

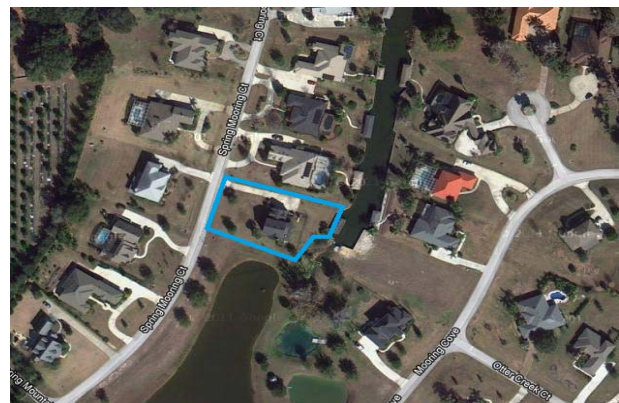
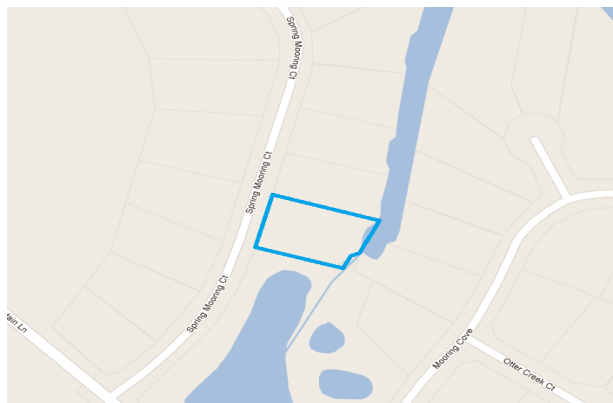


VARIANCE REQUEST
 Presented to the
BOARD OF ADJUSTMENT
 November 8, 2012

CASE NO.: BOA# 27-12-3	AGENDA ITEM #: 2
OWNERS: Ferrell and Kimmy Young, Jr.	APPLICANT: James Watts

REQUESTED ACTION: The owners are requesting a variance from **Lake County Land Development Regulations, Section 6.02.02.A.2. Shoreline Protection** to allow a pool, deck and screen enclosure to be constructed less than 50 feet from the jurisdictional wetland line of a man-made canal (+/- 0.60 acre).

GENERAL LOCATION: Yalaha area – State Road 48 right on Gator Point Drive, right on Spring Mountain Lane, right on Cypress Glen Drive to site on right, AK# 3775508 (Sec. 17, Twp. 20, Rng. 25).



FUTURE LAND USE DESIGNATION: Urban Low

EXISTING ZONING: R-1 (Rural Residential)

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Urban Low Density (4 du / net ac)	R-1 (1 du / acre)	single-family dwelling unit
South	Urban Low Density (4 du / net ac)	R-1 (1 du / acre)	retention pond
East	Urban Low Density (4 du / net ac)	R-1 (1 du / acre)	single-family dwelling unit / vacant
West	Urban Low Density (4 du / net ac)	R-1 (1 du / acre)	single-family dwelling unit
Posted:	October 18, 2012 at Cypress Glen Court and Spring Mountain Lane, Yalaha		

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 a pool, deck and screen room to be constructed closer than 50 feet from the jurisdictional wetland line of a man-made canal. The Code (6.02.02.A.2) requires additions to be located at least 50 feet from the jurisdictional wetland line, ordinary high water line or mean high water line.

The subject parcel is lot 52, Lakes and Springs subdivision, which was platted in 1997. The lot is 129 feet wide and 170 feet deep; the east side of the lot fronts on a man-made canal, which accesses Lake Harris. There is a metal seawall along the canal, which is the location of the jurisdictional wetland line. The seawall does not follow the property line; it starts at the southeast corner of the lot and veers northeast to a point past the center of the lot and then veers northwest to the north property line. A copy of the proposed plot plan is attached showing the location of the home, jurisdictional wetland line and proposed additions (Exhibit #1).

The lot is zoned Rural Residential District (R-1); the required side setbacks are ten feet from the property line. The rear portion of the lot is located within the 100-year flood zone, designated as "A". The additions will not encroach into the flood zone or the required side setbacks.

In the past, the Land Development Regulations (LDRs) allowed structures to be located 50 feet from the ordinary high water line, mean high water line, jurisdictional wetland line or as far landward as possible. In 1997, the LDRs were changed to require a setback of 50 feet from the ordinary high water line, mean high water line or jurisdictional wetland line. The Lake County Comprehensive Plan requires a 50-foot setback from natural waterways and wetlands, specifically excluding canals. This home is located on a man-made canal.

In order to minimize negative impacts on the man-made canal, staff recommended that calculations and a plan be submitted indicating how the owners will maintain the storm water runoff caused by the additions. The applicant submitted calculations and a plan, which shows that the first one-half inch of storm water runoff caused by the additions is approximately 17.5 cubic feet. The plan is to construct a rock filled trench,

which will be located east of the addition, as shown on the plot plan. The 50 foot long rectangular trench will be eight inches deep and eight inches wide. The storm water trench will retain 22.45 cubic feet of storm water runoff. The plan was reviewed by staff and found to be sufficient.

The **intent** of the Code (6.02.02.A.2) is to protect the wetland area from erosion, sedimentation, water pollution and other negative impacts that may be associated with land use activities.

The applicant submitted the following reasons as proof of meeting the **intent of the Code**: *"We will compensate for the drainage encroachment by adding a 50' long 8" wide 8" deep drainage trench filled with drain field rock. Area encroachment is 421.25 SF x 0.041667=17.5 CF needed to repair impervious ratio. Trench is 22.45 SF."*

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**: *"No substantial access to pool area from any other location from inside house."*

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

1. This request is consistent with the intent of LDR 6.02.02.A.2, which attempts to protect wetlands and waterways from erosion, sedimentation and water pollution.
2. There is not sufficient area on the site to construct a conventional pool and deck design without encroaching into the wetland setback.
3. The configuration of the seawall, the required setbacks and the depth of the lot limit the land available to construct additions.

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 additions to be constructed 25 feet from the jurisdictional wetland line, **with the following conditions**:

1. The owners shall construct a storm water trench as indicated on Exhibit "1".
2. The storm water trench shall be inspected and approved prior to any final inspections by the Lake County Building Division

LAND DEVELOPMENT REGULATION:

6.02.02 Development Standards for Shorelines.

A. Setbacks

1. Principal Structures. Construction (unless vested under Chapter I) shall be located no closer than fifty (50) feet from the ordinary high water line, mean high water line, or jurisdictional wetland line. On vacant lots in "Existing Development" if fifty (50) feet

cannot be met (based on the dimensions of the lot), a setback based on an average shoreline and wetland setback may be approved.

2. **Accessory Structures, Additions, Paved Parking Areas, Pools, or Replacement Structures** Accessory Structures, Additions, Paved Parking, Pools, Areas or Replacement Structures except for water dependent structures such as docks, boat ramps and seawalls Shall be placed no closer than fifty (50) feet from the ordinary high water line, mean high water line, or jurisdictional wetland line, or no closer than the setback established by the existing principal structure.
 3. **Septic Tanks.** The County Shall require a one hundred-foot setback, or a setback as far landward as possible based on the depth of the Lot, from the ordinary high water line of Lakes and wetlands for the installation of septic tanks and drainfields in addition to the requirements of Chapter 10D-6, F.A.C.
- B. **Average Shoreline and Wetland Setbacks.** Existing principal structures may be used to establish an average shoreline and wetland setback in areas where Existing Structures do not conform to shoreline and wetland setbacks established elsewhere in this Section. Once established by the County Manager or designee, the average shoreline and wetland setback Shall be used as the minimum shoreline and wetland setback on the side of the wetland or water body from which Existing Structures were used to establish the average setback. The applicant Shall provide information concerning Existing Structures, within a relevant distance from a proposed Structure, as required by the County Manager or designee, and reviewed for an appropriate fee.
 - C. **Clearing Limitations of the Shoreline.** Clearing of shoreline vegetation for creation of a beach or any other purpose is prohibited without a permit from the Florida Department of Environmental Protection. A tree removal permit from Lake County will also be required if ANY wetland trees are to be removed.
 - D. **Prohibition of waste disposal.** Disposal of any wastes, including yard waste, is prohibited within wetlands, water bodies, and Upland Buffer zones.
 - E. **Upland Buffer Zones.** Upland Buffer zones Shall be established in conformance with the non-isolated wetland standards set out in Section 6.01.05 for vegetation occurring within the 100 year Floodplain in aquatic systems.

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# 27-12-3
Photo Evidence



Views of the site



Views of the postings

**Final Development Order
Ferrell and Kimmey Young, Jr.
BOA # 27-12-3**

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

WHEREAS, Ferrell and Kimmey Young Jr. (the "Owners") made a request to allow a pool, deck and screen enclosure to be less than 50 feet from the jurisdictional wetland line of a man-made canal; and

WHEREAS, the subject property consists of 0.60 acre +/- and is generally located west of Yalaha in Section 17, Township 20 South, Range 25 East, being composed of Alternate Key Number 3775508 and is more particularly described as:

LAKES & SPRINGS SUB LOT 52 PB 38 PGS 49-53

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# 27-12-3 to allow a pool, deck and screen enclosure to be located 25 feet from the jurisdictional wetland line of a man-made canal, with the following conditions:

1. The owners shall construct a storm water trench as indicated on Exhibit "1".
2. The storm water trench shall be inspected and approved prior to any final inspections by the Lake County Building 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 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: _____