



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 2

Public Hearing Date: October 8, 2020

Case No. and Project Name: VAR-20-39-5, Ball Property

Applicant / Owner: Shawn Ball and Heidi Ball

Requested Action: Variance from Lake County Land Development Regulations (LDR) Section 10.01.01.F(3), to allow an after-the-fact detached accessory structure (shipping container), to be located in front of the principal dwelling and be setback 26.1-feet from the property line, in lieu of 100-feet; and from LDR Table 3.02.05, to allow an after-the-fact accessory structure (shipping container) to be located 59-feet from the centerline of the road, in lieu of a front setback of 62-feet.

Case Manager: Emily W. Johnson, Planner

### Subject Property Information

Size: 0.45 +/- acres

Location: 19110 Morning Dove Road, Altoona.

Alternate Key No.: 1246750

Future Land Use: Rural

Current Zoning District: Agriculture (A)

Flood Zone: "X"

Joint Planning Area (JPA) / ISBA: N/A

Overlay Districts: Wekiva – Ocala Rural Protection Area (RPA)

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural	Agriculture (A)	Residential	Single-Family Residences Adjacent to Morning Dove Road
South	Rural	Agriculture (A)	Residential	Single-Family Residences
East	Rural	Agriculture (A)	Residential	Single-Family Residences Adjacent to State Road 19
West	Rural	Agriculture (A)	Residential	Single-Family Residences Adjacent to Deer Crossing Road

### Summary of Request.

The subject property, identified as Alternate Key Number 1246750, contains 0.45 +/- acres, is zoned Agriculture (A) and designated with a Rural Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. The GIS Aerial Map does not indicate a presence of wetlands or flood zone on the property. The property is generally located south of Morning Dove Road, east of Deer Crossing Road, and west of State Road 19, in the Altoona area of unincorporated Lake County. The subject property is currently developed with a single-family residence and related accessory structures.

In October of 2019, Office of Building Services opened Code Case Action Order No. 2019100170 for the conversion of a boxtruck/shipping container to living space without obtaining the appropriate permits. On the 17th of June 2020, the code case was brought before the Special Master of Lake County (Case No. SM2019-10-0170), and the Applicant was ordered by the Special Master to obtain permits for, or remove, the after-the-fact accessory structure (shipping container) to be in compliance with Lake County Code.

The Applicant has requested a variance from LDR Section 10.01.01.F(3), to allow an after-the-fact detached accessory structure (shipping container), to be located in front of the principal dwelling and be setback 26.1-feet from the property line, in lieu of 100-feet; and from LDR Table 3.02.05, to allow an after-the-fact accessory structure (shipping container) to be located 59-feet from the centerline of the road, in lieu of a front setback of 62-feet. Pursuant to LDR Section 10.01.01(H), cargo and shipping containers are permissible as accessory structures for storage purposes in the Agriculture (A) zoning district.

The variance application and supporting documents were provided to the Lake County Department of Public Works. The Lake County Department of Public works did not indicate any comments, conditions, or objects to the variance 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 Table 3.02.05, Front Setbacks, is to ensure that structures are located a safe distance from roads, and that there is adequate area for the safe passage of vehicles.

The intent of the Code, LDR Section 10.01.01, is to regulate the installation, configuration, and use of residential accessory structures in order to preserve the community and property values, and to protect the community character.

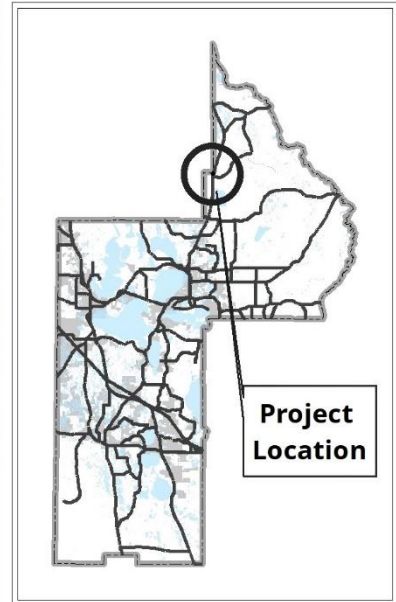
The Applicant provided the following statement as proof that the intent of the LDR will be or has been achieved by other means, *"I am meeting all other setback regulations. I just didn't realize I had a setback in that particular [sic] spot. I want to comply and am complying in all other areas. The trailer is only for storage only."*

**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.**

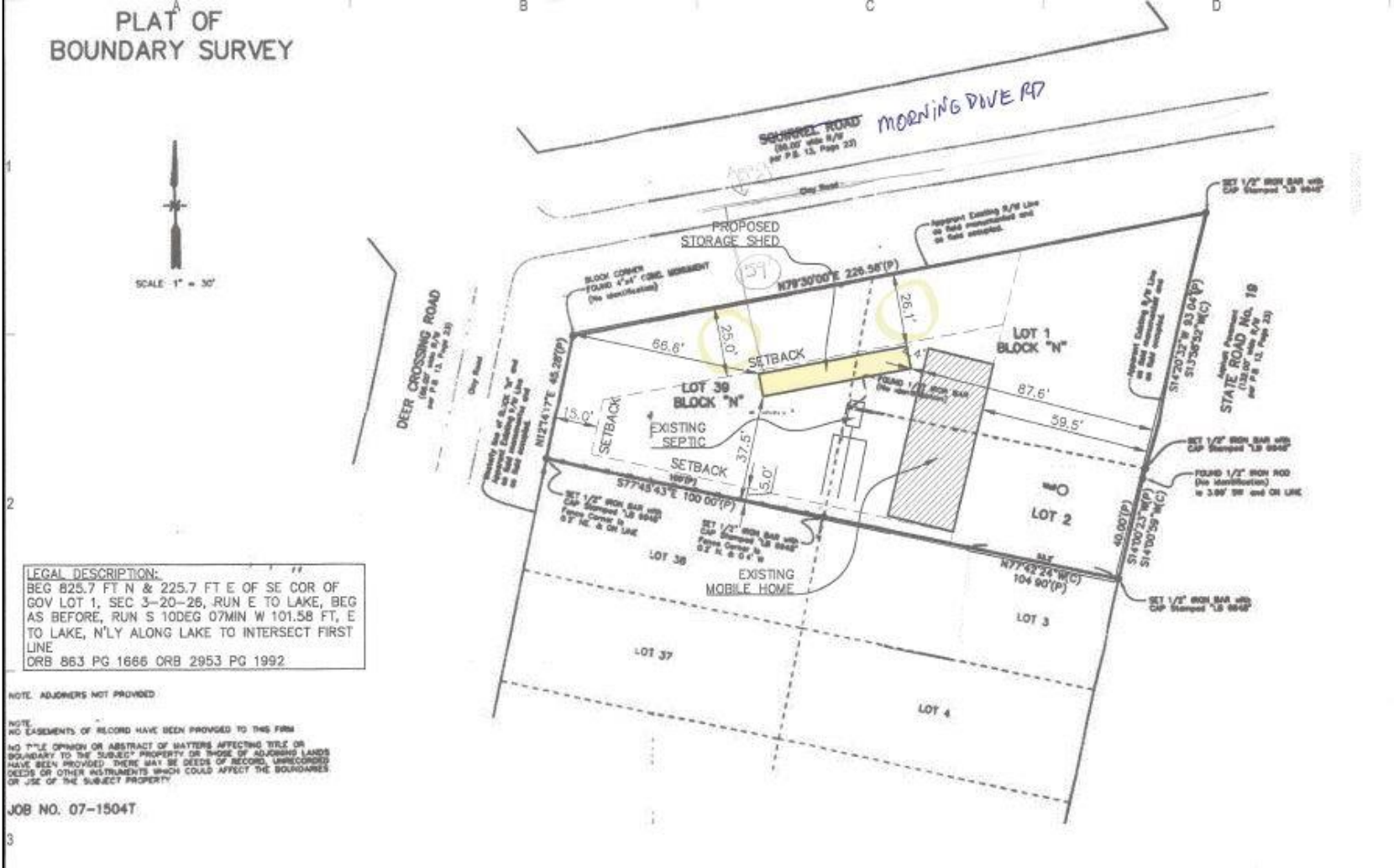
LDR Section 14.15.04, states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requested the variance.

The Applicant provided the following statement, *"It would cost me \$1,500 to move it. I have the plans drawn up. I have been laid off because of coronavirus and I am struggling to just pay the bills and take care of 3 kids. It will help me to be able to leave it where it is and I will pull permit soon as approved, and strap it down."*

# Map of Subject Property



Attachment "A" – Plot Plan



**Final Development Order  
VAR-20-39-5  
Ball Property**

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

**WHEREAS**, Shawn Ball and Heidi Ball (the “Owners” and “Applicants”), requested a variance from Land Development Regulations (LDR) Section 10.01.01.F(3), to allow an after-the-fact detached accessory structure (shipping container), to be located in front of the principal dwelling and be setback 26.1-feet from the property line, in lieu of 100-feet; and from LDR Table 3.02.05, to allow an after-the-fact accessory structure (shipping container) to be located 59-feet from the centerline of the road, in lieu of a front setback of 62-feet; and

**WHEREAS**, the subject property consists of 0.45 +/- acres and is located at 19110 Morning Dove Road, in the Altoona area of unincorporated Lake County, in Section 05, Township 17, Range 27, having Alternate Key Number 1246750, and more particularly described below (“property”); and

Forest Campsites Subdivision Lots 1, 2, and 39, Block N, according to the plat or map thereof recorded in Plat Book 13, Page 23, Public Records of Lake County, Florida.

**WHEREAS**, after giving notice of a hearing on a petition for a variance to the Lake County Land Development Regulations, including notice that the request for a variance would be presented to the Board of Adjustment of Lake County, Florida, on October 8, 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 October 8, 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-20-39-5, to allow for an after-the-fact detached accessory structure (shipping container), to be located in front of the principal dwelling on the property and be setback 26.1-feet from the property line, in lieu of 100-feet; and to allow for an after-the-fact accessory structure (shipping container) to be located on the property 59-feet from the centerline of the road, in lieu of a front setback of 62-feet; with the following conditions:

1. Development permits from the Office of Planning and Zoning and the Office of Building Services must be obtained for the after-the-fact accessory structure (shipping container); and
2. If at any point in the future the accessory structure (shipping container) is relocated on the property, it must meet the required setbacks at the time of permitting; and
3. The accessory structure (shipping container) shall not be used as an 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 8<sup>th</sup> day of October, 2020.**

**EFFECTIVE October 8, 2020.**

**BOARD OF ADJUSTMENT  
LAKE COUNTY, FLORIDA**

\_\_\_\_\_  
**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 \_\_\_\_\_ day of \_\_\_\_\_, 2020, by James Argento, as Chairman of the Lake County Board of Adjustment.**

**Personally Known OR Produced Identification**

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

\_\_\_\_\_  
**Notary Signature  
(SEAL)**