



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 2

Public Hearing Date: November 10, 2022

Case No. and Project Name: VAR-22-27-4, Jenison Property

Owners: Eric T. Jenison and Linda J. Jenison

Applicant: Eric Jenison

Requested Action: Variance to Land Development Regulations (LDR) Section 6.01.04(A)(1)(a) to enclose an existing slatted wood deck that is located 39-feet from the jurisdictional wetland line, in lieu of 50-feet.

Case Manager: Emily W. Johnson, Chief Planner

Subject Property Information

Size: 5.09 +/- acres

Location: 35549 Estes Road, in the unincorporated Eustis area of Lake County.

Alternate Key No.: 1608716

Future Land Use: Rural Transition

Current Zoning District: Estate Residential (R-2)

Flood Zones: "AE" and "X"

Joint Planning Area (JPA) / ISBA: City of Eustis

Overlay Districts: Wekiva Study Area

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural Transition	R-2	Agriculture	Vacant and Undeveloped Agriculturally-Exempt Tract
South	Rural Transition	R-3	Residential and Agriculture	Single-Family Residence with Agricultural-Exemption
East	Rural Transition	A	Agriculture	Vacant and Undeveloped Agriculturally-Exempt Tract
West	N/A	N/A	Lake	Lake Swatara

Summary of Request.

The subject property, identified as Alternate Key Number 1608716, contains 5.09 +/- acres, is zoned Estate Residential (R-2), and is designated with a Rural Transition Future Land Use Category by the 2030 Comprehensive Plan. Generally, the subject property is located west of Estes Road, and east of Lake Swatara, in the unincorporated Eustis area of Lake County, specifically at 35549 Estes Road. The subject property is currently developed with a single-family dwelling unit and related accessory uses.

The plot plan (Attachment "A") depicts the location of the existing deck that is proposed to be enclosed. On January 18, 2012, the Office of Planning and Zoning issued a zoning clearance for a 16-foot X 30-foot (480 square foot) slatted wood deck, with the condition that the deck could not be enclosed or covered. The deck received a Certificate of Occupancy from the Office of Building Services on February 24, 2012. Pursuant to LDR Section 6.01.04, water-dependent structures are exempt from the 50-foot setback requirement. LDR Section 6.01.03(B)(1) specifically names pile-supported walkways as such an allowable use within the wetland setback. However, enclosing or covering the deck would require it to meet the 50-foot wetland setback established by LDR Section 6.01.04(A)(1)(a). As such, the applicant has requested a Variance to LDR Section 6.01.04(A)(1)(a) to enclose an existing slatted wood deck that is located 39-feet from the jurisdictional wetland line, in lieu of 50-feet.

The Lake County Department of Public Works reviewed the application and requested the following condition for inclusion in the development order:

1. An interceptor swale that is sized to capture the first 1-inch of stormwater runoff from the impervious area of the parcel shall be provided on site. An engineered design that includes a plan and calculations must be submitted with the permit application for the improvement/addition for the site.

The subject property is located within the City of Eustis Joint Planning Area (JPA). The City of Eustis reviewed the application and stated that there was no comments nor objections to the variance 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.

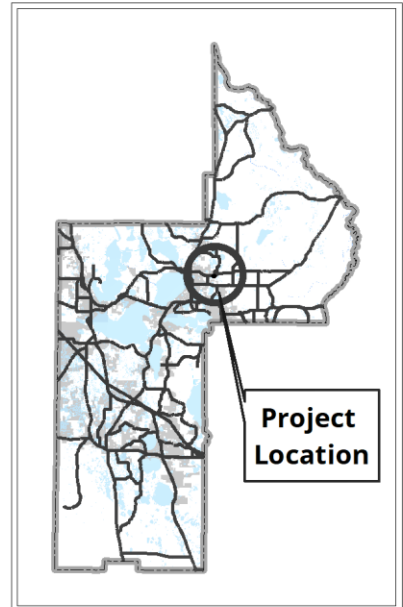
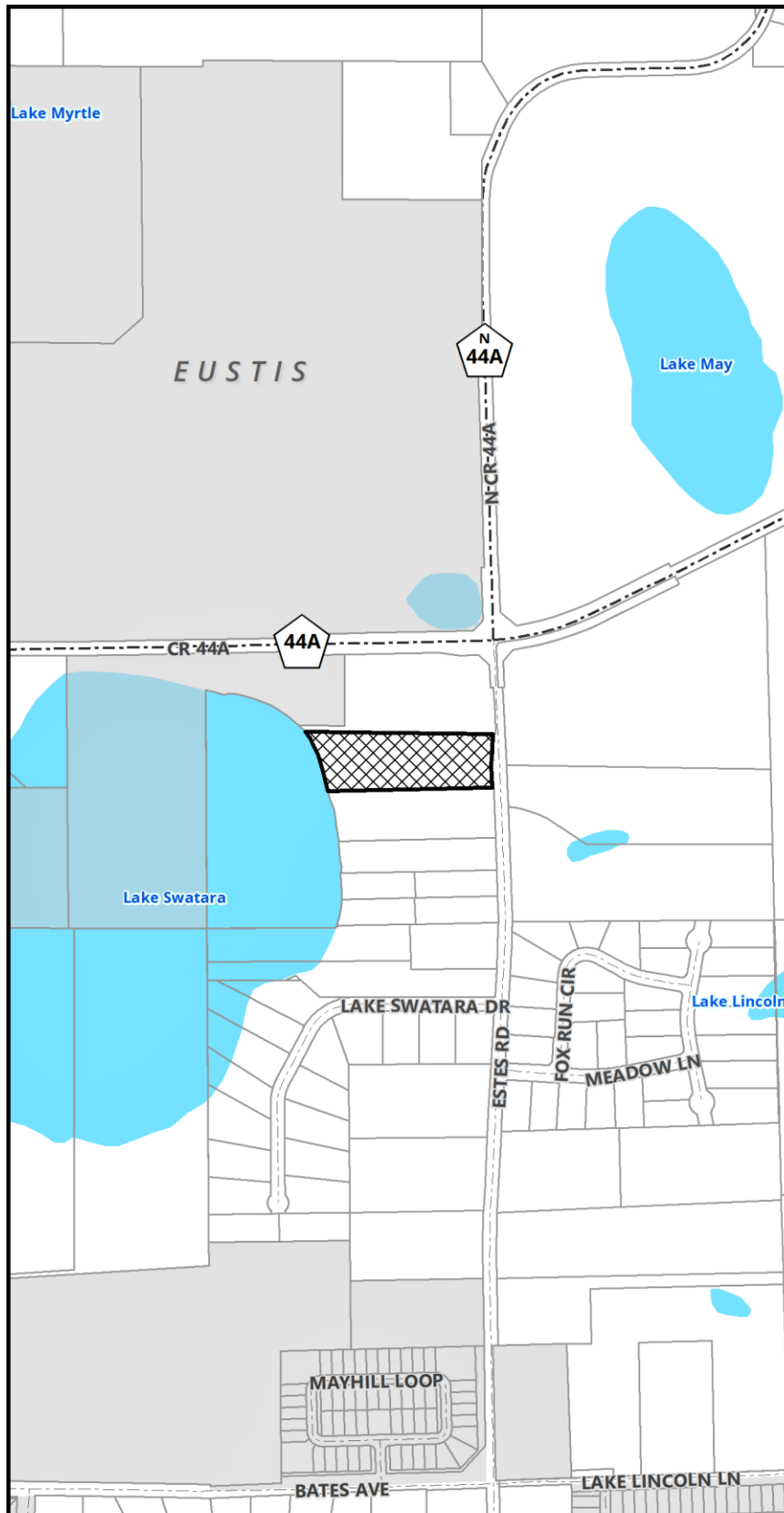
As proof that the intent of the code will be or has been achieved by other means, the Applicant provided the following statement, *"(1) Can't fully use wood deck, too much sun [and] exstream bug's [sic]. (2) House only currently has two bedrooms, which one is my office. Need more room."*

- 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.**

LDR Section 14.15.04, states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requested the variance.

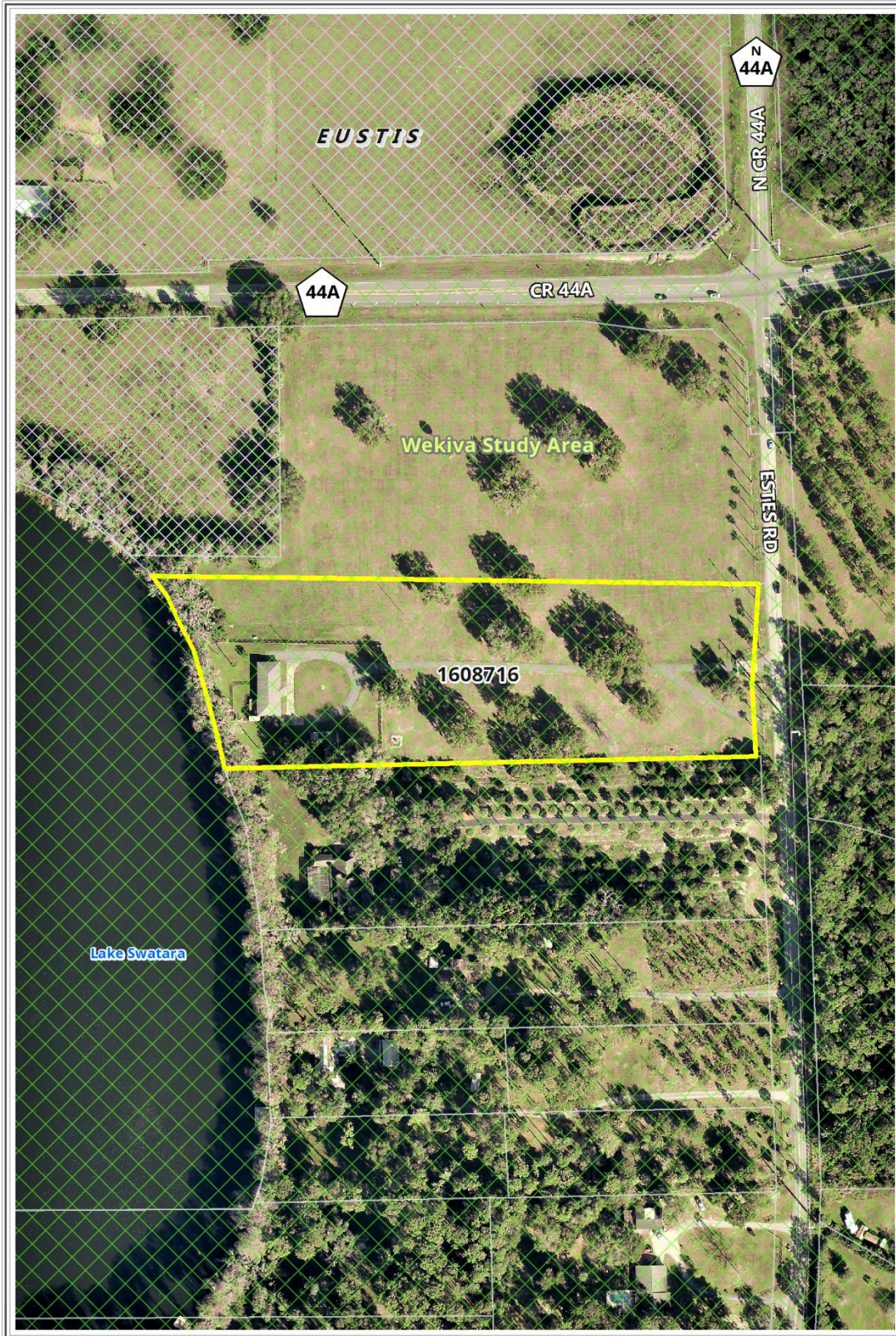
As proof of a substantial hardship, the Applicant provided the following statement, *"Deck [and] addition will not negatively effect [sic] wetland and/or runoff."*

Map of Subject Property



Aerial Map

VAR-22-27-4
Jenison Property

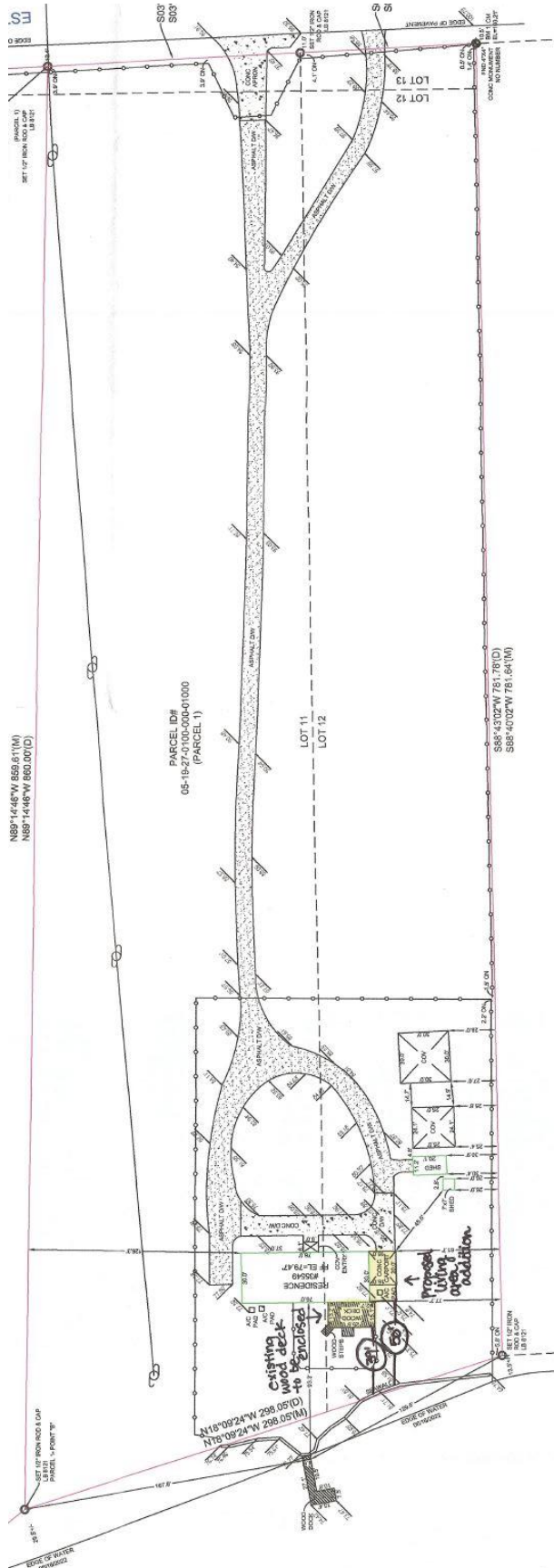


Wetland Setback
Adjustment

Legend



Attachment "A" – Plot Plan



Final Development Order
VAR-22-27-4
Jenison Property

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

WHEREAS, Eric Jenison (the “Applicant”), on behalf of Eric T. Jenison and Linda J. Jenison (the “Owners”), requested a variance to Land Development Regulations (LDR) Section 6.01.04(A)(1)(a) to enclose an existing slatted wood deck that is located 39-feet from the jurisdictional wetland line, in lieu of 50-feet; and

WHEREAS, the subject property consists of 5.09 +/- acres and is located at 35549 Estes Road, in the unincorporated Eustis area of Lake County, in Section 05, Township 19 South, Range 27 East, having Alternate Key Number 1608716, 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 November 10, 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 November 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-22-27-4, to enclose an existing slatted wood deck that is located 39-feet from the jurisdictional wetland line, in lieu of 50-feet; with the following condition:

1. An interceptor swale that is sized to capture the first 1-inch of stormwater runoff from the impervious area of the parcel shall be provided on site. An engineered design that includes a plan and calculations must be submitted with the permit application for the improvement/addition for the site.

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 10th day of November 2022.

EFFECTIVE November 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 10th day of November, 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

PARCEL 1

THAT PART OF SECTION 5, TOWNSHIP 19 SOUTH, RANGE 27 EAST, LAKE COUNTY, FLORIDA, AND BEING A PORTION OF LOTS 10, 11, 12 AND 13, AS SHOWN ON THE MAP OF BRAZEELE SUBDIVISION, AS RECORDED IN PLAT BOOK "B", PAGE 19 OF PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE NORTHWEST CORNER OF SECTION 5, TOWNSHIP 19 SOUTH, RANGE 27 EAST, LAKE COUNTY, FLORIDA, SAID CORNER BEING MARKED BY A 6" X 6" SQUARE CONCRETE MONUMENT, RUN S00 °20'16"E ALONG THE WEST LINE OF SAID SECTION 5, A DISTANCE OF 1472.16 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 44-A (66.00 FOOT WIDE TOTAL RIGHT-OF-WAY); THENCE N89 °01'06"E ALONG SAID RIGHT-OF-WAY A DISTANCE OF 662.22 FEET TO THE WEST LINE OF ABOVE SAID LOT 11; THENCE CONTINUE N89 °01'06"E ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 442.85 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 4416.00 FEET, AND A CHORD BEARING AND DISTANCE OF N88 °36'41"E 218.52 FEET; THENCE EASTERLY ALONG THE ARC THEREOF, THROUGH A CENTRAL ANGLE OF 02 °50'08" FOR 218.55 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 1458.83 FEET, THENCE RUN EASTERLY ALONG THE ARC THEREOF THROUGH A CENTRAL ANGLE OF 00 °51'42" FOR 21.94 FEET TO A POINT ON THE MOST EASTERLY LINE OF A TRACT OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 1068, PAGE 1008, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE DEPARTING SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG SAID EASTERLY LINE RUN S03 °25'31"E 411.29 FEET TO THE POINT OF BEGINNING;

THENCE DEPARTING SAID EASTERLY LINE RUN N89 °14'46"W A DISTANCE OF 860.00 FEET, MORE OR LESS, TO THE WATERS OF LAKE SWATARA AND A POINT HEREIN DESIGNATED AS POINT "B"; BEGIN AGAIN AT THE POINT OF BEGINNING AND CONTINUING ALONG THE AFOREMENTIONED EASTERLY LINE OF O.R.B. 1068, PAGE 1008, RUN S03 °25'31"W 150.38 FEET TO A 4" ROUND CONCRETE MONUMENT WITH NO IDENTIFICATION NUMBER; THENCE CONTINUE ALONG SAID EASTERLY LINE S03 °02'51"E 104.43 FEET TO A 4" ROUND CONCRETE MONUMENT MARKED RLS #1571 LOCATED ON THE NORTH LINE OF THE SOUTH 640.00 FEET OF ABOVE MENTIONED LOTS 12 AND 13; THENCE S88 °43'02"W ALONG SAID NORTH LINE 781.78 FEET, MORE OR LESS, TO THE WATERS OF LAKE SWATARA; THENCE RUN NORTHWESTERLY ALONG SAID WATERS TO THE AFOREMENTIONED POINT "B".