

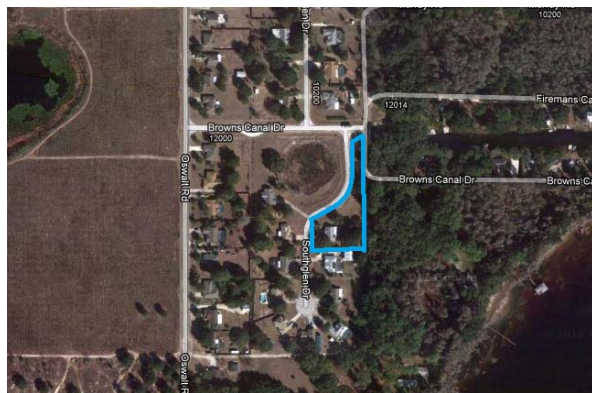
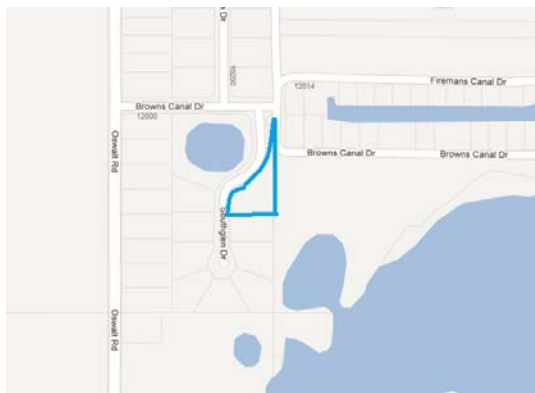


VARIANCE REQUEST
 Presented to the
BOARD OF ADJUSTMENT
 March 14, 2013

CASE NO.: BOA# 10-13-2 **AGENDA ITEM #:** 3
OWNER & APPLICANT: Ramon H. Rodriguez

REQUESTED ACTION: The owner is requesting a variance from **Lake County Land Development Regulations, Section 10.01.01.E Accessory Uses and Structures** to allow a detached garage that will exceed 80% of the enclosed living area of the permitted principal structure (+/- 0.72 acres).

GENERAL LOCATION: Clermont area – US Hwy 27 S, W on Hammock Ridge Rd., S on Lakeshore Dr., E on Oswalt Rd., E on Browns Canal Rd., S on Southglen Dr. to site on left, #10026, AK# 3492986 (Sec. 12, Twp. 23, Rng. 25).



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	Urban Low Density (4 du / net acre)	R-6 (Urban Residential District) (6 du / acre)	Single-family dwelling unit
East	Green Swamp Rural (1 du / 5 acres)	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:	February 15, 2013 at Southglen Drive and Browns Canal Drive, 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 owner is requesting a variance to allow the construction of a detached garage that is larger than 80% of the permitted principal structure. The Code (10.01.01.E General Standards and Requirements) limits the size of accessory structures to not exceed 80% of the main floor area of the existing single-family dwelling unit.

The parcel is located in Silver Glen Three, a ten lot residential subdivision that was platted in 1993. All of the lots in the subdivision are developed with conventional single-family dwelling units. The owner's parcel is developed with a single-family dwelling unit, pool and a detached shed. A copy of the survey showing the location of all improvements is attached (Exhibit "A").

The owner is proposing to locate a 1,800 square foot detached garage to the rear of his home. The building would meet all setback requirements and would be located in the side/rear yard as required by the Code. The owner's parcel is irregular in shape with a large portion of parcel to the north of the home. The detached garage will be placed in the area to the north of the home in the side yard.

The parcels to the north, south, east and west are developed with single-family dwelling units. The parcel is zoned R-6 (Urban Residential District) and the Future Land Use is Urban Low Density. There is a portion of the parcel that is in the 100-year Flood Zone designated "A"; there are no jurisdictional wetlands on the parcel.

The **intent of the Code** (10.01.02) is to regulate the configuration of accessory structures in order to ensure that they are not harmful either aesthetically or physically to residents and surrounding areas. The owner's detached garage will exceed the maximum square footage allowed in the Code by 800 square feet; this is a 173% increase over the maximum amount allowed. This overage will negatively affect the aesthetics of the parcel and surrounding area.

The owner submitted the following reasons as proof of meeting the **intent of the Code**: *“Not enough room in existing garage for lawn equipment, tools and family car.”*

The owner submitted the following as proof that the application of the Land Development Regulation would create a **substantial hardship or would violate principles of fairness**: *“Structure is not encroaching on the view of any neighbors. All setback, drainage easements and wetland requirements will be met in area where building is to be erected.”*

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

1. This request is inconsistent with LDR 10.01.02, which attempts to protect surrounding parcels from negative visual impacts.
2. There is no effective way to screen the new building from all vehicles entering the neighborhood.

The owner has not shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. The owner has 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 detached garage that is 1,800 square feet in size (173% larger than the Code allows).

LAND DEVELOPMENT REGULATION:

10.01.01 General Standards and Requirements. Accessory Structures within residential and agricultural zoning districts may be allowed on a Lot, provided that the following requirements are met:

A. There shall be a Permitted Principal Structure on the Lot that is in full compliance with all standards and requirements of these Regulations.

B. A structure for agricultural purposes (General and Non-Intensive), on conforming Lots in Agriculture (A), Ranchette (RA) and Agricultural Residential (AR) Zoning Districts shall be considered the Principal Structure.

C. All Accessory Structures shall comply with applicable standards and Codes, unless exempted or superseded elsewhere in these Regulations.

D. Accessory Structures shall not be located in a required Buffer area, Landscape Buffer Strips, or minimum Building Setback area.

E. Accessory Structure square footage shall not exceed 80% of the main floor square footage of the enclosed living area of the Permitted Principal Structure, excluding features such as garages, patios, and porches. If there is more than one Accessory Structure, the combined square footage shall apply.

F. Accessory Structures shall not exceed the height of the Principal Structure or 25 feet, whichever is greater.

G. Conforming Lots within the Agriculture (A), Ranchette (R) and Agricultural Residential (AR) Zoning Districts that are two (2) acres in size or larger shall be exempt from Sections E. and F. above.

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: Portions of the parcel lie in the 100-year flood zone designated '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# 10-13-2
Photo Evidence



Views of the site



Views of the postings

Final Development Order
Ramon Rodriguez
BOA # 10-13-2

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

WHEREAS, Ramon Rodriguez (the "Owner") requested a variance to allow a detached garage that will exceed 80% of the enclosed living area of the permitted principal structure; and

WHEREAS, the subject property consists of 0.72 acres +/- and is generally located south of Clermont in Section 12, Township 23 South, Range 25 East, being composed of alternate key number 3492986 and is more particularly described as:

SILVER GLEN THREE SUB LOT 10 PB 33 PG 99

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 March 14, 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 March 14, 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# 10-13-2 to allow a 1,800 square foot detached garage with the following **condition**:

- There shall be a Type "B" landscape buffer planted between the road right-of-way and the detached garage. A Type "B" landscape buffer consists of the following plants: three (3) canopy trees, two (2) ornamental trees and one (1) single row of shrubs.

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 March, 2013.

EFFECTIVE March 14, 2013.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

Donald Schreiner, Chairman

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this March 14, 2013 by DONALD SCHREINER, who is personally known to me.
(SEAL)

Signature of Acknowledger

Serial Number: _____

My Commission Expires: _____