



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 7

Public Hearing Date: September 10, 2020

Case No. and Project Name: VAR-20-35-1, Smith Property

Owner/Applicant: Christopher Smith

Requested Action: Variance to Lake County Land Development Regulations (LDR) Table 3.02.05, to allow an after-the-fact accessory structure (metal building with screened porch) to be located ten (10) feet from the northern property line, in lieu of twenty-five (25) feet.

Case Manager: Janie Barrón, Senior Planner

### Subject Property Information

Size: 8.41 +/- acres

Location: East of Bay Lake Road, in the Groveland area.

Alternate Key No.: 2602066

Future Land Use: Green Swamp Rural Conservation

Current Zoning District: Agriculture (A)

Flood Zones: "A" and "X"

Joint Planning Area/ ISBA: Mascotte Interlocal Service Boundary Agreement (ISBA)

Overlay Districts: Green Swamp Area of Critical State Concern (GSACSC)

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Municipal	Municipal	Vacant	Large Tracts of Vacant Land
South	Green Swamp Rural	Agriculture (A)	Lake	Agriculture Large Tract of Land with Single-Family Dwelling Units and Wetlands
East	Green Swamp Rural	Agriculture (A)	Agriculture	Agriculture Large Tract of Land with Wetlands
West	Green Swamp Rural	Agriculture (A)	Residential	Agriculture Large Tract of Land with Single-Family Dwelling Units and Wetlands

### Summary of Request.

The subject 8.41 +/- acre parcel is identified by Alternate Key Number 2602066; the parcel is zoned Agriculture (A), is part of the Green Swamp Rural Conservation Future Land Use Category (FLUC), and is located within the Green Swamp Area of Critical State Concern. Currently, the parcel is developed with a metal building with attached screened porch.

The Applicant has submitted a variance request to LDR Table 3.02.05, to allow an existing accessory structure to remain on the subject parcel located ten (10) feet from the northern property line. However, LDR Table 3.02.05, requires agriculturally zoned parcels that contain five (5) acres or more, be setback twenty-five (25) from the side property lines. The Owner purchased the property on March 6, 2019, and based on aerial photos, the metal building and attached screened room were constructed on the subject parcel prior to the sale. In the course of the Owner's due diligence research, he found that the existing building on the subject parcel was constructed without the proper permits, and is proactively trying to bring the existing building into compliance, so that he can pull the proper permits to convert the existing building into a residence.

The subject parcel is located within the City of Mascotte ISBA; therefore, variance application was sent to the City of Mascotte for a determination of consistency with their regulations. The City of Mascotte had no comments or objections to the request.

The variance application was sent to the Florida Department of Economic Opportunity (DEO) for a courtesy review of consistency with Green Swamp Area of Critical State Concern regulations. DEO did not provide any comments. DEO retains the ability to appeal any development permit, pursuant to Section 380.05, Florida Statutes.

### 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 3.02.05, is to promote a logical development pattern, provide for safe setbacks between structures, and encourage a visually pleasing environment.

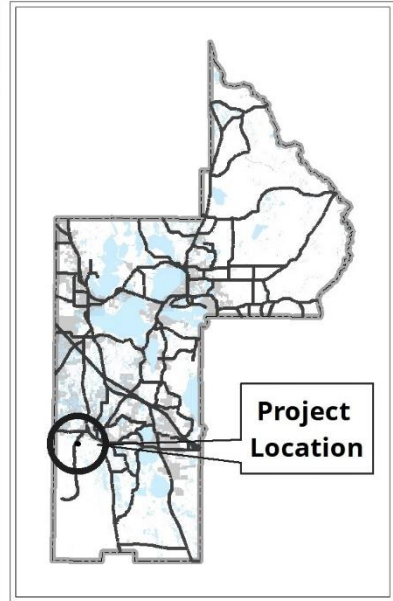
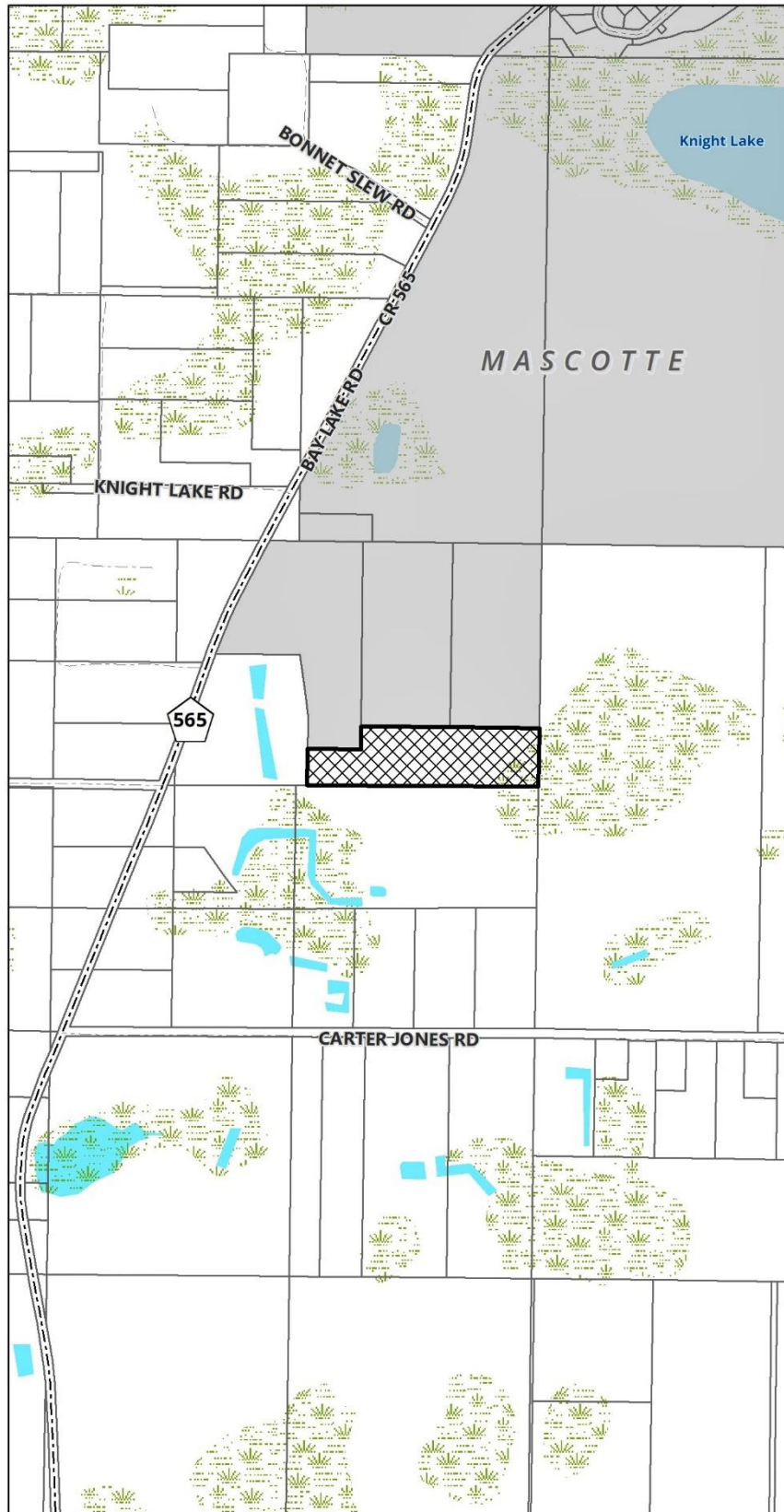
The Applicant provided the following statement as proof that the intent of the LDR will be or has been achieved by other means, *"There are no known other means outside of receiving a variance to achieve or meet LDR. I will meet all other setback of building/zoning requirements."*

**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.**

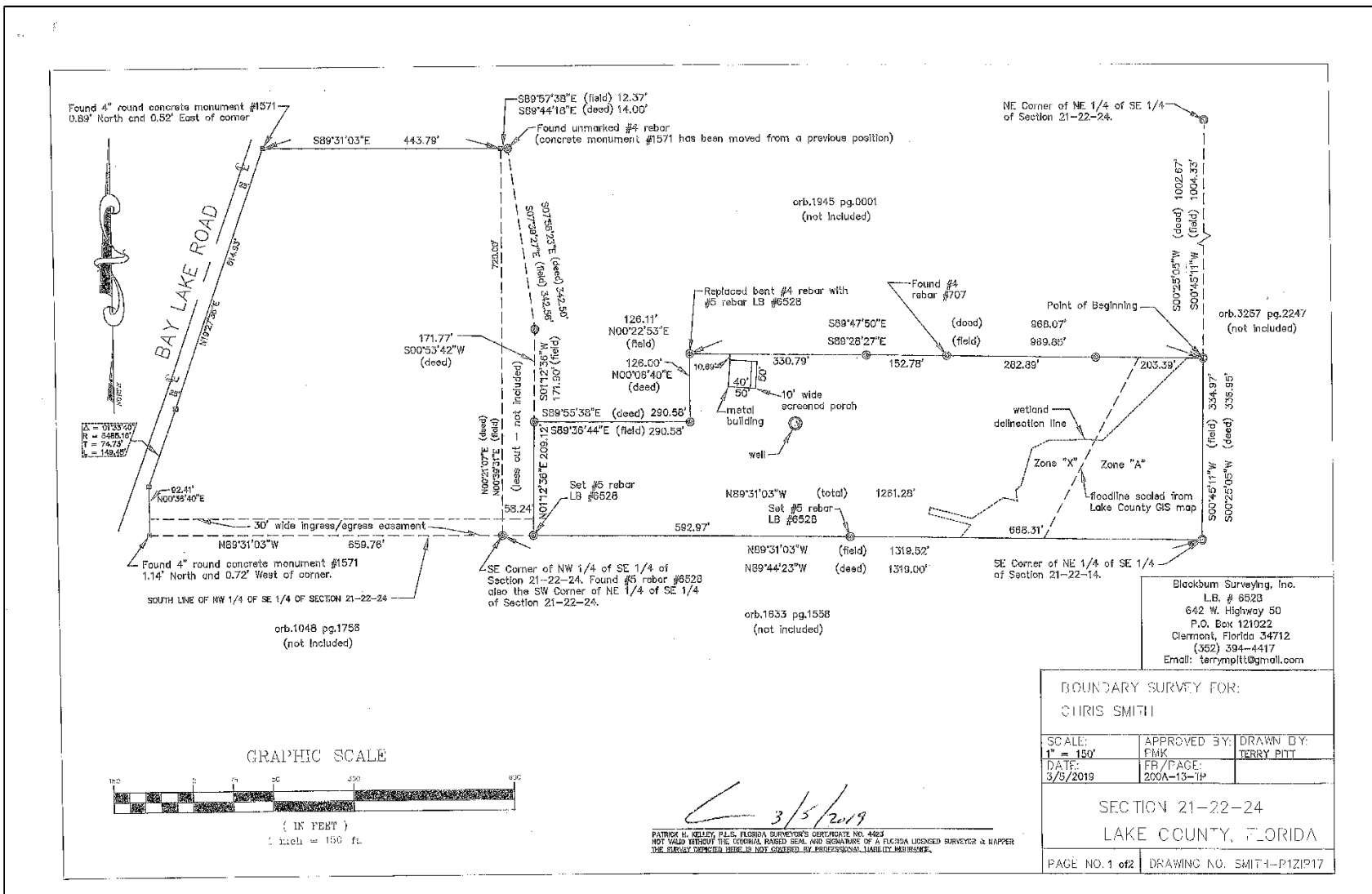
LDR Section 14.15.04 states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.

The Applicant provided the following statement, *"Property was purchased with building already erected. No way to physically move building, foundations, etc. did not know when purchased the building was not in compliance."*

# Map of Subject Property



Attachment "A" - Concept Plan.



**Final Development Order  
VAR-20-35-1  
Smith Property**

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

**WHEREAS**, Christopher Smith (the “Owner” and the “Applicant”) requested a variance to Lake County Land Development Regulations (LDR) Table 3.02.05, to allow an after-the-fact accessory structure (metal building with screened porch) to be located ten (10) feet from the northern property line, in lieu of twenty-five (25) feet; and

**WHEREAS**, the subject property consists of 8.41 +/- acres and is generally located east of Bay Lake Road, in the unincorporated Groveland area of Lake County, Florida, in Section 21, Township 22 South, Range 24 East, having Alternate Key Number 2602066, and more particularly described in Attachment “A” – Legal Description; and

**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 September 10, 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 September 10, 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-20-35-1, to allow an after-the-fact accessory structure (metal building with screened porch) to be located ten (10) feet from the northern property line, with the following condition:

1. A row of shrubs shall be installed on the northern property line adjacent to the proposed accessory structure, to create a visual buffer from the adjoining neighboring parcel.

**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 10th day of September, 2020.**

**EFFECTIVE September 10, 2020.**

**BOARD OF ADJUSTMENT**

**LAKE COUNTY, FLORIDA**

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**James Argento, Chairman**

**State of Florida**

**County of Lake**

**Sworn to (or affirmed) and subscribed before me by means of  physical presence or  online notarization, this 10th day of September, 2020, by James Argento.**

**Personally Known OR Produced Identification**

**Type of Identification Produced \_\_\_\_\_**

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**Notary Signature**

**(SEAL)**

## Attachment "A" – Legal Description

Commencing at the Northeast corner of the Northeast One-Quarter (NE ¼) of the Southeast One-Quarter (SE ¼) of Section 21, Township 22, South, Range 24 East, Lake County, Florida, Run S.00°25'05"W., along the East Line of said Northeast One-Quarter (NE ¼) of the Southeast One-Quarter (SE ¼) a distance of 1002.67 feet to the point of beginning. From said Point of Beginning S. 00°25'05" W., Along said East line 336.95 feet to the Southeast corner of said Northeast One-Quarter (NE ¼) of the Southeast one-quarter (SE 1/4), thence run N. 89°44'23" W., along the south line thereof, 1319.00 feet to the Southwest Corner of said Northeast one-quarter (NE ¼) of the Southeast one-quarter (SE ¼); Thence run N.00°21'07" E., along the West line thereof, 720 feet; Thence S. 89°44'18" E., 14.00 feet; Thence S. 07°56'23" E., 342.50 feet; Thence S. 00°53'42" W., 171.77 feet; Thence S. 89°55'38" E., 290.58 feet; Thence N. 00°06'40" E., 126.00 feet; Thence S. 89°47'50" E., 968.77 feet to the Point of Beginning.

Less the following:

Begin at the Southwest corner of the Northeast ¼ of the Southeast ¼ of Section 21, Township 22 South, Range 24 East, Lake County, Florida, and run thence N.00°21'07" E., along the West line of the Northeast ¼ of the Southeast ¼ a distance of 720 feet; Thence S.89°44'18" E., 14.00 feet; Thence S.07°56'23" E., 342.50 feet; Thence S.00°53'42" W., 381.02 feet more or less to the South line of said Northeast ¼ of the Southeast ¼; Thence N. 89°44'23" W., along said South line a distance of 58.24 feet more or less to the Point of Beginning.

Together with an easement for Ingress and Egress over and across the South 30 feet of the following described property:

That part of the South 720 feet of the East ½ of the Northwest ¼ of Southwest ¼ Section 21, Township 22 South, Range 24 East, Lying East of the Easterly Right-of-Way line of Bay Lake Road. (C-565).

And

Begin at the Southwest corner of the Northeast ¼ of the Southeast ¼ of Section 21, Township 22 South, Range 24 East, Lake County Florida and run thence N.00°21;07" E., along the West line of the Northeast ¼ of the Southeast ¼ a distance of 720 feet; thence S. 89°44'18 E., 14.00 feet; Thence S 07°56'23"E 342.50 feet; Thence S.00°53'42" W., 381.02 feet more or less to the South line of said Northeast ¼ of the Southeast ¼; Thence N89°44'23" W., along said South Line a distance of 58.24 feet more or less to the Point of Beginning.