



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 11

Public Hearing Date: July 8, 2021

Case No. and Project Name: VAR-21-35-3, Kidd Property

Owners/Applicants: Michael Anthony Kidd and Tori Lynn Kidd, Co-Trustees of the Teresa Kidd Trust

Requested Action: Variance to Lake County Code, Land Development Regulations (LDR) Sections 3.02.05 and 6.01.04(A)(1) to allow a residence and related accessory structure(s) to be constructed 45-feet from the centerline of the road and 35-feet from the jurisdictional wetland line along the southern property line, in lieu of 62-feet from the centerline of the road and 50-feet from the jurisdictional wetland line.

Case Manager: Janie Barrón, Senior Planner

### Subject Property Information

Size: 0.46 +/- acres

Location: Southwest of Palm Avenue and north of Treasure Island Road, in the Leesburg area.

Alternate Key No.: 3925301

Future Land Use: Rural Transition

Current Zoning District: Agriculture (A)

Flood Zones: "AE" and "X"

Joint Planning Area/ ISBA: City of Leesburg ISBA

Overlay Districts: N/A

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural Transition	Urban Residential (R-6)	Right-of-Way, Vacant	Palm Avenue, Vacant Parcel North of R-O-W
South	Rural Transition	Agriculture (A)	Canal	Canal, Vacant Parcel South of Canal
East	Rural Transition	Agriculture (A)	Vacant	Undeveloped Residential Lots
West	Rural Transition	Agriculture (A)	Vacant	Undeveloped Residential Lots

### Summary of Request.

The subject 0.46 +/- acre parcel is identified by Alternate Key Number 3925301; the parcel is zoned Agriculture (A) and is part of the Rural Transition Future Land Use Category (FLUC). The subject parcel is described as Lots 59 and 60 of Treasure Island Shores First Addition subdivision, as recorded in Plat Book 12, Page 95. The subject parcel is vacant and undeveloped.

The Applicant has submitted a variance request to LDR Sections 3.02.05 and 6.01.04(A)(1) to allow a residence and related accessory structure(s) to be constructed 45-feet from the centerline of the road and 35-feet from the jurisdictional wetland line along the southern property line (Attachment "A"). Currently, the Owners have no immediate plans to build on the property and the variance request is to allow them to sell the lots should the opportunity arise.

The variance application was sent to the Public Works Department for a determination of consistency with their regulations. The Public Works Department had no objections to the request and provided the following comments: "An interceptor swale that is sized to capture that 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 parcel is located within the City of Leesburg ISBA and the variance application was sent to City of Leesburg for a determination of consistency with their regulations. Leesburg had no comments or 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 Regulation will be or has been achieved by other means.**

The intent of the Code, LDR Section 6.01.04, is to protect valuable natural resources requiring protection from erosion, sedimentation, water pollution and other negative impacts, which may be associated with land use activities. It is the intent of this section to minimize such negative impacts through protection standards for development of adjacent lands.

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

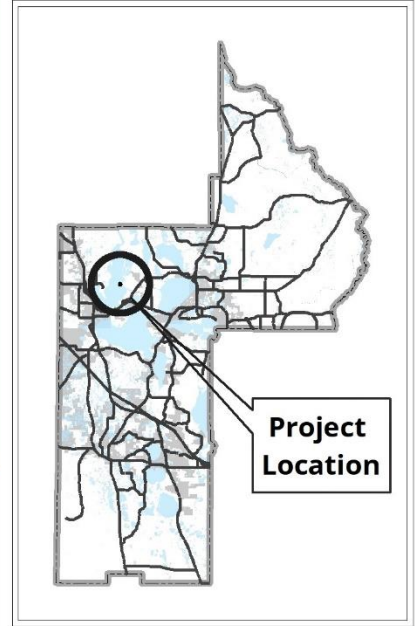
The Applicant has submitted the following intent of the Code statement: *"In reviewing all of the homes on the Treasure Island peninsula on the Lake County interactive map on-line, it appears that the 62' Centerline of Road (COR) setback and the 50' from the high waterline/seawall setback has been waived numerous times. Most recently, the owners of alternate key #3887020, which also does not have a seawall on their parcel, was allowed a combined 34' reduction in setback within the past few months. We are requesting that we be allowed the same courtesy."*

#### **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.**

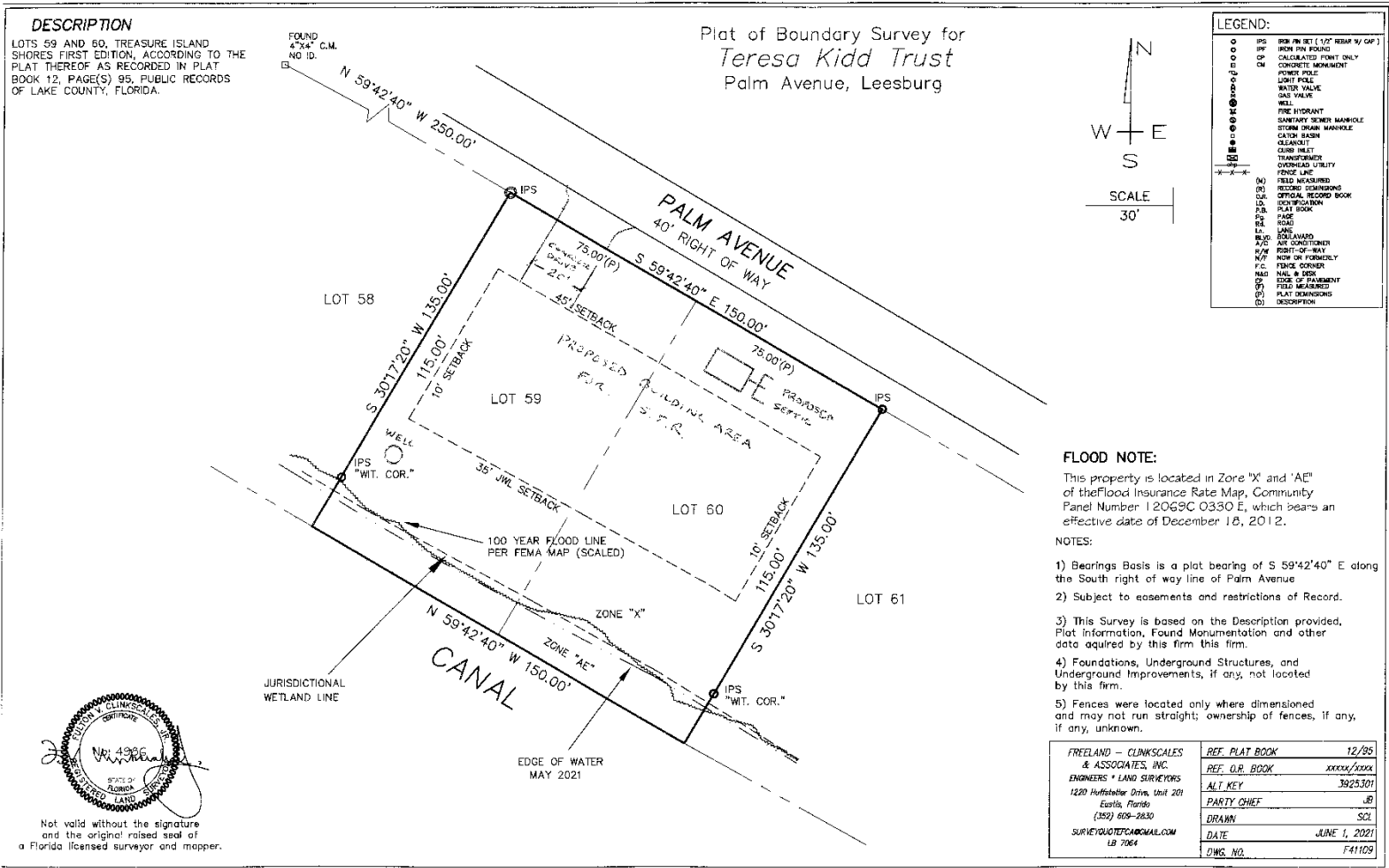
LDR Section 14.15.04 states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.

The Applicant submitted the following statement and setback table as proof that the LDR would create a substantial hardship or would violate principles of fairness: *"Due to the fact that this parcel does not have a seawall, our rear setback would be calculated from the high water/jurisdictional wetland line requiring us to built a home with a maximum depth of 25'. This reduction in buildable land area would greatly limit the options in building a standard 3/2 house. We received a verbal estimate of \$250/linear foot for building a seawall, an approximate cost of \$90,000.00. The approval of this variance will allow us to built a visually pleasing home that would also increase the value of homes in the area without incurring a substantially economic hardship on us."*

# Map of Subject Property



Attachment "A" - Concept Plan



**Final Development Order  
VAR-21-35-3  
Kidd Property**

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

**WHEREAS**, Michael Anthony Kidd and Tori Lynn Kidd, Co-Trustees of the Teresa Kidd Trust (the “Owners” and the “Applicants”) submitted a variance request to Lake County Code, Land Development Regulations (LDR) Sections 3.02.05 and 6.01.04(A)(1) to allow a residence and related accessory structure(s) to be constructed 45-feet from the centerline of the road and 35-feet from the jurisdictional wetland line along the southern property line, in lieu of 62-feet from the centerline of the road and 50-feet from the jurisdictional wetland line; and

**WHEREAS**, the subject property consists of 0.46 +/- acres, is located southwest of Palm Avenue and north of Treasure Island Road, in the Leesburg area of unincorporated Lake County, Florida, in Section 05, Township 19 South, Range 25 East, having Alternate Key Number 3925301 and more particularly described as:

Lots 59 and 60, Treasure Island Shores First Addition, according to the map or plat thereof, as recorded in Plat Book 12, Page 95, of the 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 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-21-35-3 to allow a residence and related accessory structure(s) to be constructed 45-feet from the centerline of the road and 35-feet from the jurisdictional wetland line along the southern property line with the following conditions:

1. Stormwater calculations must be submitted at the time of issuance of each individual zoning permit in form of an interceptor swale that is sized to capture the first one inch (1”) of stormwater runoff on the site.
2. Stormwater calculations must be reviewed and approved by the Lake County Public Works Department staff.

- 3. The stormwater abatement system must be depicted on the to-scale plot plan when applying for the zoning permit; installed prior to any final inspection, inspected, and approved by the Lake County Public Works Department staff.

**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**

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**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 8<sup>th</sup> day of July 2021, by Bea L. Meeks, as Vice-Chairman of the Lake County Board of Adjustment.**

**Personally Known OR Produced Identification**

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

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**Notary Signature  
(SEAL)**