

**PLANNING, ENVIRONMENTAL, AND DEVELOPMENT SERVICES DEPARTMENT
ZONING DIVISION PUBLIC HEARING REPORT
July 15, 2025**

The following is a public hearing before the Board of County Commissioners on July 15, 2025, at 2:00 p.m.

APPLICANT: THOMAS KARR JR.

CASE: VA-25-06-017

REQUEST: Variance in the R-CE-C zoning district to allow a pool and deck with a setback of 35.5 ft. from the Normal High Water Elevation (NHWE) in lieu of 50 ft.

LOCATION: 12607 W. Lake Butler Rd. Windermere, FL 34786, north side of W. Lake Butler Rd., west side of Lake Butler, south of Lake Butler Blvd., east of Winter Garden Vineland Rd.

LOT SIZE: +/- 1.31 acres (+/- 0.99 acres upland)

ZONING: R-CE-C

DISTRICT: #1

PROPERTIES NOTIFIED: 35

BOARD OF ZONING ADJUSTMENT (BZA) HEARING SYNOPSIS ON REQUEST:

Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval of the Variance. Staff noted that no comments were received in favor and five comments were received in opposition to the request.

The applicant's representative was present and agreed with staff's recommendation. They discussed the existing site development and house layout which restricts the placement of the pool. Additionally, they stated that only a small portion of the overall pool and deck encroach into the NHWE setback, and the owner recently obtained approval to install a new seawall.

There was no one in attendance to speak in favor of the request. One individual spoke in opposition of the request stating the BZA should deny the request as the NHWE setback protects the lakeshore and water quality and went on to say they live on a lake adjacent to Lake Butler.

The BZA discussed the lot configuration, other similar pool and decks, and the lack of adequate space for the pool and deck. Additionally, the BZA stated that the

Environmental Protection Division will conduct a full review of the project at permitting to confirm the Environmental standards are met.

BZA HEARING DECISION:

A motion was made by Thomas Moses, seconded by Roberta Walton Johnson and carried to recommend APPROVAL of the Variance request in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as amended (7 in favor: John Drago, Juan Velez, Glenn Rubinstein, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare, Johnny Stanley; 0 opposed)

1. Development shall be in accordance with the site plan dated stamped March 12, 2025, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this 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. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages and losses arising out of or related in any way to the activities or operations on or use of the Improvement resulting from the County's granting of the Variance request and, which shall inform all interested parties that the pool and deck is located no closer than 35.5 feet from the Normal High Water Elevation (NHWE) of Lake Butler.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 01, 2025**

Commission District: **#1**

Case #: **VA-25-06-017**

Case Planner: **Catherine Glase (407) 836-9615**

Catherine.Glase@ocfl.net

GENERAL INFORMATION

APPLICANT(s): THOMAS KARR JR.

OWNER(s): THOMAS KARR JR.; TAMI KARR

REQUEST: Variance in the R-CE-C zoning district to allow a pool and deck with a setback of 35.5 ft. from the Normal High Water Elevation (NHWE) in lieu of 50 ft.

PROPERTY LOCATION: 12607 W. Lake Butler Rd. Windermere, FL 34786, north side of W. Lake Butler Rd., west side of Lake Butler, south of Lake Butler Blvd., east of Winter Garden Vineland Rd.

PARCEL ID: 12-23-27-0000-00-010

LOT SIZE: +/- 1.31 acres (+/- 0.99 acres upland)

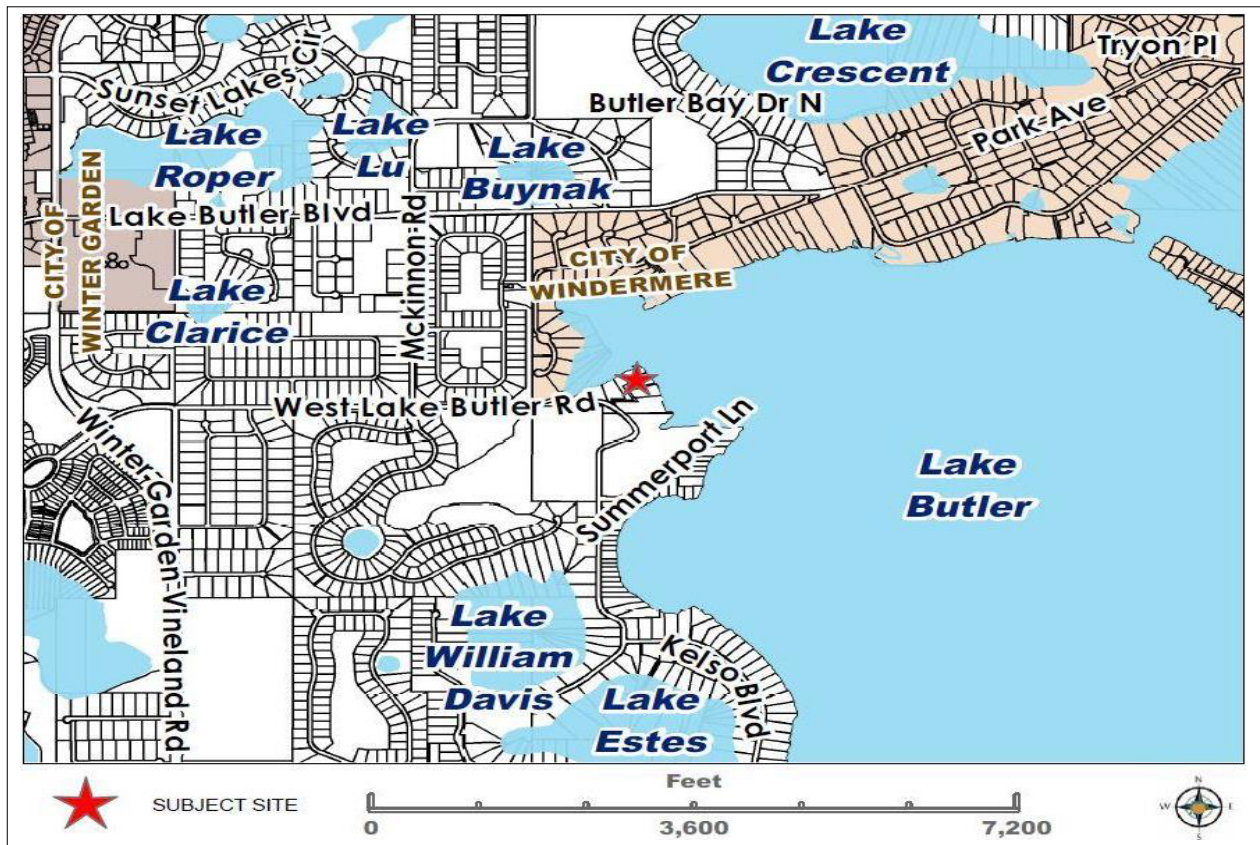
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 35

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-CE-C	R-CE-C	R-CE-C	R-CE-C	R-CE-C
Future Land Use	RS 1/1 (West Windermere Rural Settlement)	RS 1/1 (West Windermere Rural Settlement)	RS 1/1 (West Windermere Rural Settlement)	Water Body (Lake Butler)	RS 1/1 (West Windermere Rural Settlement)
Current Use	Single-family residence	Vacant, Single-family residence	Vacant, Single-family residence	Lake Butler	Vacant, Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-CE-C, Rural Country Estate Cluster district, which primarily allows single-family homes and certain agricultural uses on a minimum lot area of 0.5 acres. The Future Land Use of the property is Rural Settlement 1/1 (RS 1/1), which is consistent with the R-CE-C zoning district. The subject property is located in the West Windermere Rural Settlement. Rural settlements are areas of the County identified in the Comprehensive Plan, where a particular rural character is desired to be preserved by its residents. Rural settlements typically limit certain uses, such as institutional uses, or commercial development, and control densities. However, they typically have little impact on the development of individual residential properties, as is the case for this request, which is not impacted by the West Windermere Rural Settlement.

The area around the subject site consists of single-family homes along a private road, many of which are lakefront. The subject property is an unplatted +/- 1.31 acre lot (0.99 acre upland) that was created by a reconfiguration of three existing lots in July 2021 (LS- 21-07-042). The reconfiguration created a flag lot with a 20 ft. wide access from W. Lake Butler Road. For flag lots, lot width and setbacks are measured from the portion of the lot where the minimum lot width of the district is met. As such, the front yard setback is measured from the property line where the lot widens to 148.2 ft. The property backs up to Lake Butler with a Normal High Water Elevation (NHWE) line on the east side. The property is developed with a two-story 7,727 gross sq. ft. single-family home constructed in 1997. The property was purchased by the current owners in 2018.

The proposal is to install a 2,049 sq. ft. pool and deck at the rear of the existing residence with a 35.5 ft. setback from the NHWE in lieu of 50 ft., requiring the Variance. The subject site is under single ownership to the adjacent lot to the immediate north. The adjacent lot to the north contains an orchard and is heavily landscaped.

Section 30-43 (3) of the Orange County Code stipulates a recommendation of approval can only be made if all six (6) Variance criteria are met. The requests meet all the criteria. Therefore, staff is recommending approval of the Special Exception requests.

The request was routed to all reviewing divisions and no objections were provided. As of the date of this report, no comments have been received in favor or in opposition to this request.

Building Setbacks that apply to pool and deck

	Code Requirement	Proposed
Front:	Not located within the front yard	N/A
Side:	5 ft.	40.1 ft. (North) 41.4 ft. (South)
NHWE:	50 ft.	35.5 ft. (East – Variance)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

MET – The configuration of the lot and placement of the existing home restricts the area where a pool and deck could be constructed which conforms to code requirements and is of sufficient size.

Not Self-Created

MET – The need for the Variance is not self-created, as the property does not contain adequate space in the rear yard to construct a code compliant pool and deck.

No Special Privilege Conferred

MET – Granting the Variance as requested would not confer special privilege as several other properties in the area appear to have pool and decks similar to the request.

Deprivation of Rights

MET – Without approval of the requested Variance, the owner will be deprived of the ability to construct a pool and deck of sufficient size.

Minimum Possible Variance

MET – The requested Variance is the minimum possible to accommodate the installation of a reasonably sized pool and deck.

Purpose and Intent

MET – Approval of the requested Variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The pool and deck will not be significantly visible from any of the surrounding properties as there is existing landscaping surrounding the property, thereby limiting any quantifiable negative impact to the surrounding property owners.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated stamped March 12, 2025, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this 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. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages and losses arising out of or related in any way to the activities or operations on or use of the Improvement resulting from the County's granting of the Variance request and, which shall inform all interested parties that the pool and deck is located no closer than 35.5 feet from the Normal High Water Elevation (NHWE) of Lake Butler.

C: Thomas Karr Jr.
12607 W. Lake Butler Road
Windermere, FL 34786

Bonnie DiCocco
3326 Just A Mere Court
Windermere, FL 34786

Thomas J. Karr

Tami G. Karr

12607 W Lake Butler Road

Windermere, FL 34786

Application for NHWE Setback Variance for Proposed Swimming Pool Located at 12607 W Lake Butler Road (PID: 12-23-27-0000-00-010)

To Whomever it May Concern,

We, Thomas J. Karr Jr. and Tami G. Karr, the owners of the above-referenced Property, wish to submit the application for a variance that is enclosed herein (the "Variance"). The purpose of this letter is to describe how the requested Variance meets the approval criteria under Section 30-43(3) of the Orange County R-CE-C. The Property is 1.32 acres and is located within the R-CE-C zoning district. The Land Use Code is 0130 - Single Family Residential - Lake Front.

The proposed Variance would allow the construction of a swimming pool approximately thirty six (36.5) feet from the Normal High-Water Elevation (NHWE) of Lake Butler , in lieu of the fifty (50) foot setback requirement under R-CE-C, as is depicted in the enclosed site plan included with this application. Section 30-43(3) of the Orange County R-CE-C details the specific criteria that must be met for all variance requests. In this case, all criteria have been met, as is discussed in more detail below.

(1) Special Conditions and Circumstances.

Special conditions and circumstances exist which are peculiar to the Property which are not applicable to other lands in the same zoning district. In particular, other properties zoned R-CE-C that are not located on a waterbody may construct swimming pools and other structures without being restricted by NHWE setbacks. Accordingly, the Property's location on a waterbody and its configuration in relation to the NHWE constitute special conditions and circumstances peculiar to the Property.

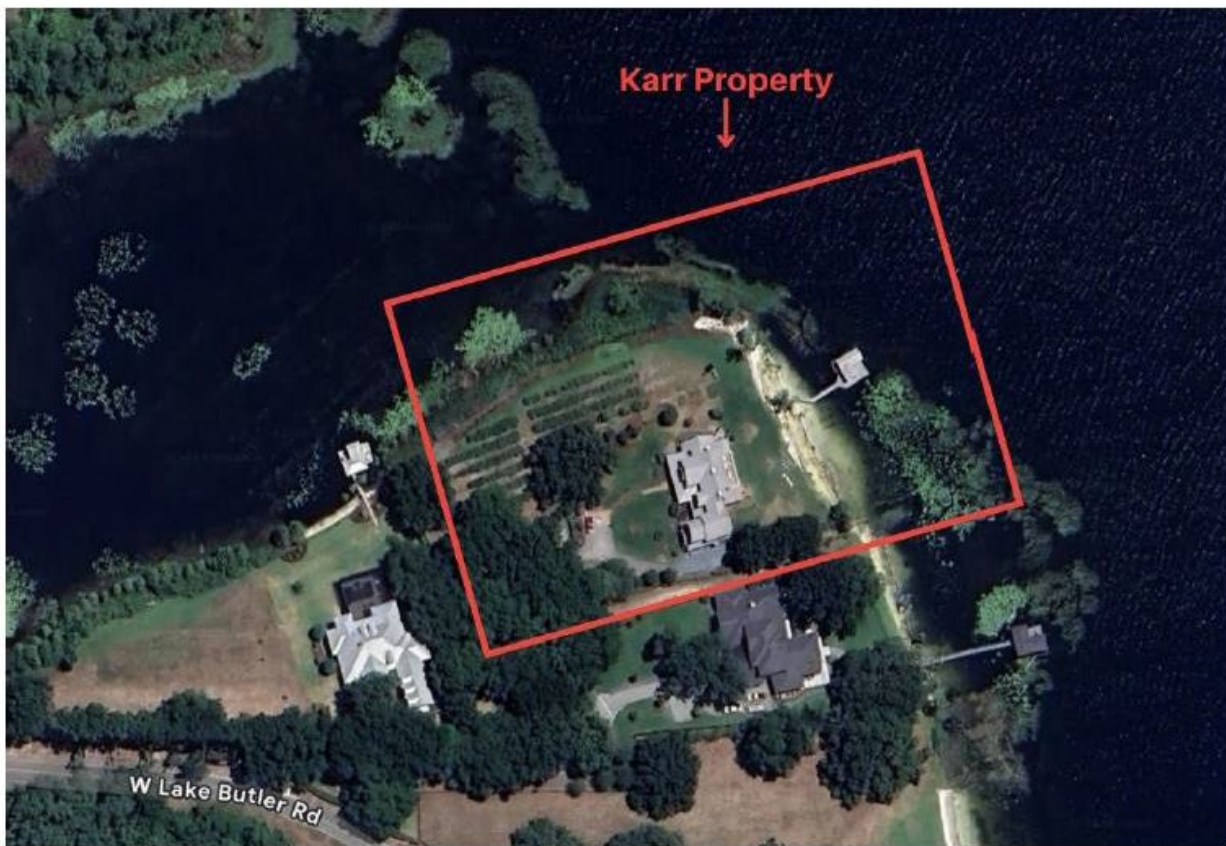
(2) Not Self-Created.

The special conditions and circumstances presented by the Property's location on a waterbody and its configuration in relation to the NHWE did not result from Karr's actions. The home's location on the property was pre-existing at the time of purchase.

(3) No Special Privilege Conferred.

Approval of the requested variance will not confer on the applicant any special privilege that is denied to other lands or buildings in the same zoning district. As outlined above, the requested variance is justified by the peculiar special conditions and circumstances presented by the Property's configuration in relation to the NHWE. In the past, the County has granted NHWE setback variances to nearby property owners looking to construct a swimming pool. Such previous swimming pool NHWE setback variances include:

- A. VA-00-04-014 - 8.25 ft. (18-23-30-0480-00-040)
- B. VA-21-09-080 - 18 ft (PID: 13-23-29-9068-00-330)
- C. VA-98-07-013 - 4 ft. (PID: 08-23-30-4490-00-210)



Approval of the Variance will allow the applicant to build a swimming pool, which is a common accessory structure on R-CE-C lots. Moreover, as the County has granted similar variances on

numerous occasions, approval of the Variance would not confer any special privilege upon the applicant.

(4) Deprivation of Rights.

The denial of the requested Variance would deprive the applicant of rights commonly enjoyed by other property owners in the vicinity of the Property and would work unnecessary and undue hardship on the applicant. The location of the home, its position on the property and existing lanai steps prevent common functionality/accessibility to a proposed swimming pool without the variance as described.

As discussed above, properties not located on a waterbody are able to construct swimming pools without a variance. Where lakefront property owners have needed variances to build a pool, the County has granted them. Accordingly, strict adherence to the NHWE setback would deprive the applicant of rights commonly enjoyed by other property owners in the vicinity of the Property.

(5) Minimum Possible Variance.

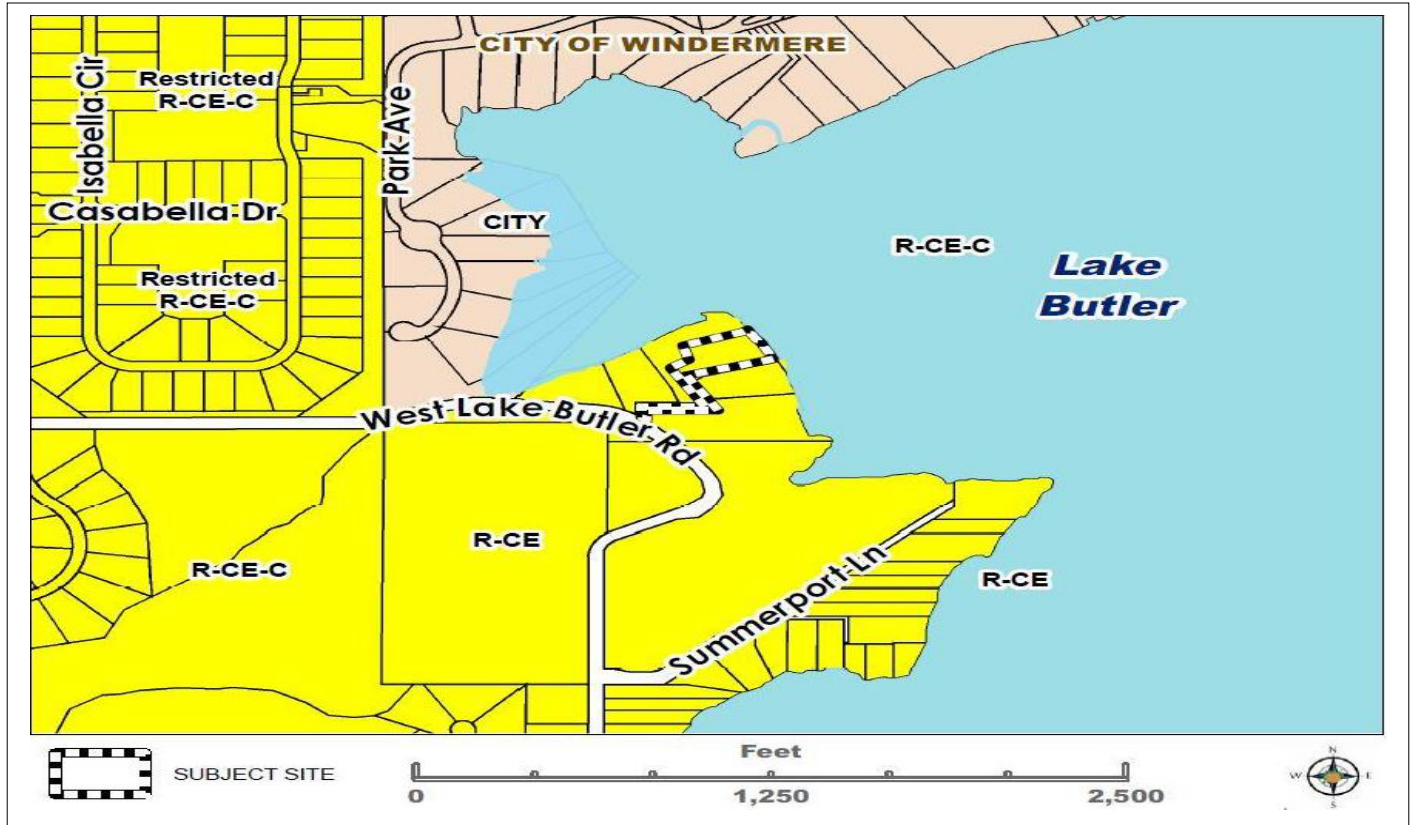
The requested variance is the minimum variance that will make possible the construction of a swimming pool on the Property with minimum functionality and accessibility from the home.

(6) Purpose and Intent.

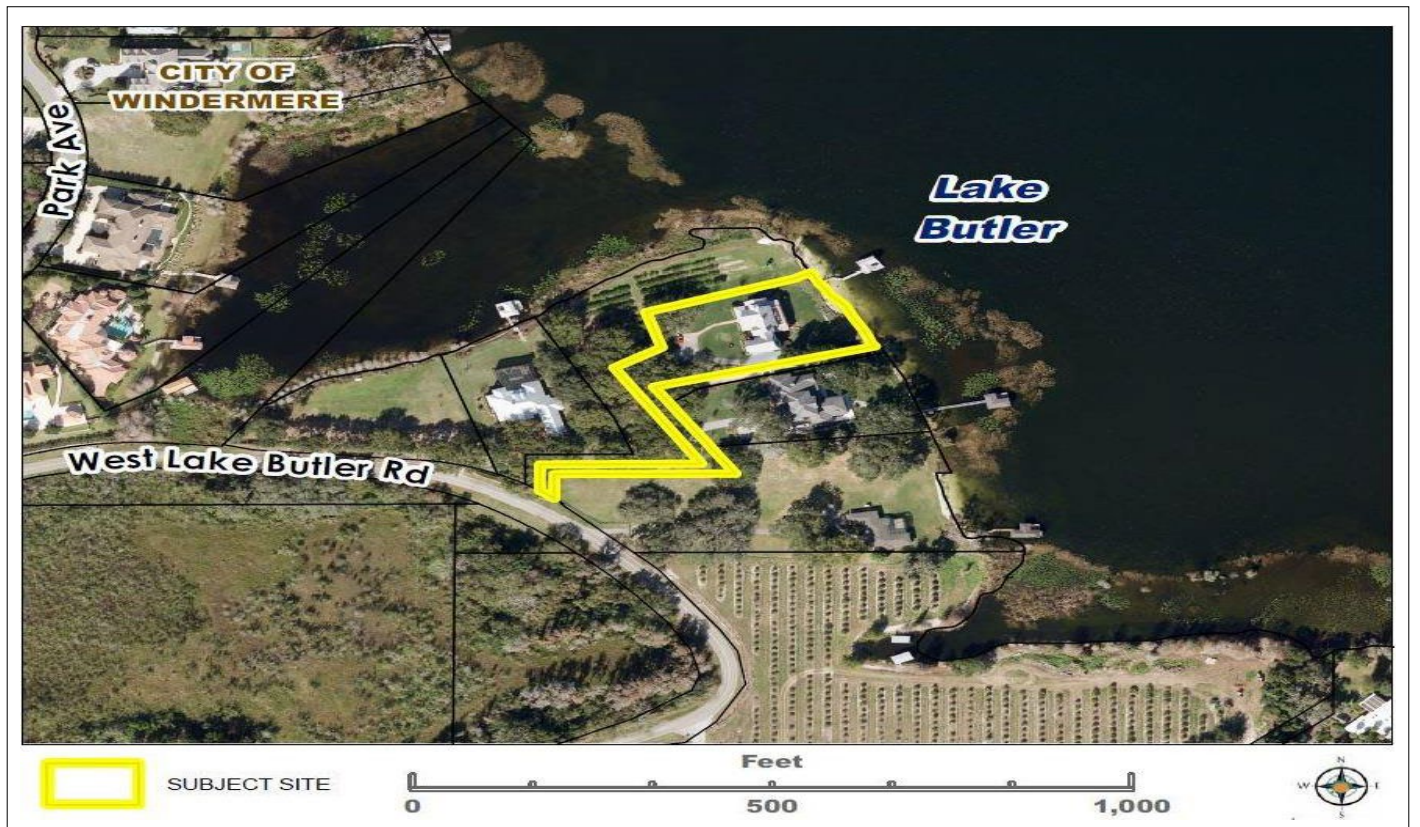
The approval of the requested variance will be in harmony with the purpose and intent of Orange County R-CE-C and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The purpose of the NHWE setback is to provide for lakeshore protection and conservation of the watershed. As discussed above, the County has repeatedly found similar requests from lakefront owners to be in harmony with the purpose and intent of R-CE-C. As a result, the requested Variance would be compatible with the surrounding area and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

As illustrated above, the proposed use meets all of the required standards for a variance that are set forth in the County R-CE-C. In support of this variance request, enclosed please find the following:

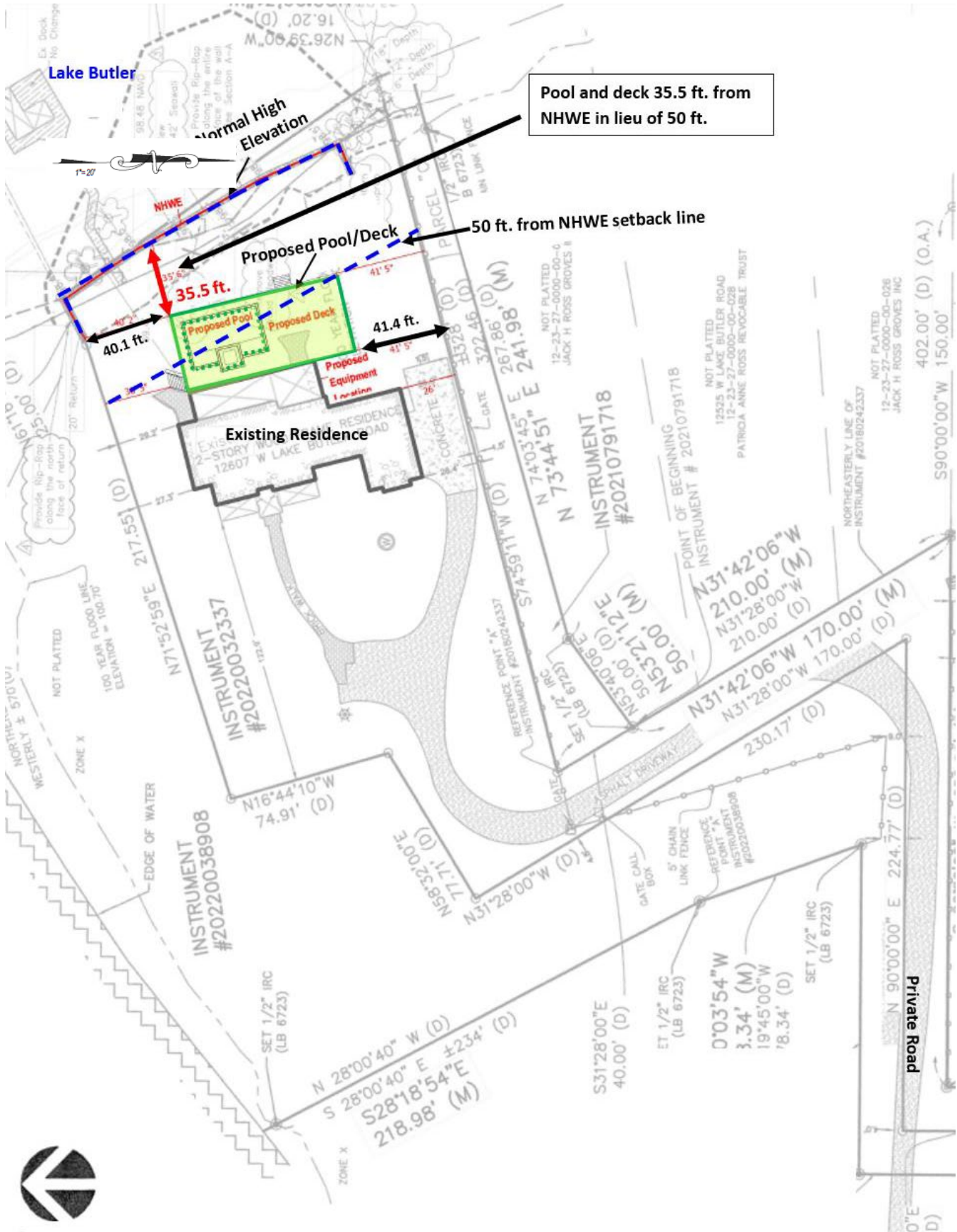
ZONING MAP



AERIAL MAP

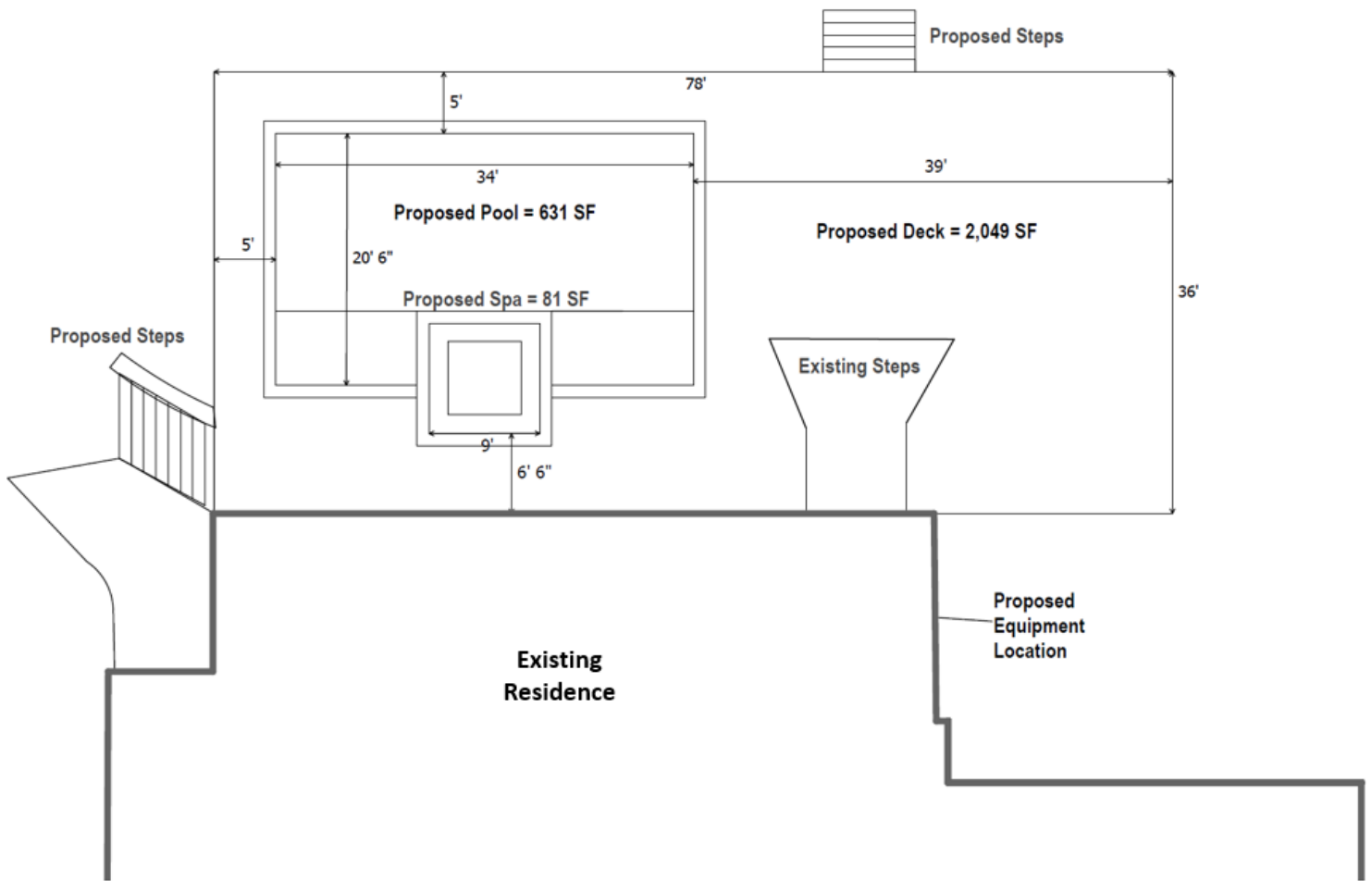


SITE PLAN



W. Lake Butler Rd.

PROPOSED POOL AND DECK



RENDERINGS OF PROPOSED POOL AND DECK



SITE PHOTOS



Facing east from W. Lake Butler Rd. towards private road entrance



Private road, facing north towards entrance to subject property

SITE PHOTOS



Driveway entrance, facing northeast towards subject site



Front yard, facing east towards front of the existing residence

SITE PHOTOS



Boat dock, facing west towards proposed pool/deck location to be attached at rear of existing residence



Facing south from adjacent property under single ownership with subject site towards requested Variance



Rear yard, facing east from existing rear of residence towards Lake Butler