

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

DRC Date: March 13, 2025	CASE #: LDLVAR-2025-11 (Jones Accessory Variance)
LUHO Date: April 24, 2025	LDC Section: Section 209.G

Request: The applicant is requesting a 1,600 square footage accessory structure to be 145 percent larger than the primary structure in a Residential Suburban land use district on approximately +/- 1.18 acres.

Applicant: Robert Jones, Jr

Property Owner: Robert Jones, Jr

Location: The subject property is located at 3921 Timberwood Drive, north of US Highway 60, south of the Polk Parkway, east of County Line Road, west of Church Avenue, southwest of the City of Lakeland in Section 17, Township 29, Range 23.

Parcel ID#: 232917-000000-021020

Size: ±1.18 acres

Land Use Designation: Residential Suburban (RS)

Development Area: Suburban Development Area (SDA)

Case Planner: Kyle Rogus, Planner I

Summary:

The applicant is requesting a variance to allow an accessory structure to be larger than the primary structure. The accessory structure is a 40' x 40' (1,600 square feet) garage. The property is within a Residential Suburban (RS) land use district. Pursuant to Section 209.G of the Land Development Code (LDC), an accessory structure may be permitted up to 150% of the height of the principal structure and up to 2,000 sq. ft. or 150% of the principal structure square footage, whichever is greater, with a minimum lot size of two acres without a variance.

The subject property is +/- 1.18 acres, which is below the 2 acre minimum lot size, therefore requiring an approval of a variance from the Land Use Hearing Officer pursuant to Sections 930 and 931. The home was built in 2000 at 1,104 square feet. The accessory structure will be 1,600 square feet, 145% of the principal structure square footage.

Staff finds this request will cause no direct or indirect harm to the community and recommends approval. Staff recommends approval of LDLVAR-2025-11 as it meets the following criteria listed in Section 931:

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 location of the proposed structure will not block the view of traffic off Timberwood Drive. The accessory structure will be 70 feet from the right-of-way, meeting RS setbacks, in addition to 20 feet separation from edge of pavement. The nearest home is 35 feet on the neighboring property to the west. The accessory structure will be 145% of the principal structure square footage and will be located 20 feet from the neighboring property line to the west, meeting accessory structure interior side setbacks in the RS land use district.

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 property is located in the Residential Suburban (RS) land use district in the Suburban Development Area (SDA) on approximately 1.18 acres which is below the 5-acre minimum residential lot area in the Residential Suburban land use district.

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-2025-11**

CONDITIONS OF APPROVAL:

1. The approval of this variance to section 209.G of the Land Development Code to allow an accessory structure (40' x 40' garage) to be larger than the primary structure as described in the staff report. 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. 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.
4. The use of the accessory structure approved herein is limited to the storage of items associated with the residential use of the property. No home-based business or commercial uses shall be permitted to occur within the accessory structure.

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 home was built in 2000 at 1,104 square feet. The accessory structure will meet all the setbacks for the RS land use district. The accessory structure will be 70' from Timberwood Drive, a County-maintained Local Roadway, and 20' from the west property line. The accessory structure will be 40' x 40' oriented in line with the west property line allowing minimal visibility from Timberwood Drive.

The granting of this request will not be injurious to the area as the closed structure will not block the view of traffic. The accessory structure will be located on the west side of the subject property, partially in front of the residential home. Garages unlike other accessory structures are allowed in the front yard. The accessory structure will be approximately 90 feet from the edge of pavement at its nearest point and will be 20 feet from the neighboring property line to the west. The nearest home is 35 feet on the neighboring property to the west. There are no platted easements.

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 property is located in the Residential Suburban (RS) land use district and is approximately 1.18 acres. This lot is below the Residential Suburban (RS) minimum lot size of 5 acres. The home was built in 2000, and the applicant purchased the property in 2006.

Per Chapter 2, Section 209.G, of the Polk County Land Development Code (LDC) accessory structures are customarily associated with, subordinate in size, and incidental in use to the principal structure located on the same site. However, an accessory structure may

be permitted up to 150% of the height of the principal structure and up to 2,000 sq. ft. or 150% of the principal structure square footage, whichever is greater, with a minimum lot size of two acres (no variance required).

The subject site is below the 5 acre minimum lot size in the Residential Suburban (RS) land use district and is slightly below the minimum 2 acre lot size per Chapter 2, Section 209.G. If the subject site was 0.82 acres larger it would have met the 2 acre minimum lot size, therefore no variance would be required and the applicant would be allowed to construct an accessory structure up to 1,656 square feet; 56 feet more than what is currently proposed through the variance request.

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 2006, according to the Polk County Property Appraiser. The home was built in 2000 at 1,104 square feet. The proposed accessory garage structure will be 1,600 square feet, which is 145 percent larger than the primary structure. The Property Appraiser's website does not identify the home was constructed with a garage and no additions have been made.

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 to some degree. Other parcels have accessory structures to the rear. Garages, unlike other accessory structures, are permitted in front yards. This property is approximately 1.18 acres. If the property was 2 acres, Section 209.G allows accessory structures administratively to be permitted up to 2,000 sq. ft. or 150% of the principal structure square footage, whichever is greater.

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 property is 1.18 acres, which is 0.82 acres below the 2 acre minimum for granting accessory structures up to 2,000 sq. ft. or 150% of the principal structure square footage, whichever is greater, with no variance required. If the subject site was 2 acres, the applicant would be allowed to construct an accessory structure 56 feet larger than what is being currently proposed.

The applicant intends to use the accessory structure as a garage for vehicle parking. The accessory structure in question is 40' x 40' (1,600 square feet). There are other other accessory structures slightly below 1,000 square feet in the area and one directly across the street measuring at 1,200 square feet.

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.*

The evidence found suggests the proposed request will not circumvent the intent of a condition placed on a development by the Planning Commission or the Board of County Commissioners. The property is not part of a Planned Unit Development (PUD) and was originally zoned RC. The subject site was recorded in August 1990, prior to the adoption of the Comprehensive Plan and Land Development Code. There are no easements in the front of the property. Per Chapter 2, Section 205, Table 2.2 of the Land Development Code, the RS land use district requires right-of-way setbacks of 20 feet off local roadways; side yard setbacks of 5 feet; and rear yard setbacks of 10 feet.

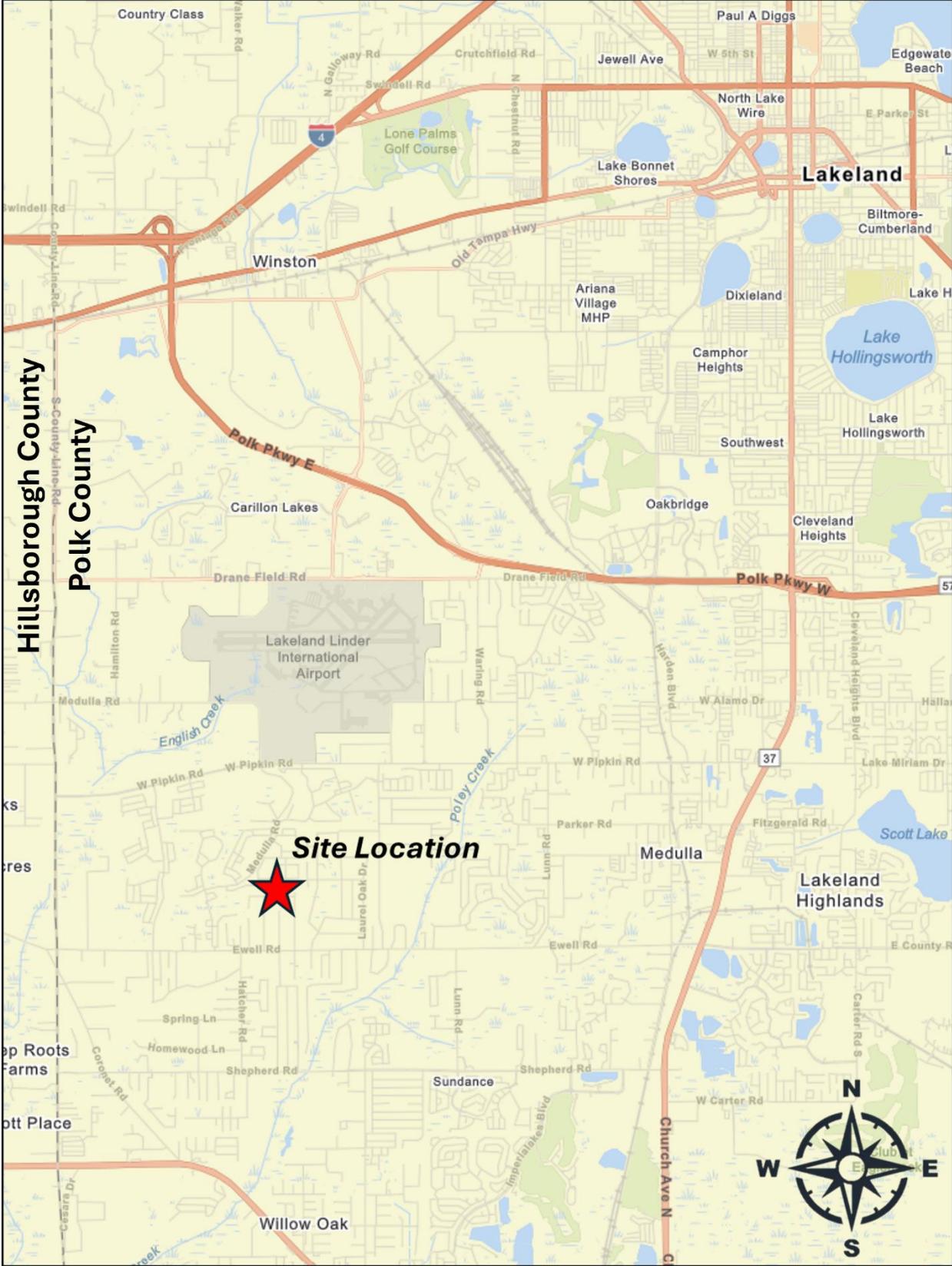
Surrounding Future Land Use Designations and Existing Land Use Activity:

<p>Northwest: City of Lakeland Single-family 0.16 acres</p>	<p>North: City of Lakeland Single-family 0.16 acres</p>	<p>Northeast: City of Lakeland Single-family 0.16 acres</p>
<p>West: Residential Suburban Mobile Home Multiple accessory structures 0.69 acres</p>	<p>Subject Property: Residential Suburban Mobile Home Proposed 1,600 sq.ft. accessory structure 1.18 acres</p>	<p>East: Residential Suburban Mobile Home No accessory structures 1.14 acres</p>
<p>Southwest: Residential Suburban Mobile Home Multiple accessory structures 2.07 acres</p>	<p>South: Residential Suburban Single-family 1,200 sq.ft. accessory structure 2.32 acres</p>	<p>Southeast: Residential Suburban Single-family 1,200 sq.ft. accessory structure 2.32 acres</p>

Many of the surrounding properties are below the minimum 5 acre residential lot size in the RS land use district ranging in size from 0.69 acres to 2.32 acres. Recent aerial data viewers show multiple properties in the immediate surrounding area to have an accessory structure. The property directly to the south of the subject site, across Timberwood, has an existing accessory structure in the rear of the property that measures 30' x 40' or 1,200 square feet. The Property Appraiser website cites the single-family dwelling on that property to be 2,384 square feet, making the accessory structure less than the primary structure. To the north is a platted subdivision in the City of Lakeland with smaller lot sizes.

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 Justification



Location Map



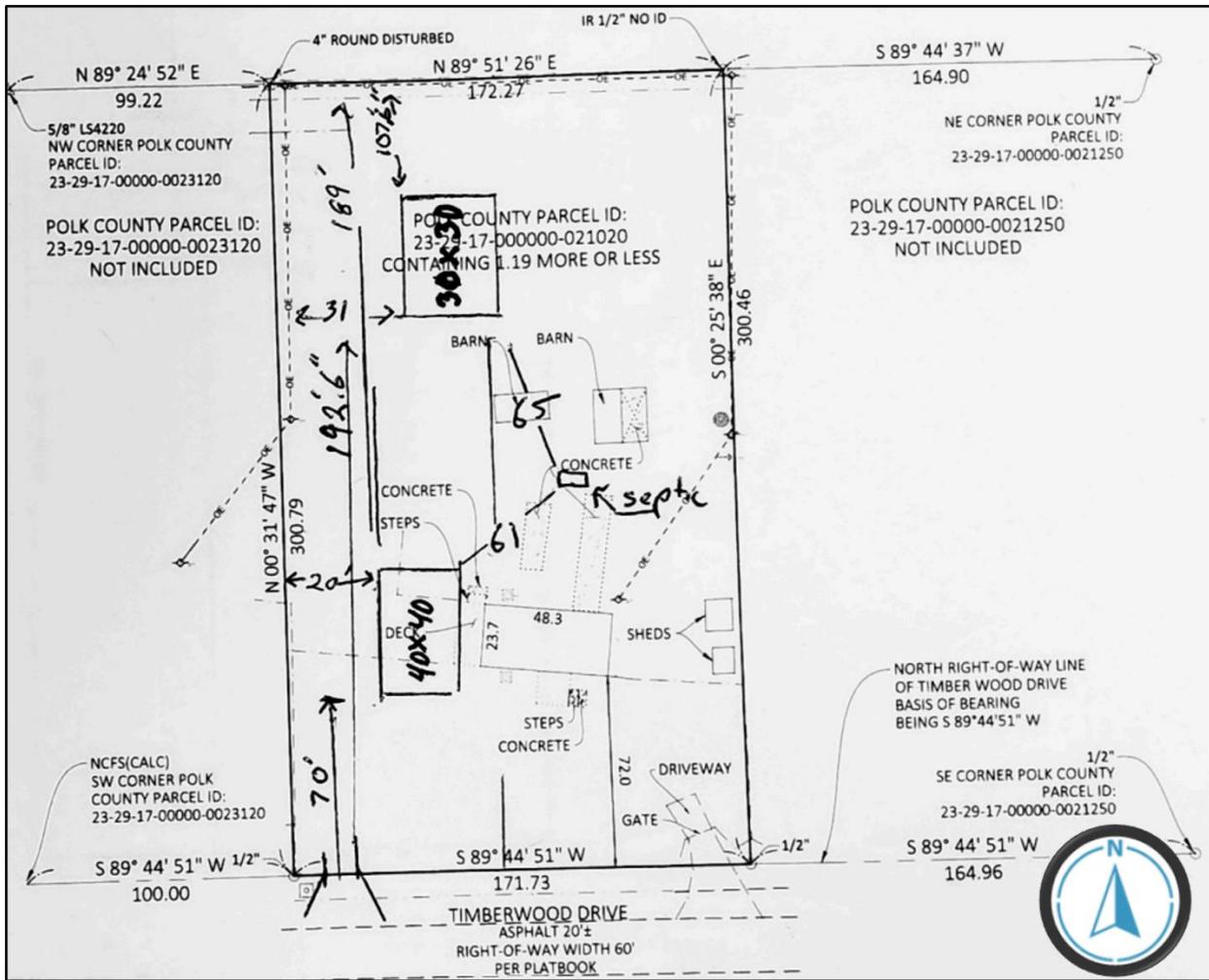
Future Land Use Map



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

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?

2/2006, Garage not built yet. BR-2025-1138

What is the hardship if the variance is not approved?

Garage building already paid for and awaiting placement on property

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

Yes

Do you have Homeowners Association approval for this request?

N/A

Justification