



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 3

Public Hearing Date: April 14, 2022

Case No. and Project Name: VAR-22-10-4 Burgess Property

Owner / Applicant: Michael and Denise Burgess

Requested Action: Variance to Land Development Regulations (LDR) Section 3.02.05, Setbacks, to allow two (2) after-the-fact accessory structures to be located less than twenty-five (25) feet from the eastern side property line.

Case Manager: Emily W. Johnson, Senior Planner

### Subject Property Information

Size: 4.75 +/- acres

Location: 32440 Forest Drive in the Deland area of unincorporated Lake County.

Alternate Key No.: 1679907

Future Land Use: Rural

Current Zoning District: Agriculture (A)

Flood Zones: "A" and "X"

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

Overlay Districts: Wekiva – Ocala Rural Protection Area (RPA)

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural	A	Residential	Single-Family Residences, adjacent to Forest Drive
South	Rural	A	Agricultural	Large Vacant Agriculture Tract
East	Rural	A	Residential	Single-Family Residence
West	Rural	A	Residential	Single-Family Residence

### Summary of Request.

The subject property, identified as Alternate Key Number 1679907, contains 4.75 +/- acres, is zoned Agriculture (A), and is designated with a Rural Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. Generally, the subject property is located south of Forest Drive, in the unincorporated Deland area of Lake County. The subject property is currently developed with a single-family dwelling unit and related accessory structures (pavilion, 35' X 50' metal building, and 56.2' X 52.2' metal building).

On April 19, 2021, the Office of Building Services opened a code violation on the subject property (Action Order No. 2021040113) for a large metal building and detached covered patio built without permits. To bring the subject property into compliance and satisfy the code violation, the Applicant has requested a variance to LDR Section 3.02.05, Setbacks, to allow two (2) after-the-fact accessory structures (the aforementioned 35' X 50' metal building and 56.2' X 52.2' metal building) to be located less than twenty-five (25) feet from the eastern side property line. The accessory structures are depicted on the plot plan (Attachment "A").

The variance application was provided to the Lake County Public Works Department and Lake County Chief Fire Inspector for review; neither the Public Works Department nor the Fire Inspector provided any comments nor opposition 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.**

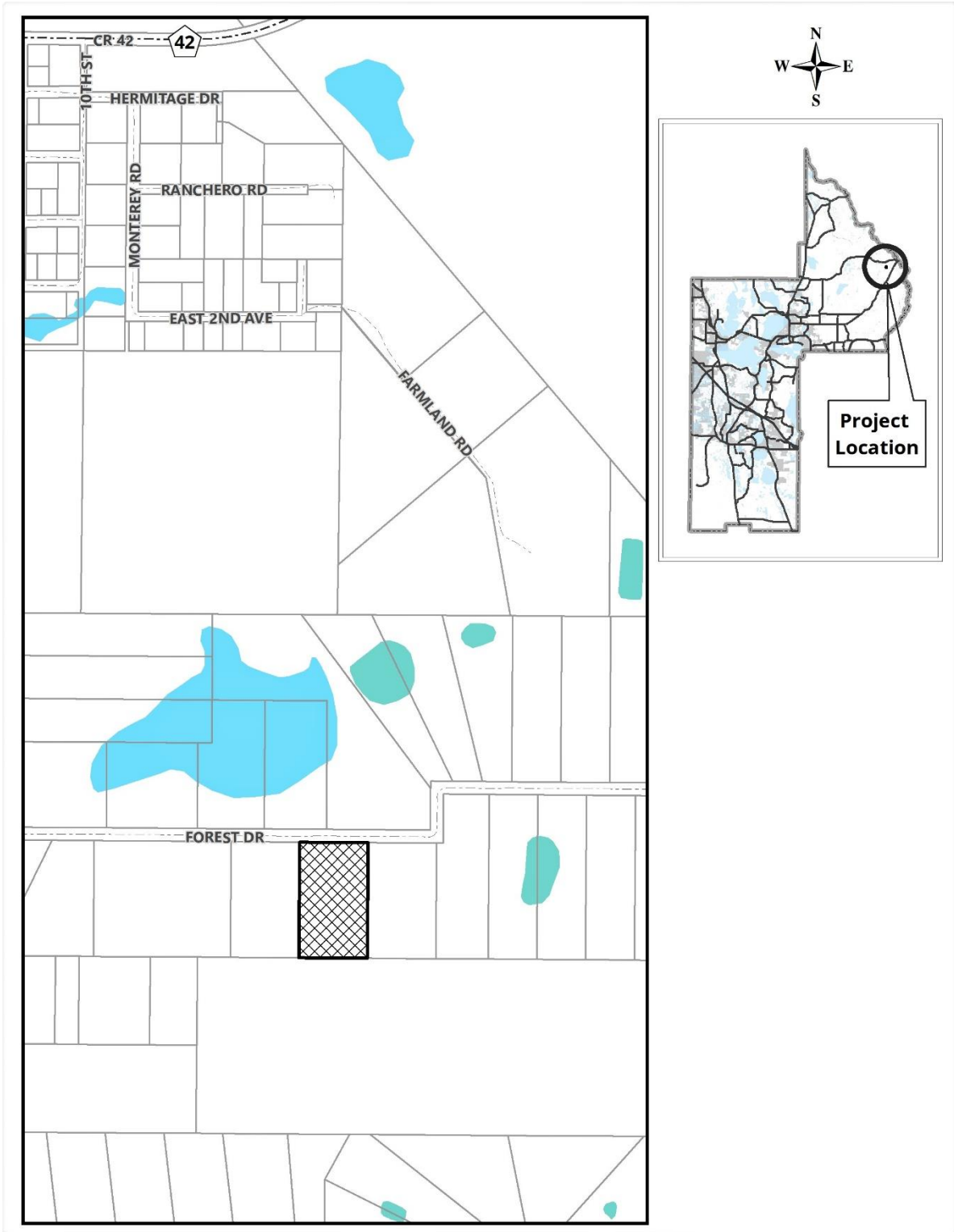
The intent of the code, LDR Section 3.02.05, is to promote a logical development pattern, provide for safe setbacks between structures, and encourage a visually pleasing environment.

To show that the intent of the code will be or has been achieved by other means, the Applicant provided the following statement, *"We own both parcels but can't combine as both parcels have homes on them."*

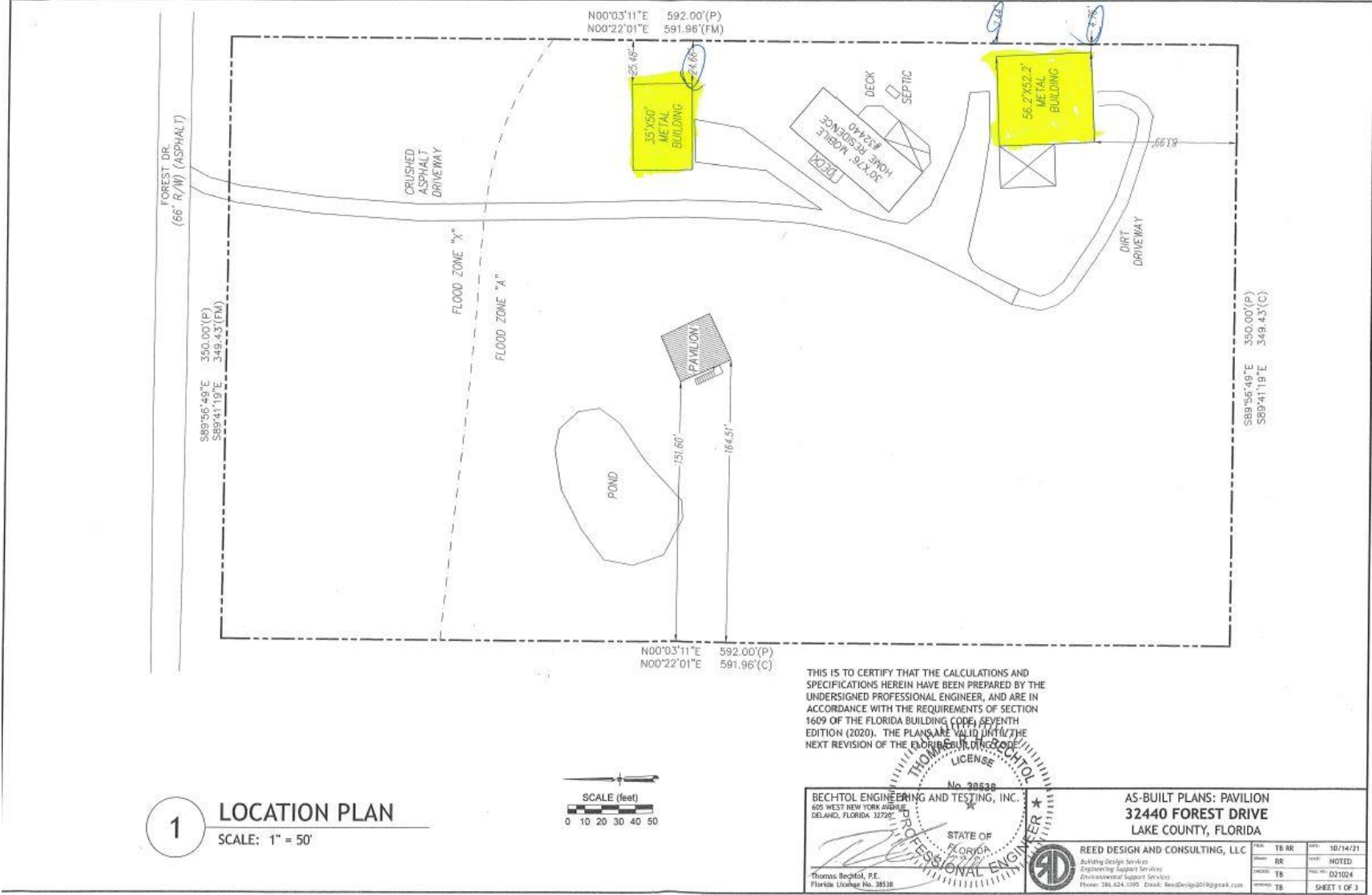
**2. The application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. 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, *"Building to [sic] close to property line. (Pre-existing building) Rear building was pre-existing when we purchased property in 2000, front building is only short of meeting setback by 4'."*

# Map of Subject Property



# Attachment "A" – Plot Plan



**Final Development Order  
VAR-22-10-4  
Burgess Property**

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

**WHEREAS**, Michael and Denise Burgess (the “Owner” and the “Applicant”), requested a variance to Land Development Regulations (LDR) Section 3.02.05, Setbacks, to allow two (2) after-the-fact accessory structures to be located less than twenty-five (25) feet from the eastern side property line; and

**WHEREAS**, the subject property consists of 4.75 +/- acres and is located at 32440 Forest Drive, in the Deland area of unincorporated Lake County, in Section 21, Township 17, Range 29, having Alternate Key Number 1679907, and more particularly described below; and

Lot 34, St. Johns River Acres Subdivision, a subdivision according to the plat thereof recorded November 21, 1972, in Plat Book 20, Pages 13-18 inclusive, 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 April 14, 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 April 14, 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-22-10-4, to allow two (2) after-the-fact accessory structures to be located less than twenty-five (25) feet from the eastern side property line.
- 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.

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**Section 3. Effective Date. This Ordinance will become effective as provided by law.  
ENACTED this 14<sup>th</sup> day of April, 2022.  
EFFECTIVE April 14, 2022.**

**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 14<sup>th</sup> day of April, 2022, 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)**