

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

<b>DRC Date</b>	April 9, 2026	<b>CASE #:</b>	LDLVAR-2026-20 (Samus Variance)
<b>LUHO Date</b>	May 28, 2026	<b>LDC Section:</b>	Chapter 2, Table 2.2

**Request:** The applicant is requesting a side yard accessory setback reduction from five (5) feet to zero (0) feet on approximately 0.71 acres of residential property.

**Applicant:** Vickie D. Samus

**Property Owners:** Joseph N. Samus & Vickie D. Samus

**Location:** The subject property is located at 1508 Lake Rochelle Drive, north and west of State Road 544 (Lucerne Park Road), east of U.S. Highway 17, south of Lake Rochelle, north of the City of Winter Haven in Section 09, Township 28, and Range 26.

**Parcel ID#:** 262809-529600-000080

**Size:** ±0.71 acres

**Land Use Designation:** Residential Low – 3 (RL-3)

**Development Area:** Urban Growth Area (UGA)

**Case Planner:** Andrew Grohowski, Planner II

**Summary:**

The applicant is requesting a side accessory structure setback reduction from five (5) feet to zero (0) feet for the installation of a shed on their property. The subject property is about 0.71 acres and is considered “Lot 8” of the Rochelle Gardens plat recorded in 1955. The western property boundary abuts a large 25’ drainage easement owned and maintained by the County. The shed is about 8’x 10’ (80 sq. ft.), according to the applicant. The Staff is recommending approval as the applicant’s request will not be injurious to the area or detrimental to the public welfare or impact the existing drainage easement. Approval of this variance would allow for efficient use of the applicant’s property.

Staff finds that the request meets the following criteria listed in Section 931:

- The request **will not be injurious to the area involved or otherwise detrimental to the public welfare** because the structure will not encroach into the County’s drainage easement and is not anticipated to impact the livelihood or safety of the nearby property owners.

- **Special conditions and circumstances are present in the request do not result from the actions of the applicant.** A 25' wide County maintained drainage easement runs along the western property line when the property was platted in the 1950s. The placement of the 80 sq. ft. shed will not encroach upon this easement.

### **Development Review Committee**

The Development Review Committee, based on the criteria for granting Variances, finds that the applicant's request as written **IS CONSISTENT** with **Section 931** of the Polk County Land Development Code.

**Development Review Committee Recommendation:** Based upon the application, and a recent site visit, the Development Review Committee recommends **APPROVAL of LDLVAR-2026-20**, with the following conditions:

### **CONDITIONS OF APPROVAL:**

1. Approval of this variance is to reduce the side accessory setback from five (5) feet to zero (0) feet for the proposed accessory structure as described in the staff report and site plan. All further additions or structures placed on the property shall be required to meet the requirements of the LDC, or be granted approval via another variance from the Land Use Hearing Officer.
2. 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 proposed addition.
3. 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.

### **GENERAL NOTES**

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

*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 LDC.*

*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 submission 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.*

**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;*

The granting of this request will not be injurious to the area or detrimental to the public welfare. The applicant is requesting a variance to reduce the side yard accessory setbacks from five (5) feet to zero (0) feet for the installation of 8' x 10' shed. The request will not reduce the rear yard setback requirement. The structure will be located to the western side of the home and behind an approximately six (6) foot- tall vinyl fence. The subject property is recorded as "Lot 8" within the "Rochelle Gardens" plat (PB 69, PGS 21/26) recorded in 1955.

Granting a setback reduction will still allow adequate space and buffering between the proposed structure and residential properties. A 25' wide County maintained drainage easement runs parallel with the subject site's western property boundary. This should not be any cause for concern, however, as the shed will not be located within this easement and cause any impacts or impediments to drainage and stormwater requirements. The shed will not cause any impacts or impediments to drainage and stormwater to Lake Rochelle or the surrounding lakes. The applicant intends to utilize the shed for extra space to store personal items. This is a very benign accessory use, commonly found throughout residential subdivisions. Granting this variance, as conditioned, is in accordance with the general intent and purpose of the Code.

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 subject property is located within the Residential Low-3 (RL-3) land use district on approximately 0.71 acres. Pursuant Chapter 2, Section 205, Table 2.2, accessory structures have five feet (5) feet for both side and rear setbacks. The lot is 0.71 acres, which is above the 10,000 sq. ft. minimum residential lot area in the RL-3 land use district.

The lot abuts a 25' County maintained easement for drainage purposes to the west. An 18" wide diameter pipe and associated grate outfalls into Lake Rochelle. The shed will be located along the property line and behind an existing six (6) foot tall fence, negating any offsite visibility or drainage concerns.

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

The applicant purchased the property in 2013 and subsequently constructed a 5,362 sq. ft. residence in 2016. The subject site has about 105 feet of frontage on Lake Rochelle Drive South and is approximately 310 feet in depth. There is a twenty-five-foot-wide drainage easement to the west owned by the County. When the home was constructed in 2016, a septic system and associated drain field were installed on the western portion of the property. The shed will not be located within the septic tank area or drainfield. Front setback requirements are 15 feet for the right of way, 5 feet for the sides and rear for accessory structures. The applicant wishes to shelter personal equipment and tools within this shed and have determined

these dimensions suit this need. The site plan shows that it meets front and rear setbacks and is well-buffered and screened from adjacent properties.

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;*

Granting the requested variance will not confer a special privilege to the applicant. A majority of homes within this subdivision have accessory structures of some kind. The shed is 80 sq. ft. and is rather benign in size and intensity. The shed will be approximately 30 feet from the neighboring residential structure to the west, across the existing drainage easement, which meets fire code standards.

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

The requested variance is the minimal variance necessary for setback reduction from the rear setback that would permit the proposed accessory structure. While the shed may be placed in the rear yard, the applicant has stated the side yard is the best location that suits their needs. There is no additional space on the eastern side yard, and the western side yard has a septic tank which prevents

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. The home will remain a residential use in a residential district.

7. *Whether that in no case shall the Land Use Hearing Officer or the Planning Commission grant a variance which would result in creation of any residual lot or parcel which does not meet the requirements of this Code; and*

Granting this request will not result in the creation of a lot or parcel that does not meet the requirements of the Code. This variance request will not change the size, shape, or use of the property.

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.*

There was no evidence found to suggest that the proposed request will circumvent the intent of a condition placed on a development by the Planning Commission or Board of County Commissioners. This site is not within a Planned Development and is a legal lot of record created prior to any County development or zoning standards.

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

The table to follow provides details of abutting uses and their regulatory parameters.

<b>Northwest:</b> Lake Rochelle	<b>North:</b> Lake Rochelle	<b>Northeast:</b> Lake Rochelle
<b>West:</b> RL-3 25' Drainage Easement Lot 9 – Rochelle Gardens	<b>Subject Property:</b> RL-3 Lot 8 – Rochelle Gardens	<b>East:</b> RL-3 Lot 7 – Rochelle Gardens
<b>Southwest:</b> RL-3 Lot 46 - Rochelle Gardens Unit 2	<b>South:</b> RL-3 Lot 45 – Rochelle Gardens Unit 2	<b>Southeast:</b> RL-3 Lot 44 – Rochelle Gardens Unit 2

The subject site and residential lots in the immediate vicinity are considered a residential enclave surrounded by additional single-family development in the City limits of Winter Haven. The site has waterfront access to Lake Rochelle with the banks of Lake Conine about 580 feet to the southeast. The property is about 0.71 acres and considered “Lot 8” of the platted residential development “Lake Rochelle Gardens” in 1955 (PB 38, PG 49). The subject site was created prior to the County’s first zoning ordinance in 1970. The lots to the south were platted in 1957 and are within “Rochelle Gardens Unit 2” (PB 41, PG 24). Potable water is provided by the City with lots connected to individual septic tanks. The lot remained vacant for over six decades and was utilized as a secondary driveway entrance for “Lot 9” directly to the west until 2003 when those owners sold the subject site in 2003. The current owners for this variance purchased the property in September 2013 and constructed a 5,362 sq. ft. residence in 2016 (Permit # BLD-H-212573), according to the Property Appraiser. Besides the 25-foot drainage easement to the east of the property, no additional easements are in the immediate vicinity. Given the majority of the surrounding area is within City limits, no additional variances or special exceptions are found within a one-mile radius of the site.

**Comments from other Governmental Agencies:** None.

**Exhibits:**

- Exhibit 1 – Location Map
- Exhibit 2 – Future Land Use Map
- Exhibit 3 – 2025 Satellite Image (Context)
- Exhibit 4 – 2023 Aerial (Close-up)
- Exhibit 5 – Site Plan
- Exhibit 6 – Applicant’s Justification



Location Map



# Future Land Use Map



2025 Satellite Image (Context)



2023 Aerial Image (Close-up)



CRITERIA FOR GRANTING A 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?  
**The side yard has our septic tank. If we put the shed 5' off property line it would be on our septic tank.**
3. When did you buy the property and when was the structure built? Permit Number?  
**Purchased property in 2013. Permit was approved on 2/26/14. Permit Number: 212573**
4. What is the hardship if the variance is not approved?  
**We won't be able to purchase the shed. We need it for storage. Our property abuts a 25' county easement so it is not encroaching on others.**
5. Is this the minimum variance required for the reasonable use of the land?  
**5'**
6. Do you have Homeowners Association approval for this request?  
**no**

## Applicant's Justification