



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 3

Public Hearing Date: October 10, 2019

Case No. and Project Name: VAR-19-38-5, Mullins Property

Applicant: Krystal Locklear (the "Applicant")

Owner: Lydia Mullins (the "Owner")

Requested Action: Variance to Lake County Land Development Regulations (LDR) Sections 14.11.01.D.2, 14.11.01.D.2.c, and 14.11.01.D.7, to allow for the creation of a lot which fronts on an unpaved private road or easement with a minimum width of twenty-five (25) feet, and to allow for the creation of two (2) parcels within a platted subdivision when such density exception may change the character of the subdivision, through the minor lot split process.

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

Case Manager: Emily W. Johnson, Planner

### Subject Property Information

Size: 2.28 +/- net acres (no wetlands or water bodies on subject property)

Location: 1330 West Lakeview Street, Lady Lake

Alternate Key No.: 1650810

Future Land Use: Urban Low Density

Current Zoning District: Rural Residential (R-1) by Ordinance #2019-37

Flood Zone: "X"

Joint Planning Area / ISBA: Lady Lake ISBA

Overlay Districts: N/A

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Municipal	Municipal	Lake View Street	Residential uses north of Lake View Street
South	Municipal	Municipal	Wildwood Street	Residential uses south of Wildwood Street
East	Urban Low Density	Agriculture (A)	Residential	Single-Family Residences
West	Urban Low Density	Agriculture (A)	Residential	Single-Family Residences

### Summary of Request.

The Applicant has submitted a variance request to Land Development Regulations (LDR) Section 14.11.01.D.2 to facilitate approval of a forthcoming Minor Lot Split application, which will result in the creation of a lot which will not front on a publicly maintained paved road. The Applicant has also requested a variance to Land Development Regulations (LDR) Section 14.11.01.D.2.c to allow for the creation of lots through the minor lot split process which will front on an easement that is at least 25-feet wide. An access easement must be created for ingress and egress to the proposed parcel(s); in such cases, the code requires that the easement be at least fifty (50) feet in width. Due to the dimensions of the parcel and location of the existing single-family residence, the subject property is unable to accommodate an easement of such width. Staff recommends that the creation of an easement be conditional to the approval of the variance request, but at a minimum width of twenty-five (25) feet in lieu of fifty (50) feet.

Additionally, a variance to Land Development Regulations (LDR) Section 14.11.01.D.7 is required, as the proposed split will change the characteristic of the subdivision. The subject parcel is comprised of the east half of Lot 19 of Lee and Stevens Addition to the Town of Lady Lake, the plat of which was recorded in Plat Book 8, Page 11, Public Records of Lake County.

The subject property is designated as Urban Low Density Future Land Use Category (FLUC), and is zoned Rural Residential (R-1) pursuant to Ordinance #2019-37. In order to split the subject property into two (2) parcels, the Applicant must submit a Minor Lot Split Application, rather than a Family Density Exception (FDE) Application, as FDE splits are not permitted within the Urban Land Use series pursuant to Comprehensive Plan Policy I-1.2.10, Creation of Parcels for Family Members.

### 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 county will not be held responsible for maintaining the unpaved roadway and the property owners will assume all responsibility in maintaining the area to ensure adequate access for entry/exit of the property (e.g.: for emergency services and response).”*

The intent of LDR Section 14.11.01.D.2 is to ensure that properties being split have the facilities that are required for the development of parcels such as roads and appropriate emergency access. The statement provided by the Applicant addresses their intention to meet the purpose of this section of the code. The draft development order contains conditions requiring the Applicant to create an easement, with a minimum width of twenty-five (25) feet, for access to the proposed parcels, and assume responsibility for its maintenance.

The intent of LDR Section 14.11.01.D.7 is to ensure that the density and intended characteristic of platted subdivisions is maintained. The plat of the Town of Lady Lake, which includes Lee and Stevens Addition, was recorded in 1926; since recording of the plat, additional development has occurred in the region. The Claytop Subdivision (Plat Book 12, Page 55), which was recorded in 1953, replatted portions of Lots 6, 7, and 8 of the Lee and Stevens Addition; the Claytop Subdivision features lots of approximately 7,200 square feet in size. Additionally, there are more recent subdivisions under the jurisdiction of the Town of Lady Lake to the south and east of the subject property which are similar in size to the parcels proposed to be created by the Applicant. Therefore, the intention of the code will not be violated.

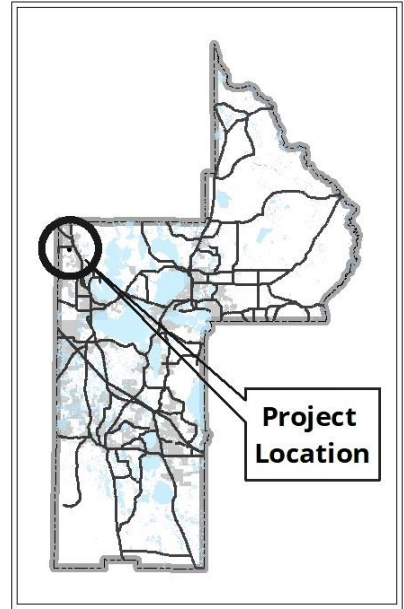
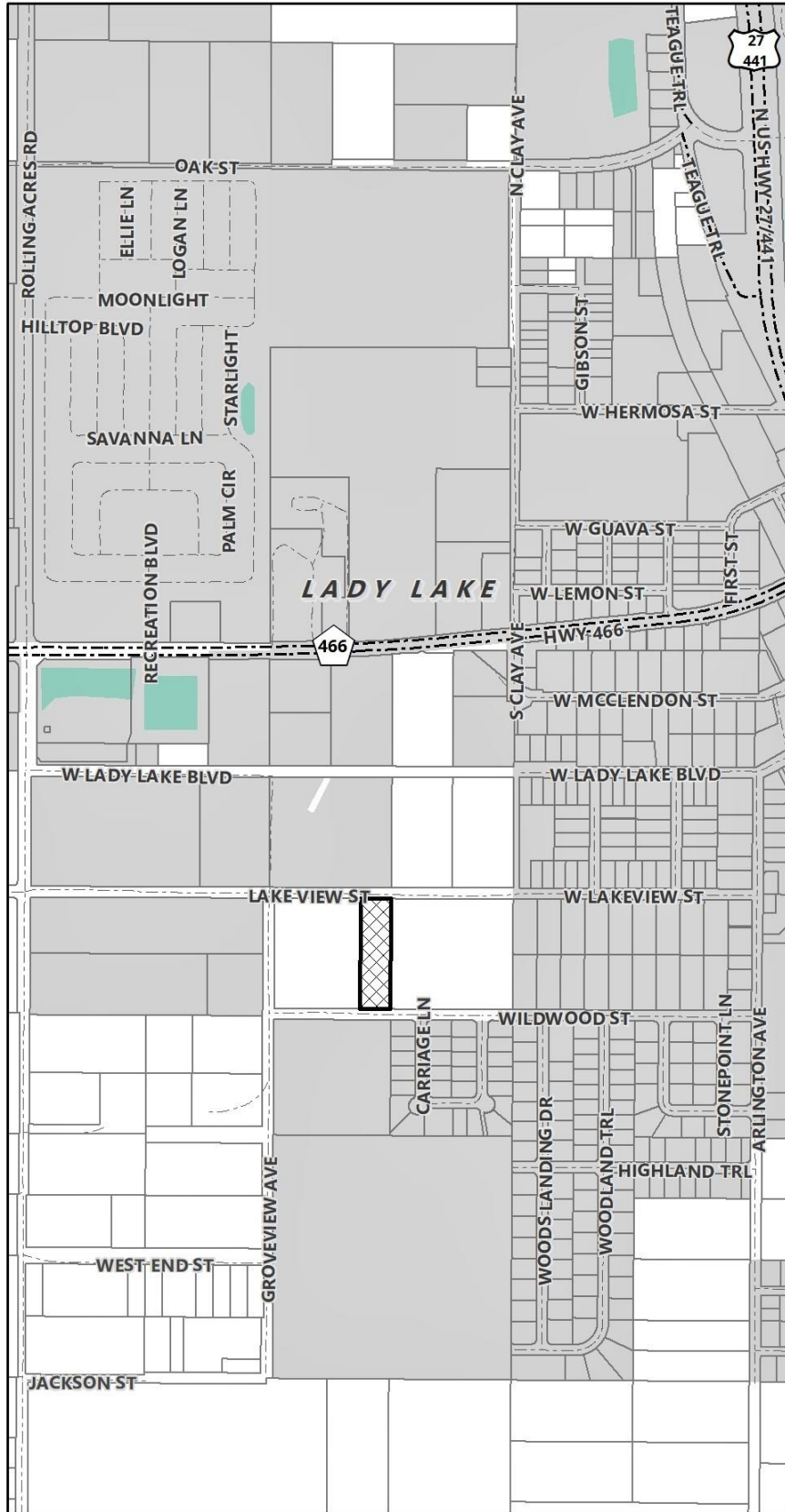
On July 30, 2019, the Board of County Commissioners approved a request to rezone the subject property from Agriculture (A) to Rural Residential (R-1); Ordinance #2019-37 has not yet been recorded, pending outstanding fees. The Rural Residential (R-1) zoning district is more consistent with the acreage of the subject property, and with the required density for the Urban Low Density FLUC, than the previous Agriculture (A) zoning. If the variance should be granted, the Applicant intends to create a lot that will be at least one (1) acre in size, in order to remain consistent with the density requirements of the Rural Residential (R-1) zoning district and the Urban Low Density FLUC.

- 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; *"The rezoning, variance, and lot split is being requested by my grandmother and mother (Lydia Mullins: property owner, Joan Locklear) in order for myself/family to establish a residence and act as the primary property and personal caregiver due to age and a decline in health of those involved. My goal is to aid both my grandmother and mother as they age, in an effort to maintain their quality of life."*

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 that requested the variance. The literal application of the code would impose a significant hardship as the Applicant intends to create a lot for a single-family dwelling unit, which they will utilize as their residence while caring for ailing family members. Splitting the lot, instead of adding an accessory dwelling unit to the parent parcel, would allow the Applicant to gain equity, as they would own the property outright instead of merely residing on it. Additionally, there is an existing single-family residence on the subject property; due to its location and the width of the parcel, the property is unable to accommodate an easement with a width of fifty (50) feet. Requiring the Applicant to re-locate the existing residence in order to accommodate the easement would impose a significant hardship.

# MAP OF SUBJECT PROPERTY



Project Location

**Final Development Order  
VAR-19-38-5  
Mullins Property**

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

**WHEREAS**, Krystal Locklear (the “Applicant”), on behalf of Lydia Mullins (the “Owner”), made a variance request to Lake County Land Development Regulations (LDR) Sections 14.11.01.D.2, 14.11.01.D.2.c, and 14.11.01.D.7 to allow for creation of a lot which fronts on an unpaved private road or easement with a minimum width of twenty-five (25) feet, and to allow for the creation of two (2) parcels within a platted subdivision when such density exception may change the character of the subdivision, through the minor lot split process; and

**WHEREAS**, the subject property consists of approximately 2.28 +/- acres and is located at 1330 West Lakeview Street, in the unincorporated Lady Lake area of Lake County, Florida, in Section 20, Township 18, Range 24, having an Alternate Key Number 1650810, and is more particularly described below:

The East 1/2 of Lot 19 in Lee And Stevens Addition to Lady Lake, Florida, according to the plat thereof recorded in Plat Book 8, Page 11, 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 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-19-38-5 to Lake County Land Development Regulations (LDR) Sections 14.11.01.D.2, 14.11.01.D.2.c, and 14.11.01.D.7 to allow for creation of a lot which fronts on an unpaved private road or easement with a minimum width of twenty-five (25) feet, and to allow for the creation of two (2) parcels within a platted subdivision when such density exception may change the character of the subdivision, through the minor lot split process; with the following conditions:

1. An easement must be created for access to the proposed parcel(s); and
2. Said easement must be a minimum of twenty-five (25) feet in width; and
3. The Owners acknowledge that the County shall not maintain the road or access easement; and
4. The Owners shall be required to maintain the access easement, and install road name signs in accordance with applicable County regulations; and

- 5. The Owners shall record deed restrictions which require the property owners, and any successor in title, to maintain the easement. Such restrictions must be recorded prior to the recordation of the approved lot split.

**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 10<sup>th</sup> 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 10<sup>th</sup> day of October, 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