



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 5

Public Hearing Date: September 8, 2022

Case No. and Project Name: VAR-22-27-3, Contreras Property

Applicant: Alberto P Contreras

Owner: Alberto P Contreras

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 3.02.05 to allow for an after-the-fact accessory dwelling unit (ADU) to be located 21.03-feet from property line, in lieu of the required twenty-five (25) foot setback from property line; and to LDR Section 10.01.03(B)(4) to allow for the enclosed living area of an after-the-fact accessory dwelling unit (ADU) to exceed seventy (70) percent of the air conditioned, enclosed living area of the principal dwelling unit.

Case Managers: Christopher Boyce, Compliance and Monitoring Associate
Emily W. Johnson, Chief Planner

Subject Property Information

Size: 5.08 +/- acres

Location: 10435 Phoenix Lane, in the unincorporated Howey-in-the-Hills area

Alternate Key No.: 3861916

Future Land Use: Rural

Current Zoning District: Agriculture District (A)

Flood Zone: "X"

Joint Planning Area/ ISBA: City of Groveland Interlocal Service Boundary Agreement (ISBA)

Overlay Districts: Yalaha - Lake Apopka RPA

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural	Agriculture (A)	Agricultural	Vacant Residential
South	Rural	Agriculture (A)	Residential	Single-Family Dwelling Unit, adjacent to Phoenix Lane
East	Rural	Agriculture (A)	Residential	Single-Family Dwelling Unit
West	Rural	Agriculture (A)	Residential	Single-Family Dwelling Unit

Summary of Request.

The subject property, identified by Alternate Key Number 3861916, contains 5.08 +/- 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 north of Phoenix Lane, and west of State Road 19, in the unincorporated Howey-in-the-Hills area of Lake County. The subject property is currently developed with a 2,304-square foot single-family residence.

On May 12, 2021 the Office of Building Services opened a code case (Action Order No. 2021050114) on the subject property for the conversion of a pole barn / metal building into a dwelling unit without a permit. On July 21, 2021, the case was brought before the Special Master of Lake County Florida, and the property owner was ordered to obtain the required permits, or to remove all unpermitted work.

The original accessory structure does not appear to have been permitted, and was constructed at a setback of 21.03-feet from the western side property line. LDR Section 3.02.05 requires a 25-foot setback from the property line for an accessory structure. The location of the structure is depicted on the survey (Attachment "A") and called out as a "metal building". The applicant provided staff with a copy of the floor plan (Attachment "B") which shows that the after-the-fact accessory dwelling unit (ADU) contains approximately 1,993-square feet of enclosed living area, which exceeds the 1,612-square foot (70% of the enclosed, air-conditioned living area of the primary dwelling unit) maximum amount allowed by LDR Section 10.01.03(B)(4). The living area of the after-the-fact dwelling unit equates to approximately 86.5% of the living area of the primary dwelling unit.

In order to bring the property into compliance and resolve the code case, the applicant has requested a variance to LDR Section 3.02.05 to allow for an after-the-fact accessory dwelling unit (ADU) to be located 21.03-feet from property line, in lieu of the required twenty-five (25) foot setback from property line; and to LDR Section 10.01.03(B)(4) to allow for the enclosed living area of an after-the-fact accessory dwelling unit (ADU) to exceed seventy (70) percent of the air conditioned, enclosed living area of the principal dwelling unit. Should the variance be granted, permits for the after-the-fact accessory dwelling unit will be required.

The subject parcel is located within the Groveland ISBA; therefore, the variance application was sent to the City of Groveland for a determination of consistency with their regulations. The City of Groveland 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 3.02.05, Setbacks, is to promote a logical development pattern, provide for safe setbacks between structures, and encourage a visually pleasing environment.

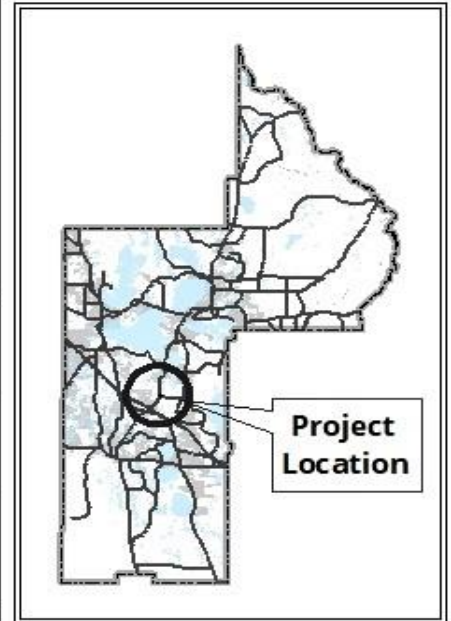
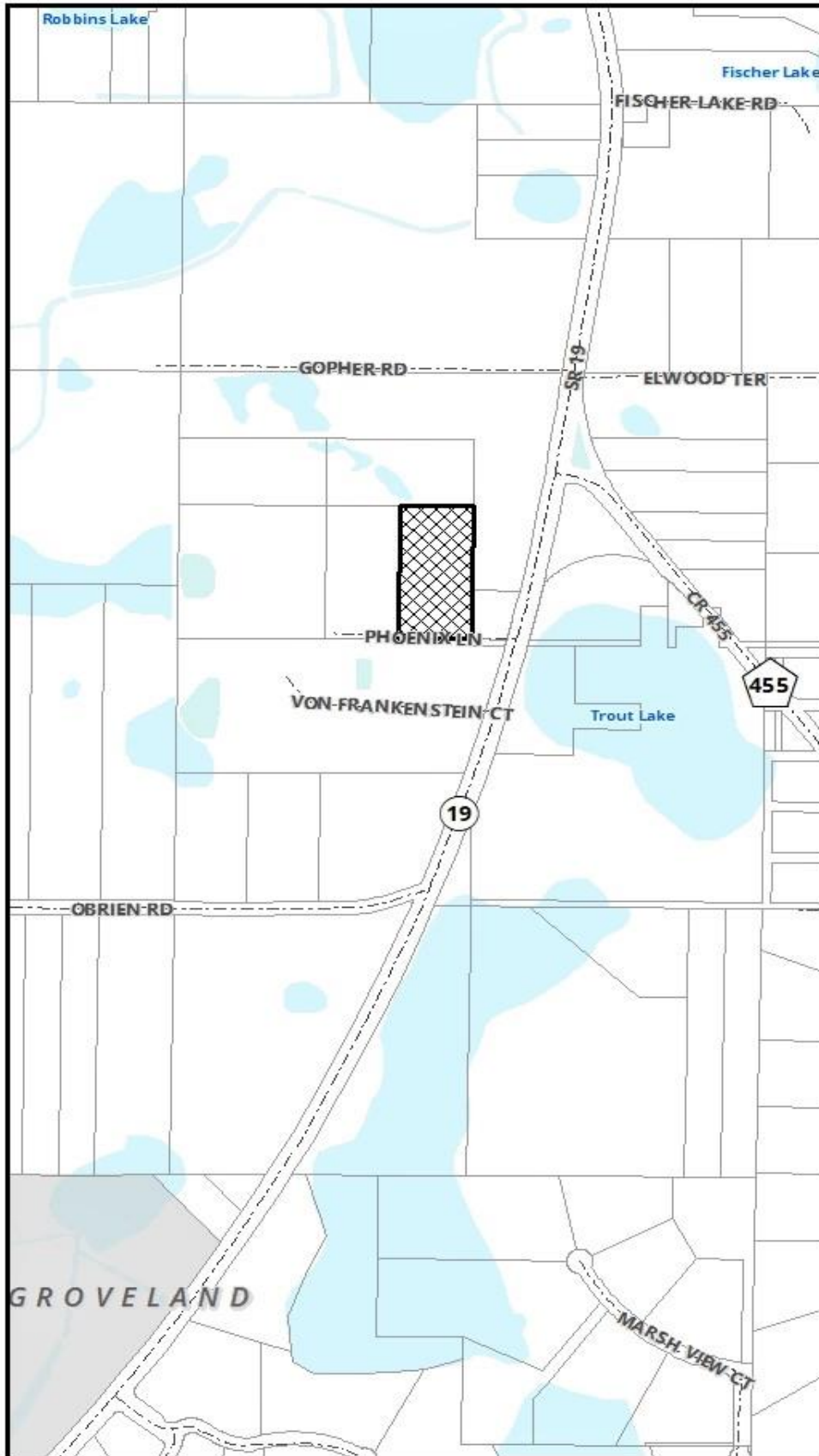
The intent of the Code, LDR Section 10.01.03, *Accessory Dwelling Units*, is to provide for less expensive housing units to accommodate growth, provide housing for relatives, and to provide for security. Additional regulations are set in place for an accessory dwelling unit (ADU) to ensure that the ADU meets the characteristics of the surrounding neighborhood and does not negatively impact overall regional density.

The Applicant provided the following statement as proof that the intent of the LDR will be or has been achieved by other means, "*Variance will not affect any visual pleasing sight between properties. Variance will not affect access between buildings*"

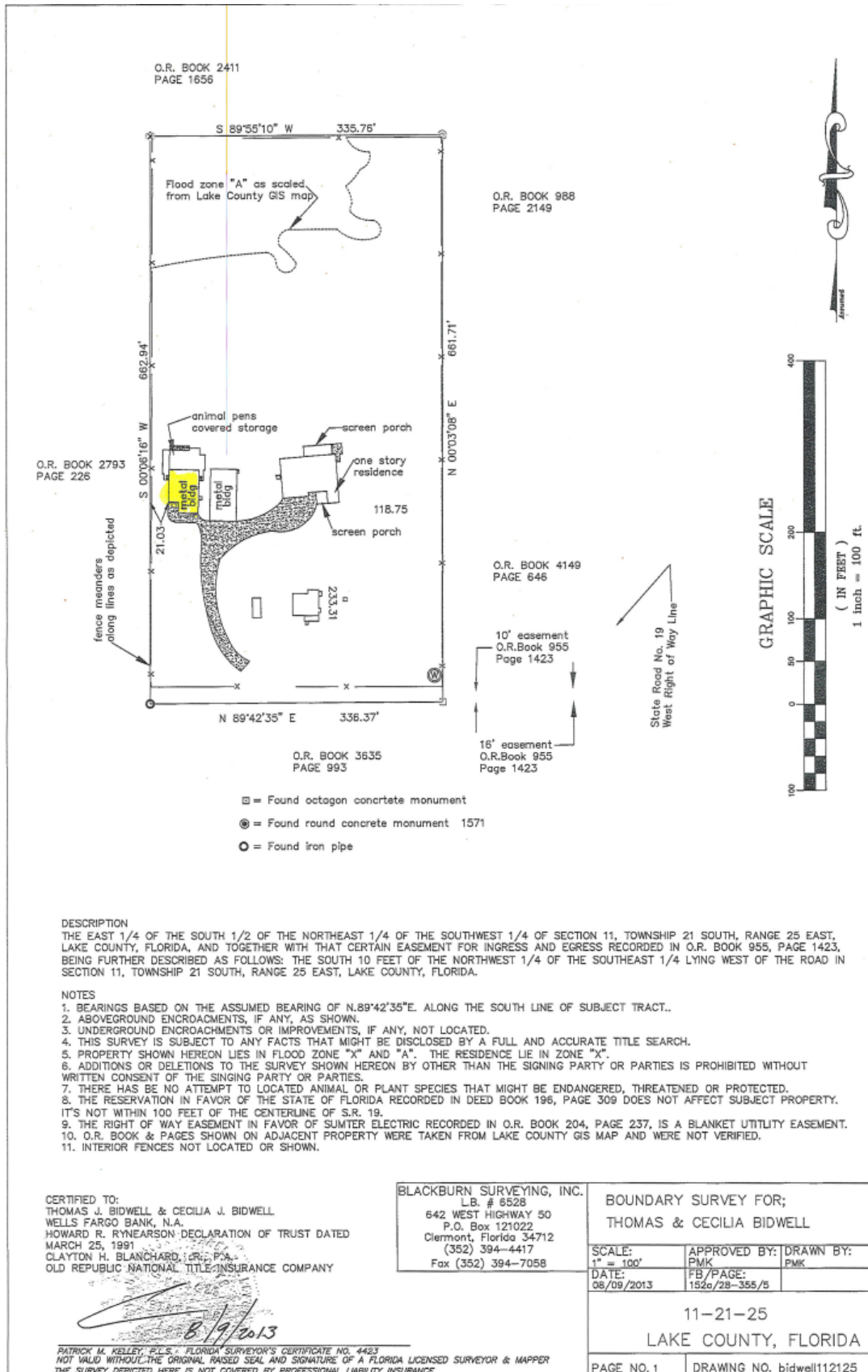
- 2. The application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. 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, *"Costly to move Building Estimated \$60,000⁰⁰"*

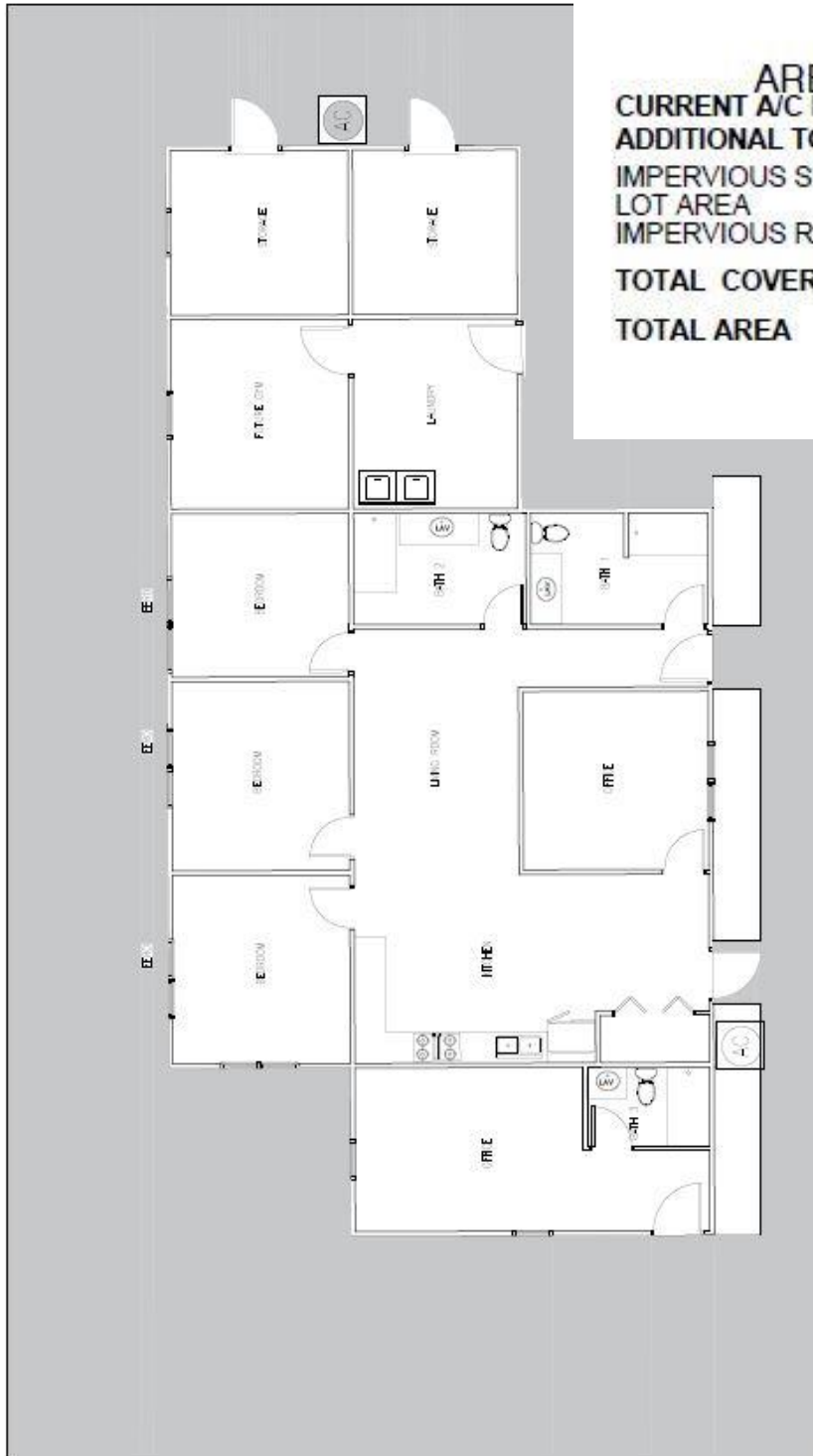
Map of Subject Property



Attachment "A" – Survey



Attachment "B" – Floor Plan



AREA CALCULATIONS	
CURRENT A/C LIVING AREA	1,993 SF
ADDITIONAL TOTAL A/C LIVING AREA	0 SF
IMPERVIOUS SURFACE IMPACTED	0 SF
LOT AREA	0 SF
IMPERVIOUS RATIO	0
TOTAL COVERED AREA	0 SF
TOTAL AREA	1,993 SF

**Final Development Order
VAR-22-27-3
Contreras Property**

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

WHEREAS, Alberto P. Contreras (the “Applicant” and “Owner”), requested a variance to Lake County Land Development Regulations (LDR) Section 3.02.05 to allow for an after-the-fact accessory dwelling unit (ADU) to be located 21.03-feet from property line, in lieu of the required twenty-five (25) foot setback from property line; and to LDR Section 10.01.03(B)(4) to allow for the enclosed living area of an after-the-fact accessory dwelling unit (ADU) to exceed seventy (70) percent of the air conditioned, enclosed living area of the principal dwelling unit; and

WHEREAS, the subject property consists of 5.08 +/- acres and is located at 10435 Phoenix Lane, in the unincorporated Howey-in-the-Hills area, in Section 11, Township 21 South, Range 25 East, having Alternate Key Number 3861916 and more particularly described as:

The East 1/4 of the South 1/2 of the Northeast 1/4 of the Southwest 1/4 in Section 11, Township 21 South, Range 25 East, in Lake County, Florida, and together with the certain easement for ingress and egress recorded in O.R. Book 955, Page 1423, being further described as follows: The South 10 feet of the Northwest 1/4 of the Southeast 1/4 lying West of the road, in Section 11, Township 21 South, Range 25 East, Lake County, Florida.

WHEREAS, after giving notice of the hearing on the petition for a variance to the Lake County Land Development Regulations (LDR), 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-22-27-3 to allow for an after-the-fact accessory dwelling unit (ADU) to be located 21.03-feet from property line, in lieu of the required twenty-five (25) foot setback from property line, and to allow for the enclosed living area of an after-the-fact accessory dwelling unit (ADU) to exceed seventy (70) percent of the air conditioned, enclosed living area of the principal dwelling unit, with the following condition:

1. Permits must be obtained for the after-the-fact accessory dwelling unit (ADU).

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 Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

Notary Signature

(SEAL)