



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 9

Public Hearing Date: July 8, 2021

Case No. and Project Name: VAR-21-33-3, Ahern and Tapp Property

Owners: Rose M Ahern & Daniel E Tapp Jr.

Applicant: Rose M Ahern

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: 0.7 +/- acres

Location: Southwest of Shores Court, in the unincorporated Leesburg area.

Alternate Key No.: 3887018

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	Vacant Residential	Vacant Residential, adjacent to Shores Court
South	Rural Transition	A	Residential	Single-Family Residence, adjacent to canal
East	Rural Transition	A	Vacant Residential	Vacant Residential
West	Rural Transition	A	Vacant Residential	Vacant Residential

Summary of Request.

The subject property, identified as Alternate Key Number 3887018, contains 0.7 +/- acres, is zoned Agriculture (A), and is designated with a Rural Transition Future Land Use Category by the 2030 Comprehensive Plan. Generally, the subject property is located southwest of Shores Court, in the unincorporated Leesburg area. The subject property is recognized as Lots 23, 24, and 25 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 Lake County Department of Public Works reviewed the application and requested the following condition for inclusion in the development order:

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.

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.

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.

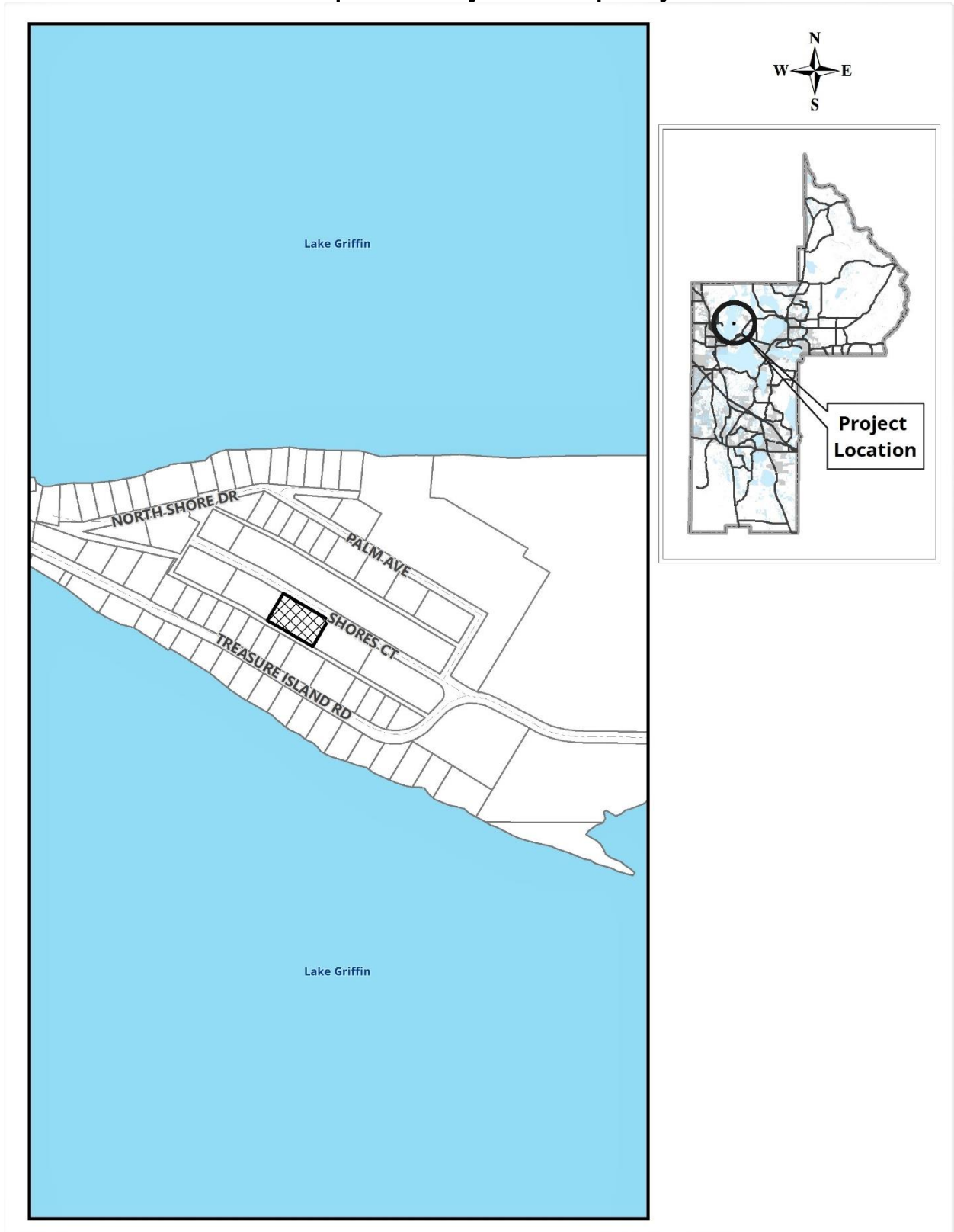
As proof that the intent of the code will be or has been achieved by other means, the Applicant provided the following statement, *"In reviewing all of the homes on the Treasure Island peninsula on the Lake County interactive map on-line, it appears that the 62' Centerline of Road (COR) setback and the 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 \$56,250.00. 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



**Final Development Order
VAR-21-33-3
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 M. Ahern (the “Applicant”), on behalf of Rose M. Ahern and Daniel E. Tapp Jr. (the “Owners”) 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 0.7 +/- acres and is located southwest of Shores Court, in the Leesburg area of unincorporated Lake County, in Section 5, Township 19, Range 25, having Alternate Key Number 3887018, and more particularly described below; and

Lots 23, 24, and 25, 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 8th day of July 2021.
EFFECTIVE July 8, 2021.**

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

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 8th 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 _____

**Notary Signature
(SEAL)**