



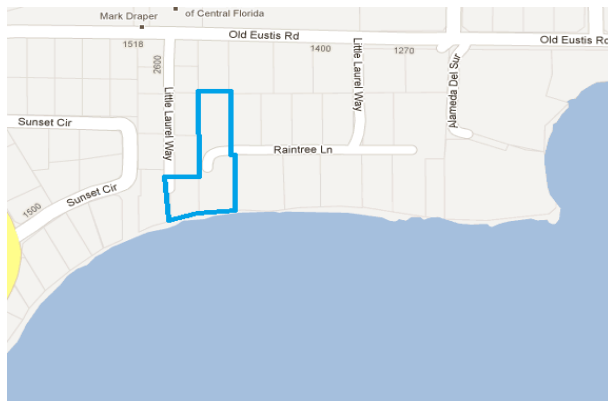
VARIANCE REQUEST
 Presented to the
BOARD OF ADJUSTMENT
 November 8, 2012

CASE NO.: BOA# 26-12-4
OWNERS: James and Marci Knauss

AGENDA ITEM #: 1
APPLICANT: Seth Begelman

REQUESTED ACTION: The owners are requesting a variance from **Lake County Land Development Regulations, Section 10.01.05.B.4. Accessory Dwellings** to allow an accessory dwelling that will exceed 1,200 square feet and 40% of the air conditioned enclosed living area of the permitted principal structure (+/- 1.49 acres).

GENERAL LOCATION: Mt. Dora area – Old US Hwy 441 East, left on Morningside Drive, right on Old Eustis Road, right on Little Laurel Way to site, AK# 2867531 and 1240867 (Sec. 24, Twp. 19, Rng. 26).



FUTURE LAND USE DESIGNATION: Urban Low Density

EXISTING ZONING: R-1 (Rural Residential) & R-3 (Medium Residential District)

Direction	Future Land Use	Zoning	Existing Use
North	Urban Low Density (4 du / net acre)	R-1 (1 du / acre) R-3 (3 du / acre)	single-family dwelling unit
South	Lake Gertrude	Lake Gertrude	Lake Gertrude
East	Urban Low Density (4 du / net acre)	R-1 (1 du / acre)	single-family dwelling unit
West	Urban Low Density (4 du / net acre)	R-1 (1 du / acre)	single-family dwelling unit
Posted:	October 18, 2012 at Little Laurel Way and Old Eustis Road, 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 owners are requesting a variance to allow an accessory dwelling unit to exceed the square footage allowed by the Code. The Code (10.01.05.B.4) states that an accessory dwelling unit shall not exceed 1,200 square feet or 40 percent of the air conditioned, enclosed living area (excluding garages, patios, porches and the like) of the principal dwelling.

The subject parcels are developed with single-family dwelling units and are located on the north shore of Lake Gertrude; combined, the parcels are approximately 1.5 acres in size. The parcel with the larger dwelling unit is also developed with an accessory building, a tennis court and a pool. The adjacent parcel, with the smaller dwelling unit, is developed solely with a single-family dwelling unit. The owners are proposing to unite the parcels and designate the smaller home as an accessory dwelling unit in order to build a breezeway between the two homes. The breezeway would allow for ease of access during inclement weather for family and guests. The only way to permit the connection of two independent structures with a breezeway is through a Unity of Title, which will create one parcel of land. A dwelling unit and an accessory dwelling unit is allowed on a parcel one acre in size or larger as long as the correct ratios and size limitations are met. The existing structure, which is proposed as the accessory dwelling unit, exceeds the maximum size and ratio allowed by Code.

The home that the owners want to designate as the primary dwelling unit (AK#2867531) has 4,407 square feet of living area; the Code would allow an accessory dwelling unit consisting of 1,762 square feet of living area. The owners are proposing to designate the existing adjacent dwelling unit (AK#1240867) as the accessory dwelling unit, which has 2,498 square feet of living area. This will exceed the amount permitted by 736 square feet and will be 56% of the living area of the primary dwelling instead of the 40% allowed.

The parcel with the primary structure is zoned R-1 (Rural Residential) and R-3 (Medium Residential District); the parcel with the accessory structure is zoned R-1 (Rural Residential). The Federal Emergency Management Agency (FEMA) map indicates that the lakefront portion of the parcel is located within the 100-year flood zone designated "A"; the GIS wetlands map shows that there are wetlands located on the lakefront portion of the parcel.

The parcels to the north, east and west are all developed with single-family dwelling units. Lake Gertrude borders the parcels to the south. The entire area surrounding the subject parcels is either landscaped with hedges or surrounded by privacy fencing.

The owners will be required to sign an Accessory Dwelling Unit Affidavit, which will be recorded into the public records of Lake County. The affidavit states that the structures (principal and accessory) must remain under common ownership.

The **intent** of the Code (10.01.05.B.4) is to provide for less expensive housing units to accommodate growth, provide housing for relatives and to provide for security.

The applicant submitted the following reasons as proof of meeting the **intent of the Code**: *"The demonstrated purpose of the LDR has been achieved, in that granting the requested variance would not result in any structural changes or additional square footage to either dwelling and would not result in any visual change to how the homes have appeared since 1988, when the principal residence was built (the accessory structure was built in 1963). The accessory dwelling would continue to be a stand-alone building in accordance with Lake County, Florida Land Development Regulations Chapter X, Section 10.01.05(3), and does not interfere with the appearance of the principal structure as a one-family dwelling unit in accordance with Lake County, Florida Land Development Regulations Chapter X, Section 10.01.05(5)."*

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**: *"Mr. and Mrs. Knauss acquired the property on which the primary residence sits in June of 2009. Shortly thereafter, in October of 2010, the Knausses acquired the property adjacent to the primary residence (Alt Key 1240867), which contained an existing home. Mr. and Mrs. Knauss desire that the later-acquired property be considered an accessory structure to the earlier-acquired primary residence and that a breezeway be constructed connecting the two homes. The owners did not realize a building permit would be required for the breezeway and began construction of the same. Upon learning a permit was required, Mr. and Mrs. Knauss attempted to obtain the permit but learned that a unity of title and a variance would be need to be completed before the permit could be obtained.*

The owners face a substantial logistical and procedural hardship in that in order for the owners to construct a breezeway connecting the homes, a unity of title would need to be completed so that both parcels would be combined and considered as one. Before a unity of title may be completed, the owners must obtain a variance from the Lake County Land Development Regulations Chapter X, Section 10.01.05, Accessory Dwellings. That section provides that an accessory dwelling shall not exceed 1,200 square feet or 40% of the air conditioned, enclosed living area of the principal dwelling. The existing home built in 1963 and acquired by the owners in October of 2012 exceeds 1,200 square feet and exceeds 40% of the air conditioned, enclosed living area of the principal dwelling. Strict application of the LDRs would cause an unintended result in this instance, as the owners are not seeking to alter the square footage or structures that currently exist and have existed since 1988. The owners merely wish to include a breezeway connecting the homes to facilitate the owners' access in inclement weather. The breezeway sought to be constructed would not be visible from the street. Granting the variance would simply allow the owners to apply for a unity of title and construct the breezeway between the two dwellings, which are slightly less than

28 feet apart. These two homes are situated in closer proximity than most of the other homes in the area, and treating the two structures as an accessory and principal structure is a logical approach to utilizing the property to its best and highest use."

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

1. This request is consistent with LDR 10.01.05.B.4, which attempts to provide less expensive housing for relatives.
2. The breezeway is not visible from the road and will not harm the aesthetics of the area.

The owners have shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. The owners have 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 the existing dwelling unit consisting of 2,498 square feet located on the parcel described as AK#1240867 to be used as the accessory dwelling unit.

LAND DEVELOPMENT REGULATION:

10.01.05 Accessory Dwellings.

- A. Purpose. The purpose of this Section is to provide for less expensive housing units to accommodate growth, provide housing for relatives and to provide for security.
- B. Standards. Accessory Dwellings may be allowed in agricultural and residential zoning districts provided that all of the following requirements Shall be met:
 1. The Lot must be a Lot of Record or a legally created Lot and must be 43,560 square feet or greater in size.
 2. No more than one (1) principal structure and one (1) Accessory Dwelling Shall be permitted on any Lot of Record, or legally created Lot. Prior to the date a Building Permit is issued for an Accessory Structure or prior to the use of an existing Structure as an Accessory Dwelling, the Owner Shall execute and the County Manager or designee Shall record in the public records of Lake County, Florida, at the Owner's expense, a legal document that requires the principal Structure and the Accessory Dwelling to remain in the same ownership.
 3. Accessory Dwellings may be attached to a principal Structure, an apartment unit within the principal structure, or a stand-alone building.
 4. **An Accessory Dwelling unit Shall not exceed one thousand two hundred (1,200) square feet or forty (40) percent of the air conditioned, enclosed living area (excluding garages, patios, porches and the like) of the principal dwelling.**
 5. The Accessory Dwelling Shall be located and designed not to interfere with the appearance of the principal Structure as a one-family Dwelling Unit.
 6. Accessory Dwelling units must meet the setback requirements of the principal Structure.
 7. Impact fees Shall be paid on Accessory dwelling units as if they were a separate dwelling.

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: Jurisdictional Wetlands

FLOODPLAIN: Flood Zone "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

BOA# 26-12-4
Photo Evidence



Views of the site



Views of the postings

**Final Development Order
James and Marci Knauss
BOA # 26-12-4**

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

WHEREAS, James and Marci Knauss (the "Owner") made a request to allow an accessory dwelling that will exceed 1,200 square feet and 40% of the air conditioned enclosed living area of the permitted principal structure; and

WHEREAS, the subject property consists of 1.49 acres +/- and is generally located west of Mount Dora in Section 24, Township 19 South, Range 26 East, being composed of alternate key numbers 2867531 and 1240867 and is more particularly described as:

SAGE & KINNEY THAT PART OF LOT A DESCRIBED AS FOLLOWS:
FROM NE COR OF PARTIAL REPLAT OF LOT A OF SAGE & KINNEY
SUB RUN S ALONG E LINE OF SAID REPLAT 202.93 FT FOR POB,
CONT S ALONG SAID REPLAT TO WATERS OF LAKE GERTRUDE,
BEG AGAIN AT POB, RUN S 89DEG 31MIN 10SEC E 98.33 FT, S
0DEG 27MIN 29SEC W TO WATERS OF LAKE GERTRUDE, W'LY
ALONG WATERS OF SAID LAKE TO INTERSECT FIRST LINE, FROM
NE COR OF LOT A RUN S 430.76 FT, W 426 FT FOR POB, RUN S 190
FT TO WATER MARK OF LAKE GERTRUDE & PT A, RETURN TO
POB, RUN E 18 FT, S 190 FT TO WATER MARK OF LAKE
GERTRUDE, W'LY ALONG SAID LAKE 18 FT TO PT A PB 1 PG 32
TOGETHER WITH THE FOLLOWING PARCEL:
FROM NE COR OF PARTIAL REPLAT OF LOT A, SAGE & KINNEY,
RUN S 515 FT FOR POB, RUN S 138 FT TO LAKE. BEG AGAIN AT
POB, RUN N 88 DEG 26 MIN W 94 FT, S 172 FT TO LAKE, NE'LY
ALONG LAKE TO INTERSECT FIRST LINE

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 November 8, 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 November 8, 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# 26-12-4 to allow the existing dwelling unit consisting of 2,498 square feet on the parcel described as AK#1240867 to be used as an accessory dwelling unit.

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 November, 2012.

EFFECTIVE November 8, 2012.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

Donald Schreiner, Chairman

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this November 8, 2012 by DONALD SCHREINER, who is personally known to me.
(SEAL)

Signature of Acknowledger

Serial Number: _____

My Commission Expires: _____