



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 1

Public Hearing Date: March 10, 2022

Case No. and Project Name: VAR-21-82-3 Morgan Property

Owners: Robin Morgan

Requested Action: Variance to Land Development Regulations (LDR) Section 6.01.04(A)(1), to allow an accessory structure to be constructed 27-feet from the existing seawall, in lieu of 50-feet.

Case Manager: Ryan Winkler, Planner

### Subject Property Information

Size: 0.43 +/- acres

Location: 33845 Lakeshore Drive, in the unincorporated Tavares area

Alternate Key No.: 1397871

Future Land Use: Urban Low Density

Current Zoning District: Rural Residential (R-1)

Flood Zones: "AE" and "X"

Joint Planning Area (JPA) / ISBA: Tavares Interlocal Service Boundary Area

Overlay Districts: Old Highway 441 Major Commercial Corridor

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	N/A	N/A	Road	Lakeshore Drive R-O-W, City of Tavares
South	N/A	N/A	Lake	Lake Dora
East	Urban Low	Rural Residential (R-1)	Residential	Single-Family Residence
West	Urban Low	Rural Residential (R-1)	Residential	Single-Family Residence

### Summary of Request.

The subject property, identified as Alternate Key Number 1397871, contains 0.43 +/- acres, is zoned Rural Residential (R-1), and is designated with an Urban Low Density Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. The subject property is generally located south of Lakeshore Drive in the unincorporated Tavares area. Based on the conceptual plan (Attachment "A"), the subject property lies within flood zones "AE" and "X" as the subject property is located along Lake Dora.

The Applicant has requested a variance to LDR Section 6.01.04(A)(1), to allow an accessory structure to be constructed 27-feet from the existing seawall. It is the intention of the Applicant to construct a screen enclosure on the existing concrete pad, as depicted on Attachment "A" (Concept Plan).

The variance application was sent to the Public Works Department for a determination of consistency with their regulations. The Department of Public Works provided a FEMA Flood map overlay of the subject property (Attachment "B") and provided the following comments, "Public Works will review lot grading, as applicable, and the flood determination at the time of permitting. There may be additional items to ensure flood compliance."

The subject parcel is located within the City of Tavares Interlocal Service Boundary Area (ISBA). 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 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 Applicant provided the following statement as evidence that the intent of the Land Development Regulations will be or has been achieved by other means, "*Development foot print has already established where home is located. There are no wetlands on site as an existing seawall forms the waterward edge 27-feet from proposed structure (sic)*". This statement indicates that the variance request follows the intent of LDR Section 6.01.04.

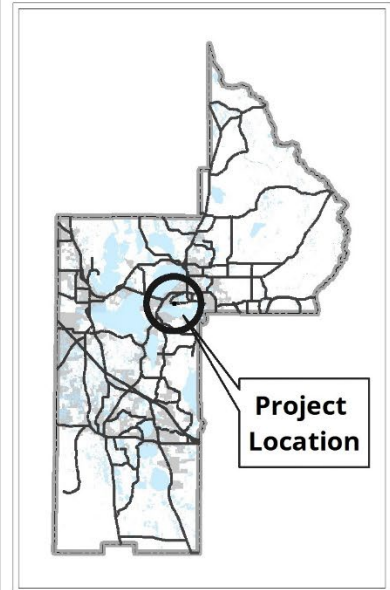
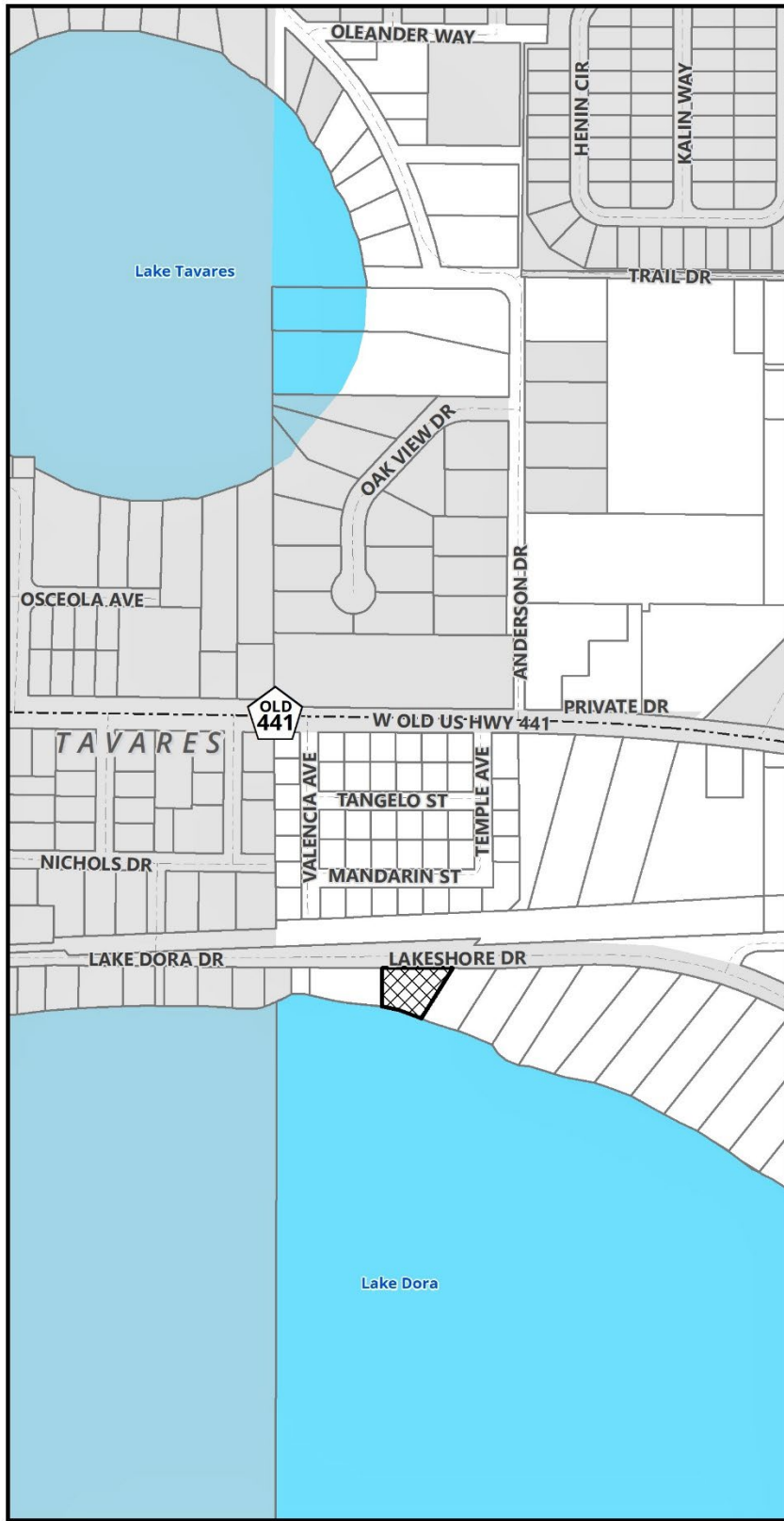
**2. The application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.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

The Applicant provided the following statement, "*The inability to add a screen enclosure to an existing concrete pad has a significant adverse economic impact on Homeowner (sic)*". This statement indicates that a substantial hardship does exist for this variance request.





# Map of Subject Property



**Final Development Order  
VAR-21-82-3  
Morgan Property**

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

**WHEREAS**, Robin Morgan (the “Applicant”), on the behalf of the Morgan Robin Life Estate (the “Owner”) requested a variance to Land Development Regulations (LDR) Section 6.01.04(A)(1), to allow an accessory structure to be constructed 27-feet from the existing seawall, in lieu of 50-feet from the seawall; and

**WHEREAS**, the subject property consists of 0.43 +/- acres and is located at 33845 Lake Shore Drive, in the Tavares area of unincorporated Lake County, in Section 28, Township 19, Range 26, having Alternate Key Number 1397871, and more particularly described in Exhibit “A” – Legal Description; and

**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 March 10th, 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 March 10, 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-21-82-3 to allow an accessory structure to be constructed 27-feet from the existing seawall, in lieu of 50-feet from the seawall.
- 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 10<sup>th</sup> day of March 2022.**

**EFFECTIVE March 10, 2022.**

**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 10<sup>th</sup> day of February 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)**

## Exhibit "A" – Legal Description

That part of Lots 24 and 25, S.B. Hewitt's Land, according to the Plat thereof, recorded in Plat Book 1, Page 52, Public Records of Lake County, Florida, and that Part of Government Lot 9, Section 28, Township 19 South, Range 26 East, bounded and described as follows: From a point on the center line of the right of way of the Seaboard Coast Line Railroad that is 40 feet East of the West line of Lot 25, said S. B. Hewitt's land, run thence North 87 degrees 12 minutes East along the center line of said railroad right of way

486.41 feet, thence South 32 degrees 10 minutes West 135 feet, more or less, to the South line of the right of way of Lake Shore Drive and Point of Beginning of this description; run thence South 32 degrees 10 minutes West 140 feet, more or less, to the waters of Lake Dora, said point being hereby designated as Point "A", thence begin again at the Point of Beginning and run South 89 degrees 11 minutes West along the South line of the right of way of Lake Shore Drive 170.91 feet, thence South 00 degrees 49 minutes East 100 feet, more or less, to the waters of Lake Dora, thence Easterly along and with the waters of Lake Dora to the above designated Point "A".