



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 4

Public Hearing Date: December 8, 2022

Case No. and Project Name: VAR-22-45-4, Wiley and Sangster Property

Owner: Deserae Wiley and Kailey Sangster

Applicant: Logan Wilson, RLW Realty

Requested Action: Variance to Land Development Regulation (LDR) Section 14.11.01(D.)(2.) to allow for the creation of two (2) lots, via the minor lot split process, which will front on a publicly maintained clay road or easement, in lieu of a publicly maintained paved road.

Case Manager: James Frye, Planner

Subject Property Information

Size: 5.06 +/- acres for Alternate Key 3905785 and 5.06 +/- acres for Alternate Key 1306485

Location: 40825 Babb Road, in the unincorporated Umatilla area of Lake County.

Alternate Key No.: 3905785 and 1306485

Future Land Use: Rural

Current Zoning District: Agriculture (A)

Flood Zone: "X" and "A"

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

Overlay Districts: N/A

Adjacent Property Land Use Table

| Direction | Future Land Use | Zoning | Existing Use | Comments |
|-----------|-----------------|-----------------|---------------------|--|
| North | Rural | Agriculture (A) | Residential | Single-Family Residences and Vacant Land |
| South | Rural | Agriculture (A) | Vacant | Vacant Land |
| East | Rural | Agriculture (A) | Residential, Vacant | Single-Family Residence, adjacent to Babb Road and Vacant Ag Exempt Land |
| West | Rural | Agriculture (A) | Residential | Single-Family Residence |

Summary of Request.

The subject properties, identified as Alternate Key Number 3905785 and Alternate Key Number 1306485, both contain 5.06 +/- acres, are zoned Agriculture (A), and are designated with a Rural Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. The subject property is located at 40825 Babb Road in the unincorporated Umatilla area of Lake County. The subject property identified by Alternate Key 1306485 is currently developed with a single-family dwelling unit and related accessory uses, and the subject property identified by Alternate Key 3905785 is currently vacant.

The applicant has requested a Variance to LDR Section 14.11.01.(D.)(2.) to allow for the creation of two (2) lots, via the Minor Lot Split process, which will front on a publicly maintained clay road or easement, in lieu of a publicly maintained paved road. The proposed lot split is depicted on the boundary survey (Attachment "A").

In January of 2021, the applicant submitted a Minor Lot Split after finding out that their clients, the owners, bought an unrecognized parcel that was not legally split. The parcel was created by a recorded deed in lieu of an approved Minor Lot Split. Staff contacted the applicant indicating that each lot did not front on a publicly maintained paved road. The applicant applied for a Variance (VAR-21-25-5) to LDR Section 14.11.01.(D.)(2.) on March 23, 2021 and was approved by the Board of Adjustment on August 12, 2021 with the condition that the Minor Lot Split application be submitted within six (6) months from the Variance approval date. The final Development Order was recorded on August 27, 2021 in Official Records Book 5781, Page 1058-1059.

The applicant was unable to fulfill the terms of the Development Order and did not resubmit the Minor Lot Split application six (6) months from the Board of Adjustment (BOA) approval. This was due to being unable to obtain a completed survey of the property. Currently the applicant has obtained the required survey and is able to submit a complete application for the minor lot split.

The applicant has re-submitted the original Variance request to LDR Section 14.11.01.(D.)(2.), in order to submit and finalize the Minor Lot Split, to make the subject properties legally recognized.

The Variance application was provided to the Lake County Public Works Department and Lake County Chief Fire Inspector for review. The Public Works Department did not provide any comments nor opposition to the request. The Lake County Chief Fire Inspector provided one comment: *"Fire has no objection to the variance request for Lot Split."*

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 14.11.01, is to ensure that properties being split have the facilities that are required for the development of parcels such as roads and appropriate emergency access.

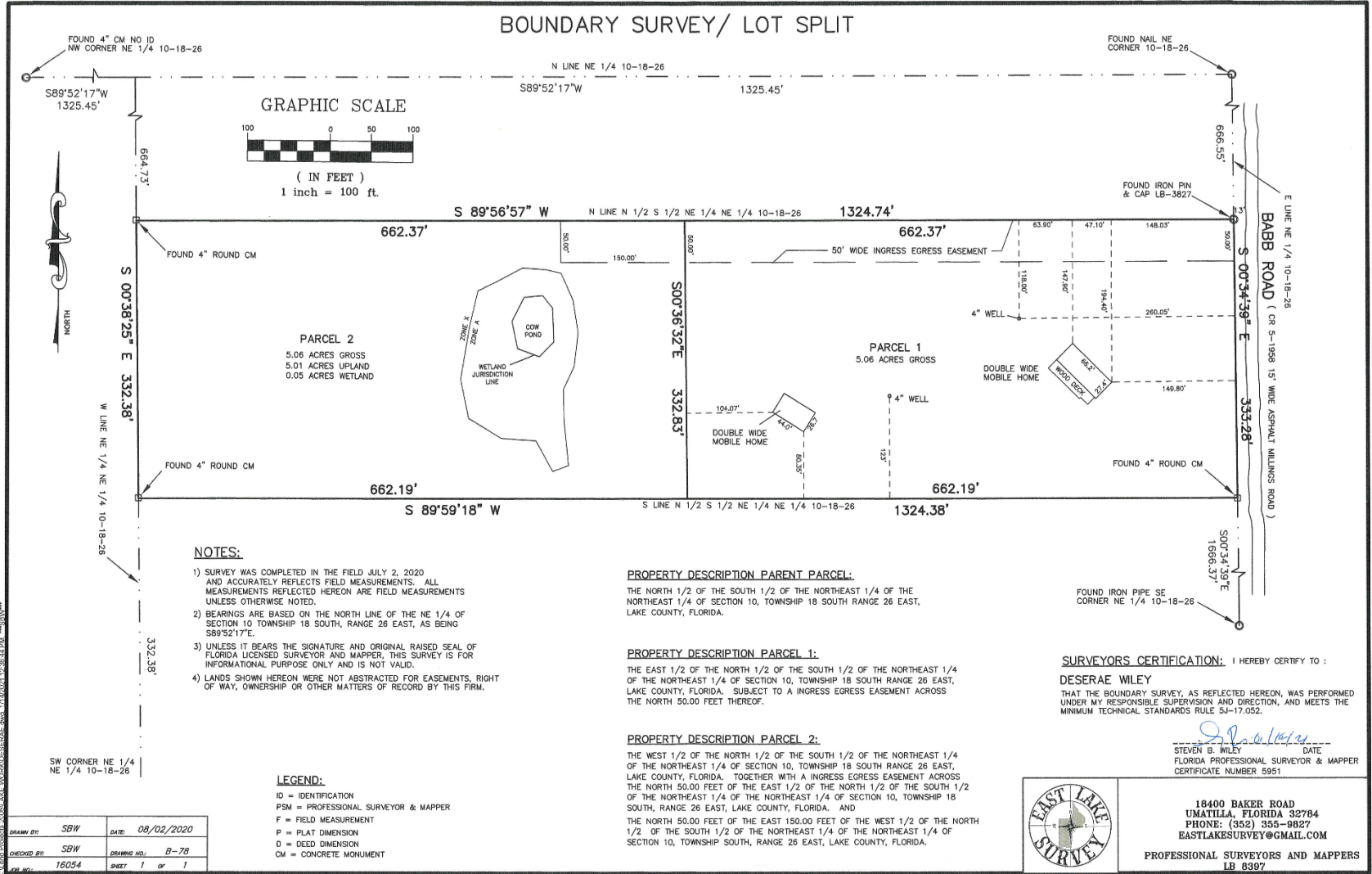
To show that the intent of the Code will be or has been achieved by other means, the Applicant provided the following statement, *"The property is designated Rural on the Future Land Use map and Zone Ag. All other aspects of the land use designation and zoning designation will be met"*

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.

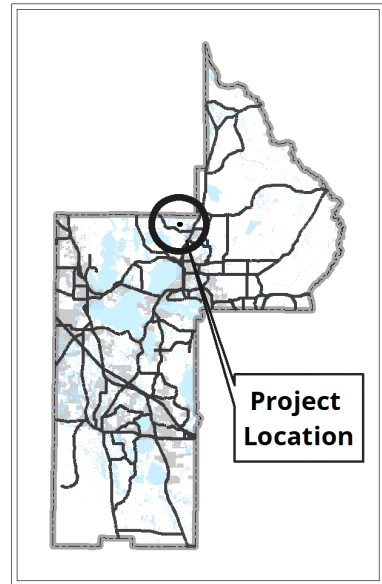
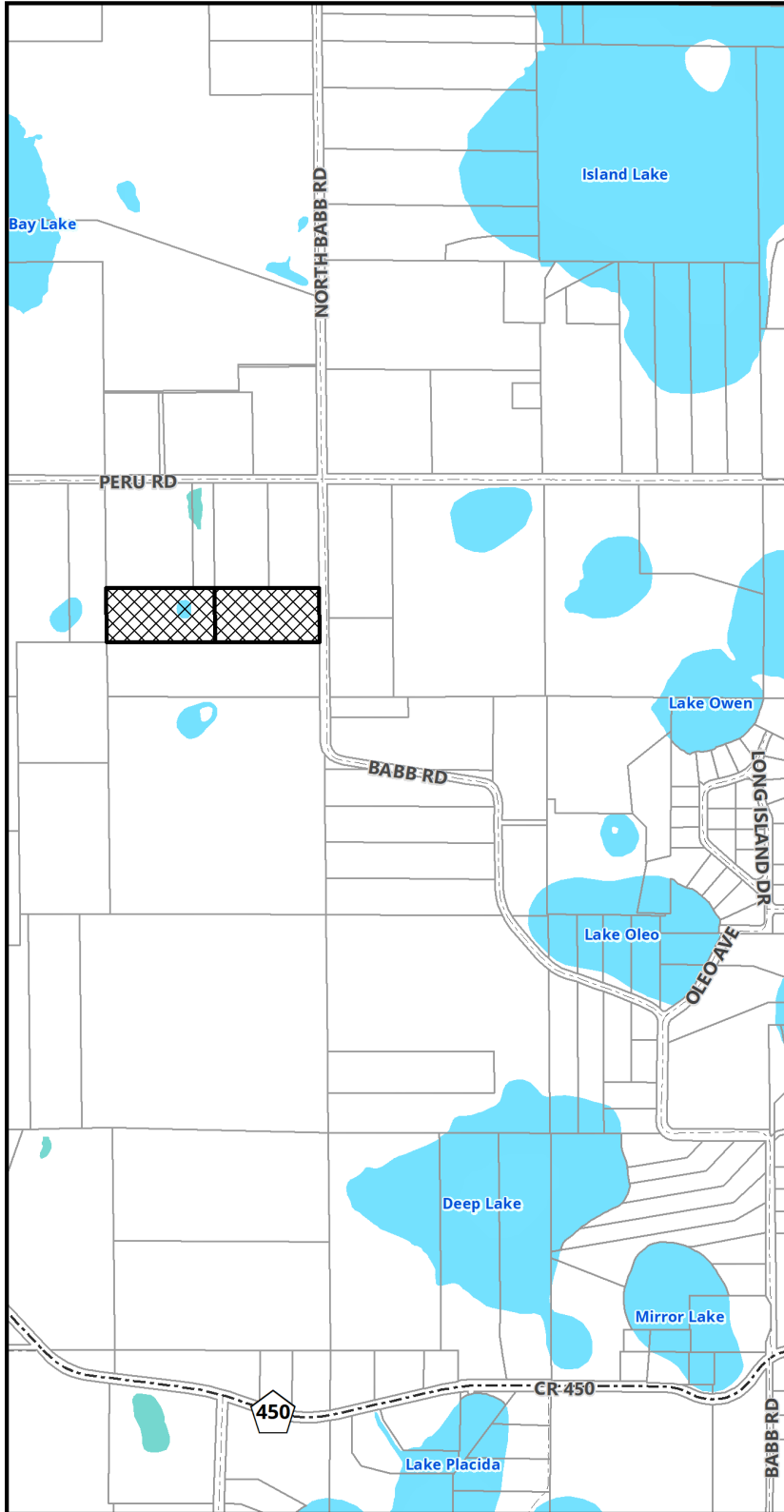
VAR-22-45-4, Wiley and Sangster Property

To show substantial hardship, the Applicant provided the following statement, "*The property was previously approved through the variance process to create two approximately five acre parcels (VAR-21-25-5), but the variance required the lot split to be submitted within six months, and the owners could not get the survey work completed within the allotted time due to market demands.*"

Attachment "A" - Boundary Survey



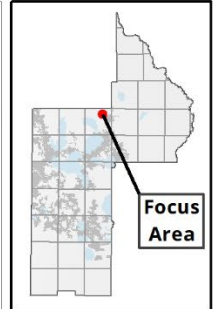
Map of Subject Property



Aerial Map

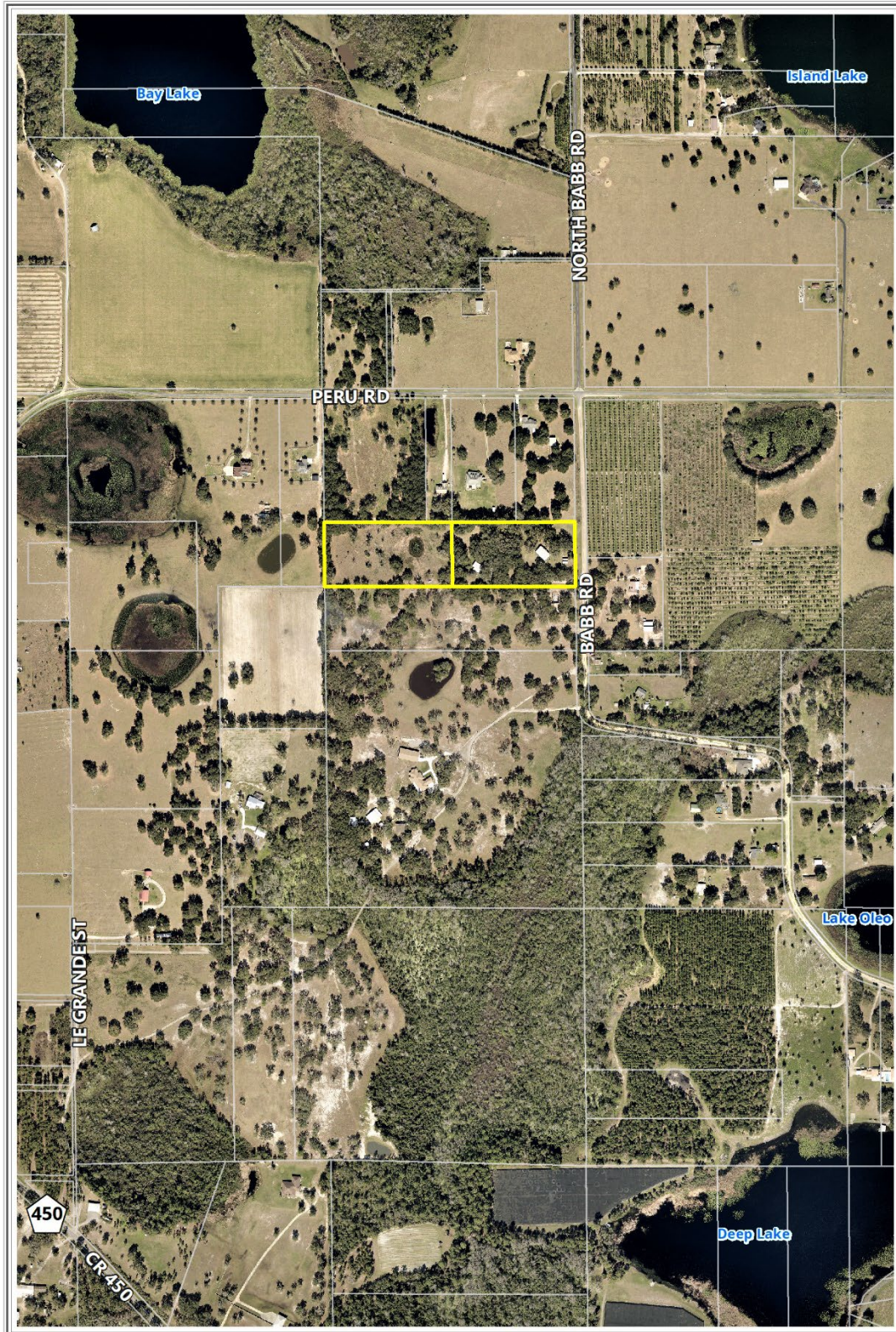


VAR-22-45-4
Wiley - Sangster Property



Focus Area

Allow Time Extension
for
After Fact Lot Split



**Final Development Order
VAR-22-45-4
Wiley and Sangster Property**

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

WHEREAS, Logan Wilson (the “Applicant”), on behalf of Deserae Wiley and Kailey Sangster (the “Owners”), requested a Variance to Land Development Regulations (LDR) Section 14.11.01(D)(2) to allow for the creation of two (2) lots, via the Minor Lot Split process, which will front on a publicly maintained clay road or easement, in lieu of a publicly maintained paved road; and

WHEREAS, the subject properties consist of 5.06 +/- acres identified by Alternate Key 3905785 and 5.06 +/- acres identified by Alternate Key 1306485 and are located at 40825 Babb Road, in the unincorporated Umatilla area of Lake County, in Section 10, Township 18, Range 26, and more particularly described below;

Alternate Key No. 3905785:

THE WEST 1/2 OF THE NORTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 18 SOUTH RANGE 26 EAST, LAKE COUNTY, FLORIDA. TOGETHER WITH A INGRESS EGRESS EASEMENT ACROSS THE NORTH 50.00 FEET OF THE EAST 1/2 OF THE NORTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 18 SOUTH, RANGE 26 EAST, LAKE COUNTY, FLORIDA. AND

THE NORTH 50.00 FEET OF THE EAST 150.00 FEET OF THE WEST 1/2 OF THE NORTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 10, TOWNSHIP SOUTH, RANGE 26 EAST, LAKE COUNTY, FLORIDA.

Alternate Key No. 1306485:

THE EAST 1/2 OF THE NORTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 18 SOUTH RANGE 26 EAST, LAKE COUNTY, FLORIDA. SUBJECT TO A INGRESS EGRESS EASEMENT ACROSS THE NORTH 50.00 FEET THEREOF.

WHEREAS, on the 12th day of July 2021, the Lake County Board of Adjustments approved a Variance request (VAR-21-25-5) to LDR Section 14.11.01(D)(2), to allow a Minor Lot Split on a publicly-maintained clay road or easement in lieu of a paved, publicly maintained road with the condition that the Minor Lot Split application be submitted within six (6) months from the Board of Adjustment (BOA) approval; and

WHEREAS, the approval for Variance request VAR-21-25-5 expired due to the applicant failing to submit a completed application within six (6) months from the Board of Adjustment (BOA) approval; 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 December 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 December 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-22-45-4, to allow for the creation of two (2) lots, via the Minor Lot Split process, which will front on a publicly maintained clay road or easement, in lieu of a publicly maintained paved road with the following conditions:

1. The Minor Lot Split application be submitted within twelve (12) months from the Board of Adjustment (BOA) approval; and
2. The proposed parcels being created through the Minor Lot Split process shall not be split any further.

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 December 2022.

EFFECTIVE December 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 December 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)