



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 9

Public Hearing Date: May 13, 2021

Case No. and Project Name: VAR-21-18-3, Burch Property

Owners: Steven R. Burch and Gayle M. Burch

Applicant: Gayle M. Burch

Requested Action: Variance to Land Development Regulations (LDR) Section 6.01.04.A(1), to allow an accessory structure (utility shed) to be setback 23-feet from the seawall, in lieu of 50-feet from the seawall.

Case Manager: Emily W. Johnson, Senior Planner

### Subject Property Information

Size: 0.51 +/- acres

Location: 14216 Otto Court, Tavares.

Alternate Key No.: 3554817

Future Land Use: Urban Low Density

Current Zoning District: Urban Residential (R-6)

Flood Zones: "AE" and "X"

Joint Planning Area (JPA) / ISBA: City of Tavares

Overlay Districts: N/A

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	N/A	N/A	Lake	Lake Eustis
South	City of Tavares	City of Tavares	Residential	Multi-Family Residences within City of Tavares, adjacent to canal
East	Urban Low Density	R-6	Residential	Single-Family Residential, adjacent to Otto Court
West	N/A	N/A	Lake	Lake Eustis

### Summary of Request.

The subject property, identified as Alternate Key Number 3554817, contains 0.51 +/- acres, is zoned Urban Residential (R-6), and is designated with an Urban Low Density Future Land Use Category by the 2030 Comprehensive Plan. Generally, the subject property is located west of Otto Court, in the unincorporated Tavares area of Lake County. The subject property is recognized as Lot 10 of Bonnie Breeze Shores subdivision, as recorded in Plat Book 16, Page 20, on May 10, 1961. The subject property is currently developed with a single-family dwelling unit and related accessory uses, including a seawall.

The Applicant has requested a variance to LDR Section 6.01.04.A(1) to allow for an accessory structure (utility shed) to be constructed 23-feet from the seawall, in lieu of 50-feet; the plot plan (Attachment "A") depicts the proposed location and dimensions of the shed.

The Lake County Department of Public Works reviewed the application and provided the following condition, should the variance request be approved:

1. An interceptor swale that is sized to capture the first 1-inch 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.

The subject property is located within the City of Tavares Interlocal Service Boundary Agreement (ISBA) Area. The City of Tavares reviewed the application and did not provide any comments nor identify any concerns with 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 Section 6.01.04 is to conserve and protect wetlands, to ensure that the natural structure and functional values are maintained, and to maintain no net loss of wetlands.

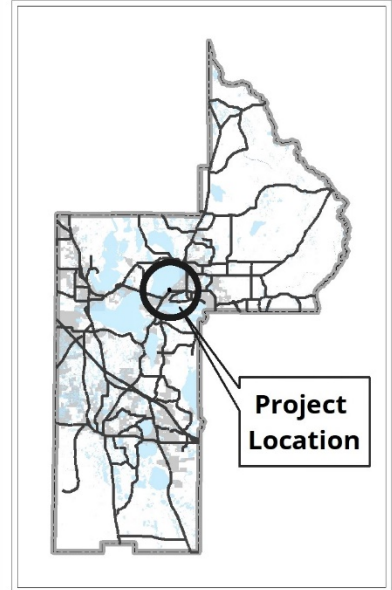
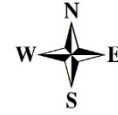
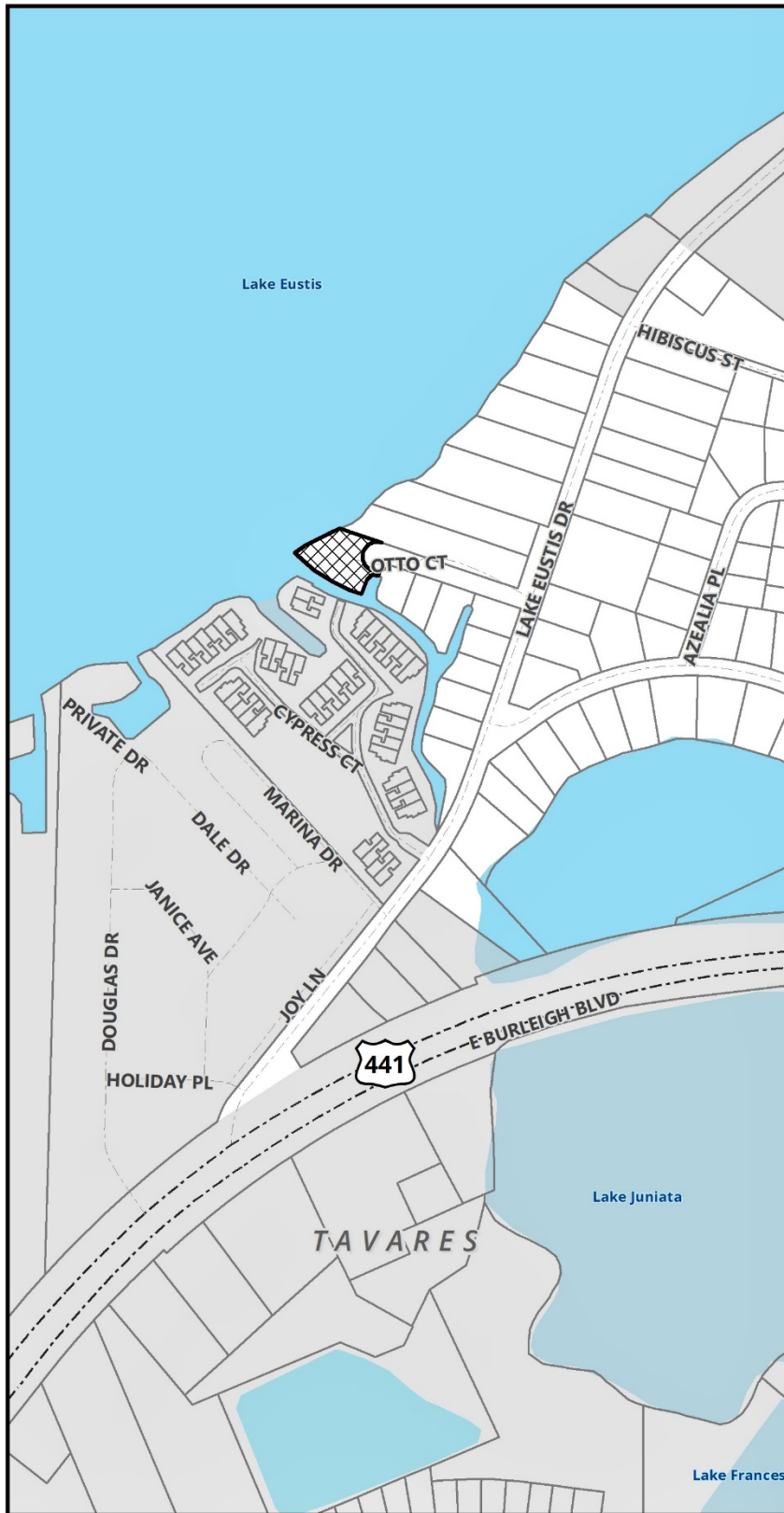
As proof that the intent of the code will be or has been achieved by other means, the Applicant provided the following statement, *"The purpose of the regulation is to protect the wetlands and water bodies, to protect them from pollution. The shed should not adversely effect [sic] the wetland or waterways."*

- 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.**

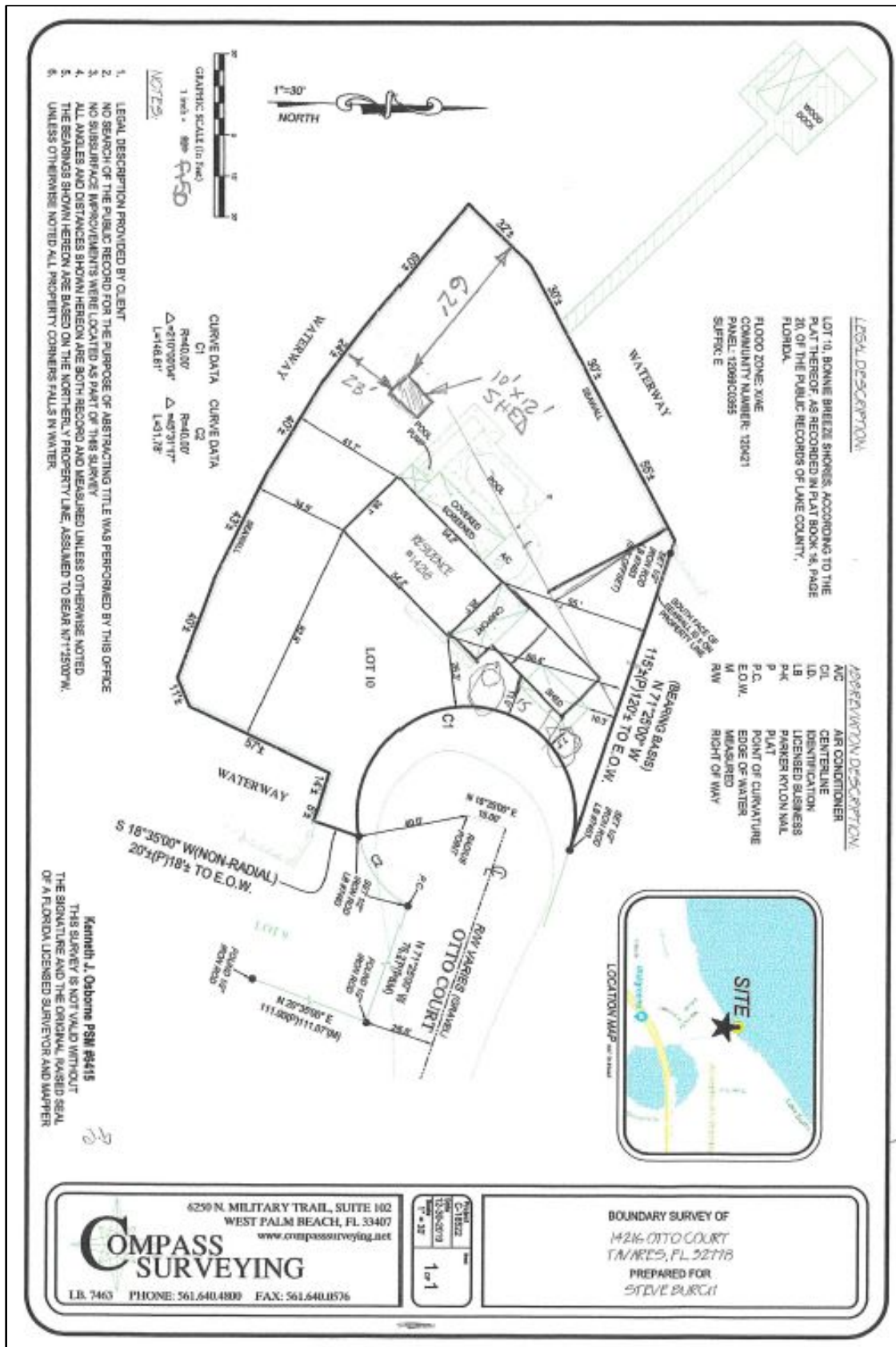
LDR Section 14.15.04, states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requested the variance.

As proof of a substantial hardship, the Applicant provided the following statement, *"Our hardship is that we do not meet the setback on the one side. We do not have any other place on the property as we cannot place it in front of the house and the septic is located in the front."*

# Map of Subject Property



# Attachment "A" – Plot Plan



**Final Development Order  
VAR-21-18-3  
Burch Property**

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

**WHEREAS**, Gayle M. Burch (the “Applicant”), on behalf of Steven R. Burch and Gayle M. Burch (the “Owners”), requested a variance to Land Development Regulations (LDR) Section 6.01.04.A(1), to allow for an accessory structure (utility shed) to be setback 23-feet from the seawall, in lieu of 50-feet from the seawall; and

**WHEREAS**, the subject property consists of 0.51 +/- acres and is located at 14216 Otto Court, in the Tavares area of unincorporated Lake County, in Section 21, Township 19, Range 26, having Alternate Key Number 3554817, and more particularly described below; and

Lot 10, Bonnie Breeze Shores, according to the Plat thereof, as recorded in Plat Book 16, Page 20, of the 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 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-21-18-3, to allow for an accessory structure (utility shed) to be setback 23-feet from the seawall, in lieu of 50-feet from the seawall; with the following condition:

1. An interceptor swale that is sized to capture the first 1-inch 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.

**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 13<sup>th</sup> 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 \_\_\_\_\_ day of \_\_\_\_\_, 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)**