



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 2

Public Hearing Date: February 13, 2020

Case No. and Project Name: VAR-19-58-5, Whitley Property

Applicant: Martha Whitley (the "Applicant")

Owner: Martha Whitley, Ronald C. Laney, and Laney S. Mikell (the "Owner")

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 3.01.02.A.1.a, to allow for an accessory dwelling unit (ADU) that is less than twenty-three (23) feet four (4) inches at the narrowest point; and Land Development Regulations (LDR) Section 10.01.03.B.5, to allow for an accessory dwelling unit (ADU) with a different architectural style than the principal dwelling unit.

Case Manager: Emily W. Johnson, Planner

### Subject Property Information

Size: 3.57 +/- net acres

Location: 41700 Poinciana Street, Eustis

Alternate Key No.: 2699396

Future Land Use: Wekiva River Protection Area A-1-20 Sending Area

Current Zoning District: Rural Residential (R-1)

Flood Zone: "X"

Joint Planning Area/ ISBA: N/A

Overlay Districts: Wekiva River Protection Area and Wekiva Study Area

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Wekiva River Protection Area A-1-20 Sending Area	Rural Residential (R-1)	Residential	Single-Family Residences, Vacant Residential
South	Wekiva River Protection Area A-1-20 Sending Area	Rural Residential (R-1)	Residential	Single-Family Residences
East	Wekiva River Protection Area A-1-20 Sending Area	Rural Residential (R-1)	Residential	Vacant Residential
West	N/A	N/A	Street	Poinciana Street, Adjoining Vacant Residential Lots

### Summary of Request.

The applicant intends to obtain a zoning permit for an after-the-fact accessory dwelling unit (ADU) which is not of the same architectural style as the existing dwelling, and which is less than twenty-three (23) feet four (4) inches at the narrowest point. The Office of Code Enforcement issued a code violation (2019070080) for the existing shed that was converted into an ADU without permits. An approved variance request to LDR Section 10.01.03.B.5, and LDR Section 3.01.02.A.1.a, is required in order to facilitate approval of the zoning permit.

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. Additionally, accessory dwelling units must meet the requirements for single-family dwelling units contained in LDR Section 3.01.02.A.1.

### 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 LDR Section 3.02.01.A.1 is to create a minimum standard for single-family dwelling units and to ensure the characteristics of the surrounding neighborhood are maintained. The intent of 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.

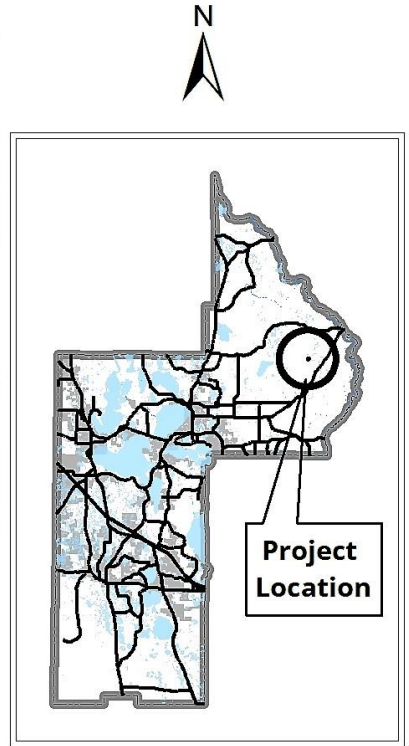
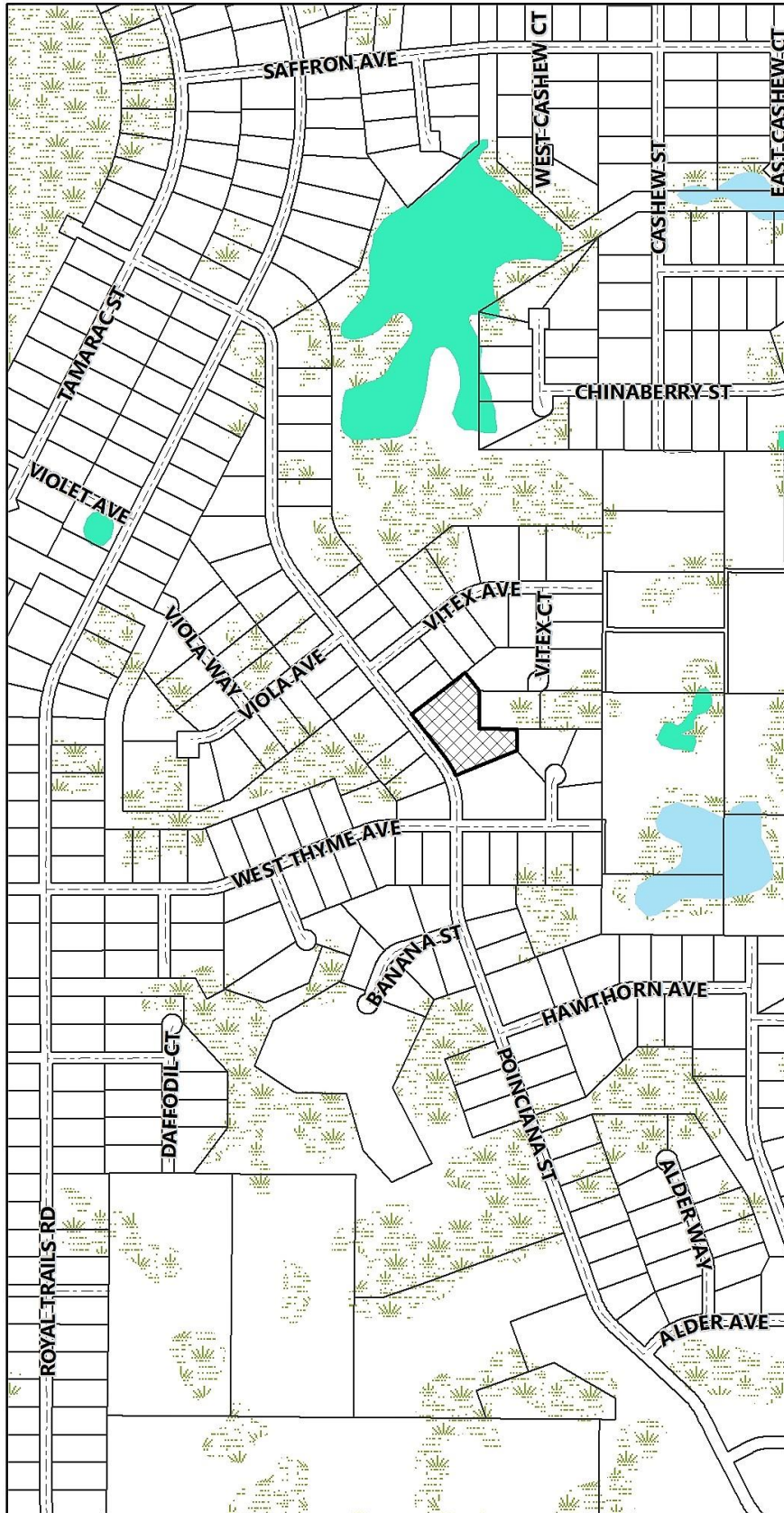
The Applicant submitted the following statement as proof that the purpose of the Land Development Regulations will be or has been achieved by other means; *"Relatives living in main house, they help take care of me."*

**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 requested the variance.

The Applicant submitted the following statement as proof of a hardship; *"Converted shed into cottage. After husband passed away, I could not take care of [the] big house. I am 91 years old and needed something smaller."*

# Subject Property



**Final Development Order  
VAR-19-58-5  
Whitley Property**

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

**WHEREAS**, Martha Whitley (the “Owner and Applicant”), on behalf of Ronald C. and Laney S. Mikell, Joint Tenants with Right of Survivorship (the “Owners”), made a variance request to Lake County Land Development Regulations (LDR) Section 3.01.02.A.1.a to allow for an accessory dwelling unit (ADU) that is less than twenty-three (23) feet four (4) inches at the narrowest point; and Land Development Regulations (LDR) Section 10.01.03.B.5 to allow for an accessory dwelling unit (ADU) with a different architectural style than the principal dwelling unit; and,

**WHEREAS**, the subject property consists of 3.57 +/- acres and is located at 41700 Poinciana Street, in the Eustis area of unincorporated Lake County, having an Alternate Key Number 2699369 and is more particularly described below as:

Royal Trails Unit No. 1 Sub Lots 10 and 11 of Block 123, Being in Section 6, Township 18, Range 29, and Recorded in Plat Book 19, Pages 1-59.

**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 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-19-58-5 to Lake County Land Development Regulations (LDR) Section 3.01.02.A.1.a to allow for an accessory dwelling unit (ADU) that is less than twenty-three (23) feet four (4) inches at the narrowest point; and Lake County Land Development Regulations (LDR) Section 10.01.03.B.5 to allow for an accessory dwelling unit (ADU) with a different architectural style than 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 13<sup>th</sup> 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)**