



**LAKE COUNTY**  
Planning & Community Design Division  
Analysis of a  
**Variance Request**  
Presented to  
**LAKE COUNTY BOARD OF ADJUSTMENT**  
October 14, 2010

<b>CASE NO.:</b> BOA#18-10-2	<b>AGENDA ITEM #:</b> 1
<b>OWNER:</b> Mark & Karen West	<b>APPLICANT:</b> Bill Thomas Construction

**REQUESTED ACTION:** The owners are requesting a variance from the **Lake County Land Development Regulations Table 3.02.05 Setback** to allow an attached garage to be closer than 62 feet from the centerline of the road as required by Code (+/- 0.46 acres).

**GENERAL LOCATION:** Clermont area – South on US Highway 27 to Hammock Ridge Road, right on Hammock Ridge Road to Lakeshore Drive, left on Lakeshore Drive to Oswalt Road, left on Oswalt Road to Cypress Lane, left on Cypress Lane to private easement, right on private easement to address #12116 (Sec. 18, Twp. 23, Rng. 26).

**FUTURE LAND USE DESIGNATION:** Transitional

**EXISTING ZONING:** R-6 (Urban Residential District)

**SURROUNDING LAND USE:**

**NORTH:** Single-Family Dwelling Unit

**SOUTH:** Single-Family Dwelling Unit

**EAST:** Lake Louisa

**WEST:** Vacant Residential

**SURROUNDING ZONING:**

**NORTH:** R-6 (Urban Residential District)

**SOUTH:** R-6 (Urban Residential District)

**EAST:** Lake Louisa

**WEST:** Vacant Residential

**DATE POSTED:** September 10, 2010

**LOCATION:** Cypress Lane & Oswalt Road,  
Clermont

**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** of the requested variance for the following recitations, analysis, and findings of fact:

**ANALYSIS:** The owners are requesting a variance to allow them to construct an addition to their home which would be located approximately 24 feet from the centerline of the road. The Code (3.02.05) requires structures to be located 25 feet from right-of way or 62 feet from the centerline of the road, whichever is greater. Since the proposed attachment will not meet the required setback, a variance to that section of the Code is needed.

The owners' parcel is located south of Clermont on the western shore of Lake Louisa. The parcel is recognized by a metes and bounds legal description and is developed with a 1000 square foot home, built in 1962. A private easement bisects the parcel, with the home to the east and a shed to the west of the easement. There is one single-family dwelling unit to the south that utilizes this easement.

The parcel is divided by Cypress Lane, a private 50-foot wide easement. The easement is a continuation of a publically-maintained paved road, which is used to access multiple homes. A gravel base is used for the traveled road and it is approximately 12 feet in width; the road is well maintained and allows for easy access by vehicles.

The parcel is located wholly within the 100-year flood zone, designated as "AE", and there are jurisdictional wetlands on the parcel. The zoning of the parcel is R-6 (Urban Residential District), and the future land use is Transitional. If constructed as proposed, the attached garage would meet the setback requirements in regards to wetlands and property lines. A copy of the proposed plot plan is attached (Exhibit #1).

This existing 50-foot wide recorded easement was recorded in Lake County Public Records in Book 783 Page 1747 in Lake County Florida. The speed limit is 25 miles per hour. The street provides access to a number of lots and is a low traveled road. The Florida Department of Transportation has guidelines concerning clear zones on roadways. A clear zone, as defined in The Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (aka the Florida Greenbook), is the area outside of the traveled road available for use by errant vehicles. Vehicles frequently leave the traveled roadway due to loss of control of the vehicle by the driver or to avoid items on the road or other vehicles. The primary function of the clear zone is to allow space and time for the driver to retain control of the vehicle and avoid or reduce collisions with roadside objects. This area can also serve as an emergency refuge location for disabled vehicles. The type of road and the speed limit on the road determine the minimum width for a roadway clear zone. In accordance with the chart in the Florida Greenbook, since Cypress Lane is a local road and the speed limit is 25 miles per hour, the recommended minimum roadway clear zone is six (6) feet, measured from the edge of the through travel lane. The addition to the dwelling unit is approximately 18 feet from the traveled lane, which would exceed the clear zone area.

The **intent of the Code** (Table 3.02.05 Front Setbacks) is to ensure that structures are located far enough away from roads to allow safe passage of motor vehicles. Since the addition will meet the minimum roadway clear zone of six feet, and the traffic on the roadway is minimal, the intent of the Code will be met.

The owners submitted the following as proof of meeting the **intent of the Code**: *“Proposed garage will be the same architectural style as the existing home as well as the neighbors. It will look as if it were always there and not added later.”*

The owners submitted the following as proof that the application of the Land Development Regulation would create a **substantial hardship** or **would violate principles of fairness**: *“We are unable to meet the Lake County front setback requirements for this proposed garage addition. Cannot be built on the north side because of septic location. Cannot be built on the rear of house because of the 100’ from the wetland state requirement.”*

Staff believes the owners and applicant have submitted proof of meeting the intent of the Code, and have shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. Therefore, staff recommends **approval** of the requested variance to construct an attached garage 24 feet from the centerline of the road as shown on Exhibit “1”.

**LAND DEVELOPMENT REGULATION:**

**TABLE 3.02.05 - Setback Requirements 1, 3, 4, & 5**

	Front	
Zoning District	Existing Development	New Development
A RA AR R1 R2 R3 R4 R6 R7 R10 RP RM	<p><b>Property adjacent to state, federal, and County secondary highways Shall maintain a 50-foot setback from the highway ROW for any structure. Property adjacent to Roads other than state, federal, and County secondary highways Shall maintain, for any structure, a setback of 62 feet from the centerline of the Road or 25 feet from the Road ROW, whichever is greater</b></p>	<p>Property adjacent to state, federal, and County secondary highways Shall maintain a 50-foot setback from the highway ROW for any structure. Property adjacent to Roads other than state, federal, and County secondary highways Shall maintain a 25-foot setback from the ROW for any structure or 50 feet from the centerline of the traveling surface of a prescriptive Road. The side and rear setbacks for a farm Building Shall be 25 feet. In the RP and RM districts, in the case of internal easements for ingress or egress, where such easements have been legally created, the setback Shall be 25 feet from the ROW easement.</p>

FB - Farm Building SF – Single-family AB - Accessory Building

**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 this parcel.

**FLOODPLAIN:** Wholly located in Flood Zone "AE"

**JOINT PLANNING AGREEMENT:** N/A

**TRANSPORTATION IMPROVEMENTS:** N/A

**GREEN SWAMP AREA OF CRITICAL STATE CONCERN:** Yes

**WEKIVA RIVER PROTECTION AREA:** N/A

**LAKE APOPKA BASIN:** N/A

**WRITTEN COMMENTS FILED: SUPPORT:** -0-                      **OPPOSITION:** - 0-

**BOA #18-10-2**

**Photo Evidence**



**VIEWS OF PROPERTY AND PRIVATE ROAD**



**VIEWS OF POSTING**