

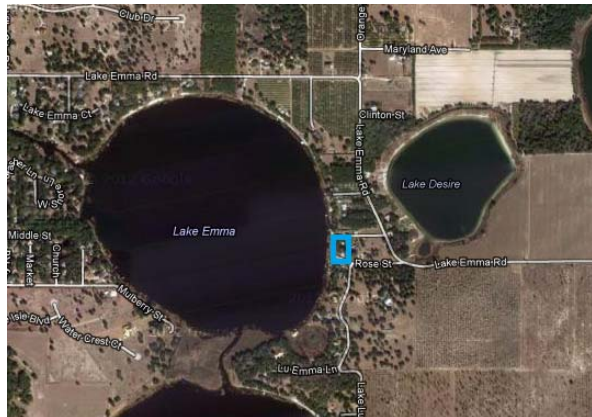
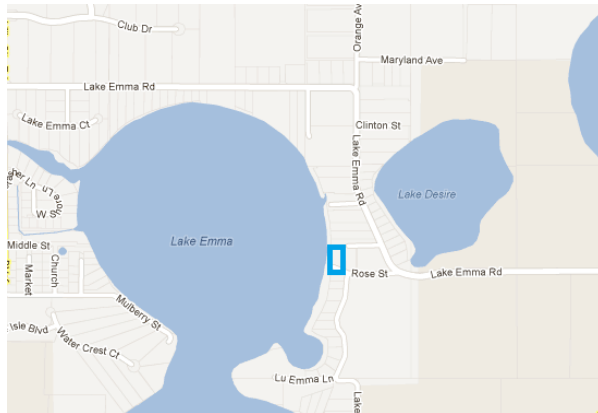


VARIANCE REQUEST
 Presented to the
BOARD OF ADJUSTMENT
 March 14, 2013

CASE NO.: BOA# 8-13-1 **AGENDA ITEM #:** 1
OWNERS & APPLICANTS: Ronald and Audrey Drummonds

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 or 40% of the air conditioned enclosed living area of the permitted principal structure (+/- 1.32 acres).

GENERAL LOCATION: Groveland area – US Hwy 19 S, W on Villa City Rd, W on Rose St to site at end, #18235, AK# 1382441 (Sec. 31, Twp. 21, Rng. 25).



FUTURE LAND USE DESIGNATION: Rural Transition

EXISTING ZONING: A (Agriculture)

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Rural Transition (1 du / 10 acres)	Agriculture (1 du / 5 acres)	Single-family dwelling unit
South	Rural Transition (1 du / 10 acres)	R-3 (Medium Residential District) (3 du / acre)	Single-family dwelling unit
East	Rural Transition (1 du / 10 acres)	Agriculture (1 du / 5 acres)	Single-family dwelling unit
West	Lake Emma	Lake Emma	Lake Emma
Posted:	February 15, 2013 at Rose Street and Lake Emma Road, Groveland		

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 parcel is located on the western shore of Lake Emma and is developed with a single-family dwelling unit, tennis court and pool. The owners purchased the parcel in 2004 with the intent of retiring to this property. Their original intent was to build a larger residence for their use and retain the existing home for use by a family member. A copy of the survey is attached, which details the location of all existing and proposed structures (Exhibit 'A').

The owners are proposing the removal of the tennis court followed by the construction of a 3,000 square foot principal dwelling unit. The existing 2,009 square foot home will then be designated as the accessory dwelling unit. The accessory dwelling unit will be used to house the owner's elderly widowed mother.

The owner's parcel is zoned A (Agriculture) and is approximately 1.32 acres in size. An accessory dwelling unit is permitted in this zoning district on a parcel that is one acre in size or larger. 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, south and east are all developed with single-family dwelling units. Lake Emma borders the parcel to the west. The proposed accessory dwelling unit will not be visible from the street when the principal dwelling unit is constructed.

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. An accessory dwelling unit is permitted on this parcel and would meet all applicable setbacks. The accessory dwelling unit would be shielded from the public, which will reduce any negative visual impacts. Requiring the owners to remove approximately 800 square feet from an existing residence will create an undue hardship.

The owners submitted the following reasons as proof of meeting the **intent of the Code**:

"Because we have owned the land for over seven years and purchased it with the thought of retiring there, we had to work with what is there and the smaller home will not meet our needs but will be perfect as a mother in law residence while we will also be improving the property with a new home and also helping a family member. It would be a travesty to tear down the existing home for no reason or try to chop it up to comply. We will comply with the setbacks and wetland jurisdiction when building the principal residence. These areas are denoted on the survey".

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**: *"The substantial hardship is that per code it states that the accessory dwelling may not exceed 40 per cent of the principal structure. It would cause a hardship for us to be required to build a 7,500 square foot principal residence in order to comply with the code. Once we build the new home, the existing dwelling is virtually not visible to the public, because our property is on a dead end street and heavily covered with oak trees. The neighbors wouldn't even see the old home. Bank will give us a loan on the existing residence to build the new principal residence, but won't loan on it if it is to be torn down. Plan to eventually move my 73 year old widowed mother into the home. We will not be financially able to build a 7,500 square foot to comply with the code requirement. This will be our retirement home and only 2 people will be leaving in it. 7,500 square foot is not feasible."*

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 accessory dwelling unit will not be 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 an accessory dwelling unit with 2,009 square feet of living area (the primary dwelling unit has 3,000 square feet of living area) to be located on the parcel as shown on Exhibit "A".

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: There are jurisdictional wetlands along the lakefront.

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# 8-13-1
Photo Evidence



Views of the site



Views of the postings

**Final Development Order
Ronald and Audrey Drummonds
BOA # 8-13-1**

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

WHEREAS, Ronald and Audrey Drummonds (the "Owners") made a request to allow an accessory dwelling that will exceed 1,200 square feet or 40% of the air conditioned enclosed living area of the permitted principal structure; and

WHEREAS, the subject property consists of 1.32 acres +/- and is generally located north of Groveland in Section 31, Township 21 South, Range 25 East, being composed of alternate key number 1382441 and is more particularly described as:

VILLA CITY BEG AT SW COR OF NW 1/4 OF SE 1/4 OF SEC 31-21-25
RUN E 520 FT, N 310 FT, W 520 FT, S TO POB, BEING PT OF BLK
155, BEG AT INTERSECTION OF W LINE OF ORANGE AVE & N LINE
OF ROSE ST, RUN W TO PT 520 FT E OF W LINE OF NW 1/4 OF SE
1/4, S 25 FT, E TO PT S OF POB, N TO POB PB 1 PG 31

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# 8-13-1 variance request to allow an accessory dwelling unit with 2,009 square feet of living area (the primary dwelling unit has 3,000 square feet of living area) to be located on the parcel as shown on Exhibit "A"

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: _____