



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 8

Public Hearing Date: December 9, 2021

Case No. and Project Name: VAR-21-74-5, Dilbert Property

Owner/Applicant: Jimmy Humer Dilbert and Mary Virginia Dilbert

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section, 10.01.01(D), to allow the construction of two accessory structures to exceed 80-percent of the main floor square footage of the enclosed living area of the dwelling unit.

Case Manager: Ruth Mitchell, Planner

Subject Property Information

Size: 0.70 +/- acres

Location: 4041 Azalea Way, Lady Lake

Alternate Key No.: 1415608

Future Land Use: Rural Transition

Current Zoning District: Rural Residential (R-1)

Flood Zones: "X"

Joint Planning Area/ ISBA: Lady Lake JPA and Lady Lake ISBA

Overlay Districts: N/A

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural Transition	Rural Residential (R-1)	Residential	Single-Family Dwelling Unit
South	Rural Transition	Rural Residential (R-1)	Street, Residential	Azalea Way, Single-Family Dwelling Unit
East	Rural Transition	Rural Residential (R-1)	Street, Residential	Orange Circle Way, Single-Family Dwelling Unit
West	Rural Transition	Rural Residential (R-1)	Residential	Single-Family Dwelling Unit

Summary of Request

The subject parcel (identified as Alternate Key Number 1415608) contains .70 +/- acres, is zoned Rural Residential (R1), and is designated with a Rural Transition Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. The concept plan (Attachment "A") shows that the parcel is currently developed with a single-family dwelling unit and two accessory structures.

On June 21, 2021, the owners were cited for building without a permit (Code Case No. 2021060365). The owners are required to obtain a building permit for the structures to resolve the code case. Prior to applying for the building permit, the owners are required to obtain a zoning permit for the structures to ensure they are developed in compliance with the Land Development Regulations (LDR). At the time of the zoning permit submittal, it was found that the accessory structures exceed the square footage percentage allowed by the Land Development Regulations.

LDR Section 10.01.01(D), states that for lots less than one acre in size, the square footage of an accessory structure(s) shall not exceed eighty percent of the main floor square footage of the enclosed living area of the dwelling unit, which excludes features such as garages, patios, and porches. If there is more than one accessory structure, the combined square footage shall apply. Per the property record card, the main floor square footage of the enclosed living area of the dwelling unit is 1,032-square feet. 80-percent of that square footage is 825.6-square feet. The cumulative square footage of the accessory structures equates to 1,080-square feet. Staff was unable to issue a zoning permit for the accessory structures as the square footage exceeds the allowed percentage by 30-percent.

The owners have requested a variance to LDR Section 10.01.01(D), to allow the construction of two accessory structures to exceed 80-percent of the main floor square footage of the enclosed living area of the dwelling unit.

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.

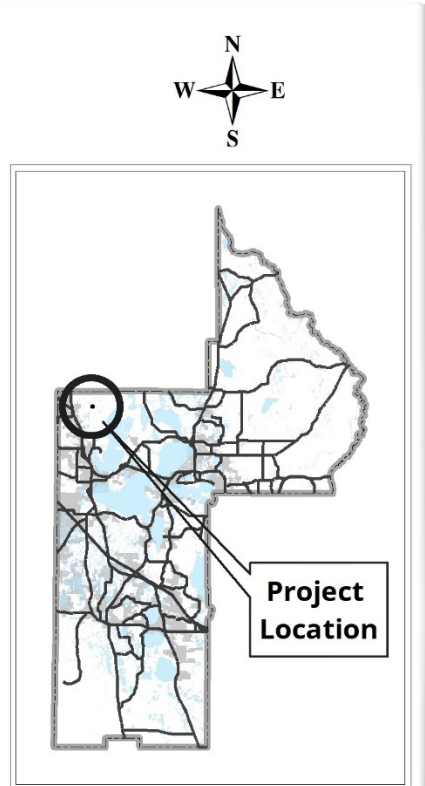
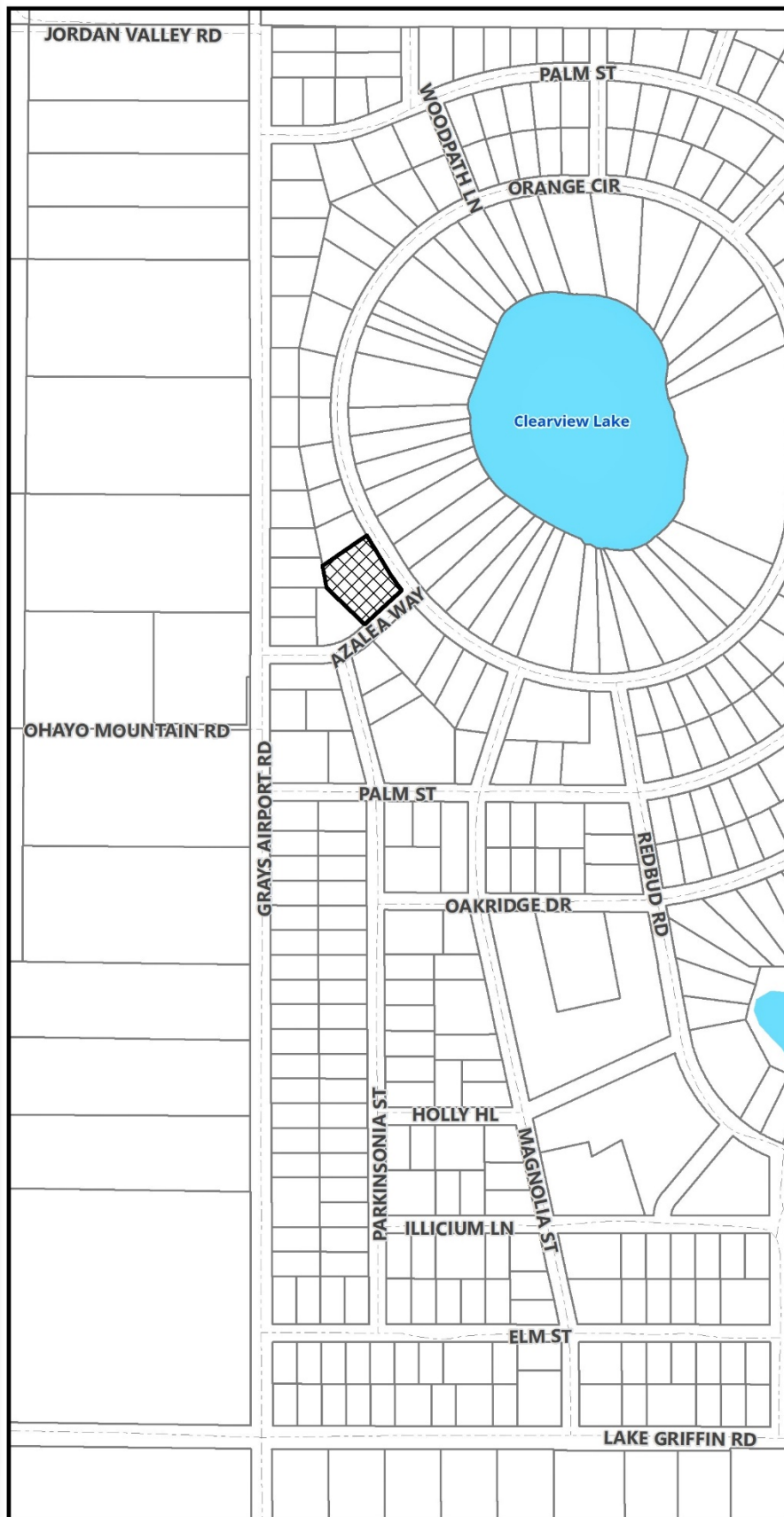
The intent of the Code, LDR Section 10.00.00, is to regulate the installation, configuration, and use of Accessory and temporary Structures and uses to preserve the community and property values and to protect the community character.

The Applicant provided the following statement to show that the intent of the code will be or has been achieved by other means *"1. Financial Hardship. 2. It will be too hard for us to pay to remove, those buildings. Also, we have 8 children, we need to store clothes, garden tools, we want for personal use, also park our car's, etc."*

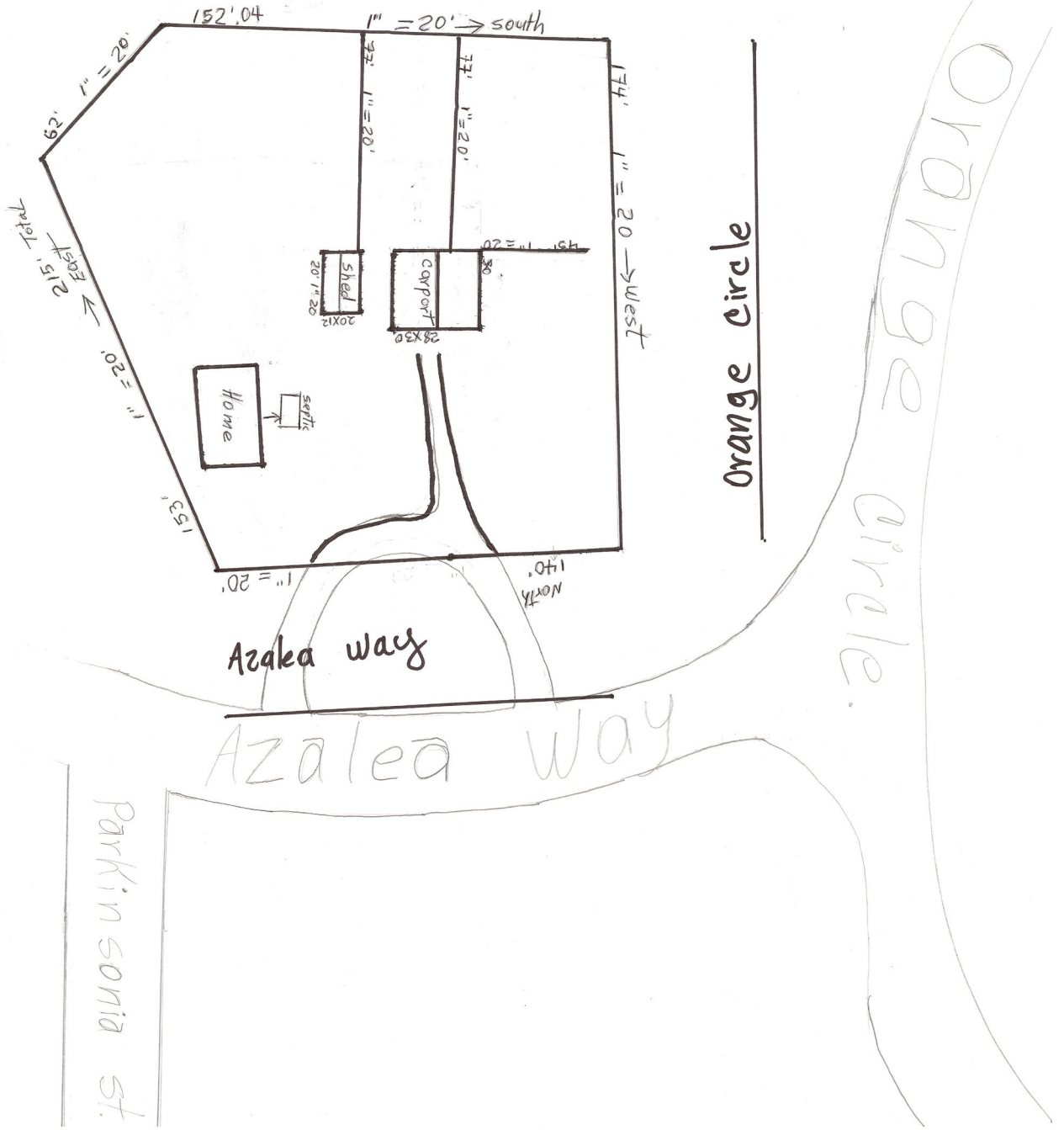
2. The application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. For 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 Applicant provided the following statement, *"We clean up the property a lot of other people in the community have pretty much same type of structures, color matching with 3 of the neighbors houses. It will help to the neighborhood."*

Map of Subject Property



Attachment "A" - Concept Plan



Final Development Order
VAR-21-74-5
Dilbert Property

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

WHEREAS, Jimmy H. Dilbert and Maria V. Dilbert (the “Owners”) requested a variance, to Lake County Land Development Regulations (LDR) Section, 10.01.01(D), to allow the construction of two accessory structures that exceed 80-percent of the main floor square footage of the enclosed living area of the dwelling unit; and

WHEREAS, the subject property consists of .70 +/- acres and is located at 4041 Azalea Way in the Lady Lake area of unincorporated Lake County, Florida, in Section 11, Township 18, Range 24, having Alternate Key Number 1415608, and more particularly described as:

Lots 16, 17, Block 26, Carlton Village, according to the plat thereof, as recorded in Plat Book 12, Pages 109 through 112, inclusive, 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 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-21-74-5, to allow the construction of two accessory structures that exceed 80-percent of the main floor square footage of the enclosed living area of the dwelling unit, with the following conditions:

1. Additional accessory structures will not be permitted on the parcel, unless the structure meet regulations set for in LDR Section 1.08.02(B)

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, 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)**