



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 4

Public Hearing Date: May 13, 2021

Case No. and Project Name: VAR-21-13-3, Conto Property

Owners: Edwin and Christian Conto

Applicant: Edwin Conto

Requested Action: Variance to Land Development Regulation (LDR) Table 3.02.05, Setbacks, to allow a shed to be located ten (10) feet from the side property line in lieu of twenty-five (25) feet.

Case Manager: Heather N. Croney, Planner

Subject Property Information

Size: 2.56 +/- acres

Location: 8030 County Road 48, Yalaha, Florida 34797

Alternate Key No.: 2946890

Future Land Use: Rural Transition Future Land Use Category (FLUC)

Current Zoning District: Agriculture

Flood Zone: "X"

Joint Planning Area/ ISBA: Howey-in-the-Hills Interlocal Service Boundary Area (ISBA)

Overlay Districts: Yalaha Rural Support Corridor

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low	Light Industrial (LM)	Roadway, Vacant and Convenience Retail	County Road 48 and Easy Food Mart Gas Station
South	Rural Transition	Agriculture (A) and CUP	Warehousing	Truckyard
East	Rural Transition	Planned Commercial (CP)	Vacant	Undeveloped
West	Rural Transition	Agriculture (A) and Planned Commercial (CP)	Residential and Service Shop	Southern Wildlife Taxidermy and Single-Family Dwelling Unit

Summary of Request.

The Applicant is seeking a variance to allow a shed to be located ten (10) feet from the side property line in lieu of twenty-five (25) feet (Attachment A). LDR Table 3.02.05 establishes a twenty-five (25) setback for the Agriculture zoning district. The subject property is zoned Agriculture which requires a minimum lot size of five (5) acres; however, the subject property is 2.56 acres in size. LDR Section 1.08.03.D, allows a reduced setback for that do not meet the minimum lot size of the Zoning District but requires that the properties utilize the setback requirement of the zoning district closest to the size of the nonconforming lot. The Agriculture Residential (AR) zoning district has a minimum lot size of two (2) acres, which is the closest lot size of the subject property, but LDR Table 3.02.05 also established a twenty-five (25) foot side setback for the AR zoning district. As such, the Applicant has a requested a variance to LDR Table 3.02.05, Setbacks, to allow a shed to be located ten (10) feet from the rear property line in lieu of twenty-five (25) feet.

The variance application was sent to the Public Works Department for review. The Public Works Department has no objections, comments, or conditions for 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, Setbacks, is to promote a logical development pattern, provide for safe setbacks between structures, and encourage a visually pleasing environment.

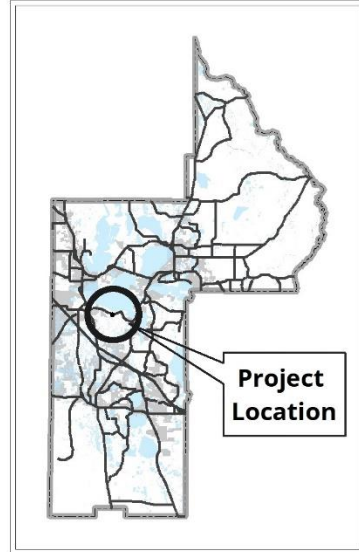
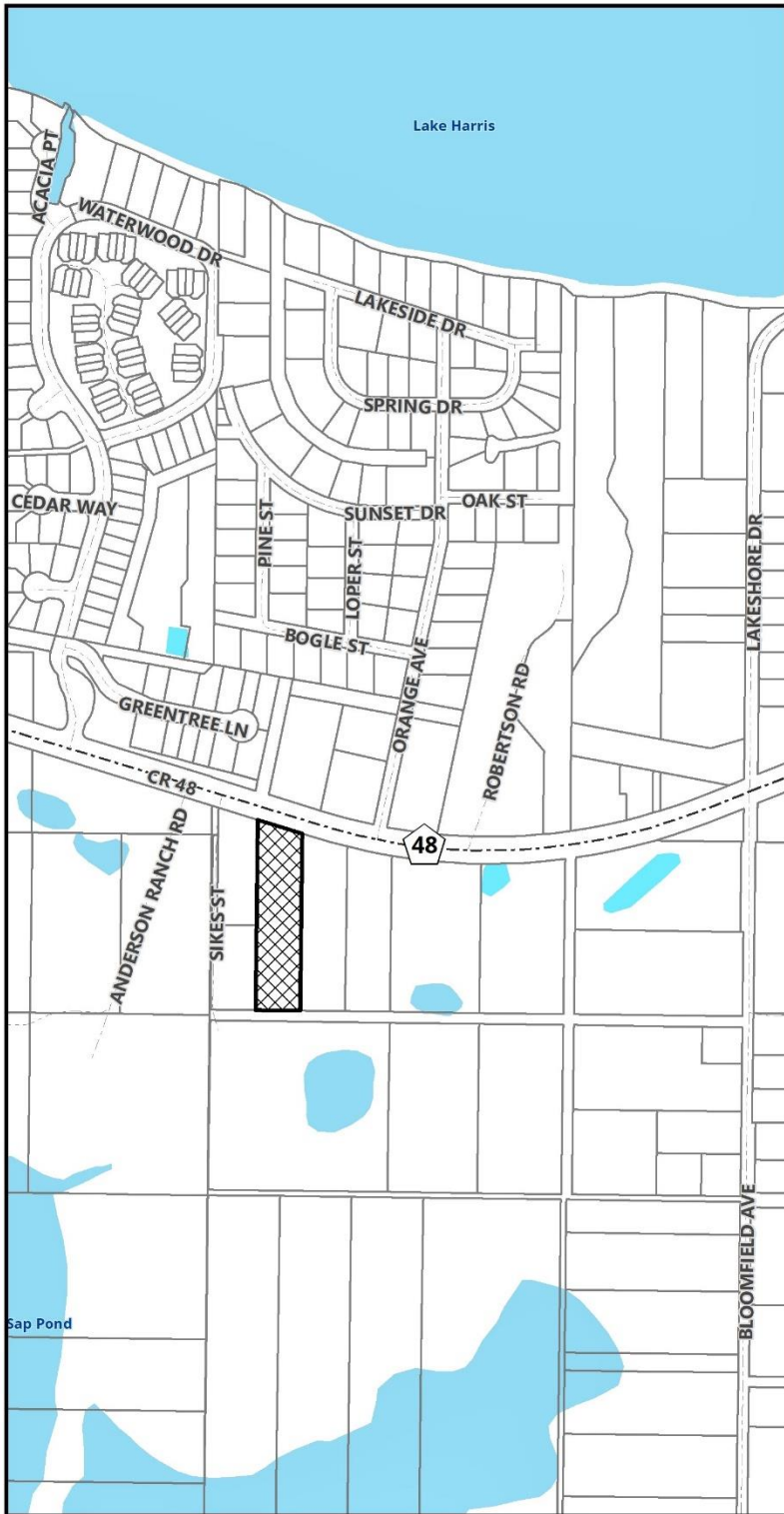
See Exhibit B.

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.

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.

See Exhibit B.

Map of Subject Property



Attachment B. Letter from Owners.

Feb. 16, 2021

Dear Council Members:

We are asking for a variance for our property at 8030 County Road 48, Yalaha, FL 34797. Our property is labeled as agricultural even though it is only 2.56 acres. Additionally, we are not raising any animals or crops and have no intent to do so. We are requesting to adhere to the 10 feet setback from our property border rather than the 25 feet requirement for agricultural property.

We have been trying to obtain a permit for a shed since January 2020 but have run into various obstacles. At our first visit to the courthouse, we were told that we must meet the 10 feet setback requirement from the property border. Later during the visit, we were told that most of our property was in a floodplain. We knew that this was incorrect by the elevation levels shown on the survey from purchasing the property. We were told to have documented proof of this, we had to have the property surveyed again with written descriptions and file a LOMA through Public Works. Then it had to be reviewed and accepted by FEMA. We began this costly process (approximately \$1200) immediately.

While waiting for the paperwork to be completed, we ordered a shed as it would take two months to build. There is an existing concrete pad on the property that had a dilapidated shed on it when we purchased the property. We removed the old shed with the purpose of setting a new shed on this same pad.

Due to the COVID epidemic, our paperwork was not approved until October 29, 2020. During this time, our shed was completed and had to be delivered. We had it set on the concrete pad and anchored to the concrete as it is one of the highest points on the property. We knew of the 10 feet set-back requirements and even set the shed further (12 and 1/2 feet) from the border. We received notice of FEMA's determination that a majority of our property is not in a floodplain but since we live in Pennsylvania, we were not able to submit all the documentation until returning to Florida in January.

We have been to the courthouse several times. On two separate occasions and by two different employees at the courthouse, we were told that we were only required to abide by the 10 feet setback rule since our property is 2.56 acres. On our most recent visit, we took all the required documents for permitting the shed only to be told that we are to set the shed 25 feet from the border. It was suggested that we extend the concrete pad and move the shed forward, however, this is not possible due to the location of our well.

We respectfully request a variance from the 25 feet setback rule to adhere to the 10 feet setback requirement from the border for our property.

Sincerely,
Edwin D. Conto
Christian E. Conto
Edwin and Christian Conto

CURRENT ZONING



Zoning Legend

A R-3 R-6 CP LM

NAME: **CONTO PROPERTY**
CASE NUMBER: **VAR-21-13-3**
LOCATION (S-T-R): **16 & 21-20-25**
REQUEST: **ACCESSORY STRUCTURE SETBACK ADJUSTMENT**



DISTRICT: **3**



CURRENT FUTURE LAND USE



Future Land Use

 Urban Low  Rural Transition

NAME: **CONTO PROPERTY**

CASE NUMBER: **VAR-21-13-3**

LOCATION (S-T-R): **16 & 21-20-25**

REQUEST: **ACCESSORY STRUCTURE SETBACK ADJUSTMENT**

DISTRICT: **3**



**Final Development Order
VAR-21-13-3
Conto Property**

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

WHEREAS, Edwin Conto (the “Applicant”), on behalf of Edwin and Christian Conto (the “Owners”), requested a variance to Land Development Regulation (LDR) Table 3.02.05, Setbacks, to allow a shed to be located ten (10) feet from the rear property line in lieu of twenty-five (25) feet; and

WHEREAS, the subject property consists of 2.56+/- acres, is located at 8030 County Road 48, Yalaha, Florida, having Alternate Key Number 2946890, and more particularly described as:

“Exhibit A – Legal Description”

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 May 13, 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 May 13, 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-21-13-3 to allow a Variance to Land Development Regulation (LDR) Table 3.02.05, Setbacks, to allow a shed and associated concrete to be located ten (10) feet from the rear property line in lieu of twenty-five (25) feet.

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 13th day of May 2021.
EFFECTIVE May 13, 2021.**

**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 13th day of May 2021, by James Argento, as Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

**Notary Signature
(SEAL)**

Exhibit "A" – Legal Description

That part of the Northwest 1/4 of the Northwest 1/4 of the Northwest 1/4 of Section 21, Township 20 South, Range 25 East, and that part of Block O, SUN EDEN, as recorded in Plat Book 12, Page 65, of the Public Records of Lake County, Florida, bounded and described as follows:

From the Northwest corner of said Section 21 run east along the North line thereof 185.00 feet to the Point of Beginning. From the Point of Beginning run thence North 00°04'07" East to a concrete monument on the Southerly right of way line of State Highway No. 48 and a point hereby designated as Point "A". Begin again at the Point of Beginning and run thence South 00°04'07" West 663.04 feet to a concrete monument on the South line of the Northwest 1/4 of the Northwest 1/4 of the Northwest 1/4 of said Section 21, thence run North 89°59'41" East along said South line a distance of 160.00 feet to a concrete monument. thence run North 00°04'07" East a distance of 669.725 feet to a concrete monument set on the Southerly right of way line of State Highway No. 48, thence run Northwesterly along said Southerly right of way line a distance of 166.86 feet to the above designated Point "A".

As described in the deed recorded in OR BK 5159, PG 488