



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 2

Public Hearing Date: March 11, 2021

Case No. and Project Name: VAR-20-71-5, Burns Property

Owner/Applicant: Linda Maria Burns

Requested Action: Variance to Lake County Code, Land Development Regulations (LDR) Section 3.02.05, to allow an after-the-fact storage shed to be located three (3) feet from the western property line, in lieu of five (5) feet; LDR Section 3.02.05, to allow an after-the-fact deck to be located on the property line, in lieu of five (5) feet from the property line; and LDR Section 6.01.04(A)(1), to allow an after-the-fact deck to be located twenty-eight (28) feet from the top of the bank, in lieu of fifty (50) feet from the top of the bank.

Case Manager: Janie Barrón, Senior Planner

Subject Property Information

Size: 0.24 +/- acres

Location: 55744 Holiday Circle, Astor

Alternate Key No.: 1328730

Future Land Use: Urban Low Density

Current Zoning District: Mixed Residential District (R-7)

Flood Zone: Fully "AE"

Joint Planning Area/ ISBA: N/A

Overlay Districts: Wekiva – Ocala Rural Protection Area (RPA) and Pinecastle Military Operations Area (MOA)

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low Density	Mixed Residential District (R-7)	Residential	Single-Family Dwelling Unit
South	Urban Low Density	Mixed Residential District (R-7)	Residential	Single-Family Dwelling Unit
East	Urban Low Density	Mixed Residential District (R-7)	Canal, Residential	Canal, Residential East of Canal
West	Urban Low Density	Mixed Residential District (R-7)	Right-of-Way, Residential	Holiday Circle, Residential West of R-O-W

Summary of Request.

The Applicant has submitted a variance request to Lake County Code, Land Development Regulations (LDR) Section 3.02.05, to allow an after-the-fact storage shed to be located three (3) feet from the western property line, in lieu of five (5) feet; LDR Section 3.02.05, to allow an after-the-fact deck to be located on the property line, in lieu of five (5) feet; and LDR Section 6.01.04(A)(1), to allow an after-the-fact deck to be located twenty-eight (28) feet from the top of the bank, in lieu of fifty (50) feet.

The subject 0.24 +/- acre parcel is identified by Alternate Key Number 1328730; the parcel is zoned Mixed Residential District (R-7); and is part of the Urban Low Density Future Land Use Category (FLUC). Currently, the subject parcel is developed with a single-family dwelling unit, shed, driveways, deck, and boat lift (Attachment "A"). On October 2, 2020, the Owner was cited for building without a permit (Code Case No. 202010030). In discussion with the Owner, she indicated that she purchased a home less than a year ago, and she hired a contractor to repair the existing deck. Unknowingly to her, the contractor was unlicensed. She has made a formal complaint against the unlicensed contractor (Attachment "B").

The variance application was sent to the Public Works Department for a determination of consistency with their regulations. The Public Works Department had no objections to the request and provided the following comments: "An interceptor swale to capture the first inch (1") of stormwater runoff shall be provided on site; an engineered design that includes a plan and calculations must be submitted with the permit application for the improvement/addition for the site; compensating storage for any fill require flood permitting; and additional requirements to allow this structure in the flood hazard area will be required with permitting would include a certified survey, flood determination, and elevation certificate.

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 6.01.04, is to protect valuable natural resources requiring protection from erosion, sedimentation, water pollution and other negative impacts, which may be associated with land use activities. It is the intent of this section to minimize such negative impacts through protection standards for development of adjacent lands.

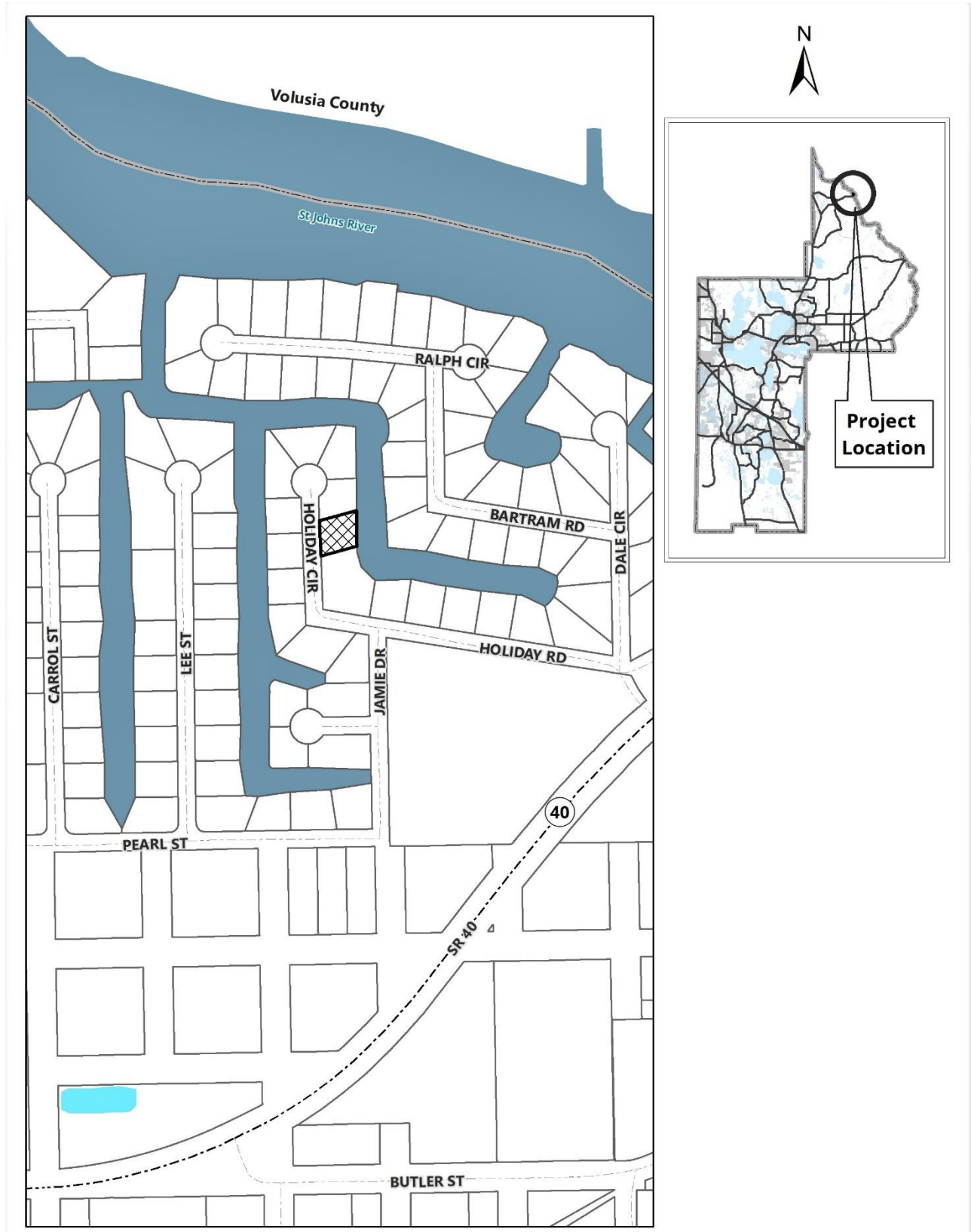
The Applicant has submitted the following intent of the Code statement: *"Not sure but plants have been planted to preserve nature."*

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 submitted the following statement and setback table as proof that the LDR would create a substantial hardship or would violate principles of fairness: *"Both deck & shed were in place when I purchased home on 5/22/20. Trying to make right, I hired an unlicensed company that lied about permits & variances needed (Attachment "B")."*

Map of Subject Property



Attachment "B", Unlicensed Contractor Complaint (Page 1 of 2).

STATE OF FLORIDA: Case #: 2020058665 Brian L Hall
COUNTY OF LAKE :
Before me, the undersigned authority, duly authorized to administer oaths, personally appeared LINDA BURNS and sworn (AFFIANT)
under oath the following:

I looked & find Koradocks, I had an estimator come out. A proposal was sent, I was really agreed & made a 75% down payment, they requested 50% & I declined.

The scope to replace existing decking & support demolish a boat house & to install a boat lift. We later had a change to make deck slightly larger. I asked the owner no less than 3 times, do I need a building permit? He said talked to the county, none needed to replace boards & keep the same size.

A month after the project I get a letter from the county stating I need a permit. I'm still in process with variance court, then I can apply for a building permit.

During the project I found the people were not from Koradocks but from a contractor list. The contractor hired to demolish threatened me with a lien, my response was I didn't hire you, KONA did.

The installers were inferior the decking was laid to plan, one of the pilings came undone & lowered the boat lift!

I gave a response after filing a dispute at the bank. He fixed the piling, reinstalled the boat lift. The jack leg now, they improvised instead of replacing.

Attachment "B", Unlicensed Contractor Complaint (Page 2 of 2).

Continued on Page 2

I had back \$2500 to cover the costs of permitting I would like a full refund. Shoddy work covered by half truths.

They switched invoice systems half way through + I have no further record other than what I provided

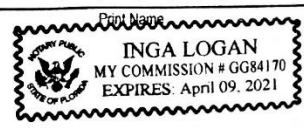
Linda Burne Tracking Testis in
PRINT NAME
55744 Holiday Circle
STREET ADDRESS
Astor FL 32107
CITY STATE ZIP CODE
5713096051, sixty21@yaho.com
CURRENT PHONE & EMAIL

Linda Burne
AFFIANT
(Sign in front of Notary)

STATE OF FLORIDA
COUNTY OF LAKE
Sworn and subscribed before me this 23RD day of January 2021.

By LINDA BURNS
Personally known:
Produced Identification:
Type: FDL B652533628050

Inga Logan
Notary Public, State of Florida
INGA LOGAN



**Final Development Order
VAR-20-71-5
Burns Property**

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

WHEREAS, Linda Maria Burns (the “Owner “ and the “Applicant”) submitted a variance request to Lake County Code, Land Development Regulations (LDR) Section 3.02.05, to allow an after-the-fact storage shed to be located three (3) feet from the western property line, in lieu of five (5) feet; LDR Section 3.02.05, to allow an after-the-fact deck to be located on the property line, in lieu of five (5) feet from the property line; and LDR Section 6.01.04(A)(1), to allow an after-the-fact deck to be located twenty-eight (28) feet from the top of the bank, in lieu of fifty (50) feet from the top of the bank; and

WHEREAS, the subject property consists of 0.24 +/- acres, located at 55744 Holiday Circle, in the Astor area of unincorporated Lake County, Florida, in Section 30, Township 15 South, Range 28 East, having Alternate Key Number 1328730 and more particularly described as:

Lot 47, Holiday Haven Campsites, Unit No. 2, according to the plat thereof, as recorded in Plat Book 18, Page 17, of the Public Records of 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 March 11, 2021; 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 March 11, 2021, 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-20-71-5, to allow an after-the-fact storage shed to be located three (3) feet from the western property line, in lieu of five (5) feet; to allow an after-the-fact deck to be located on the property line, in lieu of five (5) feet from the property line; and to allow an after-the-fact deck to be located twenty-eight (28) feet from the top of the bank, in lieu of fifty (50) feet from the top of the bank with the following conditions:

1. Stormwater calculations must be submitted at the time of issuance of each individual zoning permit in form of an interceptor swale that is sized to capture the first one inch (1”) of stormwater runoff on the site.
2. Stormwater calculations must be reviewed and approved by the Lake County Public Works Department staff.

- 3. The stormwater abatement system must be depicted on the to-scale plot plan when applying for the zoning permit; installed prior to any final inspection, inspected and approved by the Lake County Public Works Department staff.
- 4. Compensating storage for any fill required or placed for the shed or deck must be provided. An engineer's calculations and drawings will be required with permitting.
- 5. The shed is within the flood hazardous area and will require flood permitting. Additional requirements to allow this structure in the flood hazard area will be required with permitting would include a certified survey, flood determination, and elevation certificate.

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 11th day of March, 2021.

EFFECTIVE March 11, 2021.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Bea L. Meeks, 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 11th day of March, 2021, by Bea L. Meeks, as Vice-Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

**Notary Signature
(SEAL)**