



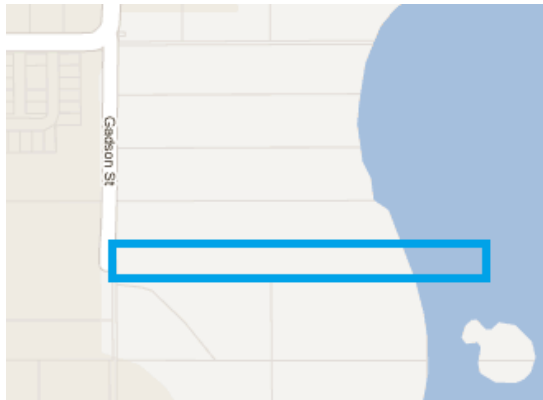
VARIANCE REQUEST
 Presented to
BOARD OF ADJUSTMENT
 June 14, 2011

CASE NO.: BOA# 17-12-1 **AGENDA ITEM #:** 2

OWNERS & APPLICANTS: Roy B. Barton and Judy E. Barton

REQUESTED ACTION: The owners are requesting a variance from the Lake County Land Development Regulations (LDRs) 3.01.04.1.a. and 3.01.04.4.a. & b. to allow a public stable on a parcel that is less than ten acres in size with an existing livestock building that is closer than 200 feet from the property line; and to allow an existing private livestock building to remain in its current location, less than 50 feet from the property line and not centered on the parcel (+/- 5 acres).

GENERAL LOCATION: Groveland area –South on SR 19, left on SR 50 east, right on SR 33 south, left on Gadson Street to site on left #13820, AK# 1103355 (Sec. 30, Twp. 22, Rng. 25).



FUTURE LAND USE DESIGNATION: Green Swamp Rural

EXISTING ZONING: A (Agriculture)

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Green Swamp Rural (1 du/5 net ac)	Agriculture (1 du/5 ac)	Single-Family Dwelling Unit
South	Green Swamp Rural (1 du/5 net ac)	Agriculture (1 du/5 ac)	Single-Family Dwelling Unit
East	Stewart Lake	Stewart Lake	Stewart Lake
West	City of Groveland Green Swamp One (4 du/ac)	City of Groveland Green Swamp Single Family Low Density (4 du/ac)	Vacant
Date Posted:	May 8, 2012 at Gadson Street and Anderson Street, 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 proposing the conversion of a private livestock building to a public stable. The Code (3.01.04.4(a)) does not allow a public or private riding stable or academy to be located on a parcel of land that is less than ten acres in size. The subject parcel is five acres and does not meet the minimum size requirement for a public stable. The Code (3.01.04.4(b)) does not allow structures being used to house animals for riding stables or academies to be less than 200 feet from right-of-ways or adjacent property lines (owned by others). The existing livestock building is located 35 feet from the south parcel boundary. The owners are in the process of applying for a Conditional Use Permit (CUP) to allow a public stable on this site, using the existing livestock building that is located 35 feet from the parcel boundary. In order to proceed with the CUP an approved variance to the Codes listed above is required.

The owners currently operate a non-profit organization called Horses with a Mission. This organization provides therapeutic horse riding lessons to disabled children. At this time, the owners maintain the animals on the subject parcel and transport the horses to a separate location for riding lessons.

The owner's parcel is developed with two single-family dwelling units and three detached accessory structures. One of the structures is the private livestock building that is constructed 35 feet from the parcels south boundary. The owners maintain four horses and one pony in the livestock building with approximately two acres dedicated to horse exercise/grazing areas. As stated above, all horse training, therapeutic riding and pony/horse parties are held offsite. A plot plan is attached detailing the location of all structures (Exhibit "1").

The western boundary of the parcel fronts on Gadson Street, a clay-based, privately-maintained road; the eastern boundary of the parcel lies in Stewart Lake. The parcels to the north and south are both developed with single-family dwelling units. The eastern portion of the parcel along the lakefront lies in the 100-year flood zone designated "AE". All of the existing structures are all located in the 100-year flood zone designated "X" and meet the minimum 50-foot setback from jurisdictional wetlands.

The **intent of the Code** (3.01.04) is to regulate the placement of structures and the use of a parcel in order to ensure that they are not harmful either aesthetically or physically to residents and surrounding areas. Public stables have minimum requirements in regards to setbacks and parcel size to reduce the negative impact on adjacent property owners. Increased noise, dust, odor and traffic can all impact adjacent property owners. The Code attempts to mitigate the impact on the surrounding areas with a minimum 200-foot setback for livestock buildings and a ten acre minimum parcel size requirement. This parcel lacks sufficient width and depth to mitigate the negative impacts of a public stable.

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

"The property in question has been home to the horses for the last 15 years. The property is fenced and includes a previously erected barn. We already have in place buffers such as trees on both sides of property lines. Also the back side of property backs up to a lake and the front of the property is not visible from the main road. We need a variance from the required 10 acres to 5 acres to temporarily house our equine therapeutic program. There horses have been housed at this location for the last 15 years and the barn and property is ready for use, so no further construction will be needed. We plan on using this location, based on variance approval, until we are able to purchase property strictly for the program. We have already begun to put in motion different avenues for the funding of new property such as fundraisers, grants, etc.

Hours of operation:

Wed.-Thurs. 3-6 PM

Sat. 10-5"

4 horses 1 pony at any one time!"

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 substantial hardship in meeting the specific code requirements is the current lack of funding for the purchase of land for the program. Horses With A Mission, Inc. is less than a year old in regards to the program operations for students. Therefore, the maturity of the organization being able to show stability for grants is a work in progress. We are currently applying for grants and fundraising as previously mentioned in question 3."

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

- The intensity of operating a public stable on the subject parcel is inconsistent with LDR 3.01.04.4, which attempts to protect surrounding parcels from intensive uses on neighboring properties.
- The request to maintain an existing barn, which houses livestock for personal use only on this parcel is consistent with LDR 3.01.04.1, the Code attempts to maintain appropriate setbacks between property lines and structures.

The owners have requested a variance to allow a public stable on less than ten acres and to allow the structure housing the livestock to be less than 200 feet from property lines. The applicant has shown proof of a substantial hardship or that the application of the Code would violate principles of fairness, but the

applicant has not submitted proof of meeting the intent of the Code. Based on the Findings of Fact and Analysis, Staff recommends **denial** of this variance request.

In regards to the existing private livestock building, the Code requires livestock buildings to be located 200 feet from all property lines, unless the property is not wide enough to meet the 200 foot setbacks. In this case, the property is 165 feet wide and the 200-foot setback cannot be met; the Code then allows the livestock structure to be located as closely centered as possible on the property and at least 50 feet from all property lines. The existing livestock building is located 35 feet from the south property line and does not meet the Code (3.01.04.1 (a)). The applicant has shown proof of a substantial hardship or that the application of the Code would violate principles of fairness and with the conditions as stated below the intent of the Code would be met. Based on the Findings of Fact and Analysis, Staff recommends **approval** of the variance request to allow an existing private stable to remain **with the following conditions**:

1. The existing type "G" landscape buffer established between the existing livestock building and the southern property line shall be maintained.
2. The existing livestock building footprint shall not be expanded beyond what is shown on Exhibit "1".

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

3.01.04 Key to Conditions in Table of Permitted and Conditional Uses.

1. **Keeping of Livestock for General Agriculture and Non-Intensive Agriculture.** These uses shall only be Permitted as shown in Table 3.01.03 Schedule of Permitted and Conditional Uses and shall adhere to the following setbacks:
 - a. **A Livestock Building should maintain a two hundred (200) foot setback from the property line. In the event that a Livestock Building cannot be constructed because of the two hundred (200) feet setback, then the Livestock Building shall be as closely centered as possible between the property lines and shall maintain a fifty (50) foot setback from the property line.**
 - b. **If the Lot Width or Length is equal to or less than one hundred fifty (150) feet, then the Livestock Building shall be as closely centered as possible between the property lines and shall maintain a fifty (50) foot setback from the property line.**
2. **Adult Uses.** Adult Uses must comply with the provisions of Section 3.07.
3. **Single-Family and Multifamily Dwelling Units in the C-1, C-2 Zones and RMRP.**
 - a. **Single-family and multifamily Dwelling Units are Permitted in the C-1 and C-2 zones, with Site Plan approval by the County Manager or designee when used in conjunction with the operation of a business on the premises. Such single-family and multifamily Dwelling Units Shall be an integral part of the principle business structure and located behind or above that portion of the business structure devoted to service to the public.**
 - b. **Only rental single family dwelling units are permitted in RMRP.**

4. Riding Stables or Academies.

- a. Public or private riding stables or academies, where Permitted, shall not be located on a tract of Land less than ten (10) acres in size.
- b. No structure housing the animals shall be less than two hundred (200) feet from the nearest Right-of-Way line of any Public Road, County Road, state or federal Road or highway or the adjacent boundary of property owned by others. This two hundred-foot setback may be reduced to one hundred (100) feet if the adjacent property is under common ownership.

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: YES

BOA# 17-12-1
Photo Evidence



Views of the site



Views of the postings

**Final Development Order
Roy B. and Judy E. Barton
BOA # 17-12-1**

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

WHEREAS, Roy and Elaine Barton (the "Owners") made a request for a variance to allow a public stable to be located on a parcel that is less than ten acres in size and for the existing livestock building to be used as the public stable; the building is closer than 200 feet from the property line; and to allow the existing private livestock building to remain in its current location, less than 50 feet from the property line and not centered on the parcel; and

WHEREAS, the subject property consists of 5 acres +/- and is generally located east of Groveland in Section 30, Township 22 South, Range 25 East, being composed of Alternate Key Number 1103355, and is more particularly described as:

GROVELAND FARMS 30-22-25 S 1/2 OF N 1/2 OF TRACTS 11 and 12
PB 2 PGS 10-11

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# 17-12-1 (LDR 3.01.04.1(a)) to allow an existing private livestock building to remain in its current location (35 feet from the south parcel line), which is less than 50 feet from the property line and not centered on the parcel, with the following conditions:
1. The existing type "G" landscape buffer established between the existing livestock building and the southern property line shall be maintained.
 2. The existing livestock building footprint shall not be expanded beyond what is shown on Exhibit "1".

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 14th 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: _____