



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 23

Public Hearing Date: August 12, 2021

Case No. and Project Name: VAR-21-49-3, Fensterer Property

Owner/Applicant: Lori Fensterer a/k/a Lori Burkholder

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 1.08.02(A)(1), to allow the expansion of an existing, lawful, nonconforming accessory structure, that exceeds the allowed ten (10) percent based on the structure as it existed on September 22, 2011.

Case Manager: Ruth Mitchell, Planner

Subject Property Information

Size: 2.45 +/- acres

Location: 16107 E. Shirley Shores Road

Alternate Key No.: 1493501

Future Land Use: Rural Transition

Current Zoning District: Agriculture (A)

Flood Zones: "AE" and "X"

Joint Planning Area/ ISBA: Tavares ISBA

Overlay Districts: N/A

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	N/A	N/A	Open Body of Water	Lake Dora
South	N/A	N/A	Street, City of Tavares	E. Shirley Shores Road, Parcels located within the City of Tavares South of Right-of-Way
East	Rural Transition	Agriculture (A)	Residential	Single-Family Dwelling Unit
West	Rural Transition	Agriculture (A)	Residential	Single-Family Dwelling Unit

Summary of Request.

The Owner has requested a variance to LDR Section 1.08.02(A)(1), to allow the expansion of an existing, lawful, nonconforming accessory structure that exceed the allowed ten (10) percent based on the structure as it existed on September 22, 2011. The Owner would like to enclose an existing carport and convert the carport into a detached garage.

The subject parcel, identified as Alternate Key Number 1493501, contains 2.45 +/- acres, is zoned Agriculture and is designated with a Rural Future Land Use Category by the 2030 Comprehensive Plan. The concept plan (Attachment A) shows that the parcel is developed with a single-family dwelling unit, carport over existing asphalt, pool, and driveway.

The subject parcel is located within the City of Tavares ISBA; therefore, the variance application was sent to the City of Tavares for a determination of consistency with their regulations. The City of Tavares 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 1.08.02, is to allow the continuation of nonconforming use or structure in its nonconforming and provide parameters as to how much a structure can be expanded before the structure or use is required to come into compliance with current regulations.

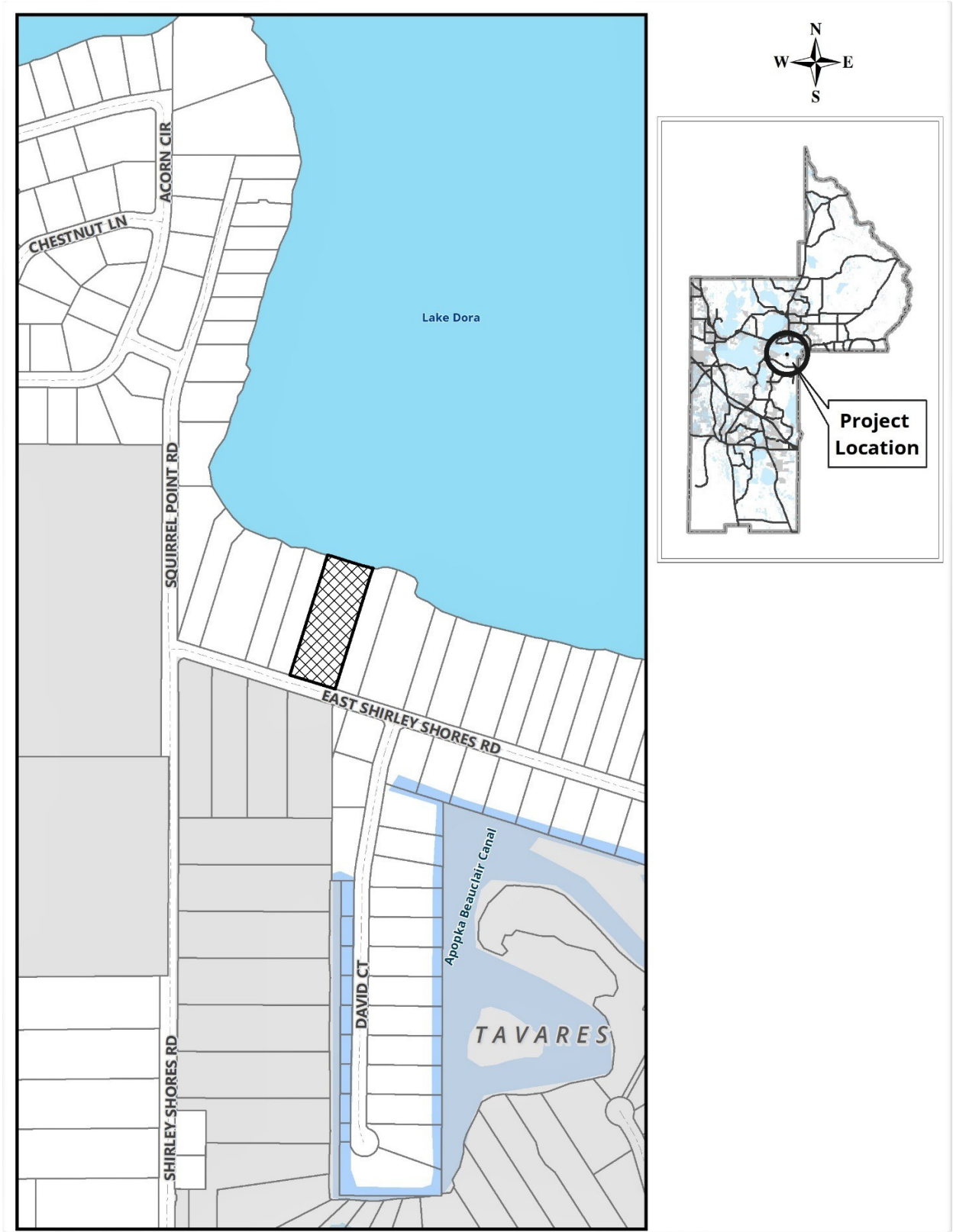
The Applicant provided the following statement as proof that the intent of the Land Development Regulation will be or has been achieved by other means, *“There will be no change to existing footprint or use of structure.”*

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.

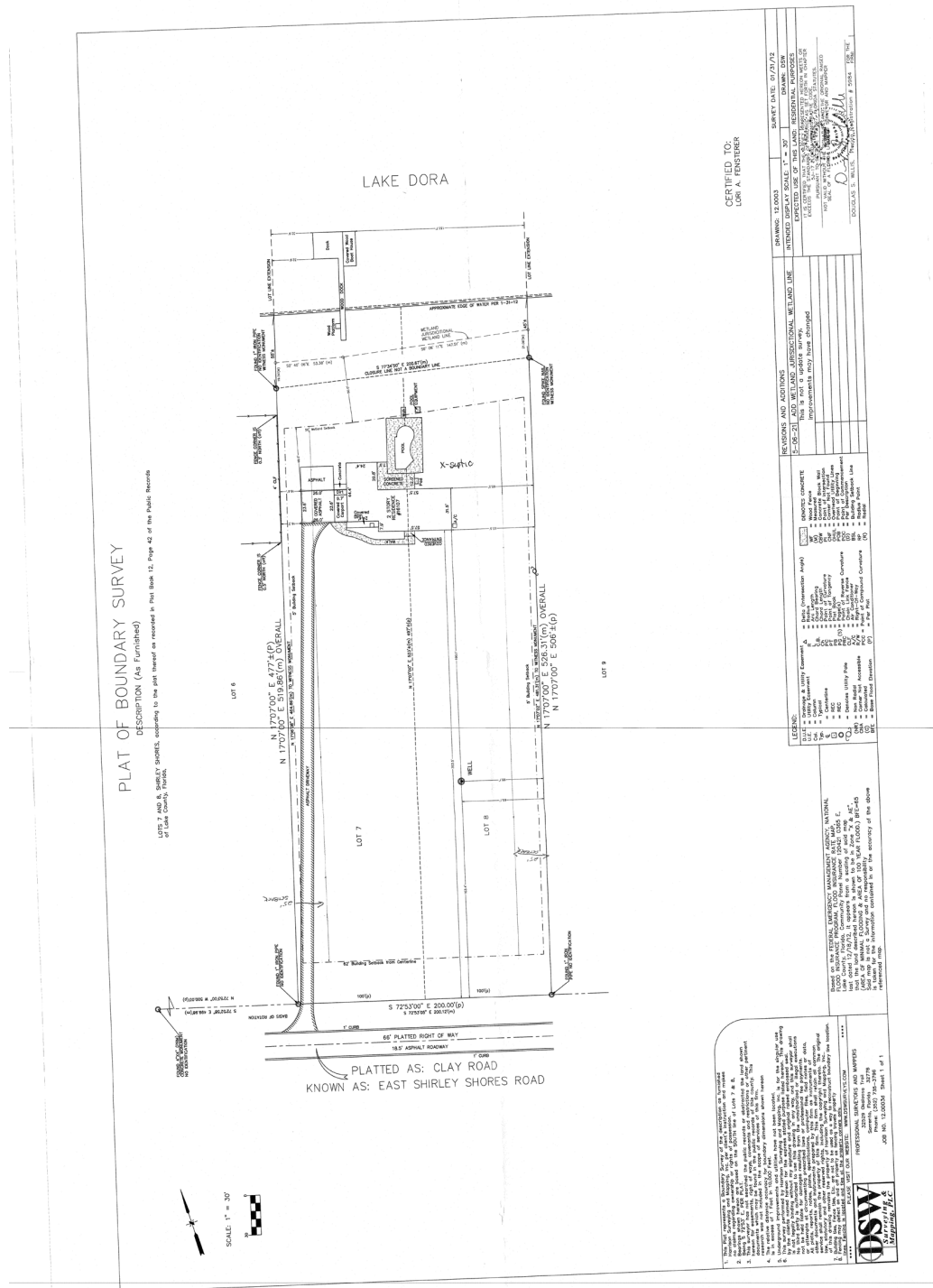
LDR Section 14.15.04 states that for the purposes of this section “substantial hardship” means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.

The Applicant provided the following statement, *“Setbacks modified after construction of structure. Carport structure is a permanent attached part of the SFR.”*

Map of Subject Property



Attachment "A" - Concept Plan.



**Final Development Order
VAR-21-49-3
Fensterer Property**

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

WHEREAS, Lori Fensterer a/k/a Lori Burkholder (the "Owner") requested a variance, to Lake County Land Development Regulations (LDR) Section 1.08.02(A)(1) to allow the expansion of an existing, lawful, nonconforming accessory structure, that exceeds the allowed ten (10) percent of the structure as it existed on September 22, 2011; and

WHEREAS, the subject property consists of 2.45 +/- acres, located at 16107 E. Shirley Shores Road, in the Tavares area of unincorporated Lake County, Florida, in Section 02, Township 20, Range 26, having Alternate Key Number 1493501 and more particularly described as:

Lots 7 and 8, Shirley-Shores, according to the Plat thereof as recorded in Plat Book 12, Page 42, 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 August 12, 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 August 12, 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-21-49-3, to allow the expansion of an existing, lawful, nonconforming accessory structure, that exceeds the allowed ten (10) percent of the structure as it existed on September 22, 2011, with the following conditions:

1. The use of the existing, non-conforming structure cannot change; and
2. The existing, non-conforming structure cannot be further expanded.

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 12th day of August 2021.
EFFECTIVE August 12, 2021.**

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

James Argento, Chairman

State of Florida

County of Lake

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 12th day of August 2021, by James Argento, as Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

**Notary Signature
(SEAL)**