



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 24  
 Public Hearing Date: August 12, 2021  
 Case No. and Project Name: VAR-21-51-5, Cannon Property  
 Owners/Applicant: Bernard V. and Amy Cannon  
 Requested Action: Variance to Land Development Regulations (LDR) Sections 3.02.05, to allow an after-the-fact structure to be located 2.7 feet from the property line in lieu of ten (10) feet from the property line and to Section 3.02.05(1)(2), to allow and after-the-fact structure to be in the drainage easement.  
 Case Manager: Ruth Mitchell, Planner

### Subject Property Information

Size: 2 +/- acres  
 Location: 39439 Wildflower Way, Eustis.  
 Alternate Key No.: 2539119  
 Future Land Use: Wekiva River Protection Area A-1-20 Sending Area  
 Current Zoning District: Rural Residential (R-1)  
 Flood Zones: "AE" and "X"  
 Joint Planning Area (JPA) / ISBA: N/A  
 Overlay Districts: Wekiva River Protection Area and Wekiva Study Area

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	WRPA A-1-20 Sending Area	Rural Residential (R-1)	Vacant Residential	Vacant Residential
South	WRPA A-1-20 Sending Area	Rural Residential (R-1)	Right-of-Way	Wildflower Way and Vacant Residential south of road
East	WRPA A-1-20 Sending Area	Rural Residential (R-1)	Residential	Single-Family Dwelling Unit
West	WRPA A-1-20 Sending Area	Rural Residential (R-1)	Residential	Single-Family Dwelling Unit

### Summary of Request.

The subject 2 +/- acres parcel is identified by Alternate Key Number 2539119; the parcel is zoned Rural Residential (R-1) and is a part of the Sending Area A-1-20 Future Land Use Category. The concept plan (Attachment A), shows that the parcel is developed with a single-family dwelling unit, pool, greenhouse, and several accessory structures, including the after-the-fact, accessory structure, labeled as one story building #1.

On December 12, 2018, the Owner was cited for building without a permit (Code Case No. 2018110120). To obtain a building permit to satisfy the code case, the Owner is required to obtain a zoning permit for the after-the-fact accessory structure; however, at the time of the zoning permit submittal, the Owner was informed that the after-the-fact structure did not meet the required setback and was in a drainage easement. The Owner has submitted a variance request to LDR Table, 3.02.05 and to LDR Section, 3.02.05(l)(2), to allow the after-the-fact structure to be located 2.7 feet from the property line, in lieu of ten (10) feet from the property line and to allow the after-the-fact structure to be located in the drainage easement.

The Lake County Department of Public Works 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, encourage a visually pleasing environment and to not adversely affect neighboring properties.

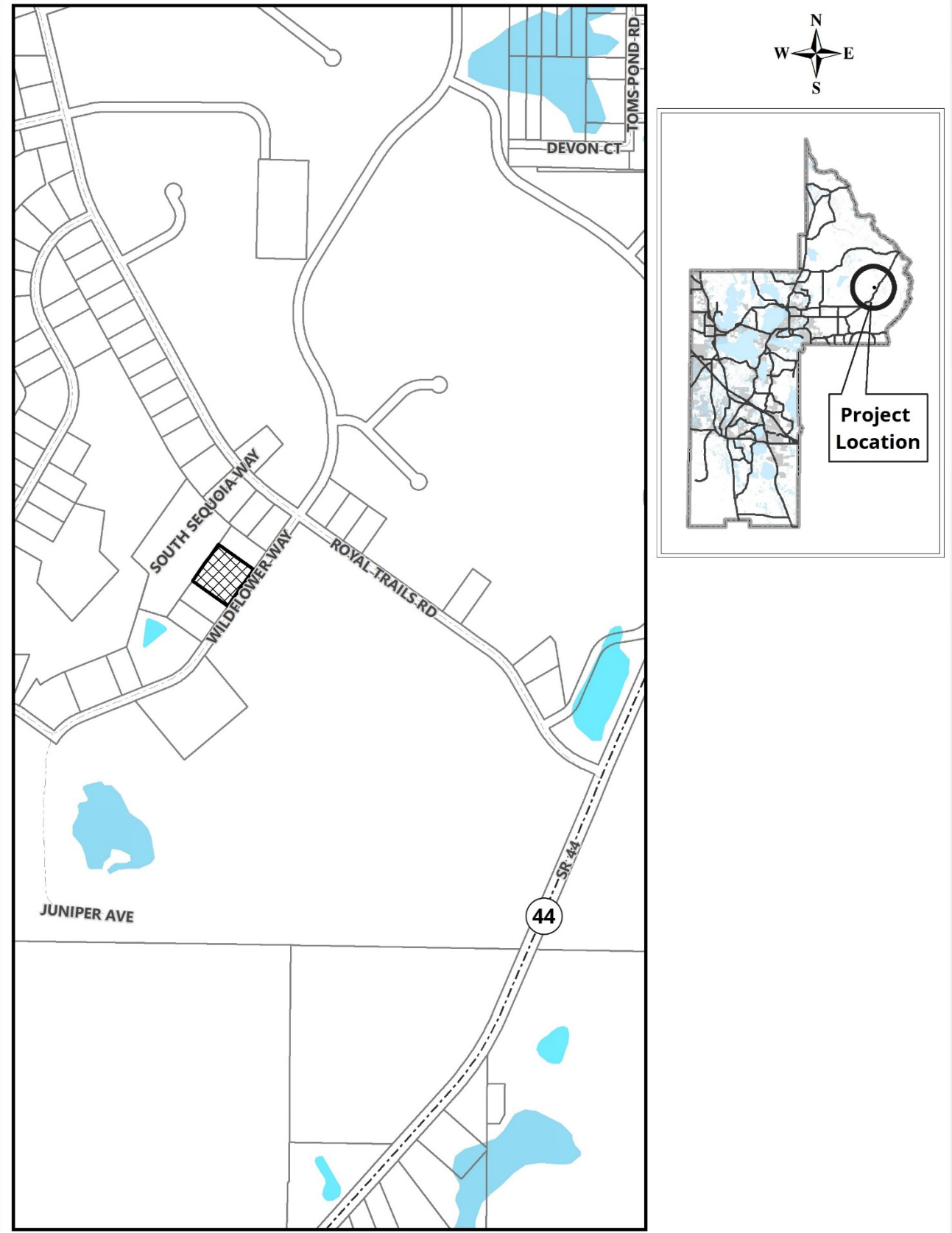
As proof that the intent of the code will be or has been achieved by other means, the Applicant provided the following statement, *“Joseph L. Pawlak, the only neighbor who is directly affected by the granting of the side yard setback variance, supports the granting of the variance. See attached letter [Attachment B], dated 5/12/21, from Joseph L. Pawlak to Lake County.”*

**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, *“A building would have to be torn down if a side yard setback is not granted.”*

# Map of Subject Property





## Attachment B – Letter from Joseph L. Pawlak

May 12<sup>th</sup>, 2021

To: Lake County Zoning, Lake County Board of Commissioners and to any other parties with interest the matter of Mr. Cannons property or buildings.

Re: Bernard Cannon's property near our property line.

Joseph Pawlak – Owner of adjacent home and property located at 39445 Wildflower Way, Eustis, Flo 32736 ALT Number 2698501.

To all concerned parties:

I am the property owner to the right of Mr. Cannons house and his structures are closest to my prop more so than any other person. Mr. Cannon's structures are well built, attractive and very well kept. have no dissatisfaction with their location, size, color, height, or construction. Mr. Cannon has owne and kept his property in spotless condition for many many years. Mr. Cannon takes great pride in his community and frequently picks up trash, mows and upkeepes property in common areas not owned him.

I have had no issue with water drainage, debris, or any other item that would be in question. It is my opinion that Mr. Cannons property be left in the condition it is currently in without any modifications:

I have lived in this area for 20 years and am happy to have Mr. Cannon as a neighbor.

I am free to discuss this matter at any time by phone at 352.217.5518.

Sincerely



Joseph L. Pawlak

**Final Development Order  
VAR-21-51-5  
Cannon Property**

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

**WHEREAS**, Bernard V. and Amy Cannon (the “Owners”) requested a variance to Land Development Regulations (LDR) Sections 3.02.05, to allow an after-the-fact structure to be located 2.7 feet from the property line in lieu of ten (10) feet from the property line and to Section 3.02.05(1)(2), to allow an after-the-fact structure to be in the drainage easement; and

**WHEREAS**, the subject property consists of 2 +/- acres and is located at 39439 Wildflower Way, in the Eustis area of unincorporated Lake County, in Section 36, Township 17, Range 28, having Alternate Key Number 2539119, and more particularly described below; and

Lots 2 and 3, Block 12, ROYAL TRAILS UNIT NO 1, according to the plat thereof, recorded in Plat Book 19, Page(s) 1 through 59, 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 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-21-51-5, to allow an after-the-fact structure to be located 2.7 feet from the property line in lieu of ten (10) feet from the property line and to Section 3.02.05(1)(2), to allow an after-the-fact structure to be in the drainage easement.

**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 12<sup>th</sup> day of August 2021.**

**EFFECTIVE August 12, 2021.**

**BOARD OF ADJUSTMENT  
LAKE COUNTY, FLORIDA**

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**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 12<sup>th</sup> 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 \_\_\_\_\_**

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**Notary Signature**

**(SEAL)**