



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 4

Public Hearing Date: March 9, 2023

Case No. and Project Name: VAR-22-61-4, Loeser Property

Owners / Applicants: Wayne S. Loeser and Tatjana H. Loeser

Requested Action: Variance to Land Development Regulation (LDR) Section 9.06.05.C to allow for a proposed accessory structure to be constructed at 4.99-inches above the Base Flood Elevation (BFE), in lieu of the required 18-inches; and to LDR Section 9.07.13, Accessory Structures in Flood Hazard Areas, to allow for a proposed accessory structure greater than 600-feet to be located within a special flood hazard area.

Case Manager: Emily W. Johnson, AICP, Chief Planner

Subject Property Information

Size: 0.81 +/- acres

Location: 24520 River Road, in the unincorporated Astor area of Lake County.

Alternate Key No.: 1514011

Future Land Use: Urban Low Density

Current Zoning District: Mixed Residential District (R-7)

Flood Zone: "AE"

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

Overlay Districts: Pinecastle Range Complex and Wekiva-Ocala Rural Protection Area (RPA)

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low Density	R-7	Residential	Vacant Residential Lots adjacent to River Road
South	Urban Low Density	R-7	Residential	Single-Family Residence and Vacant Residential Lots
East	Urban Low Density	R-7	Residential	Single-Family Residence adjacent to River Road
West	Urban Low Density	R-7	Residential	Vacant Residential Lots

Summary of Request.

The subject property, identified by Alternate Key Number 1514011 contains 0.81 +/- acres, is zoned Mixed Residential District (R-7), and is designated with an Urban Low Density Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. Generally, the subject property is located southwest of River Road, in the Astor area of unincorporated Lake County. Specifically, the property is located at 24520 River Road. The subject property is located within the Pinecastle Range Complex and the Wekiva-Ocala RPA. GIS aerial maps indicate that the subject property is located fully within the "AE" Flood Zone. The subject property is currently developed with a single-family residence.

On November 7, 2022, the applicant submitted a Building Permit (Permit No. 2022110228) for a 60-foot X 50-foot (3,000 square foot) concrete pad for a future structure. The Public Works Department reviewed the Building Permit application and noted that while the concrete pad would not require floodplain permitting, the future structure would require floodplain permitting, and must be elevated at least 18 inches above the Base Flood Elevation (BFE) of 6.3 NAVD Datum. On November 28, 2022, the Office of Planning and Zoning issued a Zoning Clearance and approved the Plot Plan (Attachment "A") for a 60-foot X 30-foot (1,800 square foot) metal garage on the concrete pad. The applicant then applied for a Building Permit (Permit No. 2022120315) for the subject garage. Upon review, the Public Works Department noted that the requested work required an approved elevation certificate verifying compliance with special flood hazard area regulations and placed a hold on the Certificate of Occupancy until the elevation certificate was provided. Based on this, the applicant submitted a request for a variance to LDR Section 9.06.05.C to allow for a proposed accessory structure (to be constructed at 4.99-inches above the Base Flood Elevation (BFE), in lieu of the required 18-inches. The applicant is also seeking a variance to LDR Section 9.07.13, Accessory Structures in Flood Hazard Areas, to allow for a proposed accessory structure greater than 600-feet to be located within a special flood hazard area. The proposed structure is 60 foot x 30 foot or 1,800 square feet in size. The Variance application was provided to the Lake County Building Official, Lake County Floodplain Coordinator, and Lake County Public Works Department to review. The Lake County Building Official did not identify any comments or objections to the request.

The Lake County Floodplain Coordinator provided a copy of the FEMA FIRM Map (Attachment "B") showing that the subject property is located within a flood hazard area with a base flood elevation of 6.3-feet NAVD Datum, and provided the following comments:

"Accessory structures are permitted below the base flood elevation provided the accessory structures are used for parking and storage and: (1) If located in special flood hazard areas, are one story and not larger than 600 sq. ft. (may be vented) to county, state, and FEMA requirements. (2) If located in special flood hazard areas, have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential. (3) Are anchored to resist floatation, collapse or lateral movement resulting from flood loads. (4) Have flood damage-resistant materials used below the base flood elevation plus one (1) ft. (5) Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated eighteen (18) inches above the base flood elevation." The Floodplain Coordinator also identified that after a site inspection, the "fill" appears to exceed what is required; pursuant to Lake County Flood Ordinance 14.20.05, fill shall not exceed 5,000 square-feet or fifteen (15) percent of the flood hazard area, whichever is less.

The Lake County Public Works Department identified that a Variance is also required to LDR Section 9.07.13, Accessory Structures in Flood Hazard Areas, to allow for a proposed accessory structure greater than 600-feet to be located within a special flood hazard area; and provided the following conditions for inclusion within the development order, should the request be approved:

- 1. The owner shall have a Florida licensed professional engineer provide a plan for the flood proofing and include the flood venting of the garage.*
- 2. Flood permitting will be required with the permitting of the garage. The owner shall provide elevation certificate(s) provided by a Florida licensed surveyor for the construction of the garage and as-built plan of the flood proof plan.*
- 3. The garage shall not be converted to living space, as it will not be elevated above the base flood elevation.*

Staff Analysis

LDR Section 14.15.03.A, Limitations on authority to grant variances, states that the Board of Adjustment *shall base its decisions on variances:*

1. On technical justifications submitted by applicants,
2. On the considerations for issuance in LDR Section 14.15.03.E,
3. On the comments and recommendations of the Floodplain Administrator and the Building Official.

LDR Section 14.15.03(E), Variances to the Floodplain Management Regulations and the Flood Resistant Construction Requirements of the Florida Building Code, governs the issuance of Flood Plain variances. In reviewing requests for variances from the Floodplain Management Regulations and the Flood Resistant Construction Requirements of the Florida Building Code, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, the floodplain regulations, and the following:

1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage.

The applicant provided the following statement: *“There are woods on all three sides of the garage which water or debris can flow and the vegetation on those sides would catch any debris.”*

2. The danger to life and property due to flooding or erosion damage.

The applicant provided the following statement: *“There will be no one living in this garage so there will be no threat to life due to flooding. We have added millings on top of fill dirt near the concrete pad to keep it from running off and sod outside of that to hold fill dirt in place to prevent erosion damage.”*

3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners.

The applicant provided the following statement: *“I will provide pictures [Attachment “C”] of how high the water got after these last two hurricanes and measure how much higher the water would have had to come up to cover the concrete pad. As for damage of contents due to flooding the vehicles inside the garage stand a better chance of being damaged in my driveway rather than being inside a garage. I cannot speak to what the future owners will put in the garage.”*

4. The importance of the services provided by the proposed development to the community.

The applicant provided the following statement: *“This building will provide nothing to the community other than they will not have to look at my vehicles in the yard. This property is not zoned where I could provide services to the community.”*

5. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion.

The applicant provided the following statement: *“After buying the land last March, having it surveyed, building a culver and apron to county standards, paying to clear a usable portion, filling it with dirt, then getting a permit to place a concrete 60X50 pad and then pouring it I am closing in on \$30,000.00 in expenses there is no other suitable alternate location.”*

6. The compatibility of the proposed development with existing and anticipated development.

The applicant provided the following statement: *“The metal building is going fit perfect with that concrete pad and there will be no further development once the garage is in place.”*

7. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area.

The applicant provided the following statement: *“I do not suspect my garage will affect the floodplain management program in any way more than the concrete pad already out there now that the county already blessed off on.”*

8. The safety of access to the property in times of flooding for ordinary and emergency vehicles.

The applicant provided the following statement: *“Ordinary vehicles driving up to my garage during times of flooding will not be safe at all but it will not be because of the building, it will be because of the flexing of my Second Amendment. Emergency vehicles will be safe to access whatever they would need to in the execution of their duties.”*

9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

The applicant provided the following statement: *“I do not think this is applicable to us.”*

10. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

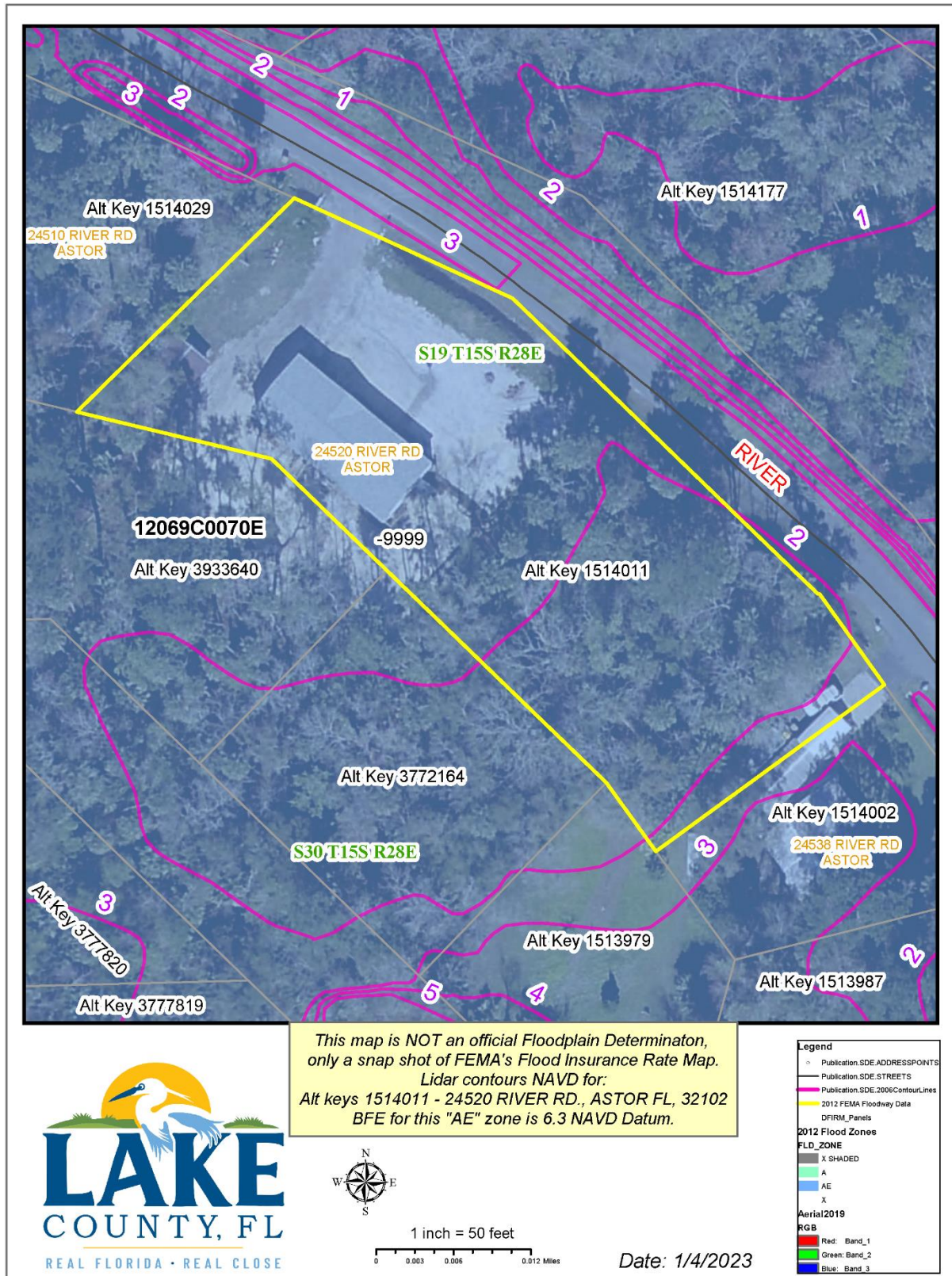
The applicant provided the following statement: *“There will be no electricity, water, sewer lines, bridges, or roads ran to this garage so there will be no cost for the government associated with our garage.”*

LDR Section 14.15.03(F) Conditions for issuance of variances. Variances shall be issued only upon:

1. Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of the floodplain regulations or the required elevation standards.
2. Determination by the Board of Adjustment that:
 - (a) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
 - (b) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
 - (c) The variance is the minimum necessary, considering the flood hazard, to afford relief.
3. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land.
4. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

Per LDR Section 14.15.03(G), if the Variance request is approved, the approved Variance will be transmitted to the Federal Emergency Management Agency (FEMA). If a variance to the floodplain regulations or the Flood Resistant Construction Requirements of the Florida Building Code is approved, the application, minutes and recorded development order must be transmitted to FEMA within thirty (30) days of the meeting.

Attachment "B" – FEMA FIRM Map



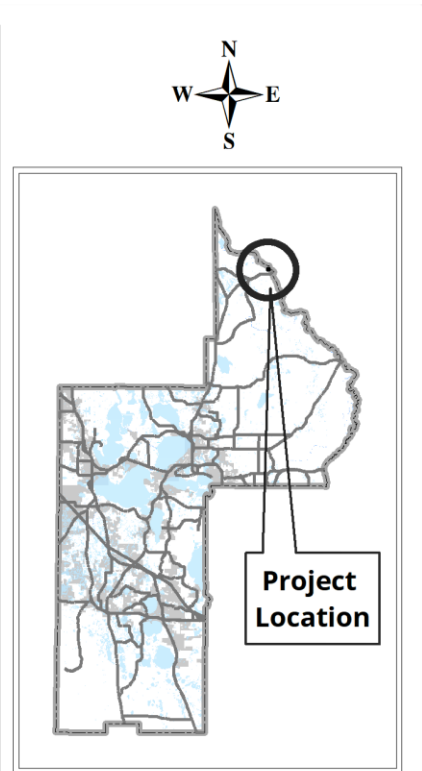
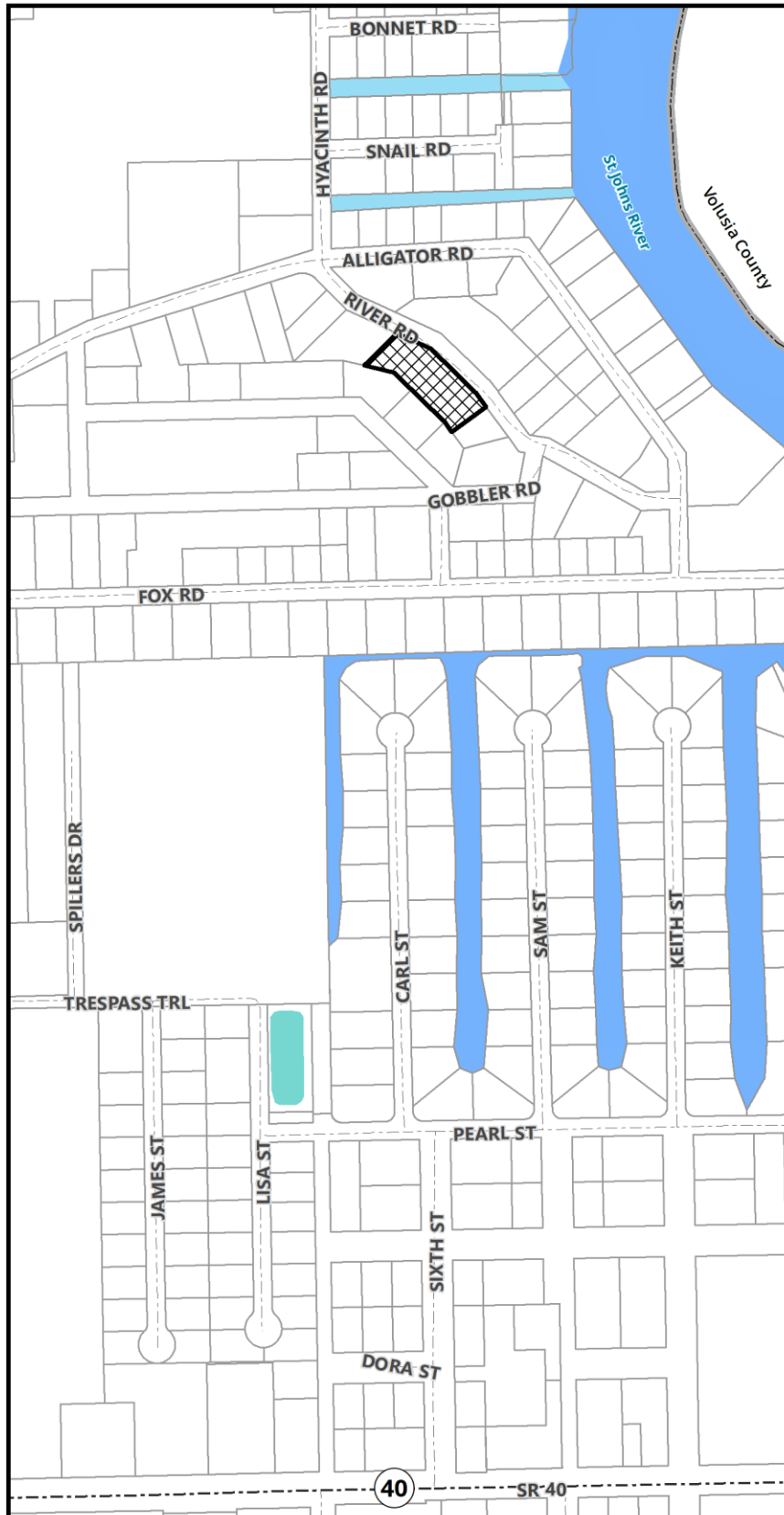
Attachment "C" – Pictures of Site and Flooding (Page 1 of 2)



Attachment "C" – Pictures of Site and Flooding (Page 2 of 2)

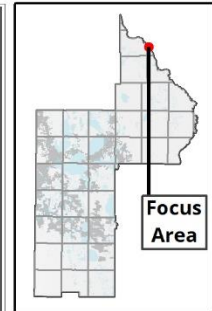


Map of Subject Property




Aerial Map

VAR-22-61-4
Loeser Property



Concrete Slab
Elevation Adjustment

Legend

 Wekiva - Ocala RPA

**Final Development Order
VAR-22-61-4
Loeser Property**

WHEREAS, Wayne S. Loeser and Tatjana H. Loeser (the “Owners” and the “Applicants”) requested a Variance to Land Development Regulation (LDR) Section 9.06.05.C to allow for a proposed accessory structure to be constructed at 4.99-inches above the Base Flood Elevation (BFE), in lieu of the required 18-inches; and to LDR Section 9.07.13, Accessory Structures in Flood Hazard Areas, to allow for a proposed accessory structure greater than 600-feet to be located within a special flood hazard area; and

WHEREAS, the subject property consists of 0.81 +/- acres and is located at 24520 River Road in the Astor area of unincorporated Lake County, in Section 24, Township 15, Range 27, having Alternate Key Number 1514011, 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 March 9, 2023; 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 March 9, 2023, 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. Variance Granted: The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-22-61-4 as follows:

1. A variance to LDR Section 9.06.05.C to allow a proposed 60 foot X 30 foot garage accessory structure to be constructed on an existing 60 foot X 50 foot concreted pad (Building Permit #2022110228) at 4.99-inches above the Base Flood Elevation (BFE), in lieu of the required 18-inches.
2. A variance to LDR Section 9.07.13 to allow for a proposed accessory structure greater than 600-feet to be located within a special flood hazard area on an existing concrete pad (Building Permit #2022110228), with the following conditions:
 - a. The Owners shall have a Florida licensed professional engineer provide a plan for the flood proofing and include the flood venting of the garage; and
 - b. Flood permitting will be required with the permitting of the garage. The Owners shall provide elevation certificate(s) provided by a Florida licensed surveyor for the construction of the garage and as-built plan of the flood proof plan; and

- c. The garage shall not be converted to living space, as it will not be elevated above the base flood elevation.

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 9th day of March 2023.

EFFECTIVE March 9, 2023.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Chairman

State of Florida

County of Lake

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 9th day of March 2023, by _____, 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:

Commencing at the Southwest corner of Section 2, according to the Plat of Manhattan, recorded in Plat Book 2, page 2, Public Records of Lake County, Florida, run thence South 89°29'34" East along the South boundary of said Section 2 a distance of 5280.30 feet to the Southeast corner thereof, thence North 2956.85 feet, thence East 5745.03 feet to the point of beginning; run thence South 45°34'44" West 115.6 feet, thence North 44°25'16" West 75 feet, thence North 45°34'44" East 113.3 feet, thence South 46°10'29" East 75.04 feet to the point of beginning, all being in Section 19, Township 15 South, Range 28 East.

Parcel 2:

Commence at the Southwest corner of Section 2, according to the Plat of Manhattan recorded in the Public Records of Lake County, Florida in Plat Book 2, page 2, run thence South 89°29'34" East on the South boundary of said Section 2 a distance of 5280.30 feet to the Southeast corner thereof; thence North 2956.85 feet; thence East 5745.03 feet to the Point of Beginning; run thence South 46°10'29" East 45.19 feet; thence South 38°14'49" East 30 feet; thence South 45°34'44" West 113.74 feet; thence North 44°25'16" West 75 feet; thence North 45°34'44" East 113.59 feet to the Point of Beginning, being in Section 19, Township 15 South, Range 28 East; also described as Lot 18, Block 41, Unit 3, according to an unrecorded Plat of Astor Forest Campsites.

And

Commencing at the Southwest corner of Section 2, according to the plat of Manhattan, recorded in Plat Book 2, Page 2, Public Records of Lake County, Florida, run thence South 89 degrees 29 minutes 34 seconds East along the South boundary of said Section 2, a distance of 5280.30 feet to the Southeast corner thereof, thence North 2983.07 feet, thence East 5557.47 feet to the Point of Beginning; run thence North 69 degrees 35 minutes 44 seconds West 81.48 feet, thence North 45 degrees 34 minutes 44 seconds East a distance of 122.01 feet, thence South 59 degrees 19 minutes 29 seconds East 76.31 feet, thence South 45 degrees 34 minutes 44 seconds West 106.98 feet to the Point of Beginning, also described as Lot 21, Block 41, Unit 3, according to an unrecorded plat of Astor Forest Campsites

And

Commencing at the Southwest corner of Section 2, according to the plat of Manhattan, recorded in Plat Book 2, Page 2, Public Records of Lake County, Florida, run thence South 89 degrees 29 minutes 34 seconds East along the South boundary of said Section 2 a distance of 5280.30 feet to the Southeast corner thereof, thence North 3057.96 feet, thence East 5633.89 feet to the Point of Beginning; run thence South 59 degrees 19 minutes 29 seconds East 17.66 feet, thence South 46 degrees 10 minutes 29 seconds East 57.96 feet, thence South 45 degrees 34 minutes 44 seconds West 113.29 feet, thence North 44 degrees 25 minutes 16 seconds West 75 feet, thence North 45 degrees 34 minutes 44 seconds East 106.98 feet to the Point of Beginning, also described as Lot 20, Block 41, Unit 3, according to an unrecorded plat of Astor Forest Campsites.