



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 9  
 Public Hearing Date: May 14, 2020  
 Case No. and Project Name: VAR-20-08-3, Tye Property  
 Owner/Applicant: Naomii Tye  
 Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 3.01.04.1.a, to allow for a livestock building to be setback 120-feet from the northern property line, 150-feet from the western property line, and 160-feet to the southern property line in lieu of 200-feet from all property lines.  
 Case Manager: Emily W. Johnson, Planner

### Subject Property Information

Size: 4 +/- acres  
 Location: Mount Dora, Florida  
 Alternate Key No.: Exempt per F.S. Sec. 119.071  
 Future Land Use: Rural  
 Current Zoning District: Agriculture (A)  
 Flood Zone: "A" and "X"  
 Joint Planning Area/ ISBA: N/A  
 Overlay Districts: N/A

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural	Agriculture (A)	Residential	Single-Family Residence
South	Rural	Agriculture (A)	Vacant	Vacant Tracts with Wetlands
East	Rural	Agriculture (A)	Residential	Single-Family Residence
West	Rural	Agriculture (A)	Agriculture	Large Agricultural Tract

### Summary of Request.

The subject property contains 4 +/- acres, is zoned Agriculture (A), and is designated as Rural Future Land Use Category by the 2030 Comprehensive Plan. The property is currently developed with a single-family residence and related accessory uses. The Lake County GIS Aerial Map indicates the presence of wetlands and flood zones "A" and "X." A scaled, signed, sealed boundary survey delineating the jurisdictional wetland line (JWL) and 2012 Flood Zones will be required upon permitting.

The applicant has submitted the variance request for reduced setbacks in order to facilitate the issuance of a zoning permit for an agricultural livestock building, to be located less than 200-feet from the northern, southern, and western property lines, as depicted on the plot plan (Attachment "A"). The proposed livestock building must be located a minimum of 50-feet from the jurisdictional wetland line (JWL), and any buildable area outside of the flood zone must be utilized.

### 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 3.01.04, is to regulate the placement of structures and the use of a parcel in order to ensure that they are not aesthetically or physically harmful to residents and surrounding areas. Impacts with a potential to be harmful to surrounding property owners may include increased propagation of dust, odors, noise, and traffic levels.

The Applicant has provided the following statement as proof that the purpose of the Land Development Regulation will be or has been achieved by other means, *"The proposed building setback of 120' from the North property line and 150' from the West Property line will adequately protect adjacent property owners. The 120' North building setback is densely vegetated with existing trees. The proposed building will be approximately 340' away from neighboring residential uses. The [160'] South building setback is also densely vegetated with existing trees. Adjacent property to the west is vacant and consisted of semi improved pasture. No adverse impacts to adjacent properties are anticipated as a result of granting this variance.*

**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.**

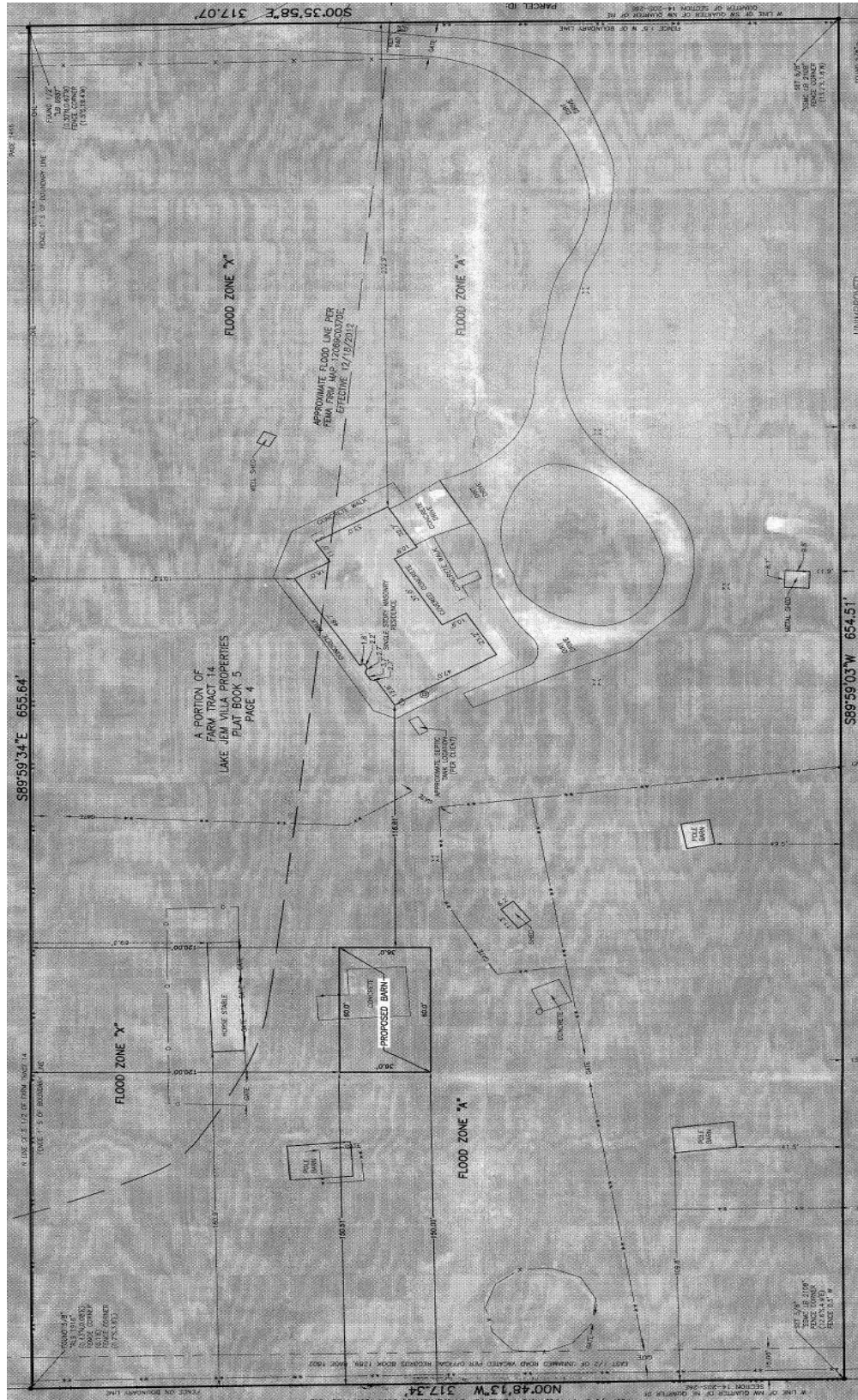
For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.

The Applicant submitted the following statement as evidence of a hardship, *"Meeting the 200' Building setback would result in the removal of multiple large and desirable native canopy trees, construction of un-necessary new fencing, placing the proposed Building less than 100' to the existing Residence and generally making the overall use of the site for its existing agricultural/residential purpose significantly less effective in relationship to the existing barns, riding areas, and paddocks."*

**Map of Subject Property**

Exempt per F.S. Sec. 119.071

# Attachment "A" - Plot Plan



**Final Development Order**  
**VAR-20-08-3**  
**Tye Property**

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

**WHEREAS**, Naomii Tye (the "Owner" and "Applicant") made a variance request to Lake County Land Development Regulations (LDR) Section 3.01.04.1.a, to allow for a livestock building to be setback 120-feet from the northern property line, 150-feet from the western property line, and 160-feet to the southern property line, in lieu of 200-feet from all property lines; and

**WHEREAS**, the subject property consists of 4 +/- acres and is located in the Mount Dora area, in Section 11, Township 20, Range 26, and is more particularly described below as:



**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 May 14, 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 May 14, 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-20-08-3 to Lake County Land Development Regulations (LDR) Section 3.01.04.1.a, to allow for a livestock building to be setback 120-feet from the northern property line, 150-feet from the western property line, and 160-feet to the southern property line, in lieu of 200-feet from all property lines, with the following conditions:

1. A scaled, signed, sealed boundary survey delineating the jurisdictional wetland line (JWL) and 2012 Flood Zones will be required upon permitting; and
2. The livestock building shall not be located less than 50-feet from the JWL; and
3. Buildable area outside of the Flood Zone must be utilized.

**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 14<sup>th</sup> day of May, 2020.

EFFECTIVE May 14, 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)