



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 3

Public Hearing Date: January 13, 2022

Case No. and Project Name: VAR-21-79-2, Sirois Property

Owners/Applicant: Eric Sirois and Paula Sirois

Requested Action: Variance to Land Development Regulations (LDR) Table 3.02.05, to allow an accessory structure (carport) to be constructed 37.54-feet from the centerline of the road, in lieu of 62-feet from the centerline of the road.

Case Manager: Ruth Mitchell, Planner

### Subject Property Information

Size: 0.24 +/- acres

Location: 16821 Elderberry Drive, Montverde.

Alternate Key No.: 2692456

Future Land Use: Urban Low

Current Zoning District: Mixed Residential (RM)

Flood Zones: "A" and "X"

Joint Planning Area (JPA) / ISBA: Town of Montverde ISBA

Overlay Districts: Lake Apopka Basin District

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low	Mixed Residential (RM)	Canal	Canal from Lake Apopka
South	N/A	N/A	Street	Elderberry Drive, Single-Family Residence
East	Urban Low	Mixed Residential (RM)	Residential	Single-Family Residence
West	Urban Low	Mixed Residential (RM)	Residential	Single-Family Residence

### Summary of Request.

The subject parcel (identified as Alternate Key Number 2692456) contains 0.25 +/- acres, is zoned Mixed Residential (RM), and is and is designated with an Urban Low Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. The conceptual plan (Attachment "A") shows that the parcel is currently developed with a single-family dwelling unit, driveway, and the covered carport. The concept plan also shows that the parcel lies within flood zones "A" and "X" and wetlands exist on the site. The subject parcel is located west of Elderberry Drive in the unincorporated Montverde area.

On July 2, 2020, the Owners were cited for constructing a carport without a permit (Code Case No. 2020070031). The Owner is required to obtain a building permit for the structure to resolve the code case. Prior to applying for the building permit, the Owners are required to obtain a zoning permit for the structure to ensure it is developed in compliance with the Land Development Regulations (LDR). The LDR Table 3.02.05, establishes a 62-foot setback from the center line of the road for existing development; therefore, staff was unable to issue a zoning permit because the structure did not meet the required front setback.

The Owners are requesting a variance to LDR Table 3.02.05, to allow an accessory structure (carport) to be constructed 37.54-foot from the center line of the road in lieu of 62-feet from the centerline of the road.

The variance application was sent to the Public Works Department for a determination of consistency with their regulations. The Department of Public Works reviewed the application and had no objections or concerns with the variance request.

The subject parcel is located within the Town of Montverde Interlocal Service Boundary Area (ISBA). The variance application was sent to the Town of Montverde for a determination of consistency with their regulations. The Town of Montverde 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.**

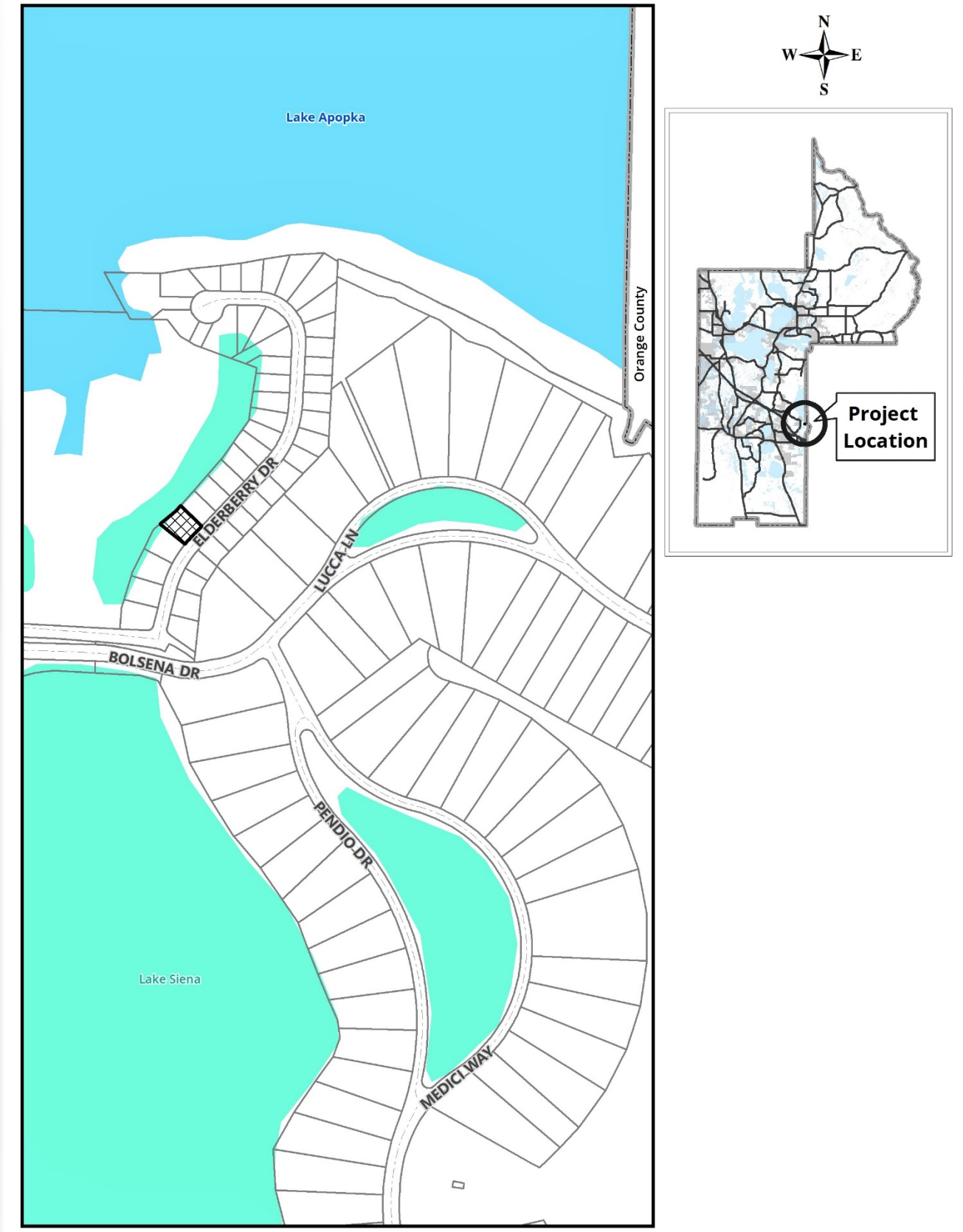
The intent of the Code, LDR Table 3.02.05, is to ensure structures are located a safe distance from roads and there is enough area for safe passage of vehicles.

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

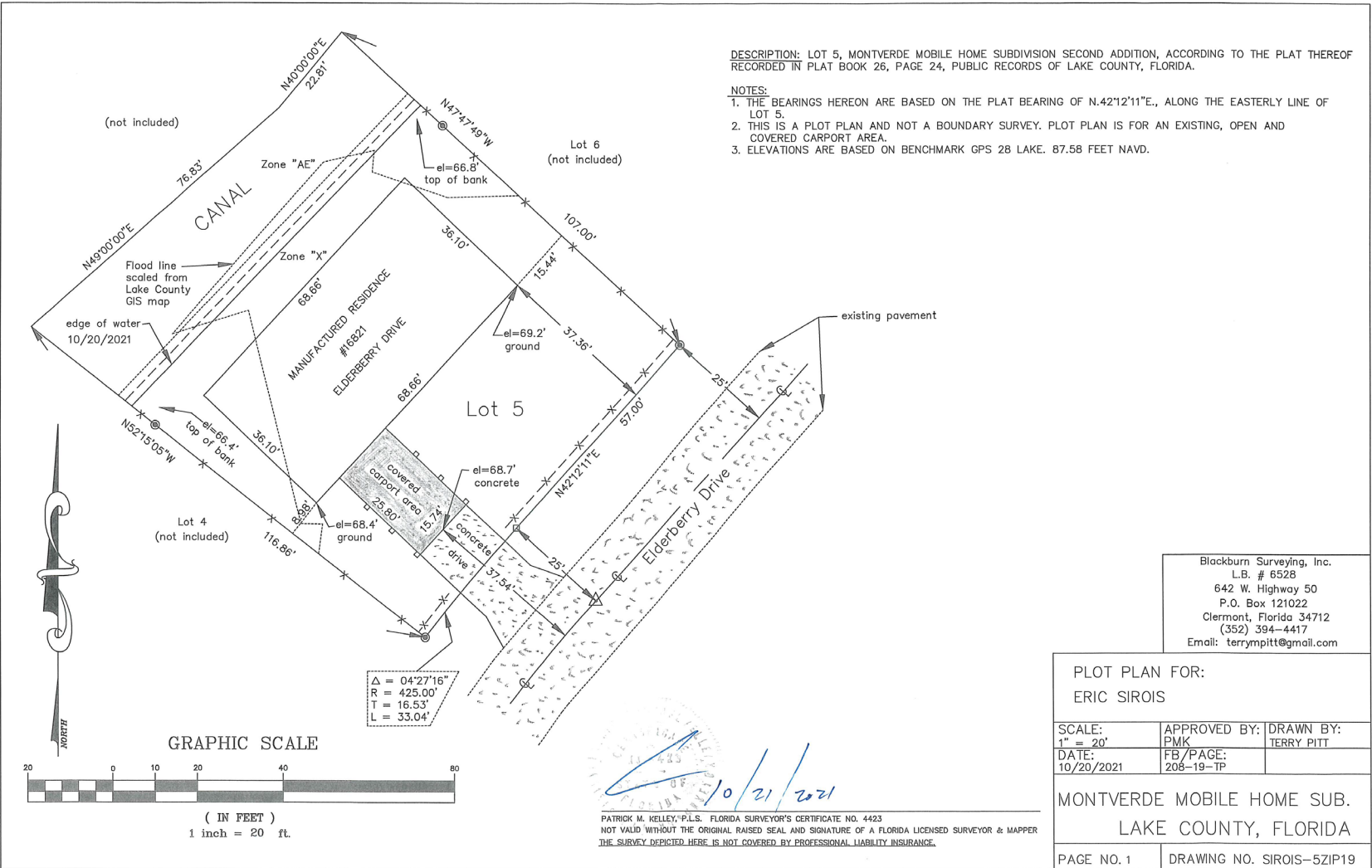
**2. The application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. 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 Applicant provided a written statement, *[Attachment "C" – Hardship Statement]*.

# Map of Subject Property



Attachment "A" -- Concept Plan



## 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:

DOES NOT EXCEED 80 PERCENT OF THE MAIN FLOOR SQUARE FOOTAGE OR EXCEED THE HEIGHT OF MAIN HOUSE ROOF. THE ROOF IS THE SAME COLOR AND MATERIAL OF HOUS. MEETS REQUIREMENTS OF SIDE BOARDERS. THE CARPORT IS 9 1/2' IN THE AIR CAN'T SEE COMING UP ROAD ONLY SEE POST TOP COVERED BY TREES SAME COLOR.

## Attachment "C" – Hardship Statement

What is the substantial hardship in meeting the specific code requirement? SET BACK FOR CARPORT POST  
WIFE DISABLED GOES TO DR'S ALOT ALWAYS RAINING WHEN LOADING HER + CHAIR  
GETS WET GOES INTO AC AT DR'S GOT SICK ENDED UP IN HOSPITAL  
WITH PNEUMONIA, THE ONLY THING SHE WANTS TO DO OR CAN DO IS SIT  
UNDER CARPORT TO ENJOY THE OUTSIDE, OTHER THAN THAT SHE SITS INSIDE

**Final Development Order  
VAR-21-79-2  
Sirois Property**

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

**WHEREAS**, Eric Sirois and Paula Sirois (the "Owners"), requested a variance to Land Development Regulations (LDR) Table 3.02.05, to allow an accessory structure (carport) to be constructed 37.54-feet from the centerline of the road, in lieu of 62-feet from the centerline of the road; and

**WHEREAS**, the subject property consists of 024 +/- acres and is located west of Elderberry Drive, in the Montverde area of unincorporated Lake County, in Section 01, Township 22, Range 26, having Alternate Key Number 2692456, and more particularly described below; and

Lot 5, Montverde Mobile Home Subdivision Second Addition, according to the plat thereof recorded in Plat Book 26, page 24, 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 January 13, 2022; 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 January 13, 2022, 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-21-79-2, to allow an accessory structure (carport) to be constructed 37.54-feet from the centerline of the road, in lieu of 62-feet from the centerline of the road.

**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 13<sup>th</sup> day of January 2022.**

**EFFECTIVE January 13, 2022.**

**BOARD OF ADJUSTMENT  
LAKE COUNTY, FLORIDA**

\_\_\_\_\_  
**James Argento, Chairman**

**State of Florida**

**County of Lake**

VAR-21-79-2, Sirois Property

Sworn to (or affirmed) and subscribed before me by means of  physical presence or  online notarization, this 13<sup>th</sup> day of January 2022, by James Argento, as Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced \_\_\_\_\_

\_\_\_\_\_  
Notary Signature  
(SEAL)