

**POLK COUNTY
LAND USE HEARING OFFICER
STAFF REPORT**

DRC Date	July 10, 2025	CASE #:	LDLVAR-2025-31 (Mossy Oak Lane Variance)
LUHO Date	August 26, 2025	LDC Section:	Chapter 2, Table 2.2

Request: The applicant is requesting a rear accessory setback reduction from ten (10) feet to five (5) feet for the construction of a screen enclosure in conjunction with a pool and patio.

Applicant: Vickie Gray

Property Owners: Vickie & Kashwayne Orlando Gray

Location: 6834 Mossy Oak Lane, west of Kathleen Road, north of I-4, south of Duff Road, east of Catherine Drive, north of Lakeland, in Section 17, Township 27, and Range 23.

Parcel ID#: 232717-001102-000160

Size: ±0.19 acres

Land Use Designation: Residential Low - 1 (RL-1)
Planned Development LDPD-2018-28, Willow Ridge

Development Area: Suburban Development Area (SDA)

Case Planner: Andrew Grohowski, Planner II

Summary:

The applicant is requesting a rear setback reduction from ten (10) feet to five (5) feet for the construction of a screen enclosure in conjunction with a pool and patio. The subject property is located in the Planned Development (PD) known as Willow Ridge (LDPD-2018-28). As part of the approved PD, principal structure setbacks were reduced from ten (10) feet to five (5) feet on the sides while rear setbacks were reduced from fifteen (15) feet to ten (10) feet. Accessory structure setbacks remained consistent with the standard dimensional requirements of the Residential Low-1 district, which are five (5) feet side and ten (10) feet rear. Staff is recommending approval as the applicant's request will not be injurious to the area or detrimental to the public welfare. Approval of this variance would allow for efficient use of the applicant's property.

Staff finds that the request meets the following criteria listed in Section 931:

- The request **will not be injurious to the area involved or otherwise detrimental to the public welfare** because the structure will not encroach into the neighboring property and is not anticipated to impact the livelihood or safety of the abutting and adjacent property owners.

- The request will **not confer on the applicant any special privilege** that is denied by the provisions of this Code and will constitute **unnecessary and undue hardship** on the applicant. Screened enclosures with pools are not uncommon in backyards of residential properties. According to the applicant, the pool allows treatment of an existing medical condition.

Development Review Committee

The Development Review Committee, based on the criteria for granting Variances, finds that the applicant's request as written **IS CONSISTENT** with **Section 931** of the Polk County Land Development Code.

Development Review Committee Recommendation: Based upon the application, and a recent site visit, the Development Review Committee recommends **APPROVAL of LDLVAR-2025-31**, with the following conditions:

CONDITIONS OF APPROVAL:

1. Approval of this variance is to reduce the rear accessory setback from ten (10) feet to five (5) feet for the proposed accessory structure as described in the staff report and site plan. All further additions or structures placed on the property shall be required to meet the requirements of LDPD-2018-28 or be granted approval via another variance from the Land Use Hearing Officer.
2. The applicant shall have one (1) year from the date the Land Use Hearing Officer's Final Order is rendered to apply for all necessary building permits and pay all associated fees for the proposed addition.
3. This variance does not authorize any encroachments into easements, and the applicant shall be responsible to make certain there are no encroachments unless approval is granted by the easement holder and/or any applicable permitting agencies. The property owner(s) is also responsible for compliance with any restrictions of record pertaining to lots and/or land and this approval shall not be used to supersede authority over those restrictions.

GENERAL NOTES

NOTE: This staff report was prepared without the benefit of testimony and evidence submitted by the public and other parties at a public hearing.

NOTE: Approval of this variance shall not constitute a waiver or an additional variance from any applicable development regulation unless specifically noted in the conditions of approval and consistent with LDC.

NOTE: All conditions of approval, unless otherwise specified, shall be met prior to the effectiveness and validity of the variance approval.

NOTE: All written commitments made in the application and subsequent submission of information made during the application review process, which are on file with the Land Development Division, shall be considered to be binding upon the applicant, provided such commitments are not at variance with the Comprehensive Plan, LDC or other development regulations in effect at the time of development.

NOTE: Issuance of a development permit by the county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for

issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

DEMONSTRATIONS OF THE CRITERIA FOR GRANTING VARIANCES SUMMARIZED BELOW:

1. *Whether granting the variance will be in accordance with the general intent and purpose of this Code, and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare;*

The applicant is requesting a variance to reduce the rear yard accessory setbacks from ten (10) feet to five (5) feet for the new construction of a screened enclosure with an associated pool. Since there is no associated hard roof, this proposal is not considered part of the principal structure according to Section 208.B of the LDC. Granting a setback reduction will still allow adequate space and buffering between the proposed structure and the rear property line. A cell tower is approximately 71 feet from the residence to the northeast. This should not be any cause for concern, however, given the towers' ability to coexist in the surrounding area for over 30 years.

Granting this variance, as conditioned, is in accordance with the general intent and purpose of the Code. Staff finds that the variance, if approved, would not be injurious to surrounding properties or otherwise be detrimental to the public welfare of the neighborhood. The property abuts a platted open space to the north identified as "Tract "B" (*Exhibit 4*) that is owned by the HOA.

2. *Whether 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 applicable land use district;*

The subject property is Lot 16 of the Willow Ridge subdivision and is approximately 8,123 square feet (± 0.19 acres). The lot is also a part of an approved Planned Development (LDPD-2018-28) consisting of 137 single-family residences with lot width frontages ranging from 50 feet to 70 feet. The subject property has one of the largest frontages in the subdivision. The primary residence was constructed in 2022, and the applicant purchased the property in December 2022.

The property is within the Residential Low-1 (RL-1) land use district where the minimum lot size by-right is 40,000 square feet, and rear setbacks are 10 feet for accessory structures. The approved Planned Development (LDPD 2018-28) of Willow Ridge regulates the lot sizes and implemented reduced setbacks to account for sidewalks and open space. However, no accessory setbacks were established with the PD. The applicant had no say in the PD requirements or approval process.

3. *Whether provided the special conditions and circumstances present in the request do not result from the actions of the applicant;*

The special conditions and circumstances present in this request are not the result of the applicant. The lots within this development range from approximately 50 feet to 70 feet wide and either 110 feet or 120 feet in depth. The subject site is 70 feet wide and 110 feet in depth and has a fifteen-foot-wide utility easement along the front of the property. Front setback requirements are 15 feet for the right of way, 5 feet for the sides and 10 feet for the rear. While

the lot in question meets the dimensions above, if the home was placed at least five feet closer to the front, a variance would not be necessary.

4. *Whether granting the requested variance will not confer on the applicant any special privilege that is denied by the provisions of this Code and will constitute unnecessary and undue hardship on the applicant;*

Granting the requested variance will not confer a special privilege to the applicant. The accessory structure in question is commonly referred to as a “lanai” which are found in other developments such as this. The subdivision’s HOA has reviewed and approved the applicant’s request on April 9, 2025, subject to County approval.

In addition to the privacy and safety the enclosure will provide, the pool allows the applicant to treat a medical condition through physical therapy and rehabilitation sessions in the comfort of their home. This is the first residence with a pool and screen enclosure in the neighborhood according to recent aerials, and since the subdivision is new, this request could set a precedence for future requests.

The denial of this request will limit the applicant’s ability to fully enjoy their land as there is a 4.5 foot open space tract in the rear and a 15-foot-wide utility easement in the front.

5. *Whether the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure;*

The requested variance is the minimal variance necessary for setback reduction from the rear setback that would permit the proposed accessory structure.

6. *Whether that in no case shall a variance be granted which will result in a change of land use that would not be permitted in the applicable land use designation;*

Granting this variance will not result in a change of land use. The home will remain a residential use in a residential district.

7. *Whether that in no case shall the Land Use Hearing Officer or the Planning Commission grant a variance which would result in creation of any residual lot or parcel which does not meet the requirements of this Code; and*

Granting this request will not result in the creation of a lot or parcel that does not meet the requirements of the Code. This variance request will not change the size, shape, or use of the property.

8. *Whether that the granting of the variance does not circumvent a condition or the intent of a condition placed on a development by the Planning Commission or the BoCC.*

The proposed request will not circumvent the intent of a condition placed on a development by the Planning Commission or Board of County Commissioners. Chapter 9, Section 930.B.13 of the LDC allows relief to requirements within approved Planned Developments via an approved variance, specifically linear distances, and height.

Surrounding Future Land Use Designations and Existing Land Use Activity:

The table to follow provides details of abutting uses and their regulatory parameters.

Northwest: RL-1 Single-family residence ±4.85 acres	North: RS Single-family residence ±4.85 acres	Northeast: RS Cell tower site ±0.27 acres
West: RL-1 Lot 17 - Willow Ridge	Subject Property: RL-1 Lot 16 - Willow Ridge	East: RL-1 Lot 15 - Willow Ridge
Southwest: RL-1 Lot 106 - Willow Ridge	South: RL-1 Lot 107 – Willow Ridge	Southeast: RL-1 Lot 108 - Willow Ridge

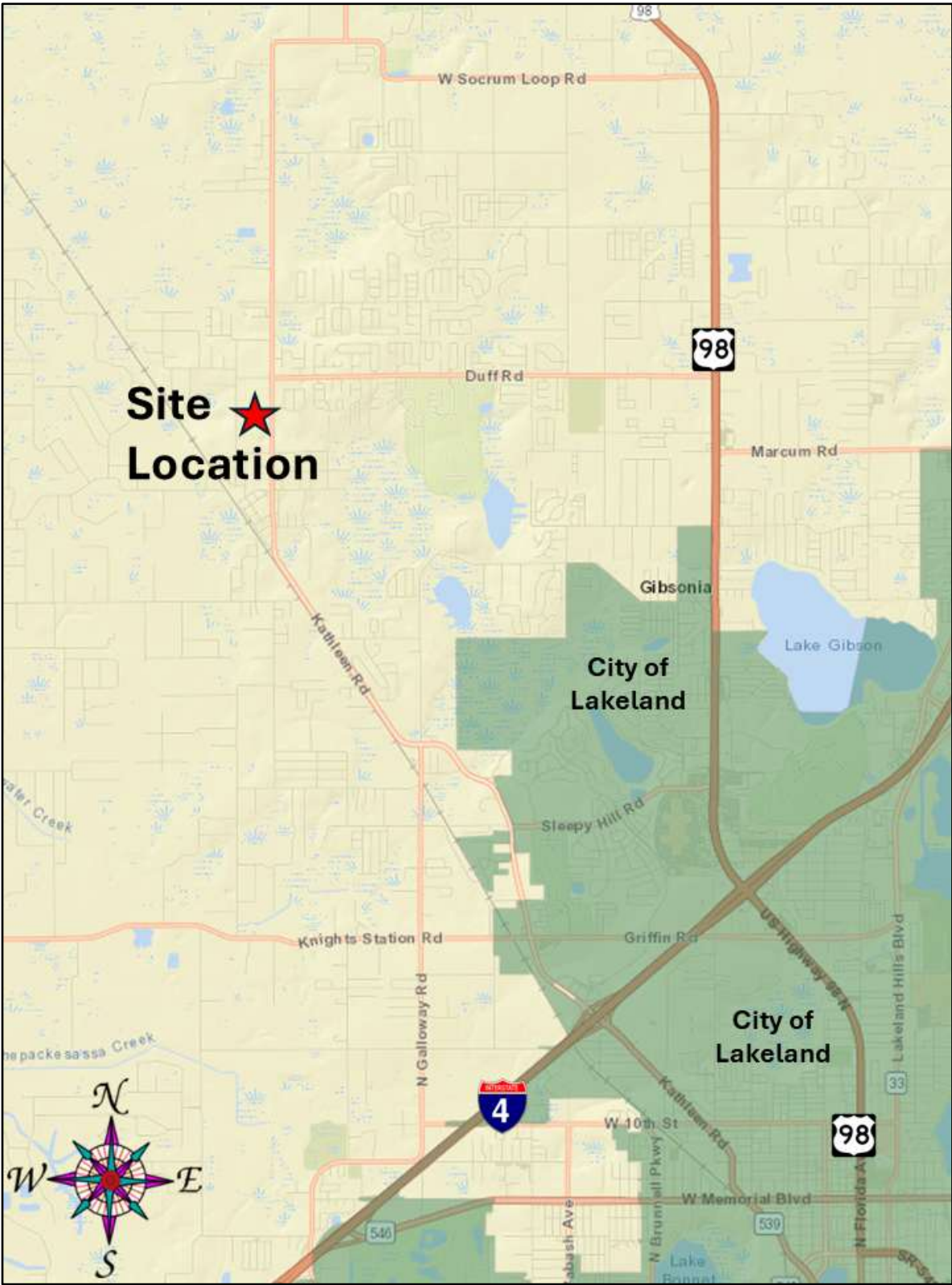
The development area was changed from a Residential Suburban (RS) land use district in a Suburban Development Area (SDA) to Residential Low-1 (RL-1) in an Urban Growth Area (UGA) in 2018 (LDPAL-2018-8). The subject site is approximately 0.19 acres located within the planned development known Willow Ridge (LDPD-2018-28) which was approved in 2019 and began construction shortly thereafter. The owner's 3,357 square foot residence was constructed in 2022, and the owners purchased the home in December 2022 according to the Property Appraiser. The subject site abuts a small portion platted open space to the north, recognized as "Tract "B", and is about 4.5 feet wide. The tract is dedicated to the HOA and extends along the entire northern boundary of the subdivision. Besides the 15-foot utility easement along the front of the property, no additional easements are in the immediate vicinity. The early 1990s saw construction of a cell tower located about 71 feet northeast from the residence. The tower was upgraded in April 2017 to remove six antennas and replace with three remote radio units.

Based upon the character of the surrounding neighborhood during my site visit, information provided by the applicant, and the findings analyzed by staff, the proposed variance is not anticipated to change the existing land use, create an incompatible situation with the surrounding development, or circumvent the intent of any requirements pertaining to the property.

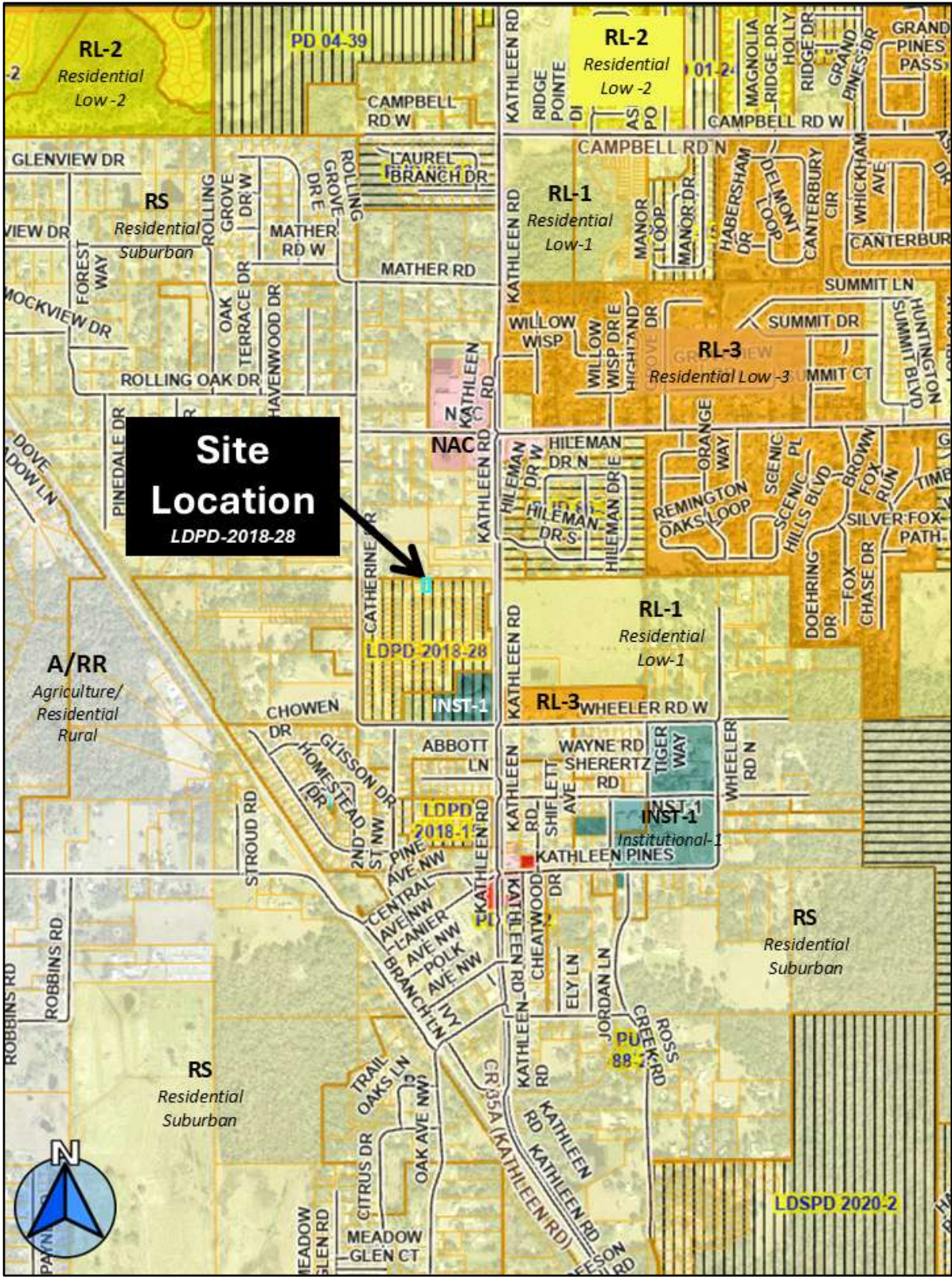
Comments from other Governmental Agencies: None.

Exhibits:

- Exhibit 1 – Location Map
- Exhibit 2 – Future Land Use Map
- Exhibit 3 – 2025 Satellite Image (Context)
- Exhibit 4 – 2023 Aerial (Close-up)
- Exhibit 5 – Site Plan
- Exhibit 6 – Applicant's Justification



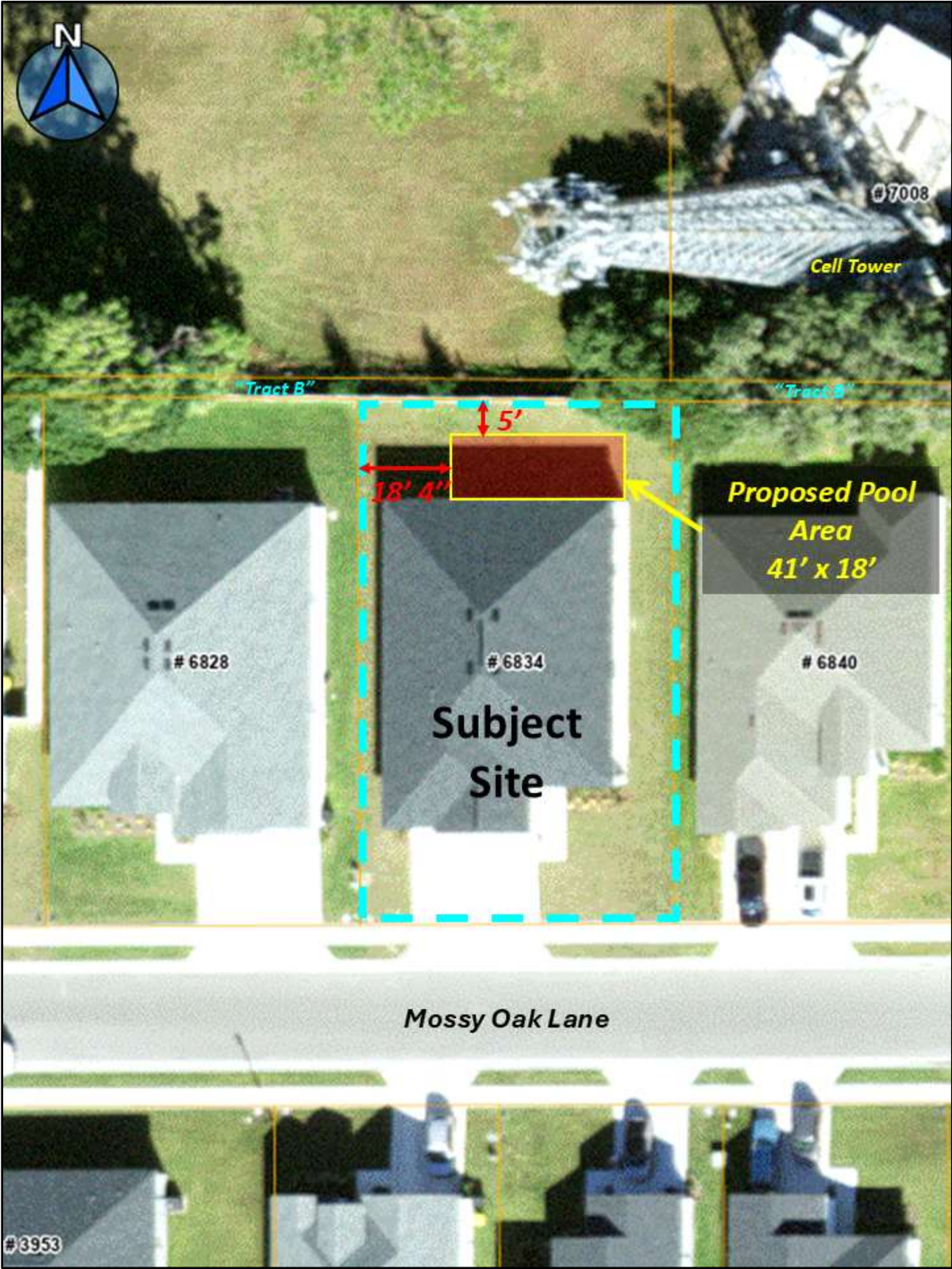
Location Map



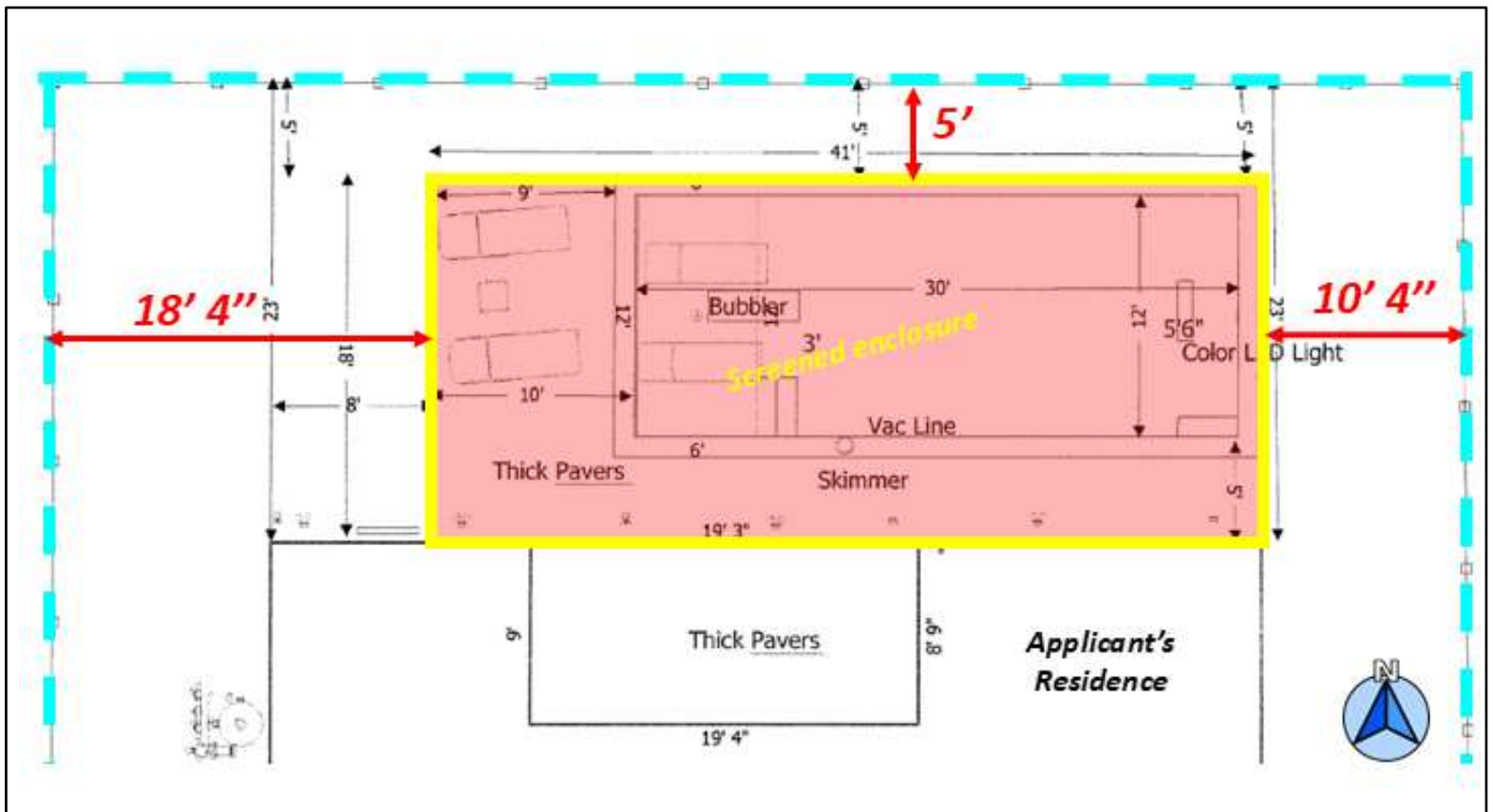
Future Land Use Map



2025 Satellite Image (Context)



2023 Aerial Image (Close-up)



CRITERIA FOR GRANTING A VARIANCE

1. Will the variance be injurious to the area involved or detrimental to the public welfare? **No, the variance will not be injurious to the area involved nor a detriment to the public.**
2. What special conditions exist that are peculiar to the land, structure, or building involved? **We are adding a swimming pool to our back yard.**
3. When did you buy the property and when was the structure built? Permit Number? **We purchased the home December 15, 2022. I am not sure when the structure was actually built. I am also unsure of the permit number.**
4. What is the hardship if the variance is not approved? **I will not be able to utilize my pool for water therapy as a 100% Disabled Veteran. My water therapy is a vital part of my physical therapy, rehabilitation, and wellness for my disability. Also, my family and I won't be able to enjoy the backyard as we intended to when we purchased the property.**
5. Is this the minimum variance required for the reasonable use of the land? **We would like to be 5 feet in from the property line.**
6. Do you have Homeowners Association approval for this request? **Yes, my HOA approved the request on April 9, 2025.**

Applicant's Justification