

RESOLUTION NO. 2022 - 155

WHEREAS, Hernando County has adopted zoning and land development regulations pursuant to Chapters 125 and 163, *Florida Statutes*, which authorize the County to regulate the division of land in the unincorporated areas of Hernando County, Florida, and take action on the request herein; and,

WHEREAS, the Hernando County Board of County Commissioners (BOCC) *may* authorize a variance from the terms of the zoning ordinance that will not be contrary to the public interest when due to special conditions, a literal enforcement of the provisions of the zoning ordinance would result in unnecessary and undue hardship, and the BOCC has considered the request for a **DIMENSIONAL VARIANCE** from the terms of the zoning ordinance, as requested herein.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA, AS FOLLOWS:

APPLICANT: John & Angela Lockhart

FILE NUMBER: 1439837

PURPOSE: To reduce rear setback from 5' to 0' to construct pool enclosure

LEGAL

DESCRIPTION: Lot 49, Tract 8, Timber Pines, Unit 1, ord 2694 pg 235-238 according to the plat thereof recorded in Plat Book 20, Pages 25, inclusive, Public Records of Hernando County, Florida

PARCEL KEY: 1097529

REQUEST: Request for a **DIMENSIONAL VARIANCE** to allow the Petitioner to reduce rear setback from 5' to 0' to construct pool enclosure around the inground pool, in connection with the subject parcel located in the PDP(SF) (Planned Development) Zoning District. The representations contained in the Petitioner's application are incorporated herein by reference and made a part hereof. For purposes herein, it is presumed that all requisite notice and advertising requirements have been satisfied. The **DIMENSIONAL VARIANCE** is requested from the following requirement of the zoning ordinance:

1. **Chapter 10 Community Appearance, Article III Fence Code, section 10-55 Standards (d).**

Fences in the rear yard which are adjacent to waterfront areas, golf courses, common areas or similar open space areas shall have a maximum height of four (4) feet. These fences shall be chain link, split-rail, picket or of similar construction such that at least twenty-five (25) percent of the fence area is open and unobstructed when viewed at a right angle to the fence line.

**FINDINGS
OF FACT:**

ALL of the facts and conditions presented to the BOCC in connection with this matter are incorporated herein by reference and made a material part of this Resolution as integral to the BOCC's Action. The BOCC finds that the testimony and record supporting APPROVAL of the Petitioner's request to be credible and to constitute competent substantial evidence. In further support thereof, the BOCC makes the following specific findings of fact:

1. The requested **DIMENSIONAL VARIANCE** conforms with the following:
 - (a) That 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;
 - (b) That the special conditions and circumstances do not result from the actions of the applicant;
 - (c) That granting of the variance requested will not confer on the applicant any special privilege that is denied by the zoning ordinance to other lands, buildings, or structures in the same zoning district;
 - (d) That literal interpretation of the provisions of the zoning ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the zoning ordinance and would work unnecessary and undue hardship on the applicant;
 - (e) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
 - (f) That the granting of the variance will be in harmony with the general intent and purpose of the land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

2. The requested **DIMENSIONAL VARIANCE** is consistent with the County's adopted Comprehensive Plan and land development regulations, subject to any conditions made a part of the BOCC Action in this matter and which conditions, if any, are incorporated herein by reference.

**CONCLUSIONS
OF LAW:**

The BOCC is authorized to act on this matter pursuant to Chapters 125 and 163, *Florida Statutes*, and Appendix A, Article V, Section 3, *Code of Ordinances, Hernando County, Florida*. Accordingly, after public hearing and testimony, being fully advised in the record, and based upon competent substantial evidence, the BOCC makes the following specific conclusions of law:

1. The requested **DIMENSIONAL VARIANCE** is consistent with the County's adopted Comprehensive Plan and land development regulations, subject to any conditions made a part of the BOCC Action in this matter and which conditions, if any, are incorporated herein by reference.

ACTION:

Based upon the record in this matter and ALL of the findings of fact and conclusions of law above, the BOCC hereby APPROVES the request for a **DIMENSIONAL VARIANCE**, subject to the following:

1. Any conditions made a part of the BOCC Action in this matter are incorporated herein by reference.
2. Pursuant to Appendix A, Article V, Section 3.D.(1), the **DIMENSIONAL VARIANCE** granted herein applies to the property for which it is granted, and not to the individual who applied for it, and it is transferable to any future owner of the land, but it cannot be transferred by the applicant to a different site.

ADOPTED IN REGULAR SESSION THE 23rd DAY OF August, 2022.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

Attest: Heidi Krugge, Deputy Clerk
for **Douglas A. Chorvat, Jr.**
Clerk of Circuit Court & Comptroller



By: [Signature]
Steve Champion
Chairman

Approved as to Form and Legal Sufficiency
By: [Signature]
County Attorney's Office