



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 2

Public Hearing Date: May 3, 2023

Case No. and Project Name: VAR-23-07-4 Gonzalez Property

Owner / Applicant: Edith L. Gonzalez

Requested Action: Variance to Land Development Regulations (LDR) Section 3.01.02(A)(1)(a) to allow a single-family dwelling unit (mobile home) with a width of less than 23-feet 4-inches at the narrowest point.

Case Manager: Janie Barrón, Chief Planner

Subject Property Information

Size: 0.54 +/- acres

Location: South of West Hillside Drive and west of Lake Mack Drive, in the unincorporated Deland area

Alternate Key No.: 1793530

Future Land Use: Rural

Current Zoning District: Agriculture (A)

Flood Zone: "X"

Joint Planning Area (JPA) / 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	Agriculture (A)	Right-of-way (Hillside Drive) and Residential	West Hillside Drive, Single-Family Residence north of right-of-way
South	Rural	Agriculture (A)	Residential	Single-Family Residence
East	Rural	Agriculture (A)	Residential	Single-Family Residence
West	Rural	Agriculture (A)	Residential	Single-Family Residence

Summary of Request.

The subject 0.53 +/- acre parcel, identified by Alternate Key (AK) Number 1793530, is zoned Agriculture (A), and is designated with a Rural Future Land Use Category (FLUC) by the 2030 Comprehensive Plan, and is located within the Wekiva-Ocala Rural Protection Area (RPA). The parcel legally described as Lot 9, Block I, Forest Hills, according to the map or plat thereof, as recorded in Plat Book 15, Page(s) 4 and 5, of the Public Records of Lake County, Florida. The parcel is generally located south of West Hillside Drive and west of Lake Mack Road in the unincorporated Deland area of Lake County. The parcel is vacant and undeveloped.

The Applicant has requested a variance to LDR Section 3.01.02(A)(1)(a) to allow a single-family dwelling unit (mobile home) with a width of less than 23-feet 4-inches at the narrowest point. The survey (Attachment "A") describes the parcel as Lot 9, Block I, Forest Hills, according to the plat thereof as recorded in Plat Book 15, Pages 4 and 5 of the Public Records of Lake County, Florida. The survey depicts the lot size as 70' by 338.60' (0.54 +/- acres), the location of the proposed 15.7' x 76' single-family residence (mobile home), location of the proposed 12' x 25' driveway off of West Hillside Drive, and location of the proposed well and septic system.

LDR Section 3.01.02(A)(1) requires that single-family residences comply with the following regulations:

- a. Single-Family Dwelling Units Shall have a minimum width of twenty-three (23) feet four (4) inches at the narrowest point, excluding any attached screened room, architectural design features, garages, carports, or utility area. Prior to the issuance of any building or use permits, site plans set forth under the general provision section shall be submitted to the County Manager or designee for his approval.
- b. The pitch of the main roof shall not be less than one (1) foot of rise for each four (4) feet of horizontal run and a minimal overhang of six (6) inches. Installed gutter may be counted as part of the six (6) inch overhang.
- c. A solid foundation or permanent skirting shall be required around the perimeter of the unit.
- d. Any wheels, tongue or any transportation apparatus must be removed or enclosed.

The applicant will be required to demonstrate compliance with the above-mentioned regulations not included as part of this variance request (LDR Section 3.01.02(A)(1)(b) through (d)) upon the submittal of the zoning permit review consistent with the LDR's, as amended.

In addition, the subject parcel is located within the Wekiva-Ocala Rural Protection Area (RPA); the request is consistent with Comprehensive Plan Policy I-5.1.3, Rural Protection Area Principles, and Objective I-5.2, Wekiva-Ocala Rural Protection Area, as no adverse impacts to the rural character of the surrounding area are anticipated as a result of the variance being granted.

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 3.01.02 is to allow development and use of property only in compliance with the goals, objectives, and policies of Lake County as expressed in the Lake County Comprehensive Plan.

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, *"Here, we were informed that the building permit for Ms. Gonzalez would not be approved due to the property being a single wide manufactured home. However, the Lake County Mobile Home Permit Worksheet (BF27 MH Permit Worksheet) attached hereto and incorporated by reference, does list instructions for both single wide and triple or quad wide sizes. From the average reasonable consumer's standpoint, it would*

appear that the purchase of a single wide manufactured home would be permissible subject to any other building or zoning requirements. Moreover, provided that both single wide and multi wide manufactured homes are eligible for permits and because owners of manufactured homes in general would be considered similarly situated persons, this would affect Ms. Gonzalez in a manner significantly different from the way it affects other manufactured homeowners who are subject to the Land Development Regulation and thus violate principles of fairness.”

Pursuant to LDR Section 1.01.00 entitled *Authority and Applicability*, the Land Development Regulations are enacted pursuant to the requirements and authority of Section 163.3202, F.S. and the general powers in Chapter 125, F.S. On October 7, 2003, the Board of County Commissioners (BCC) adopted requirements for single family dwellings, including but not limited to minimum width, roof pitch, foundation, and skirting. The BCC amended Chapter III, LDRs, to ensure compliance with applicable Florida law regarding discrimination against mobile homes and modular homes, and to impose aesthetic and other requirements on all single-family dwelling units to be placed in Lake County, Florida.

As previously stated within the Summary of Request, the applicant will be required to demonstrate compliance with the above-mentioned regulations not included as part of this variance request (LDR Section 3.01.02(A)(1)(b) through (d) upon the submittal of the zoning permit review consistent with the LDRs, as amended to ensure compliance with Chapter III, Lake County Code, LDRs, aesthetics and other requirements for consistency with other single-family dwelling units placed in Lake County, Florida.

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, *“Ms. Gonzalez’s loan closed on November 28, 2022, and her first payment began on January 1, 2023. However, because she is a first-time homebuyer with limited amount of discretionary income and is not being able to move forward with the construction of the home, while at the same time having to make full mortgage payments, this places her in an untenable financial situation that would create a substantial economic hardship. Further, Ms. Gonzalez is the sole income of her household and because she will also have to maintain alternative housing expenses during the construction phase while at the same time paying her monthly mortgage payments throughout this permitting and construction period, this increased financial strain would additionally show the creation of a substantial economic hardship.”*

Attachment "A" – Survey

BOUNDARY SURVEY OF:

Lots 9, Block I, FOREST HILLS,
according to the plat thereof as recorded in
Plat Book 15, Pages 4 and 5, of the
Public Records of Lake County, Florida.

FLOOD CERTIFICATION:

This is to certify that I have consulted the
National Flood Insurance Flood Hazard Boundary
Map and found the subject property is not within
a special flood hazard area, according to Map No.
12069C 0260E, dated 12/18/2012. (ZONE X)

THIS SURVEY IS CERTIFIED TO:

Edith Gonzalez
Chicago Title Insurance Company
Reliant Title Group, A Division of
LandCastle Title Group, LLC

PROPERTY ADDRESS:

31330 W. HILLSIDE DR., DELAND, FL

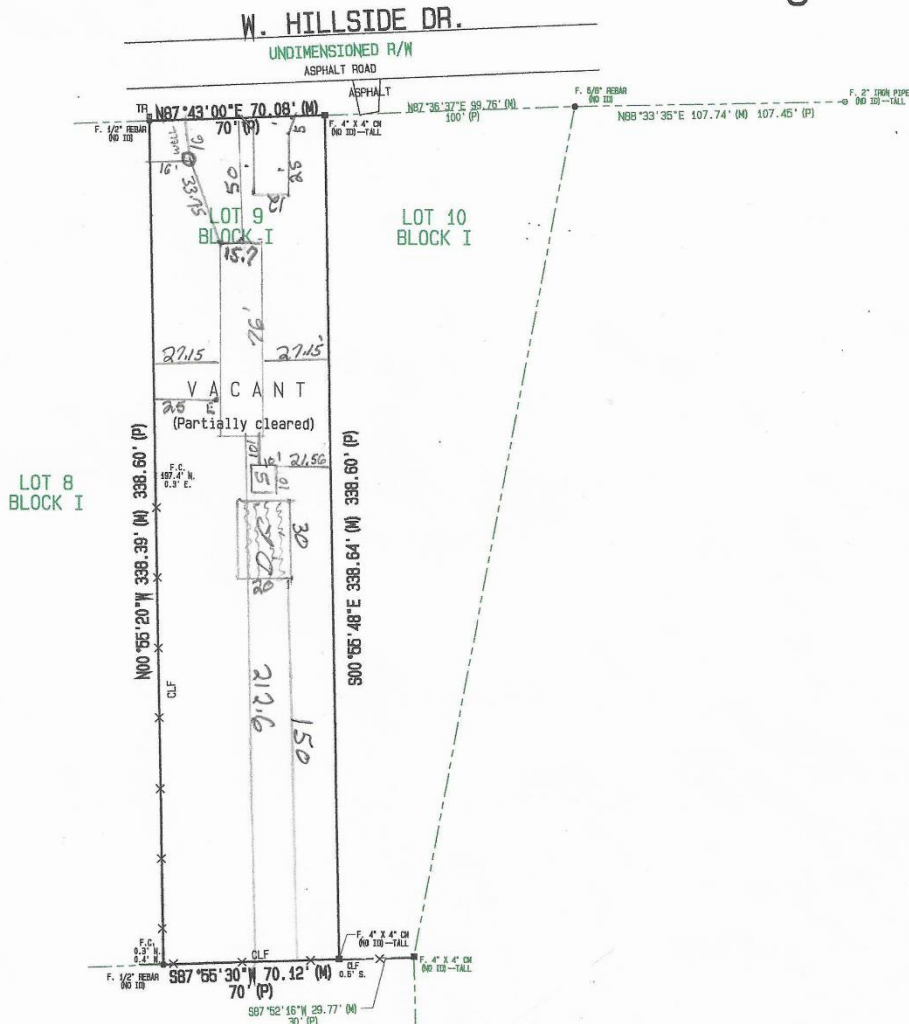
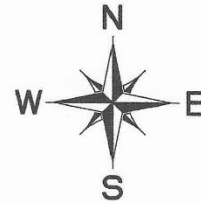
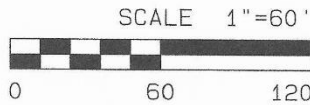
BEARINGS BASED ON ASSUMED DATUM--The Westerly line of Lot 9 being N.00°55'20"W.

NOTES:

- 1) Subject to restrictions, reservations, easements and rights-of-way, if any, appearing of record.
- 2) Survey performed without the benefit of a title search.
- 3) Underground utilities and other below ground features, not located, other than shown.

LEGEND:

- U.E.=Utility Easement
- D.E.=Drainage Easement
- U.S.D.E.=Utility & Drainage Easement
- (P)=Plat data
- (M)=Maid measured data
- (C)=Calculated data
- F.=Found
- P.C.=Point of Curve
- P.T.=Point of Tangency
- P.C.T.=Point of Compound Curve
- P.R.C.=Point of Reversal Curve
- R/W=Right of way
- L.S.=Land Surveyor
- LS=Licensee
- RS=Professional Surveyor & Mapper
- C/S=Concrete Slab
- NS=Wood Privacy Fence
- NR=Wood Rail Fence
- BF=Barbed Wire Fence
- WF=Wire Fence
- CLF=Chain Link Fence
- RF=Privacy Fence
- WM=Water Meter
- ETP=Electric Transformer Pad
- TR=Telephone Riser
- TV=Cable TV Riser
- CM=Concrete Monument
- CB=Concrete Block Wall



Attachment “B” – Justification Statement (Page 1 of 3)



January 9, 2023

To: Lake County – Office of Planning and Zoning
From: Sean A. Stephens, Esq., CMB®
Date: January 9, 2023
Re: Edith L. Gonzalez / Zoning Variance Request

To whom it may concern:

Metroplex Mortgage Services, Inc. (“Metroplex”) recently provided Ms. Gonzalez mortgage loan funding for her manufactured home construction loan. We are now writing this letter in support of her variance request application and to show that Ms. Gonzalez meets the considerations required for approval and that a denial would create a **substantial economic hardship** along with **violating principles of fairness**.

Statement of Facts Surrounding the Variance Request

Ms. Gonzalez is a first-time homebuyer who was approved under the USDA Single Family Housing Guaranteed Loan Program (“USDA”) by Metroplex for her construction mortgage funding. The USDA program is specifically eligible for low to moderate income borrowers who reside in certain eligible areas as determined by USDA Rural Development.

As a USDA Approved Lender, Metroplex takes pride in assisting first-time homebuyers, such as Ms. Gonzalez, with obtaining homeownership despite being in times where affordability is an ongoing concern throughout our state. The USDA program helps to solve this affordability problem by providing no down payment construction loans to eligible applicants where the closing occurs prior to the home being built.

The parcel in question has the legal description of **Forest Hills Lot 9 Blk I PB 15 Pgs. 4-5 Orb 5041 Pg 680** and we have attached the property survey hereto for further reference.

Under this particular USDA construction loan, it allows for single wide manufactured homes to be eligible for financing provided the home meets permanent foundation guidelines and all minimum property requirements set forth within the **FHA/HUD 4000.1 Handbook**.

At time of the upfront closing, the permanent mortgage is established whereby the interest rate, loan amount, terms, and monthly payment are completely fixed. The homebuyer is able to receive a 30-year fixed rate mortgage and then begins to make payments on the loan while the home is under construction which affords them an opportunity of a fixed rate while at the same time building equity during this initial construction phase.

Attachment “B” – Justification Statement (Page 2 of 3)



Unfortunately, since the permanent mortgage loan has closed and funded, we are **unable to make any modifications** to the loan terms or the property type. With that being said, it has been brought to our attention that single wide manufactured housing may not be permitted by Lake County. Metroplex respectfully requests that you take into consideration the following factors which support the approval of Ms. Gonzalez’s variance application:

Why denial of the variance application would create a substantial economic hardship.

Ms. Gonzalez’s loan closed on November 28, 2022, and her first payment began on January 1, 2023. However, because she is a first-time homebuyer with a limited amount of discretionary income and is not being able to move forward with the construction of the home, while at the same time having to make full mortgage payments, this places her in an untenable financial situation that would **create a substantial economic hardship**.

Further, Ms. Gonzalez is the sole income of her household and because she will also have to maintain alternative housing expenses during the construction phase while at the same time paying her monthly mortgage payments throughout this permitting and construction period, this increased financial strain would additionally show the **creation of a substantial economic hardship**.

Why denial of the variance would violate principles of fairness.

Here, we were informed that the building permit for Ms. Gonzalez would not be approved due to the property being a single wide manufactured home. However, the Lake County Mobile Home Permit Worksheet (BF27 MH Permit Worksheetⁱ) attached hereto and incorporated by reference, does list instructions for both single wide and triple or quad wide sizes

From the average reasonable consumer’s standpoint, it would appear that the purchase of a single wide manufactured home would be permissible subject to any other building or zoning requirements.

The form is titled "Mobile Home Permit Worksheet" and is from Lake County, Florida. It contains the following fields:

- Installer: _____ License #: _____
- Address of home being installed: _____
- Manufacturer: _____ Length x width: _____

NOTE: if home is a single wide fill out one half of the blocking plan if home is a triple or quad wide sketch in remainder of home
 I understand Lateral Arm Systems cannot be used on any home (new or used) where the sidewall ties exceed 5 ft 4 in.

Attachment “B” – Justification Statement (Page 3 of 3)



Moreover, provided that both single wide and multi wide manufactured homes are eligible for permits and because owners of manufactured homes in general would be considered **similarly situated persons**, this would affect Ms. Gonzalez in a manner significantly different from the way it affects other manufactured homeowners who are subject to the Land Development Regulation and thus **violate principles of fairness**.

Additional safeguards that minimize any injurious effect of the variance.

As discussed above, Ms. Gonzalez obtained mortgage financing for the construction of a new manufactured home and land package. However, because the must be built in accordance to the stringent specifications listed within FHA/HUD 4000.1 Handbook minimum property requirements, this would support that the construction standards being utilized would be of a level so that the **surrounding properties would not suffer any diminution in value** once the variance request has been approved. Thus, having the effect to **minimize any injurious effect of the variance**.

Also, if Ms. Gonzalez is permitted to build, she will become a deserving homeowner that bolsters the community by paying any associated impact fees and increasing the tax base which demonstrates that it would **benefit the public interest** and further **minimize any injurious effect of the variance**

Moreover, Ms. Gonzalez will be occupying the newly constructed home as her primary residence. This owner occupancy form of primary residence homeownership would help strengthen the community and further **serve the purposes of the underlying Land Development Regulation**.

Therefore, based on the foregoing, we respectfully request that Ms. Gonzalez’s variance application be approved so that she can proceed with the construction of her single wide manufactured home on the parcel referenced hereinabove.

Thank you for your time and consideration. Needless to say, should you have any follow-up questions, please be sure to let me know and I will do my best to promptly address.

Sean A. Stephens, Esq., CMB® | NMLS# 185288
Metroplex Mortgage Services, Inc. | NMLS# 185264
President | Chief Legal Officer | (813) 935-8330 x280

Licensed California Attorney #332960 and member of The California Bar. Florida Authorized House Counsel #1027099 may provide legal services in Florida solely to the employing business organization, is not authorized to practice law in Florida, and is not a member of the Florida Bar.

ⁱ https://cdn.lakecountyfl.gov/media/db5bro1e/mobile_home_permit_worksheet.pdf

Attachment "C" – Underwriter Statement



Borrower : Edith Gonzales
Address : Lot 9 W Hillside Dr Deland FL 32720

Dear: Melissa Watson

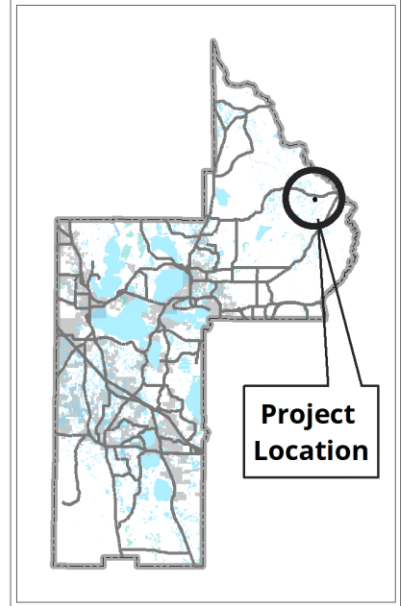
My name is David Kielak and I am the USDA underwriter here at Metroplex Mortgage Services Inc. We recently closed a loan for Edith Gonzales. The loan we used to close on her home is a very unique loan program known as the USDA One Time Close. The loan closes and funds before the home is even built and the borrower makes their loan payments during the construction phase. The numbers are all fixed. Interest Rate, loan amount, property type, length of construction, size of home. Unfortunately, we are unable to make any changes to the loan or the property type. I hope that the county can make a one time exception. Please feel free to call me if you have any questions.

Sincerely

A handwritten signature in black ink, appearing to read "David Kielak", written over a horizontal line.

David Kielak CRU
NMLS ID 185290

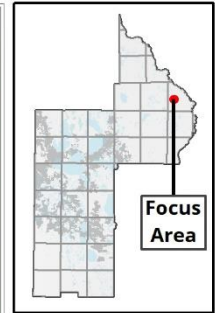
Map of Subject Property



Aerial Map



VAR-23-07-4
Gonzalez Property



Mobile Home (SFDU)
Width Adjustment

**Final Development Order
VAR-23-07-4
Gonzalez Property**

WHEREAS, Edith L. Gonzalez (the "Owner" and "Applicant") requested a variance to Land Development Regulations (LDR) Section 3.02.01(A)(1)(a) to allow a single-family dwelling unit (mobile home) with a width of less than 23-feet 4-inches; and

WHEREAS, the subject property consists of 0.53 +/- acres, is generally located south of West Hillside Drive and west of Lake Mack Drive, in the Deland area of unincorporated Lake County, in Section 17, Township 17, Range 29, having Alternate Key Number 1793530, and more particularly described as below:

Lot 9, Block I, Forest Hills, according to the plat thereof, as recorded in Plat Book 15, Page(s) 4 and 5, of the Public Records of Lake County, Florida.

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 May 3, 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 May 3, 2023, the Lake County Board of Adjustment approved the variance for the above property.

DONE AND ORDERED by the Board of Adjustment of Lake County, Florida, that:

Variance Granted: A variance to Section 3.02.01(A)(1)(a), Land Development Regulations, to allow a single-family dwelling unit (mobile home) with a width of less than 23-feet 4-inches, is hereby **granted**.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Addie Owens, Chairman

State of Florida

County of Lake

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 5th day of April 2023, by Addie Owens, as Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

(SEAL)

Notary Signature

Pursuant to Section 286.0105, Florida Statutes, if any person desires to appeal any decision with respect to a matter considered at a public meeting or hearing of the Board of Adjustment, such person will need a record of the proceedings, and such person may need to ensure that a verbatim record for such purpose is made, which record includes the testimony and evidence upon which the appeal is based.

A final administrative order of the Board of Adjustment may be appealed to the Circuit Court in Lake County, Florida. Such an appeal shall be filed within thirty (30) days of the execution of this Order. Those filing an appeal of an administrative order must comply with all applicable Florida Rules of Appellate Procedure.