

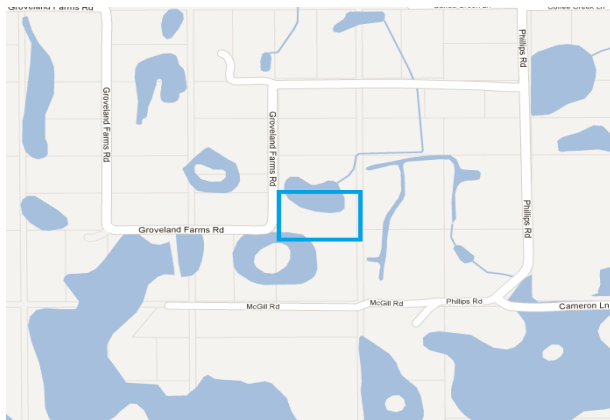


**VARIANCE REQUEST**  
 Presented to the  
**BOARD OF ADJUSTMENT**  
 March 14, 2013

**CASE NO.:** BOA# 9-13-1 **AGENDA ITEM #:** 2  
**OWNERS & APPLICANTS:** William and Cindy Roland

**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 (+/- 6.18 acres).

**GENERAL LOCATION:** Groveland area – US Hwy 19 S, E on SR 50, S on SR 33, E on Redwing Rd, S on Phillips Rd, W on Groveland Farms Rd to site on left, #7342, AK# 1524971 (Sec. 01, Twp. 22, Rng. 24).



**FUTURE LAND USE DESIGNATION:** Green Swamp Rural  
**EXISTING ZONING:** RA (Ranchette District)

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Green Swamp Rural (1 du / 5 acres)	RA ( Ranchette District) (1 du / 5 acres)	Vacant
South	Green Swamp Rural (1 du / 5 acres)	RA ( Ranchette District) (1 du / 5 acres)	Single-family dwelling unit
East	Green Swamp Rural (1 du / 5 acres)	RA ( Ranchette District) (1 du / 5 acres)	Vacant
West	Green Swamp Rural (1 du / 5 acres)	RA ( Ranchette District) (1 du / 5 acres)	Vacant
<b>Posted:</b>	February 15, 2013 at Groveland Farms Road and Phillips 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 in a rural area of Lake County, south of Groveland. The owners purchased the parcel in 2010; the parcel is the owner's homestead and is developed with a single-family dwelling unit and a detached garage. A copy of a survey is attached, which details the location of the existing principal home, garage and proposed accessory dwelling unit (Exhibit 'A').

The owners are proposing to install the accessory dwelling unit to the rear of the principal structure. This accessory dwelling unit will be used by the owners aging parents and disabled sister. If the variance is approved, it will allow the owners to purchase a double-wide mobile home with a floor plan that will be more convenient for the occupants. The proposed accessory dwelling unit will exceed the maximum square footage allowed by 256 square feet.

The parcel is zoned A (Agriculture) and is approximately 6.18 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 portions 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 portions of the parcel. The accessory dwelling unit will meet all of the applicable setbacks.

The parcels to the north, east and west are all vacant. There is a single-family dwelling unit on the parcel to the south. The owners parcel is treed and landscaped with all of the structures on the parcel more than 400 feet from the right-of-way.

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. The structure will be occupied by the owner's aging parents and disabled sister. Visibility of the accessory dwelling unit will be limited due to the existing vegetation and approximate 500-foot setback from the road. This vegetation and distant setback will mitigate any negative visual impact to the community.

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

*"The subject neighborhood is in a very rural part of Lake County where it is a mixture of doublewide mobile homes and site built single family residences. The ratio is approximately 50:50. When viewing our property from the road, When viewing our from the road, you see our main residence which is set back over 400 feet from the road, a large pond and field on the left of the driveway, and a small pond running along the driveway on the right. We propose to place the accessory residence in an area behind our main residence and 50 feet from the jurisdictional wetland line, as required in the LDR. A copy of our site plan with the proposed placement of the mobile home is attached. Our plan is to use landscaping to not only aesthetically enhance the look of the accessory residence but to also partially obscure it from street view. That, along with the angled placement of the mobile home, will make a very limited visual impact."*

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**: *"This accessory residence will be used to house my aging parents and my brain damaged sister ( who cannot live on her own) during the winters. My father is beginning to lose his mobility and a walker/wheelchair is probable for him in the near future. We find that a 1200 square foot doublewide does not provide sufficient room for comfortable maneuverability of either a walker or a wheelchair. The extra square footage will help in their mobility and comfort as they age."*

**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 be to the rear of the principal structure, with limited visibility from the public right-of-way.

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 1,456 square feet of living area (the primary dwelling unit has 1,920 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:** 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:** Yes

BOA# 9-13-1  
Photo Evidence



Views of the site



Views of the postings

**Final Development Order  
William and Cindy Roland  
BOA # 9-13-1**

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

**WHEREAS**, William and Cindy Roland (the "Owner") 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 6.18 acres +/- and is generally located south of Groveland in Section 5, Township 23 South, Range 25 East, being composed of alternate key number 1524971 and is more particularly described as:

GROVELAND FARMS 5-23-25 SOUTH 1/2 OF TRACT 20--LESS WEST 25  
FEET FOR ROAD R/W-, N 90 FEET OF TRACT 29 PB 2 PGS 10-11

**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 owner 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# 9-13-1 to allow a an accessory dwelling unit with 1,456 square feet of living area (the primary dwelling unit is 1,920 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 14<sup>th</sup> 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: \_\_\_\_\_