



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 1

Public Hearing Date: December 12, 2019

Case No. and Project Name: VAR-19-28-4, Gotham Property

Applicant: Steven Gotham (the "Applicant")

Owner: Vivian and Steven Gotham (the "Owners")

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 10.01.01.F.2 to allow for an after-the-fact well covering that is larger than one-hundred (100) square feet in size, and Land Development Regulations (LDR) Table 3.02.05 to allow a well covering to be located closer than sixty-two (62) feet from the centerline of the road.

Case Manager: Emily W. Johnson, Planner

Subject Property Information

Size: 0.36 +/- net acres (no wetlands or water bodies on subject property)

Location: 25410 Darnoch Street Sorrento, Florida 32776

Alternate Key No.: 1821517

Future Land Use: Mt. Plymouth-Sorrento Neighborhood

Current Zoning District: Urban Residential District (R-6)

Flood Zone: "X"

Joint Planning Area / ISBA: N/A

Overlay Districts: Mt. Plymouth-Sorrento
Wekiva Study Area

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	N/A	N/A	Road	Darnoch Street
South	Mt. Plymouth-Sorrento Neighborhood	Urban Residential District (R-6)	Residential	Single-Family Residence
East	N/A	N/A	Road	Westward Ho Avenue
West	Mt. Plymouth-Sorrento Neighborhood	Urban Residential District (R-6)	Vacant	Vacant

Summary of Request.

The Applicant intends to obtain a zoning permit for an after-the-fact well covering which is greater than one-hundred (100) square feet in size and is located thirty (30) feet from the centerline of Darnoch Street. An approved variance request to LDR Section 10.01.01.F.2 and LDR Table 3.02.05 is required in order to facilitate approval of the zoning permit.

The existing well covering was constructed by the Applicant after the previously existing well covering was destroyed by a tree on July 10, 2013. On December 11, 2018, a Notice of Code Violation (Code Case No. 2018120055) was sent to the property Owners for constructing the replacement well cover without permits. The Applicant submitted the variance request on May 8, 2019, but the Board of Adjustments hearing was postponed until the Applicant provided a to-scale plot plan which accurately depicted the development (Attachment "A"). The Special Masters Hearing for the code case mandated that the Applicant must obtain a permit for the replacement well cover; to do so, a variance is required.

The subject property is comprised of Lots 1 and 2 of Block 35 of the Mount Plymouth Subdivision as recorded in Plat Book 8, Page 85, Public Records of Lake County, Florida. The Mount Plymouth plat was approved by the Board of County Commissioners, and recorded in Public Records on April 5, 1926. 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 provide any comments.

Pursuant to LDR Section 10.01.01.F.2, accessory structures that are buildings shall be located in side and rear yards unless the accessory building is the type typically found in the front yard, such as a well covering. Such building shall be no greater than one hundred (100) square feet or of the minimum size and height to accomplish the use, whichever is less. Front yard accessory buildings must meet the front yard setback established for the zoning district by LDR Table 3.02.05, *Setback Requirements*. The minimum front yard setback for the subject parcel is sixty-two (62) feet from centerline of the road. The Mount Plymouth plat shows that Darnoch Street has a right-of-way width of fifty (50) feet, placing the property line of the subject property twenty-five (25) feet from the centerline of Darnoch Street. The proposed plot plan (Attachment "A") shows the existing well cover is five (5) feet from the property line; therefore the well covering is thirty (30) feet from the centerline of Darnoch Street.

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 well and filtration system are inside the structure and always have been... does not meet the setback for the front of the house."*

The intent of the Code, LDR Table 3.02.05, is to ensure structures are located a safe distance from roads. The intent of LDR Section 10.01.01 is to regulate the installation, configuration, and use of accessory structures and uses in order to preserve the community and property values, and to protect to community character.

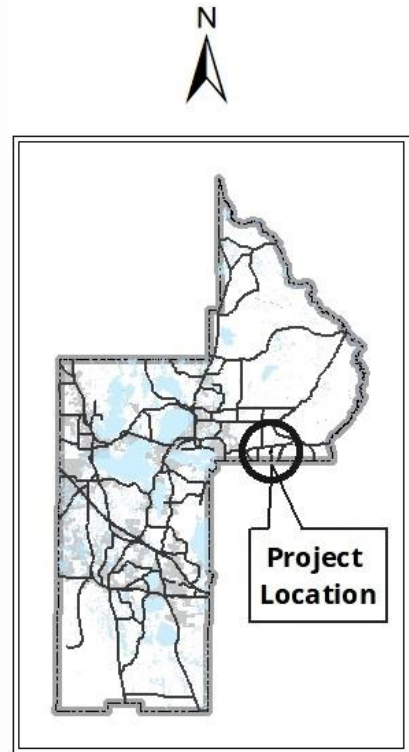
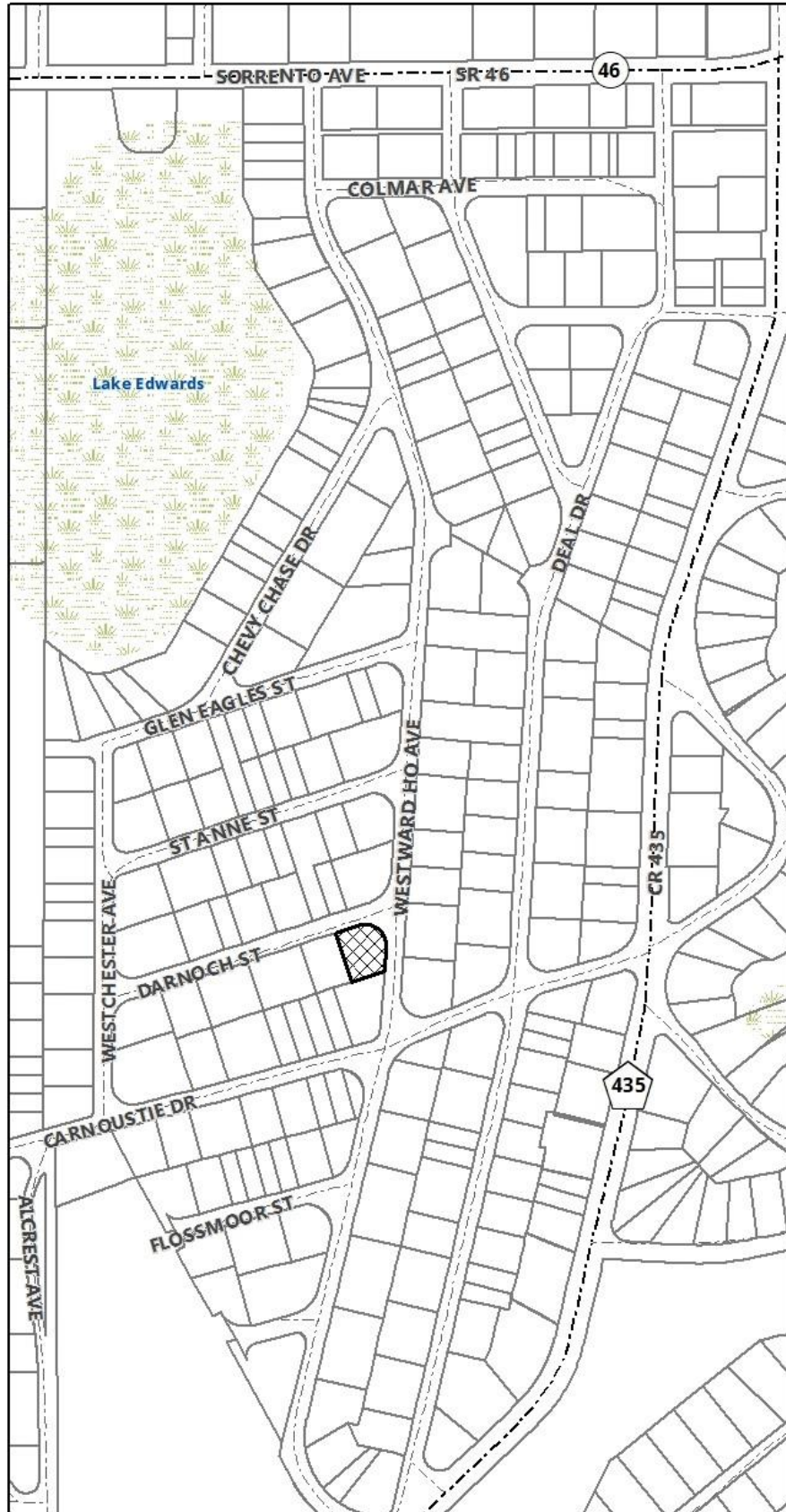
2. The application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. For 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 was submitted by the Applicant as proof of a substantial hardship; *"Existing shed [the well covering] was well and water supply for the house then a tree fell on [the well covering] on 7/10/13. I rebuilt the [well*

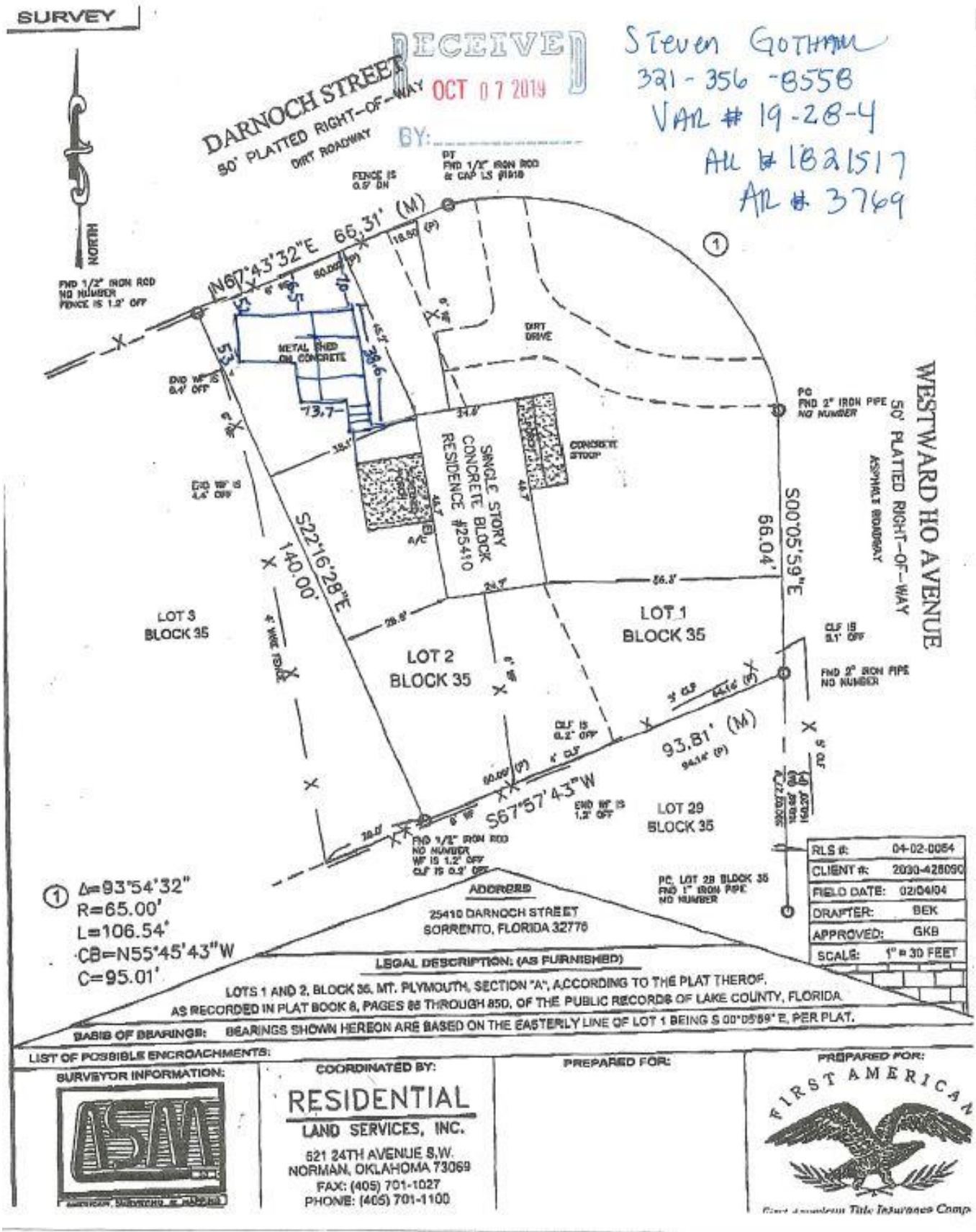
covering] and the well, repipe [sic] the water back to the house. It would be a financial hardship to move the [well covering]. Future battery storage for solar power backup and it is inside the fence. Is on a dirt road for slow driving.”

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.

SUBJECT PROPERTY



ATTACHMENT A - PLOT PLAN



**Final Development Order
VAR-19-28-4
Gotham Property**

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

WHEREAS, Steven Gotham (the “Applicant”), on behalf of Vivian and Steven Gotham (the “Owners”), submitted a variance request to Lake County Land Development Regulations (LDR) Section 10.01.01.F.2 to allow an after-the-fact well covering that is larger than one-hundred (100) square feet in size, and Land Development Regulations (LDR) Table 3.02.05 to allow a well covering to be located closer than sixty-two (62) feet from the centerline of the road; and,

WHEREAS, the subject property consists of 0.36 +/- acres and is located at 25410 Darnoch Street, in the Sorrento area of unincorporated Lake County, in Section 29, Township 19, Range 28, having an Alternate Key Number 1821517 and is more particularly described below as:

Lot 1 and 2, Block 35 of Mt. Plymouth, Section “A”, according to the plat thereof as recorded in Plat Book 8, Page(s) 85 through 85D, 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 December 12, 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 December 12, 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-19-28-4 to Lake County Land Development Regulations (LDR) Section 10.01.01.F.2 to allow for an after-the-fact well covering that is larger than one-hundred (100) square feet in size, and Land Development Regulations (LDR) Table 3.02.05 to allow a well covering to be located closer than sixty-two (62) feet from the centerline of the road, with the following conditions:

1. Development permits from the Office of Planning and Zoning and the Office of Building Services must be obtained for the after-the-fact structure; and
2. If at any point in the future the well and well covering are relocated, they must meet the required setbacks at the time of permitting.

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 12th day of December, 2019.

EFFECTIVE December 12, 2019.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Lloyd Atkins, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 12th day of December, 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