



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

CASE NO.: BOA# 11-11-1	AGENDA ITEM #: 2
OWNERS: Gypsy Leasing, LLC	APPLICANTS: WPB Leesburg, Inc.

REQUESTED ACTION: The owners are requesting a variance from the **Lake County Land Development Regulations (LDRs) Table 3.02.05 and 9.01.05.B.**, to allow for a reduction in the front building setback and for a reduction in the rear landscape buffer (+/- 0.85 acres).

GENERAL LOCATION: Leesburg area – State Road 44 West to Executive Boulevard, South on Executive Boulevard to site on right (Sec. 29, Twp. 19, Rng. 24).

FUTURE LAND USE DESIGNATION: Urban Expansion

EXISTING ZONING: LM (Light Manufacturing District)

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Urban Expansion (4 du / 1 ac)	LM (Light Manufacturing District)	Vacant Parcel
South	Urban Expansion (4 du / 1 ac)	LM (Light Manufacturing District)	Propane Storage
East	Urban Expansion (4 du / 1 ac)	LM (Light Manufacturing District)	Commercial Business
West	Urban Expansion (4 du / 1 ac)	R-6 (Urban Residential District)	Single-Family Dwelling Unit
DATE POSTED:	August 15, 2011 at Executive Boulevard & SR 44, Leesburg		

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 in order to place a light manufacturing use (automotive repair) on their parcel. Currently, they own and operate an automotive repair shop directly across the street from the subject parcel. The owner's purchased this parcel to expand their business. Since the time of purchase, changes have been made to the Lake County Land Development Regulations (LDR's), which limit the usable area of the parcel. Due to the parcels shape, the owners are unable to meet all of the requirements of the Code without limiting the size of the building that may be built on the parcel.

The parcel to the north is vacant; the parcel to the south is developed with a large propane transfer/holding tank. The parcel to the west is developed with a single-family dwelling unit and the parcel to the east is an automotive repair shop. The subject parcel is zoned Light Manufacturing and the Future Land Use Category is Employment Center. The Lake County Comprehensive Plan allows industrial/commercial uses, and structures in the Employment Center Future Land Use Category.

The parcel consists of approximately 1/2 acre and is located in an industrial area. All of the parcels which front on Executive Boulevard are developed with commercial/industrial type uses or are vacant. None of the parcels on Executive Boulevard are landscaped to the current standards. A layout of the structure and parking area being proposed are shown on the attached plot plan (Exhibit "A").

The owners are also requesting to encroach into the front setback with the building overhang by 12 feet. The front setback for commercial/industrial buildings is 50feet from right-of-way and the requested variance would allow a setback of 38 feet.

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 (a/k/a 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 feet measured from the edge of the through-travel lane. The proposed overhang will be 67 feet from the edge of the through-travel lane, which would more than exceed the clear zone area.

The owners are proposing a 15-foot wide Type "A" landscape buffer on their western boundary instead of the required 40-foot wide Type "D" landscape buffer. This buffer will be augmented by a six foot high opaque fence. By installing the fence, the visual impacts of the new development will be mitigated. This fence and buffer combination will meet the intent of the Code as defined in the LDR's as follows:

1. 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. A 12 foot reduction in the front setback will not create an unsafe condition.
2. The **intent of the Code** (9.01.05.B.) is to encourage water conservation, provide minimum standards for landscaping, buffering and site clearing within the unincorporated area of Lake County. The proposed buffer will meet the intent of the Code.

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

"The intent of the Code is to provide a visual and sound buffer between the commercial/industrial uses of the property and the surrounding residential properties. We are proposing to add an opaque fence to the typical 15 foot wide Type "A" buffer to buffer sight and sound."

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 property is only 139 feet deep. With a front setback requirement of 50 feet and a rear landscape buffer of 40 feet, the site is unusual for most commercial/industrial uses with only 49 feet remaining. The westerly neighbor does not object to the rear buffer of 15 feet. This project will be annexed into the City of Leesburg at some point in the future and the city does not object to the 15 foot westerly landscape buffer."

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 encourages a safe setback from the travelled way.
2. This request is consistent with the intent of LDR Table 9.01.05, which provide minimum standards for landscaping, buffering and site clearing within the unincorporated area of Lake County

The owners have submitted proof of meeting the intent of the Code, and have shown proof of a substantial hardship and 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: -0- Concern: -0- Oppose: -0-

LAND DEVELOPMENT REGULATIONS:

TABLE 3.02.05 - Setback Requirements^{1, 3, 4, & 5}

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.

9.01.05 Landscape Buffer Requirements

A. General Buffer Requirements. Any approved development order, other than for a single-family or duplex lot, Shall provide for the following buffers.

1. Buffering from adjacent Properties. Landscape buffering Shall be required at the time of development as specified in Table 1 below.

a. If no buffer exists on the adjoining property or if the existing buffer fails to meet the requirements of the table below, buffering Shall be required. In order to utilize a buffer on an adjoining property to meet the regulations, the buffer on the adjoining property must have been required by a development order issued by Lake County or a municipality in Lake County.

b. If a buffer exists on the adjoining property that meets the requirements of the table below, no additional buffering Shall be required. In order to utilize a buffer on an adjoining property to meet the regulations, the buffer on the adjoining property must have been required by a development order issued by Lake County or a municipality in Lake County.

c. Commercial parcels within a master planned commercial center, or mixed use Planned Unit Developments (PUD) may utilize the buffer installed on adjacent parcels within the same development if such buffers were required by a development order issued by Lake County.

d. If an adjacent commercial parcel is vacant, only fifty (50) percent of the buffer width and plants Shall be required for the commercial parcel being developed. The adjacent vacant commercial parcel Shall install the remaining fifty (50) percent of the buffer when it is developed.

e. Single-Family residential subdivisions of less than ten (10) lots and a density of less than one (1) dwelling unit per net acre Shall be exempt from this buffer requirement.

2. Buffering from Public Roadways. Any parcel adjacent to a public right-of-way Shall have a landscape buffer along its right-of-way that reflects the landscape requirements of the zoning district across the road/street or a Type A landscape buffer, whichever is greater. A Type C Landscape Buffer is required for parcels along SR 50, US 27, US 192 and US 441. Single-family

lots in the A, AR, and RA Zoning Districts not within a platted subdivision Shall be exempt from this requirement, unless required by another provision of the Landscape Code.

3. Internal Roadway Buffering. Any development order Shall require that:

- a. All single-family and multifamily development Shall provide internal tree-lined roads. Street trees Shall be canopy trees, at an average spacing of fifty (50) feet on center spacing along both sides of roads. The canopy trees required for residential lots may also be used as required street trees as long as they are no more than twenty (20) feet away from the right-of-way line unless prohibited by an easement.
- b. Canopy trees Shall be planted a minimum of ten (10) feet and a maximum of twenty (20) feet outside the right-of-way (R.O.W.) with an alternating pattern on each side of the road. When the proposed development is only on one (1) side of the road, then street trees Shall be required for that side of the road. Developers may plant trees in the right-of-way or within ten (10) feet of the R.O.W., with a R.O.W. Utilization Permit. Any tree planted within the R.O.W. Shall comply with the Florida Green Book. Canopy trees Shall be planted a minimum of an eight (8) foot distance from public sidewalks.
- c. The following zoning districts Shall be exempt from providing street trees: A, RA, AR, R-1 [for lots greater than or equal to one (1) acre], RV, and RMRP.

4. Access Roads adjacent to Subdivisions. A Type A landscape buffer Shall be installed between any internal subdivision road and the property line of the adjacent subdivision or lot(s). The buffer Shall be installed within seventy-five (75) feet of the adjacent property line.

B. Landscape Buffers. The table below provides the required buffer and specific requirements.

Table 1 - Landscape Buffers between Zoning Districts.

	A	RA	AR	R1	R2	R3	R4	R6	R7	RP	RMRP	RM	C1	C2	CP	LM	HM	MP	CFD	RV	PUD
A	*	*	*	*	*	*	*	*	*	A	A	A	C	C	C	D	D	D	A	B	B
RA	*	*	*	*	*	*	A	A	A	A	A	A	C	C	C	D	E	D	A	B	B
AR	*	*	*	*	*	*	A	A	A	A	A	A	C	C	C	D	E	D	A	B	B
R1	*	*	*	*	*	*	A	A	A	A	A	A	C	C	C	D	E	D	A	B	B
R2	*	*	*	*	*	*	*	A	A	A	A	A	C	C	C	D	E	E	A	B	B
R3	*	*	*	*	*	*	*	*	*	A	A	A	C	C	C	D	E	E	A	B	B
R4	*	A	A	A	*	*	*	*	*	A	A	A	C	C	C	D	E	E	A	B	B
R6	*	A	A	A	A	*	*	*	*	A	A	A	B	B	B	D	E	E	A	B	B
R7	*	A	A	A	A	*	*	*	*	A	A	A	B	B	B	D	E	E	A	B	B
RP	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B	D	E	E	A	A	B
RMRP	A	A	A	A	A	A	A	A	A	A	*	A	B	B	B	D	E	E	A	A	B
RM	A	A	A	A	A	A	A	A	A	A	A	A	C	C	C	D	E	E	A	B	B
C1	C	C	C	C	C	C	C	B	B	B	B	C	A	A	A	B	E	E	B	B	B
C2	C	C	C	C	C	C	C	B	B	B	B	C	A	A	A	B	D	C	B	B	B

CP	C	C	C	C	C	C	C	B	B	B	B	C	A	A	A	B	E	C	B	B	B
LM	D	D	D	D	D	D	D	D	D	D	D	B	B	B	B	*	*	*	C	D	B
HM	D	D	D	E	E	E	E	E	E	E	E	E	E	D	E	*	*	*	C	D	B**
MP	D	D	D	D	E	E	E	E	E	E	E	E	C	C	B	*	*	*	C	D	B
CFD	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B	C	C	C	B	B	B
RV	B	B	B	B	B	B	B	B	B	A	A	B	B	B	B	D	D	D	B	B	B
PUD	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B**	B	B	B	B

* Indicates that no landscape buffer is required.

** Bufferyard E is required when the proposed heavy industrial use is adjacent to a residential area.

Table 2 - Land Use Buffer Area Requirements

Buffer Area Type	Width Options (All options available unless restricted)	Landscape Requirements (per 100 linear feet) ¹
A	20 Feet	<ul style="list-style-type: none"> • Three (3) canopy trees; • Two (2) ornamental trees; • Two (2) foot high hedge; and • 15% of landscape groundcover other than turf.
	15 Feet	<ul style="list-style-type: none"> • Four (4) canopy trees; • Three (3) ornamental trees; • Two (2) foot high hedge; and • 20% of landscape groundcover other than turf.
	10 Feet (See Note 3 below)	<ul style="list-style-type: none"> • Three (3) canopy trees; • Two (2) ornamental trees (optional); and • One single row of shrubs.
B (Note 1 below)	20 Feet	<ul style="list-style-type: none"> • Three (3) canopy trees; • Two (2) ornamental trees; • Two (2) foot high hedge; and • 15% of landscape groundcover other than turf.
	15 Feet	<ul style="list-style-type: none"> • Four (4) canopy trees; • Three (3) ornamental trees; • Two (2) foot high hedge; and • 20% of landscape groundcover other than turf.
C (Note 1 below)	50 Feet	<ul style="list-style-type: none"> • Three (3) canopy trees; • Two (2) ornamental trees; • Two rows of hedges, two (2) feet high; and • 10% of landscape groundcover other than turf.

	25 Feet	<ul style="list-style-type: none"> • Four (4) canopy trees; • Three (3) ornamental trees; • Two rows of hedges, two (2) feet high; and • 15% of landscape groundcover other than turf.
	15 Feet	<ul style="list-style-type: none"> • Five (5) canopy trees; • Four (4) ornamental trees; • Two rows of hedges, two (2) feet high; and • 20% of landscape groundcover other than turf.
D (Note 1 below)	80 Feet	<ul style="list-style-type: none"> • Six (6) canopy trees; • Five (5) ornamental trees; • Two (2) rows of hedges, three (3) feet high; • Four (4) foot high berm; and • 15% of landscape groundcover other than turf.
	40 Feet	<ul style="list-style-type: none"> • Eight (8) canopy trees; • Seven (7) ornamental trees; • Two (2) rows of hedges, three (3) feet high; and • 20% of landscape groundcover other than turf.
	30 Feet (See Note 3 below)	<ul style="list-style-type: none"> • Ten (10) canopy trees; • Eight (8) ornamental trees (optional); and • Double (2 rows) shrubs.
E (Note 1 & 2 below)	50 Feet	<ul style="list-style-type: none"> • Ten (10) canopy trees; • Eight (8) ornamental trees; • Two (2) rows of hedges, four (4) feet high; • Four (4) foot high berm; • Six (6) foot high wall on top of the berm; and • 20% of landscape groundcover other than turf.

Note 1 - Commercial and office uses are not required to have walls, fences, berms or combinations thereof, along roads.

Note 2: The minimum requirements for tree planted in a Buffer Type E Shall be three (3) inches caliper and forty-five (45) gallon container or greater. The minimum height of trees is ten (10) feet. Allowable trees planted in Buffer Type E Shall not include Palms.

Note 3: This buffer type is only available for projects originally approved prior to December 1, 2009 and any amendments to such projects.

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: N/A

FLOODPLAIN: Portions 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: N/A

WEKIVA RIVER PROTECTION AREA: N/A

TRANSPORTATION IMPROVEMENTS: N/A

BOA# 11-11-1
Photo Evidence



Views of the site



Views of the postings

**Final Development Order
Gypsy Leasing, LLC / WPB Leesburg, Inc.
BOA # 11-11-1**

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

WHEREAS, Gypsy Leasing, LLC (the "Owners") made a request to allow for a reduction in the western landscape buffer and a reduction in the front setback; 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 one-half acre +/- and is generally located West of Leesburg closet to the intersection of County Road 44 and State Road 44 in Section 29, Township 19 South, Range 24 East, being composed of Alternate Key Number 3516150, and more particularly described as:

FROM SW COR OF E 1/2 OF NE 1/4 OF NW 1/4 RUN N 0-20-23 E 384.19 FT FOR POB, CONT N 0-20-23 E 267.66 FT TO A PT THAT IS 10 FT S OF N LINE OF S 1/2 OF NE 1/4 OF NW 1/4, S 89-38-37 E 139.10 FT, S 0-20-23 W 267.74 FT, N 89-36-38 W 139.10 FT TO POB ORB 3898 PG 2318

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# 11-11-1 to allow for a reduction in the western landscape buffer and a reduction in the front setback with the following conditions:

1. There shall be a 15-foot wide Type "A" Landscape Buffer along the entire western boundary.

2. There shall be an opaque fence or wall installed along the western boundary, with a minimum height of six feet measured from grade.
3. The front overhang of the structure is allowed to encroach no further than 12 feet into the front setback.

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: _____

