



LAKE COUNTY
Planning & Community Design Division
Analysis of a
Variance Request
Presented to
LAKE COUNTY BOARD OF ADJUSTMENT
November 22, 2010

CASE NO.: BOA#19-10-4

AGENDA ITEM #: 1

OWNERS & APPLICANTS: Michael and Christian Mosler

REQUESTED ACTION: The owners are requesting a variance from the **Lake County Land Development Regulations, Section 14.11.01.D. 1 Minor Lot Splits and Section 10.01.02.C Accessory Uses and Structures; Storage Buildings, Utility Buildings, and Non-Commercial Greenhouses** to allow a parent parcel to be split through the minor lot split process when the parcel was previously split through that process and to allow an accessory structure (detached garage) to be located in front of the primary structure (+/-5 acres).

GENERAL LOCATION: Eustis area – US Hwy 441 South to CR 44B, turn left on CR 44B, turn left on Waycross Ave, turn right on Abrams Rd. to site on right #2239 (Sec. 18, Twp. 19, Rng. 27).

FUTURE LAND USE DESIGNATION: Urban Expansion

EXISTING ZONING: R-1 (Rural Residential)

SURROUNDING LAND USE:

NORTH: Single Family Dwelling Unit

SOUTH: Vacant / Subdivision

EAST: Lake Joanna

WEST: Vacant

DATE POSTED: October 18, 2010

SURROUNDING ZONING:

NORTH: City of Eustis

SOUTH: R-1 (Rural Residential) /City of Eustis

EAST: Lake Joanna

WEST: City of Eustis

LOCATION: Waycross Ave. & Abrams Rd,
Eustis

14.15.02 Granting Variances and Appeals

Variances shall be granted when the person subject to the Land Development Regulation demonstrates that the purpose of the Land Development Regulation will be or has been achieved by other means, and when application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this section, “substantial hardship” means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. For purposes of this section, “principles of fairness” are violated when the literal application of a Land Development Regulation affects a particular person in a manner significantly different from the way it

affects other similarly situated persons who are subject to the Land Development Regulation. Variances may also be granted to allow for the reconstruction, rehabilitation, or restoration of structures listed on, or classified as contributing to a district listed on the National Register of Historic Places, Florida Master Site File or local surveys of historical resources. In such instance, the variance shall be the minimum necessary to protect the historical integrity of the structure and its site.

Based on review of the required findings as outlined in Chapter XIV of the Lake County Land Development Regulations, as amended, staff recommends **approval with conditions** of the requested variance for the following recitations, analysis, and findings of fact:

ANALYSIS: The owners are requesting a variance to allow them to create an additional parcel through the minor lot split process when the parent parcel was previously split utilizing that process. The owners are also requesting that a detached garage be allowed in front of the primary structure. The Code (14.11.01.D.1) allows for the division of the parent parcel one time through the minor lot split process; and the Code (10.01.02.C) allows for accessory structures (detached garages) on the side or rear of the primary structures.

The parent parcel was originally split through a minor lot split in 1995 creating five parcels; each parcel consisted of large acreage with lake access. The current owners purchased the five-acre lake front parcel in 2004 and constructed their home two years later. Following the construction of their home, the owners began extensive landscape plantings on their parcel. This landscaping shields the parcel from public roads and adjoining parcels. In 2006, a variance was granted to allow for a detached garage (20' x 16") in front of the home. All improvements on this parcel are screened by walls/fences or landscape plantings.

The owners are requesting a variance to two portions of the Code. The first request is for a detached garage and the second is for a minor lot split. The detached garage is approximately 50' x 45' and will be located in front of the home. There are no areas to the side or rear of the home where the proposed garage can be placed. Septic tanks, existing structures and landscaping restrict all areas in the side and rear yards. By placing the garage in front of the home, and screening the garage through landscaping and architectural restrictions, the intent of the Code can be met (Exhibit "1").

The owners are also proposing to divide their five-acre parcel into two separate parcels, consisting of a four-acre parcel and a one-acre parcel. This minor lot split will allow the owners to construct an independent living quarters for their aging parents. Both parcels will front on Abrams Road, which is a paved County-maintained road and both parcels will have the required amount of road frontage in their zoning district.

The proposed parcels would be serviced by central water from the City of Eustis; septic tanks would be used for sewage disposal. Since the parcels are within 300 feet of a utility, the parcels are required to utilize this service. If the City of Eustis is unable to provide water, the parcels will be allowed to use a private well. The Department of Health, Environmental Service's regulation requires a lot to be a minimum of 10,890 square feet when a septic tank is used for sewage disposal. The proposed lots would exceed the size requirements for use of a septic tank.

The Federal Emergency Management Agency (FEMA) map shows a portion of the parcel near the lake lies within the 100-year flood zone, designated as "AE". The Lake County GIS wetland map shows some

wetlands along the lakefront portion as well. Only one of the parcels will have access to Lake Joanna. By dividing the property in this manner, the owners can reduce the environmental impact on Lake Joanna, and still provide a home for their elderly mother.

This parcel is zoned Rural Residential (R-1), which allows for a density of one dwelling unit per acre. The future land use of the property is Urban Expansion (UE), which allows a density of four dwelling units per acre. The parcel is bordered on the south by subdivision; a single-family dwelling unit is constructed to the north. The eastern border of the parcel abuts Lake Joanna, and there is a church to the west of the parcel. The parent parcel and the newly created parcel will meet the density requirements of both the zoning and future land use districts.

The minor lot split process was created to allow a parent parcel to be split, creating two (2) parcels fronting on a County-maintained paved road. The intent of the Code (14.11.01.D.1) is to ensure that properties being split have the facilities that are required for the development of multiple parcels such as roads, schools, parks, fire, and sewer and water facilities.

The owners submitted the following reasons as proof of meeting the **intent of the Code** and that the application of the Land Development Regulations would create a **substantial hardship or would violate principles of fairness**:

“Concerned,

Thank you for considering a potential lot split on our five acre property. We are seeking this for the possibility of building a small home for my mother who is currently eighty-one years old and resides in Longwood, FL.(208 Michael Dr. 32779) by herself. Before moving to Eustis about five years ago we lived less than two miles from her(1486 Grace Lake Circle 32750) and frequent checks were fairly easy. Currently it is about a forty minute drive and we are exploring this as an alternative means of convenient care. Once again, thank you.

Sincerely,

Michael Mosler”

“Concerned,

Thank You for considering a variance for us on an out building on our property. When we purchased our property about nine years ago there was some confusion as to what the zoning was at the time and what it might become in the future. Looking back, we probably should have built the primary residence in a different spot but we were led to believe that this property would have some flexibility in the future. We have always thought of it as an estate type property and that has always been our approach when upgrading the land. We have fun improving this property and hope to make this our last home since we have enjoyed the area since moving here five years ago. We understand the code regulations for not allowing detached buildings in front of a primary residence but hopefully you consider this an exception. The proposed building is consistent in design with all of the other structures on the site. The property is buffered quite extensively with landscaping and would cause no hardship for either of the neighboring five acre parcels or the recently finished church that fronts the property.

The purpose of the building is to create storage for some antique cars which have become a passion of mine and to have a small wood working hobby shop. Putting the building behind the primary the residence does not make sense because it compromises the value of the property toward the Lake Joanna frontage for which we pay a fair amount of property taxes.

Once again, Thank you and we hope you will consider everything and grant us this variance.

Thank You and Sincerely,

Michael and Christian Mosler

Staff believes the owners have shown evidence of a substantial hardship and that the intent of the Code will be met, as required in section 14.15.02 of the Lake County Land Development Regulations. Therefore, staff recommends **approval** of the requested variance with the following **conditions**:

1. **The detached garage must be constructed in the same architectural style as the single-family dwelling unit; the walls and roofing materials must be of the same material and color as the dwelling unit.**
2. **The detached garage must be constructed in the location as indicated on the attached survey.**
3. **The owners must plant a treed buffer between the proposed garage and the south property line. The buffer shall consist of trees listed as recommended landscaping trees in the Lake County Land Development Regulations (LDRs) 9.01.10.B. The trees shall be at least fifteen (15) gallons in size and located fifteen feet (15') apart. The existing trees on the lot will buffer the view of the detached garage from the north, west, and east property lines. The owners and subsequent owner(s) must maintain the buffers between the garage and surrounding property lines.**
4. **An inspection of the detached garage, to ensure the conditions as stated above are met, must be conducted and approved by the Zoning Division prior to a final inspection by the Building Services Division.**
5. **The parent parcel and the newly created parcel shall be created as shown on Exhibit "1".**
6. **The parent parcel and the newly created parcel shall utilize a joint driveway for vehicular access.**
7. **The parent parcel and the newly created parcel may not be split further utilizing the administrative lot split process.**

LAND DEVELOPMENT REGULATION:

10.01.02 Storage Buildings, Utility Buildings, Non-Commercial Greenhouses.

A. No Accessory Buildings used for industrial storage of hazardous, incendiary, noxious, or pernicious materials shall be located nearer than one hundred (100) feet from any property line.

B. Storage Buildings, non-commercial greenhouses, and the like shall be permitted only in compliance with standards for distance between Buildings, and Setbacks, if any, from property lines.

C. Storage Buildings, non-commercial greenhouses and the like shall be permitted only in side and rear yards, and shall not encroach into any required Building Setback from an abutting Right-of-Way.

D. Vehicles, including Manufactured Housing and Mobile Homes, Shall not be used as storage Buildings, utility Buildings, or other such uses.

14.11.01 Minor Lot Splits.

D. Standards. All minor lot splits shall conform to the following standards:

1. Only two (2) lots may be created from the original legally created lot or lot of record. The total number of lots created shall include the original parcel. The original parcel shall be known as the parent parcel and those lots created out of the parent parcel shall not be entitled to another minor lot split.

2. Each lot shall either (1) front on a publicly maintained paved road and conform to the required minimum lot dimensions for the land use category and zoning district where the lots are located OR (2) contain a minimum of twenty (20) acres with at least one (1) acre of uplands AND front either on a publicly maintained clay road OR an easement meeting the following requirements:

a. Non-exclusive easement for ingress and egress, dedicated to the public for road, utility, and drainage purposes, if satisfying the criteria set forth in Section 14.00.08, Land Development Regulations, and accepted by the Board of County Commissioners. However, a private easement may be permitted if it is determined that there is no need for a future road corridor.

b. Connect to a publicly maintained road.

c. Have a minimum width of fifty (50) feet.

d. Not obligate the County to maintain the easement.

e. Have road name signs installed in accordance with applicable County regulations.

f. Record deed restrictions, which require the property owners to maintain the paved private road or easement. Such restrictions must be recorded prior to the recordation of the approved lot split.

3. If any lot abuts a publicly maintained road that does not conform to the right-of-way specifications provided or adopted by reference in these regulations, the owner may have to dedicate the required right-of-way width necessary to meet the minimum design if satisfying the criteria set forth in Section 14.00.08, Land Development Regulations.

4. Easements created pursuant to this section shall comply with the Federal Emergency Management Agency (FEMA) regulations and Lake County floodplain management regulations.

5. The creation of a lot wholly within the 100-year flood zone is prohibited.

6. Flag lots are prohibited

Definitions

Original Parcel. An Original Parcel Shall be a Lot legally created, on or before June 1, 1992, pursuant to the Lake County Code.

14.15.00 Variances and Appeals.

14.15.01 Purpose of Variances. Strict application of uniformly applicable Land Development Regulations can lead to unreasonable, unfair, and unintended results in particular instances. The Board of County Commissioners finds that it is appropriate in such cases to adopt a procedure to provide relief to persons subject to the Land Development Regulations. The Board of Adjustment is authorized to grant variances to requirements of the Land Development Regulations consistent with the rules contained in these regulations. This Section does not authorize the Board of Adjustment to grant variances inconsistent with the Comprehensive Plan nor to grant a variance to permit uses not generally permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of the Land Development Regulations in the zoning district. In addition, the existence of nonconforming use of neighboring lands or un-permitted use of neighboring lands shall not be considered grounds for authorization of a variance.

14.15.02 Generally. Variances shall be granted when the person subject to a Land Development Regulation demonstrates that the purpose of the Land Development Regulation will be or has been achieved by other means, and when application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. For purposes of this Section, "principles of fairness" are violated when the literal application of a Land Development Regulation affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the Land Development Regulation. Variances may also be granted to allow for the reconstruction, rehabilitation, or restoration of structures listed on, or classified as, contributing to a district listed on the National Register of Historic Places, Florida Master Site File or local surveys of historical resources. In such instance, the variance shall be the minimum necessary to protect the historical integrity of the structure and its site.

COMPREHENSIVE PLAN POLICY: N/A

ENVIRONMENTAL ISSUE: There are jurisdictional wetlands on the parcel.

FLOODPLAIN: A portion of the parcel lies in Floodplain AE.

GREEN SWAMP AREA OF CRITICAL STATE CONCERN: N/A

JOINT PLANNING AREA: N/A

LAKE APOPKA BASIN: N/A

TRANSPORTATION IMPROVEMENTS: N/A

WEKIVA RIVER PROTECTION AREA: N/A

WRITTEN COMMENTS FILED: SUPPORT: -0-

OPPOSITION: - 0-

BOARD ACTION:

**BOA #19-10-4
Photo Evidence**





**BOA #19-10-4
Photo Evidence**





VIEWS OF PROPERTY



VIEWS OF POSTING

ORDER OF THE LAKE COUNTY BOARD OF ADJUSTMENT

OWNER: Michael and Christian Mosler

CASE NO.: BOA #19-10-4

LAKE COUNTY, a political subdivision of the State of Florida, hereby grants a variance from the Lake County Land Development Regulations, as amended, for the property legally described in EXHIBIT "A". The variance is outlined in EXHIBIT "B".

This Order hereby incorporates by reference, the Board of Adjustment Minutes, Hearing Exhibits, and Lake County Staff file. These items are located at 315 West Main Street, Tavares, Florida 32778, and may be acquired through a public record request.

LAKE COUNTY, A Political Subdivision of the State of Florida

Donald Schreiner, Chairman
Lake County Board of Adjustment

STATE OF FLORIDA

COUNTY OF LAKE

The foregoing instrument was acknowledged before me this November 22, 2010 by DONALD SCHREINER, who is personally known to me.

(SEAL)

Signature of Acknowledger

Serial Number: _____

MY COMMISSION EXPIRES: _____

EXHIBIT "A"
LEGAL DESCRIPTION

BOA #19-10-4
Michael and Christian Mosler
November 22, 2010

LEGAL DESCRIPTION: ALEX ST CLAIR ABRAMS SUB FROM SW COR OF LOT 13 RUN S 89DEG 47MIN 52SEC E 22.33 FT TO A POINT ON A LINE THAT IS 40 FT E OF CENTERLINE OF ABRAMS RD, S 00DEG 26MIN 21SEC E 396.03 FT, S 00DEG 09MIN 53SEC E 212.32 FT FOR POB, RUN N 73DEG 07MIN 45SEC E 1169.18 FT TO WATERS OF LAKE JOANNA & PT A, RETURN TO POB, RUN S 00DEG 09MIN 53SEC E 112.24 FT, S 00DEG 35MIN 13SEC W 103.68 FT TO THE INTERSECTION WITH A LINE THAT IS 40FT N OF CENTERLINE OF WAYCROSS AVE, S 88DEG 43MIN 26SEC E 135.34 FT, N 66DEG 37MIN 00SEC E 1209.31 FT TO WATERS OF LAKE JOANNA, NW'LY ALONG SAID WATERS OF LAKE JOANNA TO PT A--LESS THAT PART OF FAIRWAY HEIGHT'S SUB PB 10 PG 50--BEING PART OF LOTS 14, 15 PB 1 PG 58

TOGETHER WITH:

FAIRWAY HEIGHTS THAT PART OF TRACT B LYING WITHIN FOLLOWING DESCRIBED PROPERTY: FROM SW COR OF LOT 13 ALEX ST CLAIR ABRAMS SUB PB 1 PG 58 RUN S 89DEG 47MIN 52SEC E 22.33 FT TO A POINT ON A LINE THAT IS 40 FT E OF CENTERLINE OF ABRAMS RD, S 00DEG 26MIN 21SEC E 396.03 FT, S 00DEG 09MIN 53SEC E 212.32 FT FOR POB, RUN N 73DEG 07MIN 45SEC E 1169.18 FT TO WATERS OF LAKE JOANNA & PT A, RETURN TO POB, RUN S 00DEG 09MIN 53SEC E 112.24 FT, S 00DEG 35MIN 13SEC W 103.68 FT TO THE INTERSECTION WITH A LINE THAT IS 40 FT N OF CENTERLINE OF WAYCROSS AVE, S 88DEG 43MIN 26SEC E 135.34 FT, N 66DEG 37MIN 00SEC E 1209.31 FT TO WATERS OF LAKE JOANNA, NW'LY ALONG SAID WATERS OF LAKE JOANNA TO PT A PB 10 PG 50

EXHIBIT "B"
BOA #19-10-4
Michael and Christian Mosler
November 22, 2010

On Monday, November 22, 2010, the Board of Adjustment approved the variance request from the **Lake County Land Development Regulations, Section 14.11.01.D. 1 Minor Lot Splits and Section 10.01.02.C Accessory Uses and Structures; Storage Buildings, Utility Buildings, and Non-Commercial Greenhouses** to allow a parent parcel to be split through the minor lot split process when the parcel was previously split through that process and, to allow an accessory structure to be located in front of the primary structure with the following conditions:

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