



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 2

Public Hearing Date: October 10, 2019

Case No. and Project Name: VAR-19-36-5, Bennett Property

Owner/Applicant: Sherman Bennett

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 1.08.02.A.1, to allow an expansion of fifty (50) percent (420 square feet) to an existing lawful nonconforming accessory structure in lieu of ten (10) percent based on the structure as it existed on September 22, 2011; and LDR Section 6.01.04.A.1, to allow an addition to an existing accessory structure to be located at 35.9 feet from the wetland line in lieu of fifty (50) feet.

Staff Determination: Staff recommends approval of the variance request subject to the conditions contained in the draft development order.

Case Manager: Janie Barrón, Senior Planner

Subject Property Information

Size: 0.299 +/- acres

Location: 55511 Front Street, Astor, FL 32102

Alternate Key No.: 1315433

Future Land Use: Urban Low Density

Current Zoning District: Mixed Residential District (R-7)

Flood Zone: Fully "AE"

Joint Planning Area/ ISBA: None

Overlay Districts: None

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low Density	Neighborhood Commercial (C-1)	Residential	Single-Family Dwelling Units
South	Recreation	Planned Commercial (CP)	Recreation	Butler Street Boat Ramp
East	N/A	N/A	Street	Front Street, Adjoined by Single-Family Dwelling Units
West	N/A	N/A	Canal	Canal/Wetland Area

Summary of Request.

The subject parcel is identified by Alternate Key Number 1315433. The parcel is zoned Agriculture (R-7) by Ordinance 6-72 and is part of the Urban Low Density Future Land Use Category (FLUC). The subject parcel is currently developed with a single-family dwelling unit, two (2) carports, two (2) sheds, and driveway (Attachment A).

On March 30, 2018 the property owner was issued a notice of violation for building an awning on an accessory structure without a permit (Code Case No. 2018030353) . Staff was unable to issue a zoning permit for the awning because the awning did not meet the wetland setback. Lake County Land Development Regulations (LDR) Section 1.08.02.A.1, allows minor expansions to nonconforming structures so long as the expansion does not exceed ten (10) percent; and LDR Section 6.01.04.A.1, requires structures or buildings to be located at fifty (50) feet from the wetland line.

The Owner seeks approval to allow a 420 +/- square foot awning addition to an existing nonconforming structure with a setback of 35.9 feet from the wetland line in lieu of fifty (50) feet from the wetland line, as shown on Attachment A.

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.

"Property was an estate purchase w/existing buildings, an awning was added to existing shed/building resulting in a code violation. As advised I obtained structural drawings/certifications on awning/wetland survey, boundary survey etc. Enclosed my hard stems from awning being added to existing bulding for property improvements and not being approved. Granted a permit was later pulled and issued by the county."

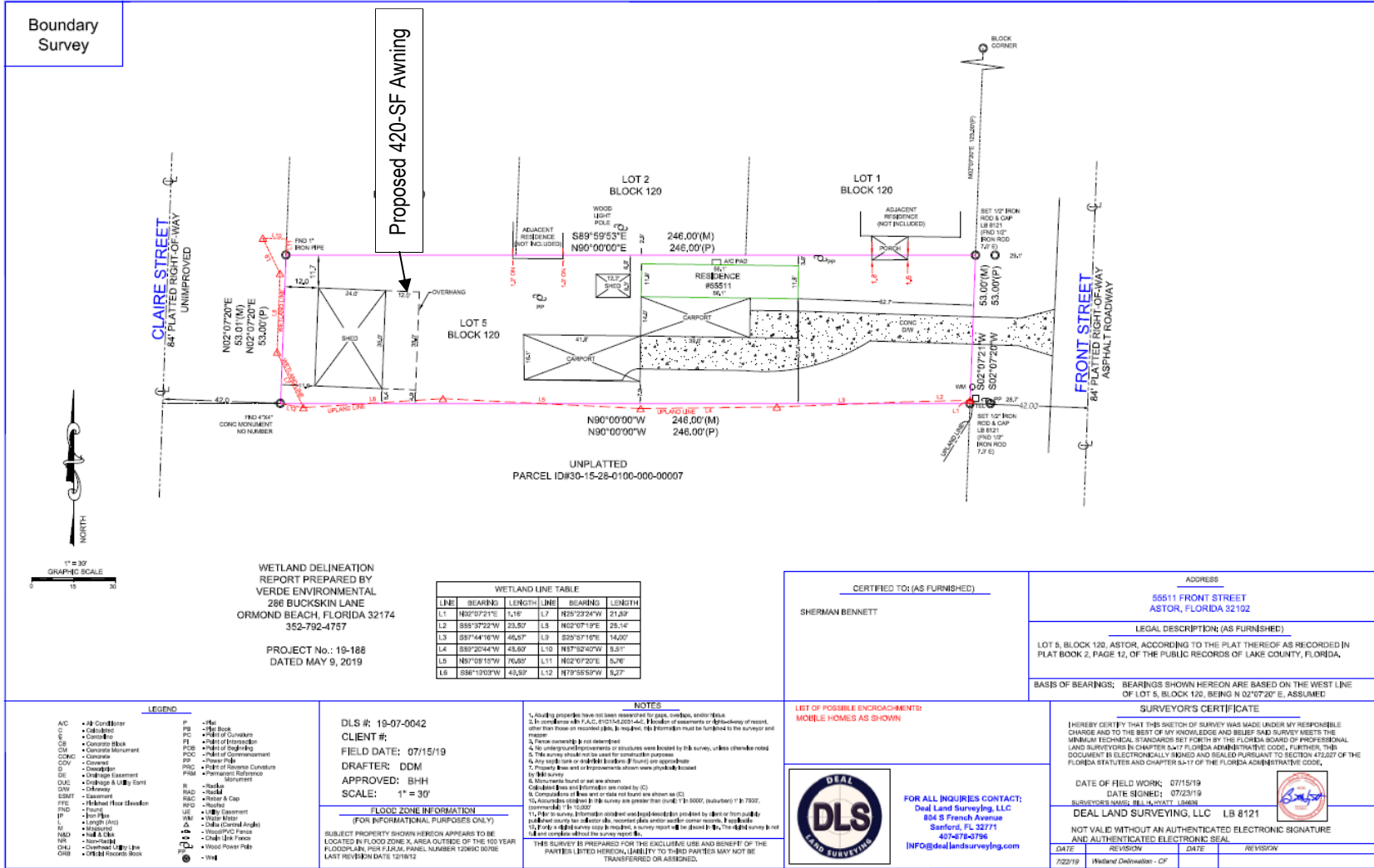
The intent of the Code, LDR Section 1.08.02, is to allow the continuation of nonconforming use or structure in its nonconforming state. The intent of the Code, LDR Section 6.01.04, is to protect the wetland area from erosion, sedimentation, water pollution, and other negative impacts that may be associated with land use activities. The variance request is consistent with LDR Section 6.01.04.A.c.4, which indicates that in no case shall the jurisdictional wetland line setback be less than 20 feet.

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.

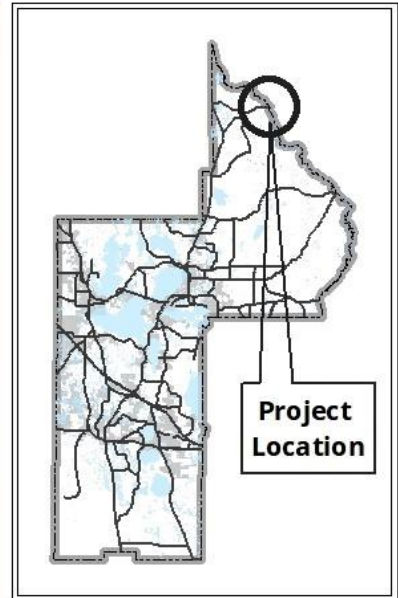
"The awning is on the east side of the garage. The wetland area is behind the garage on the west side. The awning is on the oppositi [sic] side of the existing building from the wetland. I would like a varance [sic] to remain since it did not encroach on the wetland as the existing building provided and existing buffer and nothing has been built any closer."

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 requesting the variance. Pursuant to LDR Section 10.01.01, the accessory structures must be located on the side or rear yard. However, due to the width of the subject property, the existing location of the canal, location of the residence and existing accessory structures the Owner is unable to meet the setbacks to the wetland line. Requiring the Owner to relocate the existing accessory structure in order to meet the fifty (50) foot setback from the canal would impose a signification financial hardship.

Attachment A, Concept Plan.



Map of Subject Property



**Final Development Order
VAR-19-36-5
Bennett Property**

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

WHEREAS, Sherman Bennett (the "Owner") requested a variance to Lake County Land Development Regulations (LDR) 1.08.02.A.1, to allow an expansion of fifty (50) percent (420 square feet) to an existing lawful nonconforming accessory structure in lieu of ten (10) percent based on the structure as it existed on September 22, 2011, and LDR Section 6.01.04.A.1.a, to allow an addition to an existing accessory structure to be located at 35.9 feet from the wetland line in lieu of fifty (50) feet; and

WHEREAS, the subject property consists of 0.299 +/- acres and is located at 55511 Front Street, in the unincorporated Astor area of Lake County, Florida, in Section 30, Township 15 South, Range 28 East, having Alternate Key Number 1315433 and more particularly described below:

Lot 5, Block 120, Astor, According to the Plat thereof as recorded in Plat book 2, Page 12, of the Public Records of Lake County, Florida.

WHEREAS, after giving notice of the hearing on the 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 October 10, 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 October 10, 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-19-36-5 to allow an expansion of fifty (50) percent (420 square feet) to an existing lawful nonconforming accessory structure in lieu of ten (10) percent based on the structure as it existed on September 22, 2011, and to allow an addition to an existing accessory structure to be located at 35.9 feet from the wetland line in lieu of fifty (50) feet with the following condition:

1. Any and all new structures including the replacement of the after-the-fact accessory structure shall be required to meet the setbacks as specified in the Land Development Regulations (LDR) and Comprehensive Plan, as amended.

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 10th day of October, 2019.

EFFECTIVE October 10, 2019.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Lloyd Atkins, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 10th day of October, 2019, by _____, who is personally known to me or who has produced _____, as identification and did not take an oath.

(SEAL)

Notary Public