

LAKE COUNTY PLANNING AND ZONING ANALYSIS VARIANCE REQUEST

Board of Adjustment



December 10, 2015

VAR-15-17-1	Case Manager: Christine Rice, Planner	Agenda Item # 2
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REQUESTED ACTION: Variance from the **Lake County Land Development Regulations**, Section 10.01.03(B)(4), to allow an accessory dwelling unit to contain 1,400 square feet of living area rather than 1,200 square feet or forty (40) percent of the air conditioned, enclosed living area of the principal dwelling to remain on the property.

- Site Location and Information -

Subject property shown in red.



Property Posted: December 2, 2015

Owners	Jeffrey Sherron, Brian C. Sherron, and Andrea Sherron
Applicant	Jeffrey Sherron
Address of Property	22563 West Loop Road Groveland, Florida 34736
General Location	Adjacent to Loop Road, west of Forest Lane in the Leesburg area
Size	9.98 acres
Alternate Key	1775469
Future Land Use (FLU)	Rural
Zoning District	Agriculture
Overlay Districts	N/A
ISBA	Leesburg
Flood Zone / FIRM Panel	A/0470E
Commissioner's District	District 1, Sullivan

-Land Use Table-

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Rural	Agriculture	Single Family Residence
South	Rural	Agriculture	Single Family Residence
East	Rural	Agriculture	Single Family Residence
West	Rural	Agriculture	Single Family Residence

-ANALYSIS-

The subject property is 9.98 acres in size and is located adjacent to Loop Road and west of Forest Lane in the Leesburg area. The property is zoned Agriculture and is part of the Rural Future Land Use Category. Lake County Geographic Information Services (GIS) wetland map indicates that there are no wetlands on this property. According to the 2012 Federal Emergency Management Agency (FEMA) maps, portions of the lot lie within the 100-year flood zone (Floodzone A). The property is currently developed with two residential structures. The smaller residence contains 1,400 square feet of living area and the larger residence contains 2,560 square feet of living area. An accessory dwelling unit is permitted on this property because the lot is legally created and is greater than one acre in size, there is only one principal dwelling unit and accessory dwelling unit on the property, and accessory dwelling units are permitted within the Agriculture zoning district.

On February 9th, 2015, the applicant was issued a code violation for constructing a second residence on the property without obtaining appropriate permits. In May 2015, the Planning and Zoning Department approved an after the fact zoning permit for the second residence which stated that the structure would be an accessory dwelling unit and would not exceed 1,200 square feet of living area. However, the building plans submitted to the Building Division for that structure showed that it had 2,560 square feet of living area. That amount of living area exceeds the maximum amount of living area allowed for an accessory dwelling unit. Due to the second residence containing much more living area than is permitted for an accessory dwelling unit the applicant has agreed to identify that structure as the primary residence on the property. The former primary residence, which has 1,400 square feet of living area, will now be identified as the accessory dwelling unit on the property and will require a variance because the square feet of living area exceeds the maximum allowed per LDRs.

The applicant is seeking the variance because the current accessory dwelling unit, former primary residence, has 1,400 square feet of living area and LDRs state that accessory dwelling units may not have more than 1,200 square feet of living area. The requested variance is from LDR Section 10.01.03(B)(4) which states that an accessory dwelling unit may not exceed one thousand two hundred (1,200) square feet or forty (40) percent of the air conditioned, enclosed living area of the principal dwelling (excludes garages, patios, porches and the like), whichever is greater in order to allow for an existing accessory dwelling unit that contains 1,400 square feet of living area to remain on the property.

The **intent of the Code**, LDR Section 10.01.03(A), is to provide for less expensive housing units to accommodate growth, provide housing for relatives and to provide for security.

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

The existing metal building was built-out as living quarters on the property so I can be close to my family and to keep my cost down for affordable living environment.

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**:

My hardship is that I do not have a full time job, and due to my medical condition cannot hold a full time position at any length of time. I have been unemployed for three and half years without income. At the time of the build-out of the interior I was unaware and the lack of knowledge to the zoning requirements of a second dwelling.

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

1. This request is consistent with the purpose of LDR 10.01.03(A), *Accessory Structures as Dwellings*, which attempts to provide for less expensive housing units to accommodate growth, provide housing for relatives and to provide for security.
2. This request is consistent with the remaining standards for accessory dwelling units found in LDR 10.01.03(B).

The owners and applicant have submitted proof of meeting the intent of the Code and have shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. Based on the Findings of Fact and Analysis stated above, Staff recommends **approval** of the variance request to allow an existing accessory dwelling unit that contains 1,400 square feet of living area rather than 1,200 square feet or forty (40) percent of the air conditioned, enclosed living area of the principal dwelling to remain on the property.

GOODEN PL

**SUBJECT
PROPERTY**

LOOP RD

FOREST LN

LEESBURG



Final Development Order
Jeffrey Sherron, Brian C. Sherron, and Andrea Sherron
VAR-15-17-1

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

WHEREAS, Jeffrey Sherron, Brian C. Sherron, and Andrea Sherron, (the "Owner"), and Jeffrey Sherron (the "Applicant") requested a variance to Land Development Regulation (LDR) Section 10.01.03(B)(4) to allow an existing accessory dwelling unit that contains 1,400 square feet of living area rather than 1,200 square feet or forty (40) percent of the air conditioned, enclosed living area of the principal dwelling; and

WHEREAS, the subject property consists of 9.98+/- acres and is located adjacent to Loop Road and west of Forest Land in the Leesburg area, in Section 4, Township 21 South, Range 24 East, Alternate Key Number 1775469 and is more particularly described and depicted in Exhibit A; and

WHEREAS, 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 December 10, 2015; 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 December 10, 2015, 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 VAR-15-17-1 which will allow for an existing accessory dwelling unit that contains 1,400 square feet of living area in lieu of 1,200 square feet or forty (40) percent of the air conditioned, enclosed living area of the principal dwelling.

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 December, 2015.

EFFECTIVE December 10th, 2015.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

Donald Schreiner, Chairman

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this December 10, 2015 by DONALD SCHREINER, who is personally known to me.

(SEAL)

Signature of Acknowledger

Exhibit A.

Northeast 1/4 of Southwest 1/4 of Southwest 1/4 --less 1/2 mineral rights--

