



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 8

Public Hearing Date: April 8, 2021

Case No. and Project Name: VAR-21-02-4, Amatucci Property

Owners: Marsha and Mark Amatucci

Applicant: McGregor Love

Requested Action: Variance to setback requirements of LDR Section 3.02.05(l)(1)(c)(2), to allow an existing carport to remain within a right-of-way access easement.

Case Manager: Heather N. Croney, Planner

### Subject Property Information

Size: 0.49 +/- acres

Location: 12514 South Putney Court, Leesburg, FL 34788

Alternate Key No.: 2744090

Future Land Use: Urban Low

Current Zoning District: R-6

Flood Zone: "X" and "AE"

Joint Planning Area/ ISBA: None

Overlay Districts: None

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low	Urban Residential (R-6)	Residential	South Putney Court, Adjoined by Single-Family Dwelling Units
South	Urban Low	Urban Residential (R-6)	Wetlands, Residential	Canal, Adjoined by Single-Family Dwelling Units
East	Urban Low	Urban Residential (R-6)	Residential	Single Family Dwelling Unit
West	Urban Low	Urban Residential (R-6)	Residential	Single Family Dwelling Unit

### Summary of Request.

The subject 0.49 +/- acre parcel is identified by Alternate Key Number 2744090. The parcel is zoned Urban Residential (R-6) and is part of the Urban Low Future Land Use Category (FLUC). The subject parcel is currently developed with a single-family dwelling unit, a utility building, a swimming pool with deck and screen enclosure, a dock, a boathouse, and a carport. The parcel is located along the South side of South Putney Court, within the Pine Harbor subdivision, in the Leesburg area of unincorporated Lake County.

The property owners were cited for building a carport without a permit in October of 2020 (Code Case No. 2020100009). Per the application, the metal carport was placed on the property in 2006 by a contractor who was hired by the property owners, Mark and Marsha Amatucci. At the time that the owners installed the carport, they believed that the contractor they hired had obtained the proper permits. The Applicant was unable to obtain an after the fact zoning permit for the structure to facilitate the issuance of a building permit, due to the fact that the structure is located within a right-of-way access easement. The subject easement is a fifteen (15) foot canal access easement as depicted on the plat of the Harbor Hills Subdivision. Lake County Land Development Regulations (LDR) Section 3.02.05(l)(1)(c)(2) states that fences, walls, landscaping, and building appurtenances shall be prohibited from encroaching into a right-of-way or easement for roads, or drainage, unless specifically required as a condition of a government-issued Permit. The Applicant is seeking a variance to setback requirements of LDR Section 3.02.05(l)(1)(c)(2), to allow an existing carport to remain within a right-of-way access easement. Attachment A, Concept Plan, shows the property with the carport location designated.

The variance application was sent to the Public Works Department for review. The Public Works Department has no objections to the 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 Regulations will be or has been achieved by other means.**

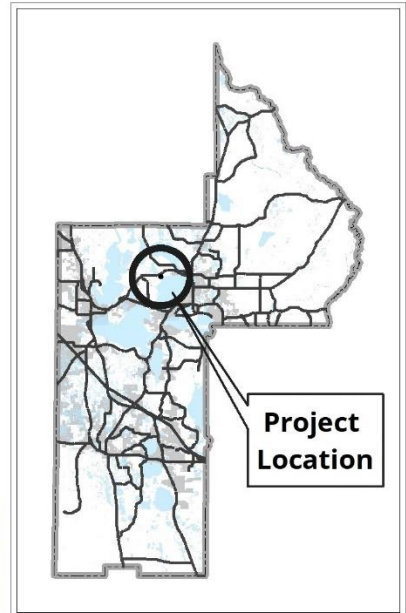
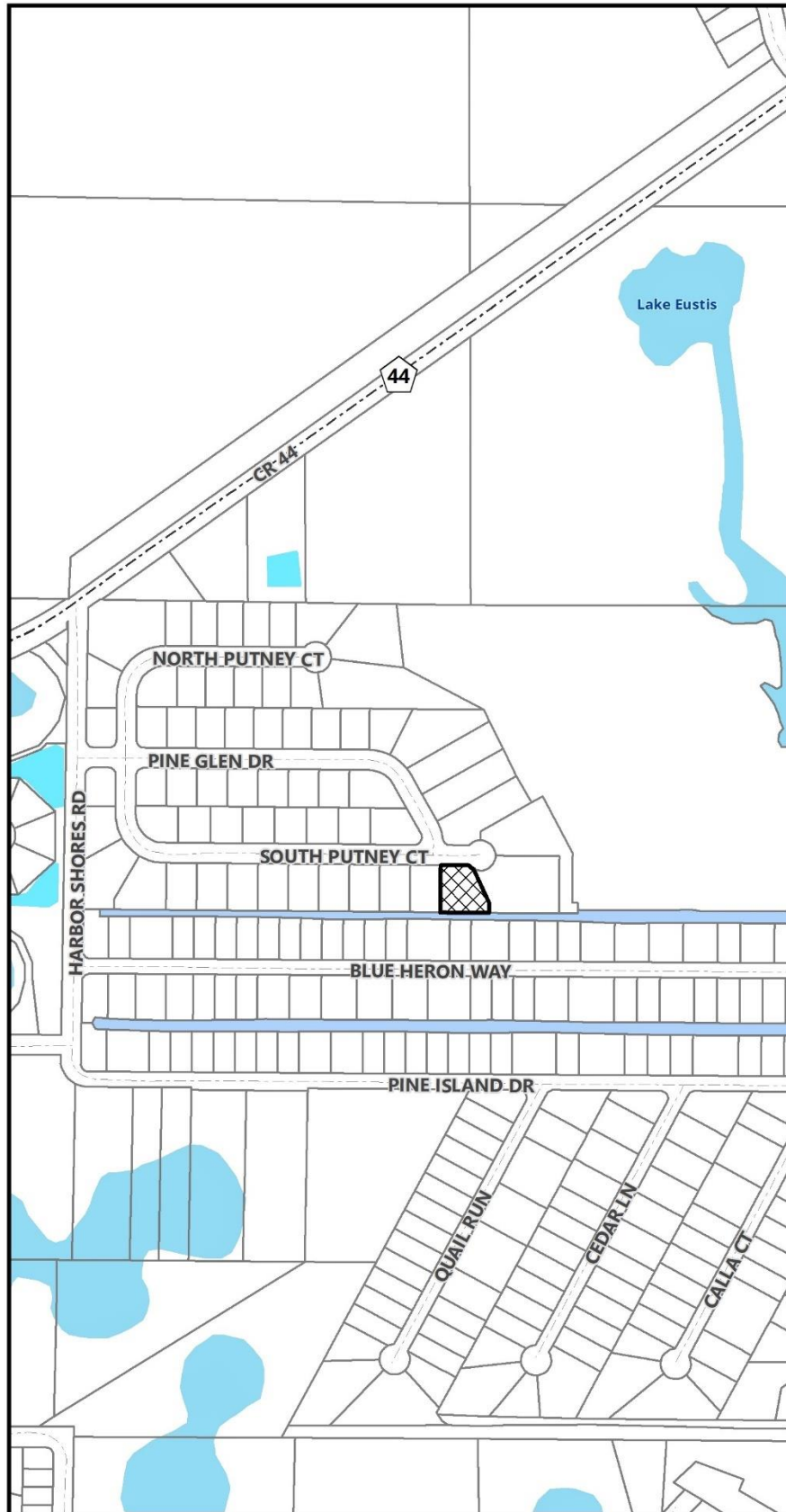
The intent of the Code, LDR Section 3.02.05, *Setbacks*, is to promote a logical development pattern, provide for safe setbacks between structures, and encourage a visually pleasing environment.

The Applicant provided a narrative with accompanying photos as to how the purpose of the Land Development Regulations will be or have been achieved by other means (Attachment B).

**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.**

The application provided a narrative with accompanying photos demonstrating that the LDR would create a substantial hardship (Attachment B).

# Map of Subject Property





## Attachment B, Purpose of LDR.

Purpose of the Land Development Regulation has been satisfied by other means

The Purpose of Section 3.02.05(I) of the County's Code has been satisfied by other means. Section 3.02.05(I) prohibits building appurtenances "from encroaching into a Right-of-Way or Easement for Roads, or drainage, unless specifically required as a condition of a government-issued Permit." The clear purpose of this Code provision is to prevent structures from hindering the use of easements for their intended purpose. In this case, the Amatuccis' Carport has never hindered the use of the Access Easement for its intended purpose. At no point prior to or following the Carport's installation was the portion of the Access Easement onto which the Carport was installed used to access the canal. At all times, the paved area has been the only portion of the Access Easement used to access the canal. Indeed, the paved portion of the Access Easement is wide enough to accommodate two full-size trucks, with trailers, arranged side-by-side:



Thus, while the Carport partially encroaches into the Access Easement, the Carport has never hindered the use of the Access Easement for its intended purpose – accessing the canal. Accordingly, strict application of Section 3.02.05(I) of the County's Code is not necessary, as the purpose of the Code has been satisfied by other means.

## Attachment C, Hardship Statement.

### Substantial Hardship in meeting Code criteria

In 2006, the owners of 12514 S. Putney Court, Mark and Marsha Amatucci, hired a contractor to install a metal carport (the "Carport") on the gravel driveway at the eastern end of their Property. The Carport was installed to the West of the paved portion of a canal access easement (the "Easement"). As shown by a comparison of aerial photographs from 2006 (prior to Carport installation) and 2008, the paved portion of the Access Easement did not, prior to the Carport's installation, occupy any portion of the gravel driveway onto which the Carport was installed.



At the time the Amatuccis installed the Carport, they believed that their contractor had obtained the proper permits, that the area of the Access Easement was limited to the paved area, and that no portion of the Carport would be within the Access Easement. The Amatuccis only recently became aware that the true boundary of the Access Easement extends to the west of the paved area, and that a portion of the Carport encroaches into the Access Easement (see attached Plot Plan). Requiring the removal of the Carport now, when it has remained on the Amatuccis' Property for the past fourteen (14) years and has not hindered the use of the Access Easement in any way, would constitute a substantial hardship.

**Final Development Order  
VAR-21-02-4  
Amatucci Property**

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

**WHEREAS**, McGregor Love (the “Applicant”), on behalf of Marsha and Mark Amatucci (the “Owners”), requested a Variance to Lake County Land Development Regulations Section 3.02.05(l)(1)(c)(2), Setback Requirements, to allow an existing carport to remain within a right-of-way access easement; and

**WHEREAS**, the subject property consists of 0.49 +/- acres, is located at 12514 South Putney Court, in the unincorporated Leesburg area of Lake County, Florida, in Section 6, Township 19, Range 26, having Alternate Key Number 2744090, and more particularly described below:

LOT 30 IN PINE HARBOUR, A SUBDIVISION IN LAKE COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 27 PAGES 19 AND 20, 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 April 8, 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 April 8, 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-21-02-4 to allow an existing carport to remain within a right-of-way access easement.

**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 8th day of April, 2021.  
EFFECTIVE April 8, 2021.**

**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 8th day of April, 2021, by James Argento, as Chairman of the Lake County Board of Adjustment.**

**Personally Known OR Produced Identification**

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

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**Notary Signature  
(SEAL)**