



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 1

Public Hearing Date: November 1, 2023

Case No. and Project Name: VAR-23-47-3 Rosenburg Property

Owner/Applicant: Timothy R. Rosenburg, II

Requested Action: Variance to Land Development Regulations (LDR) Section 6.01.04(A)(4) to allow an accessory structure (screen porch) to be constructed 20-feet from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required 50-feet.

Case Manager: Shari Holt, Planner

Subject Property Information

Size: 0.14 +/- acres

Location: 26619 Bimini Drive, in the unincorporated Tavares area

Alternate Key No.: 1528381

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

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

Flood Zones: "X" and "AE"

Joint Planning Area (JPA) / ISBA: None

Overlay Districts: None

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural Transition	Urban Residential (R-6)	Residential	Single-Family Residence
South	Rural Transition	Urban Residential (R-6)	Residential	Single-Family Residence
East	Rural Transition	Urban Residential (R-6)	Right-of-Way / Residential	Right-of-Way / Single-Family Residence
West	N/A	N/A	Canal	Redbreast Canal

Summary of Request

The subject property, identified as Alternate Key Number 1528381, contains 0.14 +/- acres, is zoned Urban Residential (R-6), designated with a Rural Transition Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. The subject property is located at 26619 Bimini Drive, in the unincorporated Tavares area. The subject parcel is described as Lot 16, Block 4, Lake Harris Shores Unit #1, according to the plat thereof recorded in Plat Book 16, Page 65, Public Records of Lake County, Florida. The Plot Plan (Attachment "C") indicates that the subject parcel is developed with a single-family residence, attached garage, boat dock, and boathouse. GIS maps indicate that the subject parcel is located partially within Flood Zone "AE." 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 (8' X 18' screen porch with a new 8' X 23' concrete slab) to be constructed 20-feet from the ordinary high water line, mean high water line, or jurisdictional wetland line, whichever is further landward, in lieu of the required 50-feet as depicted in Attachment "C". LDR Section 6.01.04(A)(1) requires that principal structures, structures, buildings, and impervious surface, excluding water dependent structures, 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 the following comments:

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 6.01.00, is to protect and ensure that the natural structure and functional values of wetlands and waterbodies are maintained.

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, *"During the process of applying for an aluminum screen porch addition to the back of our house, we were informed by Lake County Zoning that we were not in compliance with the setback rule of 50' from the seawall to the back of our home since the rule change. We had zoning come out to measure properties around us after applying for the average setback. Which resulted in an average setback of 32.35' from the properties on the street that were measured."*

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, *“We are trying to build an attached 8’ X 23’ aluminum screen porch onto the back of our house which would only add 8’ to the setback of our house to the seawall. This simple screen porch is no different than the ones our neighbors have to the left and right of us.”*

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. A variance to the setback requirements 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 (B): There shall be an exception to the density requirements of this Comprehensive Plan for lots or combination of lots created through a subdivision approved by the Board of County Commissioners and recorded in the Public Records of Lake County in Plat Books 1 through 22.

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:

1. The lot shall front on a publicly maintained road, or an easement. If the lot fronts on an easement, the easement must connect to a publicly maintained road, and the lot shall be within 1320 feet of a publicly maintained road;
2. The lot shall be accessible by public safety and other public (i.e. sanitation) agencies;
3. The lot shall have a minimum frontage of forty (40) feet; and
4. The lot shall contain a minimum of 12,500 square feet (excluding open water bodies), unless the lot will be served by central water and wastewater utility service.

The subject parcel complies with the Lot of Record definition and Lot Exception for Density pursuant to Comprehensive Plan Policy I-7.1.3(B) as the subject parcel is located within the Lake Harris Shores Unit #1 subdivision, a subdivision recorded in Plat Book 16, Page 65, Public Records of Lake County, Florida.

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

As seen in Attachment “D”, the applicant applied for an average setback determination, with the measurements resulting in an average rear setback of 32.25-feet from the seawall to the exterior wall.

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

As seen in Attachment “C”, the proposed accessory structure extends over the 50-foot requirement and is proposed to be located 20-feet from the jurisdictional wetland line (seawall).

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

The Public Works Department has provided the comment that "an interceptor/environmental swale that is sized to capture the first 1-inch of stormwater runoff from the imperious 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."

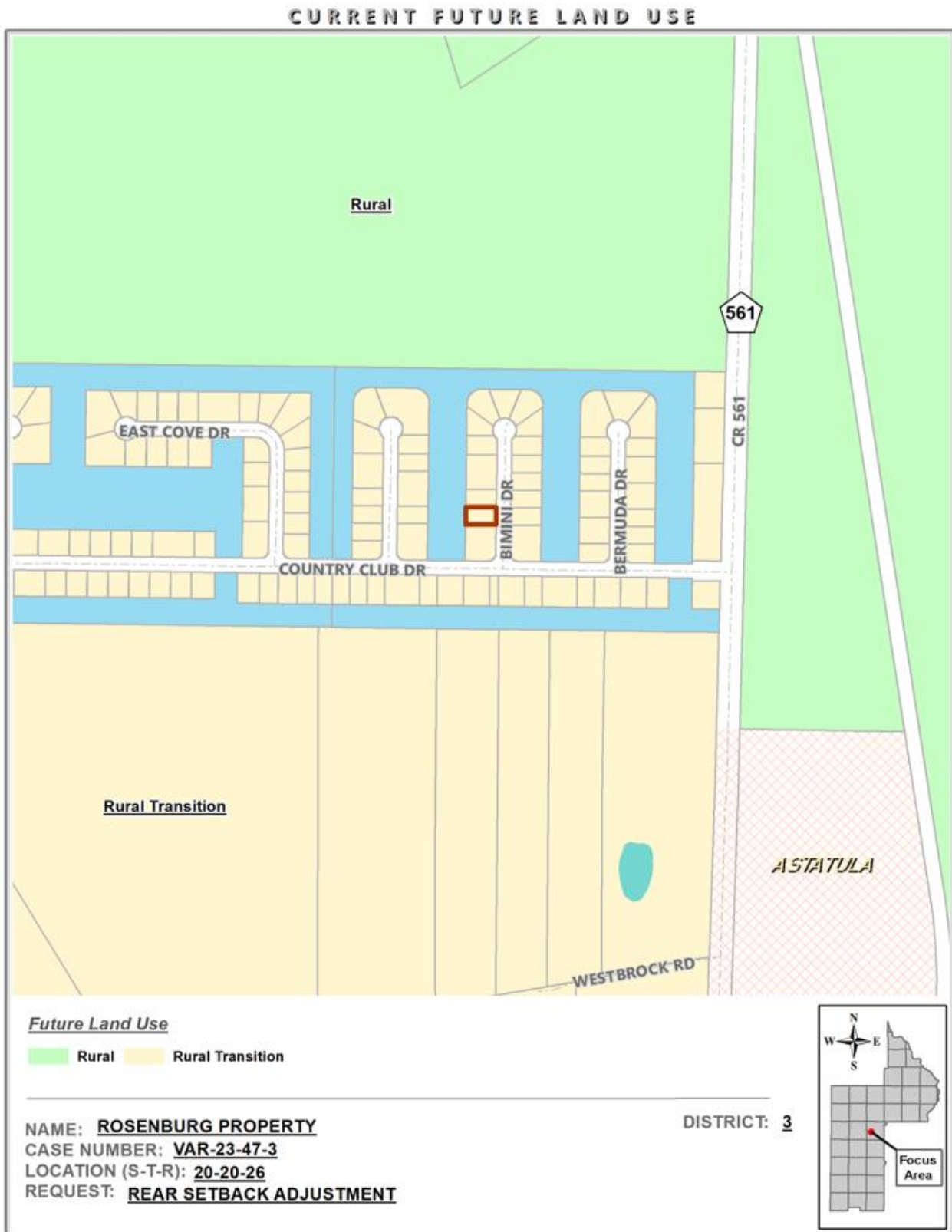
Should the variance request be approved, the following conditions will be included in the final development order:

- a. Stormwater calculations 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 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.

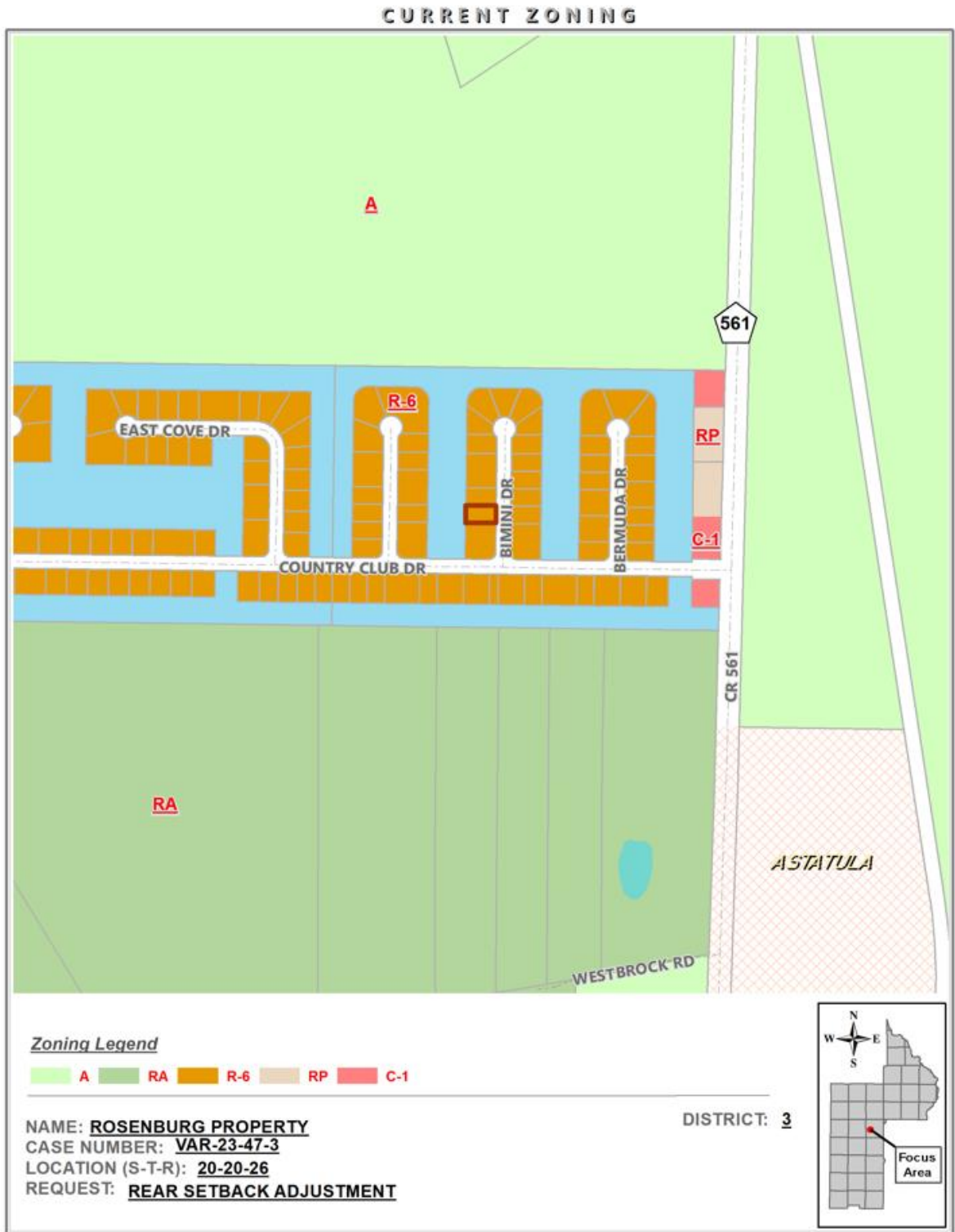
E. Development is constructed as far landward on the lot as possible.

As depicted in Attachment "C," the proposed accessory structure is proposed to extend 8-feet from the existing single-family residence, and as far landward as possible from the top of bank and flood zone line.

Attachment "A" – Future Land Use Map



Attachment "B" – Zoning Map



Attachment "D" – Average Setback Results



June 8, 2023

Timothy Rosenberg
26619 Bimini drive.
Tavares, Florida, 32778

RE: Average Setback Results (AS # 2023-07-3 - Alternate Key #1528381)

Dear Timothy Rosenberg:

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

Address Measured	Result
26631 Bimini Drive	28.11 from S/W to Ext Wall
26643 Bimini Drive	36.60 from S/W to Ext Wall

The measurements resulted in an average rear setback of 32.35 feet from seawall to exterior wall.

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 pzinfo@lakecountyfl.gov.

Sincerely,


Eddie Moltanez
Associate Planner

P 352.343.9641 • F 352.343.9767
Board of County Commissioners • www.lakecountyfl.gov

Douglas B. Shields
District 1

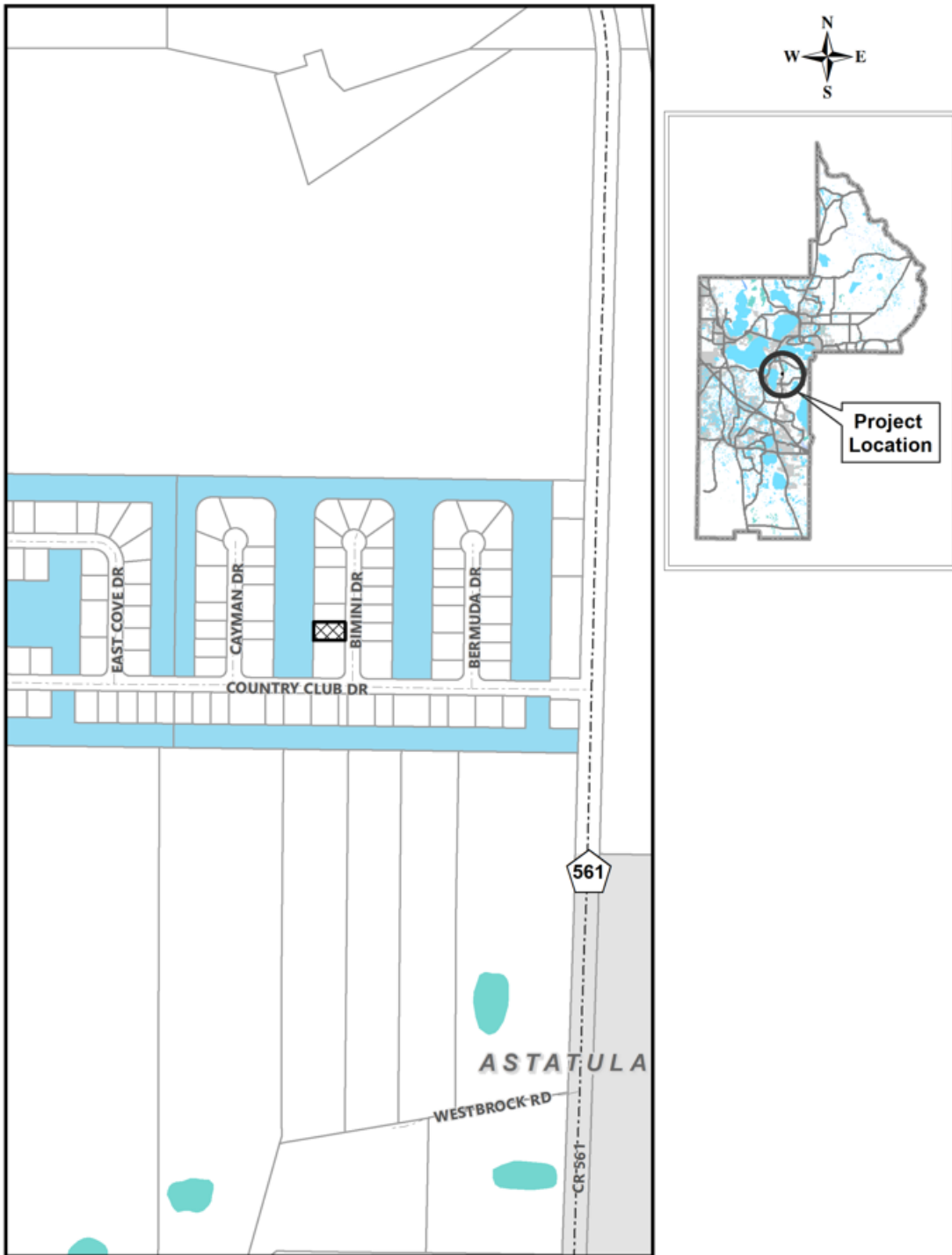
Sean M. Parks, AICP, GPP
District 2

Kirby Smith
District 3

Leslie Compione
District 4

Josh Blake
District 5

Map of Subject Property



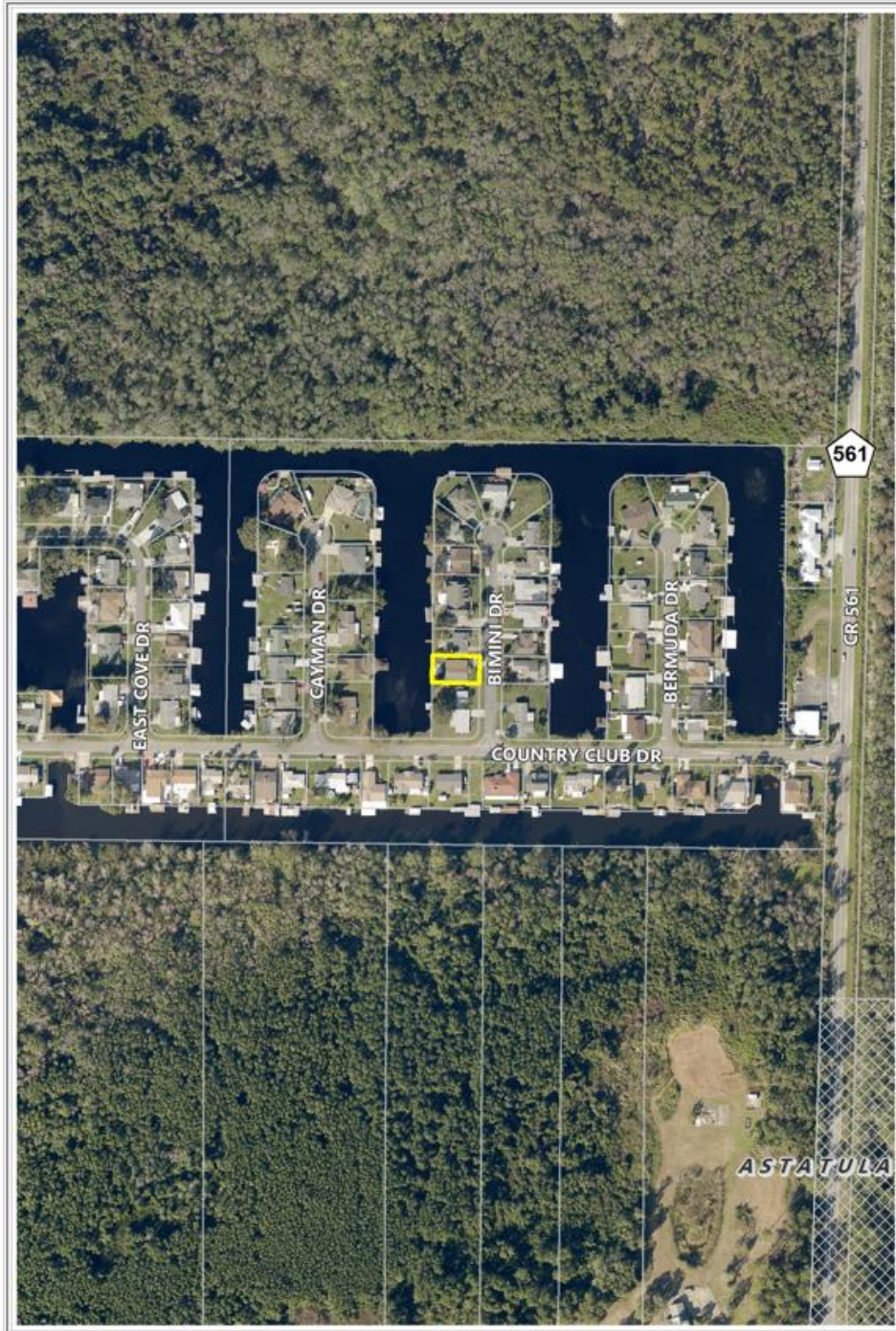
Aerial Map of Subject Property



VAR-23-47-3
Rosenburg Property



Rear Setback Adjustment



Final Development Order

WHEREAS, Timothy R. Rosenberg, II, (the “Owner” and “Applicant”) requested a variance to Land Development Regulations (LDR) Section 6.01.04(A)(1) to allow an accessory structure (screen porch) to be constructed 20-feet from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required 50-feet; and

WHEREAS, the subject property consists of 0.14 +/- acres, is located at 26619 Bimini Drive, in the unincorporated Tavares area of Lake County, in Section 20, Township 20, Range 26, having Alternate Key Number 1528381, and more particularly described as:

Lot 17, Block 4, Lake Harris Shores Unit #1, according to the Map or Plat thereof, as recorded in Plat Book 16, Page(s) 65, 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 November 1, 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 (screen porch) to be constructed 20-feet from the ordinary high-water line, mean high water line, or 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.
- 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.

**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 1st day of November 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.