



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 12  
 Public Hearing Date: July 8, 2021  
 Case No. and Project Name: VAR-21-36-3, Kidd Property  
 Owners: Teresa Kidd Trust  
 Applicant: Tori Kidd  
 Requested Action: Variance to Land Development Regulations (LDR) Sections 3.02.05 and 6.01.04(A)(1) to allow a single-family dwelling unit and related accessory structures to be constructed 45-feet from the centerline of the road and 35-feet from the jurisdictional wetland line, in lieu of 62-feet from the centerline of the road and 50-feet from the jurisdictional wetland line.  
 Case Manager: Emily W. Johnson, Senior Planner

### Subject Property Information

Size: 0.46 +/- acres  
 Location: Southwest of Palm Avenue, in the unincorporated Leesburg area.  
 Alternate Key No.: 3881016  
 Future Land Use: Rural Transition  
 Current Zoning District: Agriculture (A)  
 Flood Zones: "AE" and "X"  
 Joint Planning Area (JPA) / ISBA: City of Leesburg  
 Overlay Districts: N/A

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural Transition	A	Residential	Single-Family Residence and Vacant Residential, adjacent to Palm Avenue
South	Rural Transition	A	Vacant Residential	Vacant Residential, adjacent to canal
East	Rural Transition	A	Residential	Single-Family Residence
West	Rural Transition	A	Vacant Residential	Vacant Residential

### Summary of Request.

The subject property is recognized as Lots 55 and 56 of Treasure Island Shores First Addition subdivision, as recorded in Plat Book 12, Page 95, on January 20, 1955. The subject property is currently vacant and undeveloped.

The Applicant has requested a variance to LDR Sections 3.02.05 and 6.01.04(A)(1) to allow a single-family dwelling unit and related accessory structures to be constructed 45-feet from the centerline of the road and 35-feet from the jurisdictional wetland line, in lieu of 62-feet from the centerline of the road and 50-feet from the jurisdictional wetland line. The plot plan (Attachment "A") depicts the proposed building area.

The subject property is located within the City of Leesburg Interlocal Service Boundary Agreement (ISBA) Area. The City of Leesburg reviewed the application and did not provide any comments nor identify any concerns with the variance request. The Lake County Department of Public Works reviewed the application and requested the following condition for inclusion in the development order: 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.

### 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 3.02.05, 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 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.

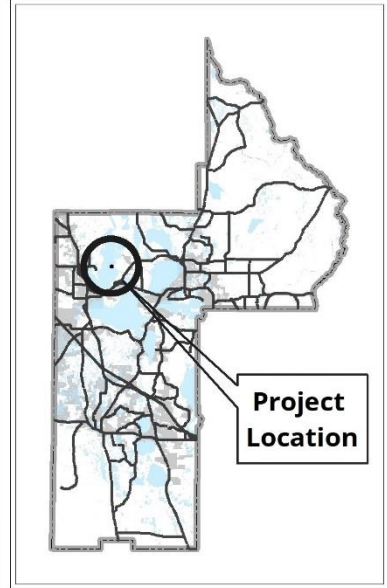
As proof that the intent of the code will be or has been achieved by other means, the Applicant provided the following statement, *"In reviewing all of the homes on the Treasure Island peninsula on the Lake County interactive map on-line, it appears that the 62' Centerline of Road (COR) setback and the 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.**

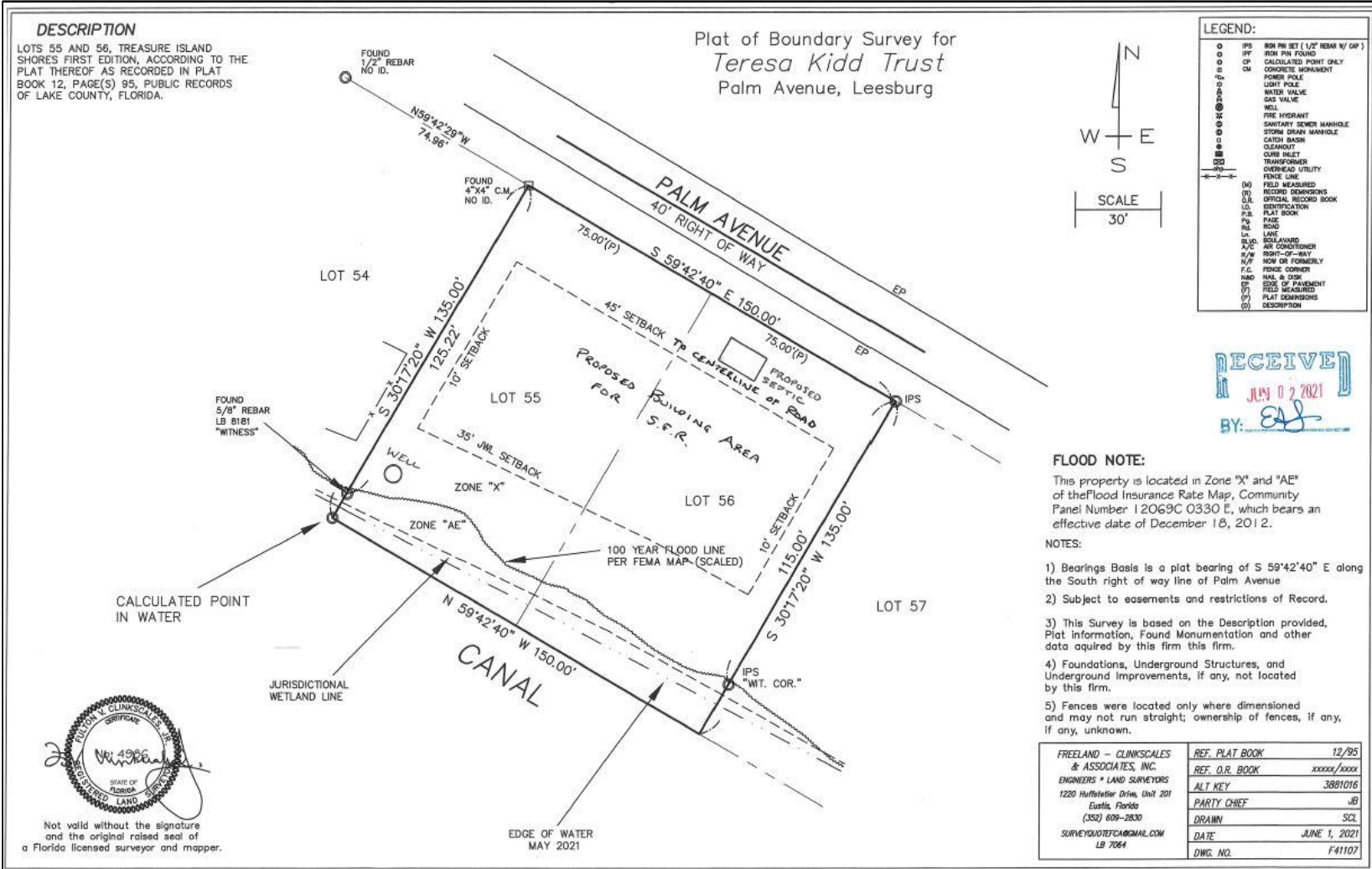
LDR Section 14.15.04, states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requested the variance.

As proof of a substantial hardship, the Applicant provided the following statement, *"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 [sic] 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 \$37,500.00. The approval of this variance will allow us to built [sic] a visually pleasing home that would also increase the value of homes in the area without incurring a substantial economic hardship on us."*

# Map of Subject Property



Attachment "A" - Plot Plan



**Final Development Order**  
**VAR-21-36-3**  
**Kidd Property**

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

**WHEREAS**, Tori Kidd (the “Applicant”), on behalf of Teresa Kidd Trust (the “Owner”) requested a variance to Land Development Regulations (LDR) Sections 3.02.05 and 6.01.04(A)(1) to allow a single-family dwelling unit and related accessory structures to be constructed 45-feet from the centerline of the road and 35-feet from the jurisdictional wetland 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 and is located southwest of Palm Avenue, in the Leesburg area of unincorporated Lake County, in Section 5, Township 19, Range 25, having Alternate Key Number 3881016, and more particularly described below; and

Lots 55 and 56, Treasure Island Shores First Addition, according to the plat thereof, as recorded in Plat Book 12, Page 95, 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 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-21-36-3, to allow for a single-family dwelling unit and related accessory structures to be constructed 45-feet from the centerline of the road and 35-feet from the jurisdictional wetland line, in lieu of 62-feet from the centerline of the road and 50-feet from the jurisdictional wetland line; 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 8<sup>th</sup> day of July 2021.**

**EFFECTIVE July 8, 2021.**

**BOARD OF ADJUSTMENT  
LAKE COUNTY, FLORIDA**

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**Bea 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 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)**