

*Orange County Zoning Division*

**VA-24-05-027**

**APPLICANT:**

**ALEXANDER MONTOYA**

**August 13, 2024**



# Background

<b>APPLICANT:</b>	<b>Alexander Montoya</b>
<b>CASE:</b>	<b>VA-24-05-027</b>
<b>ZONING:</b>	<b>R-1A (Single-Family Dwelling District)</b>
<b>FUTURE LAND USE:</b>	<b>LDR (Low Density Residential)</b>
<b>ADDRESS:</b>	<b>5416 Turkey Lake Rd., Orlando, FL 32819</b>
<b>LOCATION:</b>	<b>West side of Turkey Lake Rd., east side of Lake O'Dell, north of Lake Martha Dr., south of Conroy Windemere Rd., east of Dr. Phillips Blvd. and west of Florida's Turnpike.</b>
<b>TRACT SIZE:</b>	<b>+/- 0.23 acres (+/- 0.17 acres upland)</b>
<b>DISTRICT:</b>	<b>1</b>



## Background

**REQUEST:** Variance in the R-1A zoning district to allow a pool and deck with a 12.4 ft. setback from the Normal High Water Elevation (NHWE) in lieu of 30 ft.

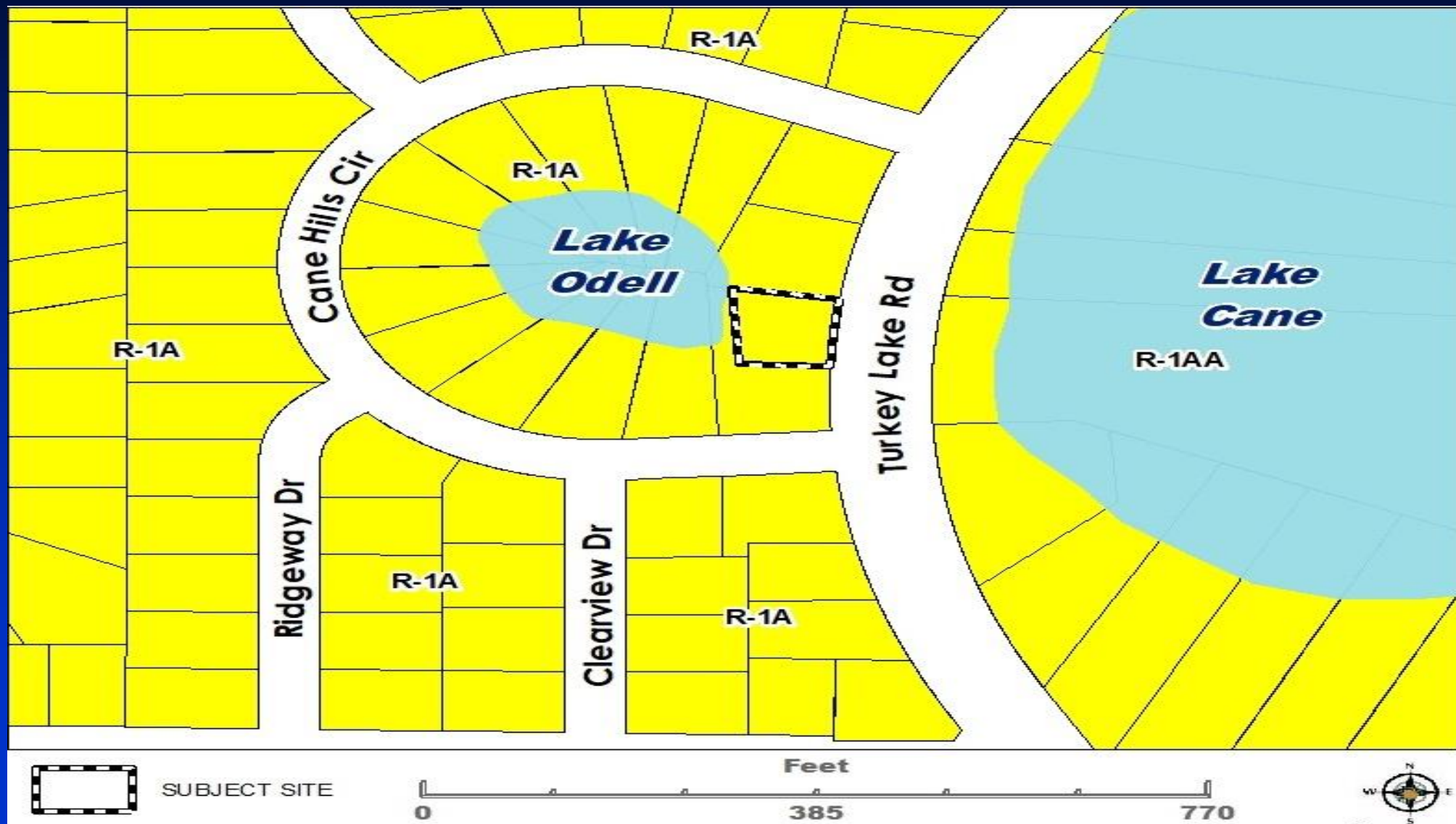


# Location Map





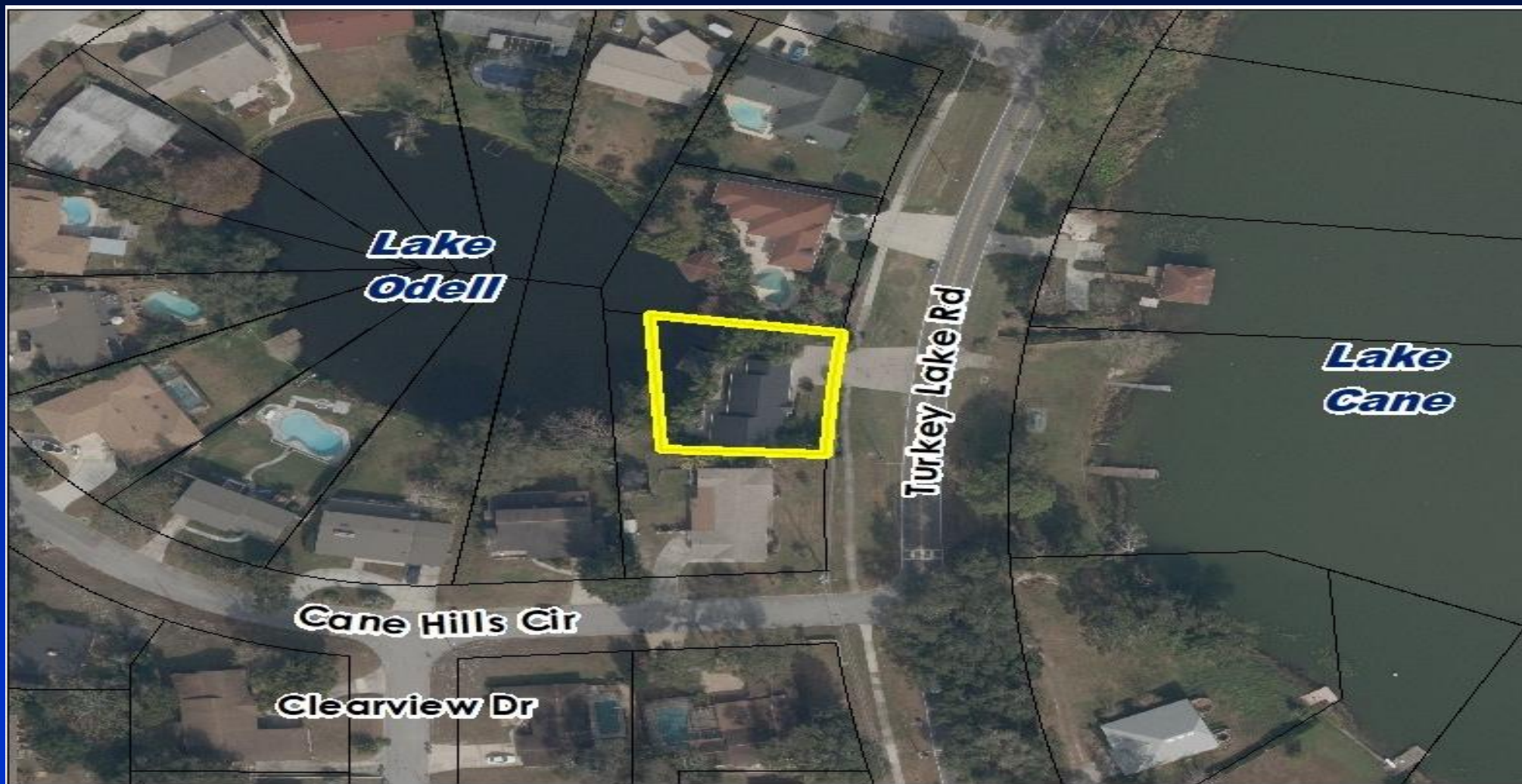
# Zoning Map





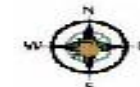
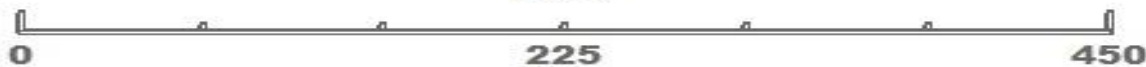


# Aerial Map



SUBJECT SITE

Feet









# Site Photograph

Facing west from Turkey Lake Rd. towards front of property



Proposed Pool and Deck







# Site Photograph

Driveway, facing west towards proposed pool and deck







# Site Photograph

Rear yard, facing north towards existing rear of residence



Lake Odell

03/04/2024





# Site Photograph

Rear yard, facing northeast towards proposed pool and deck







# Site Photograph

Rear yard, facing northeast towards proposed pool and deck







# Site Photograph

Rear yard, facing southwest towards Lake Odell







# Staff Findings and Analysis

- Lakefront lot – Lake O’Dell
- Variances approved for house in April 2002 (VA-02-04-043):
  - South side setback - zero ft. in lieu of 7.5 ft.
  - NHWE setback – 20 ft. in lieu of 30 ft.
- Developed in 2003 with a 1 story 2,100 gross sq. ft. single-family home
- Easements
  - 10 ft. utility easement along the east front property line
  - 5 ft. drainage easement along the north side property line
- Variance request is to allow:
  - Pool & deck with a 12.4 ft. setback from the NHWE in lieu of 30 ft.





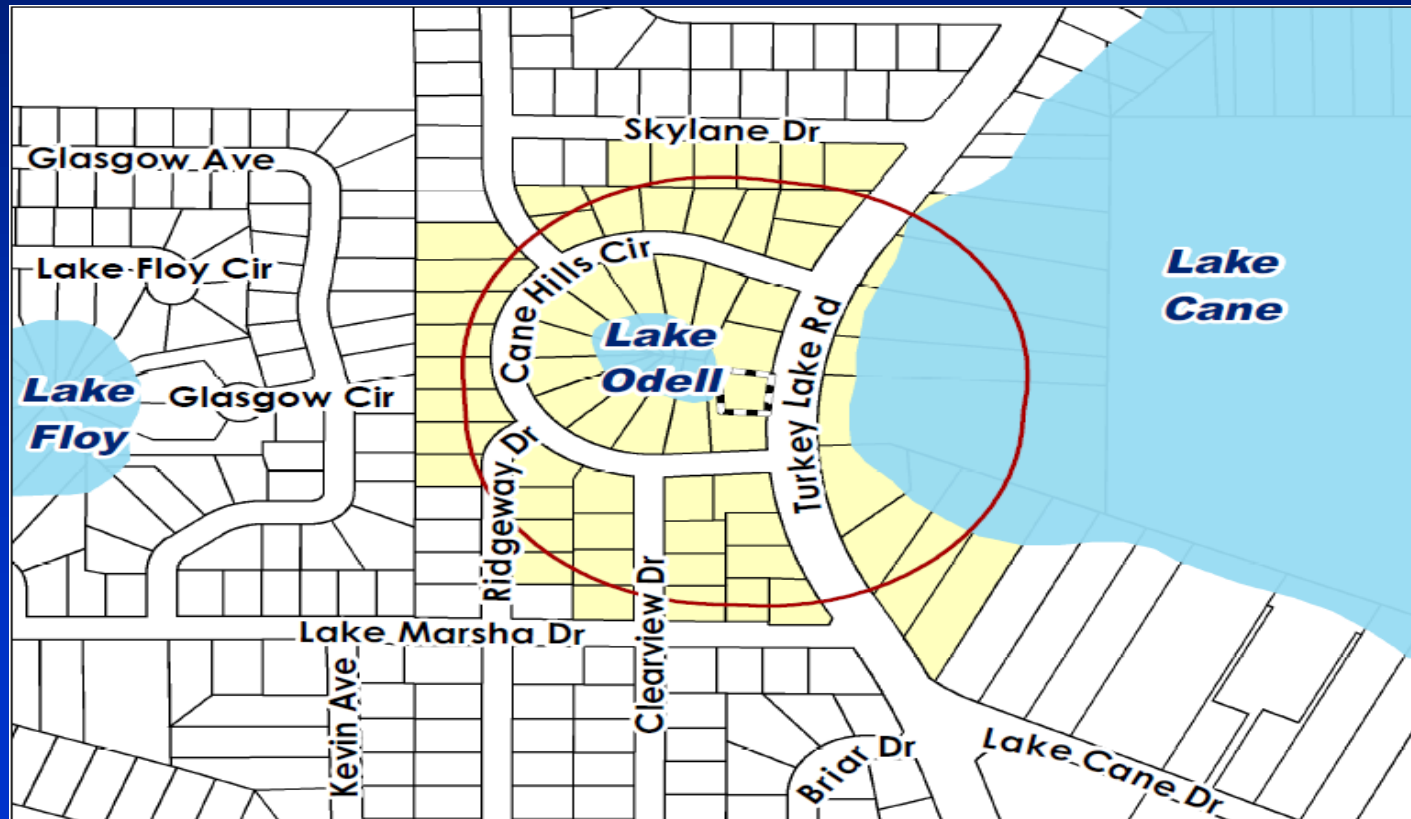
## Staff Recommendation

- Staff recommended denial of the Variance, as the request is self-created since the lakefront home can be enjoyed without the installation of a pool and deck, would grant special privilege since the request beyond the scope of similarly granted requests, there would not be deprivation of rights and approval of the request will not be in harmony with the purpose and intent of the Code since there would be an impact to the surrounding properties and the adjacent lake, and furthermore would be significantly visible from Turkey Lake Road.



# Public Feedback

- Staff mailed a total of 105 notices to adjacent property owners in a 500 ft. radius
  - Staff received no correspondences in favor of this request
  - Staff received one (1) correspondence in opposition to this request, unmapped





## BZA Findings

- **April 4<sup>th</sup> – The BZA continued the case to June to allow the applicant to revise the plan and reduce the requested setback variance.**
- **June 6<sup>th</sup> - The BZA concluded approval of the Variance would not confer special privilege, was the minimum necessary, that the request was not self-created, and approval would be in harmony with the purpose and intent of the Zoning regulations because the pool as designed would not extend towards the lake more than the existing residence and that the request was consistent with other pools and decks in the community and recommended approval with as 4-1 vote, subject to five conditions.**





# Variance Criteria

## Section 30-43 (3), Orange County Code

Section 30-43 of the Orange County Code Stipulates specific standards for the approval of variances. No application for zoning variance shall be approved unless the Board of Zoning Adjustment finds that all of the following standards are met:

1. Special Conditions and Circumstances - Special conditions and circumstances exist which are peculiar to the property and which are not applicable to other properties
2. Not Self-Created - The special conditions and circumstances do not result from the actions of the applicant
3. No Special Privilege Conferred - Approval will not confer on the applicant any special privilege
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
5. Minimum Possible Variance - The minimum variance that will make possible the reasonable use of the land, building, or structure
6. Purpose and Intent - Approval will be in harmony with the purpose and intent of this Chapter and will not be injurious to the neighborhood



## Requested Action

- Deny the applicant's request; or
- Approve the applicant's request with conditions



# Conditions of Approval

- 1. Development shall be in accordance with the site plan date stamped April 10, 2024, 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.**





## Conditions of Approval

- 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 are located no closer than 12.4 feet from the Normal High Water Elevation (NHWE) of Lake O'Dell.**
- 5. Enhanced landscaping shall be installed with 6 ft. high shrubs planted 3 ft. on-center along the entire length of the fence facing Turkey Lake Road.**

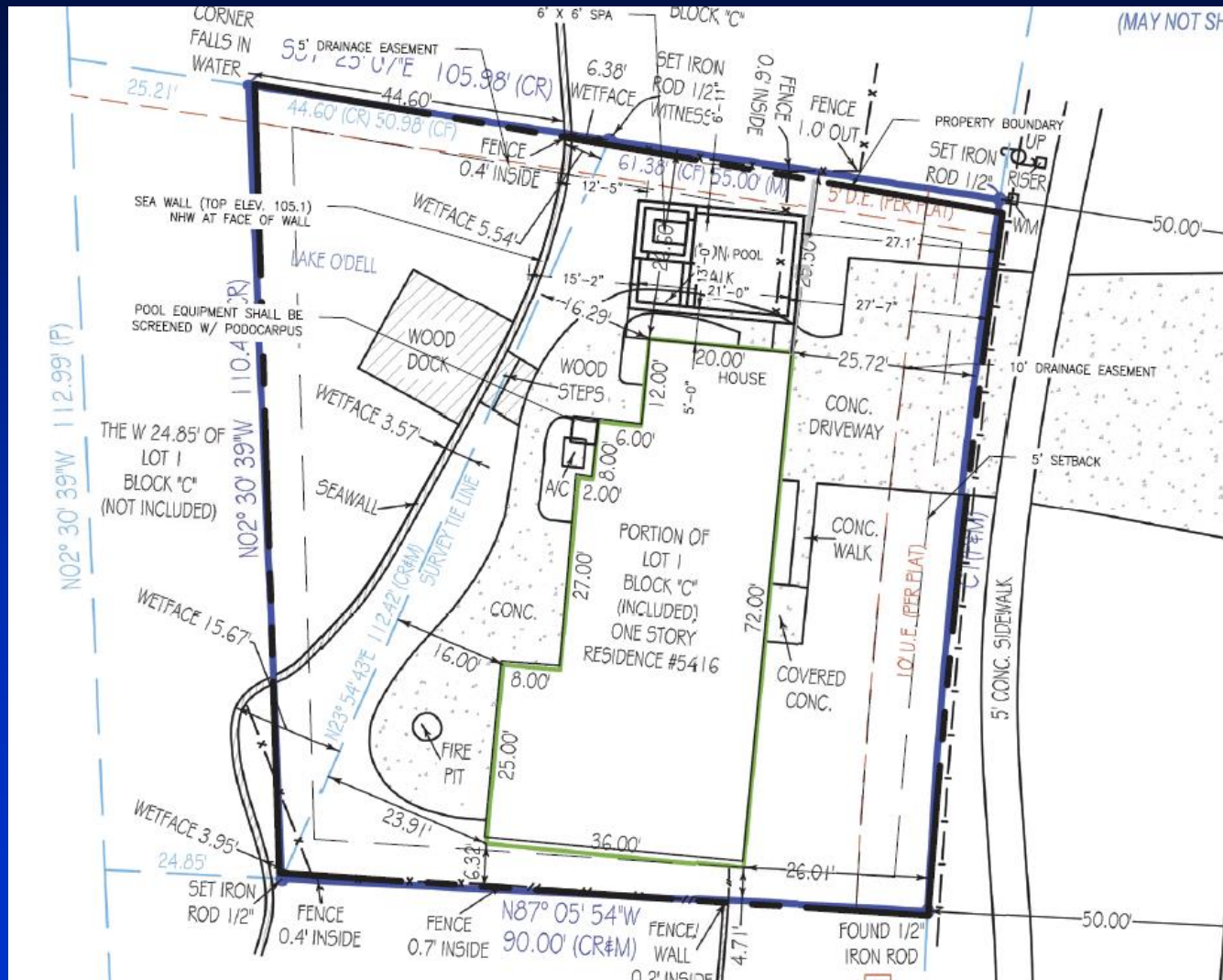


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# Open Space Calculations



## LOT CALCULATION

(IMPERVIOUS)

HOUSE:	2,056 SF
DRIVEWAY:	737 SF
WALKWAY:	81 SF
EX. DECK:	906 SF
PROPOSED DECK:	91 SF
	<hr/>
	3,871 SF

LOT SF: 10,156 SF  
 % COVERAGE: 38.11 %

(OPEN SPACE)

LANDSCAPE:	3,340 SF
POOL:	273 SF
	<hr/>
	3,613 SF

UPLAND SF: 7,405  
 % COVERAGE: 48.79 %



# Open Space Requirements

- **Sec. 24-29 (a) In the following residential zoning districts, residential private open space shall be forty (40) percent**
- **R-1A Zoning District falls under this requirement**
- **However, when a variance to the building setbacks for an addition to the principal residence is successfully obtained from the board of zoning adjustment, then the residential private open space requirements shall be automatically reduced by an amount sufficient to accommodate the setback variance.**
- **However, for purposes of this article, recreational structures such as, but not limited to, pools, tennis courts and porches shall not be considered accessory structures and shall be included in calculating residential open space.**





## Concern that the lake will overtop into the pool

- The NHWE of Lake O'Dell is controlled at +103.01' NAVD. The control structure at Lake O'Dell, which outfalls to Lake Cane, is set at +102.51' NAVD. The top of the seawall on the subject property is at 105.1.
- The lake will start overflowing into Lake Cane above +102.51' NAVD and seldom (1% chance flood or 100 yr event) reaches the top of the seawall, therefore, never reaching the proposed pool proposed to be 12.4 feet away from the NHWE.



## Runoff (from the pool) into the lake

- The County has a dedicated a web page with information for both homeowners and contractors: [Pool Pollution Prevention \(orangecountyfl.net\)](http://www.orangecountyfl.net).
- If either the homeowner or contractor are found to be violating any of the Orange County Codes relating to the discharge of water from a pool during construction or while under the ownership of the property owner, it becomes an enforcement issue. A BMP that is suggested is to drain a pool to slowly discharge into the yard. The subject property has a side, back, and front yard available for any draining that is needed.



## Runoff (stormwater/contaminants) from the pool into the lake

- During construction, the contractor will be required to install sediment and erosion control measures to secure the construction site and prevent the discharge of any materials into the waterbody (sediments, etc.). Post construction, the stormwater rules are in place to address contaminants that are derived from petroleum products such as oil, gas, petroleum based products such as roof shingles, etc. Stormwater rules do not apply to such things as pool construction. There should be no contaminants derived from the maintenance and operation of the pool. Any rainfall that hits a pool deck may collect incidental pool chemicals such as chlorine or sodium bicarbonate (baking soda) but would be negligible. The decks themselves are usually graded in such a way to have water drain towards the pool, not away.