

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

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| DRC Date | May 14, 2026 | CASE #: | LDLVAR-2026-39 (Lake Buffum Road Variance) |
| LUHO Date | June 25, 2026 | LDC Section: | Table 2.2 |

Request: The applicant is requesting to reduce the principal structure right-of-way setback from 35 feet to 12 feet and reduce the southern principal structure side setback from 15 to 6 feet to replace existing covered patios and permit the location of the current mobile home.

Applicant: Melissa Garcia

Property Owner: Melissa Garcia

Location: 3825 Alturas Babson Park Cutoff Road, west of Lake Buffum Road, southwest of Crews Road, southwest of Lake Wales in Section 29, Township 30, Range 27.

Parcel ID#: 273029-000000-044010

Size: 0.21 +/- acres

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

Development Area: Rural Development Area (RDA)

Case Planner: Ian Nance

Summary:

****NOTE*** This case was originally heard on January 26, 2023, and approved by the Land Use Hearing Officer. The applicant did not file for the proper building permits within the two-year timeframe imposed through a condition of approval and has re-applied. The variance request and circumstances surrounding the evaluation of the request at that time have not changed.*

The applicant is requesting to reduce the principal structure right-of-way setback from 35 feet to 12 feet and reduce the southern principal structure side setback from 15 to 6 feet to replace existing covered patios and permit the location of the current mobile home. These patios were onsite when the owner purchased the property but were not permitted. The owner wishes to renovate the home but must conform to modern building code standards, which requires replacing these structures and necessitates the variance request. The lot size is small for the A/RR land use district, and the setbacks imposed on the property constitute a burden. The property is an irregular shape along its frontage with Lake Buffum Road which further frustrates meeting the LDC standards.

Staff recommends approval. **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. These patios will provide safe, covered entrances into the mobile home when other alternatives do not exist.

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-2026-39.**

CONDITIONS OF APPROVAL:

1. Approval of this variance is to reduce the right-of-way principal structure setback from 35 to 12 feet and to reduce the southern side principal structure setback from 15 to 6 feet to replace existing patios and permit the location of the current mobile home, as described in the staff report and shown on the site plan. Further additions or structures placed on the property shall be required to meet the requirements of Chapter 2 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 five (5) years 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.

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;*

Staff finds this request is 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 applicant is requesting to reduce the principal structure right-of-way setback from 35 feet to 12 feet and reduce the southern principal structure side setback from 15 to 6 feet. According to the submitted site plan, the front patio is 8' 8" x 8' 8" and the rear patio is 26' 8" x 8' 4". The property is an unplatted lot with no easements. The applicant is proposing to replace existing patios on the front and to the side of an existing mobile home to provide covered entry into the home. The nearest residential structure to the south is over 45 feet away. The nearest home to the west is approximately 55 feet away. The front patio will be approximately 20 feet from the edge of pavement of Lake Buffum Road and will be 4-5 feet closer than the actual mobile home at its nearest point to this roadway. Carports and covered patios are found elsewhere in this community.

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 in an Agricultural/Residential Rural (A/RR) land use district. Minimum lot sizes in A/RR are five acres with side setbacks for the principal structure of 15 feet and RW setbacks from Rural Minor Collector roadways of 35 feet. The total acreage under the Parcel ID# is 0.21 acres; however, this is split by Lake Buffum Road (*Exhibit 3*). The portion of the property where the mobile home sits is approximately 0.19 acres (+/- 8,275 sq. ft.). This lot size is more reflective of the standards in an RL-3 land use sub-district (min. 10,000 sq. ft.).

In RL-3, the side yard principal structure setback is seven (7) feet. So, the requested reduction to six (6) feet is minimal by comparison. The RW setback to a Rural Minor Collector roadway is still 35 feet, but Lake Buffum Road is not up to County standards. The existing layout of the road is similar to what can be seen in aerial photography dating back to 1941, though it was not paved then. The RW was recorded by the County in December of 1972 (MB 2 PGS 222-239) which bisected the subject property on the rounded bend of Lake Buffum Road where it intersects with Alturas Babson Park Cutoff. The resulting property line is curved and irregular, which will be discussed in more detail below. This makes this property unusual compared with others in the area. Today, the Lake Buffum Road RW is approximately 40-feet-wide with a paved surface width of 22 feet. According to LDC Table 8.2, the minimum RW width for this roadway classification is 80 feet with a paved surface width of 24 feet. So, in its present state, Lake Buffum Road conforms more with a Local Road (40-foot RW & 20-foot paved surface width).

Tying this all together with neither the lot size nor the road widths meeting current standards, the RW setback from a Local roadway in RL-3 is 15 feet. Again, the reduction to 12 feet is minimal in that view.

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 February 2022 with the mobile home and patios already in place. Aerial imagery shows a mobile home onsite since 1980. Deeds and other information from the Polk County Property Appraiser show the parcel in its current dimensions dating back to at least 1976 (OR Book 1682 PG 1969). Google Earth imagery shows the front porch appearing in February 2017. The rear patio appears in County aerial imagery in 2020. Permits for these additions have not been located by staff.

The applicant wishes to renovate this mobile home and bring it into compliance. A Renovation Permit was opened on February 23, 2022 but has since expired (BR-2022-2152). Due to the extensive modifications needed for this manufactured home, the certification issued by the Department of Housing and Urban Development (HUD) has been voided, and this home will now be required to be re-constructed according to the current Florida Residential Building Code and the Existing Building Code guidelines for a Level 3 Alteration, according to documentation provided by the Renovation Permit. Among a list of required alterations, the wooden front porch stairs, landing, guardrails, and metal roof are non-code compliant. This variance is required for them to be re-built after demolition.

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;*

The proposed request is not anticipated to confer on the applicant any special privilege that is denied by the provisions of the Code. A variance is not an entitlement, but any property owner may be considered for a variance if the owner can demonstrate they meet the required criteria. The patios will be attached to the home, as is permitted by LDC Section 208.B.6 and 209.F.

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 and build the structures as requested. The existing mobile home does not meet current setback requirements, and it would be very difficult to align it to conform with one setback without violating another with the curved RW line. For instance, the mobile home is closest to the RW at the northeast end of the property (+/- 18 feet). Moving it south seventeen feet to meet the RW setback would place it within the abutting property lines. Alternate adjustments could also result in a violation of the rear setback. Likewise, moving it 8-9 feet north to adhere to the side setback (15 feet) would further intrude into the RW.

In short, the mobile home is unlikely to be moved, and the A/RR RW setback is a burden to a property of this size. The septic tank is located to the rear of the home. Functionally, the proposed location of each patio makes the most sense and is designed to provide safe entry into the home. The requested reductions are designed to accommodate the new patios and provide a small measure of "wiggle room" given the unusual property lines.

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. Individual mobile homes and their accessory structures are permitted in A/RR land use districts in accordance with Table 2.1.

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.*

There was no evidence found that suggests the proposed request will circumvent the intent of a condition placed on a development by the Planning Commission or the Board of County Commissioners. This is an unplatted piece of property created prior to the adoption of the LDC or Comprehensive Plan.

Surrounding Future Land Use Designations and Existing Land Use Activity:

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| <p>Northwest: A/RR ABC Mobile Home (+/- 4.93 acres)</p> | <p>North: A/RR ABC Vacant (+/- 5.05 acres)</p> | <p>Northeast: A/RR ABC & Lake Buffum Road Mobile Home (+/- 9.74 acres)</p> |
| <p>West: A/RR Mobile Home (+/- 0.44 acres)</p> | <p>Subject Property: A/RR Mobile Home (+/- 0.21 acres)</p> | <p>East: A/RR Lake Buffum Road Vacant (+/- 20.40 acres)</p> |
| <p>Southwest: A/RR Mobile Home (+/- 0.44 acres)</p> | <p>South: A/RR Mobile Home (+/- 0.40 acres)</p> | <p>Southeast: A/RR Lake Buffum Road Vacant (+/- 20.40 acres)</p> |

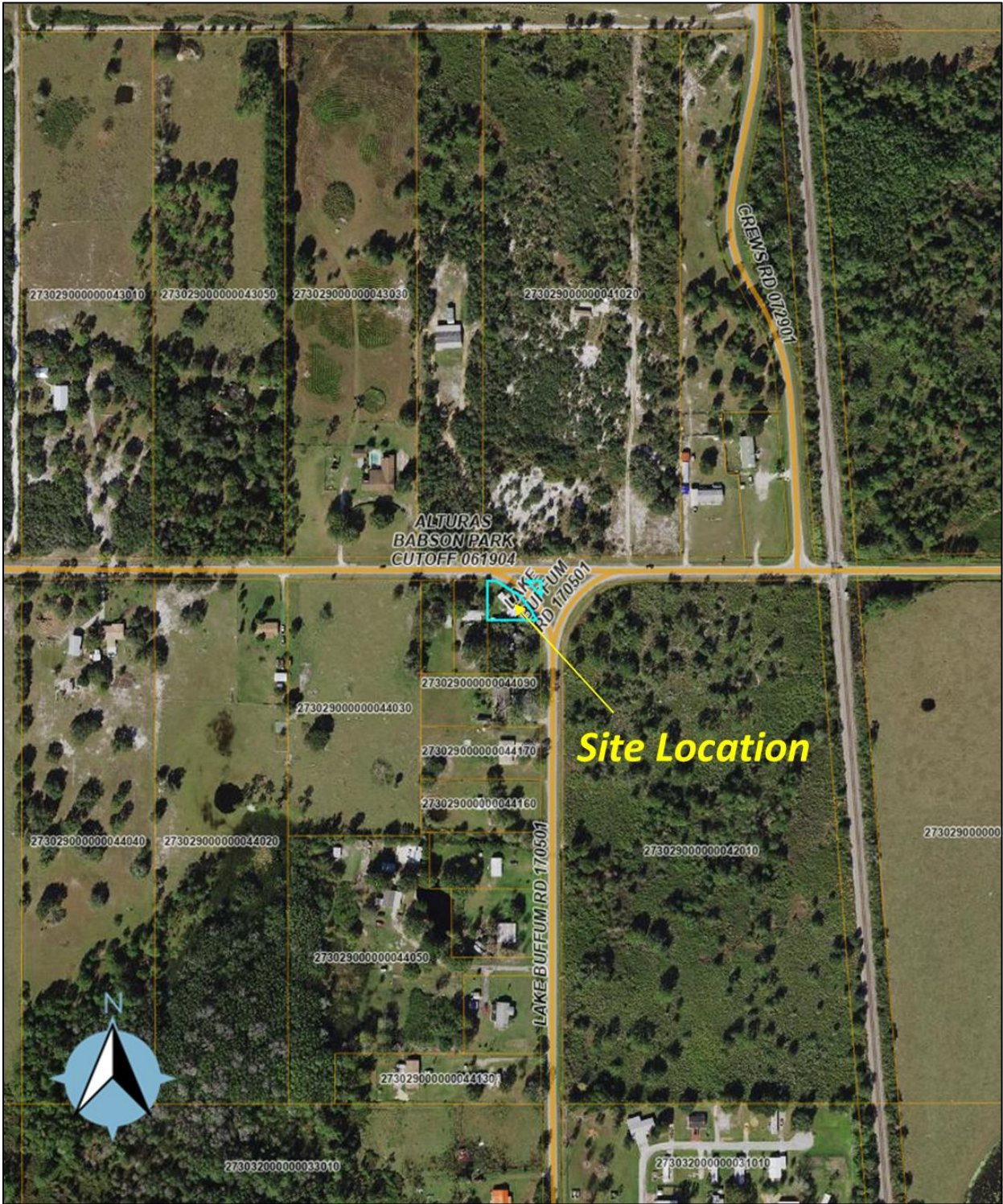
The subject property is located on the SW intersection of Alturas Babson Park Cutoff (ABC) and Lake Buffum Road. It is located in an A/RR land use district and does not meet the five-acre minimum lot sizes required here today. This also true for properties to the west and south. The current owner purchase the property in 2022 along with the 1981 Redman Mobile Home found onsite. Mobile homes comprise the majority of the dwelling units in the immediate area.

Exhibits:

- Exhibit 1 Location Map
- Exhibit 2 Aerial Image – Context
- Exhibit 3 Aerial Image – Close
- Exhibit 4 Site Plan
- Exhibit 5 Section 931 Responses



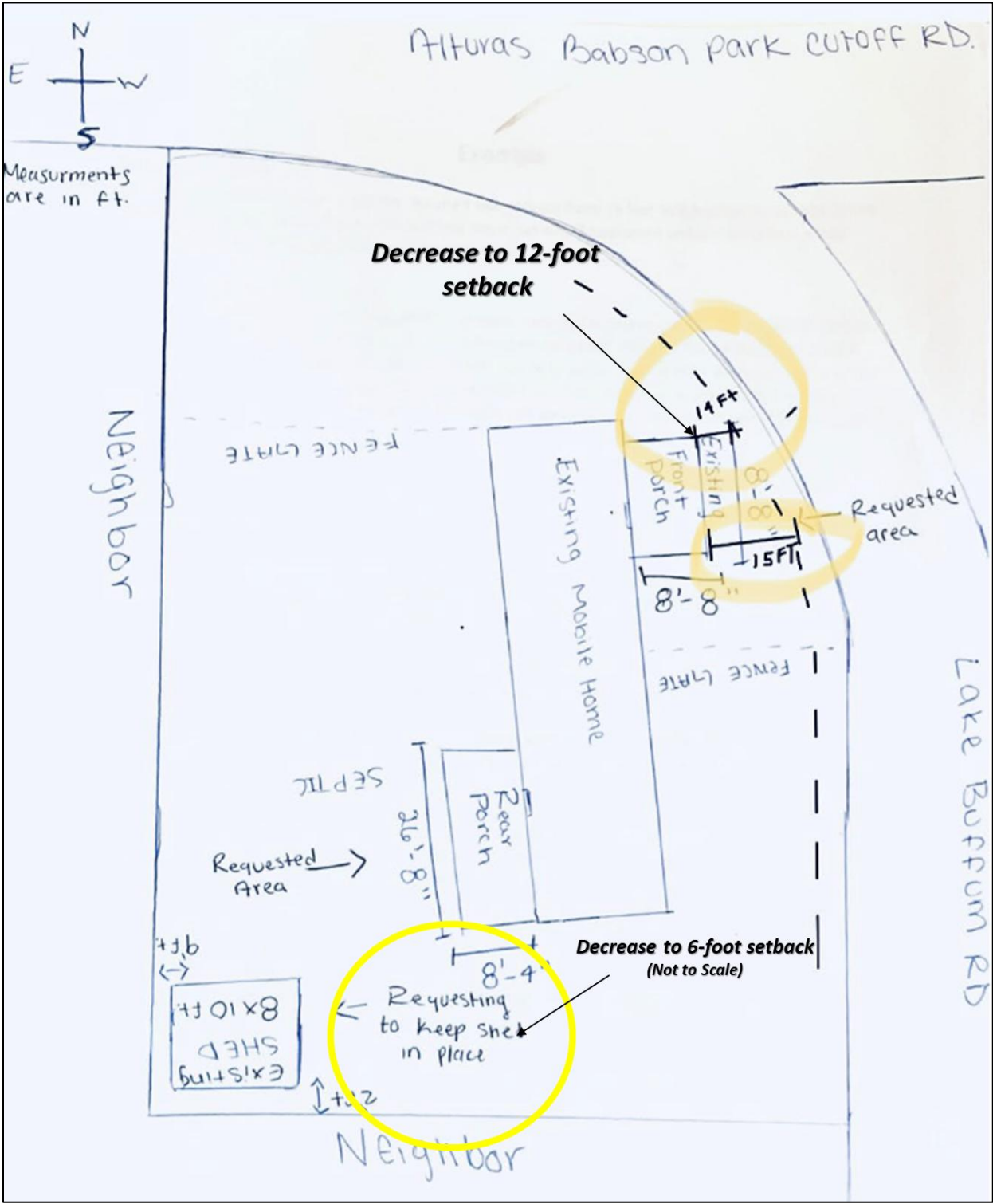
Location Map



Aerial Image - Context



Aerial Image – Close



Site Plan

Section 931 Criteria for Granting Variance

Factors to Consider

In order to authorize any variance from the terms of these Land Development Regulations, except variances to Section 303 Communication Towers, the Land Use Hearing Officer shall consider the following factors:

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; I believe that my shed along with my front and back porch has no negative affect on my neighbors property.
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; My house has an existing front porch and shed. These were already existing prior the purchase of the home. The house had an unfinished porch that I would like to reconstruct. I like to spend time out side in the shade; the property little to no shade & very little room.
3. Whether provided the special conditions and circumstances present in the request do not result from the actions of the applicant; I would like to keep the porch (front + back) and the shed that's located in the back yard. Since the property is small and has limited space a porch will give a desirable area to pass time. The shed gives a needed storage area for a lawn mower.
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; If requested denied, It will take away a small privilege to enjoy the small limited amount of space that is available within the property.
5. Whether the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure; If variance not accepted I will have to find the need to tear down the front porch that was already built and get rid of a shed that provide storage space that is needed.
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; NO, ~~we~~ I am not requesting a land use change.
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 the Code; and I am not creating a new lot or subdividing the land.
8. Whether that the granting of the variance does not circumvent a condition of the intent of a condition placed on a development by the Planning Commission or the BoCC. There are no conditions placed by the BoCC that I know of and should not be affected by the variance.

(2) This will give me access to have extra space to store and a nice shaded spot to enjoy.

Section 931 Responses