



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 1

Public Hearing Date: June 10, 2021

Case No. and Project Name: VAR-21-19-1, Twiss Property

Owner/Applicant: Misty Morningstar-Twiss and Brian Twiss

Requested Action: Variance to Land Development Regulation (LDR) Section 3.01.02.A(1)(a), to allow a single-family dwelling unit to be sixteen (16) feet at the narrowest point in lieu of twenty-three (23) feet four (4) inches and a variance to Land Development Regulations (LDR) Table 3.02.09, to allow the minimum structure size to be six hundred and forty (640) square feet in lieu of eight hundred and fifty (850) square feet.

Case Manager: Ruth Mitchell, Associate Planner

Subject Property Information

Size: 3.04 +/- acres

Location: 915 South Whitney Road, Leesburg

Alternate Key No.: 2702974

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

Current Zoning District: Rural Residential (R-1)

Flood Zone: "AE" and "X"

Joint Planning Area/ ISBA: Leesburg Interlocal Service Boundary Area (ISBA)

Overlay Districts: N/A

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural	Rural Residential (R-1)	Residential	Single Family Dwelling Units
South	Rural	Agriculture (A)	Right-of-Way	South Whitney Road, Single Family Dwelling Units south of R-O-W
East	Rural	Rural Residential (R-1)	Residential	Single-Family Dwelling Unit
West	Rural	Agriculture (A)	Residential	Single-Family Dwelling Unit

Summary of Request.

The subject 3.04 +/- acre parcel is identified by Alternate Key Number 2702974; the parcel is zoned Rural Residential (R-1) and is a part of the Rural Future Land Use Category. The concept plan (Attachment A), shows that the parcel is developed with an after-the-fact, single-family dwelling unit.

On February 22, 2021, the Owner was cited building without a permit (Code Case No. 2021020220). To obtain permitting to satisfy the code case, the Owner is required to obtain a permit for the single-family dwelling unit, however, at the time of zoning permit submittal, the Owner was informed that the after-the-fact structure did not meet the required width and minimum structure size. The Owner has submitted a variance request to LDR Section 3.01.02(A)(1)(a) and to LDR Table 3.02.09, to allow a single-family dwelling unit with a minimum width of sixteen (16) feet at the narrowest point, in lieu of twenty-three (23) feet four (4) inches and to be a minimum size of six hundred forty (640) square feet in lieu of eight hundred fifty (850) square feet.

The subject parcel is located with the City of Leesburg ISBA; therefore, the variance application was set to the City of Leesburg for a determination of consistency with their regulations. The City of Leesburg provide the following comments, "Does not meet minimum City of Leesburg house size requirements, and please note flood zone on the property." However, based on the concept plan, the flood zones are noted.

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 3.01.02(A)(1)(a) is to promote aesthetic appeal as well as a reduction of other negative impacts that may be associated with land use activities. The surrounding homes in the immediate vicinity meet the minimum standards of the Code. Any unimproved parcels in the area are used for agricultural purposes. The closest singlewide is to the south and is approximately one mile from the owner's parcel. Viewed from the road, the home has the appearance of a singlewide with attached porches. What the owners have proposed will not mitigate the visual impact of the existing structure.

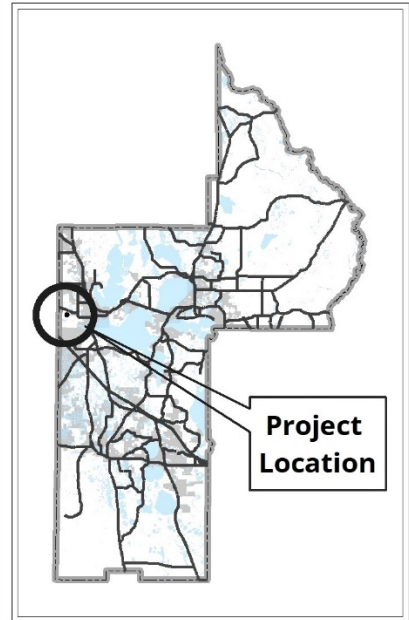
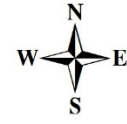
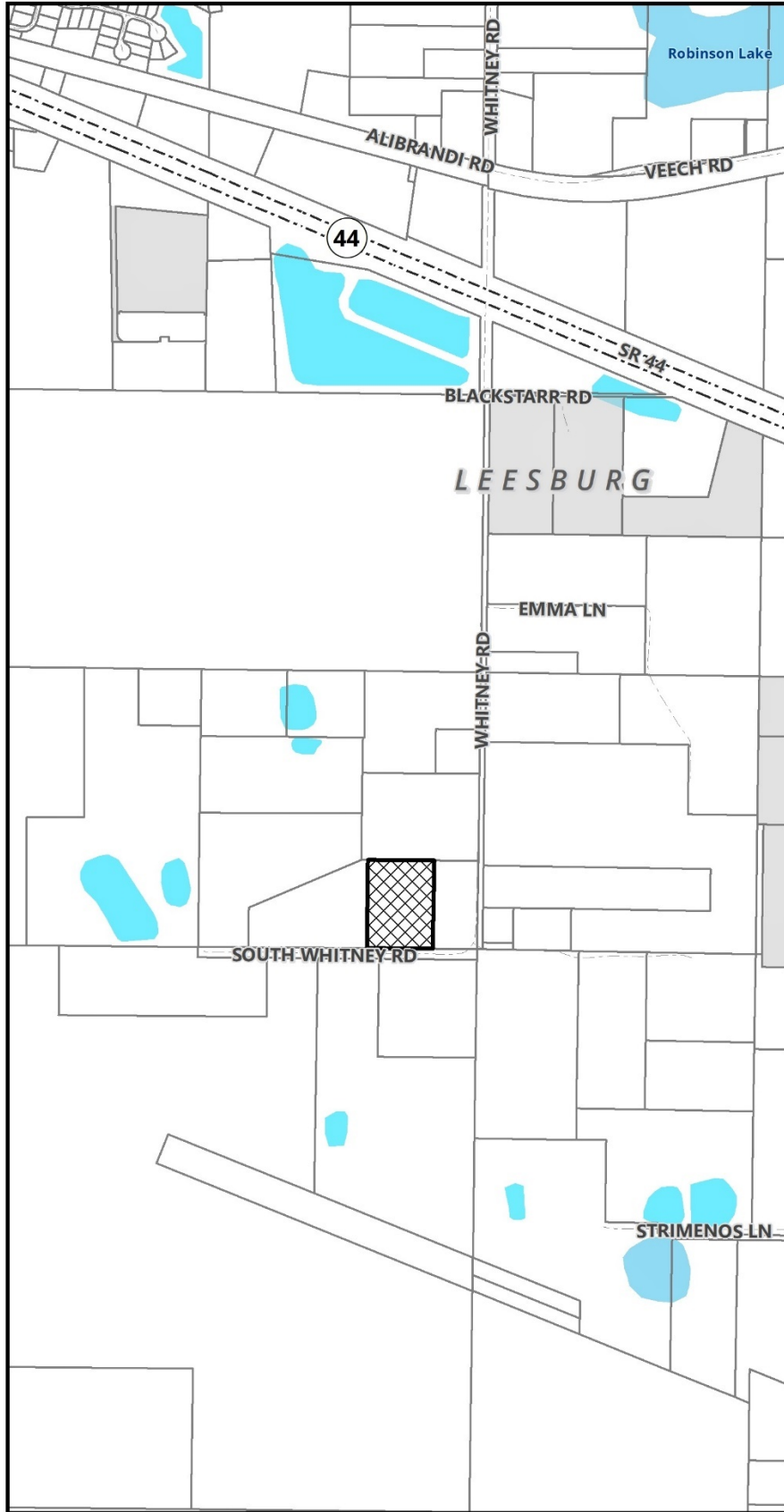
"The LDR goals include reducing impact on the environment and wildlife. Our Lake County community has documented this through incentivizing building new energy-efficient, "green" structures. This directly conflicts with a minimum size and width requirement for Lake Co. homes – the majority of our community's buildings. Placing a smaller agricultural dwelling on 3 acres of rural, surrounded by agricultural properties, only serves to maintain the quality of character and rustic atmosphere our neighborhood values."

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.

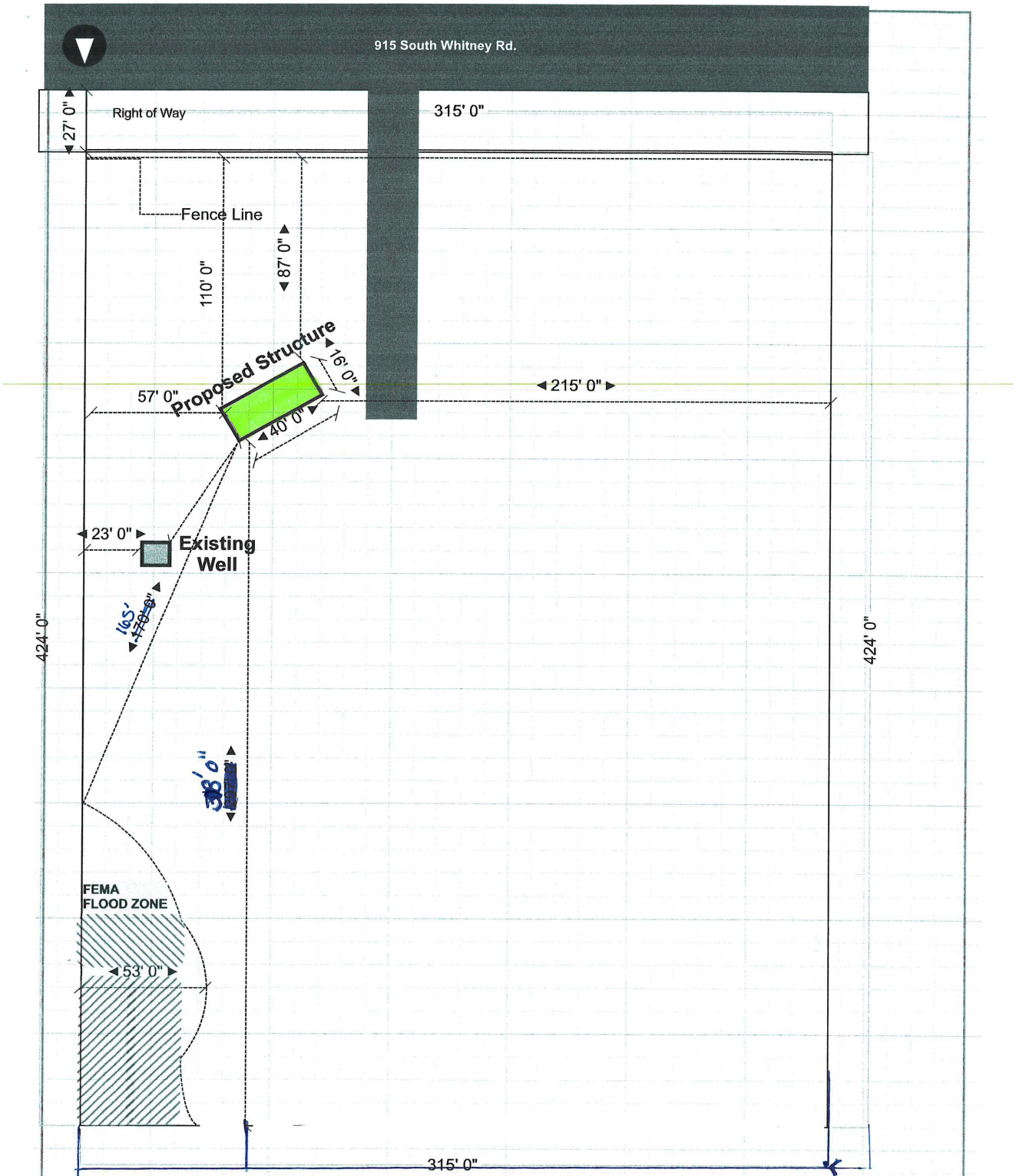
"Please see Attachment B for response."

Map of Subject Property



Attachment A. Concept Plan.

Scale: 50'



Attachment B. Hardship.

What is the substantial hardship in meeting the specific code requirement? To meet the specific code requirement would create a substantial hardship by forcing our family to build a bigger home that is unnecessary, wasteful, unsustainable, and impactful to not only the natural land we are living to enjoy, but also to our way of life, culture, values and religion. The negative financial impact would be immediate and long-term. (#1 cont. on attached.)

(#1 cont.) Since the beginning of the global pandemic, affordable housing for low- & moderate-income families in Florida is becoming increasingly difficult to attain due to factors such as out-of-state buyers, increased sales prices, short supply, higher interest rates, and increased costs in building materials. Meanwhile, we are reducing natural lands, wildlife habitat, and sustainable basic natural resources such as water.

We purchased 3 acres of beautiful rural land which will provide a more natural setting, grow our own sustainable food supply and enjoy the other natural resources the land provides for our family. Besides building a "green" home with a minimal environmental impact, and reducing water and energy consumption, we can provide our family with a clean, stable home in a safe neighborhood that we can actually afford.

Over the last year, our family has sustained multiple financial setbacks. We have had to provide housing and medical care for our aging parents, recently moving two members in-home with us. We were unable to sustain all the new financial obligations. We decided to drastically downsize and reduce expenses, so we exhausted all our financial resources to purchase property and a small, energy-efficient home for our family, to provide for all of us. However, interest rates and costs of construction and building materials have risen well beyond our affordability.

We purchased a lofted barn for \$22,000 with exterior measurements of 40 ft by 16 ft. to convert into a residential dwelling as part of a recently adopted alternative construction in the Florida Building Code. The structure meets all other Land Development regulations barring the minimum width requirement.

Zoning Code 3.01.02(A)1(a) states the residential dwelling "... shall have a minimum width of twenty-three (23) feet four (4) inches at the narrowest point." Forcing compliance with this regulation would create a substantial hardship from the financial loss and the loss of affordable housing. Forcing compliance would also violate the Principles of Fairness when the application affects many moderate to low-income families by prohibiting the use of affordable housing, especially since the cost of smaller footprint homes frequently are significantly less than the average 2600 sq. ft. homes.

According to the Future Land Use - Planning Horizon 2030 document, pg. 143, Lake County would be creating "a range of obtainable housing opportunities and choices." It further states we will "Promote a sustainable future that meets today's needs of a stable, diverse and equitable economy without compromising the ability of future generations to meet their needs by: a. Protecting the quality of the air, water, land and other natural resources; b. Conserving native vegetation, wildlife and habitat; c. Minimizing human impacts on local ecosystems and ecosystems worldwide; and d. Reducing greenhouse gas emissions."

**Final Development Order
VAR-21-19-1
Twiss Property**

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

WHEREAS, Misty Morningstar-Twiss and Brian Twiss (the “Applicant” and the “Owner”), requested a variance to Land Development Regulation (LDR) Section 3.01.02.A(1)(a), to allow a single-family dwelling unit to be sixteen (16) feet at the narrowest point in lieu of twenty-three (23) feet four (4) inches and a variance to Land Development Regulations (LDR) Table 3.02.09, to allow the minimum structure size to be six hundred and forty (640) square feet in lieu of eight hundred and fifty (850) square feet; and

WHEREAS, the subject property consists of 3.04 +/- acres, is located at 915 South Whitney Road, in the unincorporated Leesburg area of Lake County, Florida, in Section 30, Township 19, Range 24, having Alternate Key Number 2702974, and more particularly described in “**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 July 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 July 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-21-19-1 to allow a single-family dwelling unit to be sixteen (16) feet at the narrowest point in lieu of twenty-three (23) feet four (4) inches and a variance to Land Development Regulations (LDR) Table 3.02.09, to allow the minimum structure size to be six hundred and forty (640) square feet in lieu of eight hundred and fifty (850) square 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 8th day of July, 2021.
EFFECTIVE July 8, 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)**

Exhibit "A" – Legal Description

**THE WEST 315 FEET OF THE EAST 525 FEET OF THE SOUTH 420 FEET OF THE
NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY,
FLORIDA.**

Parcel Identification Number: 3019240001-000-00301

**Subject to easements, restrictions and reservations of record, if any, but this instrument
shall not operate to reimpose the same.**