



**VARIANCE REQUEST**  
**Presented to**  
**LAKE COUNTY BOARD OF ADJUSTMENT**  
**May 12, 2011**

<b>CASE NO.:</b> BOA# 5-11-2	<b>AGENDA ITEM #:</b> 1
<b>OWNERS &amp; APPLICANTS:</b> Dori and Susan Milner	

**REQUESTED ACTION:** The owners are requesting a variance from the **Lake County Land Development Regulations (LDRs) Table 3.02.05** to allow an existing agricultural structure to remain 15 feet from the parcels side property boundary (+/- 10 acres).

**GENERAL LOCATION:** Clermont area – State Road 19 South to County Road 565 B, East on County Road 565B to Old Studio Street, turn right on Old Studio Street to site on left #10830 (Sec. 9, Twp. 23, Rng. 25).

**FUTURE LAND USE DESIGNATION:** Transitional, Green Swamp Area of Critical State Concern

**EXISTING ZONING:** A (Agriculture District)

**SURROUNDING LAND USE:**

- NORTH:** Single-Family Dwelling Units
- SOUTH:** Vacant Parcel / Agriculture
- EAST:** Vacant Parcel / Agriculture
- WEST:** Vacant Parcel / Agriculture

**SURROUNDING ZONING:**

- NORTH:** A (Agriculture District)
- SOUTH:** A (Agriculture District)
- EAST:** A (Agriculture District)
- WEST:** A (Agriculture District)

**DATE POSTED:** April 26, 2011

**LOCATION:** Old Studio Street &  
CR 565 B, 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, the requested variances are recommended for **approval** based on the following recitations, analysis, and findings of fact:

**ANALYSIS:** The owners are requesting a variance to allow them to retain their agricultural structure 15 feet from the side property line. The Code (3.02.05) requires a minimum setback of 25 feet from the side and rear property line. The agricultural structure does not meet the minimum setback as required by the Code.

The parcel consists of ten (10) acres, which the owners use for the raising of livestock. There is a single-family dwelling unit and a barn located on the parcel; the dwelling unit was constructed in 2000 and the barn was constructed in 2005. In 2005, a modular structure was added, directly behind the barn, for the storage of animal feed. It is the same color as the barn and has the appearance of one continuous structure. A plot plan has been attached showing the location of all structures (Exhibit "A").

The barn and modular structure were constructed as agricultural buildings. Although all structures are required to meet zoning regulations such as setbacks and height they are exempt from building permit requirements. A zoning clearance is not required for exempt agricultural structures, but is highly recommended to verify that the required setbacks will be met. It is the owner's responsibility to ensure that required setbacks are met when placing structures on a parcel.

The parcel is heavily forested along the road and all structures have been placed in this area. More than one-half of the parcel (eastern) lies within the 100-year flood zone, designated as "A"; there are also jurisdictional wetlands in that area. The parcel is zoned Agriculture and the Future Land Use Category is Transitional (Green Swamp); the Lake County Comprehensive Plan allows agricultural uses, and structures, in the Transitional Future Land Use Category. The existing structures comply with the wetland and road frontage setbacks.

The **intent of the Code** (3.02.05) is to promote safety and aesthetic appeal as well as a reduction of other negative impacts that may be associated with land use activities. The Code also ensures that safe distances between structures and right-of-ways are adhered to.

The owners submitted the following as proof of meeting the **intent of the Code**:

- *"Meets front and rear setbacks"*
- *"Meets ISR requirements"*
- *"Meets setback from wetland line"*

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**: *"The hardship is the extravagant and excessive cost associated with moving the subject trailer, given that this is even feasible. Relocation of this trailer is questionable for several reasons:*

- *Subject trailer is currently “tucked” (and hidden from view) behind a metal building which is surrounded by beautiful oak trees. If moving this trailer is even a possibility, it would require the cut/removal of many oak trees which in itself creates yet another hardship due to the costs associated with the cut down and removal of all those trees*
- *The majority of the (10) ten acres is surrounded by flood zones and just less than (3) three acres are useable. Our goal is to maintain the value and to preserve the flow of this beautiful piece of land.*
- *Last, but not least, we do not in any way, want to create an “eyesore”.*

**FINDINGS OF FACT:** Staff has reviewed the application for this variance request and found:

1. The request is consistent with Comprehensive Plan Policies 11-2 and 11-6.9, which encourage sustainable agriculture
2. This request is consistent with LDR Tables 3.00.03 and 3.01.03, which allow agriculture/residential uses in the Agriculture Zoning District.
3. This request is consistent with the intent of LDR Table 3.02.05, which requires a safe setback distance from property lines.

The owners 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. Staff recommends **approval**, as specified in the proposed Final Development Order.

**WRITTEN COMMENTS FILED:      Support: -1-      Concern: -0-      Oppose: -0-**

**LAND DEVELOPMENT REGULATIONS:**

**TABLE 3.02.05 - Setback Requirements<sup>1, 3, 4, & 5</sup>**

Zoning District	Side and Rear	
	New Development and Existing Development With Conforming Lots	Existing Development With Nonconforming Lots
A	25 SF 25 FB 25 AB	5 SF 25 FB 5 AB
RA	25 SF 25 FB 25 AB	5 SF 25 FB 5 AB
AR	25 SF 25 FB 25 AB	5 SF 25 FB 5 AB
R1	10 SF 25 FB 10 AB	5 SF 25 FB 5 AB
R2	10 SF 10 AB	5 SF 5 AB
R3	5 SF 5 AB	5 SF 5 AB
R4	5 SF 5 AB	5 SF 5 AB
R6	5 SF 5 AB	5 SF 5 AB
R7	5 SF 5 AB	5 SF 5 AB
R10	5 SF 5 AB	5 SF 5 AB
RP	See Note 2	See Note 2
RM	5 SF 5 AB	5 SF 5 AB

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

**Note 1.** All setbacks for structures Shall be measured from the exterior wall of the structure or structural component, excluding eaves or overhangs.

**Note 2.** The Building Line from any rear or side property line Shall be:

(a) For any Building not exceeding two (2) stories, ten (10) feet.

(b) For any Building exceeding two (2) stories in height, ten (10) feet plus fifteen (15) feet for each story in excess of two (2).

**Note 3.** A secondary front yard setback shall be established for corner lots and double frontage lots.

The following setbacks Shall apply:

(a) Ongoing Development - Lots less than seventy-five (75) feet in width shall maintain a secondary front yard setback of fifteen (15) feet. For Lots of seventy-five (75) feet and greater, a secondary front yard setback shall be established at twenty-five (25) feet.

(b) New Development shall maintain a secondary front yard setback of fifteen (15) feet.

**Note 4.** The applicable setbacks shall apply to common private docks as set out in Subsection 10.04.01.

**Note 5.** See Subsection 3.01.04, Note 1, for the setback for a Livestock 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 instances, the variance shall be the minimum necessary to protect the historical integrity of the structure and its site.

**ENVIRONMENTAL ISSUE:** There are jurisdictional wetlands on the parcel.

**FLOODPLAIN:** Portion of the parcel located within the 100-year flood zone, designated as “A”

**JOINT PLANNING AGREEMENT:** N/A

**LAKE APOPKA BASIN:** N/A

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

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

**TRANSPORTATION IMPROVEMENTS:** N/A

**BOA# 5-11-2  
Photo Evidence**



**Views of the site**



**Views of the postings**

**DRAFT**  
**ORDER OF THE LAKE COUNTY BOARD OF ADJUSTMENT**

**OWNERS: Dori and Susan Milner**

**CASE NO.: BOA #5-11-2**

Dori and Susan Milner (the "Owners") submitted a request for a variance to Table 3.02.05 entitled Setback Requirements of the Lake County Land Development Regulations;

The property subject to the request is legally described as:

GROVELAND FARMS 09-23-25 N 1/2 OF TRACTS 15 & 16 PB 2 PGS 10-11

The Board of Adjustment of Lake County, Florida met on Thursday, May 12, 2011 and hereby grants a variance, from Table 3.02.05 Setback Requirements of the Land Development Regulations to allow an existing agricultural structure to remain 15 feet from the southern property boundary.

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 May 12, 2011 by DONALD SCHREINER,  
who is personally known to me.  
(SEAL)**

\_\_\_\_\_  
**Signature of Acknowledger**

\_\_\_\_\_

\_\_\_\_\_

**Serial Number:** \_\_\_\_\_

**My Commission Expires:** \_\_\_\_\_