

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

DRC Date: September 12, 2024	CASE #: LDLVAR-2024-40 (Lake Marion Rd Variance)
LUHO Date: November 12, 2024	LDC Section: Section 208, Table 2.2

Request: The applicant is requesting a reduction in the primary side setback from fifteen (15) feet to two (2) feet for an attached carport.

Applicant: Lisa Hamamy

Property Owner: Annalisa Hamamy

Location: 9500 W Lake Marion Road, west of Edwards Shores St, east of South Bay Dr, south of Lake Marion, east of the city of Dundee in Section 08, Township 28, Range 28.

Parcel ID#: 282808-000000-024010

Size: ±0.83 acres

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

Development Area: Rural Development Area (RDA)

Case Planner: Aleya Inglima, Planner II

Summary:

The applicant is requesting a reduction in the primary side setback from fifteen (15) feet to two (2) feet for an attached carport. The property is within an Agricultural/Residential Rural (A/RR) future land use. Pursuant to Section 208, Table 2.2 of the Land Development Code, a primary structure may be permitted to be less than 15 feet of the side with the approval of a variance from the Land Use Hearing Officer pursuant to Section 930 and 931.

The lot was first recorded via warranty deed on October 23, 1984 (BK 2277, PG 1266). The home was built in 1999, prior to any Polk County development regulations pertaining to setbacks. These lots are smaller than the (A/RR) minimum lot size standard of five acres. The shape of the lot along with the depth of the setbacks required in A/RR (15 feet) creates a burden on placing structures at this location.

Staff finds this request will cause no harm to the community. The carport in question is 27' x 23' within the side yard of the parcel. The width of the lot is narrow creating a hardship. If the lot size conformed to the five-acre district requirement, it is likely this request would be unnecessary.

Staff recommends approval of LDLVAR-2024-40 as it meets the following criteria listed in Section 931:

- **Special conditions and circumstances exist which are peculiar to the land, structure, or building involved** is the lot was created prior to the Comprehensive Plan and Land Development Code (LDC). The parcel does not meet the required minimum lot size, and the setbacks are too restrictive. The width of the lot is narrow creating a hardship.
- The request **will not be injurious to the area involved or otherwise detrimental to the public welfare** because the open carport will be far away from other structures and is screened by trees. The neighboring property owner most affected by the carport, their house is set further back.

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-2024-40**.

CONDITIONS OF APPROVAL:

1. The applicant is requesting a reduction in the primary side setback from fifteen (15) feet to two (2) feet for a carport. Further additions or structures placed on the property shall be required to meet the setback requirements of Table 2.2 of the Polk County Land Development Code or re-apply for another variance approval from the Land Use Hearing Officer.
2. The structure shall include gutters designed and constructed to channel or capture storm water runoff and prevent it from draining onto neighboring residential properties.
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. 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 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 site was recorded on October 23, 1984. This lot and many of the surrounding homes in this community were developed prior to the Land Development Code and Comprehensive Plan. The applicant is requesting a reduction in the primary side setback from fifteen (15) feet to two (2) feet for a carport on the subject property. The overhang of the carport is (1) one foot. The size of this parcel (0.83 acres) significantly limits the amount of buildable space without some relief from the setbacks. The open carport will be far away from other structures and be screened by trees. The neighboring property owner most affected by the carport, their house is set further back. A condition of approval has been added that the structure shall include gutters designed and constructed to channel or capture storm water runoff and prevent it from draining onto neighboring residential properties.

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/RR land use district and is approximately 0.83 acres (36,155 sq ft). According to Table 2.2 of the LDC, minimum lot sizes in A/RR are five (5) acres. This property was recorded on October 23, 1984, prior to the adoption of the LDC, under the previous zoning ordinance. The lot sizes in this community are closer to Residential Low-2 (RL-2) land use district minimums (15,000 sq. ft.). The setbacks in RL-2 are less restrictive as in A/RR.

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 March 2021, according to the Polk County Property Appraiser. The existing site-built home was constructed in 1999 and originally constructed at 3,136 sq. ft. As noted above, the lot size (+/- 0.83 acres) is small for A/RR land use districts. The small lot size relative to the requirements of its land use district places a burden on the reasonable use of this land.

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, no other variances have been requested in this community. Carports are permitted structures within side and front yards.

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 carport in question is 27' x 23'. The applicant stated they will be using the carport to park vehicles and store outdoor items.

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 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.

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: Lake Marion	North: Lake Marion	Northeast: Lake Marion
West: A/RR Single-Family Home	Subject Property: A/RR Single-Family Home	East: A/RR Single-Family Home
Southwest: A/RR Single-Family Home	South: A/RR Single-Family Home	Southeast: A/RR Single-Family Home

This property is a single-family home along Lake Marion Rd located in Haines City, Florida. Staff did not find other variance approvals on this street.

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



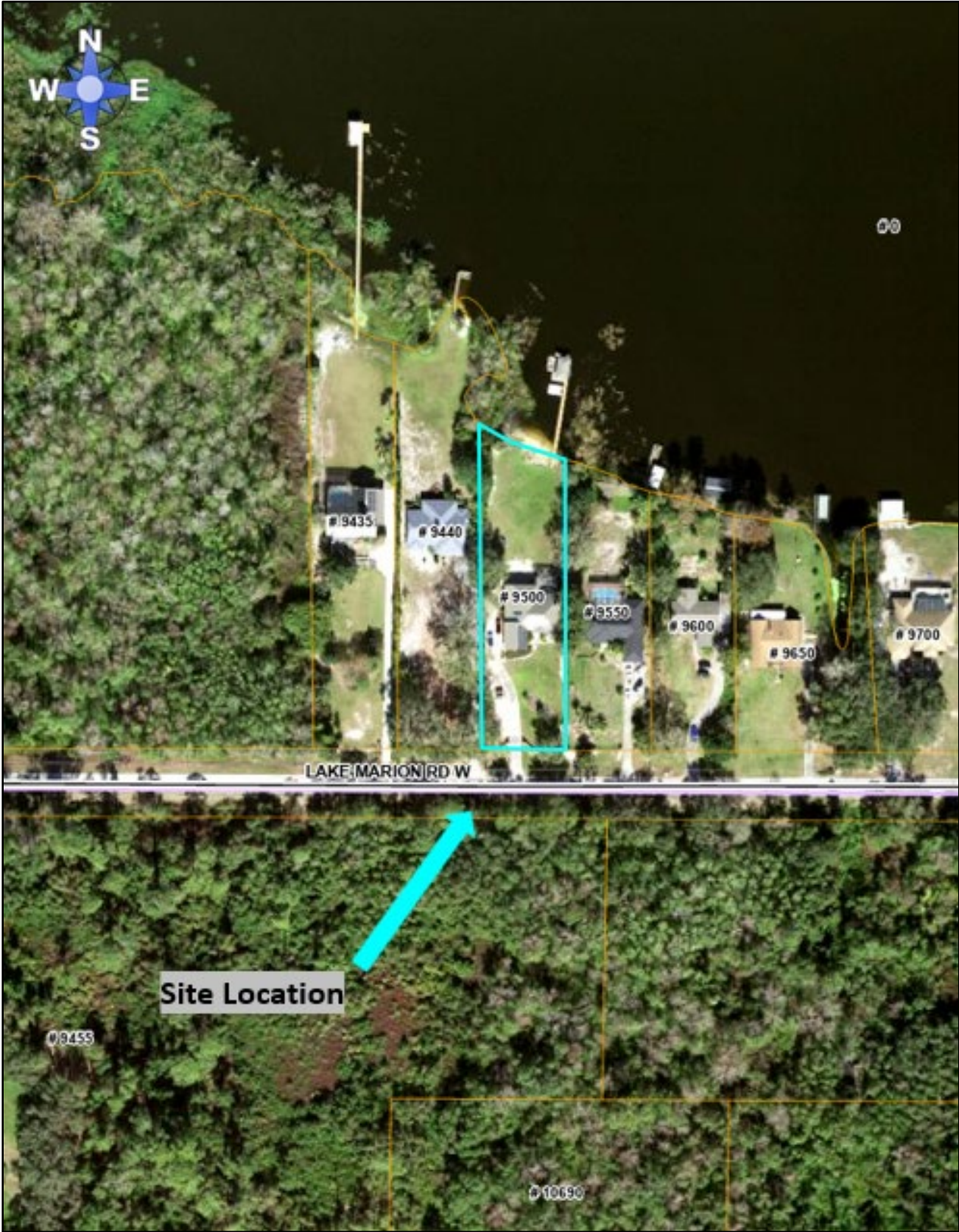
Location Map



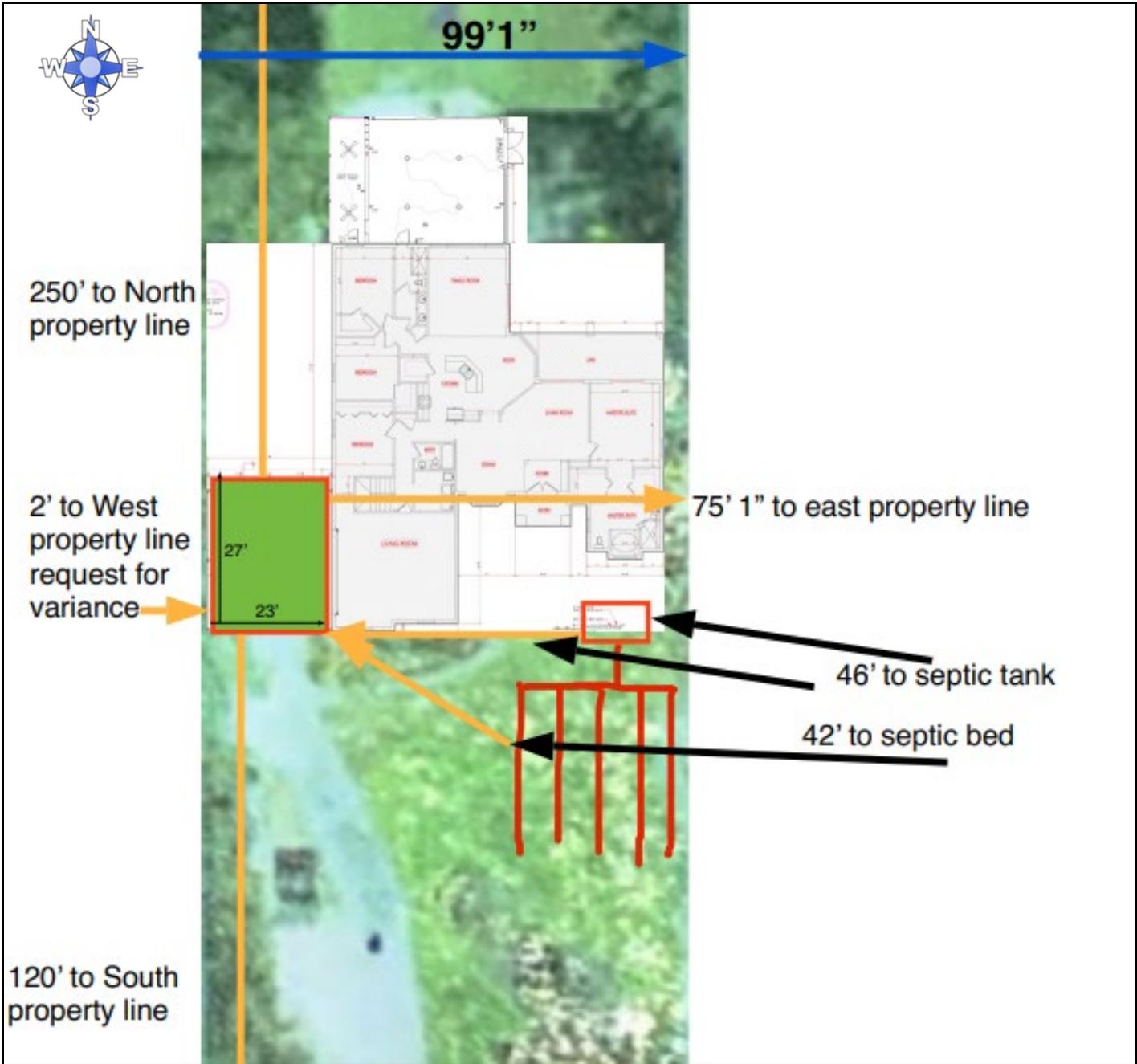
Future Land Use Map



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, but rather enhance the public welfare

What special conditions exist that are peculiar to the land, structure, or building involved?

None

When did you buy the property and when was the structure built? Permit Number?

2021 and the house was built in 1998/99

What is the hardship if the variance is not approved?

We wont have enough space to build a carport adequate to cover 2 vehicles and other outdoor storage items

Is this the minimum variance required for the reasonable use of the land?

Yes but we are open to less if the LUHO determines.

Do you have Homeowners Association approval for this request?

N/A

Applicant's Justification