



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 1

Public Hearing Date: February 13, 2020

Case No. and Project Name: VAR-19-57-5, Malkiewicz Property

Owners/Applicants: Julian Malkiewicz and Diana M. Malkiewicz

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 10.01.03(B)(5), to allow an accessory dwelling unit (ADU) with different architectural style than the primary dwelling unit, and LDR Section 10.01.03(B)(7), to allow an accessory dwelling unit to be accessed by a different driveway entrance than the primary dwelling unit.

Case Manager: Janie Barrón, Senior Planner

Subject Property Information

Size: 7+/- acres

Location: West of Oswalds Alley and north of Lake Ella Road in the Fruitland Park area.

Alternate Key No.: 1283523

Future Land Use: Rural

Current Zoning District: Agriculture (A)

Flood Zone: "X"

Joint Planning Area/ ISBA: Town of Lady Lake JPA/ISBA – Comments Not Provided

Overlay Districts: None

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural	Agriculture (A)	Residential	Large Agriculture Tract of Land
South	Rural	Agriculture (A)	Residential	Large Tracts of Land developed with Single-Family Dwelling Units
East	Rural	N/A	Residential	Large Tracts of Land with developed Single-Family Dwelling Units
West	Rural	Agriculture (A)	Residential	Large Tracts of Land developed with Single-Family Dwelling Units

Summary of Request.

The subject 5 +/- acre parcel is identified by Alternate Key Number 1283523. The parcel is zoned Agriculture (A) and is designated as Rural Future Land Use Category (FLUC). The subject parcel is currently developed with a single-family dwelling unit with attached garage, mobile home with attached deck permitted as temporary housing for care of the infirm, shed, barn, well house, and two (2) accessory buildings. In 1996, the Owners permitted the existing mobile home as temporary housing for care of the infirm for his mother. Unfortunately, his mother has passed away and the Owner seeks approval to allow the existing mobile home to remain on the property as an accessory dwelling unit.

However, Lake County Land Development Regulations (LDR) Section 10.01.03(B)(5), requires the accessory dwelling unit to be the same architectural style as the principal dwelling unit, and LDR Section 10.01.03(B)(7), requires the principal and accessory dwelling unit to share a common driveway if access is from the same right-of-way or easement. Therefore, the application seeks a variance to Lake County Land Development Regulations (LDR) Section 10.01.03(B)(5) and (7), to allow an accessory dwelling unit (ADU) with different architectural style than the primary dwelling unit, and to allow an accessory dwelling unit with a different access from the easement than the primary dwelling unit.

The subject parcel is located within the Town of Lady Lake Joint Planning Area, and Interlocal Service Boundary Agreement. The variance application was sent to the Town of Lady Lake for a determination of consistency with their regulations. The Town of Lady Lake did not provide comments or oppose the request.

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 10.00.00, is to regulate the installation, configuration, and use of accessory and temporary structures and uses in order to preserve the community and property values, and to protect the community character.

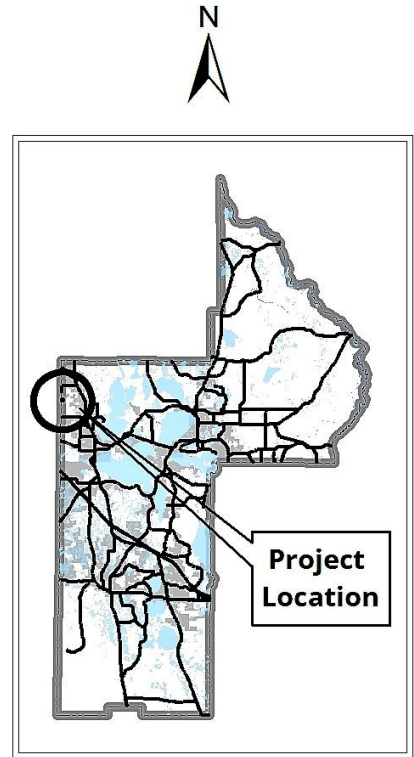
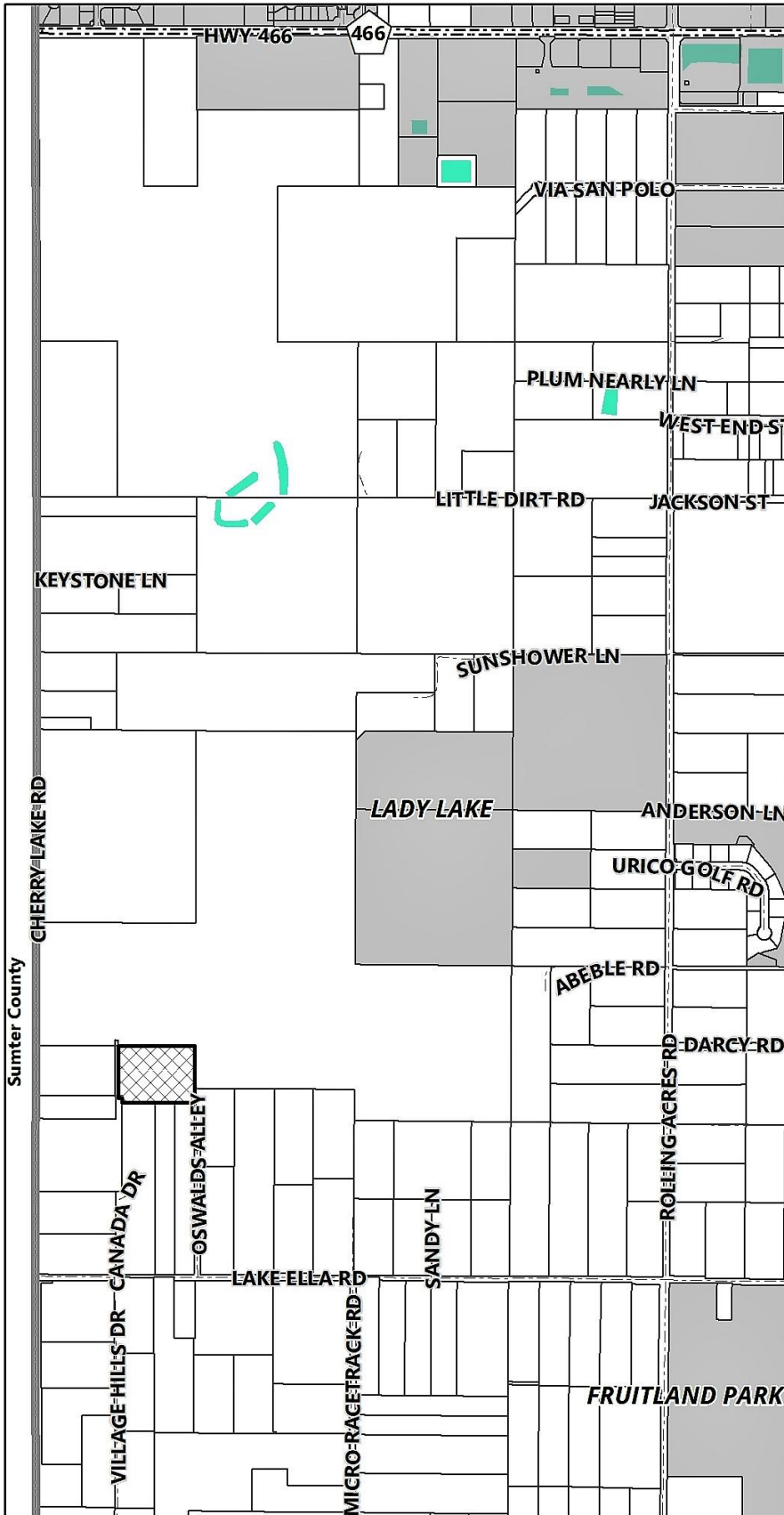
"Home has been on property for 23 years under infirmed care permit. Mom has passed away and we wish to have the home made an accessory dwelling unit as cost for moving are to [sic] high and already is part of assessed value."

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.

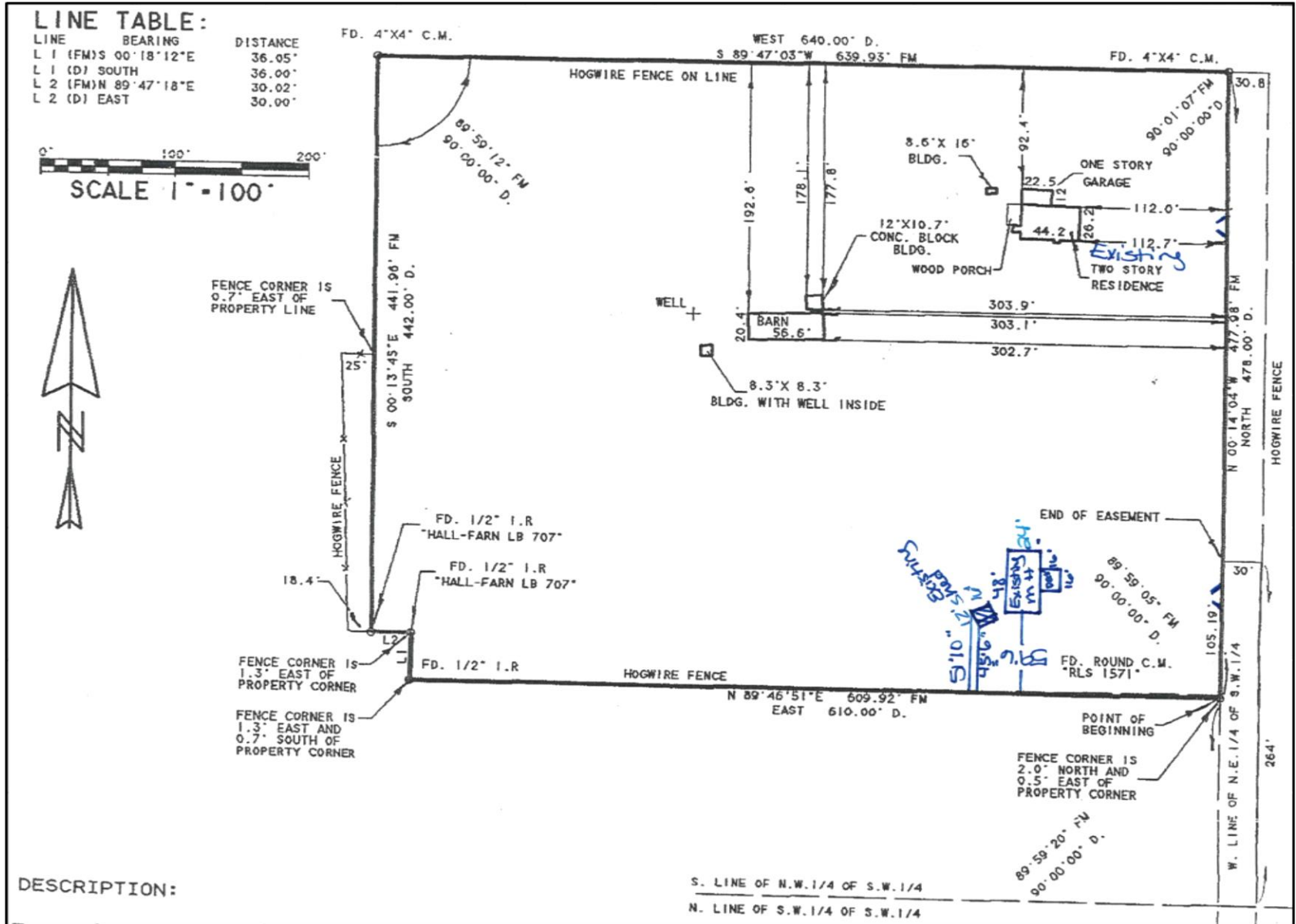
LDR Section 14.15.04 states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.

"The mobil [sic] home will not interfere with the appearance of the main home. See attached pictures (Attachment B) that show the existing mobile home has the same color roof and the same color on the outside walls which keeps the look aesthetically pleasing. I understand that both have to share a common driveway as the pictures (Attachment C) & survey show the easement ends about a foot into the mobile driveway."

Map of Subject Property



Attachment A, Concept Plan.



Attachment B, Dwelling Units Pictures.



Attachment C, Easement Picture.



**Final Development Order
VAR-19-57-5
Malkiewicz Property**

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

WHEREAS, Julian Malkiewicz and Diana M. Malkiewicz (the “Owner” and “Applicant”) requested a variance to Lake County Land Development Regulations (LDR) 10.01.03(B)(5), to allow an accessory dwelling unit (ADU) with different architectural style than the primary dwelling unit and LDR Section 10.01.03(B)(7), to allow an accessory dwelling unit with a different access from the easement than the primary dwelling unit; and

WHEREAS, the subject property consists of 7 +/- acres and is located at 37321 Oswalds Alley, in the unincorporated Fruitland Park area of Lake County, Florida, in Section 30, Township 18 South, Range 24 East, having Alternate Key Number 1283523 and more particularly described below:

EXHIBIT “A” – LEGAL DESCRIPTION

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 February 13, 2020; 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 February 13, 2020, 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-19-57-5 to allow an accessory dwelling unit (ADU) with different architectural style than the primary dwelling unit, and to allow an accessory dwelling unit with a different access from the easement than the primary dwelling unit with the following condition:

1. A change of use approval shall be required to change the occupancy of the mobile home from care of the infirm to accessory dwelling unit.
2. All applicable impact fees shall be paid.

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 13th day of February, 2020.
EFFECTIVE February 13, 2020.**

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

**Lloyd Atkins, Chairman or
James Argento, Vice-Chairman**

**State of Florida
County of Lake**

**Sworn to (or affirmed) and subscribed before me by means of physical presence or
online notarization, this _____ day of _____, 2020,
by _____.**

Personally Known OR Produced Identification

Type of Identification Produced _____

**Notary Signature
(SEAL)**

EXHIBIT "A", Legal Description.

From the SE corner of the SW 1/4 of the SW 1/4 of Section 30, Township 18 South, Range 24 East, run North 1482 feet to the point of beginning; continue thence North 478 feet, thence West 640 feet, thence South 442, thence East 30 feet, thence South 36 feet, thence East 610 feet to the point of beginning.

Also an easement for ingress and egress over the West 30 feet of the South 264 feet of the Northeast 1/4 of the Southwest 1/4 and over the West 30 feet of the Southeast 1/4 of the Southwest 1/4 of Section 30, Township 18 South, Range 24 East. All of the above described being in Lake County, Florida.