



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 2

Public Hearing Date: July 11, 2019

Case No. and Project Name: VAR-19-21-5, Benavides and Sanchez Property

Applicant: Adan Benavides (the "Applicant")

Owner: Adan Benavides and Luz S. Munar Sanchez (the "Owners")

Requested Action: Variance to 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.

Staff Determination: Staff recommends approval of the variance request.

Case Manager: Emily W. Johnson, Planner

Subject Property Information

Size: 5.15 +/- net acres (no wetlands or water bodies on subject property)

Location: 11121 Martin Drive Leesburg, Florida 34788

Alternate Key No.: 2666285

Future Land Use: Rural

Current Zoning District: Mixed Home Residential (RM)

Flood Zone: "X"

Joint Planning Area/ ISBA: N/A

Overlay Districts: Emeralda Marsh RPA

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural	Mixed Home Residential (RM)	Residential	Single-Family Residence
South	N/A	N/A	Road	Martin Drive
East	Rural	Mixed Home Residential (RM)	Residential	Single-Family Residence
West	N/A	N/A	Road	Martin Drive

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 manufactured home. Upon completion of the proposed single-family residence, the existing manufactured home will become the accessory dwelling unit (ADU). An approved variance request to Land Development Regulations (LDR) Section 10.01.03.B.5 is required in order to facilitate approval of the zoning permit.

The subject property is Lot 18 of the Lake Yale Heights Subdivision as recorded in Plat Book 21, Page 2, Public Records of Lake County, Florida. The Lake Yale Heights plat was approved by the Board of County Commissioners, and recorded in Public Records on August 23, 1973. The plat does not identify any drainage or utilities easements on the property. The

Department of Public Works reviewed the variance application and did not identify any concerns or objections with the variance request, but did indicate that Martin Drive is an unmaintained dirt road.

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. The subject property is developed with a manufactured home; the Property Record Card indicates that the existing manufactured home was constructed in 1990 and contains one thousand one-hundred four (1,104) square feet of living area.

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 intent of the Code, 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. Additional regulations are set in place for an Accessory Dwelling Unit (ADU) to ensure that the ADU meets the characteristics of the surrounding neighborhood and does not negatively impact overall regional density. 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; *"LDR will not be achieved if substantial hardship is not granted. Granting [of] variance is the only way to achieve."*

Staff has found that the proposed dwellings 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." Additionally, the surrounding neighborhood is developed with a variety of architectural styles, which is generally characteristic of the Mixed Residential (RM) zoning district. The Applicant has provided an additional statement (Attachment A), which indicates that the existing manufactured home would be used as an ADU to accommodate family members, while the proposed single-family residence would provide the Owners with security during extreme inclement weather conditions which often impact manufactured homes. Staff recommends approval of the variance request, as the intention of the code will be met. The proposed plot plan (Attachment B) indicates that both setback and ISR requirements will be met.

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 following statement is an excerpt from the document submitted by the Applicant (Attachment A) as proof of a hardship; *"We are nearing retirement age and we would like to be able to spend our retired years in a more sturdy and safe home. As we get older, it will be harder to manage weather issues like we have in the past in our current home. Through our experiences with recent storms, this house [the existing manufactured home] is not meant to withstand such extremes in weather that we face in Florida... when we retire, we would love to be able to accommodate our grandchildren so they can spend summers with us."*

The literal application of the code would impose a significant hardship as the owner has proposed a single-family residence (SFR) that will provide safety and security during extreme inclement weather. Additionally, requiring the owner

to remove the existing manufactured home because it does not meet the same architectural style as the proposed SFR would pose a financial hardship.

ATTACHMENT A. STATEMENT OF HARDSHIP

Substantial Hardship

To Whom it may concern:

I, Adan Benavides and Luz Stella Munar Sanchez are applying for a Lake County Variance on 11121 Martin Dr. Leesburg, FL 34788.

Our Substantial hardship in meeting the specific code requirements are as followed:

We live in a mobile home on 11121 Martin Dr. Leesburg, FL 34788, which is currently considered the main structural dwelling for the property.

We would like to build our dream custom home, but it would be considered an Accessory Dwelling unit under the current requirements.

As you will see, we cannot meet any of the requirements because our intention is to build a cinder block home with a stucco finish.

Architectural Style for Accessory Dwelling Units/ Code requirements are as follows for Accessory Dwelling Units.

1. **Same Method of Construction.** - We cannot meet this requirement because we are building a block home with stucco finish
2. **Same Exterior Wall Material and Color/ Finish-** Based on these criteria we would have to put siding all over the home, which will defeat the propose of building the home out of block. Siding is normal meant for wood/frame homes. Our current blue print does have some sliding to match the mobile home with the same color exterior. But our intention is to build a block home with stucco finish not a frame/wood home with a siding finish.
3. **Same house base-** Mobile homes and Block homes do not have the same foundation. It would not be cost effective to make the mobile home foundation like a block home.

As you can see based on our wish to build a block home, we cannot meet any of the requirements under the Accessory Dwelling Unit code requirement.

In applying for this variance, we would like the new structure of the block home to be considered the Main Dwelling for the property and the current mobile home to be an accessory unit.

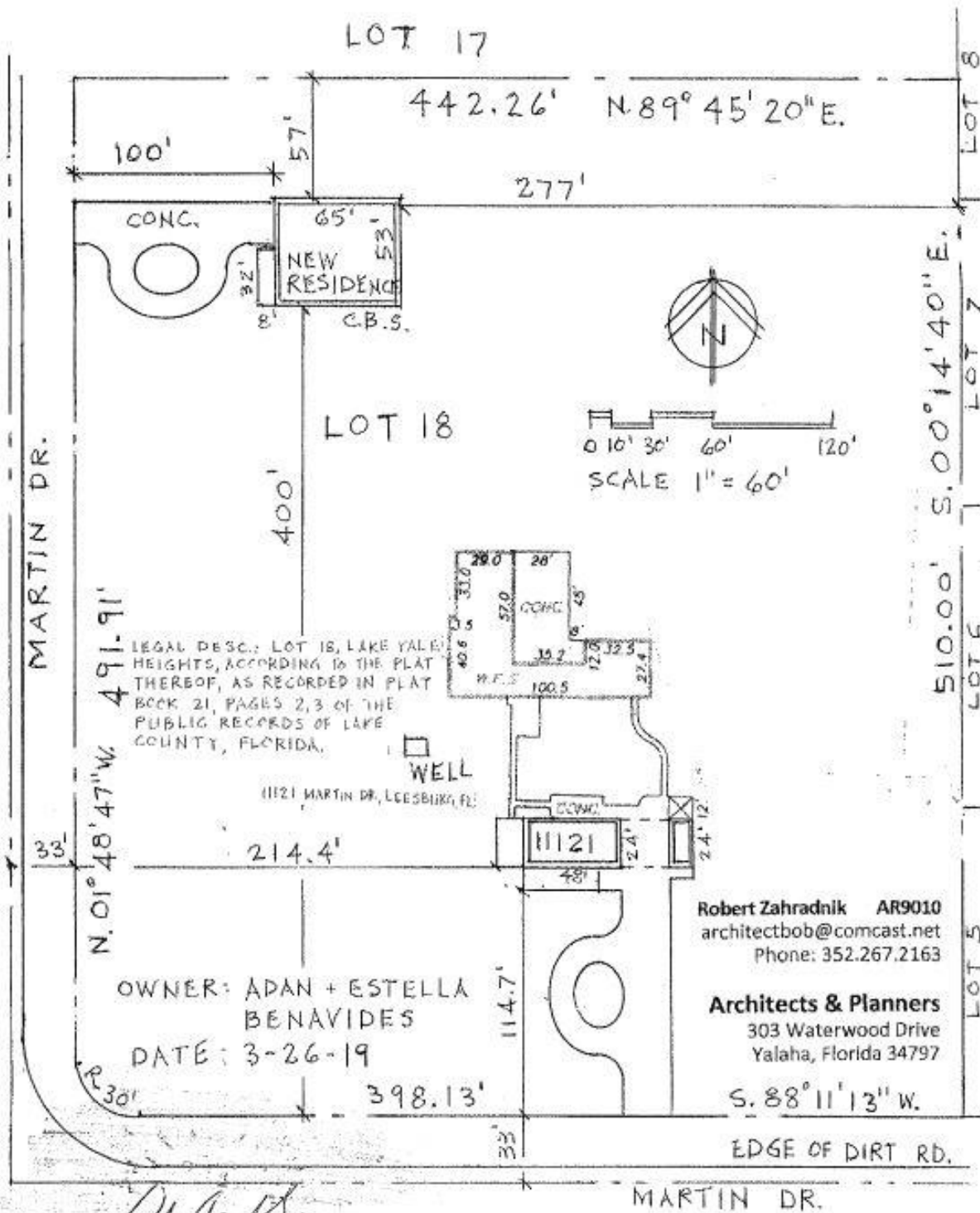
Our request for this variance is because we have worked all our life's in order to achieve this dream of building our own custom home. We are nearing retirement age and we would like to be able to spend our retired years in a more sturdy and safe home. As we get older it will be harder to manage weather issues like we have in the past in our current home. Through our experiences with recent storms, this house is not meant to withstand such extremes in weather that we face in Florida.

We are also outgrowing our current home because we have been blessed with grandchildren and hope to have many more in the future. When we retire, we would love to be able to accommodate our grandchildren so they can spend summers with us.

Helping us accomplishing this goal we have set for ourselves would also drastically increase the value of our property and enhance the properties around us.

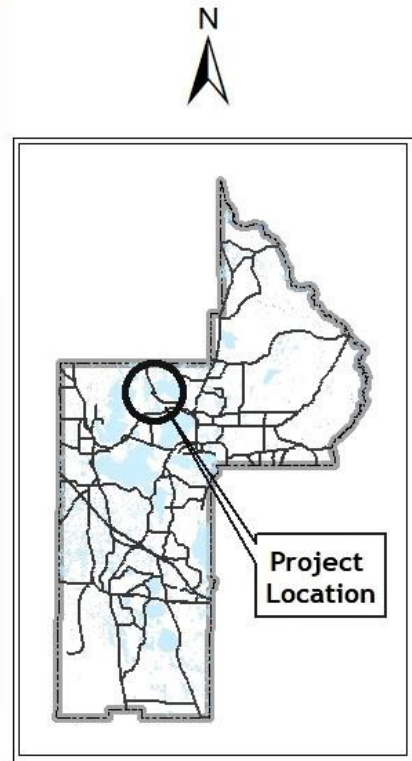
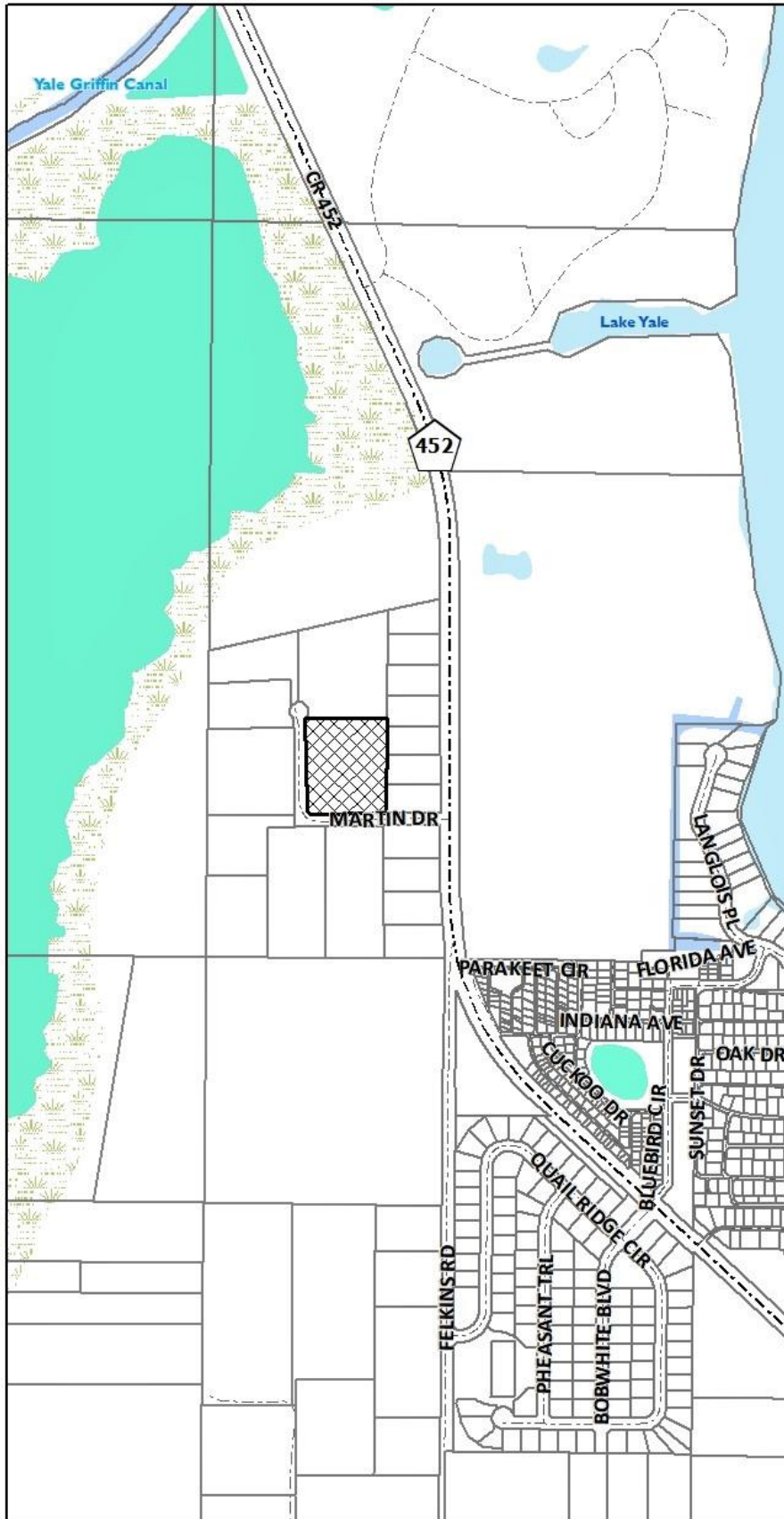
We appreciate you taking the time to review our hardship and look forward to hearing back from you.

ATTACHMENT B. PROPOSED PLOT PLAN



Robert Zahradnik
4/11/19

MAP OF SUBJECT PROPERTY



Final Development Order
VAR-19-21-5
Benavides and Sanchez Property

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

WHEREAS, Adan Benavides (the “Applicant”), on behalf of Adan Benavides and Luz S. Munar Sanchez (the “Owners”), made a variance request to 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; and,

WHEREAS, the subject property consists of 5.15 +/- acres and is located on Martin Drive, west of County Road 452, in the Leesburg area of unincorporated Lake County, in Section 24, Township 18, Range 25, having an Alternate Key Number 2666285 and is more particularly described below as:

Lot 18, Lake Yale Heights, according to the map or plat thereof, as recorded in Plat Book 21, Page(s) 2 through 3, inclusive, of the Public Records of 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-19-21-5 to 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