

**POLK COUNTY  
LAND USE HEARING OFFICER  
STAFF REPORT**

<b>DRC Date:</b>	<b>July 10<sup>th</sup>, 2025</b>	<b>CASE #</b>	<b>LDLVAR-2025-39 (Prestwood Variance)</b>
<b>LUHO Date:</b>	<b>August 26<sup>th</sup>, 2025</b>	<b>LDC Section:</b>	<b>Chapter 2, Section 205, Table 2.2</b>

**Request:** The applicant is requesting a variance to reduce the accessory structure right-of-way setback from thirty-five (35) feet to twelve (12) feet to accommodate an enclosed carport.

**Applicant:** Bobby Prestwood

**Property Owner:** Bobby Prestwood  
Mary Prestwood

**Location:** 1001 Lake Lowery Road, west and south of County Road 17 (Polk City Road), north of Old Haines City/Lake Alfred Road, east of Oakdale Road, north of Haines City, in Section 12, Township 27, and Range 26.

**Parcel ID#:** 262712-000000-024270

**Size:** ± 1.71 acres

**Land Use Designation:** Agricultural/Residential Rural (A/RR)

**Development Area** Rural Development Area (RDA)

**Case Planner:** JP Sims, Planner II

**Summary of Analysis:**

The applicant is requesting a variance to Chapter 2, Section 205, Table 2.2 of the Land Development Code (LDC) for the construction of a carport that is not meeting setback requirements. The applicant is requesting setback be reduced from 35 feet to 12. The site is in the Agricultural/Residential Rural (A/RR) land use district and the County’s Rural Development Area (RDA). According to the applicant, the constructed carport was built by a contractor who did not pull proper permits and built it too close to Lake Lowery Road. Pursuant to Section 205, Table 2.2 of the Land Development Code, an accessory structure must be set back at least 35 feet from the Right-Of-Way (ROW) of an Urban Collector Road, and this is only 12 feet per the site plan.

Staff has reviewed the application, conducted a site visit, and has determined the request would allow for maintenance of the carport on all sides. Leaving this constructed accessory structure on the south side of the home would not adversely impact the surrounding residences.

Staff recommends approval of LDLVAR-2025-39 as it meets one or more of the criteria listed in Section 931:

- The request will not be **injurious to the area or otherwise detrimental to the public welfare**, as the structure will maintain setbacks from the higher volume right-of-way and neighboring properties to allow for maintenance of the building.
- Whether **special conditions and circumstances exist which are peculiar to the land**, structure, or building involved and which are not applicable to other lands, structures, or buildings in the applicable land use district; The parcel is a unique shape in that it is triangular, leaving little area in which this structure could be placed otherwise.

### **Development Review Committee**

The Development Review Committee, based on the criteria for granting variances, the submitted application, and a recent site visit, finds that the applicant's request as written **IS CONSISTENT** with Section 931 of the Polk County Land Development Code (LDC) and recommends **APPROVAL of LDLVAR-2025-39**.

### **CONDITIONS OF APPROVAL:**

1. Approval of this variance is for a reduction in the accessory structure front yard setback from thirty-five (35) feet to twelve (12) feet to accommodate a fully enclosed carport. Further additions or structures placed on the property shall be required to meet the setback requirements of Table 2.2 of the Land Development Code or re-apply for another variance approval from the Land Use Hearing Officer.
2. This variance does not authorize any encroachments into easements, and the applicant shall be responsible to make certain there are no encroachments unless approval is granted by the easement holder and/or any applicable permitting agencies. The property owner(s) is also responsible for compliance with any restrictions of record pertaining to lots and/or land and this approval shall not be used to supersede authority over those restrictions.
3. The applicant shall have one (1) year from the date the Land Use Hearing Officer's Final Order is rendered to apply for all necessary building permits and pay all associated fees for the finished addition.

### **GENERAL NOTES**

*NOTE: This staff report was prepared without the benefit of testimony and evidence submitted by the public and other interested parties at a public hearing.*

*NOTE: All conditions of approval, unless otherwise specified, shall be met prior to the effectiveness and validity of the variance approval.*

*NOTE: All written commitments made in the application and subsequent submissions of information made during the application review process, which are on file with the Land Development Division, shall be considered to be*

*binding upon the applicant, provided such commitments are not at variance with the Comprehensive Plan, LDC or other development regulations in effect at the time of development.*

*NOTE: Issuance of a development permit by the county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.*

*NOTE: Approval of this variance shall not constitute a waiver or an additional variance from any applicable development regulation unless specifically noted in the conditions of approval and consistent with the LDC.*

## **DEMONSTRATIONS OF THE CRITERIA FOR GRANTING VARIANCES SUMMARIZED BELOW:**

1. *Whether granting the variance will be in accordance with the general intent and purpose of this Code, and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare;*

Building the accessory structure will not affect the neighbor's property in a negative manner. The twelve (12) foot setback will still leave ample space on all sides of the patio to perform proper maintenance. Leaving a twelve (12) foot setback allows for fire and building codes to be met as well. All surrounding parcels are similar in nature with single-family rural residential. The right-of-way will not be impeded by the construction of this carport and presents no danger. Lake Lowery Road is the lesser traveled road between the site's two frontages, making it the safer choice to put the carport closer to.

2. *Whether special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the applicable land use district;*

The shape of the parcel is unique in that it sports a triangular geometry which makes it difficult to place structures on. The lot appears to have been created in 1995, and has two road frontages, making placement of the carport a difficult task.

The constructed carport is still far enough away from the property line that it would not be injurious to anything around it and based on the shape of the parcel, leaves few places in which to have put the carport.

3. *Whether provided the special conditions and circumstances present in the request do not result from the actions of the applicant;*

Per the applicant, he hired a contractor to construct the carport who communicated that they had pulled the proper permits and were adhering to codes. Once completed, the carport was cited by Codes and that is when the applicant learned about violating setback requirements and that the contractor had never pulled the permits.

4. *Whether granting the requested variance will not confer on the applicant any special privilege that is denied by the provisions of this Code and will constitute unnecessary and undue hardship on the applicant;*

There is privilege being conferred upon the applicant, but not one that is wholly uncommon to this area. This area is more rural in nature, and similar structures can be found on surrounding parcels. The residence to the west of this site also has a carport located in front of the house. This site is unique in that its triangular shape make it more difficult to place structures such as this on site.

5. *Whether the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure;*

The variance being granted will allow the applicant to make the best possible use of the already constructed carport. It is far enough from the property line that it should not be an issue.

6. *Whether that in no case shall a variance be granted which will result in a change of land use that would not be permitted in the applicable land use designation;*

Granting this variance will not result in a change of land use.

7. *Whether that in no case shall a variance be granted which would result in creation of any residual lot or parcel which does not meet the requirements of this Code; and*

Granting this request is not anticipated to result in the creation of a lot or parcel that does not meet the requirements of the Land Development Code.

8. *Whether that the granting of the variance does not circumvent a condition or the intent of a condition placed on a development by the Planning Commission or the BOCC.*

Granting this variance will not circumvent a condition or the intent of a condition placed on the development by the Planning Commission or the BoCC.

**Surrounding Future Land Use Designations and Existing Land Use Activity:**

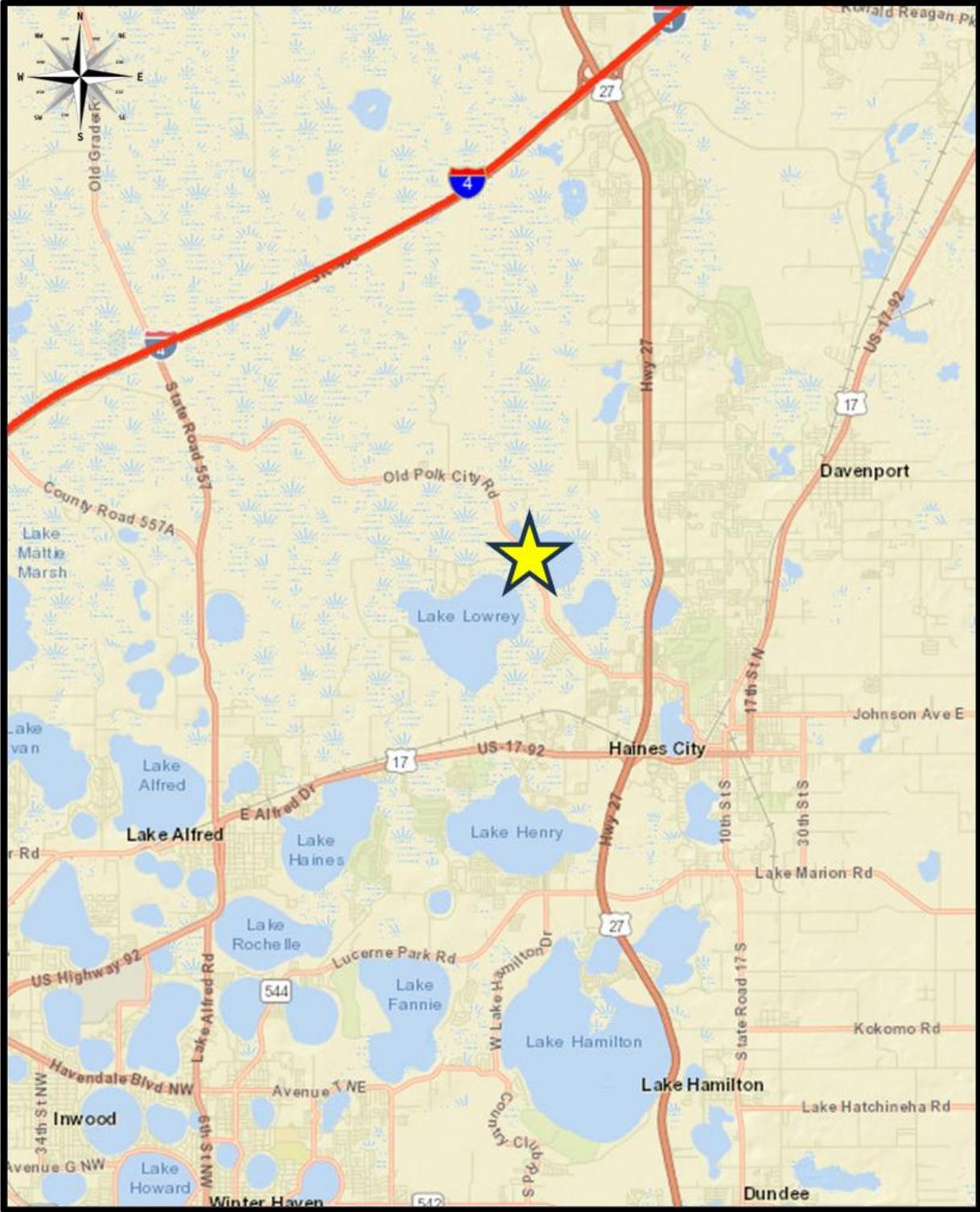
<b>Northwest:</b> Agricultural/Residential Rural (A/RR) – single-family residential	<b>North:</b> Agricultural/Residential Rural (A/RR) – single-family residential	<b>Northeast:</b> Agricultural/Residential Rural (A/RR) – single-family residential
<b>West:</b> Agricultural/Residential Rural (A/RR) – single-family residential	<b>Subject Property:</b> Agricultural/Residential Rural (A/RR) – single-family residential	<b>East:</b> Agricultural/Residential Rural (A/RR) – single-family residential
<b>Southwest:</b> Agricultural/Residential Rural (A/RR) – single-family residential	<b>South:</b> Agricultural/Residential Rural (A/RR) – single-family residential	<b>Southeast:</b> Agricultural/Residential Rural (A/RR) – single-family residential

All the lots surrounding the subject site are residential in nature. The constructed carport would not be out of context for the area and is similar to other structures. The residence to the west of

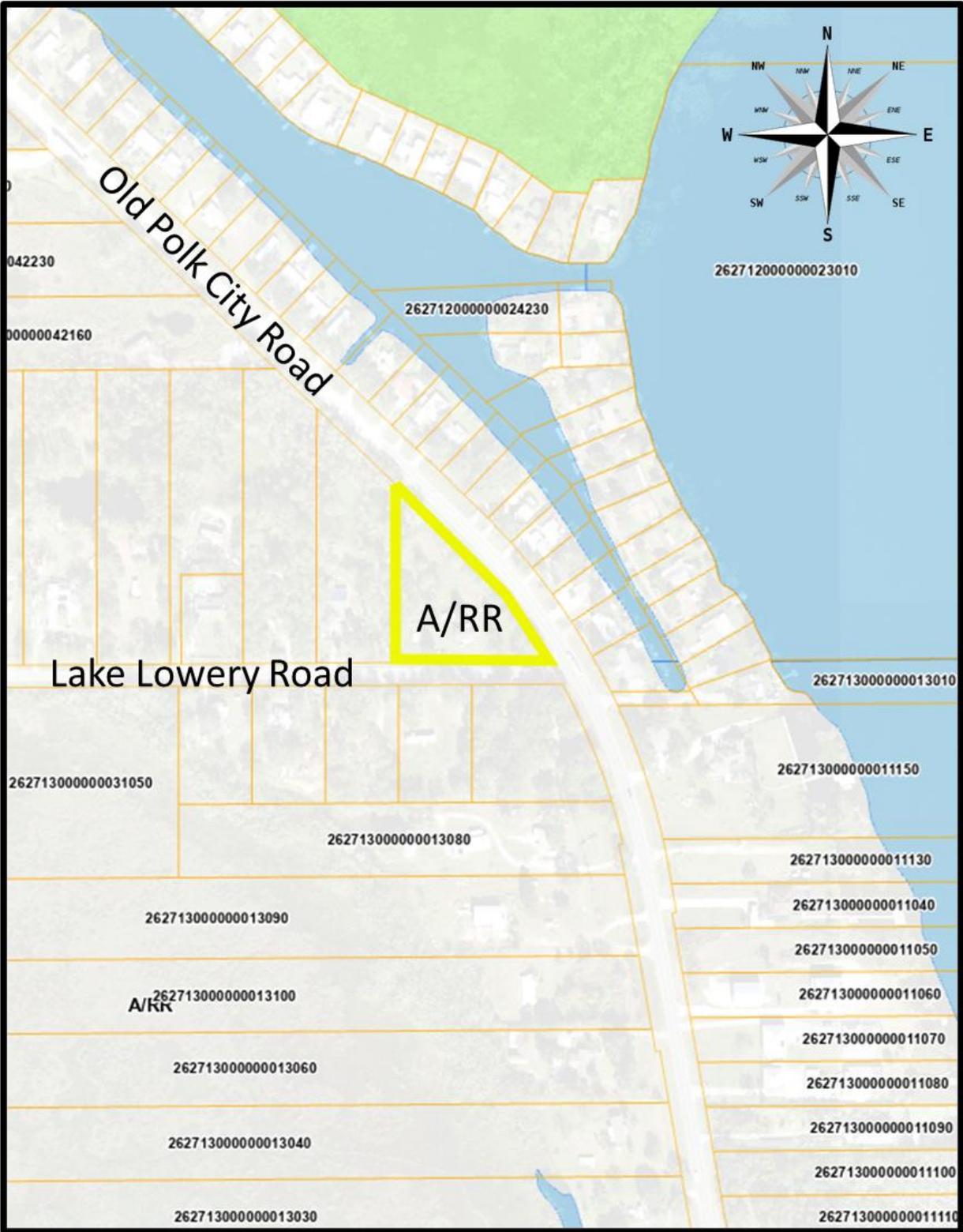
the subject site has a carport in front of the house near the right-of-way, and also presents no issue with use.

**Exhibits:**

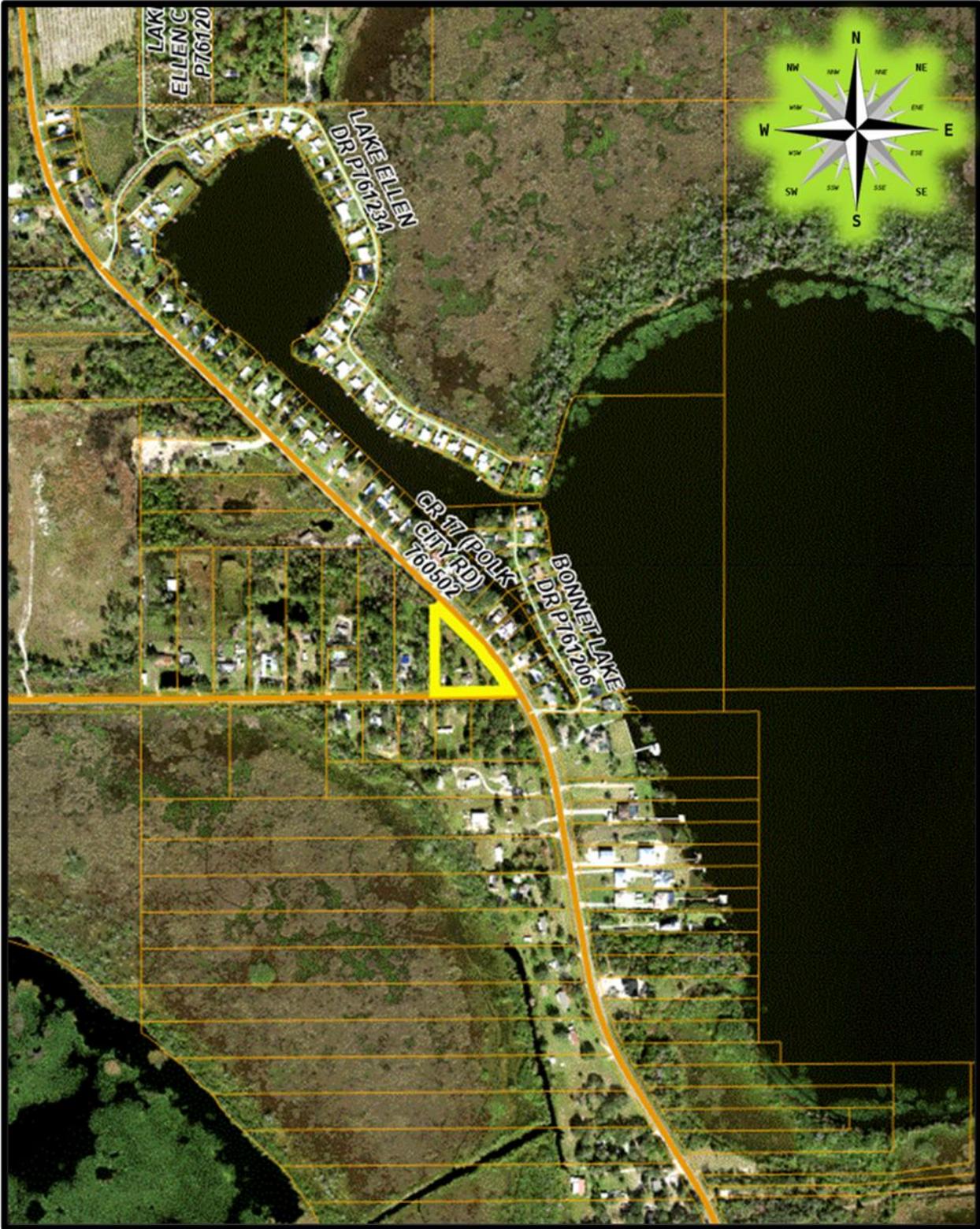
- Exhibit 1      Location Map
- Exhibit 2      Future Land Use Map
- Exhibit 3      Aerial Map - Context
- Exhibit 4      Aerial Map – Close-up
- Exhibit 5      Justification for Variance
- Exhibit 6      Site Plan
- Exhibit 7      Property Appraiser Page



# LOCATION MAP



**FUTURE LAND USE MAP**



**2023 AERIAL – CONTEXT**



**AERIAL – CLOSE UP**

CRITERIA FOR GRANTING VARIANCE

1. Will the variance be injurious to the area involved or detrimental to the public welfare?

No

2. What special conditions exist that are peculiar to the land, structure, or building involved?

Hired a contractor to build carport who said will take care of everything and not to worry. Come to find out they didn't pull any permits and got cited by code enforcement.

3. When did you buy the property and when was the structure built? Permit Number?

1995. Carport was built in 2024, no permit was pulled by contractor.

4. What is the hardship if the variance is not approved?

financial hardship if I have to take the building down after thousands of dollars invested.

5. Is this the minimum variance required for the reasonable use of the land?

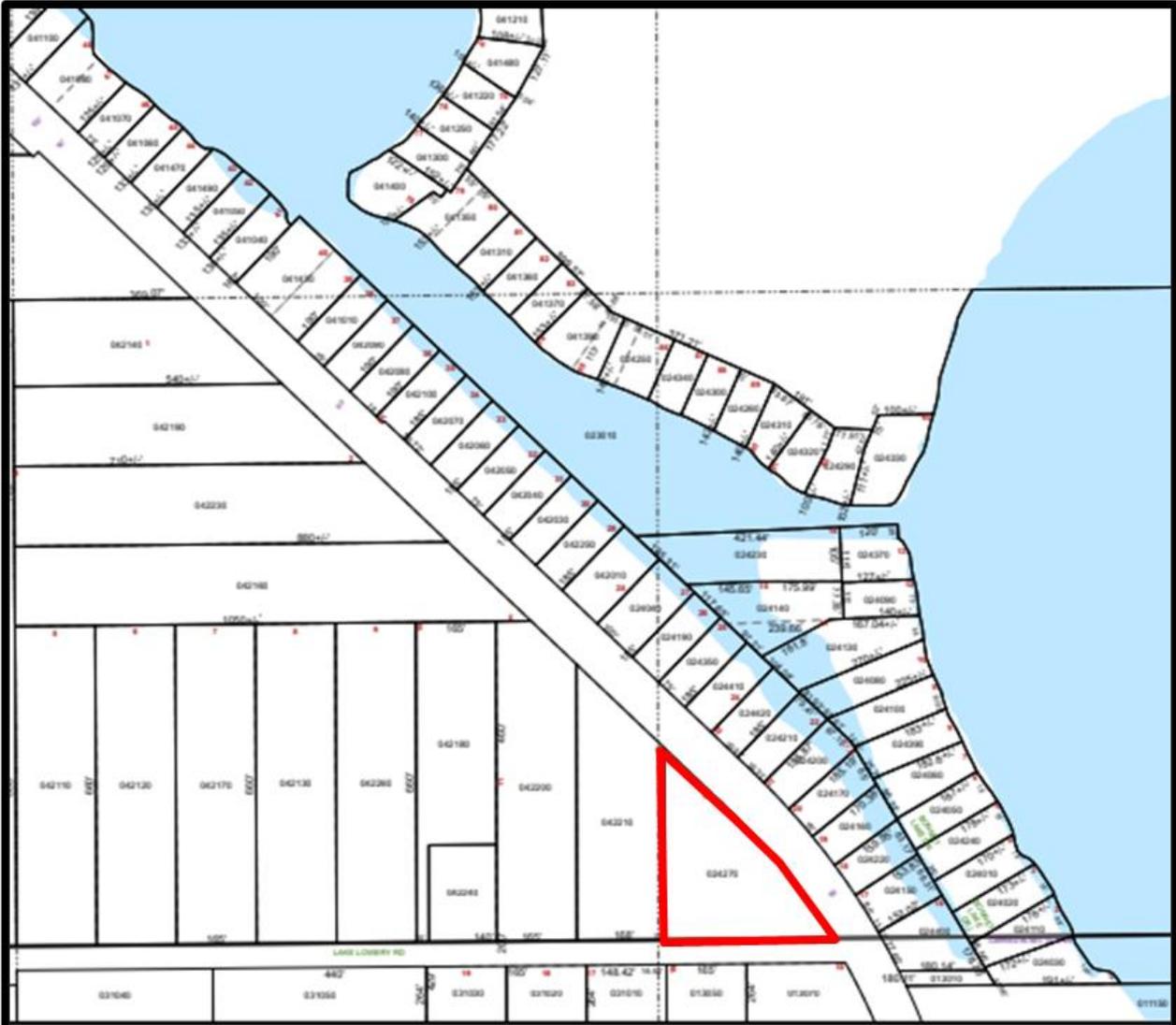
Yes

6. Do you have Homeowners Association approval for this request?

n/a

**JUSTIFICATION FOR VARIANCE**





All of Section 12 Twp. 27 Rge. 26

Acres: 654 +/-

- Sections
- Quarter Section Lines
- Meander Lines
- Gov't Lots
- Easements
- RR Lines
- Water Lines
- Water Bodies



**PROPERTY APPRAISER PAGE**