



VARIANCE REQUEST
Presented to the
BOARD OF ADJUSTMENT
December 13, 2012

CASE NO.: BOA# 29-12-4	AGENDA ITEM #: 1
OWNER: Family Dollar Stores of Florida, Inc.	APPLICANT: SB Development LLC

REQUESTED ACTION: The owner is requesting a variance from **Lake County Land Development Regulations, Section 11.02.03.1.B Wall Signs** to allow an additional wall sign on the side of a single-occupancy business, when the building does not have multiple frontage (+/- 1.1 acres).

GENERAL LOCATION: Mt. Dora area – SR 46 East to site 1000' east of CR 437 / SR46 intersection, AK# 3885033 (Sec. 30, Twp. 19, Rng. 28).



FUTURE LAND USE DESIGNATION: Mt. Plymouth-Sorrento Main Street

EXISTING ZONING: CP (Planned Commercial)

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Mt. Plymouth –Sorrento Main Street (5.5 du / net acre)	R-6 (6 du / acre)+ CUP (Conditional Use Permit)	Church
South	Mt. Plymouth –Sorrento Main Street (5.5 du / net acre)	CP (Planned Commercial)	Vacant
East	Mt. Plymouth –Sorrento Main Street (5.5 du / net acre)	CP (Planned Commercial)	General Retail
West	Mt. Plymouth –Sorrento Main Street (5.5 du / net acre)	R-6 (6 du / acre) C-1 (NeighborhoodCommercial)	Vacant / Post Office
Posted:	November 15, 2012 at SR 46 and CR 437, Mt. Dora		

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 the 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.

ANALYSIS: The owner is requesting a variance to allow an additional wall sign on a side of the building that does not front on a road right-of-way. The Code (11.02.03) states that additional wall signs may be permitted on secondary sides if a similar façade, an entrance door to the general public and a road right-of-way exists on the secondary side.

The parcel is located approximately one mile east of County Road 437 in the Mt. Plymouth-Sorrento Main Street future land use. The parcel is approximately 150 feet wide by 400 feet deep; the site is currently vacant. The parcel was rezoned to Planned Commercial in June 2012 and a site plan for a Family Dollar retail store was approved in September 2012.

All Family Dollar stores are designed with a similar floor layout and signage package. The store's main entrance does not face the road right-of-way due to the narrow width of the parcel. The owner attempted to place the front door on the side of the building facing the right-of-way but, this design would place the main entrance away from the parking area.

The owner is proposing two wall signs for the structure. One sign will face State Road 46 and will be the primary wall sign. The secondary wall sign will be placed over the entrance doors to the store and will face the parking area. The maximum wall sign area being proposed will not exceed the maximum wall sign area allowed by the Code.

The parcel to the north is developed with a church; the parcel to the east is developed with a hunting/fishing supply store. The parcel to the west is developed with a post office; the parcel to the south is vacant. The closest residential structure is approximately 250 feet to the east. Existing and proposed vegetation will block the view of the Family Dollar parcel from the sides and rear.

The **intent** of the Code (11.02.03) is to encourage a visually pleasing environment in order to attract residential construction, tourist activity, business and industrial development. Lake County also views sign regulation as a method of protecting the public investment, insuring pedestrian and traffic safety, promoting

the effectiveness of advertising, discouraging over-concentration, unsuitable location, and excessive height, bulk and area.

The applicant submitted the following reasons as proof of meeting the **intent of the Code**: "Owner/Applicant seeks to install two signs (75 square feet each) on the two 'duel front' wall facings (150 SF per wall sign is allowed by code). Given the duel store front configuration, one sign will be placed facing the right of way (SR 46) and the second sign will be placed above the new store facing the new parking lot as allowed during the original approval process and ordinance. The interior sign will be facing an existing commercial business and will not create any negative visual aesthetic concern for the surrounding neighborhood. The closest residential occupancy is over 200 feet from the proposed interior wall facing and is buffered by an existing commercial building and adequate landscaping. Further, the occupant has no objection to the proposed signage. (see letter). As a result, while remaining consistent with area signage standards, this request creates no negative impact or safety concerns to concern the local residents.

We conclude that the variance is fair and reasonable given 1) the demonstrated hardship, 2) the recognition that the variance preserves health, safety and welfare of the Lake County citizens 3) the consistency with the purposes set forth in the existing land development regulation 4) the cooperation of the owner/applicant to keep the size of the combined wall signage size consistent with neighborhood standards and the intent of the current Lake County Land Development Regulation.

For the reasons stated above, we respectfully request approval of the variance application."

The applicant submitted the following as proof that the application of the Land Development Regulation would create a **substantial hardship or would violate principles of fairness**: "As part of the approval process, the staff requested, as part of the Comprehensive Plan, that the store present a traditional storefront face and entrance onto Main Street, while the parking lot should be situated behind or to the side of buildings that front Main Street. The owner/applicant complied with this request to orient the building sideways as part of a larger discussion on the project. As part of that larger discussion and ultimate approval (see Ordinance 2012-34, Exhibit "B"), it was our understanding that staff had no objection to the new project having wall signs on both wall facings for adequate store identification and consumer safety. The applicant subsequently closed its purchase of the land relying on understanding and applied for the sign permits. Once the property was purchased, the owner/applicant requested a sign along the eastern wall of the building which was subsequently denied by the planning department because it was not facing a right-of-way. Thus, the conflicting requirements of the Lake County Land Development Regulation and the Comprehensive Plan policy has created a severe hardship for the new owner of this property and comprised the new retail project.

A well-designed, safe, and functional signage plan is extremely important for all retail establishments. To this end, adequately-sized signage over the main customer entrance door is important for the health, welfare and safety of the local citizens. The approved building, as part of an improved aesthetic effort, designed the building to have a decorative 'false front' which could, unfortunately, cause confusion for future customers as the location of the actual main entrance. Further, the placement of a sign reading toward the line-of-sight to the handicapped spaces is also commonly accepted as good practice for the health, welfare and safety of the handicapped citizen of Lake County.

For the reasons noted above, the owner/applicant is suffering a clear hardship and requests a variance for the secondary signage over the entrance as originally shown on the concept plan and originally discussed between Lake County planning staff and the applicant."

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

1. This request is consistent with LDR 11.02.03, which attempts to protect surrounding parcels from negative visual impacts.
2. The additional wall sign will face adjoining commercial property and will not affect the aesthetics of the area.

The owner has shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. The owner has also submitted proof of meeting the intent of the Code. Based on the Findings of Fact and Analysis, Staff recommends **approval** of the variance request to allow one additional wall sign on the east side of the primary structure with the following **condition**:

- The maximum wall sign area for all wall signs combined shall not exceed 150 square feet.

LAND DEVELOPMENT REGULATION:

11.02.03 Commercial Districts. The following provisions govern signage in commercial districts:

1. Single Occupancy Commercial Sites.

A. Ground Signs.

1. All signs shall be ground signs.
2. Ground signs may not be permitted on vacant property.
3. One (1) ground sign per parcel for each primary street frontage shall be permitted. The maximum allowable copy area is:
 - a. Sites on designated arterial roadways is sixty (60) square feet per face.
 - b. Sites on designated collector roadways is forty (48) square feet per face.
 - c. Sites on internal roadways is thirty-two (32) square feet per face.
4. If a single occupancy business has multiple frontages with an architectural design indicating front street orientation to both frontages, an additional ground sign shall be permitted with a maximum square footage of up to fifty (50) percent of that allowed on the primary frontage.
5. Height
 - a. Ground signs fronting on two lane highways shall not exceed eight (8) feet in height.
 - b. Ground signs fronting on four lane divided highways shall not exceed twelve (12) feet in height
 - c. The height of any ground sign shall be measured from the finished grade or the roadway, whichever is higher, to the top of the sign face.

6. Setbacks

- a. The minimum setback from the right-of-way line shall be five (5) feet.

- b. The minimum setback from any side or rear yard property line shall be ten (10) feet.
 - c. The minimum setback from any residential zoning district shall be twenty (20) feet.
- 7. Corner Lots Visibility Triangle. No part of a ground sign may be located within a triangular area formed by the street right-of-way lines and a line connecting them at points twenty-five (25) feet from the right-of-way intersection.
- 8. Design.
 - a. Vertical structure supports for ground signs shall be concealed in an enclosed base. The width of such enclosed base shall be equal to at least one-half ($\frac{1}{2}$) the horizontal width of the sign surface.
 - b. The base shall be of an architectural style similar to that of the principal building to include split face block, finished metal or brick or stucco finish.
- 9. Sign Landscaping. A landscaped planting area a minimum of one hundred (100) square feet in size shall be provided around the base of any ground sign. The landscape shall include shrubs and groundcover. The landscape area shall be counted towards the minimum landscape and pervious area requirements for a site.
- 10. Sign Illumination. Ground signs may be illuminated internally or externally. The source of externally illuminated signs shall be installed so that it is arranged or screened as to not shine, glare or adversely impact adjacent properties or roadways.
- B. Wall signs are permitted with a total of one (1) square foot of copy area for signage allowed for each linear foot of right-of-way frontage, up to one hundred and fifty (150) square feet. Single occupancy businesses with multiple frontage may be permitted an additional sign area of one (1) square foot for each linear foot of secondary building frontage; provided that the same or similar facade treatment is used on both front and side and there is an entrance to the general public on such sides.**
- C. Projecting Signs.
 - 1. Projecting signs may be substituted for wall signs.
 - 2. Projecting signs shall not project more than four (4) feet from the building wall on which the sign is attached.
 - 3. Projecting signs shall be a minimum of twelve (12) feet above ground level.
 - 4. Projecting signs shall not project above the roofline of the building to which it is attached.
- D. Awning Signs. The sign area shall be counted toward the total wall sign area allowed for the single occupancy site.
- E. Directional Signs. On-site directional signs or instructional signs used to direct on-premise vehicular or pedestrian traffic is permitted.
 - 1. Sign height shall be limited to a maximum of four (4) feet.
 - 2. Sign area shall be limited to a maximum of six (6) square feet.

2030 COMPREHENSIVE PLAN

Policy I-2.1.11 Signage and Advertisement

Within 12 months of the effective date of this Comprehensive Plan, the County shall adopt Land Development Regulations that limit the location, height, size, and illumination of signs and

advertisement structures within Mount Plymouth-Sorrento in order to enhance community character and limit the visual intrusion of commercial features.

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

WEKIVA RIVER PROTECTION AREA: N/A

LAKE APOPKA BASIN: N/A

TRANSPORTATION IMPROVEMENTS: N/A

GREEN SWAMP AREA OF CRITICAL STATE CONCERN: N/A

LETTERS OF SUPPORT: 1

LETTERS OF CONCERN: 0

BOA# 29-12-4
Photo Evidence



Views of the site



Views of the postings

**Final Development Order
Family Dollar Stores of Florida, Inc / SB Development LLC
BOA # 29-12-4**

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

WHEREAS, Family Dollar Stores of Florida, Inc (the "Owner") made a request to allow an additional wall sign on the side of a single-occupancy business, when the building does not have multiple frontage; and

WHEREAS, the subject property consists of 1.1 acres +/- and is generally located east of Mount Dora in Section 30, Township 19 South, Range 28 East, being composed of alternate key number 3885033 and is more particularly described as:

FROM SE COR OF SW 1/4 RUN S 88-48-56 W ALONG S LINE OF SW 1/4 A DIST OF 1332 FT TO A POINT ON W LINE OF E 1/2 OF SW 1/4, N 0-36-47 W 1985.23 FT TO A POINT ON S LINE OF N 1/2 OF NW 1/4 OF SW 1/4, S 88-05-14 W ALONG SAID S LINE 315.08 FT TO SE COR OF W 265 FT OF E 580 FT OF N 660 FT OF W 1/2 OF SW 1/4, CONT S 88-05-14 W 265.07 FT TO SW COR OF SAID W 265 FT OF E 580 FT OF N 660 FT OF W 1/2 OF SW 1/4, N 0-36-47 W 178.31 FT FOR POB, CONT N 0-36-47 W 459.08 FT TO S R/W LINE OF SR 46, N 88-27-17 E ALONG SAID S R/W LINE 132.02 FT, S 0-36-47 E 337.04 FT, S 46-08-04 W 181.23 FT TO POB

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 Adjustment of Lake County, Florida, on December 13, 2012; and

WHEREAS, the Board of Adjustment 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, on December 13, 2012, the Lake County Board of Adjustment approved the variance for the above property; and

NOW THEREFORE, BE IT ORDAINED by the Board of Adjustment 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# 29-12-4 to allow one additional wall sign on the east side of the primary structure with the following **condition**:

- The maximum wall sign area for all building signs combined shall not exceed 150 square feet.

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 13th day of December, 2012.

EFFECTIVE December 13, 2012.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

Donald Schreiner, Chairman

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this December 13, 2012 by DONALD SCHREINER, who is personally known to me.

(SEAL)

Signature of Acknowledger

Serial Number: _____

My Commission Expires: _____