

# POLK COUNTY

## LAND USE HEARING OFFICER

### STAFF REPORT

<b>DRC Date:</b>	<b>April 10, 2025</b>	<b>CASE #:</b>	<b>LDLVAR-2025-22</b>
<b>LUHO Date:</b>	<b>May 19, 2025</b>		<b>(Blue Jordan Road Variance)</b>
		<b>LDC Section:</b>	<b>Section 209.G</b>

**Request:** The applicant is requesting a variance to allow an accessory structure to be larger than the primary structure.

**Applicant:** Jennifer Schultes

**Property Owner:** Jennifer Schultes, Keith Schultes

**Location:** 28 Blue Jordan Road, south of Hwy 630 E, north of Blue Jack Trail, east of the city of Frostproof in Section 30, Township 31, Range 29.

**Parcel ID#:** 293130-993325-000130

**Size:** ±1.09 acres

**Land Use Designation:** Agriculture/Residential Rural-X (A/RRX)

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

**Case Planner:** Aleya Inglima, Planner II

#### Summary:

The applicant is requesting a variance to allow an accessory structure to be larger than the primary structure. The accessory structure is a 30' x 50' x 8' carport used as storage. The property is within an Agriculture/Residential Rural-X (A/RRX) future land use. Pursuant to Section 209.G, of the Land Development Code, an accessory structure may be permitted to be larger than the primary with the approval of a variance from the Land Use Hearing Officer pursuant to Section 930 and 931.

The applicant was cited by Code Enforcement for having an accessory structure larger than the primary structure. Code Enforcement Division staff investigated and discovered the metal building to the rear of the property (CEC-2024-5190). The Code Enforcement Special Magistrate case is pending as the owner is seeking approval to allow the building on their property. The accessory structure has been on the property since 2023. The owner did not secure a building permit for the structure but are now taking steps to fix the problem. The current owners use the metal building for storage and for their vehicles.

Staff finds this request will cause no harm to the community. The subject parcel is surrounded by a cluster of lots ranging in size from an acre to five acres and in some cases larger. This lot is smaller than the Agriculture/Residential Rural-X (A/RRX) minimum lot size of 5 acres. The primary structure is 1,172 square feet total under the roof. The carport in question is larger at

approximately 30 'x 50' x 8' (1500 square feet). It is located to the rear yard of the property off Blue Jordan Road, a rural minor collector road.

Staff recommends approval of LDLVAR-2025-19 as it 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** as the building is at the rear near the primary home within a fenced boundary and will meet all setbacks.
- **Special conditions and circumstances exist which are peculiar to the land, structure, or building involved** are the property is smaller than the Agriculture/Residential Rural-X (A/RRX) minimum lot size of 5 acres and the single-family residence does not have an attached garage.

### **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-2025-22**.

### **CONDITIONS OF APPROVAL:**

1. The approval of this variance to Section 209.G of the Land Development Code to allow an accessory structure (30 'x 50' x 8' carport) to be larger than the primary structure as described in the staff report. Further additions or structures placed on the property shall be required to meet the setback requirements of Table 401.08.04 of the Polk County 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 proposed addition.
4. The use of the accessory structure approved herein is limited to the storage of items associated with the residential use of the property. No home-based business or commercial uses shall be permitted to occur within the accessory structure.

### **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;*

The subject parcel is in an area with a cluster of lots ranging in size from an acre to five acres and in some cases larger. The subject site is smaller than five acres and created prior to the adoption of the Comprehensive Plan documented by a 1989 deed (BK 2727, PG 2111). The carport will meet all setbacks for the A/RRX land use district and existing fencing with trees screening the carport. Granting the subject request will not be injurious to the area as the structure has been to the rear of the property for over two years and is located to the rear of the fenced property. Accessory structures are permitted on residential properties in accordance with Section 209 of the LDC. The structure is also outside the rear 15-foot utility easement.

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;*

This property is located in the A/RRX land use district and is approximately 1.09 acres. This lot is smaller than the A/RRX minimum lot size of 5 acres. This property was platted on April 1985, prior to the adoption of the LDC or any Polk County zoning regulations.

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

The owner purchased the property in November 2021, according to the Polk County Property Appraiser. The home was constructed in 2004 at 1,172 square feet without a garage. The carport was built in 2023 and is larger than the primary at 30' x 50' x 8'. The increase is minimal. This accessory was put on the parcel a few years later after the applicant acquired the property. The owners use the carport for storage and for their vehicles.

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;*

Every variance approval is a special privilege. Other parcels in the area have accessory structures to the rear. This property is approximately 1.09 acres. If the property met five acres within the A/RR land use, the applicant would not need a variance. This is due to Section 209.G. allowing accessory structures administratively to be permitted up to 150 % of the principal structure square footage or height. Accessory structures are permitted on residential properties in accordance with Section 209 of the LDC.

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 believed to be the minimal variance necessary to optimize the use of the owner's land. The applicant uses the carport for storage and for their vehicles. The single-family home does not have an attached garage. The carport in question is 30' x 50' x 8'. Accessory structures of similar sizes are common in this area. LDLVAR-2021-29 was approved by the Board of Adjustment July 2021 for an accessory structure larger than the structure.

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 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> Conservation Easement Vacant	<b>North:</b> Conservation Easement Vacant	<b>Northeast:</b> Conservation Easement Vacant
<b>West:</b> A/RRX Single family home	<b>Subject Property:</b> A/RRX Single family home	<b>East:</b> A/RRX Single family home
<b>Southwest:</b> A/RRX Single family home	<b>South:</b> A/RRX Single family home	<b>Southeast:</b> A/RRX Single family home

This property is a single-family home on Blue Jordan Road in Frostproof, Florida. Staff found one other prior variance in this area. LDLVAR-2021-29 was approved by the Board of Adjustment July 2021 for an accessory structure larger than the structure. Other homes within this street and adjacent streets do have accessory structures of similar size in their rear yards.

**Exhibits:**

Exhibit 1	Location Map
Exhibit 2	Future Land Use Map
Exhibit 3	Aerial Imagery (Context)
Exhibit 4	Aerial Imagery (Close)
Exhibit 5	Site Plan
Exhibit 6	Applicant's Justification

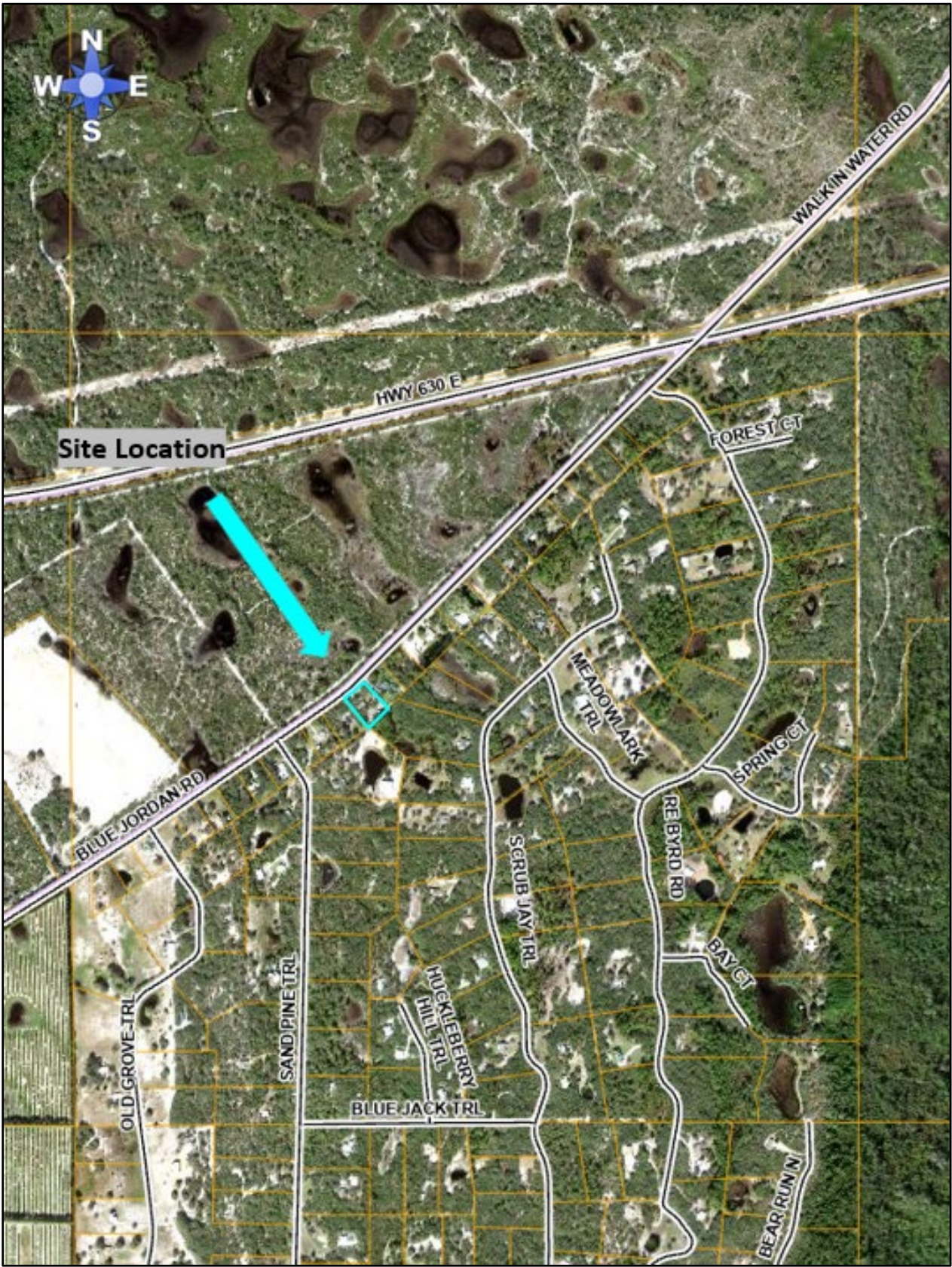
Land Use Hearing Officer  
Variance/*ANI*





Future Land Use Map





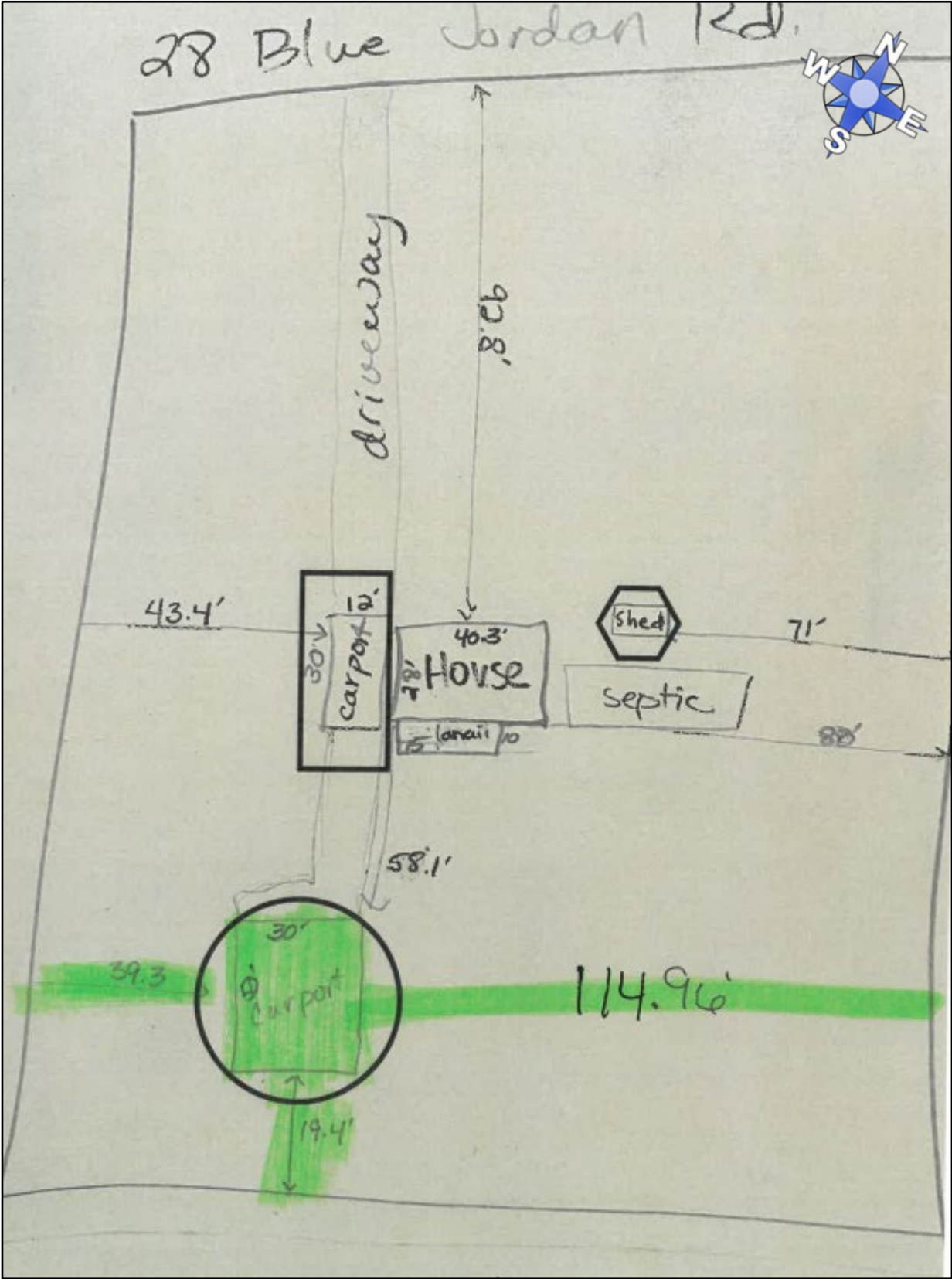
Aerial Imagery (Context)





Aerial Imagery (Close)





Site Plan

CRITERIA FOR GRANTING VARIANCE

Will the variance be injurious to the area involved or detrimental to the public welfare?  
No it will not. It should not affect anyone or anything in nature.

What special conditions exist that are peculiar to the land, structure, or building involved?  
It is larger than our residence so that we can keep our vehicles covered from the elements. We wanted to keep everything contained in one place and not clutter up our acre with multiple outbuildings. Otherwise, it's just located on flat ground so I would say there are no special conditions affecting this carport.

When did you buy the property and when was the structure built? Permit Number?  
We purchased the property 11/2021 and moved in 5/22. The structure was built 8/2023. Since it was a carport, we didn't realize we needed a permit being from Wyoming (we didn't need one where we lived).

What is the hardship if the variance is not approved?  
We'll have to shorten the carport significantly and put up an additional carport to hold the vehicles that won't fit in it, thus impacting the rest of our property where we've planted fruit trees, gardens and other edible landscaping. We don't really have another unobtrusive place to put another carport so that our property won't look trashy.

Is this the minimum variance required for the reasonable use of the land?  
Yes it is.

Do you have Homeowners Association approval for this request?  
We live rural and do not have an HOA, so that is not a factor.

Applicant's Justification