



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 3

Public Hearing Date: March 12, 2020

Case No. and Project Name: VAR-20-01-5, Pitts Property

Owners/Applicants: John Gary Pitts and Nila Sue Pitts

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 7.00.04.B.2.c, *Permitted Uses in the Wekiva River Protection Area*, to allow an accessory dwelling unit (ADU) with a maximum living area of one-thousand four-hundred (1,400) square feet, in lieu of eight-hundred (800) square feet.

Case Manager: Janie Barrón, Senior Planner

Subject Property Information

Size: 40 +/- acres (no wetlands or water bodies on subject property)

Location: West of Pitts Road in the Eustis area.

Alternate Key No.: 1312515

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

Current Zoning District: Agriculture (A)

Flood Zones: "A/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 Sending Area A-1-40	Agriculture (A)	Residential	Large Tracts of Land Wetlands
South	Wekiva River Protection Area Sending Area A-1-40	Agriculture (A)	Residential	Large Tracts of Land with Single-family dwelling units and Wetlands
East	Wekiva River Protection Area Sending Area A-1-40	Agriculture (A)	Street, Residential	Pitts Road, Adjoining Large Tract of Land with Single-family dwelling unit
West	Wekiva River Protection Area Sending Area A-1-40	Agriculture (A)	Residential	Large Tract of Land with Single-family dwelling unit and Wetlands

Summary of Request.

The Owners are proposing to construct an accessory dwelling unit with a maximum living area of one-thousand four-hundred square feet on the subject parcel. However, Land Development Regulations (LDR) Section 7.00.04.B.2.c, requires that an accessory apartment shall not exceed eight-hundred (800) square feet (under roof) or twenty-five (25) percent of the gross square footage of the principal dwelling unit. Therefore, the application seeks a variance to Land Development Regulations (LDR) Section 7.00.04.B.2.c, to allow for construction of an accessory dwelling unit with a maximum living area of one-thousand four-hundred (1,400) square feet, in lieu of 800 square feet.

The subject parcel received a previous variance (VAR-19-14-5) approval to allow an accessory structure with a maximum under-roof area of one-thousand four-hundred (1,400) square feet.

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 7.00.04, is to provide an area where low density rural development can occur, while preserving environmentally sensitive areas. The proposed use is consistent with LDR Section 7.00.04, *Permitted Uses in the Wekiva River Protection Area*, which allows accessory apartments in the agriculture zoning district, provided that the following requirements are met: no more than one accessory apartment is permitted on any residential lot; the accessory apartment may be attached or freestanding, shall not exceed 800 square feet, shall be located and designed not to interfere with the appearance of the principal structure, and in no case shall the accessory apartment be constructed prior to the principal dwelling unit. The proposed accessory apartment meets all the conditions with the exception of the maximum allowed square footage. The Owners have submitted a concept plan (Attachment "A"), which demonstrates that the proposed area where they plan to construct the accessory dwelling unit meets the minimum setbacks.

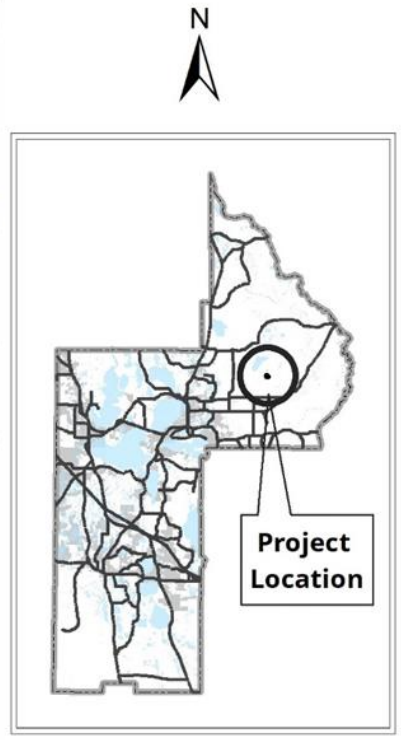
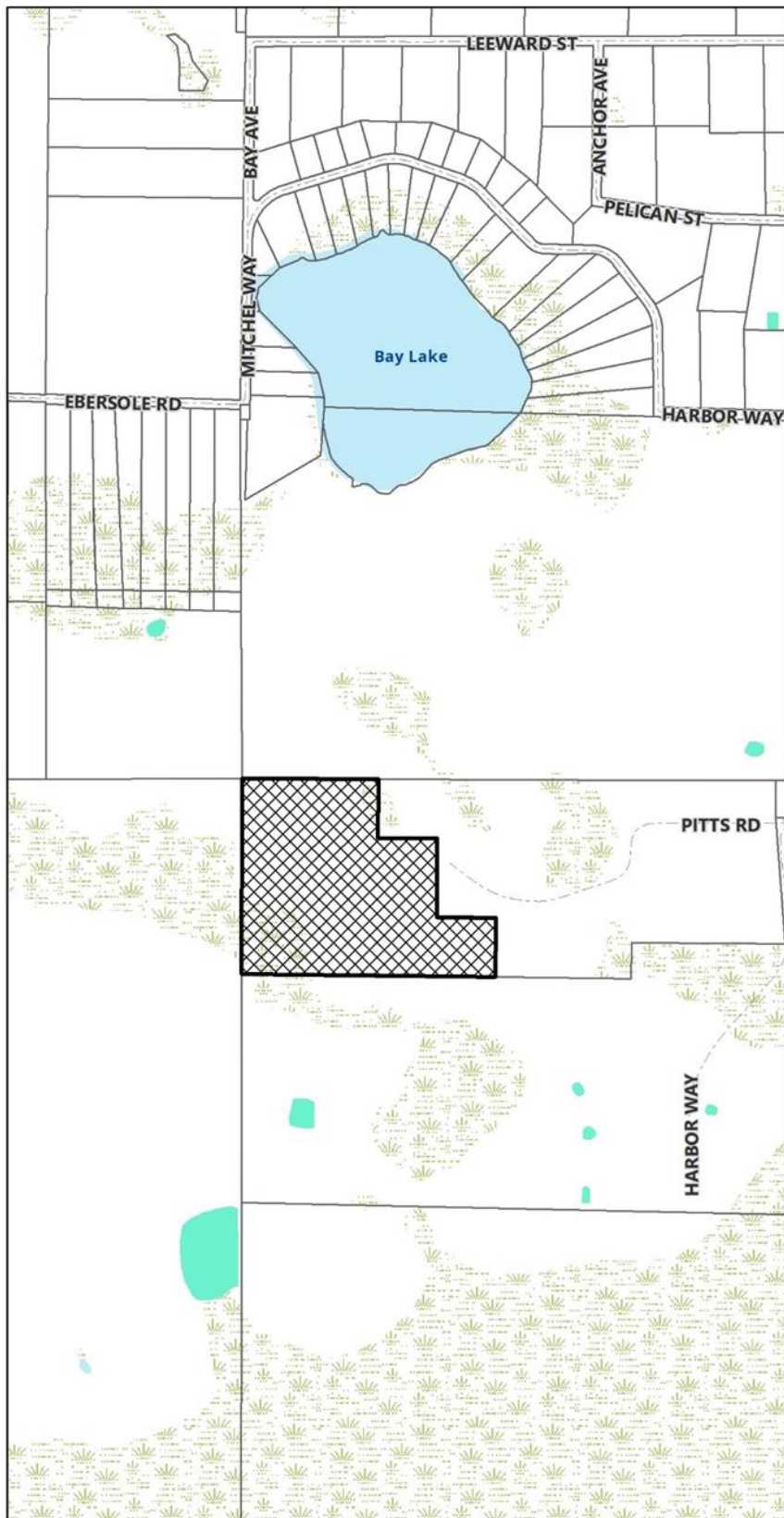
The Owners have provided a letter detailing their hardship and intention to meet the purpose of the Land Development Regulations (Attachment "B"), in addition to the following statement from the Applicant, *"Owners have lived on the property for the past 45 years. Owners have preserved the land and natural habitat that lives on the subject parcel."*

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 Owners are proposing to construct an accessory dwelling unit for their son and his family so that they can assist with their care and maintain the large tract of land.

The Owners have provided a letter detailing their hardship and intention to meet the purpose of the Land Development Regulations (Attachment "B"), in addition to the following statement from the Applicant, *"An 800 square foot home is a little too small to comfortably raise a young family. We are simply asking for a variance to allow us to building a small home with a total of less than 1400 square feet. This home will be the asscessory [sic] dwelling built on our forty acres for our son's family. We need our son and his family close as our health declines. I have neurological damage to my inner ear which keeps me in a constant state of vertigo. That is bad enough, but add to that the fact that as a brittle diabetic I am constantly fighting high and low blood sugar issues which have diminished my vision and left me struggling each day with various complications."*

Map of Subject Property



Attachment A – Concept Plan

**John
Walter
Burr III**
Professional
Land Surveyor
30914 Deal Drive
Mount Plymouth
Florida 32776
(352) 383-4649 Voice
(352) 383-9573 Fax
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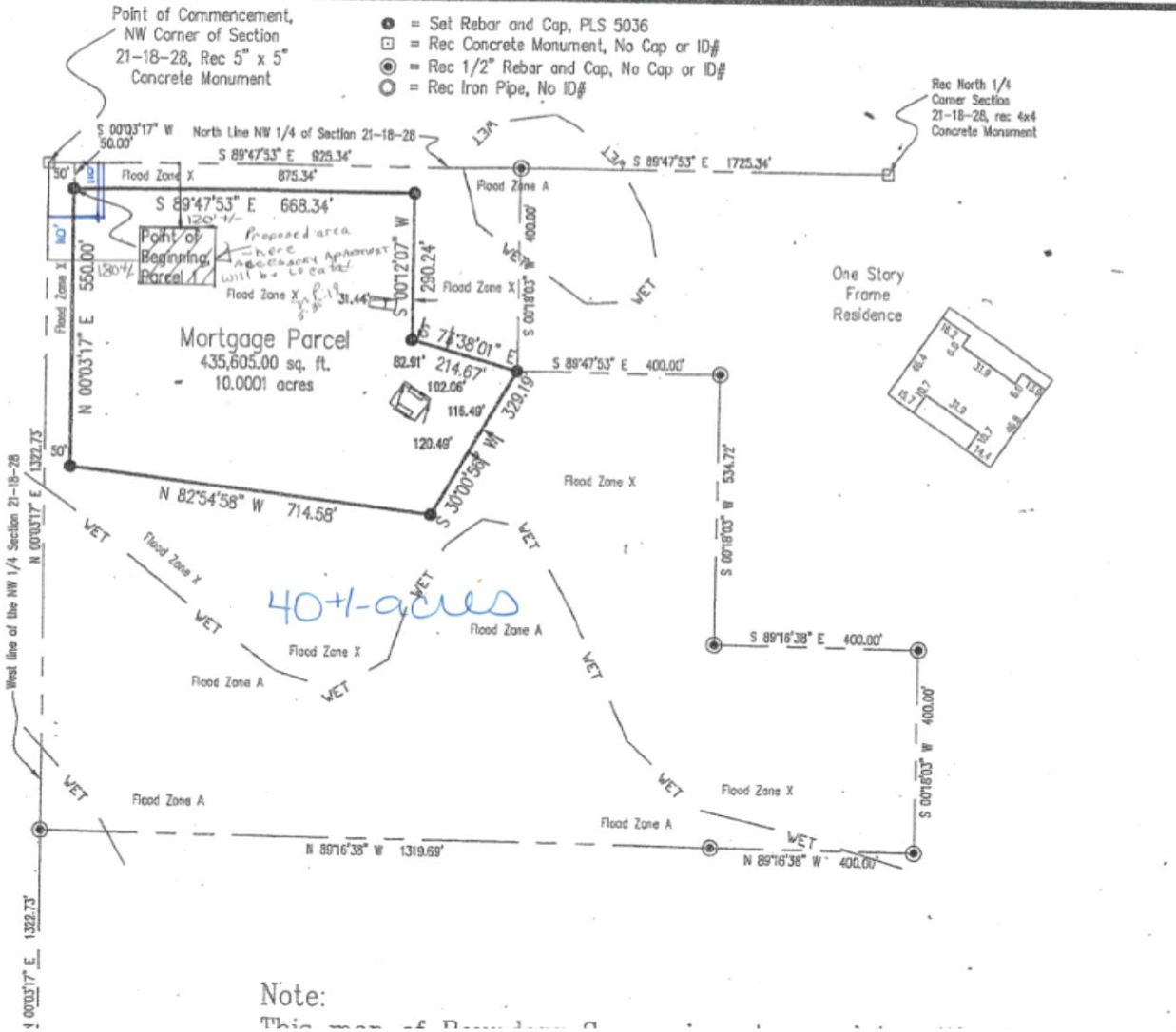


Map of
Boundary
Survey

PREPARED FOR
**Nila nd John
Pitts**
26200 Pitts Road
Eustis, Florida 32736
352-589-2261

IN SECTION 21,
TOWNSHIP 18 SOUTH,
RANGE 28 EAST

Field Data JWB 04/08/2004
F.B. / Kase Leaf Notes



Note:
This map of Boundary

Attachment B. Hardship & LDR Intent Purpose Statements

Office of Planning and Zoning.
Variance Application Committee
315 W. Main St., Tavares, FL 35778

03/31/2019

To Whom It May Concern,

My wife Nila and I have lived on the property for which we are asking a zoning variance for the last 45 years. We have worked with diligence to preserve the land and natural habitat which lives there. While others have eliminated the timber for pasture we have been devoted to keeping the land in it's natural state.

My health over the last 20 years has been declining. I have neurological damage to my inner ear which keeps me in a constant state of vertigo. That is bad enough, but add to that the fact that as a brittle diabetic I am constantly fighting high and low blood sugar issues which have diminished my vision and left me struggling each day with various complications. I feel the need to build a small home for my son and his family so they can help as our health declines.

It is for these reasons that we are requesting a variance to the 800 square foot limit of an accessory dwelling on our land. We own 40.5 acres and there is plenty of high and dry land for him to build a small home near us. The plan for the small home is to be under 1400 square feet. Enclosed is a diagram of the footprint of the house as we hope it will be. We will follow all the land development guidelines of Lake County to comply with right of way, easements, setback requirements and all other codes to safeguard not only the environment but also the natural habitat as we have done for years. Thank you in advance for allowing this variance on our behalf.

Sincerely,



John Gary Pitts and Nila Sue Pitts

26200 Pitts Rd. , Eustis, FL. 32736

**Final Development Order
VAR-20-01-1
Pitts Property**

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

WHEREAS, on April 1, 2019, John Gary Pitts and Nila Sue Pitts (the “Owners”) made a request for a variance to Lake County Land Development Regulations (LDR) Section 7.00.04.B.2.c, to allow an accessory dwelling unit with a maximum under-roof area of one-thousand four-hundred (1,400) square feet, in lieu of eight-hundred (800) square feet; and

WHEREAS, on June 13, 2019, the Board of Adjustment approved Variance 19-14-5 to allow the Owners to have an accessory dwelling unit with a maximum under-roof area of one-thousand four-hundred (1,400) square feet, in lieu of eight-hundred (800) square feet; and

WHEREAS, the Owners are seeking to revise the variance request to indicate that the proposed maximum one-thousand four-hundred (1,400) square feet is living area and not under-roof area for the accessory dwelling unit stipulated in the development order and recorded in ORB 5297, Pages 343 through 344, Public Records of Lake County, Florida; and

WHEREAS, the subject property consists of 40 +/- acres and is generally located west of Pitts Road in the Eustis area, in Section 21, Township 18 South, Range 28 East, having Alternate Key Number 1312515 and more particularly described below:

The South 400 feet of the West 400 feet of the East 1/2 of the North 1/2 of the Northwest 1/4 of Section 21, Township 18 South, Range 28 East, and the West 1/2 of the North 1/2 of the Northwest 1/4 of Section 21, Township 18 South, Range 28 East, less the North 400 feet of the East 400 feet of the West 1/2 of the North 1/2 of the Northwest 1/4 of said Section 21, Township 18 South, Range 28 East all in Lake County, Florida; and

WHEREAS, proper notice of the hearing was given 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 March 12, 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.

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-20-01-1, to revise the variance (VAR-19-14-5) request to indicate that the proposed maximum one-thousand four-hundred (1,400) square feet is living area for the accessory dwelling unit.

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 March, 2020.
EFFECTIVE March 12, 2020.**

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

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

**State of Florida
County of Lake**

The foregoing instrument was acknowledged 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)**