

LAKE COUNTY PLANNING AND ZONING DIVISION  
BOARD OF ZONING ADJUSTMENT STAFF REPORT

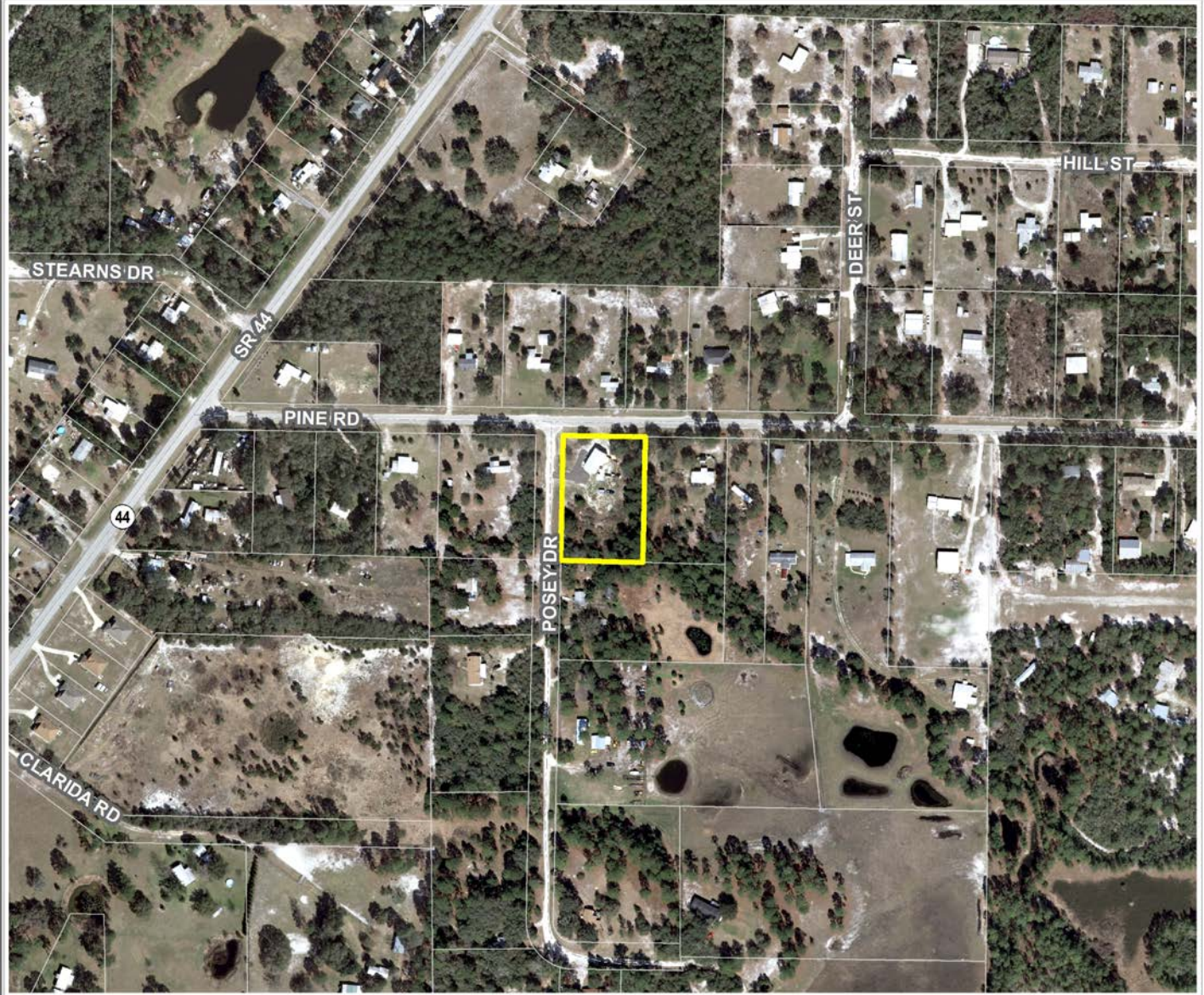


Board of Adjustment

LAKE COUNTY  
FLORIDA

March 9, 2017

VAR-16-41-5 Malik Property	Commission District 5	Agenda Item #1
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**Requested Action:** Variance from Lake County Land Development Regulations Table 3.02.05 Note 3(a), *Setbacks*, to allow a detached garage to be placed 21.90 feet from the right of way of Posey Drive in lieu of 25 feet, as required for a secondary front setback.

**Owners:** Jeffrey A. and Diana P. Malik

**Applicants:** Jeffrey A. and Diana P. Malik

- Site Location & Information -

<b>Size</b>	1.4 acres
<b>Property Address</b>	41240 Posey Drive, Eustis
<b>Location</b>	Generally located east of State Road 44 at the intersection of Pine Road and Posey Drive in the Eustis area.
<b>Alternate Key No.</b>	1536251
<b>Future Land Use</b>	Sending Area A-1-20
<b>Zoning District</b>	Agriculture (A)
<b>Overlay District</b>	N/A
<b>Joint Planning Area/ISBA Area</b>	N/A

- Land Use Table -

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
North	Sending Area A-1-20	Agriculture (A)	Residential	Adjacent to Pine Road
South	Sending Area A-1-20	Agriculture (A)	Residential	
East	Sending Area A-1-20	Agriculture (A)	Residential	
West	Sending Area A-1-20	Agriculture (A)	Residential	Adjacent to Posey Drive

- Summary of Staff Determination -

**STAFF RECOMMENDATION:** Staff recommends **APPROVAL** of the variance from Lake County Land Development Regulations Table 3.02.05 Note 3(a), *Setbacks*, to allow a detached garage to be placed 21.90 feet from the right of way of Posey Drive in lieu of 25 feet as required for a secondary front setback.

- Summary of Analysis -

The subject property is 1.4 +/- acres in size and is currently developed with a single family residence and a detached accessory structure being used as a garage. The property is generally located east of State Road 44 at the intersection of Pine Road and Posey Drive in the Eustis area. The property is zoned Agriculture and is located within the Sending Area A-1-20 Future Land Use Category. Lake County Geographic Information Services (GIS) wetland map does not indicate the presence of wetlands on the property. According to the 2012 Federal Emergency Management Agency (FEMA) maps, there are portions of the lot that lie within the 100-year flood zone. On December 13, 2016, the Applicants were issued a FEMA approved Letter of Map Amendment (LOMA) which removed the detached accessory structure from the special flood hazard area.

On June 22, 2015, the owners obtained zoning approval for a 30' x 30' attached garage (Zoning Permit #14036). The original zoning permit for the detached garage expired thirty (30) days after the date of issuance. On September 10, 2015, the Applicants renewed the zoning permit for the attached garage (Zoning Permit #15124). On September 15, 2015, the Applicants submitted a building permit application for the attached garage (2015090358). The building permit application expired on March 15, 2016, which was six months from the date of submittal. On June 16, 2016, the owners were provided a notice of code violation for constructing a 30' x 30' detached garage and porch (Case 2016060054).

In order to resolve the code case, the Applicants must obtain zoning and building permits for both the detached garage and porch. Zoning permits must be obtained prior to the Applicant applying for a new building permit application. The Applicants applied for a zoning permit for both structures but staff was unable to issue a zoning permit due to the location of the detached

garage. Per LDR Table 3.02.05 Note 3(a), *Setbacks*, lots with widths of seventy-five (75) feet and greater, must satisfy a secondary front yard setback of twenty-five (25) feet. The subject parcel has a width of 199.74 feet. A portion of the proposed detached garage does satisfy the 25 foot secondary front setback from the public right of way. The northwest corner of the detached garage is 26.74 feet from the right of way of Posey Drive and the south west corner is 21.90 feet from the right of way of Posey Drive (Attachment A).

Land Development Regulation (LDR) Section 10.01.01.F, requires accessory structures to be located within the rear and side yards unless the structure is the same architectural style as the principal dwelling, is located a minimum of one hundred (100) feet from the front property line, or is less than 120 square feet. The LDRs do not contain a definition for front, side or rear yard. The front yard is typically the portion of the property between the building front and the adjacent right of way. The residence is angled on the lot and does not lie parallel to either right of way. Based on the location and orientation of the residence, the front yard is that portion between the building front and the northwest corner of the property. This places the subject detached garage in the side yard and requires the structure to meet the secondary front yard setback of twenty-five (25) feet from the right of way.

The applicant is requesting a variance from Lake County Land Development Regulations, Table 3.02.05 Note 3(a), *Setbacks*, to allow a detached garage to be located 21.90 feet from the right of way of Posey Drive in lieu of 25 feet as required for a secondary front setback. The majority of the structure meets the twenty-five (25) foot setback; the only portion which does not meet the setback is the southwest corner. Based on the survey provided, approximately thirty four (34) square feet intrude into the setback at a maximum depth of 3.10 feet.

The Florida Department of Transportation has guidelines concerning clear zones on roadways. A clear zone, as defined in The Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (aka the Florida Green Book), is the area outside of the traveled road available for use by errant vehicles. The type of road is used to determine the minimum width for a roadway clear zone. According to Table 3-13 in the Florida Green Book (Attachment B), a road with a speed limit of 25 miles per hour without a curb and gutter, has a recommended minimum roadway clear zone of six (6) feet measured from the edge of the through-travel lane. The property line is approximately twenty (20) feet from the road, and the structure is 21.9 feet from the property line. The detached garage is outside of the clear zone area by a significant amount of space.

The **intent of the Code** (Table 3.02.05) is to ensure the adherence of safe distances between structures and right-of-ways. If this detached garage is allowed to remain as constructed it will not create a hazard for the area.

The Lake County Land Development Regulations, Section 14.15.02 states that variances shall be granted when the person subject to a Land Development Regulation demonstrates that the purpose of the Land Development Regulation will be or has been achieved by other means, and when application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.

The Applicant has stated that they are requesting the variance to the LDRs due to the costs associated with relocating the detached accessory structure. Per Building Permit Application #2015090358, the job value of a thirty (30) foot by thirty (30) foot garage is \$20,000. Removing this structure would be an economic hardship for the Owners.

The applicants submitted the following reasons as proof of **meeting the intent of the Code**:

*"Meet the north, east and south setbacks."*

The applicant submitted the following as proof that the application of the Land Development Regulations would create a **substantial hardship or would violate principles of fairness**:

The Applicant has stated that, "Hardship is the cost involved in moving and rebuilding garage to meet setback."

**FINDINGS OF FACT:** Staff has reviewed the application for this variance request and found:

- The detached accessory structure meets the remaining setbacks as required by the LDRs.
- This request is consistent with safe setback distances outlined in The Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (aka the Florida Greenbook). The northwest corner of the detached garage satisfies the 25 foot secondary front setback and is located 26.74 feet from the public right of way.
- The structure is not located within a special flood hazard area per the FEMA approved LOMA.

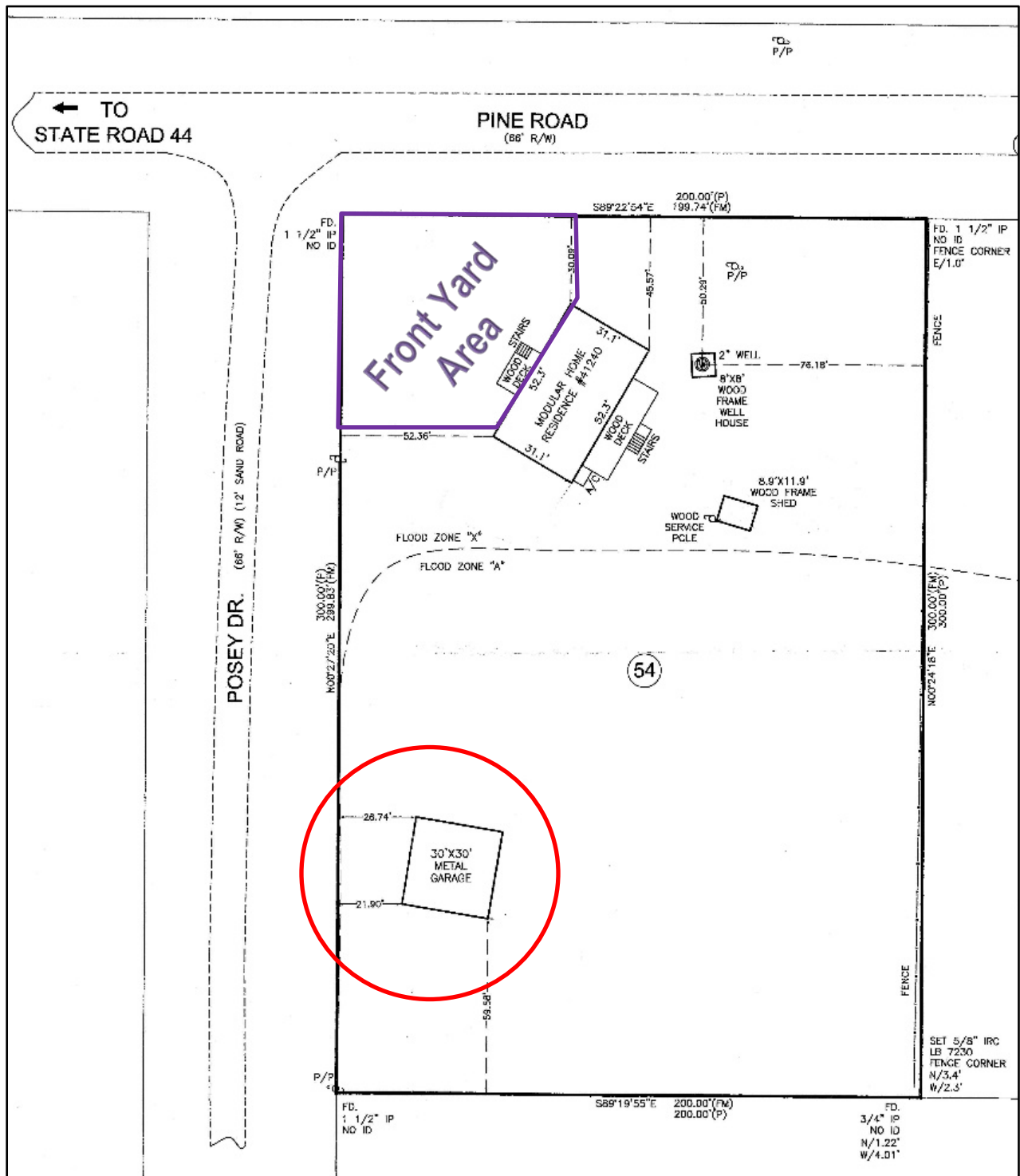
The owner/applicant has submitted proof of meeting the intent of the Code and have shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. Based on the Findings of Fact and Analysis stated above, staff recommend **Approval with Conditions**, as outline in the draft Development Order, of the variance from Lake County Land Development Regulations Table 3.02.05 Note 3(a), *Setbacks*, to allow a detached garage to be placed 21.90 feet from the right of way of Posey Drive in lieu of 25 feet as required for a secondary front setback.

**WRITTEN COMMENTS FILED:**                      **Supportive: -0-**                      **Concern: -0-**                      **Opposition: -0-**

**Case Manager:** Christine R. Rock, Planner

Attachment A.

Survey of the Property (Subject structure circled).



Note: Although the detached garage is shown to be located within Flood Zone A, the Applicants submitted a Letter of Map Amendment (LOMA) to FEMA. FEMA approved the LOMA and removed the detached garage from the flood zone.

Attachment B.

Table 3-13, Manual Of Uniform Minimum Standards For Design, Construction And Maintenance For Streets And Highways, State of Florida Department of Transportation, May 2013.

<b>TABLE 3 – 13 MINIMUM WIDTH OF CLEAR ZONE</b>								
Type of Facility	DESIGN SPEED (MPH)							
	25 and Below	30	35	40	45	50	55	60 and Above
MINIMUM CLEAR ZONE (FEET)								
Rural *	6	6 Local	6 Local	10 Collectors	14 Arterials and Collectors ADT < 1500	14 Arterials and Collectors ADT < 1500	18 Arterials and Collectors ADT < 1500	18 Arterials and Collectors ADT < 1500
		10 Collectors	10 Collectors	14 Arterials	18 Arterials and Collectors ADT ≥ 1500	18 Arterials and Collectors ADT ≥ 1500	24 Arterials and Collectors ADT ≥ 1500	30 Arterials and Collectors ADT ≥ 1500
Urban *	1 ½	4 **	4 **	4 **	4 **	N/A **	N/A **	N/A **

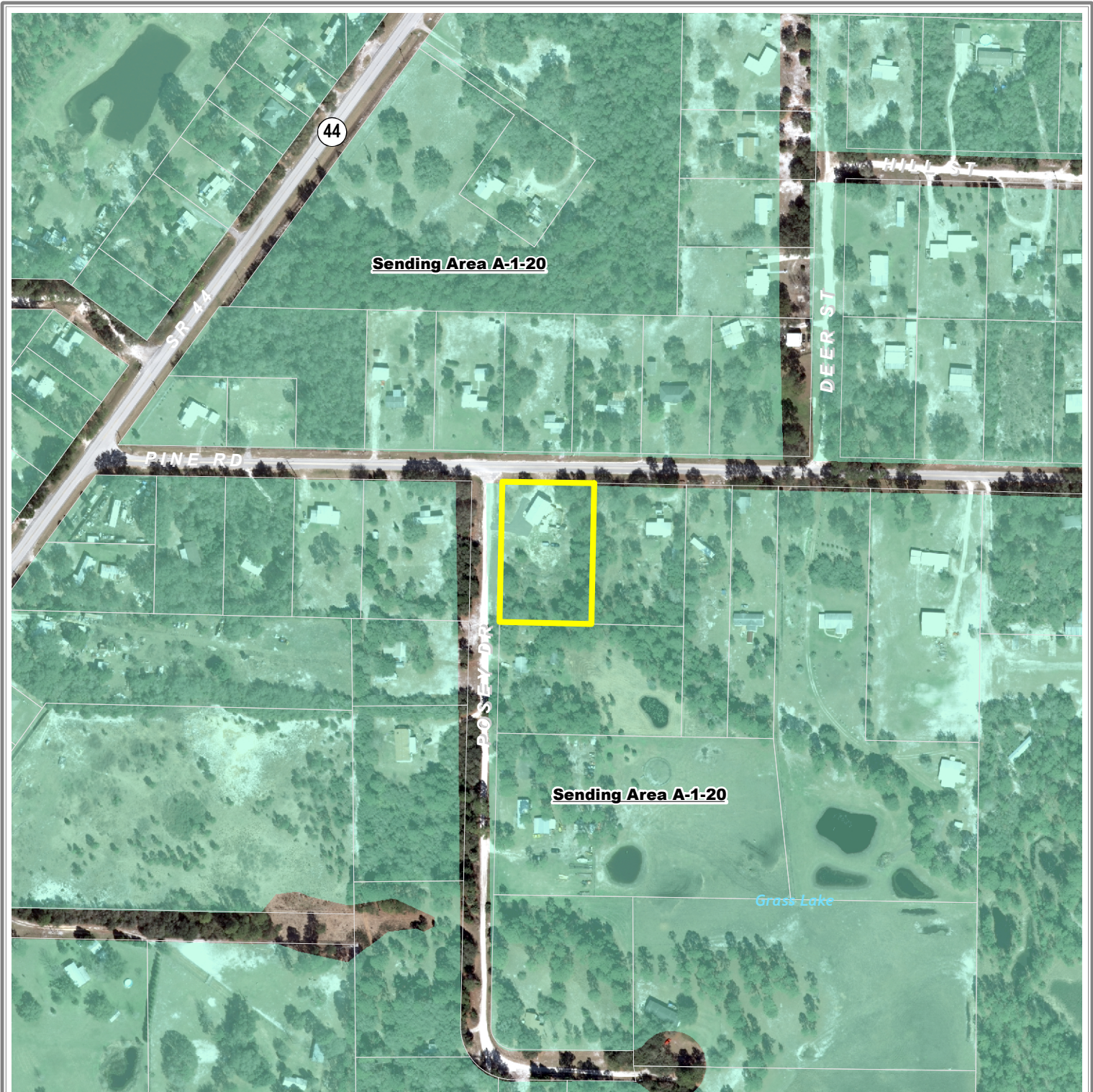
\* From face of curb

\*\* On projects where the 4 foot minimum offset cannot be reasonably obtained and other alternatives are deemed impractical, the minimum may be reduced to 1 ½'.

• Use rural for urban facilities when no curb and gutter is present. Measured from the edge of through travel lane on rural section.

\*\* Curb and gutter not to be used on facilities with design speed > 45mph.

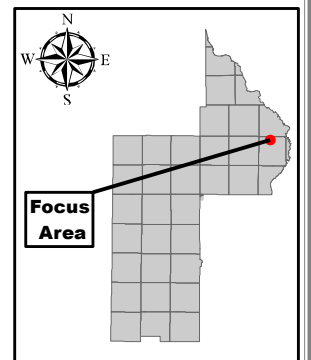
NOTE: ADT in [Table 3-13](#) refers to Design Year ADT.

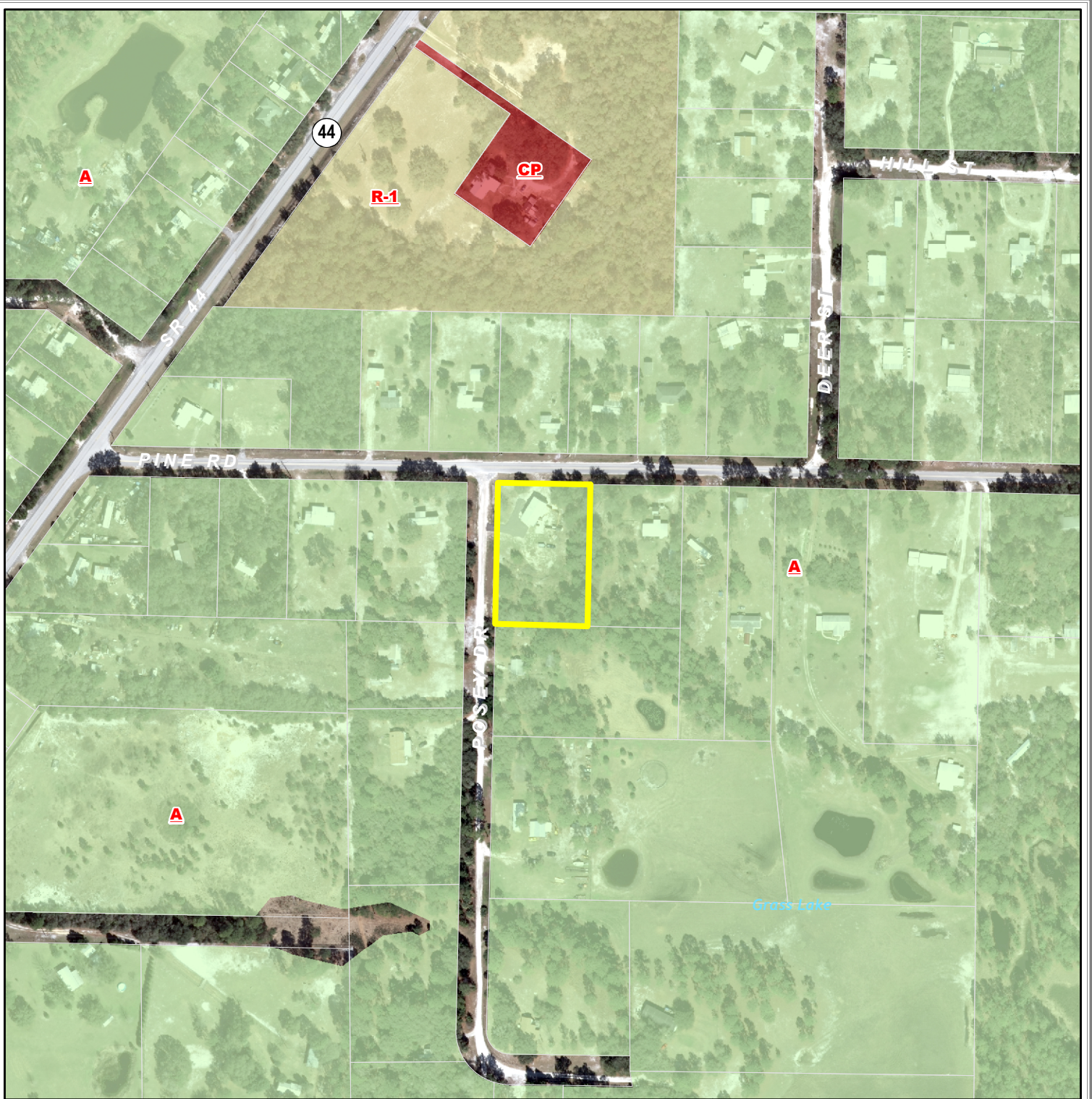


**FUTURE LAND USE LEGEND**

- |                                |  |                     |                      |
|--------------------------------|--|---------------------|----------------------|
| Bella Collina                  | Heavy Industrial                           | Recreation          | Urban High Density   |
| Cagan Crossings                | Mt Plymouth-Sorrento Main Street District  | Regional Commercial | Urban Low Density    |
| Conservation                   | Mt Plymouth-Sorrento Neighborhood          | Rural               | Urban Medium Density |
| Green Swamp Core Conservation  | Mt Plymouth-Sorrento Receiving Area        | Rural Transition    |                      |
| Green Swamp Ridge              | Regional Office                            | Sending Area A-1-20 |                      |
| Green Swamp Rural              | Public Service Facility and Infrastructure | Sending Area A-1-40 |                      |
| Green Swamp Rural Conservation | Receiving Area A-1-20                      | Summer Bay          |                      |

**NAME: MALIK**  
**CASE NUMBER: VAR-16-41-5**  
**LOCATION (S-T-R): 04-18-29**  
**REQUEST: SETBACK ADJUSTMENT**

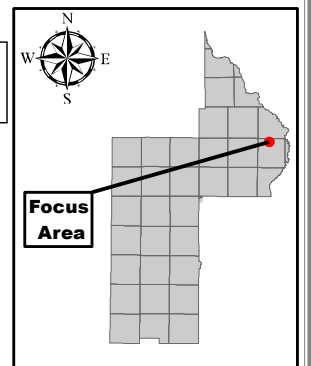




ZONING LEGEND

A	RA	R-2	R-4	R-7	RMRP	RV	C-2	LM	MP	PUD
AR	R-1	R-3	R-6	RP	RM	C-1	CP	HM	CFD	

NAME: MALIK  
CASE NUMBER: VAR-16-41-5  
LOCATION (S-T-R): 04-18-29  
REQUEST: SETBACK ADJUSTMENT





**Final Development Order  
Malik Variance  
VAR-16-41-5**

**A VARIANCE OF THE LAKE COUNTY BOARD OF ADJUSTMENT AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Jeffrey A. Malik and Diana P. Malik (the "Owners" and "Applicants") requested a variance from Land Development Regulations (LDR) Table 3.02.05 Note 3(a), *Setbacks*, to allow a detached garage to be placed 21.90 feet from the right of way of Posey Drive in lieu of 25 feet as required for a secondary front setback; and

**WHEREAS**, the subject property consists of 1.4 +/- acres and is generally located east of State Road 44 at the intersection of Pine Road and Posey Drive in the Eustis area, and having Alternate Key Number 1536251; and more particularly described as:

Lot 54, PINE HILLS, according to the map or plat thereof as recorded in Plat Book 13, Page 40, Public Records of Lake County, Florida.

**WHEREAS**, after giving Notice of Hearing on petition for a variance to the Lake County Land Development Regulations, including notice that said variance would be presented to the Board of Adjustment of Lake County, Florida, on March 9, 2017; and

**WHEREAS**, the Board of Adjustment reviewed said petition, staff report and any comments, favorable or unfavorable, from the public and surrounding property owners at a public hearing duly advertised; and

**WHEREAS**, on March 9, 2017, the Lake County Board of Adjustment approved the variance for the above property; and

**NOW THEREFORE, BE IT ORDAINED** by the Board of Adjustment of Lake County, Florida, that the Land Development Regulations of Lake County, Florida, be altered and amended as they pertain to the above subject property, subject to the following terms:

**Section 1. Terms:** The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-16-41-5 from Land Development Regulations Table 3.02.05 Note 3(a), *Setbacks*, to allow a detached garage to be placed 21.90 feet from the right of way of Posey Drive in lieu of 25 feet as required for a secondary front setback, subject to the following conditions:

1. This variance shall only apply to the 30 x 30 detached garage as depicted on Exhibit A. All new structures shall adhere to the setbacks established within the Land Development Regulations, as amended.
2. The detached garage shall obtain a zoning permit and building permit within two (2) years of the approval of this Development Order.
3. The detached garage:
  - a. Shall not be converted into living area.
  - b. Shall only be used for personal use.
  - c. Shall not be expanded in any manner to increase the non-conforming setback.

**Section 2. Severability:** If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**Section 3. Effective Date.** This Ordinance shall become effective as provided by law.

ENACTED March 9, 2017.

EFFECTIVE March 9, 2017.

BOARD OF ADJUSTMENT  
LAKE COUNTY, FLORIDA

\_\_\_\_\_  
Chairman

STATE OF FLORIDA  
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_, as identification and who did \_\_\_\_\_ or did not \_\_\_\_\_ take an oath.

(SEAL)

\_\_\_\_\_  
Signature of Acknowledger

Exhibit A.

Subject property and Subject Structure (30' x 30' Detached Garage)

