



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 2

Public Hearing Date: September 8, 2022

Case No. and Project Name: VAR-22-12-4 Warmus Property

Applicant: William Warmus

Owner: William and Elizabeth Warmus

Requested Action: Variance to Land Development Regulations (LDR) Section 3.02.05 to allow an after-the-fact block building totaling 1,440-square feet in area to be located 5-feet from the northern side property line, in lieu of the required 10-feet; and to Land Development Regulations (LDR) Section 10.01.01(D) to allow a property less than one (1) acre in size to be developed with a total of 1,680-square feet of accessory structures, in lieu of 1,160-square feet.

Case Manager: Marellys Moreno, CRA Coordinator

Subject Property Information

Size: 0.52 +/- acres

Location: 42133 Maggie Jones Road, Paisley

Alternate Key No.: 1676789

Future Land Use: Rural

Current Zoning District: Rural Residential (R-1)

Flood Zone: "A" and "X"

Joint Planning Area/ 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	Rural Residential (R-1)	Residential	Single-Family Dwelling Unit
South	Rural	Rural Residential (R-1)	Residential	Single-Family Dwelling Unit
East	Rural	Rural Residential (R-1)	Vacant Residential	Vacant Residential, adjacent to Maggie Jones Road
West	N/A	N/A	Lake	Twin Lake

Summary of Request.

The subject 0.52 +/- acre parcel is identified by Alternate Key Number 1676789, and is located at 42133 Maggie Jones Road, Paisley, Florida. The parcel is zoned Rural Residential (R-1) and has a Rural Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. The subject property is recognized as Lot 10 of the Pine Valley Subdivision, recorded in Plat Book 16, Pages 62. The subject parcel is developed with a single-family residence, two (2) 10-foot x 12-foot accessory structures, and a dock. A zoning clearance was issued in 2011 for a storage building to be located 5-feet from the northern property line. However, the accessory structure has been removed and replaced with the current 24-foot x 60-foot (1,400 square foot) block building). The two existing 10-foot x 12-foot accessory structures did not require permits pursuant to the Lake County Chapter 6, Section 6-22, (2), C. 102.5.1-1, which states that *"a building permit shall not be required for the construction, alteration or repair performed by the property owner upon his or her own personal residence (the residence the owner lives in) for a one-story detached, freestanding, accessory structure to a one or two family dwelling used as a tool shed, storage shed, pergola, deck not exceeding thirty (30) inches above grade, gazebo, or playhouse or an attached/detached accessibility ramp (not exceeding a slope of one (1) unit vertically to twelve (12) units horizontally) that does not exceed a one hundred twenty-square foot footprint for the owner's personal use. This structure shall not incorporate electrical, HVAC, fuel gas, or plumbing. Zoning and flood requirements shall be met as required (utility rooms shall not be allowed under this exemption)."* However, current regulations require a side setback of 10-feet from the property line for parcels zoned Rural Residential (R-1).

On February 4, 2022, the Office of Building Services issued a Notice of Code Violation (Action Order No. 2022010157) on the subject property for construction of two accessory structures (a block building and a carport) without permits.

To bring the subject property into compliance and resolve the Code Violation, the applicant is requesting approval to allow an after-the-fact 24-foot x 60-foot (1,400 square foot) block building, along with other existing accessory structures which do not require permits under Florida Building Code, to be located 5-feet from the northern side property line, in lieu of 10-feet from the property line. The location of the accessory structures is depicted on the Plot Plan (Attachment "A").

In addition, the applicant seeks approval to allow a property less than one (1) acre in size to be developed with a total of 1,680-square feet of accessory structures. 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 (80) 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. The total living area of the house is 1,450-square feet, 80-percent of that square footage is 1,160-square feet. The cumulative square footage of the existing accessory structures equates to 1,680-square feet, exceeding the allowed percentage by 145-percent.

The Public Works Department reviewed the application and included the following condition for inclusion in the draft development order:

1. Flood permitting will be required at time of building permit application. A flood determination, additional info on the structure and finished floor, and elevation certificates would be required at time of permitting and during the construction of the structure. Any fill within the floodplain will require compensating storage onsite.

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 roadways, and encourage a visually pleasing environment.

The intent of the Code, LDR Section 10.01.01(D), is to regulate the installation, configuration, and use of Accessory and temporary Structures and uses in order to preserve the community and property values and to protect the community character.

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: *"Improved material building that was previously in place with purchase of property. It will be used to store equipment for lawns and wood working."*

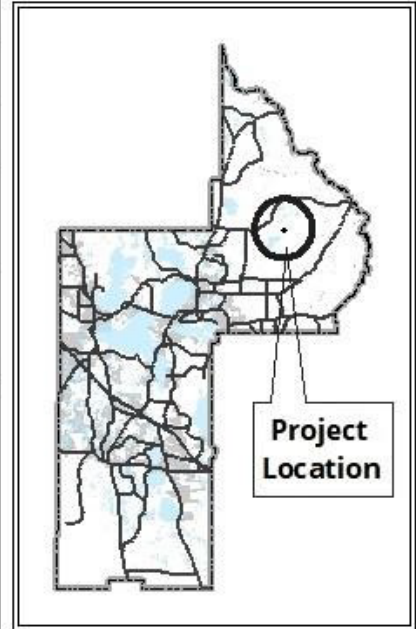
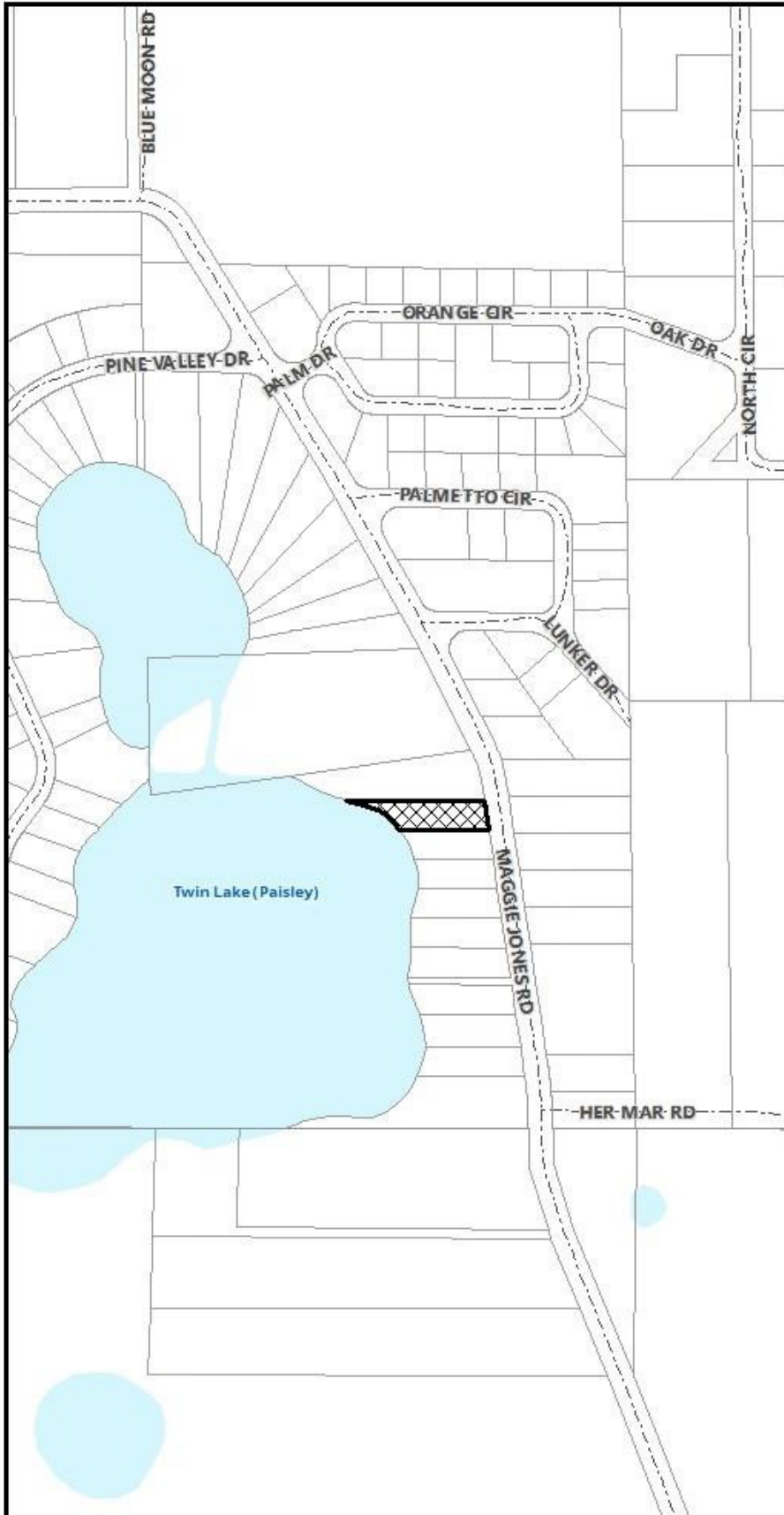
2. The application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. For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

VAR-22-12-4, Warmus Property

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 Owners provided the following statement as proof of a substantial hardship: *“Building is built where there was a permitted building 5 feet off the property line (block building).”*

Map of Subject Property



Attachment "A" - Plot Plan

MAY 17 2011

2011050371

I hereby certify that my lot improvements are exempt from Lot Grading Plan requirement, as per Section 9.07.09.B, Exempt Activities, of the Land Development Regulations. I also certify that my development shall not adversely affect surrounding or downstream wetlands, floodplains or neighboring properties.

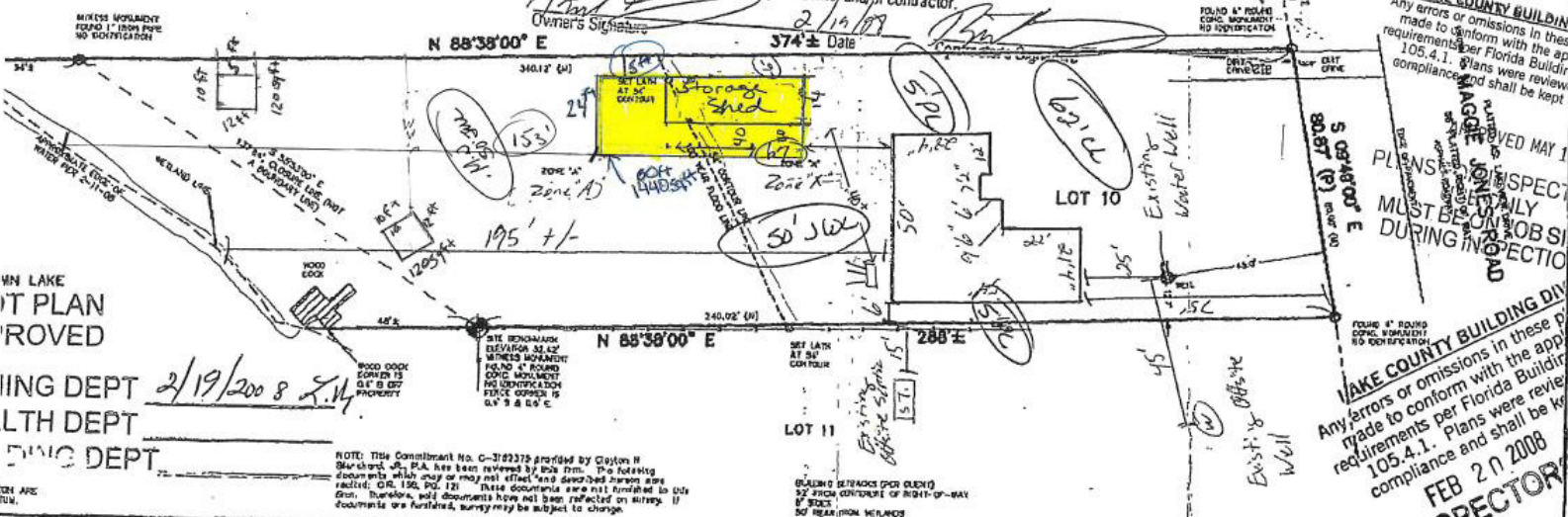
NOTICE TO OWNER AND CONTRACTOR
The issuance of a zoning clearance does not assure that the setbacks have been met or that the development does not encroach on an easement. The owners and/or contractor have the sole responsibility of compliance with setbacks and no encroachment of easements and are responsible for bringing the property into compliance. I hereby certify that the costs associated with meeting the setbacks and other land requirements are the responsibility of the owner and contractor.

PLAT OF BOUNDARY SURVEY

DESCRIPTION (As Furnished) ZONING HEALTH DEPT. BUILDINGS
10, PINE VALLEY, according to the plat thereof recorded in Plot Book 16, Page 62 that is on file in the Public Records of Lake County, Florida.
Dennis & Dulene Sparkman
2133 Maggie Jones Road
Wesley, FL 32767

ISSUANCE OF zoning clearance building permit or mobile home setup permit does not assure that building setbacks have been met or that the structure does not encroach on an easement. The owners and/or contractor have the sole responsibility of compliance with setbacks and no encroachment of easements. If the structure does not meet applicable setbacks or other land requirements, the owner and contractor will be responsible for correcting the same and bringing the property into compliance with applicable setbacks and other land requirements.
I hereby acknowledge that I have read and understand the notice and hereby acknowledge that this site plan is true and correct.
NOTE: This issue must be signed by the owner and/or contractor.

Owner and/or Contractor Printed Name: Dennis & Dulene Sparkman
Date: 5/18/11
EXEMPT



LAKE COUNTY BUILDING DIVISION
Any errors or omissions in these plans shall be made to conform with the applicable code requirements per Florida Building Code section 105.4.1. Plans were reviewed for code compliance and shall be kept on job site.

RECEIVED MAY 18 2011
PLANS FOR INSPECTORS
MUST BE ON JOB SITE
DURING INSPECTION

LAKE COUNTY BUILDING DIVISION
Any errors or omissions in these plans shall be made to conform with the applicable code requirements per Florida Building Code section 105.4.1. Plans were reviewed for code compliance and shall be kept on job site.

FEB 2 2008
RECEIVED

CERTIFIED TO: PLANS FOR INSPECTORS
USE ONLY
MUST BE ON JOB SITE
DURING INSPECTION

Boundary Survey of the description as furnished...
DRAWING: 08-0120-DWG SURVEY DATED: 02/11/08
INTENDED DISPLAY SCALE: 1" = 30' DRAWN: RBH
EXPECTED USE OF THIS LAND: RESIDENTIAL PURPOSES
IT IS CERTIFIED THAT THIS SURVEY REPRESENTS NEAREST NEIGHBORS OR RECORDS THE UNLAWFUL RECORDS, STANDARDS AS SET FORTH IN CHAPTER 61C7-8, FLORIDA ADMINISTRATIVE CODE, PLANNING TO SECTION 61C7-8.01, FLORIDA STATUTES.

REVISIONS AND ADDENDS
LEGEND:
A = Angle (Intersection Angle)
L = Length
L.A. = Line Angle
C.L. = Chain Length
P.T. = Point of Tangency
P.I. = Point of Intersection
P.C. = Point of Curvature
P.T.C. = Point of Tangency to Curve
C.L.C. = Chain Length to Curve
R = Radius
S = Stationing

REVISIONS AND ADDENDS
LEGEND:
C = Concrete
W = Wood Frame
M = Masonry
S = Steel
I = Insulation
G = Gypsum Board
D = Drywall
P = Plaster
F = Fiberglass Insulation
C = Cement
S = Sand
G = Gravel
S = Soil
R = Rebar
A = Anchor
B = Bolt
N = Nail
S = Screw
P = Pipe
C = Cable
W = Wire
L = Light

**Final Development Order
VAR-22-12-4
Warmus Property**

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

WHEREAS, William Warmus (the “Applicant”), on behalf of William and Elizabeth Warmus (the “Owners”), requested a variance to Lake County Land Development Regulations (LDR) Section 3.02.05 to allow an after-the-fact block building to be located 5-feet from the northern side property line, in lieu of the required 10-foot setback; and to Lake County Land Development Regulations (LDR) Section 10.01.01(D) to allow a property less than one (1) acre in size to be developed with 1,680-square feet of accessory structures; and

WHEREAS, the subject property consists of 0.52 +/- acres and is located at 42133 Maggie Jones Road, in the unincorporated Paisley area of Lake County, Florida, in Section 33, Township 17 South, Range 28 East, having Alternate Key Number 1676789, and more particularly described as:

PINE VALLEY LOT 10 PB 16 PG 62 ORB 5342 PG 2047

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 September 8, 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 September 8, 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-22-12-4 to allow an after-the-fact block building totaling 1,440-square feet to be located 5-feet from the northern side property line, in lieu of the required 10-foot setback; and to allow a property less than one (1) acre in size to be developed with 1,680-square feet of accessory structures; with the following condition:

1. Flood permitting will be required at time of building permit application. A flood determination, additional info on the structure and finished floor, and elevation certificates would be required at time of permitting and during the construction of

the structure. Any fill within the floodplain will require compensating storage onsite

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 8th day of September 2022.

EFFECTIVE September 8, 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 8th day of September 2022, by James Argento, as Chairman of the Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

Notary Signature

(SEAL)