



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 4

Public Hearing Date: October 4, 2023

Case No. and Project Name: VAR-23-21-3 Hayden Family Trust Property

Owners: John Robert Hayden and Sarah Rebekah Hayden, as Co-Trustees of The Hayden Family Trust, dated May 7, 2021.

Applicant: DF Multi Services LLC

Requested Action: Variance to Land Development Regulations (LDR) Section 6.01.04(A)(1) to allow an accessory structure (storage building) to be constructed 12-feet and 39-inches from the jurisdictional wetland line, in lieu of the required 50-feet.

Case Manager: Shari Holt, Planner

### Subject Property Information

Size: 0.21 +/- acres

Location: 26623 West Cove Drive, in the unincorporated Tavares area

Alternate Key No.: 1529051

Future Land Use: Rural Transition (Attachment "A")

Current Zoning District: Urban Residential District (R-6) (Attachment "B")

Flood Zones: "AE" and "X"

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	Canal, Vacant Residential	Vacant Residential, Speckled Perch Canal
South	Rural Transition	Urban Residential District (R-6)	Right-of-Way, Residential	Single-Family residence
East	Rural Transition	Urban Residential District (R-6)	Residential	Single-family residence
West	Rural Transition	Urban Residential District (R-6)	Canal, Residential	Single-family residence, Speckled Perch Canal

## Summary of Request.

The subject property, identified as Alternate Key Number 1529051, contains 0.21 +/- acres, is zoned Urban Residential District (R-6), and is designated with a Rural Transition Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. The subject property is located at 26623 West Cove Drive in the unincorporated Tavares area. The subject parcel is described as Lot 9, Block 12, Lake Harris Shores Unit 2, according to the plat thereof recorded in Plat Book 17, Page 36, of the Public Records of Lake County, Florida. The Plot Plan (Attachment "C") indicates that the subject parcel is developed with single-family residence and related accessory structures, including a covered boat slip with wooden deck, and a concrete seawall along the adjacent canal. GIS maps indicate that the subject parcel is located within flood zones "AE" and "X". The subject property is not located within any Overlay District.

The Applicant has requested a variance to LDR Section 6.01.04(A)(1) to allow an accessory structure (50' X 20' screen enclosure over existing footer with new pavers) to be constructed 12-feet and 39-inches from the jurisdictional wetland line, in lieu of the required 50-feet as depicted in the Attachment "C" - Plot Plan. LDR Section 6.01.04(A)(1) requires that principal structures, structures, buildings, and impervious surface, excluding water dependent structures, shall be located at least fifty (50) feet from the ordinary high-water line, mean high water line, or jurisdictional wetland line, whichever is further landward.

The variance application was sent to the Public Works Department and the Chief Fire Plans Examiner for review for a determination of consistency with their regulations. The Chief Fire Plans Examiner did not identify any comments or objections to the request. The Public Works Department provided two comments. *"(1.) The parcel has a special flood hazard area along the rear of the property. Flood determination and flood permit will be required for the screen enclosure. (2.) An engineered plan may be required for the permitting with flood proof construction. An interceptor/environmental 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."*

## 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.

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, *"Existing setback too restrictive."*

### **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, *"Apply to average setback and average too restrictive."*

Pursuant to LDR Section 6.01.04(d), an average setback application, date stamped March 1, 2023, was submitted by the applicant. The measurements resulted in an average rear setback, depicted in Attachment "D", of 25-feet and 92-inches from the seawall.

**Pursuant to LDR Section 14.15.04, a variance to the setback requirement from an ordinary high-water line, mean high water line, or jurisdictional wetland line may be granted if:**

**A. The lot is a developable Lot of Record, or the lot was legally created through a development order prior to March 2, 1993.**

Pursuant to Chapter II, Lake County Code, Appendix E, Land Development Regulations, a Lot of Record is defined as a Lot in a Plat recorded in Plat Books 1—22, Public Records of Lake County. A Lot created by a deed which was recorded in the Public Records of Lake County prior to May 20, 1981 and legally describes a Parcel of Land by metes and bounds; A Lot created by a Contract for Deed which was recorded in the Public Records of Lake County prior to May 20, 1981 and legally describes a Parcel of Land by metes and bounds; or a Lot in an unrecorded Plat, recognized by Lake County and identified on the official Zoning Map of Lake County.

Per Lake County's 2030 Comprehensive Plan Policy I-7.1.3 (C), *Existing Lot Exception for Density*: There shall be an exception to the density requirements of this Comprehensive Plan for lots or combination of lots described in Paragraphs A or B above but that do not meet the requirements contained therein. A dwelling unit and accessory uses thereto, may be permitted on the lot, or combination of lots, if one of the following criteria is met:

A dwelling unit and accessory uses thereto, may be permitted on the lot, or combination of lots, provided that each of the following requirements are met:

The owner demonstrates that on March 2, 1993 such lot was owned by the owner or their predecessor in title and no contiguous lots were owned by the owner or their predecessor in title on that date;

Contiguous lots owned by the owner or predecessor in title on March 2, 1993 have been aggregated so that the aggregated lots meet the minimum density of the Future Land Use Category or a minimum of five (5) acres (excluding open water bodies), whichever creates the least density; or

All contiguous lots owned by the owner or their predecessor in title on March 2, 1993 have been aggregated.

The subject parcel complies with the Lot of Record definition and Lot Exception for Density pursuant to Comprehensive Plan Policy I-7.1.3(C) as the subject parcel is located within the Lake Harris Shores Unit 2 subdivision, recorded in Plat Book 17, Page 36, Public Records of Lake County, Florida, and on March 2, 1993 the lot was owned by the owner or their predecessor in title and no contiguous lots were owned by the owner or their predecessor on that date.

**B. All other remedies have been exhausted, such as a variance to all other setback requirements.**

Pursuant to LDR Section 6.01.04(d), an average setback application, date stamped March 1, 2023, was submitted by the applicant. The measurements resulted in an average rear setback result, depicted in Attachment "D", of 25-feet and 92-inches from the seawall.

**C. The maximum developable area shall be limited to 30 feet in width or depth.**

As seen in Attachment "C" – Plot Plan, the proposed accessory structure, at 50-feet in width and 20-feet in depth, exceeds the maximum developable area.

**D. The first one inch (1") of storm water runoff shall be captured on site.**

The Public Works Department has provided the comments that, "*an interceptor/environmental 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.”*

Should the variance request be approved, the following conditions are included in the final development order:

- a. Stormwater calculations prepared by an engineer licensed in the State of Florida must be submitted at the time of issuance of each individual zoning permit in form of an interceptor swale that is sized to capture the first one inch (1”) of stormwater runoff on the subject parcel.
- b. Stormwater calculations prepared by an engineer licensed in the State of Florida must be reviewed and approved by the Lake County Public Works Department staff.
- c. The stormwater abatement system must be depicted on the to-scale plot plan when applying for the zoning permit; installed prior to any final inspection, inspected, and approved by the Lake County Public Works Department staff.

**E. Development is constructed as far landward on the lot as possible.**

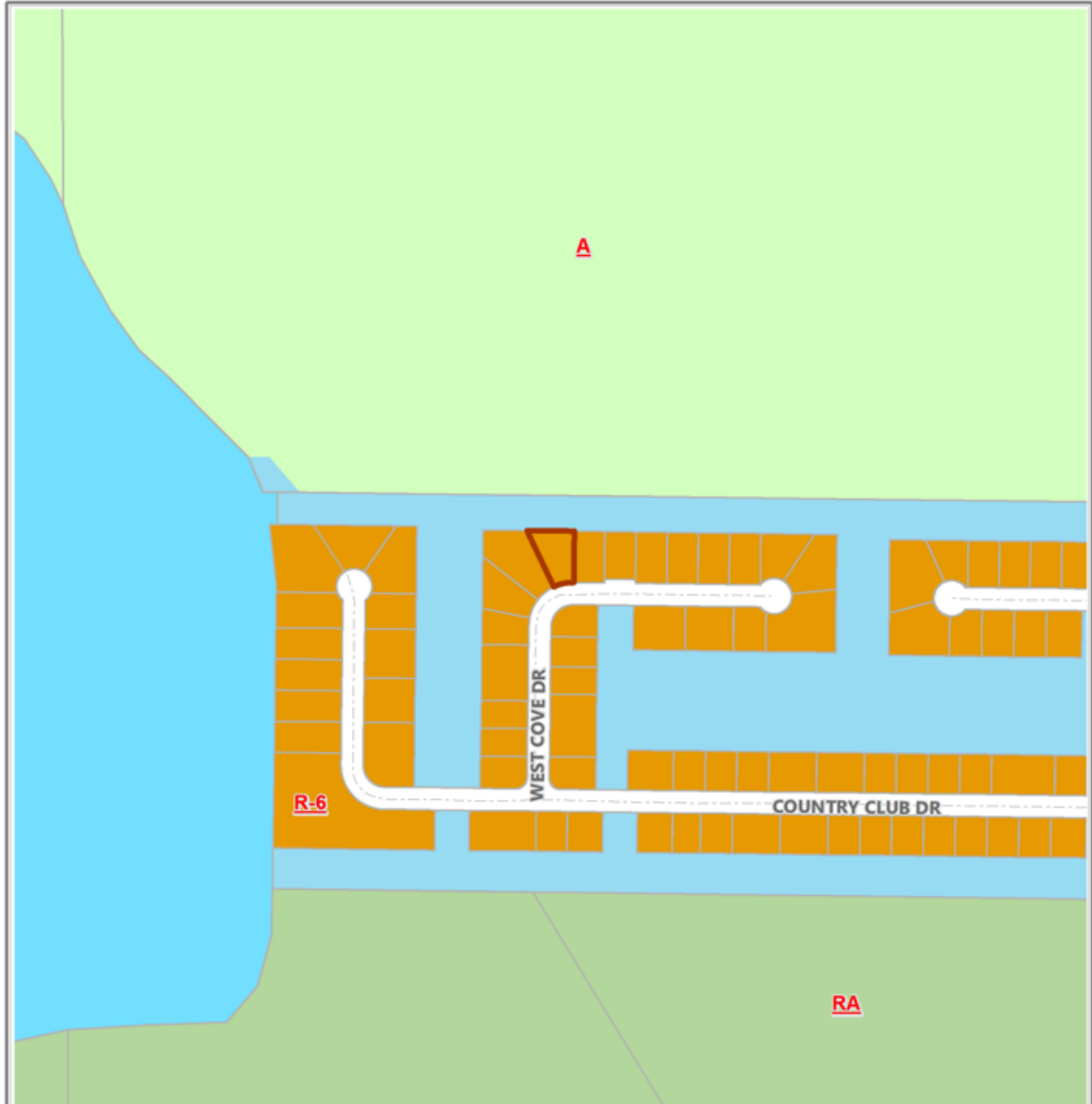
As depicted in Attachment “C” – Plot Plan, the proposed accessory structure is located 12-feet and 39-inches from the jurisdictional wetland line and is located within flood zone “AE”.

The Public Works Department has provided the comment that, *“The parcel has a special flood hazard area that is along the rear of the property. Flood determination and flood permit will be required for the screen enclosure”*.



# Attachment "B" – Zoning Map

## CURRENT ZONING



### Zoning Legend

A    RA    R-6

NAME: **HAYDEN PROPERTY**  
CASE NUMBER: **VAR-23-21-3**  
LOCATION (S-T-R): **20-20-26**  
REQUEST: **REAR SETBACK ADJUSTMENT**

DISTRICT: **3**





# Attachment "D" – Average Setback Results



March 20, 2023

DF Multi Services LLC  
845 N Garland Ave, Suite 100  
Orlando, Florida, 32801

RE: Average Setback Results (AS # 2023-01-3 - Alternate Key # 1529051)

Dear DF Multi Services LLC:

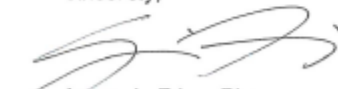
Upon your request for an average setback, staff visited the area and measured the structures at the following addresses:

1. 26625 West Cove Dr, Tavares 27.35' feet from Seawall to Ext. wall of SFR.
2. 26629 West Cove Dr, Tavares 24.48' feet from Seawall to Ext. wall of SFR.

The measurements resulted in an average rear setback of 25.92' feet from the Seawall.

If you have any questions, or if we can be of further service, please contact our office at (352) 343-9641 or email me at [Anarquis.frias@lakecountyfl.gov](mailto:Anarquis.frias@lakecountyfl.gov).

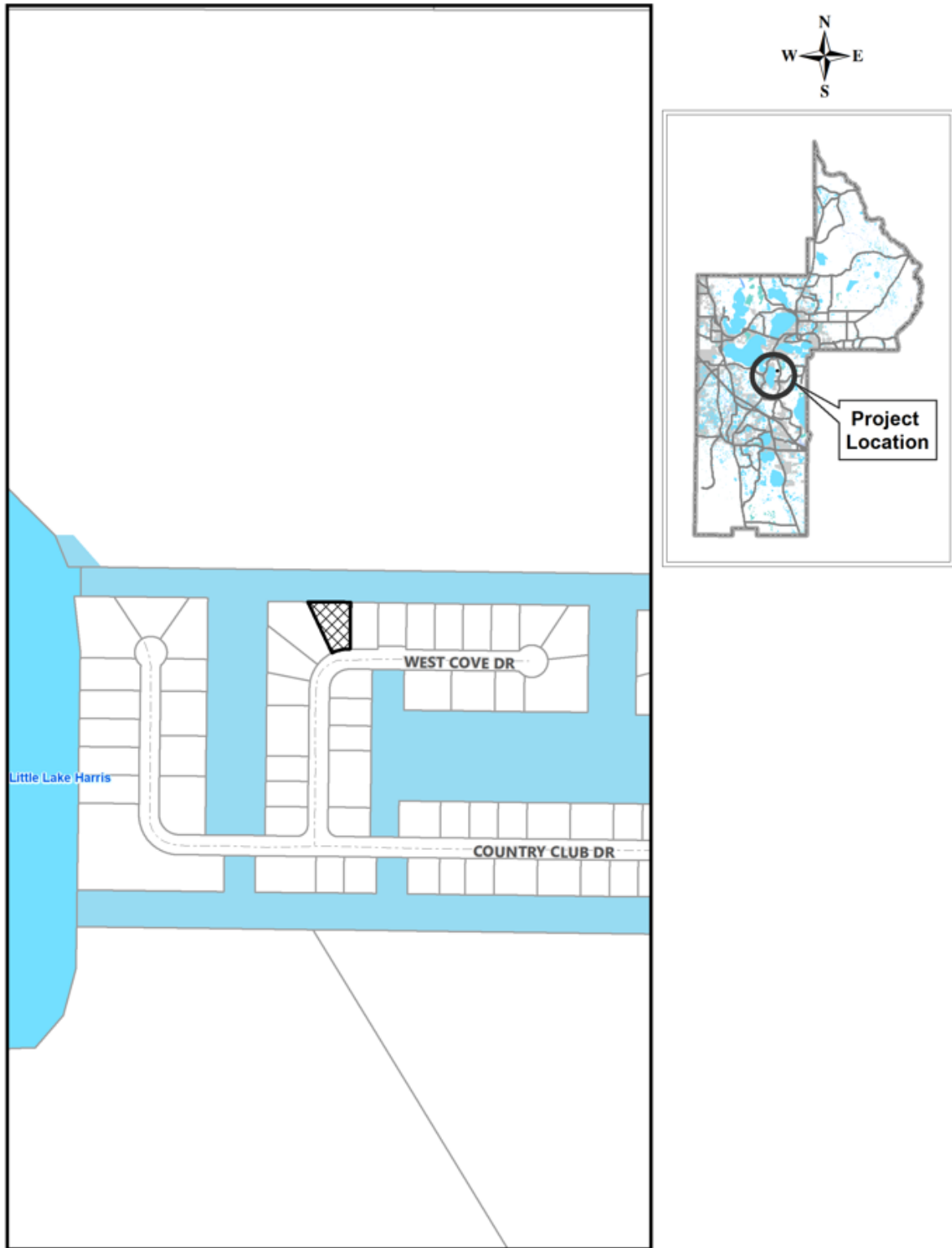
Sincerely,



Anarquis Frias, Planner



# Map of Subject Property



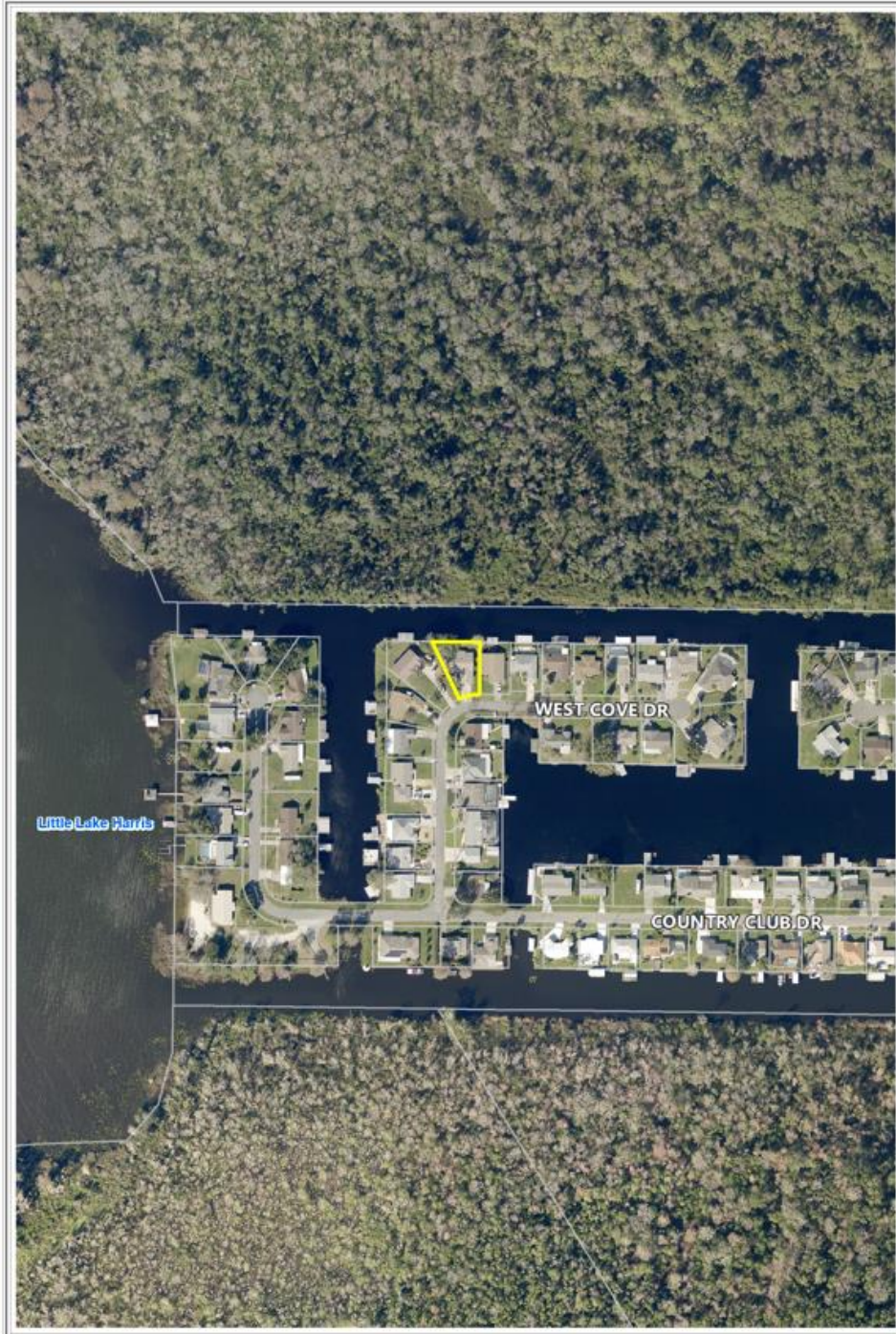
# Aerial Map of Subject Property



VAR-23-21-3  
Hayden Property



Rear Setback Adjustment



# Final Development Order

**WHEREAS**, John Robert Hayden and Sarah Rebekah Hayden, as Co-Trustees of The Hayden Family Trust, (the “Owner” and “Applicant”) requested a variance to Land Development Regulations (LDR) Section 6.01.04(A)(1) to allow an accessory structure (storage building) to be constructed 12-feet and 39-inches from the jurisdictional wetland line, in lieu of the required 50-feet; and

**WHEREAS**, the subject property consists of 0.21 +/- acres, is located at 26623 West Cove Drive, in the unincorporated Tavares area of Lake County, in Section 20, Township 20, Range 26, having Alternate Key Number 1529051, and more particularly described as:

**Lot 9, Block 12, Lake Harris Shores Unit 2, according to the Map or Plat thereof, as recorded in Plat Book 17, Page(s) 36, 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 October 4, 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.

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

**Variance Granted:** A variance to Section 6.01.04(A)(1) to allow an accessory structure (storage building) to be constructed 12-feet and 39-inches from the jurisdictional wetland line, in lieu of the required 50-feet is hereby granted, with the following conditions:

- a. Stormwater calculations prepared by an engineer licensed in the State of Florida must be submitted at the time of issuance of each individual zoning permit in form of an interceptor swale that is sized to capture the first one inch (1”) of stormwater runoff on the subject parcel.
- b. Stormwater calculations prepared by an engineer licensed in the State of Florida must be reviewed and approved by the Lake County Public Works Department staff.
- c. The stormwater abatement system must be depicted on the to-scale plot plan when applying for the zoning permit; installed prior to any final inspection, inspected, and approved by the Lake County Public Works Department staff.

**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 4th day of October 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.