



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 1

Public Hearing Date: November 12, 2020

Case No. and Project Name: VAR-20-45-5, De La Torre Property

Owners: Francisco J. and Iranis De La Torre

Applicant: Francisco J. De La Torre

Requested Action: Variance to Lake County Code, Land Development Regulations (LDR) Section 1.08.02(A)(1), to allow an expansion of a nonconforming structure to exceed ten percent (10%) and to allow an accessory structure to be constructed nine (9) feet from the southern property line in lieu of the required twenty-five (25) feet.

Case Manager: Janie Barrón, Senior Planner

Subject Property Information

Size: 4.88 +/- acres

Location: 43927 Cooter Pond Road, Deland

Alternate Key No.: 1599636

Future Land Use: Rural

Current Zoning District: Agriculture (A)

Flood Zones: "AE" and "X"

Joint Planning Area/ ISBA: None

Overlay Districts: Wekiva Ocala Rural Protection Area

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural	Agriculture (A)	Right-of-Way, Residential	Another Anna Road, Single-Family Dwelling Units North of the R-O-W
South	Rural	Agriculture (A)	Residential	Large Tract of Land with Single-Family Dwelling Unit and Wetlands
East	Rural	Agriculture (A)	Right-of-Way, Residential	Cotter Pond Road, Single-Family Dwelling Units East of R-O-W
West	Rural	Agriculture (A)	Residential	Large Tract of Land with Single-Family Dwelling Unit and Wetlands

Summary of Request.

The Owner has submitted a variance request to Lake County Code, LDR 1.08.02(A)(1), to allow an expansion of a nonconforming structure to exceed ten percent (10%) and to allow an accessory structure to be constructed nine (9) feet from the southern property line in lieu of the required twenty-five (25) feet.

The subject 4.88 +/- acres parcel is identified by Alternate Key Number 1599636. The parcel is zoned Agriculture (A), is part of the Rural Future Land Use Category (FLUC), and located within the Wekiva Ocala Rural Protection Area. The subject parcel is currently developed with a single-family dwelling unit, accessory dwelling unit, detached garage, above ground pool and concrete pads. The parcel is generally located at the intersection of Cooter Pond Road and Another Anna Road, in the Deland area.

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 intent of the Code, LDR Section 1.08.02, is to allow legally existing non-conforming development to remain in its current state. The Code does not allow any expansions, changes, enlargements, or alterations of a use or development in any way which increases its nonconformity, or structure alterations of non-conforming structures.

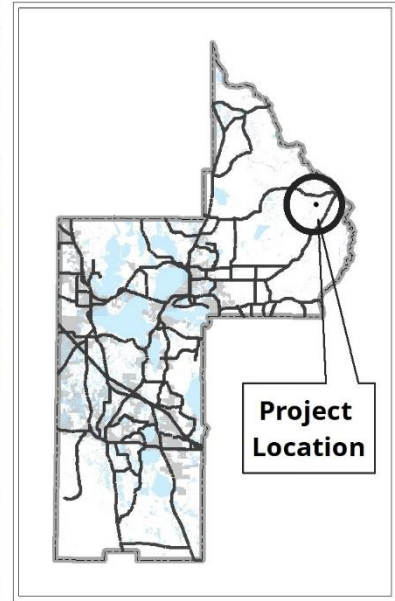
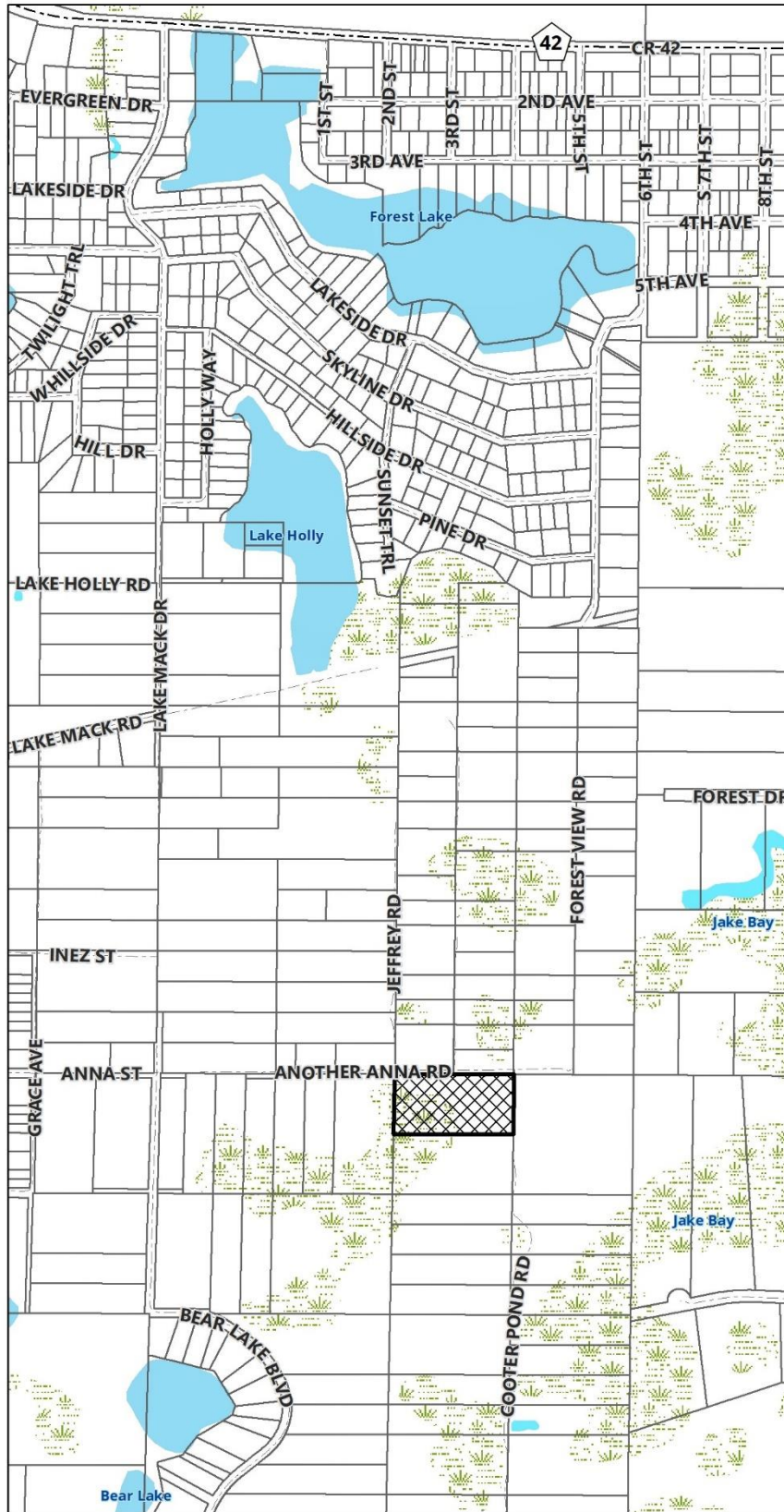
The Owner submitted the following statement regarding intent of the Code: *"The accessory structure is behind the main dwelling, we also meet the 50' setback from the wetlands, and are not in the flood zone. We have engineered plans, and all subs IE, EC, Plumber, HVAC are ready to be added to the permit for final approval."*

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 submitted the following statement and setback table as proof that the LDR would create a substantial hardship or would violate principles of fairness: *"Considering the building has already been constructed, it is only an accessory structure which includes a shop with a 2nd story entertainment space, "not a dwelling" moving it would be impossible w/out demolition. It has been there for over 3 years, and the slab was existing. "I should have pulled a permit but didn't – I'm sorry."*

Map of Subject Property



Attachment "A", Survey.

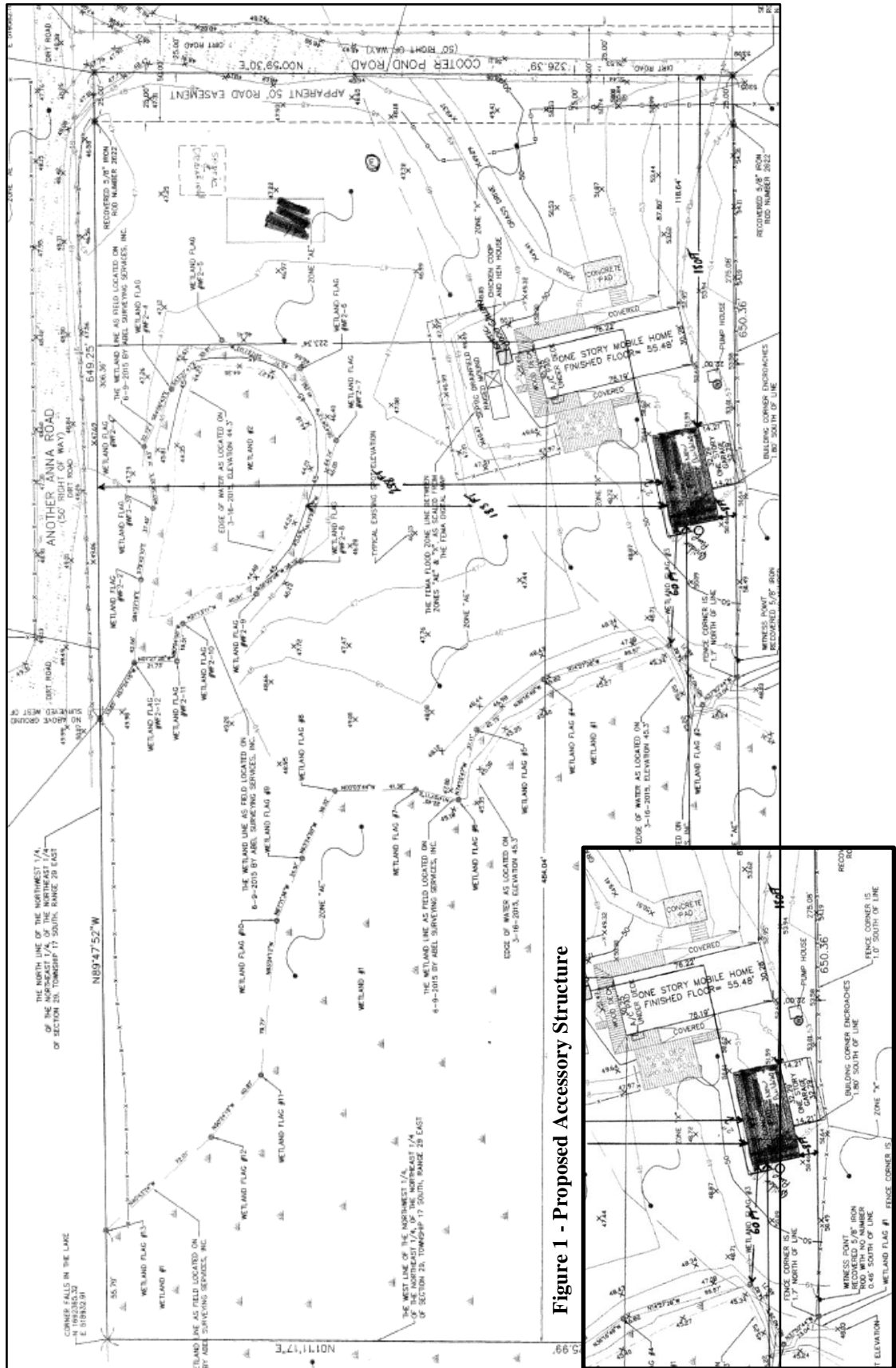


Figure 1 - Proposed Accessory Structure

**Final Development Order
VAR-20-45-5
De La Torre Property**

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

WHEREAS, Francisco J. De La Torre and Iranis De La Torre (the “Owners” and “Applicants”) submitted a variance request to Lake County Code, Land Development Regulations (LDR) Section 1.08.01(A)(1), to allow an expansion of a nonconforming structure to exceed 10% and LDR Table 3.02.05, to allow an accessory structure to be constructed nine (9) feet from the southern property line in lieu of twenty-five (25) feet; and

WHEREAS, the subject property consists of 4.88 +/- acres, located at 43927 Cooter Pond Road, in the Deland area of unincorporated Lake County, Florida, in Section 29, Township 17 South, Range 29 East, having Alternate Key Number 1599636 and more particularly described as:

The North 1/2 of the Northwest 1/4 of the Northeast 1/4 of the Northeast 1/4 of Section 29, Township 17 South, Range 29 East, Lake County, Florida

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 November 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; and

WHEREAS, on November 12, 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-20-45-5, to allow an expansion of a nonconforming structure to exceed ten percent (10%) and to allow an accessory structure be constructed 9-feet from the southern property line in lieu of the required twenty-five (25) feet with the following condition:

1. No additional expansions, changes, enlargements or alterations of the accessory structure should be permitted other than approval of this variance.

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 November, 2020.

EFFECTIVE November 12, 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 12th day of November, 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)