



LAND USE HEARING OFFICER VARIANCE REPORT

APPLICATION NUMBER: VAR 23-0344	
LUHO HEARING DATE: May 22, 2023	CASE REVIEWER: Carla Shelton Knight

REQUEST: The applicant is requesting a variance from the 30-foot Wetland Conservation Area setback requirement, Section 4.01.07B of the Land Development Code (LDC). The applicant’s specific request, as shown on the site plan submitted on March 29, 2023, is to allow for the construction of a swimming pool, deck, retaining wall, and screen enclosure within the 30-foot Wetland Conservation Area setback.

SUMMARY OF VARIANCE(S):

Wetland Setback

- 1) Per LDC Sec. 4.01.07.B.4, no filling, excavating or placement of permanent structures or other impervious surfaces shall be allowed within a required 30-foot wetland conservation area setback. The applicant requests the construction of a swimming pool, deck, retaining wall, and screen enclosure within the 30-foot wetland conservation area setback. The applicant requests a 13-foot encroachment into the setback to allow for a remaining setback of 17 feet.

Findings

- 1) A permit for the swimming pool was issued by the Building Department on October 19, 2022. This permit application was mistakenly not sent to the Natural Resources team for review, and the wetland setback was not noticed. The permit was issued and construction of the pool began. When a separate permit application was submitted for a retaining wall at the edge of the pool deck, the Natural Resources team reviewed this application and discovered the pool was being constructed in a 30-foot wetland setback area, and required a variance application for the pool, retaining wall and screen enclosure.


DISCLAIMER:

The variance listed above is based on the information provided in the application by the applicant. Additional variances may be needed after the site has applied for development permits. The granting of these variances does not obviate the applicant or property owner from attaining all additional required approvals including but not limited to: subdivision or site development approvals and building permit approvals.

Approval of this variance petition by Hillsborough County does not constitute a guarantee that the Environmental Protection Commission of Hillsborough County (EPC) approvals/permits necessary for the development as proposed will be issued, does not itself serve to justify any impact to wetlands, and does not grant any implied or vested environmental approvals.

Attachments: Site Plan

Variance 23-0344
Staff Report
Page Two:

ADMINISTRATOR'S SIGN-OFF


< THIS PAGE WAS INTENTIONALLY LEFT BLANK >

< THIS PAGE WAS INTENTIONALLY LEFT BLANK >



Project Description (Variance Request)

- In the space below describe the variance including any history and/or related facts that may be helpful in understanding the request. This explanation shall also specifically identify what is being requested (e.g. Variance of 10 feet from the required rear yard setback of 25 feet resulting in a rear yard of 15 feet). If additional space is needed, please attach extra pages to this application.

After the fact, variance to the required 30' Wetland Setback.

A permit was issued, HC-BLD-22-0038843 to Patio Pools to construct swimming pool to the new build and the construction of pool is near completion.

When J Bartlett Inc dba Bartlett Custom Homes applied for Permit to construct the pool deck and retaining wall, it was determine by the county that the pool was built within the 30' Wetland Setback.

We are requesting a 13'Variance, 10' for the Pool already built, and 3' for the screening, deck and retaining wall.

- A Variance is requested from the following Section(s) of the Hillsborough County Land Development Code:

Sec 401.07 Environmentally sensitive area - Wetlands and Natural Water Bodies.

Additional Information

- Have you been cited by Hillsborough County Code Enforcement? No Yes
If yes, you must submit a copy of the Citation with this Application.
- Do you have any other applications filed with Hillsborough County that are related to the subject property?
 No Yes If yes, please indicate the nature of the application and the case numbers assigned to the application (s): HC-BLD-21-0025176, HC-BLD-22-0038843, HC-BLD-22-0039208
- Is this a request for a wetland setback variance? No Yes
If yes, you must complete the Wetland Setback Memorandum and all required information must be included with this Application Packet.
- Please indicate the existing or proposed utilities for the subject property:
 Public Water Public Wastewater Private Well Septic Tank
- Is the variance to allow a third lot on well or non-residential development with an intensity of three ERC's?
 No Yes If yes, you must submit a final determination of the "Water, Wastewater, and/or Reclaimed Water – Service Application Conditional Approval – Reservation of Capacity" prior to your public hearing

Variance Criteria Response

1. Explain how the alleged hardships or practical difficulties are unique and singular to the subject property and are not those suffered in common with other property similarly located?

A permit was issued by the county for the homeowner to build a swimming pool. The permit for the retaining wall/ deck surrounding the pool was later denied, as the pool was found to be in a wetland setback. The pool is now constructed and cannot be completed without a variance.

2. Describe how the literal requirements of the Land Development Code (LDC) would deprive you of rights commonly enjoyed by other properties in the same district and area under the terms of the LDC.

It would not allow for the homeowner to finish the construction of their swimming pool and surrounding screening, deck and retaining wall. It would also be a financial detriment to the homeowner, as they have already contracted for and made payments for the pool's construction.

3. Explain how the variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.

The house is not very close to any surrounding neighbor and the properties surrounding are large lots. This allows for the surrounding homes to maintain their view of the lake. The homeowners located behind the Benoist residence will not be affected by the variance, as the improvements are not in their view and are blocked by the house itself.

4. Explain how the variance is in harmony with and serves the general intent and purpose of the LDC and the Comprehensive Plan (refer to Section 1.02.02 and 1.02.03 of the LDC for description of intent/purpose).

The variance would be in harmony with the LDC and the comprehensive plan, as it is only requesting 13' of the 30' required setback. The wetlands only consist of grass and weeds and a retaining wall will be constructed to further protect the remaining 17' setback.

5. Explain how the situation sought to be relieved by the variance does not result from an illegal act or result from the actions of the applicant, resulting in a self-imposed hardship.

A permit was issued by Hillsborough County for a swimming pool to be built. After it was constructed we were notified that the pool had been built in a wetland setback.

6. Explain how allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by the LDC and the individual hardships that will be suffered by a failure to grant a variance.

It will allow for the homeowner to finish the construction of their swimming pool, screening, surround deck and retaining wall as planned. They built the pool in reliance of the permit being issued.

Prepared by and return to:
Patsy Gleason
Frank Charles Miranda, P.A.
3226 West Cypress Street
Tampa, FL 33607
(813) 254-2637
File No 21-447

Parcel Identification No 002329-0000

[Space Above This Line For Recording Data]

WARRANTY DEED

(STATUTORY FORM – SECTION 689.02, F.S.)

This indenture made the 27th day of August, 2021 between **Richard J. Lutley and Tara S. Lutley, husband and wife**, whose post office address is **6201 Guilford Drive, New Port Richey, FL 34655**, of the County of Pasco, State of Florida, Grantors, to **Leonel Benoist and Michele Benoist, husband and wife**, whose post office address is **11207 Sunny Delight Ct, Odessa, FL 33556**, of the County of Hillsborough, State of Florida, Grantees:

Witnesseth, that said Grantors, for and in consideration of the sum of TEN DOLLARS (U.S.\$10.00) and other good and valuable considerations to said Grantors in hand paid by said Grantees, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said Grantees, and Grantees' heirs and assigns forever, the following described land, situate, lying and being in Hillsborough, Florida, to-wit:

A TRACT LYING IN THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 25, TOWNSHIP 27 SOUTH, RANGE 17 EAST AND IN THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 26, TOWNSHIP 27 SOUTH, RANGE 17 EAST, HILLSBOROUGH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: FROM THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 25, RUN EAST ALONG THE SOUTH BOUNDARY OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 25 A DISTANCE OF 150.0 FEET TO A POINT OF BEGINNING; FROM SAID POINT OF BEGINNING, RUN SOUTH, PARALLEL TO THE WEST BOUNDARY OF SAID SOUTHWEST 1/4 OF SECTION 25, A DISTANCE OF 116.2 FEET; RUN THENCE EAST, PARALLEL TO THE NORTH BOUNDARY OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 25, A DISTANCE OF 25.0 FEET; RUN THENCE NORTH, PARALLEL TO THE WEST BOUNDARY OF SAID SOUTHWEST 1/4 OF SECTION 25, A DISTANCE OF 516.2 FEET; RUN THENCE WEST, PARALLEL TO AND 400.0 FEET NORTH OF THE SOUTH BOUNDARY OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 25, A DISTANCE OF 175.0 FEET TO INTERSECTION WITH THE WEST BOUNDARY OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 25 TO A POINT HEREBY DESIGNATED POINT "X"; BEGINNING AGAIN AT THE POINT-OF-BEGINNING, RUN NORTH, PARALLEL TO THE WEST BOUNDARY OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 25, A DISTANCE OF 70.0 FEET; RUN THENCE WEST, PARALLEL TO THE SOUTH BOUNDARY OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 25, A DISTANCE OF 120.0 FEET; RUN THENCE NORTHWESTERLY A DISTANCE OF 68.19 FEET TO A POINT WHICH IS 91.67 FEET NORTHERLY OF THE WESTERLY EXTENSION OF SAID SOUTH BOUNDARY OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 25 AND 35.0 FEET WESTERLY OF THE WEST BOUNDARY OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 25; RUN THENCE NORTH, PARALLEL TO AND 35.0 FEET WEST OF SAID WEST BOUNDARY OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 25, A DISTANCE OF 238.33 FEET; RUN THENCE NORTHEASTERLY A DISTANCE OF 78.24 FEET TO THE POINT-OF-BEGINNING;

TOGETHER WITH AN EASEMENT FOR ACCESS PURPOSES OVER A STRIP OF LAND DESCRIBED AS FOLLOWS:

A TRACT IN THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 25, TOWNSHIP 27 SOUTH, RANGE 17 EAST, HILLSBOROUGH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: FROM THE SOUTHWEST CORNER OF SAID SECTION 25, RUN NORTH 0 DEGREES 28 MINUTES WEST ALONG THE WEST BOUNDARY OF SAID SECTION 25 A DISTANCE OF 654.7 FEET TO A POINT DESCRIBED AS POINT "A"; CONTINUE THENCE NORTH 0 DEGREES 28 MINUTES WEST A DISTANCE OF 21.5 FEET; RUN THENCE EAST A DISTANCE OF 150.0 FEET TO A POINT DESCRIBED AS POINT "B"; RUN THENCE NORTH A DISTANCE OF 175.0 FEET TO A POINT DESCRIBED AS POINT "C"; CONTINUE THENCE NORTH A DISTANCE OF 110.0 FEET; RUN THENCE EAST A DISTANCE OF 40.0 FEET TO A POINT DESCRIBED AS POINT "D"; RUN THENCE NORTH A DISTANCE OF

109.63 FEET; RUN THENCE NORTH 22 DEGREES 06 MINUTES 06 SECONDS WEST A DISTANCE OF 151.5 FEET; RUN THENCE NORTH A DISTANCE OF 211.2 FEET TO A POINT WHICH IS 70.0 FEET NORTH AND 133.0 FEET EAST OF THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 25; RUN THENCE EAST A DISTANCE OF 17.0 FEET; RUN THENCE SOUTH A DISTANCE OF 186.2 FEET; RUN THENCE EAST A DISTANCE OF 40.0 FEET; RUN THENCE SOUTH A DISTANCE OF 78.8 FEET; RUN THENCE EAST A DISTANCE OF 25.0 FEET; RUN THENCE SOUTHERLY ON A STRAIGHT LINE TO A POINT 20.0 FEET EAST OF POINT "D" ABOVE DESCRIBED; RUN THENCE ON A STRAIGHT LINE SOUTHWESTERLY TO A POINT 30.0 FEET EAST OF POINT "C" HEREINABOVE DESCRIBED; RUN THENCE SOUTHERLY ON A STRAIGHT LINE TO A POINT 27.8 FEET EAST OF POINT "B" HEREINABOVE DESCRIBED; RUN THENCE SOUTH A DISTANCE OF 21.5 FEET TO A POINT 117.8 FEET EAST OF POINT "A" HEREINABOVE DESCRIBED; RUN THENCE WEST TO A POINT 75.0 FEET EAST OF POINT "A"; RUN THENCE SOUTH 45 DEGREES WEST TO A POINT 20.0 FEET EAST OF THE LINE HEREINBEFORE DESCRIBED AS RUNNING BETWEEN THE POINT-OF-BEGINNING AND POINT "A"; RUN THENCE SOUTH 0 DEGREES 28 MINUTES EAST ALONG A LINE PARALLEL TO AND 20.0 FEET EAST OF THE LINE BETWEEN THE POINT-OF-BEGINNING AND POINT "A" TO A POINT 20.0 FEET EAST OF THE POINT-OF-BEGINNING; RUN THENCE WEST 20.0 FEET TO THE POINT-OF-BEGINNING.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

Subject to taxes for 2021 and subsequent years, not yet due and payable; covenants, restrictions, easements, reservations and limitations of record, if any.

TO HAVE AND TO HOLD the same in fee simple forever.

And Grantors hereby covenant with the Grantees that the Grantors are lawfully seized of said land in fee simple, that Grantors have good right and lawful authority to sell and convey said land and that the Grantors hereby fully warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever.

In Witness Whereof, Grantors have hereunto set Grantors' hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

[Signature]
WITNESS
PRINT NAME: Alysa Siffert

[Signature]
Richard J. Lutley
[Signature]
Tara S. Lutley

[Signature]
WITNESS
PRINT NAME: Patsy Gleason Melissa Champagne

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 27th day of August, 2021, by Richard J Lutley and Tara S Lutley.

[Signature]
Signature of Notary Public
Print, Type/Stamp Name of Notary



Alysa Siffert
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG918911
Expires 10/2/2023

Personally Known: _____ OR Produced Identification: _____
Type of Identification DL
Produced: _____

< THIS PAGE WAS INTENTIONALLY LEFT BLANK >

< THIS PAGE WAS INTENTIONALLY LEFT BLANK >



Property/Applicant/Owner Information Form

Official Use Only

Application No: VAR-WS 23-0344

Intake Date: 03/29/2023

Hearing(s) and type: Date: 05/22/2023

Type: LUHO

Receipt Number: 254754

Date: _____

Type: _____

Intake Staff Signature: Keshia Rivas

Property Information

Address: 16161 McArn Trail

City/State/Zip: Odessa, FL 33556

TWN-RN-SEC: 25-2717 Folio(s): 002329-0000

Zoning: Residential

Future Land Use: Residential

Property Size: 1.66854

Property Owner Information

Name: Leonel & Michele Benoist

Daytime Phone: 813-210-2568

Address: 11207 Sunny Delight CT

City/State/Zip: Odessa, FL 33556

Email: llbenoist@earthlink.net

Fax Number: n/a

Applicant Information

Name: J. Bartlett Inc

Daytime Phone: 813-689-7030

Address: 1511 S Miller Dr

City/State/Zip: Valrico, FL 33594

Email: jill@bartlettcustomhomes.com

Fax Number: n/a

Applicant's Representative (if different than above)

Name: _____ Daytime Phone _____

Address: _____ City/State/Zip: _____

Email: _____ Fax Number _____

I hereby swear or affirm that all the information provided in the submitted application packet is true and accurate, to the best of my knowledge, and authorize the representative listed above to act on my behalf on this application.

Jack Bartlett

Signature of the Applicant

Jack Bartlett

Type or print name

I hereby authorize the processing of this application and recognize that the final action taken on this petition shall be binding to the property as well as to the current and any future owners.

J. Bartlett

Signature of the Owner(s) - (All parties on the deed must sign)

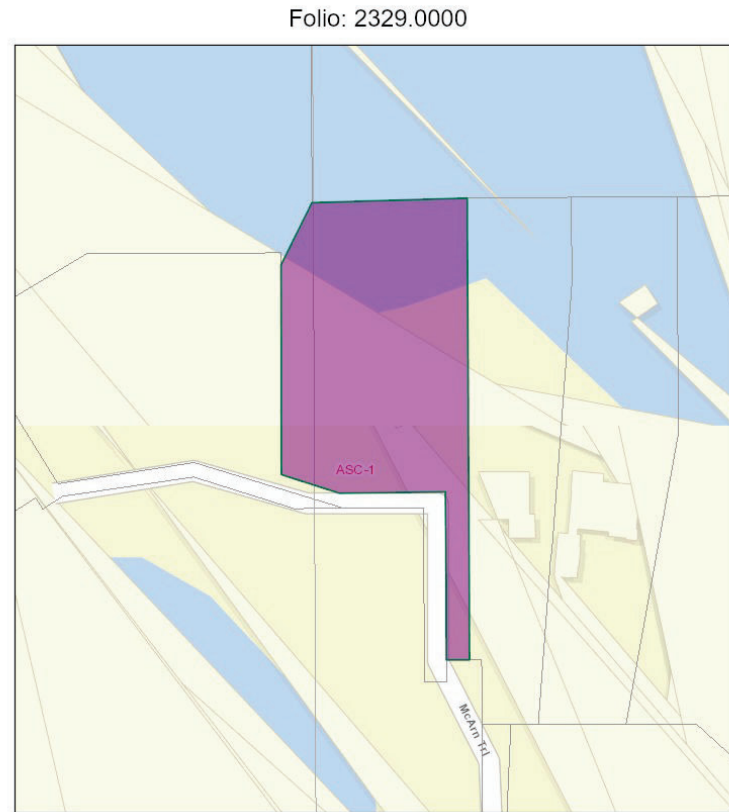
Leonel Benoist

Type or print name



PARCEL INFORMATION HILLSBOROUGH COUNTY FLORIDA

Jurisdiction	Unincorporated County
Zoning Category	Agricultural
Zoning	ASC-1
Description	Agricultural - Single-Family Conventional
Flood Zone:X	AREA OF MINIMAL FLOOD HAZARD
Flood Zone:AE	BFE = 47.5 ft
FIRM Panel	0180H
FIRM Panel	12057C0180H
Suffix	H
Effective Date	Thu Aug 28 2008
Pre 2008 Flood Zone	AE
Pre 2008 Firm Panel	1201120180F
County Wide Planning Area	Keystone Odessa
Community Base Planning Area	Keystone Odessa Area
Census Data	Tract: 011410 Block: 1008
Census Data	Tract: 011410 Block: 1011
Future Landuse	R-1
Future Landuse	R-1
Future Landuse	R-1
Mobility Assessment District	Rural
Mobility Benefit District	1
Fire Impact Fee	Northwest
Parks/Schools Impact Fee	NORTHWEST
ROW/Transportation Impact Fee	ZONE 1
Wind Borne Debris Area	140 MPH Area
Competitive Sites	NO
Redevelopment Area	NO



Folio: 2329.0000
PIN: U-25-27-17-ZZZ-000000-18200.0
Leonel And Michele Benoist
Mailing Address:
 16161 Mcarn Trl
 null
 Odessa, Fl 33556-3286
Site Address:
 16161 Mcarn Trl
 Odessa, Fl 33556
SEC-TWN-RNG: 25-27-17
Acreage: 1.66854
Market Value: \$513,872.00
Landuse Code: 0000 Vacant Resident

Hillsborough County makes no warranty, representation or guaranty as to the content, sequence, accuracy, timeliness, or completeness of any of the geodata information provided herein. The reader should not rely on the data provided herein for any reason. Hillsborough County explicitly disclaims any representations and warranties, including, without limitations, the implied warranties of merchantability and fitness for a particular purpose. Hillsborough County shall assume no liability for:

1. Any error, omissions, or inaccuracies in the information provided regardless of how caused.
2. Any decision made or action taken or not taken by any person in reliance upon any information or data furnished hereunder.