



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 8

Public Hearing Date: July 8, 2021

Case No. and Project Name: VAR-21-32-3, Ahern and Tapp Property

Owners/Applicants: Rose Marie Ahern and Daniel Evert Tapp

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: 0.70 +/- acres

Location: Southwest of Shores Court and south of Northshore Drive, in the Leesburg area

Alternate Key No.: 1498554

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	Agriculture (A)	Right-of-Way, Vacant	Shores Court, Vacant Parcel North of R-O-W
South	Rural Transition	Agriculture (A)	Canal, Residential	Canal, Single-Family Dwelling Unit South of Canal
East	Rural Transition	Agriculture (A)	Vacant	Single-Family Dwelling Unit
West	Rural Transition	Agriculture (A)	Canal, Residential	Canal, Single-Family Dwelling Units West of Canal

Summary of Request.

The subject 0.70 +/- acre parcel is identified by Alternate Key Number 1498554; 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 17, 18 and 19 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"). Staff must emphasize that the setback to the canal along the side of Lot 17 (western side of the subject parcel) is 50-feet from the jurisdictional wetland line.

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; therefore, 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 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 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.

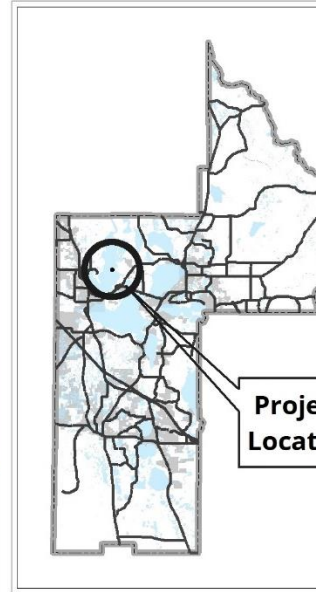
The Applicant has submitted the following intent of the Code statement: *"In reviewing all of the homes on the Treasure Island peninsula on the Lake County interactive map on-line, it appears that the 62' Centerline of Road (COR) setback and the 50' from the high waterline/seawall setback has been waived 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.

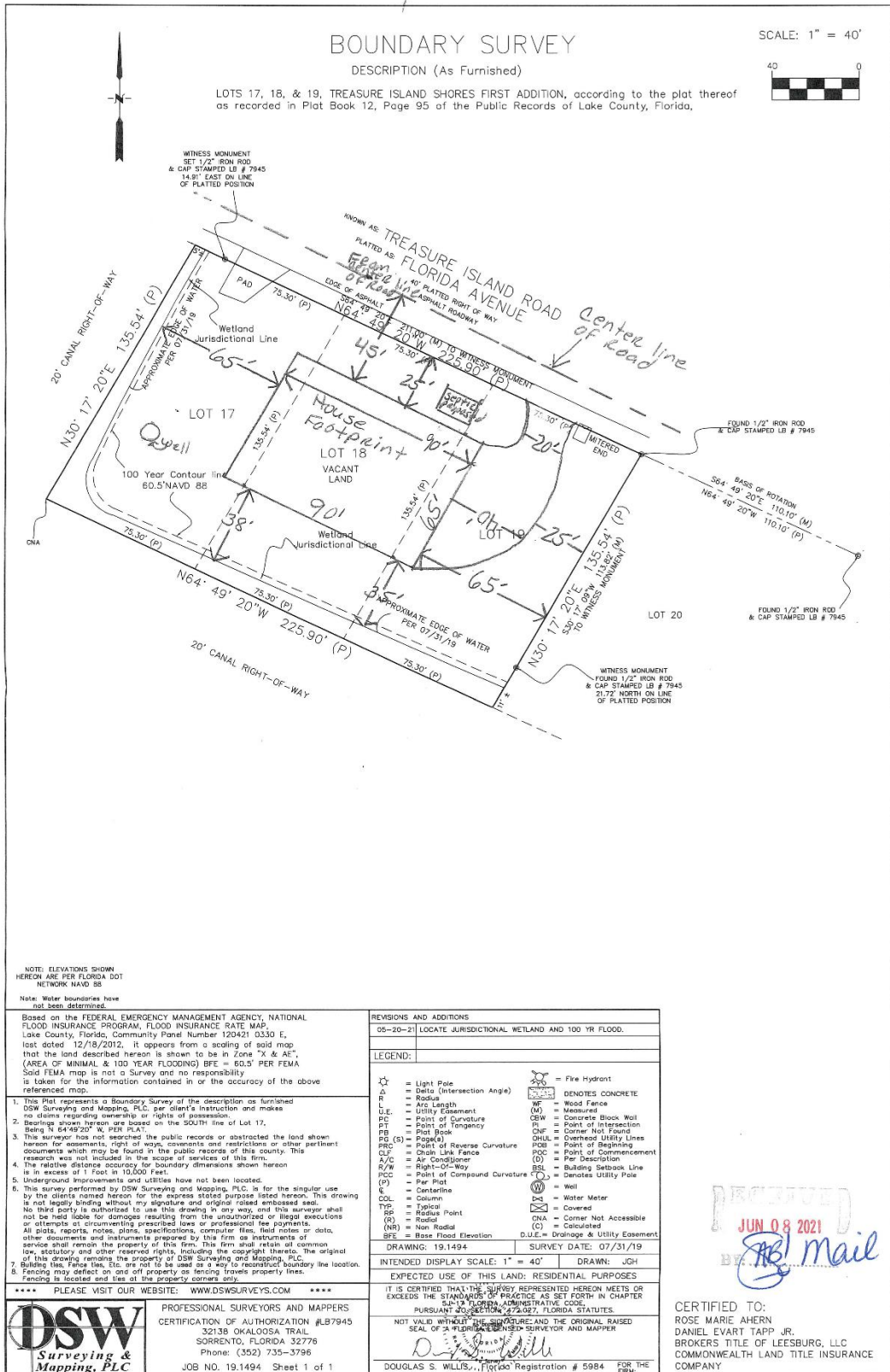
LDR Section 14.15.04 states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.

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.



NOTE: ELEVATIONS SHOWN HEREON ARE PER FLORIDA DOT NETWORK NAVD 88

Note: Water boundaries have not been determined

Based on the FEDERAL EMERGENCY MANAGEMENT AGENCY, NATIONAL FLOOD INSURANCE PROGRAM, FLOOD INSURANCE RATE MAP, Lake County, Florida, Community Panel Number 120421 0330 E, last dated 12/18/2012. It appears from a scaling of said map that the land described hereon is shown to be in Zone "X & AE", (AREA OF MINIMAL & 100 YEAR FLOODING) BFE = 60.5' PER FEMA. Said FEMA map is not a Survey and no responsibility is taken for the information contained in or the accuracy of the above referenced map.

- This Plat represents a Boundary Survey of the description as furnished DSW Surveying and Mapping, P.L.C. per client's instruction and makes no claims regarding ownership or rights of possession.
- Boundaries shown hereon are based on the SOUTH line of Lot 17, Being N 84°49'20" W PER PLAT.
- This surveyor has not searched the public records or abstracted the land shown hereon for easements, right of ways, covenants and restrictions or other pertinent documents which may be found in the public records of this county. This research was not included in the scope of services of this firm.
- The relative distance accuracy for boundary dimensions shown hereon is in excess of 1 Foot in 10,000 Feet.
- Underground improvements and utilities have not been located.
- This survey performed by DSW Surveying and Mapping, P.L.C. is for the singular use by the clients named hereon for the express stated purpose listed hereon. This drawing is not legally binding without my signature and original raised embossed seal. No third party is authorized to use this drawing in any way, and this surveyor shall not be held liable for damages resulting from the unauthorized or illegal executions or attempts at circumventing prescribed laws or professional fee payments. All plats, reports, notes, plans, specifications, computer files, field notes or data, other documents and instruments prepared by this firm or instruments of service shall remain the property of this firm. This firm shall retain all common law, statutory and other reserved rights, including the copyright thereto. The original of this drawing remains the property of DSW Surveying and Mapping, P.L.C.
- Billings files, Bates files, Etc. are not to be used as a way to reestablish boundary line location.
- Fencing may affect on and off property as fencing travels property lines. Fencing is located and line of the property corners only.

**** PLEASE VISIT OUR WEBSITE: WWW.DSWSURVEYS.COM ****

DSW Surveying & Mapping, P.L.C.
 PROFESSIONAL SURVEYORS AND MAPPERS
 CERTIFICATION OF AUTHORIZATION #LB7945
 32118 OKALOOSA TRAIL
 SORRENTO, FLORIDA 32776
 Phone: (352) 735-3796
 JOB NO. 19.1494 Sheet 1 of 1

REVISIONS AND ADDITIONS	
05-20-21	LOCATE JURISDICTIONAL WETLAND AND 100 YR FLOOD.
LEGEND:	
☆	= Light Pole
Δ	= Delta (Intersection Angle)
R	= Radius
L	= Arc Length
U.E.	= Utility Easement
P.C.	= Point of Curvature
P.T.	= Point of Tangency
P.B.	= Plot Book
RG (S)	= (Range)
PRC	= Point of Reverse Curvature
CLF	= Chain Link Fence
A/C	= Air Conditioner
R/W	= Right-of-Way
P.C.C.	= Point of Compound Curvature
P	= Per Plat
€	= Centerline
COL	= Column
TYP	= Typical
RP	= Radius Point
TR	= Tied
(NR)	= Non Radial
BSE	= Base Flood Elevation
D.U.E.	= Drainage & Utility Easement
⊗	= Fire Hydrant
▣	= DENOTES CONCRETE
WF	= Wood Fence
(M)	= Measures
CBW	= Concrete Block Wall
INT	= Point of Intersection
CNF	= Corner Not Found
CUIL	= Overhead Utility Lines
POB	= Point of Beginning
POC	= Point of Commencement
(D)	= Per Description
B.S.L.	= Building Setback Line
⊙	= Denotes Utility Pole
⊖	= Well
⊕	= Water Meter
⊘	= Covered
CNA	= Corner Not Accessible
(C)	= Calculated
⊞	=

DRAWING: 19.1494 SURVEY DATE: 07/31/19
 INTENDED DISPLAY SCALE: 1" = 40' DRAWN: JGH
 EXPECTED USE OF THIS LAND: RESIDENTIAL PURPOSES

IT IS CERTIFIED THAT THE SURVEY REPRESENTED HEREON MEETS OR EXCEEDS THE STANDARDS OF PRACTICE AS SET FORTH IN CHAPTER 119, F.L.A.S., ADMINISTRATIVE CODES PURSUANT TO SECTION 472.087, FLORIDA STATUTES.

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A REGISTERED PROFESSIONAL SURVEYOR AND MAPPER

Douglas S. Willis
 DOUGLAS S. WILLIS, FLS (No. Registration # 5984 FOR THE FIRM)

RECORDED
 JUN 08 2021
 BY: *JGH* mail

CERTIFIED TO:
 ROSE MARIE AHERN
 DANIEL EVART TAPP JR.
 BROKERS TITLE OF LEESBURG, LLC
 COMMONWEALTH LAND TITLE INSURANCE COMPANY

**Final Development Order
VAR-21-32-3
Ahern and Tapp Property**

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

WHEREAS, Rose Marie Ahern and Daniel Evert Tapp (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 0.70 +/- acres and is located southwest of Shores Court and south of Northshore Drive, in the Leesburg area of unincorporated Lake County, Florida, in Section 05, Township 19 South, Range 25 East, having Alternate Key Number 1498554 and more particularly described as:

Lot 17, 18, 19, 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-21-32-3 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**

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 8th 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 _____

Notary Signature
(SEAL)