

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

DRC Date	March 12, 2026	CASE #:	LDLVAR-2026-1 (Shinabarker Variance)
LUHO Date	April 23, 2026	LDC Section:	PUD 73-05

Request: The applicant is requesting a side yard accessory setback reduction from five (5) feet to two (2) feet for the installation of a shed.

Applicant: Kevin Shinabarker

Property Owner: Kevin Shinabarker

Location: The subject property is located at 3822 Marquise Lane, north of State Road 60, west of Imperial Lakes Boulevard, east of Laurel Crest Drive, south of Garnet Drive, northwest of the City of Mulberry in Section 34, Township 29, and Range 23.

Parcel ID#: 232934-142460-001280

Size: ±0.23 acres

Land Use Designation: Imperial Lakes DRI #4
Planned Unit Development (PUD 73-05)

Development Area: Urban Growth Area (UGA)

Case Planner: Andrew Grohowski, Planner II

Summary:

The applicant is requesting an accessory side setback reduction from five (5) feet to two (2) feet for the installation of an accessory structure on the eastern portion of their property. The subject property has a Future Land Use of Development of Regional Impact (DRI) under Imperial Lakes DRI #4 and was developed under Planned Unit Development (PUD) 73-05 within the Urban Growth Area.

The subject property is about 0.23 acres and considered Lot 128 within Phase II of the Imperial Lakes PUD. The PUD received tentative approval in April 1973 with “Phase II” receiving final approval on January 27, 1976 by the Board of County Commissioners. The PUD established accessory structure setback requirements as five (5) feet for the sides and ten (10) feet for the rear. The site was platted in 1980 and remained vacant until 2000 when a 2,709 square foot single-family residence was constructed according to the Property Appraiser.

The applicant purchased the site in June 2025 and wants to install a new shed in the side yard to accommodate the personal storage of items and to ensure they are sheltered from the elements. The request is the result of a Codes case where the eastern neighbor claimed the shed was placed without

permits and was within their property boundaries (CMA-2026-6). The applicant is taking the appropriate steps to address these concerns and installed an 8-foot vinyl fence within their property boundaries following the initial Codes inspection. The proposed request will be no cause for concern in the surrounding area. Adequate screening, building separation, and placement outside of a drainage and utility easement makes this request relatively benign in nature. Staff is recommending approval.

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 accessory structure will not be within the existing drainage and utility easement. There is sufficient separation between the structure and nearest neighboring home and meets applicable building separation requirements. The tall eight (8) foot opaque fence almost completely screens the shed from neighboring view (*Exhibit 7*).
- **Special conditions and circumstances exist which are peculiar to the land, structure, or building involved.** The lot remained vacant for almost two decades after it was platted in 1980. The improvements made to the property over time, including a screen room, and pool, as well as PUD requirements affect the placement of accessory structures.

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-2026-1**

CONDITIONS OF APPROVAL:

1. The approval of this variance is to reduce the accessory structure rear setback from five (5) feet to two (2) feet for the installation of an accessory structure (approximately 120 sq. ft.). Further additions or structures placed on the property shall be required to meet the setback requirements of the Imperial Lakes DRI (PUD 73-05) 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.

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 the 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 subject property is recorded as Lot 128 within the “Imperial Lakes Phase Two Section One B” plat (PB 69, PGS 21/26) recorded in February 1980. The subdivision was part of an approved PUD 73-05, which established 5-foot side and 10-foot rear yard setbacks for accessory structures. The applicant is proposing a ten (10) foot by twelve (12) foot shed (approximately 120 sq. ft.) to be located two (2) feet from the eastern property line. The request will not reduce the rear yard setback requirement. The structure will be located to the rear of the home and behind an approximately eight (8) foot- tall vinyl fence. According to building permits, the structure is approximately eight (8) feet tall, excluding the pitched roofline (BR-2025-9614). The fence is significantly tall, and blocks visibility of the shed’s wall and doorway from offsite view (*Exhibit 7*). The closest neighboring structure is about 25 feet to the east, greater than fire separation requirements. The applicant intends to utilize the shed for extra space to store personal items. This is a very benign accessory use, commonly found throughout Imperial Lakes and other residential subdivisions.

The plat identifies a twenty-foot County utility and drainage and utility easement along the rear property line of all lots within this phase of Imperial Lakes. The proposed shed is behind the residence on the side yard of the property, which is not anticipated to impact this easement. Given these circumstances, granting this request will not pose harmful or detrimental effects to the area nor public wellbeing.

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;*

Pursuant to the Imperial Lakes development requirements (PUD 73-05), accessory structures have five (5) foot and ten (10) foot side and rear setbacks respectively. The request is a result of a Codes case filed by the neighbor directly to the east earlier this year (CMA-2026-6) where

the shed was built without necessary permits. The ten (10) by twelve (12) foot storage structure was placed in the side yard within the five (5) foot side setback (*Exhibit 7*).

Measured from the property line to the one-story residence, the eastern side of the property is approximately 14.4 feet according to the site plan (*Exhibit 5*). In order to maintain the side yard setback, an accessory structure cannot be greater than ± 9.4 feet in width. In reality, however, the width would likely be smaller to provide exterior maintenance and access to the backyard. This limitation severely limits the applicant's ability to place a sufficiently sized structure for storage purposes, unless a variance is requested. The shed will be about two (2) feet from the eastern property line, outside of the drainage and utility easement, and approximately twenty-five (25) feet away from the nearest residential home to the east.

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

The lot is within what is considered "Phase II" of the larger Imperial Lakes DRI and associated PUD 73-05. Both development orders regulate the type and number of units, lot sizes, setbacks, and other development standards. While this phase was approved and platted in the early 1980s, it took almost two decades for this area to be completely built out. A residential structure was constructed on the subject site in 2000. A pool and associated screen enclosure was later constructed in 2002, according to building records. The physical limitations of the property dictate the placement and size of accessory structures, as shown on the site plan (*Exhibit 5*). The accessory setback requirements, lot sizes, and site improvements over the years significantly limit the amount of usable space without some relief from the PUD setbacks.

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. It is not uncommon within this subdivision to have accessory structures of some kind. Accessory structures are permitted in this land use district, and structures such as this - as long as it has a permanent foundation, a rigid roof, and meets setbacks and building standards - can be permitted in the rear, or side yard.

According to the applicant, the 10 by 12 foot shed is sufficient size to meet their needs so they can shelter and store personal items from the elements. If the shed was just over 9 feet in width and connected to the residence, a variance would not be necessary. However, the proposed location on the site plan provides a functional layout, space for maintenance, and access to the rear yard.

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. Improvements to the site such as the inclusion of a screen room and pool in 2002 (Permit # 22051957) and a ten (10) foot public easement limit the development of the property. These existing conditions restrict any accessory structures to be placed on or within

close proximity to the setbacks boundaries, while still maintaining a functional rear yard. If approved, this request will allow the homeowner to make reasonable use of land to provide extra storage space where they would not be able to otherwise.

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 property will remain residential with an accessory structure.

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.

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.*

The proposed request will not circumvent the intent of a condition placed on Imperial Lakes (DRI #4/PUD 73-05) by the Planning Commission or the Board of County Commissioners. There is no prohibitive setback to variances in the conditions of approval. The variance is subject to approval by the Imperial Lakes Homeowner’s Association.

Surrounding Future Land Use Designations and Existing Land Use Activity:

<p>Northwest: Lot 104, PUD 73-05 Single-family residence ±0.23 acres</p>	<p>North: Lot 103, PUD 73-05 Single-family residence ±0.23 acres</p>	<p>Northeast: Lot 102, PUD 73-05 Single-family residence ±0.23 acres</p>
<p>West: Lot 129, PUD 73-05 Single-family residence ±0.23 acres</p>	<p>Subject Property: Lot 128, PUD 73-05 Single-family home ±0.23 acres</p>	<p>East: Lot 127, PUD 73-05 Single-family residence ±0.23 acres</p>
<p>Southwest: Lot 113, PUD 73-05 Single-family residence ±0.23 acres</p>	<p>South: Lot 114, PUD 73-05 Single-family residence ±0.23 acres</p>	<p>Southeast: Lot 115, PUD 73-05 Single-family residence ±0.23 acres</p>

The subject property and surrounding area is part of the Imperial Lakes DRI (DRI #4) and does not have a land use designation. Imperial Lakes is a primarily residential DRI, but also contains commercial property and a former golf course and encompasses 1,700 acres. The area is also known as “PUD 73-05” and the project first received a development order for a three phased development of 1,400 acres in April 1973. Each of the three original phases of the DRI and PUD have seen multiple modifications over the years and an expansion to include an additional 300 acres have occurred since then.

More specifically, the site is within “Phase II” of Imperial Lakes DRI which received final approval on January 27, 1976. The property is considered Lot 128 of “Imperial Lakes Phase Two Section One B” plat recorded in February 1980 (PB 69, PGS 21/26). A single-family residence was constructed over two decades later in April 2000 (Permit # 20041051) . The applicant purchased the property in

June 2025 (OR Bk , PG). Ten (10) feet of a twenty (20) foot wide drainage and utility easement travels along the rear yard for every lot in this phase. With a lot size of about 0.23 acres (10,000 sq. ft.), this area is in line with the Residential Low-3 (10,000 sq. ft.) minimum lot size requirement. According to recent aerials, lots within the surrounding area have an accessory structures (shed), some of which are close to their respective property boundaries. Staff has found no additional variances within a one (1) mile radius of the subject property.

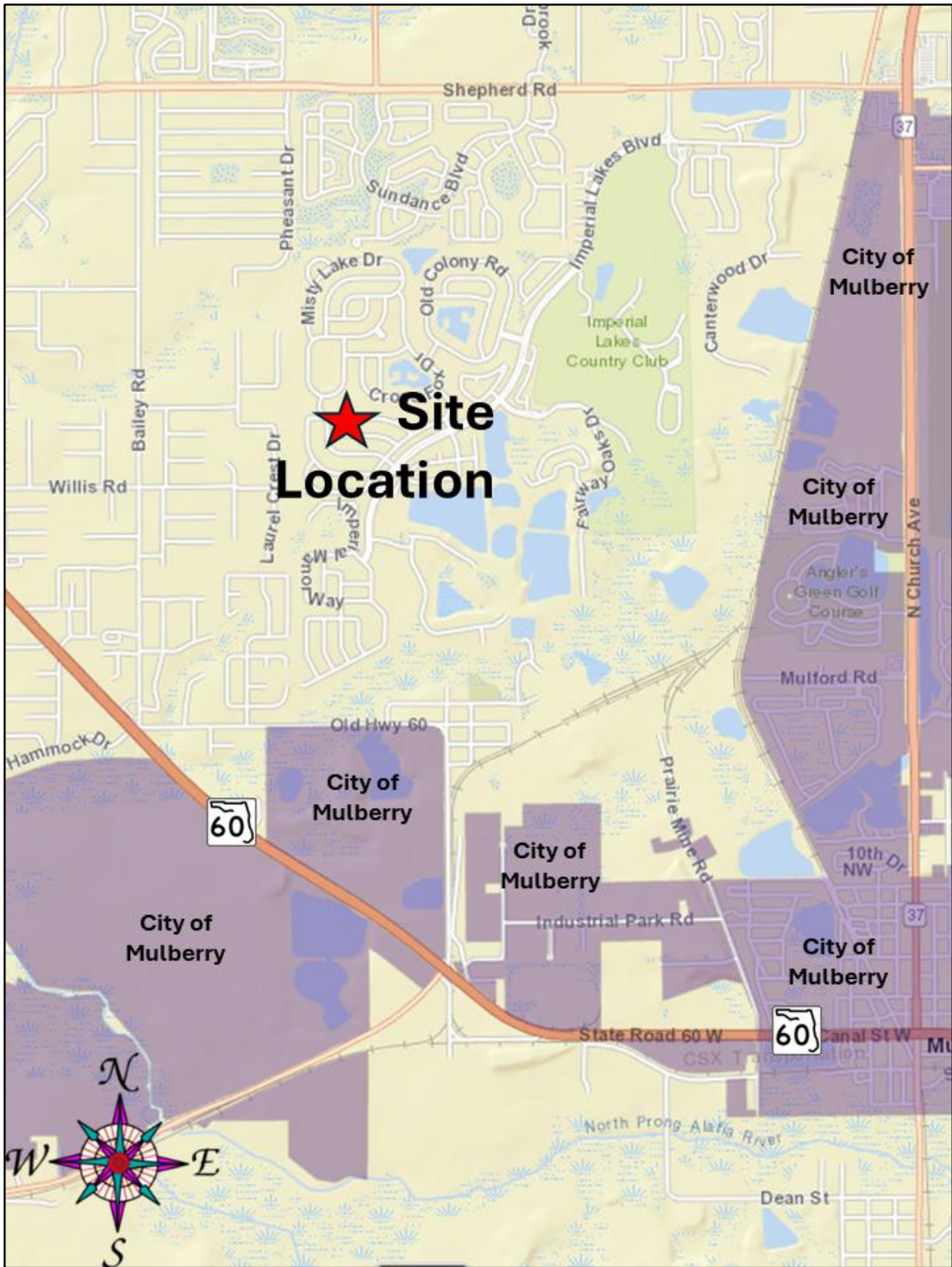
Comments from other Governmental Agencies:

Building Division:

Given the numerous modifications over the years for Imperial Lakes, the Building Division has confirmed that the side setbacks for accessory structures in this phase are five (5) feet.

Exhibits:

- Exhibit 1 – Location Map
- Exhibit 2 – Future Land Use
- Exhibit 3 – 2025 Satellite Image (Context)
- Exhibit 4 – 2023 Aerial Photo (Close-up)
- Exhibit 5 – Site Plan
- Exhibit 6 – Applicant’s Justification
- Exhibit 7 – Codes Inspection Photo (CMA-2026-6)



Location Map



Future Land Use



2025 Satellite Image (Context)



2023 Aerial Photo (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?
our yard is small with the pool and we would like a shed for storage
3. When did you buy the property and when was the structure built? Permit Number?
Bought 6/2025
Built 6/2003
Permit # BR-2025-9614
4. What is the hardship if the variance is not approved?
not extra storage space and we would have to spend more money on storage unit
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?
no

Applicant's Justification



Staff’s Site Visit (04.02.26)