



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 3

Public Hearing Date: June 10, 2021

Case No. and Project Name: VAR-21-12-3, Brigmond Construction Inc. Property

Owner: Brigmond Construction Inc.

Applicants: Perry L. and Debra L. Brigmond

Requested Action: Variance to Land Development Regulations (LDR) Table 3.02.05 and Section 9.11.00, to allow for impervious surfacing (pavers) to be placed within the 5-foot setback from side property lines.

Case Manager: Emily W. Johnson, Senior Planner

### Subject Property Information

Size: 0.24 +/- acres

Location: 6 Lakeshore Drive, Yalaha.

Alternate Key No.: 1275709

Future Land Use: Urban Low Density

Current Zoning District: Medium Residential District (R-3)

Flood Zones: "AE" and "X"

Joint Planning Area (JPA) / ISBA: Town of Howey-In-The-Hills ISBA

Overlay Districts: N/A

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	N/A	N/A	Lake	Lake Harris
South	Urban Low Density	R-3	Residential	Single-Family Residences, adjacent to Lakeshore Drive and canal
East	Urban Low Density	R-3	Residential	Single-Family Residences
West	Urban Low Density	R-3	Residential	Single-Family Residences

### Summary of Request.

The subject property, identified as Alternate Key Number 1275709, contains 0.24 +/- acres, is zoned Medium Residential District (R-3), and is designated with an Urban Low Density Future Land Use Category by the 2030 Comprehensive Plan. Generally, the subject property is located north of Lakeshore Drive, and south of Lake Harris, in the unincorporated Yalaha area of Lake County. The subject property is recognized as Lot 3 of Springs Bath & Yacht Club Unit 5 subdivision, as recorded in Plat Book 17, Page 63, on May 17, 1967. The subject property is currently developed with a single-family dwelling unit and related accessory uses, including a driveway and metal seawall.

The Applicant has requested a variance to LDR Table 3.02.05 and Section 9.11.00 to allow for impervious surfacing (pavers) to be placed within the 5-foot setback from side property lines. The plot plan (Attachment "A") depicts the proposed location of the impervious surfacing.

The Lake County Department of Public Works reviewed the application and provided the following statement: *"The applicant has provided gutters and drainage improvements that divert runoff onto the neighboring property. Drainage concerns onto the neighboring properties is not a concern based on the field review of the improvements. A variance to the codes is required in order to allow permitting such improvements and any inspections that may be required for lot grading. Public Works does not object nor approve of the improvements in the setback. The subdivision plat (PB 17, PG 63, Springs Bath and Yacht Club) does not identify drainage easements along the side property lines."*

Town of Howey-in-the-Hills was provided the variance application for review, and did not provide any comments nor identify any concerns.

### 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 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 9.11.00 is to prevent adverse impacts to surrounding and downstream wetlands, flood plains, and neighboring properties due to runoff and soil erosion.

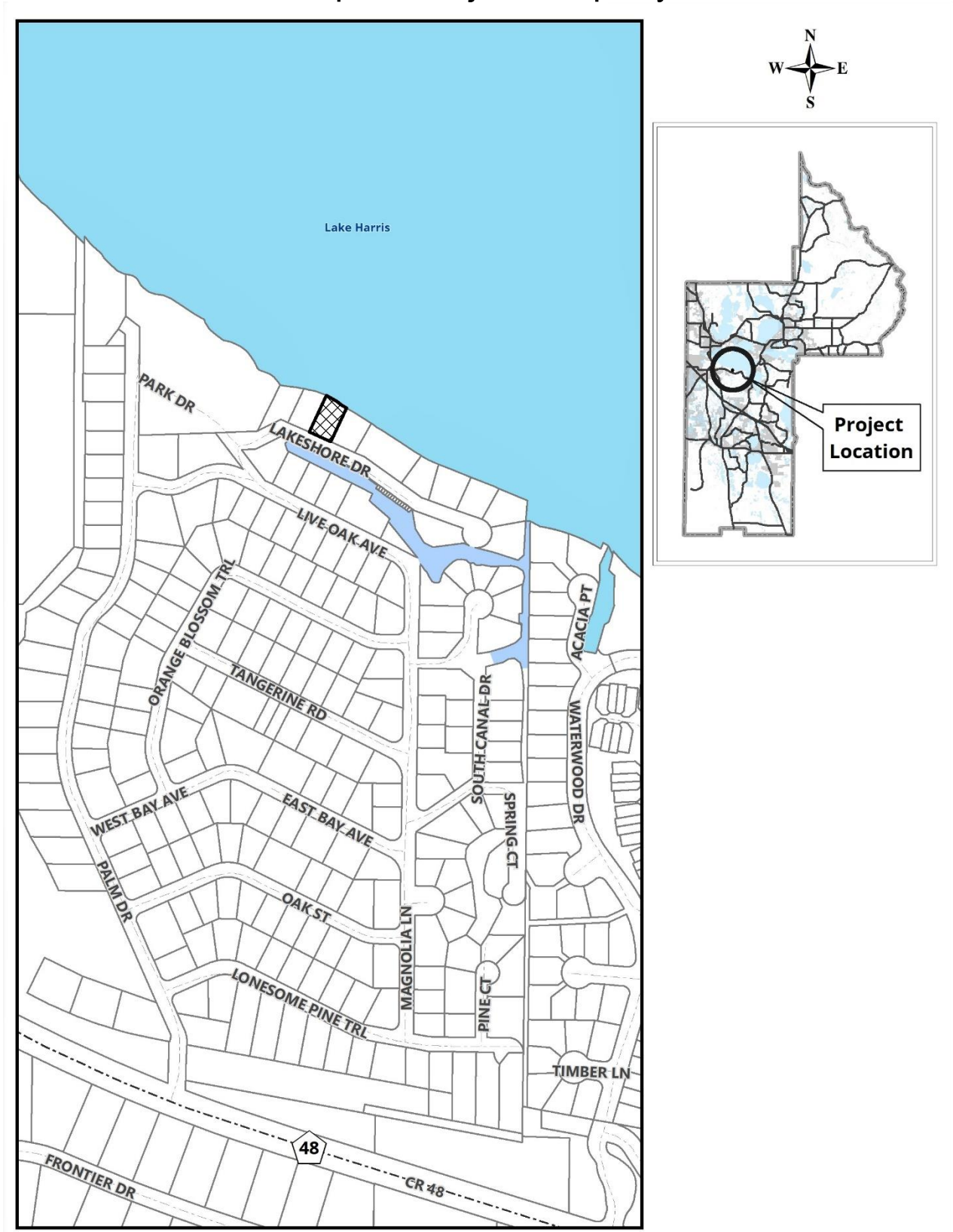
As proof that the intent of the code will be or has been achieved by other means, the Applicant provided the following statement, *"All run offs has been piped into a gutter system in to a retinion area [sic]."*

**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.**

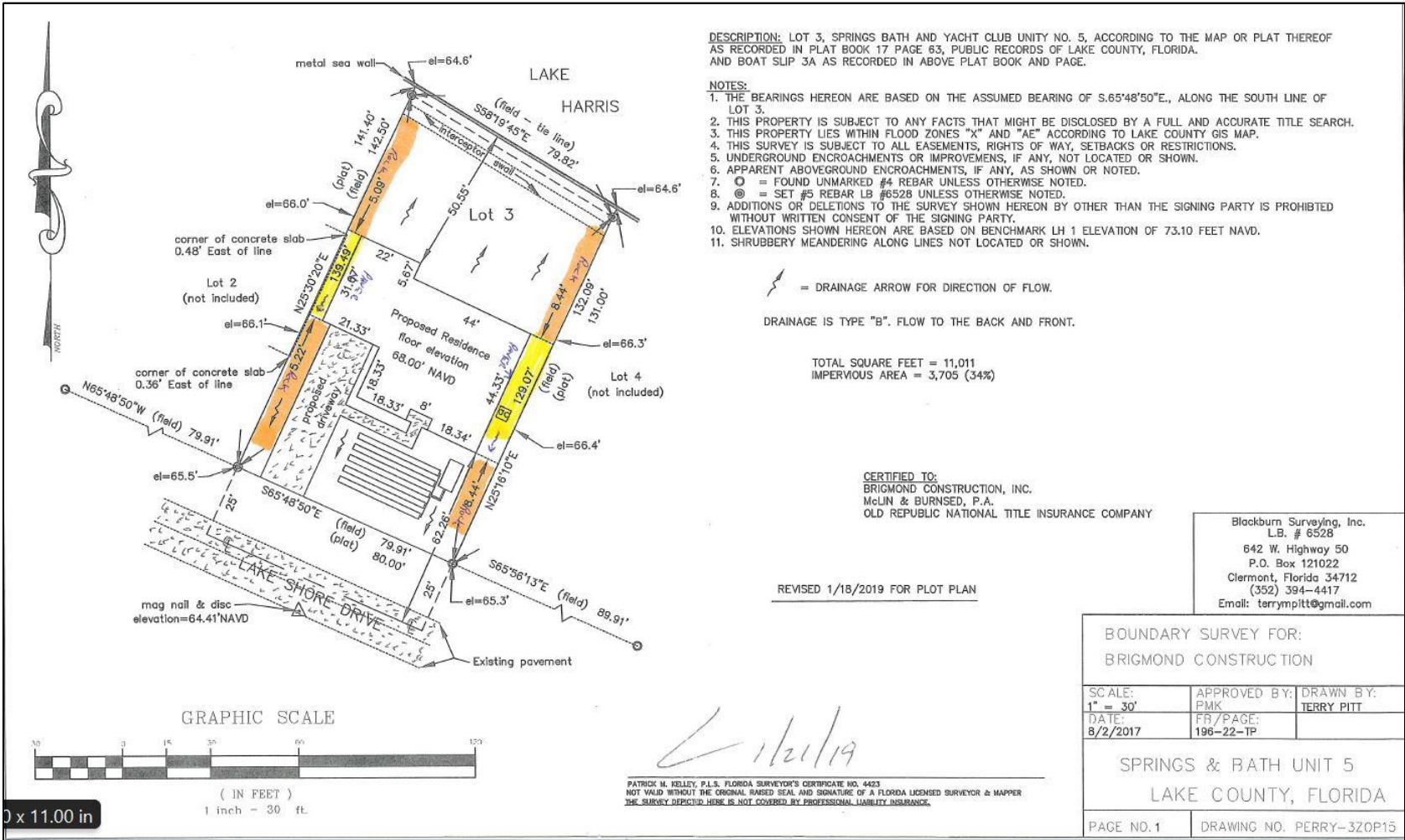
LDR Section 14.15.04, states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requested the variance.

As proof of a substantial hardship, the Applicant provided the following statement, *"Handy capped [sic] access. The pavers are common on both side of our neighbors."*

# Map of Subject Property



Attachment "A" - Plot Plan



0 x 11.00 in

**Final Development Order  
VAR-21-12-3  
Brigmond Construction Inc. Property**

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

**WHEREAS**, Perry L. and Debra L. Brigmond (the “Applicants”), on behalf of Brigmond Construction Inc. (the “Owner”), requested a variance to Land Development Regulations (LDR) Table 3.02.05 and Section 9.11.00, to allow for impervious surfacing (pavers) to be placed within the 5-foot setback from side property lines; and

**WHEREAS**, the subject property consists of 0.24 +/- acres and is located at 6 Lakeshore Drive, in the Yalaha area of unincorporated Lake County, in Section 17, Township 20, Range 25, having Alternate Key Number 1275709, and more particularly described below; and

Lot 3, Springs Bath & Yacht Club Unit 5, according to the Plat thereof, as recorded in Plat Book 17, Page 63, 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 June 10, 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 June 10, 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-21-12-3, to allow for impervious surfacing (pavers) to be placed within the 5-foot setback from side property lines.
- 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 10<sup>th</sup> day of June 2021.**

**EFFECTIVE June 10, 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 10th day of June, 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)**