



VARIANCE REQUEST
Presented to
LAKE COUNTY BOARD OF ADJUSTMENT
September 8, 2011

CASE NO.: BOA# 10-11-4	AGENDA ITEM #: 1
OWNERS & APPLICANTS: Bradley and Katie Evans	

REQUESTED ACTION: The owners are requesting a variance from the **Lake County Land Development Regulations (LDRs) Table 3.02.05** to allow an existing carport to remain five feet from a platted road (+/- 0.23 acres).

GENERAL LOCATION: Altoona area – State Road 19 North to County Road 455, East on County Road 455 to Armadillo Road, North on Armadillo Road to site on left #20250 (Sec. 4, Twp. 17, Rng. 27).
AK# 1268052

FUTURE LAND USE DESIGNATION: Rural

EXISTING ZONING: A (Agriculture District)

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Rural (1 du / 5ac)	A (Agriculture District)	Single-Family Dwelling Unit
South	Rural (1 du / 5ac)	A (Agriculture District)	Vacant Parcel
East	Rural (1 du / 5ac)	A (Agriculture District)	Single-Family Dwelling Unit
West	Rural (1 du / 5ac)	A (Agriculture District)	Vacant Parcel
DATE POSTED:	August 15, 201 at Armadillo Road & CR 445, Altoona		

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.

Variations 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.

ANALYSIS: The owners are requesting a variance to allow their carport to encroach into the front setback. The owners purchased their parcel and home in 2000 and this is their primary residence. They recently constructed a carport without a permit and they are now attempting to correct the error. Since the carport was constructed six feet from the edge of right-of-way, a variance is required.

The owner's parcel is located in Ocala Forest Campsites Subdivision, which was created in 1961. When the subdivision was platted, the designers connected the lots to the County Road with 50foot wide right-of-ways. This area was never developed completely and the internal roads were never improved. All of the lots are heavily wooded and the roads in the area are two lane tracks approximately 15 feet in width.

The home was constructed in 1999 and it was addressed off of Snipe Road. Since the home's address is Snipe Road the front setback is applied from this right-of-way. The area between Snipe Road and the owner's carport is heavily treed in addition to having a severe drop off leading up to the driveway. These natural features prevent vehicles from entering the parcel except through the designated driveway

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 Green Book), is the area outside of the traveled road available for use by errant vehicles. The type of road is used to determine the minimum width for a roadway clear zone. In accordance with the chart in the Florida Green Book, if there is no curb and gutter along the drive, the recommended minimum roadway clear zone is six (6) feet measured from the edge of the through-travel lane. The carport is located 26 feet from the edge of the through-travel lane, which would exceed the clear zone area.

The **intent of the Code** (Table 3.02.05) is to promote aesthetic appeal in addition to promoting a safe setback distance from roads. If this carport is allowed to remain as constructed it will not create a hazard for the area. Since the parcel is so heavily treed, it will not affect the aesthetic appeal of the community.

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

1) *Traffic Safety*

- a. *Speed limit of road section is 5 mph*
- b. *Length of road section is only 300 feet*
- c. *Road is lined with approximately 30 ligustrum, two oak, one palm and one crepe myrtle trees*
- d. *Road is bordered by a natural, raised edge on southern side of approximately five feet in height*
- e. *Required pull offs for disabled vehicles are met on northern side of road*
- f. *Road is only used by one other property owner besides applicant. Other owner concurs that a variance is acceptable for the carport.*

- g. *Run away vehicles would have to pass thru multiple trees, a well house and/or an adjacent home to make any contact with the carport.*
- 2) *Easement Access*
 - a. *No effect on utility company access or county access by carport placement*
 - b. *No effect on local service providers' access by carport placement (i.e. Cable television, FedEx, UPS, etc.)"*

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:**

- "1) *Relocation of carport requires destruction of multiple private protected trees as defined by Florida Ordinance Code Title XVII Section 656.1203bb to wit: "Private protected tree means any tree with a DBH of six inches or more located on any lot within twenty feet of a street right-of-way (including an approved private street or other access easement) or a tree with a DBH of eight inches or more located within ten feet of any other property line, or a tree with a DBH of twelve inches or more located elsewhere on the lot."*
 - a) *Trees are nesting areas for various birds, jays and woodpeckers.*
 - b) *Trees are at least 25 years old or more*
- 2) *Current carport is in the primary ingress/egress and parking area of the property address (20250 Snipe Road).*
- 3) *Costs of demolition and reconstruction are not economically feasible for owner*
- 4) *Property adheres to all other setbacks "*

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

- 1. This request is consistent with LDR Table 3.02.05, which promotes aesthetic appeal and a safe setback distance from the road.
- 2. This request is consistent with safe setback distances outlined in The Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (aka the Florida Greenbook).

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** of the variance based on the Findings of Fact, and Analysis.

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

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	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.	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.

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.

ENVIRONMENTAL ISSUE: N/A

FLOODPLAIN: N/A

JOINT PLANNING AGREEMENT: N/A

LAKE APOPKA BASIN: N/A

WEKIVA RIVER PROTECTION AREA: N/A

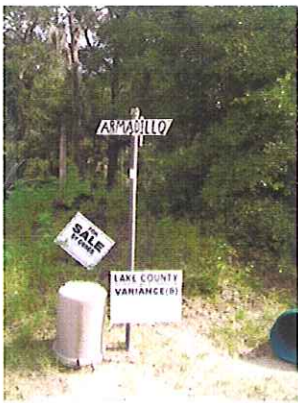
TRANSPORTATION IMPROVEMENTS: N/A

GREEN SWAMP AREA OF CRITICAL STATE CONCERN: N/A

**BOA# 10-11-4
Photo Evidence**



Views of the site



Views of the postings

**Final Development Order
Bradley A. & Katie L. Evans
BOA # 10-11-4**

A VARIANCE OF THE LAKE COUNTY BOARD OF ADJUSTMENTS AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Bradley A. & Katie L. Evans (the "Owners") made a request to allow the retention of an existing carport located six feet from the right-of-way; and

WHEREAS, on September 8, 2011, the Lake County Board of Adjustments approved the variance for the above property; and

WHEREAS, the subject property consists of approximately one (1) acre and is generally located north of Altoona close to the intersection of County Road 445 and State Road 19 in Section 04, Township 17 South, Range 27 East, being composed of Alternate Key Number 1268052, and more particularly described as:

OCALA FOREST CAMPSITES NO 2 LOT 8 PB 16 PG 10

AND, after giving Notice of Hearing on petition for a variance to the Lake County Land Development Regulations, including notice that said variance would be presented to the Board of Adjustments of Lake County, Florida, on September 8, 2011; and

WHEREAS, the Board of Adjustments reviewed said petition, staff report and any comments, favorable or unfavorable, from the public and surrounding property owners at a public hearing duly advertised; and

WHEREAS, upon review, certain terms pertaining to the development of the above described property have been duly approved; and

NOW THEREFORE, BE IT ORDAINED by the Board of Adjustments of Lake County, Florida, that the Land Development Regulations of Lake County, Florida, be altered and amended as they pertain to the above subject property subject to the following terms:

Section 1. Terms: The County Manager or designee shall amend the Official Zoning Map to reflect the approval of BOA# 10-11-4 to allow a carport six (6) feet from the right-of-way. All other structures shall meet the required setbacks contained in the Land Development Regulations.

Section 2. Severability: If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 3. Effective Date. This Ordinance shall become effective as provided by law.

ENACTED this 8th day of September, 2011.

EFFECTIVE September 8th, 2011.

BOARD OF ADJUSTMENTS
LAKE COUNTY, FLORIDA

Donald Schreiner, Chairman

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this September 8th, 2011 by DONALD SCHREINER, who is personally known to me.
(SEAL)

Signature of Acknowledger

Serial Number: _____

My Commission Expires: _____