
N 28°25'58\" E 26.77'(M)

Parcel # 07-23-28-0048-00-020

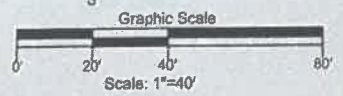
Point of Beginning
"Also"
Fnd. 1\" Iron Pipe
(No Identification)

Parcel # 07-23-28-0048-00-030

Cul-de-sac
Point "A"
Corner Not Located
Falls in Roadway

(Ingress/Egress Easement per
Instrument # 20160079989)
West 2nd Avenue
(Asphalt Road)

Parcel # 07-23-28-0044-00-040



Revised Survey: 3-21-19 M.K.S.

Florida Department of Transportation Datum
(Elevations are based upon North American Vertical Datum 1989)

Site Benchmark Information-
#1
Fnd. Nail & Disk "Invisible"
Elevation: 103.320'

#2
Fnd. Nail & Disk "Invisible"
Elevation: 103.132'

- L1 N 20°39'00\" W 164.5'(D)
- L2 N 20°39'00\" W 4.55'(D)
- L3 N 63°25'00\" W 71.40'(D)
- L4 N 20°39'00\" W 164.68'(D)
N 20°39'00\" W 30.00'(M)
- L5 S 44°58'00\" W 47.08'(C)
- L6 S 44°58'00\" W 20.06'(C)
S 44°14'40\" W 19.85'(M)
- L7 N 45°02'13\" W 150.00'(D)
- L8 N 44°57'47\" E 115.07'(D)
- L9 N 57°16'13\" W 3.03'(D)
N 55°21'14\" W 3.21'(M)
- L10 N 78°42'13\" W 49.8'(D)
N 78°50'04\" W 49.73'(M)
- L11 N 63°25'13\" W 28.00'(D)
N 62°09'18\" W 28.00'(M)
- L12 N 11°08'13\" W 13.00'(D)
N 12°15'03\" W 12.96'(M)

Field Date: 3/19/2019 Date Completed: 03/21/19
Drawn By: T.K. File Number: JS-48109 U

| Legend | |
|----------|---------------------------------------|
| C | - Calculated |
| C | - Centerline |
| CB | - Concrete Block |
| CM | - Concrete Monument |
| Conc | - Concrete |
| D | - Description |
| DE | - Drainage Easement |
| E | - Easement |
| F.E.M.A. | - Federal Emergency Management Agency |
| FFE | - Finished Floor Elevation |
| Fnd | - Found |
| IP | - Iron Pipe |
| L | - Length (Arc) |
| M | - Measured |
| N&D | - Not & Disk |
| N.R. | - Non-Radial |
| ORB | - Official Records Book |
| P | - Plat |
| PC | - Point of Curvature |
| Pg | - Page |
| PI | - Point of Intersection |
| P.O.B. | - Point of Beginning |
| P.O.L. | - Point on Line |
| PP | - Power Pole |
| PRM | - Permanent Reference Monument |
| PT | - Point of Tangency |
| R | - Radius |
| Rad | - Radial |
| R&C | - Rebar & Cap |
| Rec | - Recovered |
| Rfd | - Roofed |
| Set | - Set 1/2\" Rebar & Cap "LB 7823" |
| Typ | - Typical |
| UE | - Utility Easement |
| WM | - Water Meter |
| Δ | - Delta (Central Angle) |

NOTES:
 > Survey is based upon the Legal Description supplied by Client.
 > Abutting Properties' Details have NOT been researched for Gaps, Overlaps and/or Status.
 > Subject to any Easements and/or Restrictions of Record.
 > Bearing back shown hereon, is Assumed and Based upon the Line Denoted with a "BB".
 > Building Ties are NOT to be used to reconstruct Property Lines.
 > Fence Ownership is NOT determined.
 > Roof Overhangs, Underground Utilities and/or Footers have NOT been located UNLESS otherwise noted.
 > Septic Tanks and/or Drainage locations are approximate and MUST be verified by appropriate Utility Location Companies.
 > Use of This Survey for Purposes other than Intended, Without Written Verification, Will be at the User's Sole Risk and Without Liability to the Surveyor. Nothing Hereon shall be construed to give ANY Rights or Benefits to Anyone Other than those Certified.

POINTS OF INTEREST:
 NONE VISIBLE

I hereby Certify that this Boundary Survey of the above Described Property is True and Correct to the Best of my Knowledge and Belief as recently Surveyed under my Direction, on the Date Shown, Based on Information furnished to me as Noted and Conforms to the Standards of Practice for Land Surveying in the State of Florida in accordance with Chapter 51-17, FS2 Florida Administrative Codes, Pursuant to Section 472.027 Florida Statutes.

Patrick K. Ireland
 No. 280
 PS 6637
 LB 7623
 This Survey is intended ONLY for the use of Said Certified Parties. This Survey NOT VALID UNLESS Signed and Embossed with Surveyor's Seal.

Ireland & Associates Surveying, Inc.
 800 Currency Circle | Suite 1020
 Lake Mary, Florida 32746
 www.Irelandsurveying.com