

Board of County Commissioners
Korem – Case No. VA-23-09-073
(Agenda Item V.C.4)
January 9, 2024

S. Brent Spain, Esquire

Board Certified Specialist by The Florida Bar in
City, County & Local Government Law

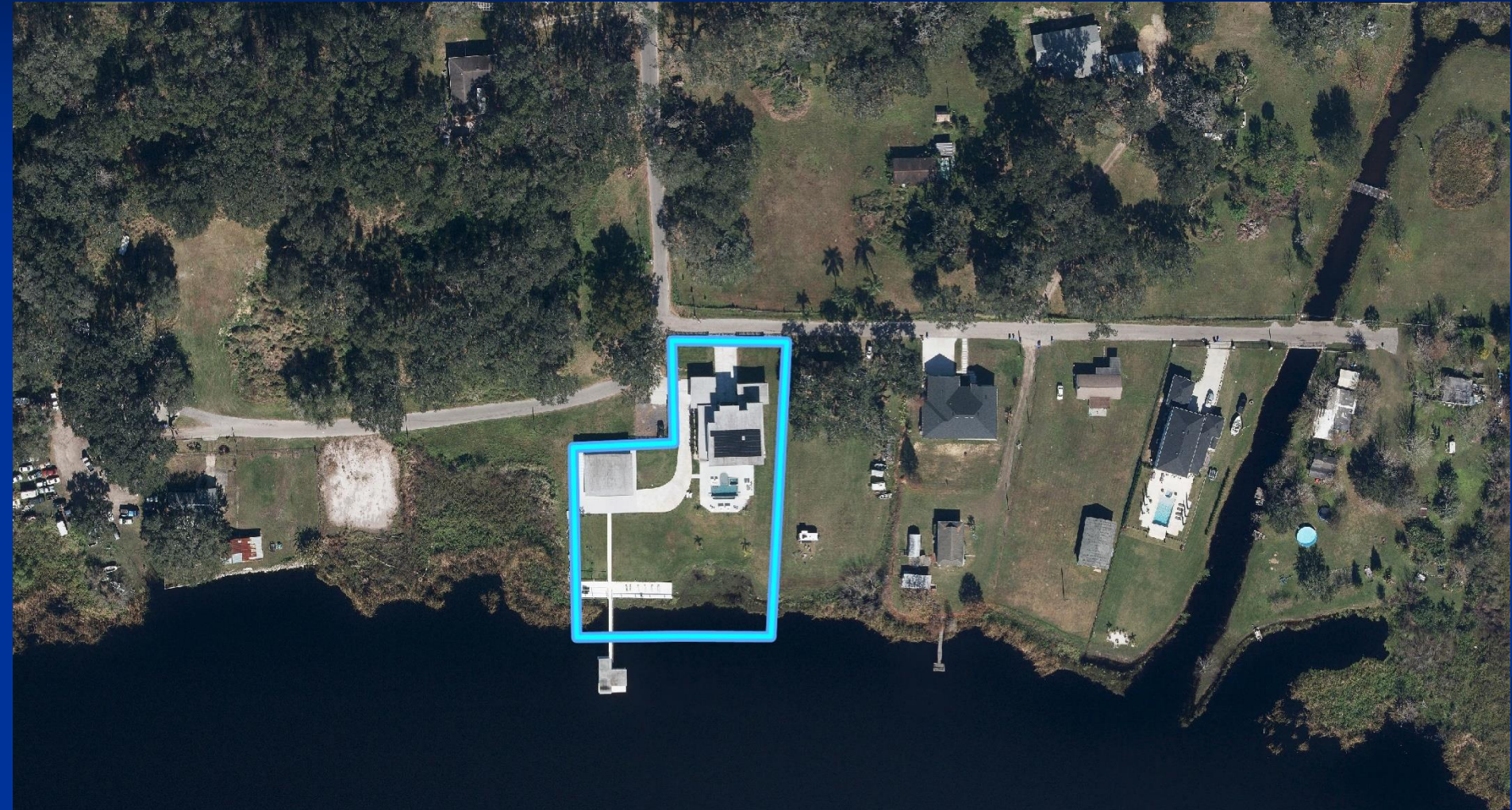


Site Location/Zoning

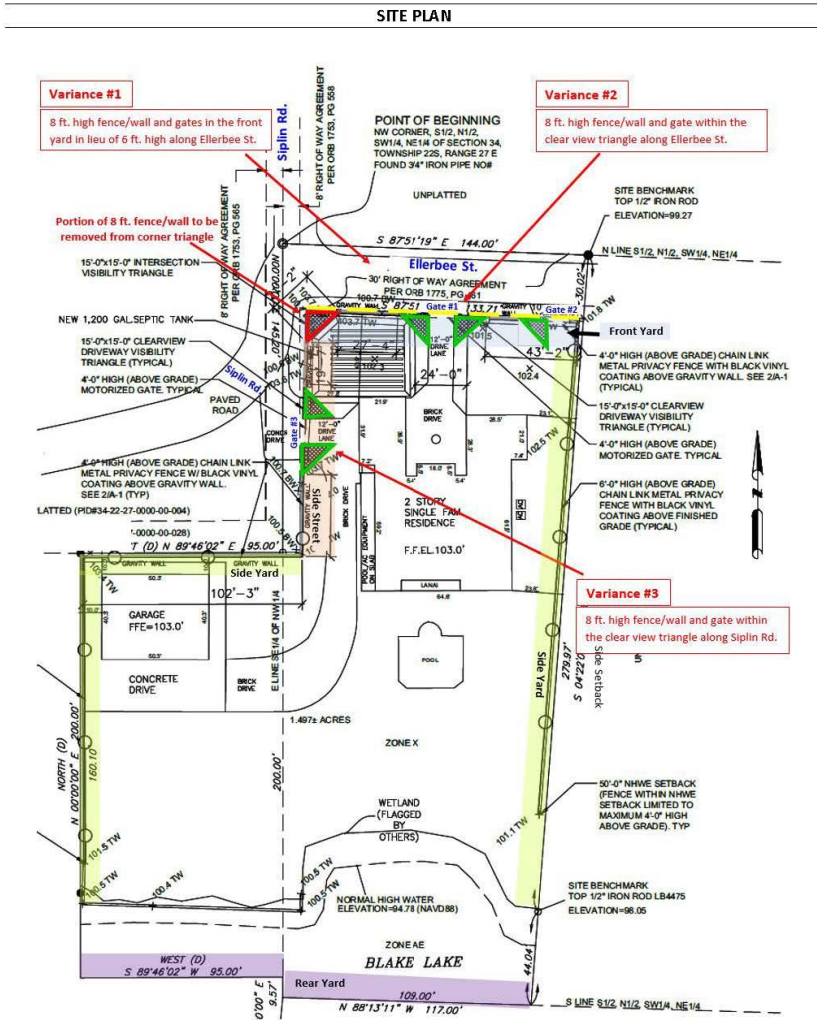


- 1.39+/- acres located at the corner of Siplin Road and Ellerbee Street
- Enclave of unincorporated property
- FLU – Rural
- Zoning – A-1
- Purchased two parcels in 2016
- County vacated portion of Siplin Road bifurcating the lots in 2017, and lots were combined into a single parcel.
- The Korems built their home on the property in 2021.

2023 Aerial



Variations Requested



- **Variance 1:** 8-foot wall/fence combination in the front yard along Ellerbee Street in lieu of a 6-foot fence (yellow line along Ellerbee on plan).
- **Variance 2:** 8-foot wall/fence combination and gate within the clear view triangle along Ellerbee Street (three green triangles on Ellerbee).
- **Variance 3:** 8-foot wall/fence combination and gate within the clear view triangle along Siplin Road (two green triangles on Siplin).
- Respectfully submit that the variances meet the criteria in Section 30-43 of the Orange County Code and request this Board to approve the application.
- Area in “red” is not before the BCC, as that is an issue to be addressed with the County Engineer per Section 38-1408(a).

Variance Criteria – Section 30-43

1. **Special Conditions and Circumstances:** 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.

Special conditions and circumstances exist that are particular to the property and warrant the requested variances. First, due to its proximity to Black Lake, the building site was required to be raised to avoid being flood prone. Additionally, given the proximity to Black Lake, wetlands, and the water table, the Department of Health required the drain field and septic tank for the home to be placed in the front yard. Such conditions and site constraints essentially preclude the installation of a fence/gate without the requested variances.

2. **Not Self-Created:** The special conditions and circumstances do not result from the actions of the applicant.

The need for the variances does not result from the actions of the applicant, as the finished grade of the site and the location of the drain field were established at the time of construction of the home by the applicable regulatory authorities.

3. **No Special Privilege Conferred:** Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by the Chapter to other lands, buildings, or structures in the same zoning district.

Granting the variances as requested will not confer a special privilege that is denied to other properties in the same area or zoning district, as fencing would be allowed but the location of the drain field and grade change essentially preclude the installation of a fence/gate without the requested variances.

Variance Criteria, Cont.

4. **Deprivation of Rights:** Literal interpretation of the provisions contained in 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.

Without the requested variances, the Korems will not be able to install a fence/gate in the specified areas due to the presence of the drain field and significant grade change.

5. **Minimum Possible Variance:** The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building or structure.

Given the configuration and location of improvements on the property, the requested variances are the minimum necessary to allow a meaningful fence/gate to be installed and to maintain consistency with the fencing on the remainder of the property.

6. **Purpose and Intent:** Approval of the zoning variance will be in harmony with the purpose and intent of this Chapter and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Approval of the requested variances will allow improvements in an appropriate location in harmony with the purpose and intent of the County's Code. Further, the requested variances will not be detrimental to the surrounding area because the property is accessed from two dead end streets (Siplin Road and Ellerbee Street) and the increased widths of the gated driveways adequately eliminate any potential view triangle issues.

Site Characteristics

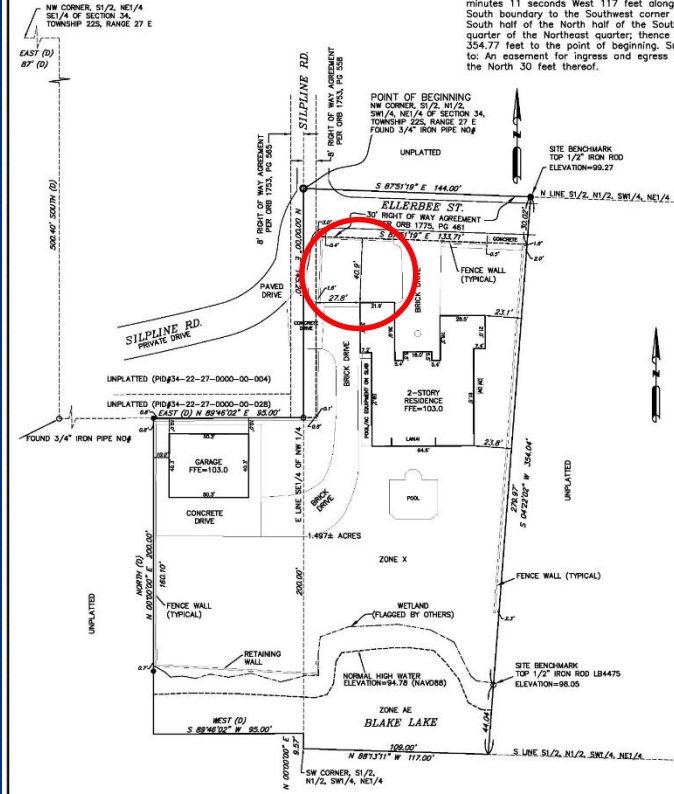
BOUNDARY SURVEY

DESCRIPTION:

From a point 500.40 feet South and 87 feet East of the Southeast Quarter of the Northwest Quarter of Section 34, Township 22 South, Range 27 East, Orange County, Florida, run East to the East line of said Southeast Quarter for a Point of Beginning; run thence South 144 feet along the North boundary of said South half of the North half of the Southeast quarter of the Northeast quarter; thence South 04 degrees 22 minutes 02 seconds West 354.04 to a point on the South half of the North half of the Southwest quarter of the Northeast quarter; thence North 88 degrees 13 minutes 11 seconds West 117 feet along said South boundary to the Southwest corner of said South half of the North half of the Southeast quarter of the Northeast quarter; thence North 354.77 feet to the point of beginning. Subject to: An easement for ingress and egress over the North 30 feet thereof.

AND

Beginning at the Northwest corner of the South half of the North half of the Southwest quarter of the Northeast quarter of Section 34, Township 22 South, Range 27 East, run thence South 87 degrees 51 minutes 19 seconds East 144 feet along the North boundary of said South half of the North half of the Southeast quarter of the Northeast quarter; thence South 04 degrees 22 minutes 02 seconds West 354.04 to a point on the South half of the North half of the Southwest quarter of the Northeast quarter; thence North 88 degrees 13 minutes 11 seconds West 117 feet along said South boundary to the Southwest corner of said South half of the North half of the Southeast quarter of the Northeast quarter; thence North 354.77 feet to the point of beginning. Subject to: An easement for ingress and egress over the North 30 feet thereof.



SURVEYOR'S REPORT:

1. THE SURVEYOR DID NOT PERFORM AN INSPECTION OF TITLE, THE ABOVE REFERENCED PROPERTY MAY BE SUBJECT TO EASEMENTS, ENCUMBRANCES, RIGHTS OF WAY AND RESTRICTIONS OF RECORD, IF ANY.
2. IMPROVEMENTS IDENTIFIED BY THE SURVEYOR WERE NOT LOCATED EXCEPT AS NOTED.
3. LEGALS PROVIDED BY CLIENT.
4. REPRODUCTIONS OF THIS SKETCH ARE NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL, PRINTED SEAL OF A LICENSED SURVEYOR AND MAPPER.
5. BEARINGS SHOWN HEREON ARE BASED ON THE WEST LINE OF THE SW 1/4 OF THE NE 1/4 OF SECTION 34-22-27 AS BEING NORMAL, PER DEED.
6. ELEVATIONS SHOWN ON INTERIOR POINTS, NORMAL HIGH WATER ELEVATION LOCATED AT 98.00 NORMAL HIGH WATER PER ORANGE COUNTY LAKE BOOK DEED.

LEGEND & ABBREVIATIONS

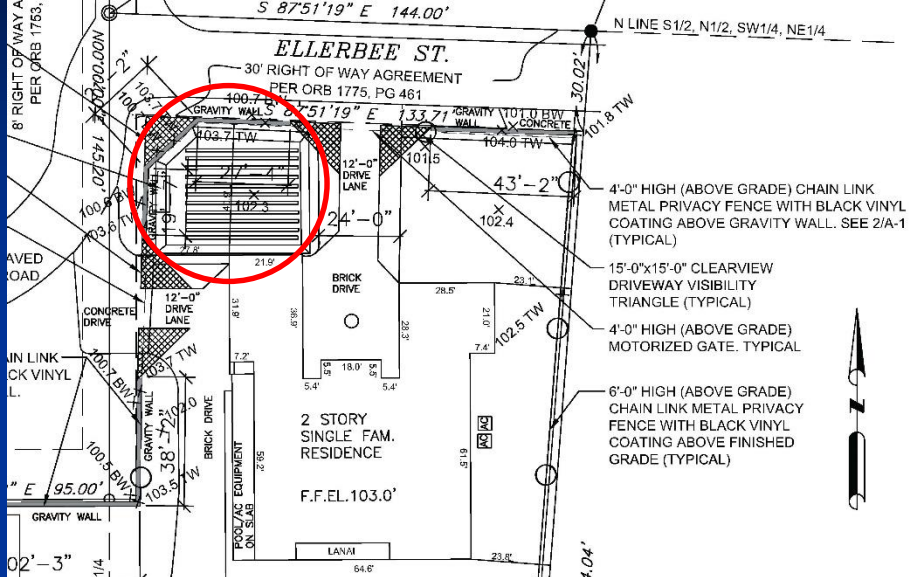
- TOP OF FENCE WALL
- ORIG = ORIGINAL RECORDS BOOK
- PAGE
- FOUND 1/2" IRON ROD NO/
- FOUND 1/2" IRON ROD #/B4300

Date	Revisions	DATE:	SCALE:	1" = 50'	DRAWN BY:	CHK. BY:	SEB	JOB NO:	116010
10/6/20	ADDED FENCE WALL	2/18/21							
2/18/21	FINAL SURVEY								

ATLANTIC SURVEYING
308 S. DILLARD STREET
WINTER GARDEN, FLORIDA 34787
407-656-4993
LJW000

I hereby certify that the Plot of Boundary Survey was prepared in accordance with the provisions of practice for the profession of surveying and mapping as set forth in Chapter 12-17 Florida Administrative Code pursuant to Section 474.021, Florida Statutes as amended.

Steve Black
STEVEN C. BLACKBURN P.S.M. #5361
STATE OF FLORIDA



3 WALL SPECIFICATIONS

A-1 SCALE: N.T.S.

DRAWING TITLE:
SITE PLAN
RETAINING WALL SECTION
WALL SPECIFICATIONS

6" MIN. FINERIOUS FILL
FINISH GRADE
GEOTEXT REINFORCEMENT (TYP)
REINFORCED SOL.
2" MIN. CLEAN #4 DRAIN STONE (TYP)
FOUNDATION SOIL
GEOTEXT LENGTH

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CADD FILE: korem_residence

APPROVED	
CHECKED	
DRAWN BY	D. TULLY
DATE ISSUED	
PROJECT NO.	
DRAWING NO.	

Approved Plans
Orange County
Division of Building Safety

2 GRAVITY WALL SECTION

A-1 SCALE: N.T.S.

Permit E22026096
Date 07/16/21
SHEET 1 OF 1

A-1

7

This Approval does not grant permission to violate any applicable code. Encroachment of any part of this improvement can result in a cloud on the title of this property. Keep this plan on the job site at all times.

Per Section 38-1408(l) – “Where grade elevations along adjoining properties differ, fence/wall height shall be measured from the finished ground floor elevation of the property having the higher ground floor elevation.”

Site – Drain Field/Grade



Front Driveway – No Visibility Issues



Side Driveway – No Visibility Issues



2021 Variance – Ellerbee Street



14302 ELLERBEE ST, UN-INCORPORATED, FL 34787 8/21/2023 11:20 AM



PUBLIC HEARING #VA-21-07-055, JAMIE KOECHNER

REQUEST: Variances in the A-1 zoning district:
 1) To allow a 5 ft. high fence and 6 ft. high sliding gate within the 15 ft. visibility triangle.
 2) To allow a 6 ft. high sliding gate in the front yard in lieu of 4 ft. high
 3) To allow a 5 ft. high fence in the front yard in lieu of 4 ft. high
 4) To allow a 5 ft. high fence within the 50 ft. setback from the Normal High Water Elevation (NHWE) in lieu of 4 ft. high.

PARCEL ID #: 34-22-27-0000-00-033

ADDRESS: 14302 Ellerbee Street, Winter Garden, Florida, 34787

The action taken by the Board of Zoning Adjustment (BZA) on July 1, 2021 on the above application was as follows:

DECISION: A motion was made by Thomas Moses, seconded by Wes A. Hodge and carried to recommend **APPROVAL** of the Variance requests #1 and #4, in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions; and, Variance requests #2 and #3, were determined as **NOT APPLICABLE** by staff (5 in favor, 1 opposed and 1 absent):

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances
 Variance #1 and #4

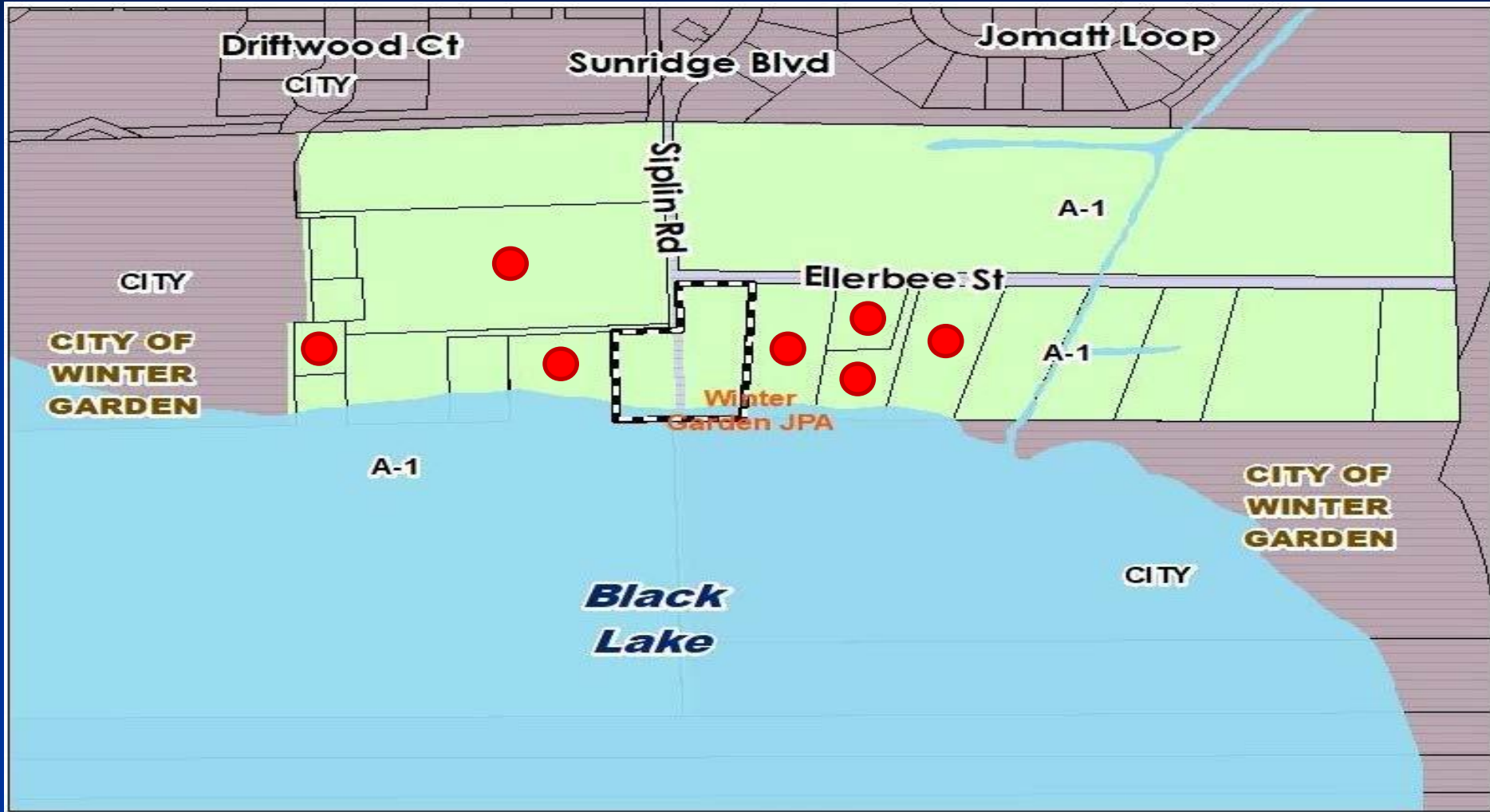
The special conditions and circumstances particular to the property is the site's constraints, such as the location of the existing drain field and septic tank in the front yard, making it difficult to install a fence that meets the sight distance triangle required by code without the need for a variance. Further, a 5 ft. high fence is permitted within the side and rear yards, however due to the presence of a NHWE at the rear and easterly side of this property, only a 4 ft. high fence would be permitted.

Not Self-Created
 Variance #1

The need for the variance does not result from the actions of the applicant, as the location of the drain field was established at the time of construction of the house.

The County has granted similar height and clear view variances in other similar circumstances – e.g., VA-20-11-107 (6-ft fence in lieu of 4-ft fence, allowed within clear view triangle); VA-22-09-089 (5-ft fence in lieu of 4-ft fence with 6-ft gates in clear view triangle)

Letters of Support



Request Approval of VA-23-09-073



- The requested variances satisfy the six (6) criteria in Section 30-43 of the Code.
- The requested variances do not create any site visibility issues and are consistent with the clear view variance the County approved in 2021 for a similarly-situated property on Ellerbee Street.
- Without the requested variances, the Korems will essentially be deprived of the right to have a meaningful fence and gate for privacy and security in their front yard.
- Request approval of the variances subject to the Conditions of Approval in the Staff Report (except Condition 4 which is to be addressed and resolved with the County Engineer per Section 38-1408(a) – area in “red” on site plan).
- Thank you for your time and support.