

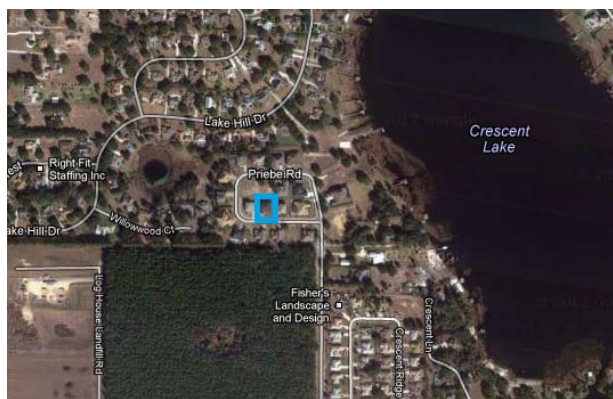
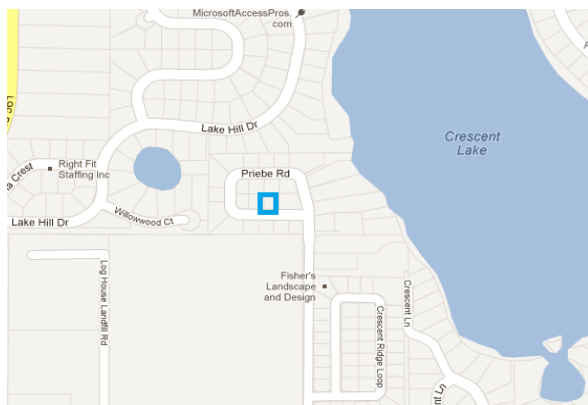


**VARIANCE REQUEST**  
 Presented to the  
**BOARD OF ADJUSTMENT**  
 January 13, 2013

<b>CASE NO.:</b> BOA# 4-13-1	<b>AGENDA ITEM #:</b> 2
<b>OWNERS:</b> Scott and Samantha Purrone	<b>APPLICANT:</b> Scott Purrone

**REQUESTED ACTION:** The owners are requesting a variance from **Lake County Land Development Regulations, Table 3.02.05 Setback Requirements** to allow a pool, deck and screen room to be located less than 10 feet from the property line (+/- 0.25 acre).

**GENERAL LOCATION:** Clermont area – US Hwy 27 S, W on SR 50, S on CR 561, E on Log House Road to Priebe Road to site on #10923 on left, AK# 3835498 (Sec. 11, Twp. 23, Rng. 25).



**FUTURE LAND USE DESIGNATION:** Urban Low Density

**EXISTING ZONING:** R-2 (Estate Residential)

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
<b>North</b>	Urban Low Density (4 du / net acre)	R-2 (Estate Residential) (2 du / acre)	single-family dwelling unit
<b>South</b>	Urban Low Density (4 du / net acre)	R-2 (Estate Residential) (2 du / acre)	single-family dwelling unit
<b>East</b>	Urban Low Density (4 du / net acre)	R-2 (Estate Residential) (2 du / acre)	single-family dwelling unit
<b>West</b>	Urban Low Density (4 du / net acre)	R-2 (Estate Residential) (2 du / acre)	single-family dwelling unit
<b>Posted:</b>	December 21, 2012 at Priebe Road and Log House Road, Clermont		

#### 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 located five feet from the rear property line. The Code (3.02.05) requires a rear setback of 10 feet from the property line for new development in the R-2 zoning district.

The parcel is located in Martin's Landing subdivision; the subdivision was platted in 2005. Martin's Landing is a gated community and approximately three-fourths of the lots are developed with single-family dwelling units. A single-loop road accesses all of the lots in the subdivision; the owners parcel is an interior lot and is surrounded by residential lots on three sides.

The owners recently purchased the parcel and are in the process of finishing the reconstruction of the existing home. In addition to finishing the interior the owners are proposing to construct a pool, deck and screen room on the parcel. The pool design, as submitted, will encroach into the rear setback by five feet. A survey showing the location of the proposed pool is attached (Exhibit 'A').

The parcels to the south, east and west are developed with single-family dwelling units; the parcel to the north is vacant. The elevation of the owners parcel falls approximately five feet from the rear of the home to the property line. This elevation change will require the addition of a retaining wall to retain the soil and newly constructed pool.

The **intent** of the Code (Table 3.02.05) is to promote a logical development pattern, provide for safe setbacks between structures and encourage a visually pleasing environment.

The applicant submitted the following reasons as proof of meeting the **intent of the Code**: *"The proposed variance would allow for a small encroachment into the rear yard setback for 50% of the overall lot width and provide 25' of unobstructed yard for the remaining 50% of the lot width. In other words, there will be an average of more unobstructed rear yard area than the pool improvement area. The 232 SF of encroachment into the rear yard setback is minimal and equals 23% of the rear yard setback area of 1,000 SF.*

*This encroachment will maintain a minimum of 5' from the rear property line only for the distance associated with the proposed pool area. The 5' minimum rear property setback is allowed in the Code for other residentially Zoning Properties and R-2 Zoned Nonconforming Lots. The remaining portions of the rear yard will meet the required 10' setback.*

*I would also like to add that this property was unfinished and vacant for over 4 years prior to Mr. & Mrs. Purrone's purchase. The Purrone's have decided to make this house their home and are making significant improvements to this property, further increasing surrounding home values and the overall community."*

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 current code requirement of a 10' rear yard setback does not provide adequate space for the proposed swimming pool (please see attached images). The design is a modest, effective, and efficient pool with a spa and fire pit. The pool will be 14'6" at its widest point with a walk path between the pool edge and back of deck along the rear property line. These dimensions provide minimal distances to allow for pedestrian circulation and maintenance around the pool. The combined distances would total 20'6" from the structure to the back of the pool deck. With current rear yard setback of 10', 15.79' of area remains to the structure and cannot accommodate the proposed pool improvements."*

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

1. This request is inconsistent with LDR Table 3.02.05, which attempts to promote standardized setbacks for specific zoning districts.
2. There is sufficient room to construct a pool, deck and screen room, without encroaching into the required building setbacks.

The owners have not shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. The owners have not submitted proof of meeting the intent of the Code. Based on the Findings of Fact and Analysis, Staff recommends **denial** of the variance request to allow a pool, deck and screen room to be located five (5) feet from the property line.

**LAND DEVELOPMENT REGULATION:**

**TABLE 3.02.05 - Setback Requirements<sup>1, 3, 4, & 5</sup>**

	Side and Rear	
Zoning District	New Development and Existing Development With Conforming Lots	Existing Development With Nonconforming Lots
A	25 SF 25 FB 25 AB	5 SF 25 FB 5 AB
RA	25 SF 25 FB 25 AB	5 SF 25 FB 5 AB

AR	25 SF 25 FB 25 AB	5 SF 25 FB 5 AB
R1	10 SF 25 FB 10 AB	5 SF 25 FB 5 AB
R2	10 SF 10 AB	5 SF 5 AB
R3	5 SF 5 AB	5 SF 5 AB
R4	5 SF 5 AB	5 SF 5 AB
R6	5 SF 5 AB	5 SF 5 AB
R7	5 SF 5 AB	5 SF 5 AB
R10	5 SF 5 AB	5 SF 5 AB
RP	See Note 2	See Note 2
RM	5 SF 5 AB	5 SF 5 AB

FB - Farm Building  
SF - Single family  
AB - Accessory Building

Note 1. All setbacks for structures Shall be measured from the exterior wall of the structure or structural component, excluding eaves or overhangs.

Note 2. The Building Line from any rear or side property line Shall be:

- (a) For any Building not exceeding two (2) stories, ten (10) feet.
- (b) For any Building exceeding two (2) stories in height, ten (10) feet plus fifteen (15) feet for each story in excess of two (2).

Note 3. A secondary front yard setback Shall be established for Corner Lots and Double Frontage Lots. The following setbacks Shall apply:

- (a) Ongoing Development - Lots less than seventy-five (75) feet in width Shall maintain a secondary front yard setback of fifteen (15) feet. For Lots of seventy-five (75) feet and greater, a secondary front yard setback Shall be established at twenty-five (25) feet.
- (b) New Development Shall maintain a secondary front yard setback of fifteen (15) feet.

Note 4. The applicable setbacks Shall apply to common private docks as set out in Subsection 10.04.01.

Note 5. See Subsection 3.01.04, Note 1, for the setback for a Livestock Building.

#### **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: N/A**

**FLOODPLAIN: N/A**

**JOINT PLANNING AGREEMENT: N/A**

**WEKIVA RIVER PROTECTION AREA: N/A**

**LAKE AOPKA BASIN: N/A**

**TRANSPORTATION IMPROVEMENTS: N/A**

**GREEN SWAMP AREA OF CRITICAL STATE CONCERN: N/A**

BOA# 4-13-1  
Photo Evidence



Views of the site



Views of the postings

**Final Development Order  
Scott and Samantha Purrone  
BOA # 4-13-1**

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

**WHEREAS**, Scott and Samantha Purrone (the "Owners") made a request to allow a pool, deck and screen room to be located less than 10 feet from the property line; and

**WHEREAS**, the subject property consists of 0.25 acres +/- and is generally located south of Clermont in Section 11, Township 23 South, Range 25 East, being composed of alternate key number 3835498 and is more particularly described as:

MARTIN'S LANDING SUB LOT 19 PB 53 PG 65-66

**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# 4-13-1 to allow a pool, deck and screen room to be located five (5) feet from the property line with the following **condition**:
- A single row of shrubs shall be planted between the pool and the rear property line.
- 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 10<sup>th</sup> 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: \_\_\_\_\_