



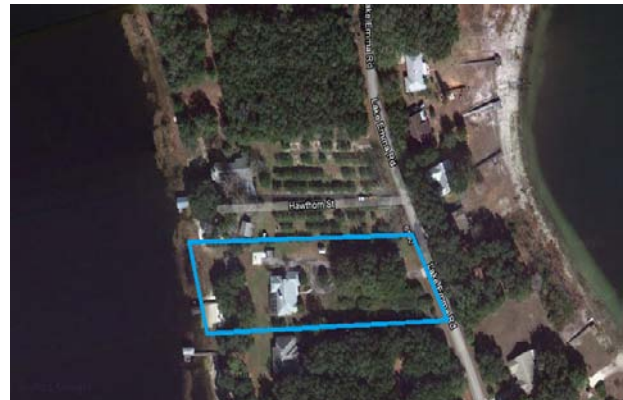
**VARIANCE REQUEST**  
 Presented to  
**LAKE COUNTY BOARD OF ADJUSTMENT**  
 June 14, 2011

**CASE NO.:** BOA# 16-12-1 **AGENDA ITEM #: 1**

**OWNERS & APPLICANTS:** Keith Mitnik and Gwendolyn Barrow

**REQUESTED ACTION:** The owners are requesting a variance from the Lake County Land Development Regulations (LDRs) 10.01.02.C. to allow a detached storage building in front of the existing single-family dwelling unit (+/- 1.77 acres).

**GENERAL LOCATION:** Groveland area –South on State Road 19, right on Lake Emma Road to site on left #6630, AK# 1115469 (Sec. 31, Twp. 21, Rng. 25).



**FUTURE LAND USE DESIGNATION:** Rural Transition

**EXISTING ZONING:** A (Agriculture)

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Rural Transition (1 du / 10ac)	Agriculture (1 du / 5 ac)	Single-Family Dwelling Unit
South	Rural Transition (1 du / 10ac)	Agriculture (1 du / 5 ac)	Single-Family Dwelling Unit
East	Rural Transition (1 du / 10ac)	Agriculture (1 du / 5 ac)	Agriculture
West	Lake Emma	Lake Emma	Lake Emma
<b>DATE POSTED:</b>	May 8, 2011 at State Road 19 and Lake Emma Road, Groveland		

#### 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 storage building 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 also states that a private storage building 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 storage building shall conform to all accessory building requirements.

The parcel is located within the Villa City Subdivision, which was platted in 1892. The parcel is approximately 528 feet deep and 177 feet wide and is approximately 1.77 acres in size; the east parcel line fronts on Lake Emma Road, a County-maintained paved road and the west parcel line fronts on Lake Emma. 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 "AE".

The owners are proposing to construct a 12 foot wide by 15 foot deep detached storage building in front of the dwelling unit; it will be located approximately 135 feet from the south property line, 10 feet from the north property line, 175 feet from the east property line and 290 feet from the west property line along Lake Emma. The proposed location of the storage building will meet all of the required setbacks; there is not sufficient room to locate the storage building in the side yards and the owners stated that it would be difficult to construct the storage building behind the dwelling unit because of existing improvements and several mature oak trees. A copy of the plot plan detailing the location of the storage building is attached (Exhibit #1).

The parcel is zoned Agriculture and the future land use is Rural Transition. The parcels to the north and south sides of the subject parcel are developed with single-family dwelling units. Both 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 small storage building will not be visible from the road and will not negatively affect the surrounding area.

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

*"We have 160' of oak + orange grove in front of proposed location. Will be built to match house. Mature crepe myrtle trees already placed + will be extensively landscaped.*

*We would like to place our potting shed on the right side of our yard near the garage. This gives good access to equipment stored in both the garage and garden shed while keeping any kind of fertilizer, potting soil or spray runoff well away from lake. It is shielded from all neighbors view, on one side by an abutting orange grove, in front by our large oak trees, our orange grove and a large ligustrum tree in our center driveway area. We have spoken to our neighbors and they prefer that it not be in our backyard. One of them strongly objects to it being in the back as it will block a good portion of their lake views. The shed and existing pump house areas will be well landscaped, including a trellised bougainvillea on the street side that will shield both buildings. It will sit 160 feet from the road and our lot rises somewhat and then rolls down toward lake so it will not be very visible. We already have our pump house in this location, which would consolidate all our outbuildings in one nicely landscaped area.*

*We are expanding our home out on the side and going up two-stories over the garage toward the back. Our driveway down by the garage area will be moved further toward the right side property line and the small shed on right, basketball court and ultimately the old house down by the lake will come out. Dock will move toward right side so a boat can be put in from driveway area. Now there is no way to get a boat in due to placement of septic systems across front and backyard and quite a few large trees.*

*Our ultimate goal is to make our property both beautiful and practically functional as a lakefront lot. We genuinely appreciate your consideration in this matter."*

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**:

*"New septic tank & field, high water line, new driveway & dock setup. Also blocks neighbors view south side of property + back has lots of trees (see photo)."*

**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 storage building 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 storage building must be constructed in the location as indicated on Exhibit "1".**
3. **An inspection of the detached storage building, 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-**

#### **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.**

D. Vehicles, including Manufactured Housing and Mobile Homes, Shall not be used as storage Buildings, utility Buildings, or other such uses.

#### **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 "AE".

**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# 16-12-1  
Photo Evidence



Views of the site



Views of the postings

**Final Development Order  
Keith Mitnik / Gwendolyn Barrow  
BOA # 16-12-1**

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

**WHEREAS**, Keith Mitnik and Gwendolyn Barrow (the "Owners") made a request to allow a detached storage building in front of the existing single-family dwelling unit; and

**WHEREAS**, the subject property consists of 1.77 acres +/- and is generally located north of Groveland in Section 31, Township 21 South, Range 25 East, being composed of Alternate Key Number 1115469, and is more particularly described as:

VILLA CITY FROM SW COR OF NW 1/4 OF SE 1/4 OF SEC 31, RUN SOUTH 89DEG 15MIN 05SEC E 820 FT, N 00DEG 27MIN 50SEC W 330 FT, NORTH 89DEG 15MIN 05SEC E TO WESTERLY RIGHT-OF-WAY OF LAKE EMMA RD, N 24DEG 09MIN 55SEC W ALONG SAID R/W 338.37 FT TO POB, RUN N 25DEG | 48MIN 54MIN W 177.18 FT, S 89DEG 15MIN 05SEC W 369.74 FT, S | 0DEG 45MIN E 8.0 FT, S 89DEG 15MIN 05SEC W TO LAKE EMMA & PT | "A", RETURN TO POB & RUN S 89DEG 15MIN 05SEC W TO LAKE EMMA, | NW'LY ALONG LAKE TO POINT "A" PB 1 PG 31

**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 June 14, 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 June 14, 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# 16-12-1 to allow a detached storage building in front of the existing single-family dwelling unit, with the following conditions:

1. The detached storage building 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 storage building must be constructed in the location as indicated on Exhibit "1".
3. An inspection of the detached storage building, 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 14<sup>th</sup> day of June, 2012.

EFFECTIVE June 14, 2012.

BOARD OF ADJUSTMENT  
LAKE COUNTY, FLORIDA

\_\_\_\_\_  
Donald Schreiner, Chairman

STATE OF FLORIDA  
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this June 14, 2012 by DONALD SCHREINER, who is personally known to me.  
(SEAL)

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

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

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