



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 1

Public Hearing Date: July 11, 2019

Case No. and Project Name: VAR-19-20-1, Ward Property

Applicant: Tawnya Booker-Brown (the "Applicant")

Owner: Sheila Tyer Ward, et al. (the "Owner")

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 3.01.02.A.1.a, to allow for an accessory dwelling unit (ADU) that is less than twenty-three (23) feet four (4) inches at the narrowest point; and Land Development Regulations (LDR) Section 10.01.03.B.5, to allow for an accessory dwelling unit (ADU) that is not of the same architectural style as the principal dwelling.

Staff Determination: Staff recommends approval of the variance request.

Case Manager: Emily W. Johnson, Planner

Subject Property Information

Size: 5.56 +/- net acres (no wetlands or water bodies on subject property)

Location: 6210 Oil Well Road, Clermont, Florida 34714

Alternate Key No.: 1305365

Future Land Use: Green Swamp Core Conservation

Current Zoning District: Agriculture (A)

Flood Zone: "X"

Joint Planning Area/ ISBA: N/A

Overlay Districts: Green Swamp Area of Critical State Concern

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Green Swamp Core Conservation	Agriculture (A)	Residential	Vacant
South	Green Swamp Core Conservation	Agriculture (A)	Residential	Single-Family Residence
East	Green Swamp Core Conservation	Agriculture (A)	Residential	Single-Family Residence
West	Green Swamp Core Conservation	Agriculture (A)	Residential	Single-Family Residence

Summary of Request.

The applicant intends to obtain a zoning permit for a single-family residence which is not of the same architectural style as the existing dwelling. The existing dwelling, which is less than twenty-three (23) feet four (4) inches at the narrowest point, will become the accessory dwelling unit (ADU) upon completion of the proposed single-family residence. An approved variance request to LDR Section 10.01.03.B.5, and LDR Section 3.01.02.A.1.a, is required in order to facilitate approval of the zoning permit.

Pursuant to Land Development Regulations (LDR) Section 10.01.03, *Accessory Structures that are Dwellings*, accessory dwelling units are an allowed use in agricultural and residential zoning districts, provided that the requirements contained in the section are met. Additionally, accessory dwelling units must meet the requirements for single-family dwelling units contained in LDR Section 3.01.02.A.1.

The property record card indicates that the existing dwelling was constructed in 1900, preceding both the current code, and Lake County's requirement of obtaining zoning and building permits prior to construction. The existing dwelling in its current, unaltered state meets the provisions for existing, non-conforming development contained in LDR Section 1.08.00, *Nonconforming Development*; however, the change of use from primary dwelling to accessory dwelling unit and the expansion of non-conformity beyond ten (10) percent require the existing structure to come into compliance with the code.

Staff Analysis.

LDR Section 14.15.02 states that variances will 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.

1. The purpose of the Land Development Regulation will be or has been achieved by other means.

The Applicant submitted the following statement as proof that the purpose of the Land Development Regulations will be or has been achieved by other means; *"The porch is 18' but the house is longer on that side. The other wall is 22' and the rest of the house falls into code with the accessory dwelling code."*

The intent of LDR Section 3.02.01.A.1 is to create a minimum standard for single-family dwelling units and to ensure the characteristics of the surrounding neighborhood are maintained. The intent of LDR Section 10.01.03, *Accessory Structures that are Dwellings*, is to provide for less expensive housing units to accommodate growth, provide housing for relatives, and to provide for security.

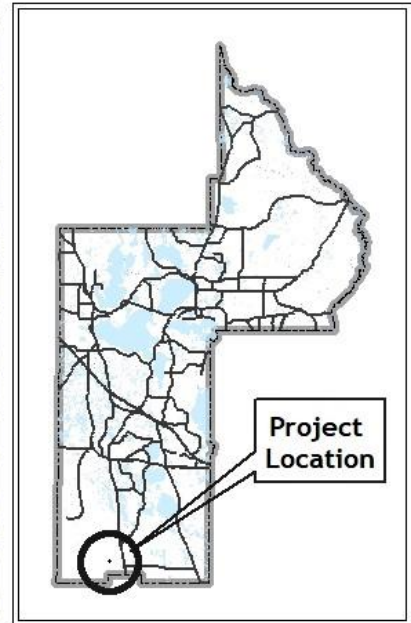
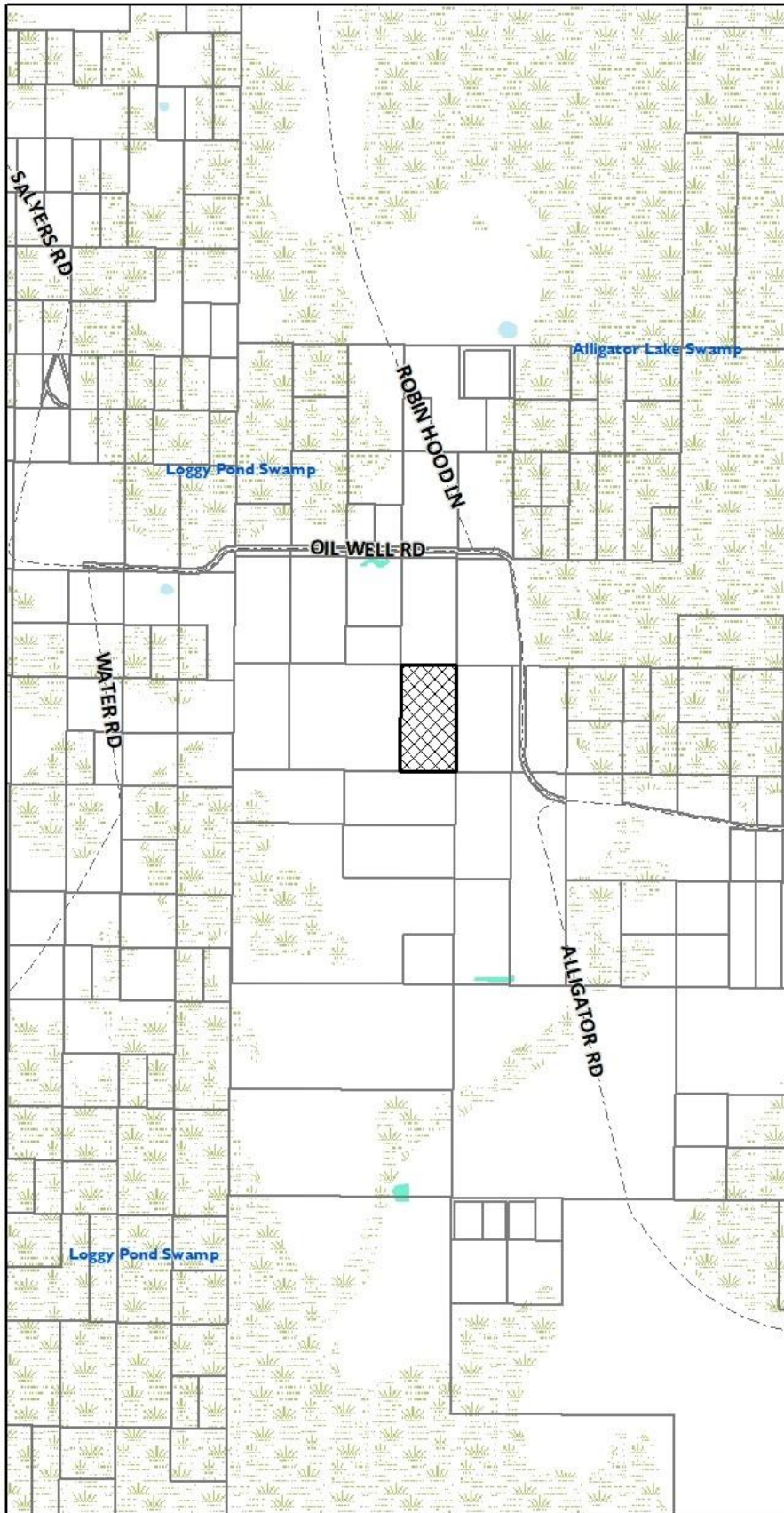
Staff has found that the existing dwelling will meet the requirements for ADUs, contained in LDR 10.01.03.B, *Standards*, with the exception of LDR 10.01.03.B.5, which states that "The Accessory Dwelling Unit Shall be located and designed not to interfere with the appearance of the principal dwelling as a one-family Dwelling Unit. The Accessory Dwelling Unit Shall be the same architectural style as the principal Dwelling Unit." The existing dwelling is only seven-hundred eighty-four (784) square feet and has intrinsic historic and sentimental value to the owner, whereas the proposed single-family residence is two-thousand four-hundred thirty-two (2,432) square feet and would accommodate growth of a family and provide security in such a way that a dwelling constructed over one-hundred (100) years ago may not.

2. The 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. For purposes of this Section, "principles of fairness" are violated when the literal application of a Land Development Regulation affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the Land Development Regulation.

The Applicant submitted the following statement as proof of a hardship; *“This tiny little house was built by [the Owner’s] great-great-grandfather and it is made out of cedar and they do not want to alter it in any way.”*

LDR Section 14.15.04, states that for the purposes of this section “substantial hardship” means a demonstrated economic, technological, legal, or other type of hardship to the person requested the variance. The literal application of the code would impose a significant hardship as the existing dwelling has intrinsic sentimental value to the Owner as it was built by an ancestor and is, essentially, a family heirloom. Requiring the Owner to alter the dwelling in order to meet the code would diminish the historic value of the existing home; however, the existing home would not be able to accommodate growth or security needs in the way the proposed single-family dwelling unit would.

MAP OF SUBJECT PROPERTY



**Final Development Order
VAR-19-20-1
Ward Property**

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

WHEREAS, Tawnya Booker-Brown (the “Applicant”), on behalf of Sheila Tyer Ward, et al. (the “Owner”), made a variance request to Lake County Land Development Regulations (LDR) Section 3.01.02.A.1.a to allow for an accessory dwelling unit (ADU) that is less than twenty-three (23) feet four (4) inches at the narrowest point; and Land Development Regulations (LDR) Section 10.01.03.B.5 to allow for an accessory dwelling unit (ADU) that is not of the same architectural style as the principal dwelling; and,

WHEREAS, the subject property consists of 5.56 +/- acres and is located at 6210 Oil Well Road, in the Clermont area of unincorporated Lake County, having an Alternate Key Number 1305365 and is more particularly described below as:

The East 1/2 of the Southeast 1/4 of the Southwest 1/4 of the Northwest 1/4 of Section 19,
Township 24 South, Range 25 East, Lake County, Florida.

WHEREAS, after giving notice of a hearing on a petition for a variance to the Lake County Land Development Regulations, including notice that the variance would be presented to the Board of Adjustment of Lake County, Florida, on July 11, 2019; and

WHEREAS, the Board of Adjustment reviewed the 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 July 11, 2019, the Lake County Board of Adjustment approved the variance for the above property.

NOW THEREFORE, BE IT ORDAINED by the Board of Adjustment of Lake County, Florida, that:

Section 1. Terms: The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-19-20-1 to Lake County Land Development Regulations (LDR) Section 3.01.02.A.1.a to allow for an accessory dwelling unit (ADU) that is less than twenty-three (23) feet four (4) inches at the narrowest point; and Lake County Land Development Regulations (LDR) Section 10.01.03.B.5 to allow for an accessory dwelling unit (ADU) that is not of the same architectural style as the principal dwelling.

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, the holding will in no way affect the validity of the remaining portions of this Ordinance.

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

ENACTED this 11th day of July, 2019.

EFFECTIVE July 11, 2019.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Lloyd Atkins, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 11th day of July, 2019, 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