

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

DRC Date	July 10, 2025	CASE #:	LDLVAR-2025-30 (Dille Street Variance)
LUHO Date	August 26, 2025	LDC Section:	Chapter 2, Section 209.G

Request: The applicant is requesting a variance to allow the height of a detached ADU to be greater than that of the primary structure.

Applicant: Scott Davis

Property Owners: Joyce J. Webb

Location: 2216 Dille Street, south of Memorial Boulevard, north of US Highway 92, west of Wabash Avenue, east of Chestnut Road, west of Lakeland, in Section 15, Township 28, and Range 23.

Parcel ID#: 232815-085500-000803

Size: ±0.23 acres

Land Use Designation: Residential Low - 4 (RL-4)

Development Area: Transit Supportive Development Area (TSDA)

Case Planner: Andrew Grohowski, Planner II

Summary:

The applicant is requesting a variance to increase the height of a detached garage (18 feet to the pitch of the roof) to greater than the height of the primary mobile home (14 feet, 8 inches). The existing ADU was constructed without building permits and is approximately 400 square feet. According to the applicant, vertical construction rather than horizontal expansion was proposed due to the existing shed and septic tank on the property. The height and size of the ADU are necessary for the applicant to live and store personal belongings. In terms of evaluating cases such as these, the burden of a hardship on the property is less salient to a recommendation of approval than ensuring it poses no harm to the area. The structure is well-buffered and screened from surrounding homes and has limited visibility from the public right-of-way. The ADU provides a necessary living space for family members, an orderly means of keeping belongings inside, and is relatively benign in intensity. 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 ADU does not encroach upon accessory structure setbacks. The structure is well-screened from off-site by existing vegetation and trees in the rear and side yards and has limited visibility from the public right-of-way.

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-2025-30**, with the following conditions:

CONDITIONS OF APPROVAL:

1. Approval of this variance is to allow an accessory dwelling unit (ADU) up to 18 feet tall at the height of the roof on the subject property, 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. 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.
4. No home-based business or commercial uses shall be permitted to occur within the accessory structure. Also, the ADU shall not be allowed for short-term rental or vacation rentals.

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;*

Staff finds that this request will not be injurious to the surrounding area or detrimental to the public welfare. The applicant requests an accessory dwelling unit (ADU) taller than the existing primary residence on the subject property. As it currently stands, the ADU is approximately 400 sq. ft. and began construction in December 2021. According to the applicant's site plan, the structure sits approximately five (5) feet from the side and six (6) feet from the rear property lines, which meets the five-foot accessory structure setbacks required in the Residential Low - 4 (RL-4) land use district (*Exhibit 5*). The proposed ADU is anticipated to be 17 feet and 3 inches in height, accounting for the pitch of the roof.

The primary structure onsite is a 1,040 sq. ft. mobile home constructed in 2010. It is approximately 14 feet and 8 inches in height, according to the applicant's site plan. While the ADU is about two and a half feet taller than the existing residence, its size is about 400 square feet which is far below the maximum 1,000 square feet permissible by right for any ADU located on residential property, per LDC Section 206.A.

The ADU is well-screened off-site by existing vegetation and trees in the rear and side yards with the nearest home approximately 25 feet to the west, with the single window on the second floor facing eastward. The requested height is also less than half of what is permitted within the RL-4 land use district. The location of the ADU exceeds 10 feet of separation from the nearest neighboring structure, as required by the Fire Code, and this addition will not change this.

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 almost two times larger than the typical district standard. Minimum lot sizes are 6,000 square feet in the RL-4 land use district, which this site exceeds by over 4,000 square feet. Given the height of the principal structure, a variance for the height would still be required even if the underlying land use district was more appropriate for the lot size (Residential Low-3).

Per the applicant's site plan, the setbacks for the ADU meet accessory structure requirements, which are five feet from the sides and rear. It's important to note that the ADU is designed with a pitched roof. If the second story was designed without a slant and was reduced by at least 2-feet and 7-inches (31 inches total), a variance would not be necessary.

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 on February 13, 1995, with the lot set to its current dimensions and designated in the RL-4 land use district. The applicant began construction of the ADU without permits in December 2021 and construction is almost complete. It is

possible that an ADU with a reduced height could be built onsite, however the existing ADU would lose its unique architecture and be cost-prohibitive, according to the applicant. Furthermore, the location of the septic system as well as the existing shed hinders where a different structure could be placed or expanded upon.

From a topographical perspective, site visibility from the public right of way is constrained due to the downward slope of the property and the existing mobile home, thereby limiting any intensity concerns. The site is relatively flat and gradually slopes from 157' along Dille Street to 156' at the southwestern, or rear portion, of the property where the ADU currently stands.

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 location of the structure meets the conditions of Section 206.A, which states ADUs may be placed in the side or rear yard of the principal dwelling unit. As noted above, the location of the existing shed and the septic system encourages vertical, rather than horizontal, expansion. By right, the ADU could reach up to the height of the mobile home, or 2 feet and 7 inches below what is requested, without a variance approval. The ADU stands at about 400 square feet and is less than half the maximum square footage permitted by right on a residential property. This request is simply a more effective use of livable loft space that would not be attainable otherwise.

Finally, this variance should not be construed as approving any home occupation or short-term rental at this location. Home occupations are subject to Section 559.955 Florida Statutes and LDC Section 206.E while short-term rentals are subject to Chapter 509 Florida Statutes and LDC Section 303. Home occupations and short-term rentals are not permitted to be operated from accessory structures.

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 structure as requested. The pitch of the roof on the site plan is 17-feet and 3-inches. Granting this approval up to 18 feet provides some buffering in measurement.

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.*

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.

Surrounding Future Land Use Designations and Existing Land Use Activity:

Northwest: RL-4 Dees Mobile Home Sales/Rentals (8 Units) Bar/Tavern ±1.59 acres	North: RL-4 Dees Mobile Home Sales/Rentals (8 Units) Bar/Tavern ±1.59 acres	Northeast: LCC Dees Mobile Home Sales/Rentals (8 Units) Bar/Tavern ±1.59 acres
West: RL-4 Single-family residence ±0.29 acres	Subject Property: RL-4 Mobile home ±0.23 acres	East: RL-4 Single-family residence
Southwest: RL-4 Single-family residence ±0.16 acres	South: RL-4 Single-family residence ±0.16 acres	Southeast: RL-4 Single-family residence ±0.16 acres

This property is located in a Residential Low - 4 (RL-4) land use district where minimum lot sizes are 6,000 sq. ft. The platted property was originally part of the 9.3-acre property known as Lot 8 of the Webster and Omohundro subdivision (P.B. 003, PG 81) first recorded on March 17, 1915. Lot 8 was subsequently subdivided into residential tracts sometime in the 1950s, reflecting the current lot dimensions today. The subject property replaced a single-family residence with a 1,040 square foot mobile home in 2010 according to the Property Appraiser. The residences along Dille Street are flanked by two platted subdivisions, Wabash Heights (P.B. 34, PG 9) and Melody Heights (P.B. 39, PG 33) recorded in 1950 and 1956 respectively.

The predominate building types in the area are single-family residences with commercial properties stretching along the frontage of Wabash Avenue to the east. Accessory structures including barns, carports and sheds are found throughout this community. Properties along Dille Street are larger than the minimum RL-4 district standard, with typical lot sizes of approximately 10,000 sq. ft. Dees Mobile Home Sales & Rentals consisting of eight units and an associated bar are located directly to the north and have been in existence for over fifty years. The bar and first mobile home were constructed prior to the adoption of the County's first zoning ordinance in 1970 (Ord 70-03).

Comments from other Governmental Agencies: None.

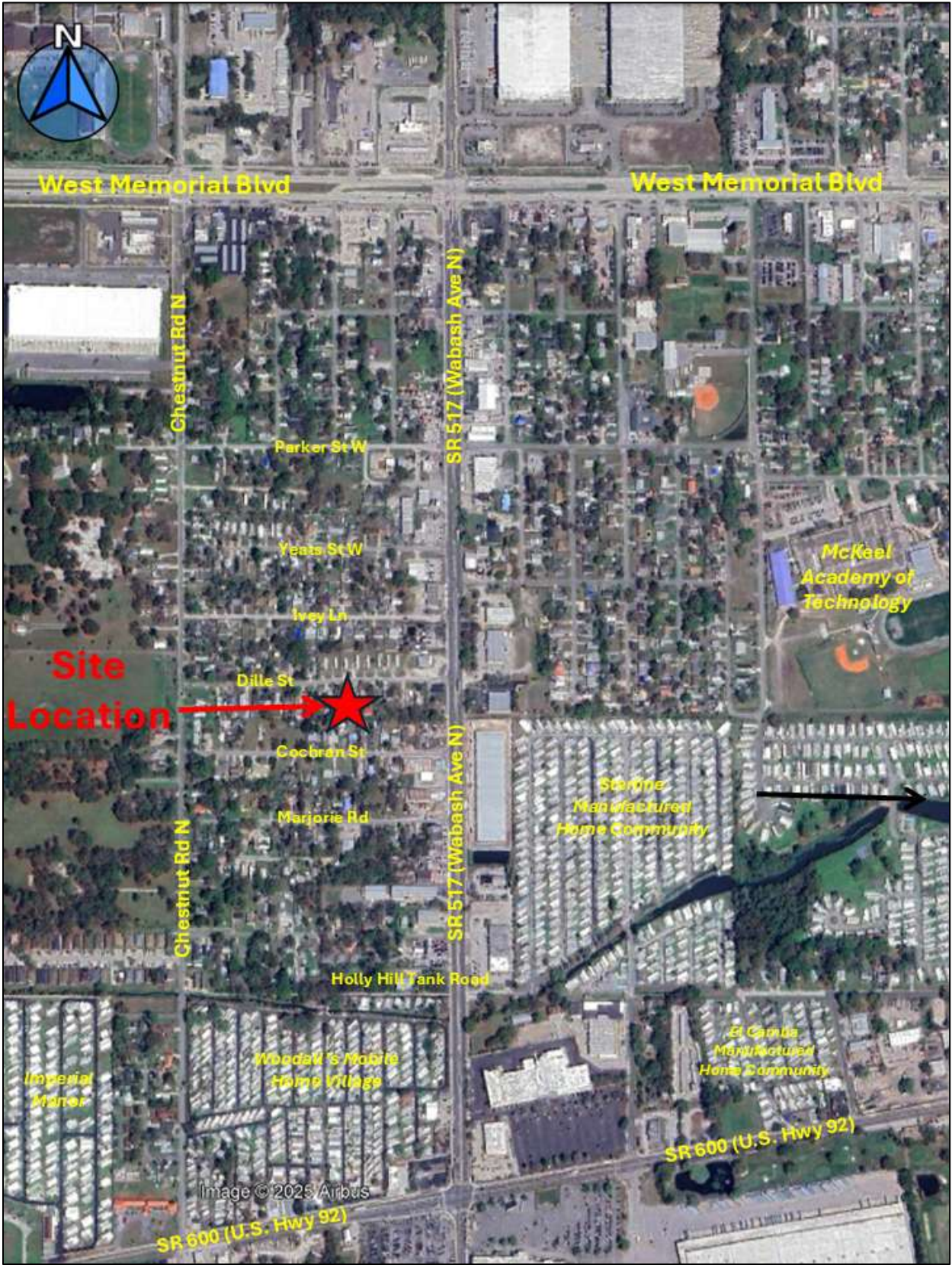
Exhibits:

- 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

Land Use Hearing Officer
Variance/AMG



Future Land Use Map



2025 Aerial Photo (Context)



2023 Aerial Image (Close-up)

Land Use Hearing Officer
Variance/AMG

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? **Not the first ADU on the street to be higher than the main building, or that height. Also a 6" lower grade. Not visible from the street.**
3. When did you buy the property and when was the structure built? Permit Number? **Construction started in Dec 2021. 90% complete.**
4. What is the hardship if the variance is not approved?
Losing my only home, cannot afford to rent or buy in this economy.
5. Is this the minimum variance required for the reasonable use of the land?
Yes, I was not aware of the height code and additionally I would not be able to make the footprint of the building any larger due to an existing shed and drain field.
6. Do you have Homeowners Association approval for this request? **n/a**

Applicant's Justification