

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

DRC Date	September 12, 2024	CASE #:	LDLVAR-2024-39 (Catfish St Variance)
LUHO Date	October 24, 2024	LDC Section:	Section 209.G

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

Applicant: David Cochran

Property Owner: Amy Noel Anglin, Franklin Craig Anglin

Location: 172 Catfish St, north of Buoy St, east of Bass St, south of Lakeview Dr N, east of the city of Dundee in Section 19, Township 28, Range 29.

Parcel ID#: 292819-000000-021270

Size: ±0.20 acres

Land Use Designation: Rural Cluster Center – Residential (RCC-R)

Development Area: Rural Development Area (RDA)

Case Planner: Aleya Inglima, Planner II

Summary:

The applicant is requesting a reduction in the side setback from fifteen (15) feet to two (2) feet for a dock. This request is associated with building permit BR-2022-7726. The permit failed inspection after being reviewed by the building official because of the setbacks. According to the permit, the applicant shall resolve the discrepancies before the permit can move forward.

Lake Hatchineha Resort and RV Park developed prior to the adoption of the Polk County Comprehensive Plan and Land Development Code. Lot 177 is approximately ±0.20 acres (8,526.5 square feet), and is significantly smaller than the Rural Cluster Center – Residential (RCC-R) lot size of 20,000 sq. ft. The size of the lot significantly limits the amount of usable space without necessitating setback relief. Since 2020, eight homes within the subject development have received approved variances for additional structures on their lot. The RCC-R land use requires a fifteen-foot primary side setback. A reduction from this setback requires approval by the Land Use Hearing Officer (LUHO) in accordance with Section 931 of the LDC.

Staff recommends approval of LDLVAR-2024-39 as the request meets the following criteria listed in Section 931:

- **The special conditions and circumstances present in the request do not result from the actions of the applicant** as the lot is a part of the Lake Hatchineha Resort and RV Park

which started developing in the 1960's prior to the adoption of the Polk County Comprehensive Plan and Land Development Code. The parcel size of ±0.20 acres (8,526.5 square feet), is significantly smaller than the Rural Cluster Center – Residential (RCC-R) lot size of 20,000 sq. ft. The RCC-R land use requires a fifteen-foot primary side setback. The size of the lot significantly limits the amount of usable space without necessitating setback relief.

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-2024-39**, with the following conditions:

CONDITIONS OF APPROVAL:

1. Approval of this variance is to reduce the primary side setback from fifteen (15) feet to two (2) feet for a dock as described in the staff report and site plan. All further additions or structures placed on the property shall be required to meet the requirements Section 209.G or be granted approval via another variance 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. The structure shall include gutters designed and constructed to channel or capture storm water runoff and prevent it from draining onto neighboring residential properties.
4. 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.

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: 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 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 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.

**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 property is Lot 177 located within the Lake Hatchineha Resort and RV Park. The subject site was recorded on October 9, 1981. The applicant is requesting a reduction in the primary side setback from fifteen (15) feet to two (2) feet for a dock on the subject property. This request is associated with building permit BR-2022-7726. The permit failed inspection for not meeting setbacks after being reviewed by the building official. According to the permit, the applicant shall resolve the discrepancies before the permit can move forward. Still, granting this variance is in accordance with the general intent and purpose of the Code and will not be injurious to the surrounding area or otherwise detrimental to the public welfare. Similar structures are found throughout the area. Since 2020, eight homes within the subject development have received approved variances for additional structures on their lot. As Lake Hatchineha Resort was not platted, easements are unknown in this area. 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. Staff has received no letters in opposition to this request.

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;*

Port Hatchineha was designed in the early 1960s as a fish camp. The subject lots were designated Residential-3 (R-3) on the original zoning map; however, the R-3 district required a minimum lot size of 6,000 square feet, far less than the RCC-R requirements. The entirety of Port Hatchineha is not well mapped relative to lot sizes, which has prompted numerous variance cases throughout the years.

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

This lot is a part of the Lake Hatchineha Resort and RV Park which started developing in the 1960s prior to the adoption of the Polk County Comprehensive Plan and Land Development Code. The parcel size of ±0.20 acres (8,526.5 square feet), is significantly smaller than the Rural Cluster Center – Residential (RCC-R) lot size of 20,000 sq. ft. The RCC-R land use requires a fifteen-foot primary side setback. The closest future land use to a parcel size of ±0.20 acres is Residential Low-3 (RL-3). RL-3 requires a lot size of 10,000 sq ft and has primary side setbacks set at seven (7) feet. The size of the lot significantly limits the amount of usable space without necessitating setback relief.

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;*

Variations are a development privilege, but any property owner is eligible for a reduction in setbacks if their request is approved by the Land Use Hearing Officer. Since 2020, eight homes within the subject development have received approved variances for additional structures on their lot. One previous variance approval in the community was for a dock.

5. *Whether the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure;*

Additions such as docks are common throughout this development; many require additional approval from the Land Use Hearing Officer for setback relief.

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.

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.*

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:

The table to follow provides details of abutting uses and their regulatory parameters.

<p>Northwest: Lot E Single family home Patio, Carport, Boat Cover</p>	<p>North: Lot F Mobile Home Cabana, Boat Cover, Carport</p>	<p>Northeast: Lot G Mobile home Screen room, Dock, Boat Cover, Patio, Shed</p>
<p>West: Lot 178 Single family home Dock, Porch, Boat Cover</p>	<p>Subject Property: Lot 177 Mobile Home Carport, Shed, Boat Cover, Dock</p>	<p>East: Lot 177 Mobile Home Patio, Screen Room, Shed, Carport, Boat Cover</p>
<p>Southwest: Lake Hatchineha</p>	<p>South: Lake Hatchineha</p>	<p>Southeast: Lake Hatchineha</p>

Port Hatchineha, first developed in the 1960s as a fish camp. The land was channelized to create canals for boats to reach Lake Hatchineha, and lots were sold to maximize this access for hunting and fishing opportunities. No zoning ordinance or Land Development regulation has accurately

captured the lot sizes found in this area. As a result, variances have been common over the years to accommodate the placement of structures, especially those intended to shelter boats and recreational vehicles.

Comments from other Governmental Agencies: None

Exhibits:

Exhibit 1 –Location Map

Exhibit 2 – Future Land Use Map

Exhibit 3 – Aerial Context

Exhibit 4 – Aerial Close-up

Exhibit 5 – Applicant Site Plan

Exhibit 6 – Applicant’s Justification



Location Map



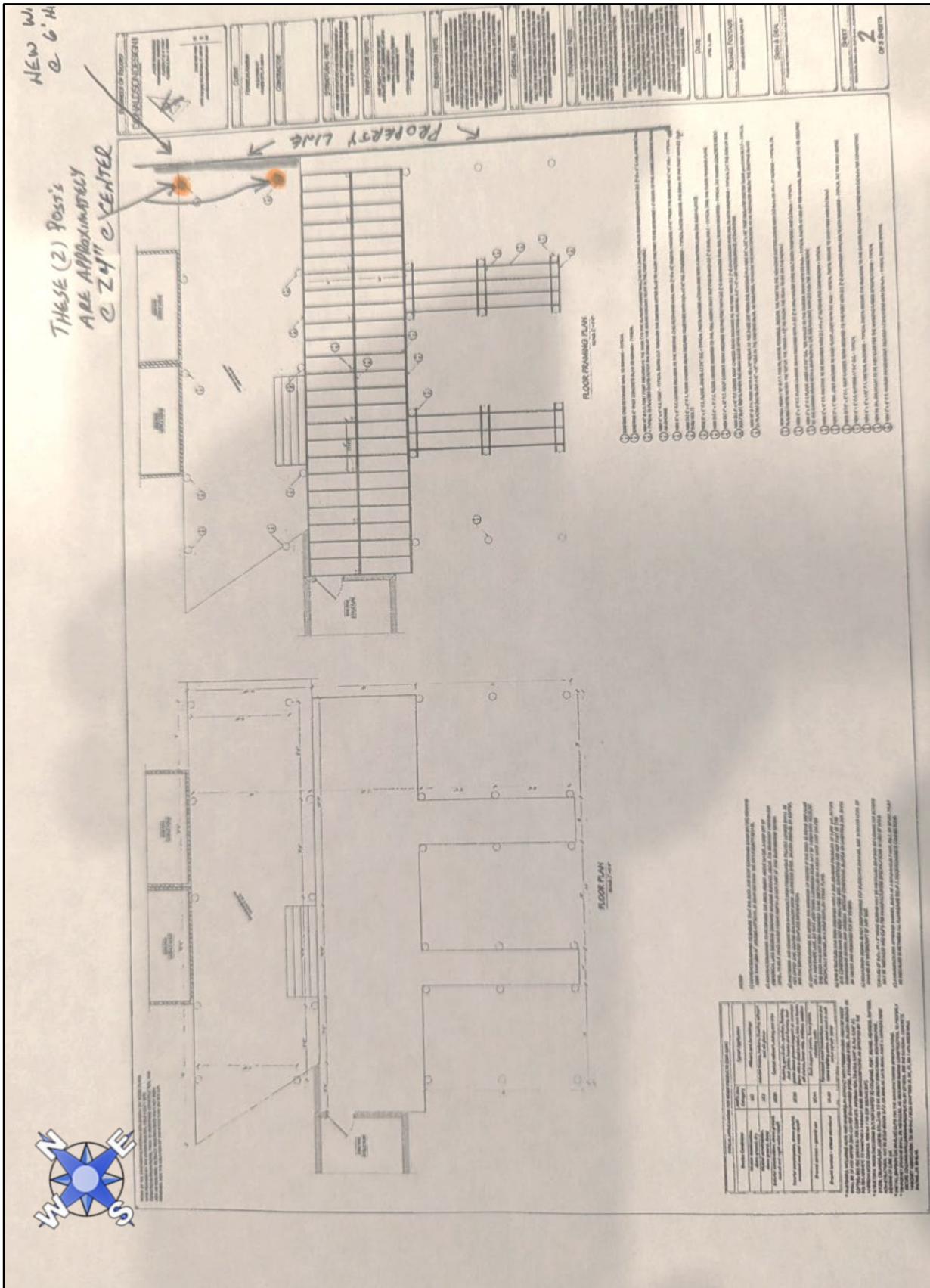
Future Land Use



2023 Aerial Context



2023 Aerial Close Up



Site Plan

CRITERIA FOR GRANTING VARIANCE
Will the variance be injurious to the area involved or detrimental to the public welfare?
NO

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?
Purchased Property on or about September 2021.
The structure was built on or about 1994.
Permit Number: Unknown as it was existing structure when purchased property.

What is the hardship if the variance is not approved?
The boats, vehicles, golf cart and tool equipment will be uncovered and damaged by the weather.

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

Do you have Homeowners Association approval for this request?
This home is not under a Homeowners Association, however, the adjacent neighbors have no objection or issues with the existing structure.

Applicant's Justification