

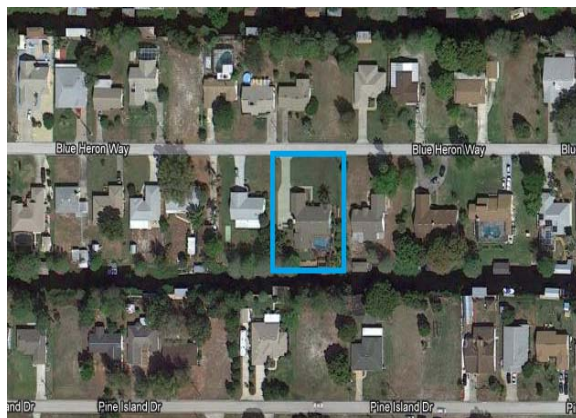
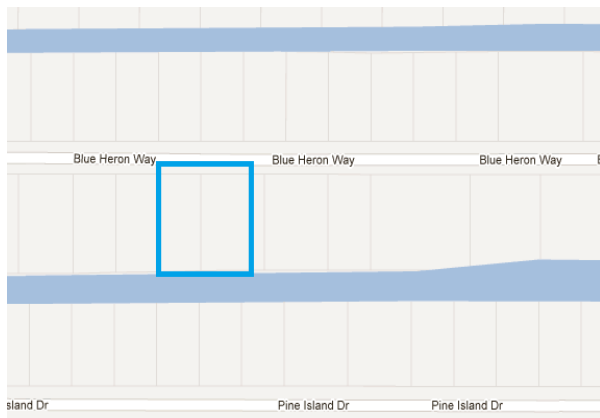


VARIANCE REQUEST
Presented to the
BOARD OF ADJUSTMENT
January 10, 2013

CASE NO.: BOA# 1-13-4	AGENDA ITEM #: 1
OWNERS & APPLICANTS: Paul and Cindy Hughes	

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 storage shed to be permitted closer than 50 feet from the jurisdictional wetlands line (+/- 0.4 acres).

GENERAL LOCATION: Leesburg area – US Hwy 441 N, N on CR 473, E on CR 44, S on Harbor Shores Road, E on Blue Heron Way to site on right, #12430, AK# 2791993 (Sec. 06, Twp. 19, Rng. 26).



FUTURE LAND USE DESIGNATION: Urban Low Density

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 Density (4 du / net acre)	R-6 (Urban Residential District) (6 du / acre)	single-family dwelling unit
South	canal	canal	canal
East	Urban Low Density (4 du / net acre))	R-6 (Urban Residential District) (6 du / acre)	single-family dwelling unit
West	Urban Low Density (4 du / net acre)	R-6 (Urban Residential District) (6 du / acre)	single-family dwelling unit
Posted:	December 21, 2012 at Blue Heron Way and Harbor Shores 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 a shed to be permitted 10 feet from the jurisdictional wetland line. The Code (6.02.02.A2) states that building structures and accessories shall be located 50 feet from jurisdictional wetland lines.

The parcel is located in Harbor Shores, a residential subdivision in the area referred to as Grand Island. This subdivision was designed with lake access canals in the rear of the homes. The home was constructed in 1989 and the current owners purchased the home in 1996. In 1998, the owners received a variance to the wetland setback requirement to construct a pool, deck and screen room in the rear of the home. The owners recently constructed a 10' x 12' shed for additional storage. A copy of the survey showing the location of all improvements is attached (Exhibit "A").

A tool shed that is 120 square feet in size or less, has no electric or plumbing and is constructed by the owners who live on the property on which it is located, is exempt from a building permit. The owners are required to obtain a zoning clearance to ensure the shed meets all applicable setbacks. The owners did not obtain the zoning clearance prior to construction and built the shed 10 feet from the seawall, which is recognized as the jurisdictional wetland line.

The parcel to the north, east and west are developed with single-family dwelling units; a canal is located south of the parcel. The parcel is approximately 120 feet wide by 140 feet deep and is serviced by a well and septic tank. Existing landscape islands and fruit trees are located on the parcel.

The intent of the Code (6.02.02) is to protect valuable natural resources requiring protection from erosion, sedimentation, water pollution and other negative impacts which may be associated with land use activities. It is the intent of this section to minimize such negative impacts through protection standards for development of adjacent lands.

The owners are proposing to capture the first one-half inch of storm water that runs off of the shed roof during a storm event. The first one-half inch of storm water will be captured in gutters and routed to a

storm water retention area. The storm water retention area will be 6.7 cubic feet in size and will be filled with rock. This retention area will allow the storm water to filter through the soil prior to entering any wetlands systems.

The owners submitted the following reasons as proof of meeting the **intent of the Code**: *"We are creating a storm water retention area to capture any storm water run-off from the roof of our shed. We will comply with any other recommendations made by the zoning department. We will install a 10' x 1' x 8" rock filled trench with downspouts and gutters."*

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**: *"Our shed was constructed 1 year ago. Before construction began, we spoke with a zoning clerk regarding any possible stipulations for constructing a shed in our backyard. The clerk told us that no permit was required if the building was no larger than 10' x 12' and it had no electricity. The floor could be of any construction material and we were to follow any street and property line setbacks. There was no mention of the canal and because no permit was required, we were unaware that a variance would be required, especially since most of our neighbors have similar buildings approximately the same distance from the canal."*

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

1. This request is consistent with LDR 6.02.02, which attempts to protect wetlands and water bodies from negative impacts of development.
2. The storage capacity of the retention area will capture the first one-half inch of storm water and will filter the water prior to entry into the canal.

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 a 10' x 12' storage shed to be permitted 10 feet from the jurisdictional wetlands line with the following **conditions**:

- The owners shall construct a rock filled storm water retention area that is 10' long x 1' wide x 8" deep.
- Gutters and downspouts shall be used to direct roof runoff to the storm water retention area.
- The owners, and all subsequent owners, are required to maintain the storm water retention system.

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.

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 Wetland Line in the rear of the parcel.

FLOODPLAIN: Flood Zone "AE" in the rear of the parcel.

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# 1-13-4
Photo Evidence



Views of the site



Views of the postings

**Final Development Order
Paul and Cindy Hughes
BOA # 1-13-4**

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

WHEREAS, Paul and Cindy Hughes (the "Owners") made a request to allow a 10' x 12' storage shed to be permitted closer than 50 feet from the jurisdictional wetlands line; and

WHEREAS, the subject property consists of 0.4 acres +/- and is generally located east of Leesburg in Section 6, Township 19 South, Range 26 East, being composed of alternate key number 2791993 and is more particularly described as:

HARBOR SHORES UNIT 2, LOT 51, W 46 FT OF LOT 52 PB 17 PG 8

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 January 10, 2013; 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 January 10, 2013, 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# 1-13-4 to allow a 10' x 12' storage shed to be permitted 10 feet from the jurisdictional wetlands line with the following **conditions**:

- The owners shall construct a rock filled storm water retention area that is 10' long x 1' wide x 8" deep.
- Gutters and downspouts shall be used to direct roof runoff to the storm water retention area.
- The owners, and all subsequent owners, are required to maintain the storm water retention system

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 10th day of January, 2013.

EFFECTIVE January 10, 2013.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

Donald Schreiner, Chairman

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this January 10, 2013 by DONALD SCHREINER, who is personally known to me.
(SEAL)

Signature of Acknowledger

Serial Number: _____

My Commission Expires: _____