

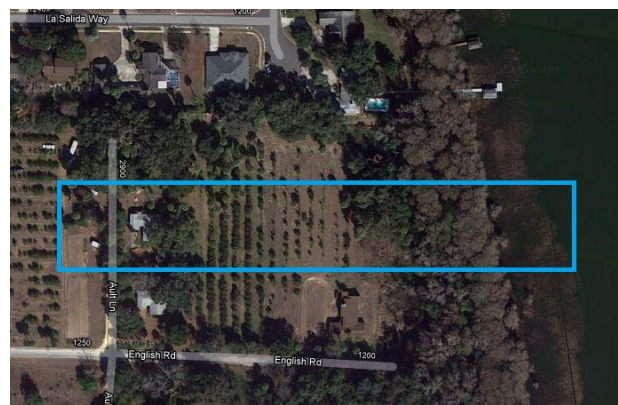
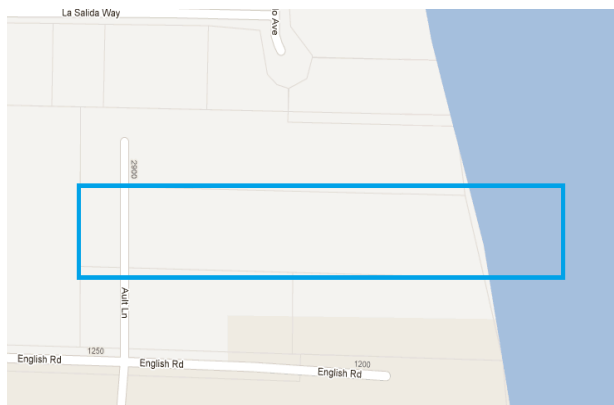


VARIANCE REQUEST
Presented to
LAKE COUNTY BOARD OF ADJUSTMENT
August 9, 2012

CASE NO.: BOA# 22-12-3	AGENDA ITEM #: 2
OWNERS: Robert and Lucinda McLaughlin, Jr.	APPLICANT: Greg Beliveau

REQUESTED ACTION: The owners are requesting a variance from the **Lake County Land Development Regulations (LDRs) 10.01.02.C.** to allow a detached garage to be located in the front yard (+/- 2 acres).

GENERAL LOCATION: Leesburg area - West on US Hwy 441 to US Hwy 27, English Road to Ault Lane, site on right #2916, AK# 1741467 (Sec. 2, Twp. 20, Rng. 24).



FUTURE LAND USE DESIGNATION: Urban Low

EXISTING ZONING: R-6 (Urban Residential District)

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Urban Low (4 du / 1 net ac)	R-6 (6 du / ac)	Single-Family Dwelling Unit
South	Urban Low (4 du / 1 net ac)	R-6 (6 du / ac)	Single-Family Dwelling Unit
East	Lake Harris	Lake Harris	Lake Harris
West	Urban Low (4 du / 1 net ac)	R-6 (6 du / ac)	Agriculture
DATE POSTED:	July 23, 2011 at Ault Lane and English Road, 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 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 owners are requesting a variance to allow the construction of a detached garage in front of the existing dwelling unit. The Code (10.01.02.C Accessory Uses and Structures) allows storage buildings, non-commercial greenhouses, and the like to be permitted in side and rear yards. The Code (9.03.05.D) also states that a private garage or carport may be located wholly or partly inside the walls of the principal building or attached to the outer walls. If separated from the principal building (detached), the garage or carport shall conform to all accessory building requirements.

The parcel is approximately 800 feet deep and 144 feet wide and is approximately 2.7 acres in size; the parcel fronts on Ault Lane, a private dirt road, along the west property line and Lake Harris along the east property line. The majority of the parcel is located outside of the 100-year flood zone; the rear of the parcel near the lake is located within the 100-year flood zone, designated as “A”. There are jurisdictional wetlands along the eastern boundary, which abuts Lake Harris.

The owners are proposing to construct a 24 foot wide by 24 foot deep detached garage in front of the dwelling unit; it will be located approximately 28 feet from the south property line, 90 feet from the north property line, 50 feet from the west property line and 760 feet from the east property line along Lake Harris. The proposed location of the garage will meet all of the required setbacks; there is not sufficient room to locate the garage in the side yards and the owners stated that it would be difficult to construct the garage behind the dwelling unit because of existing improvements, slope of the parcel and several mature trees. A copy of the plot plan detailing the location of the garage is attached (Exhibit #1).

The parcel is zoned R-6 and the future land use is Urban Low. The parcels to the north and south sides of the subject parcel are developed with single-family dwelling units. The parcel to the west is developed with a citrus grove and is under common ownership with the subject parcel. All of the adjoining parcels have extensive plantings between the homes and the road.

The **intent of the Code** (10.01.02) is to regulate the configuration of accessory structures in order to ensure that they are not harmful either aesthetically or physically to residents and surrounding areas. The

area is characterized by treed lakefront parcels with occasional small citrus plantings. The addition of a garage will not be visible from the County-maintained road and will not negatively affect the surrounding area.

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

“Setbacks are generally intended to promote light, air, ventilation, allow for road widening, and prevent overcrowding. Allowing the garage in what is now known as the front yard would not impede either light, air, or ventilation. Allowing placement of the garage at a 30’ setback from the easement will not impede sight, and road widening is not planned or necessary as only 3 homes access it. Open space is still maintained.”

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**:

“The home was constructed in 1951 and fronts/faces on the lake. What is currently customarily considered the front yard is actually the homes rear yard. LDR regulations allow accessory structures in the side and rear yards. Placement of the garage in the rear yard would require undue financial hardship with the building of a roadway to access it. Placement in the side yard would require removal of trees.”

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

- This request is consistent with LDR 10.01.02, which attempts to protect surrounding parcels from negative visual impacts.
- There is not sufficient buildable area to the side or rear of the home to construct additional structures due to existing structures and vegetation.

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. Based on the Findings of Fact and Analysis, Staff recommends **approval** of the variance request **with the following conditions**:

1. **The detached garage must be constructed in the same architectural style as the single-family dwelling unit; the walls and roofing materials must be of the same material and color as the dwelling unit.**
2. **The detached garage must be constructed in the location as indicated on Exhibit “1”.**
3. **An inspection of the detached garage, to ensure the conditions as stated above are met, must be conducted and approved by the Planning and Community Design Division prior to a final inspection by the Building Services Division.**

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

9.03.05 Parking Design Standards.

D. Private Garages and Carports. A Private Garage or Carport may be located wholly or partly inside the walls of the Principal Building, or attached to the outer walls. If separated from the Principal Building, the garage Shall conform to all Accessory Building requirements. Garages may be constructed under a yard or court.

10.01.02 Storage Buildings, Utility Buildings, Non-Commercial Greenhouses.

A. No Accessory Buildings used for industrial storage of hazardous, incendiary, noxious, or pernicious materials Shall be located nearer than one hundred (100) feet from any property line.

B. Storage Buildings, non-commercial greenhouses, and the like shall be Permitted only in compliance with standards for distance between Buildings, and Setbacks, if any, from property lines.

C. Storage Buildings, non-commercial greenhouses and the like Shall be Permitted only in side and rear yards, and Shall not encroach into any required Building Setback from an abutting Right-of-Way.

Definitions:

Frontage. The length of the Property line of any one (1) premise along a public right-of-way on which it borders.

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: There are jurisdictional wetlands on the parcel.

FLOODPLAIN: Portions of the parcel lie in the 100-year flood zone designated as "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# 22-12-3
Photo Evidence**



Views of the site



LAKE COUNTY
THIS PROPERTY WILL BE CONSIDERED FOR
VARIANCE(S)



Views of the postings

**Final Development Order
Robert and Lucinda McLaughlin, Jr.
BOA # 22-12-3**

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

WHEREAS, Robert and Lucinda McLaughlin, Jr. (the "Owners") made a request to allow a detached garage to be located in the front yard; and

WHEREAS, the subject property consists of 2 acres +/- and is generally located south of Leesburg in Section 2, Township 20 South, Range 24 East, being composed of Alternate Key Number 1741467, and is more particularly described as:

FROM THE W 1/4 COR OF SEC RUN S ALONG W LINE OF SEC 210
FT, S 88DEG 22MIN E 1078 FT, S 5.7 FT, S 88DEG 32MIN 42SEC E 380
FT, N 0DEG 0MIN 30SEC E 148.94 FT TO POB, CONT ON SAME LINE
N 148.94 FT, S 88DEG 50MIN 34SEC E 780 FT TO WATERS OF LAKE
HARRIS, S'LY ALONG WATERS 154.25 FT, N 88DEG 41MIN 17SEC W
810 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 August 9, 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 August 9, 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# 22-12-3 to allow a detached garage to be located in the front yard, with the following conditions:

1. The detached garage must be constructed in the same architectural style as the single-family dwelling unit; the walls and roofing materials must be of the same material and color as the dwelling unit.
2. The detached garage must be constructed in the location as indicated on Exhibit "1".

3. An inspection of the detached garage, to ensure the conditions as stated above are met, must be conducted and approved by the Planning and Community Design Division prior to a final inspection by the Building Services Division.

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 9th day of August, 2012.

EFFECTIVE August 9, 2012.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Donald Schreiner, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

**The foregoing instrument was acknowledged before me this August 9, 2012 by DONALD SCHREINER, who is personally known to me.
(SEAL)**

Signature of Acknowledger

Serial Number: _____

My Commission Expires: _____

