



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 7

Public Hearing Date: December 9, 2021

Case No. and Project Name: VAR-21-73-5, Astor Investment Property

Owners: Astor Investment Property, LLC

Applicant: Kimberly A. Mieloch

Requested Action: Variance to Land Development Regulations (LDR) Table 3.02.05, to allow a single-family dwelling unit to be constructed 35-feet from the centerline of the road, in lieu of 62-feet from the centerline of the road and to Land Development Regulations (LDR) Section, 6.01.04(A)(1), to allow a single-family dwelling unit to be constructed 47-feet from the top of the bank in lieu of 50-feet from the top of the bank.

Case Manager: Ruth Mitchell, Planner

Subject Property Information

Size: 0.29 +/- acres

Location: 53236 Water Oak Road, Astor.

Alternate Key No.: 1607809

Future Land Use: Urban Low

Current Zoning District: Mixed Residential (R7)

Flood Zones: "AE"

Joint Planning Area (JPA) / ISBA: N/A

Overlay Districts: Wekiva-Ocala Rural Protection Area and Pinecastle Military Operations Area

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low	Mixed Residential (R7)	Residential	Single-Family Residence
South	Urban Low	Mixed Residential (R7)	Residential	Single-Family Residence
East	Urban Low	Mixed Residential (R7)	Canal	Canal, Single-Family Residence
West	Urban Low	Mixed Residential (R7)	Road	Water Oak Road, Single-Family Residence

Summary of Request.

The subject property, identified as Alternate Key Number 1607809, contains .29 +/- acres, is zoned Mixed Residential (R7), and is designated with an Urban Low Future Land Use Category by the 2030 Comprehensive Plan. Based on GIS and the conceptual plan, the parcel lies within flood zone "AE" and wetlands exist on the site. The subject parcel is located at 56236 Water Oak Road, Astor. The concept plan (Attachment A) shows that the parcel is currently developed with a single-family dwelling unit (manufactured home), covered screen room, driveway, garage, shed, and boathouse.

The Owner would like to replace the existing 23.4-foot by 45.1-foot single-family dwelling unit with a 30-foot by 60-foot single-family dwelling unit. To obtain a building permit, the Owner is required to obtain a zoning permit for the structure. A zoning permit cannot be issued as the proposed replacement single-family dwelling unit does not meet the required front and rear setbacks.

The Applicant has requested a variance to LDR Table 3.02.05, to allow a single-family dwelling unit to be constructed 35-feet from the centerline of the road, in lieu of 62-feet from the centerline of the road and to Land Development Regulations (LDR) Section, 6.01.04(A)(1), to allow a single-family dwelling unit to be constructed 47-feet from the top of the bank in lieu of 50-feet from the top of the bank.

The variance application was sent to the Public Works Department for a determination of consistency with their regulations and the Department of Public Works identified the following conditions for inclusion in the draft 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 improvement/addition for the site.*

The subject parcel is located within the Pinecastle Military Operations Area. The variance application was sent to the U.S. Navy for determination of consistency with their regulations. The U.S. Navy 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 Table 3.02.05, is to ensure structures are located a safe distance from roads and there is enough area for safe passage of vehicles.

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.

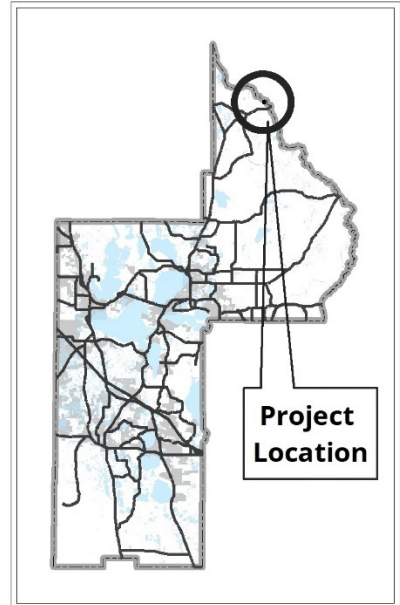
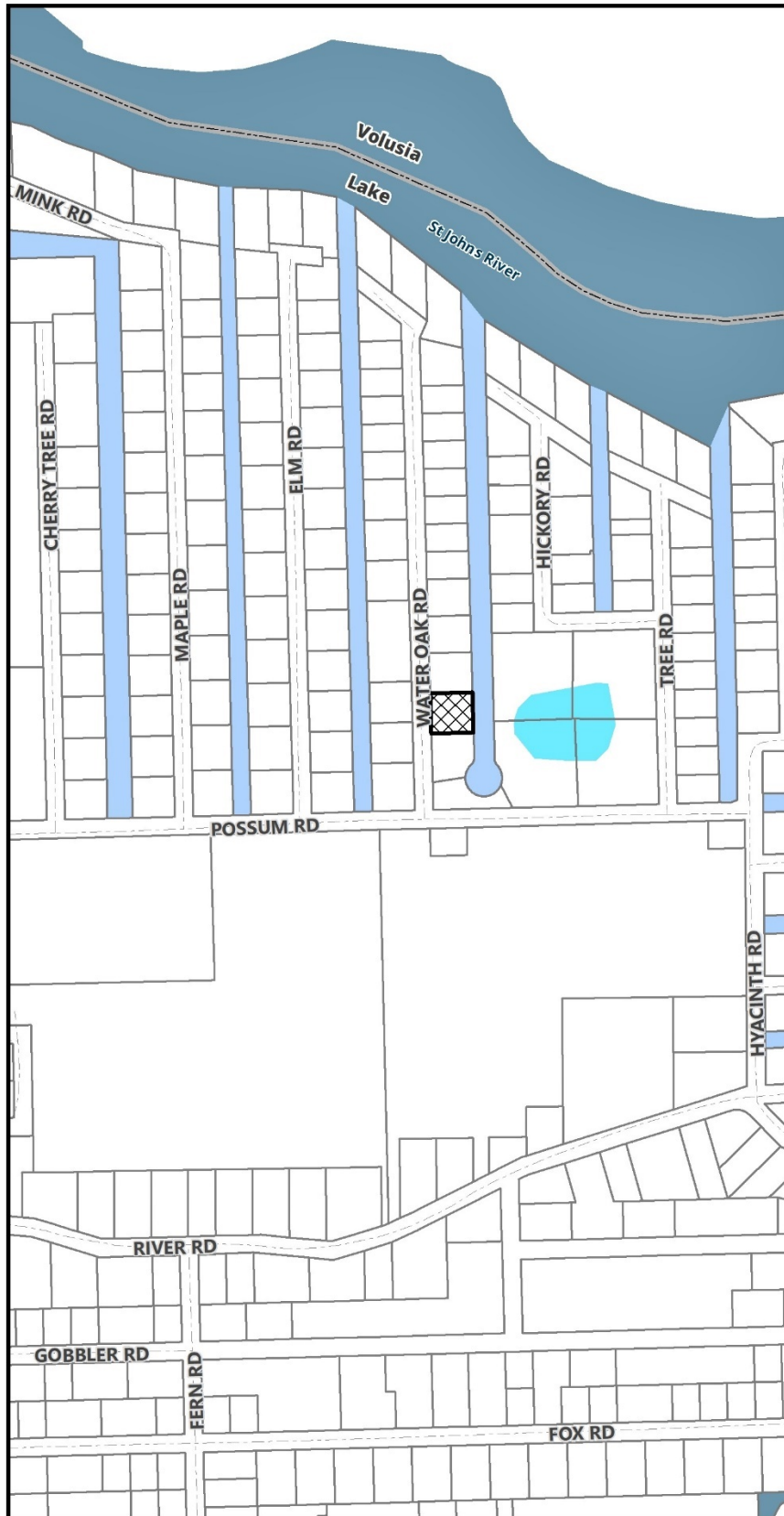
The proposed single-family dwelling unit will be constructed 37-feet from the centerline of the road which is 25-feet closer than what the required setback requests. The structure will be constructed 47-feet from the top of the bank which is 3-feet closer than what the required setback request.

To show that the intent of the code will be or has been achieved by other means, the Owner provided, *[Attachment "B" – Intent of Meeting the Code Statement]*.

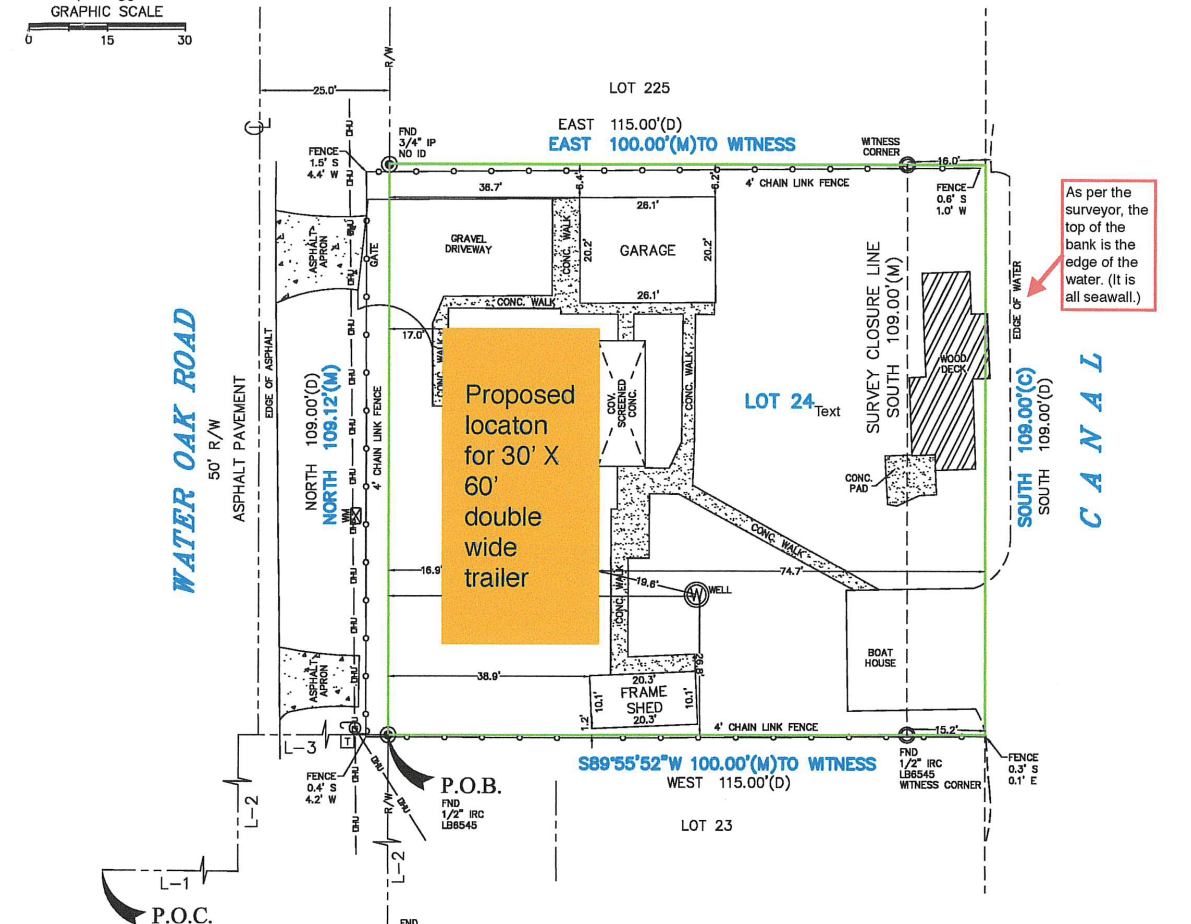
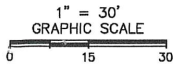
2. The application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. For 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.

To show substantial hardship, the Owner provided, *[Attachment "C" – Hardship Statement]*.

Map of Subject Property



Attachment "A" – Concept Plan



As per the surveyor, the top of the bank is the edge of the water. (It is all seawall.)

LEGEND:

- Δ = DELTA/CENTRAL ANGLE
- A/C = AIR CONDITIONER
- BB = BEARING BASIS
- C = CALCULATED
- CH = CHORD
- CB = CHORD BEARING
- CBW = CONCRETE BLOCK WALL
- C.M. = CONCRETE MONUMENT
- CNA = CORNER NOT ACCESSIBLE
- CONC. = CONCRETE
- COV. = COVERED
- I.R. = IRON ROD
- I.P. = IRON PIPE
- L = ARC LENGTH
- LS = LAND SURVEYOR
- LB = LAND SURVEYING BUSINESS
- M = MEASURED
- NR = NON-RADIAL
- O.R. = OFFICIAL RECORDS
- P = PLAT
- PC = POINT OF CURVATURE
- PCC = POINT OF COMPOUND CURVATURE
- PCP = PERMANENT CONTROL POINT
- PI = POINT OF INTERSECTION
- D = DESCRIBED
- d/b/a = DOING BUSINESS AS
- D.E. = DRAINAGE EASEMENT
- D.U.E. = DRAINAGE & UTILITY EASEMENT
- EOP = EDGE OF PAVEMENT
- EW = EDGE OF WATER
- F = FIELD
- FF ELEV = FINISHED FLOOR ELEVATION
- I.D. = IDENTIFICATION
- POB = POINT OF BEGINNING
- POC = POINT OF COMMENCEMENT
- POL = POINT ON LINE
- PRC = POINT OF REVERSE CURVATURE
- PRM = PERMANENT REFERENCE MONUMENT
- PSM = PROFESSIONAL SURVEYOR & MAPPER
- PT = POINT OF TANGENT
- R = RADIUS
- RAD = RADIAL
- RP = RADIUS POINT
- R/W = RIGHT OF WAY
- S/W = SIDEWALK
- TBD = TO BE DETERMINED
- TOB = TOP OF BANK
- (TYP) = TYPICAL
- U.R. = UTILITY ROOM
- U.E. = UTILITY EASEMENT
- WM = WATER METER
- WPP = WOOD POWER POLE
- = UTILITY POLE
- = SET 1/2" I.R. & CAP LB #7020
- = FOUND PROPERTY CORNER
- = FOUND CONCRETE MONUMENT
- ⊙ = WELL
- ⊙ = UTILITY RISER
- ⊙ = GAS METER
- ⊙ = LIGHT POLE
- ⊙ = GUYWIRE
- ⊙ = FIRE HYDRANT
- ⊙ = WATER METER
- ASPHALT = ASPHALT
- BRICK = BRICK
- CONCRETE = CONCRETE
- PAVERS = PAVERS
- LINE BREAK = LINE BREAK
- CENTERLINE = CENTERLINE
- RIGHT-OF-WAY LINE = RIGHT-OF-WAY LINE
- BUILDING SETBACK LINE = BUILDING SETBACK LINE
- PVC-VINYL FENCE/WF = PVC-VINYL FENCE/WF
- WOOD FENCE/WF = WOOD FENCE/WF
- CHAIN LINK FENCE/CLF = CHAIN LINK FENCE/CLF
- OVERHEAD UTILITY LINES = OVERHEAD UTILITY LINES

- L-1 S89°29'34"E 5280.30'(D)
- L-2 NORTH 4308.58'(D)
- L-3 EAST 4517.06'(D)
- L-3 N00°00'01"W 131.78'(M)
- NORTH 132.00'(D)

ADDRESS:
56236 WATER OAK ROAD
ASTOR, FLORIDA 32102

FLOOD_ZONE_INFORMATION: MAP NUMBER: 12089C_0070_E DATE: 12/18/2012 ZONE: AE	CERTIFIED TO: ASTOR INVESTMENT PROPERTY, LLC CHICAGO TITLE INSURANCE COMPANY RELIANT TITLE GROUP, INC., DBA VOLUISIA TITLE SERVICES
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- NOTES:**
- THIS SURVEY IS BASED ON THE LEGAL DESCRIPTION AS PROVIDED BY THE CLIENT.
 - THIS SURVEYOR HAS NOT ABSTRACTED THE LAND SHOWN HEREON FOR EASEMENTS, RIGHTS OF WAY OR RESTRICTIONS OF RECORD WHICH MAY AFFECT THE TITLE OR USE OF THE LAND.
 - DO NOT RECONSTRUCT PROPERTY LINES FROM INTERIOR IMPROVEMENTS. (BUILDINGS, FENCES ETC...)
 - NO FOOTINGS OR OVERHANGS HAVE BEEN LOCATED EXCEPT AS SHOWN.
 - NO UNDERGROUND IMPROVEMENTS OR UTILITIES HAVE BEEN LOCATED EXCEPT AS SHOWN.
 - NO WETLANDS AND/OR OTHER NATURAL FEATURES HAVE BEEN LOCATED EXCEPT AS SHOWN.
 - THIS SURVEY SHALL NOT BE USED FOR DESIGN OR CONSTRUCTION WITH OUT PRIOR WRITTEN AUTHORIZATION FROM THE SIGNING SURVEYOR.
 - THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.



JOB # BCA27228
DRAWN BY: LD
CHECKED BY: BC

Attachment "B" – Intent of Meeting the Code Statement

Describe how the purpose of the Land Development Regulation will be or has been achieved by other means:

Although the newer trailer would extend 7 feet further forward than the existing trailer,

it would still be further back from the street by 3 feet due to the removal of a 10 foot

over hang on the front of the house. I also plan to remove the section of chain link fence

that borders the street, as well as substantial scrubery that covers the front of the house.

Describe how the purpose of the Land Development Regulation will be or has been achieved by other means:

The front section of chain link fence, shrubbery, and overhang will be removed, giving the

appearance that the newer home is three feet further back than the current one.

If required, existing 20' X 10' shed, which currently encroaches on the rear setback,

will be removed to reduce the total surface area being encroached.

Attachment "C" – Hardship Statement

What is the substantial hardship in meeting the specific code requirement? Following front setback
rules would require me to put the house on top of approximately 524 sq ft of existing
concrete slab porches and walkways, rendering all of it completely useless.

Also, I need to build a wheel chair ramp to the garage, and putting the house so far back
would force me to build it on the front of the house rather than the back which is where I want it.

What is the substantial hardship in meeting the specific code requirement? Following current front and
rear setback rules prevent me from installing a "newer", HUD compliant trailer on the
property. The current, 46 year old, trailer was built in 1975 before HUD regulations
and current setback rules took affect.

**Final Development Order
VAR-21-73-5
Astor Investment Property**

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

WHEREAS, Kimberly A. Mieloch (the “Applicant”), on behalf of Astor Investment Property, LLC (the “Owner”), requested a variance to Lake County Land Development Regulations (LDR) Table 3.02.05, to allow a single-family dwelling unit to be constructed 35-feet from the centerline of the road, in lieu of 62-feet from the centerline of the road and to Land Development Regulations (LDR) Section, 6.01.04(A)(1), to allow a single-family dwelling unit to be constructed 47-feet from the top of the bank in lieu of 50-feet from the top of the bank; and

WHEREAS, the subject property consists of 0.29 +/- acres, located at 53236 Water Oak Road, in the Astor area of Lake County, Florida, in Section 24, Township 15, Range 27, having Alternate Key Number 1607809 and more particularly described below; and

Commence at the Southwest corner of Section 2, according to the plat of Manhattan, recorded in the Public Records of Lake County, Florida, in Plat Book 2, Page 2, run thence South 89°29'34” East on the South boundary of said Section 2, a distance of 5280.30 feet to the Southeast corner thereof; thence North 4308.58 feet; thence East 4517.06 feet to the Point of Beginning; run thence North 109 feet; thence East 115 feet; thence South 109 feet; thence West 115 feet to the Point of Beginning, also described as Lot 24 Block 82, according to an unrecorded plat of Astor Forest Campsites.

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 December 9, 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 December 9, 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-21-73-5, to allow a single-family dwelling unit to be constructed 35-feet from the centerline of the road, in lieu of 62-feet from the centerline of the road and to, to allow a single-family dwelling unit to be constructed

47-feet from the top of the bank in lieu of 50-feet from the top of the bank; 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 9th day of December 2021.

EFFECTIVE December 9, 2021.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

James Argento, 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 9th day of December 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)