

LAKE COUNTY PLANNING AND ZONING DIVISION
VARIANCE STAFF REPORT



Board of Adjustment

June 16, 2016

LAKE COUNTY
FLORIDA

VAR-16-19-5 Robert Henns	District 5	Agenda Item # 5
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Requested Action: A variance to Land Development Regulation (LDR) Section 10.01.01(E) to allow the height of a wind turbine (accessory structure) to be 75 feet in lieu of the required twenty-five (25) feet.

Owner and Applicant: Robert Henns

- Site Location & Information -

Size	2.01 +/- acres
Property Address	37828 North County Road 44A, Eustis
Location	Directly east of North County Road 44A, in the Eustis area
Alternate Key No.	1309166
Future Land Use	Rural Transition
Zoning District	R-1 (Rural Residential)
Overlay Districts	NA
Joint Planning Area/ISBA Area	Umatilla Joint Planning Area

-Land Use Table-

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
North	Rural Transition	R-1	Residence	Single Family Residence
South	Rural Transition	R-1	Residence	Single Family Residence
East	Rural Transition	R-1	Lake Dalhousie	Lake
West	Rural Transition	R-1	Vacant	Vacant

- Summary of Staff Determination -

STAFF RECOMMENDATION: Staff recommends **APPROVAL** of the variance to Land Development Regulation (LDR) Section 10.01.01(E) to allow the height of a wind turbine (accessory structure) to be 75 feet in lieu of the required twenty-five (25) feet.

-Staff Analysis-

The subject property is 2.01 +/- acres and is located on the east side of N CR 44A in the Eustis area. The Lake County Geographic Information Services (GIS) wetland map indicate that there are no wetlands on the property. According to the 2012 Federal Emergency Management Agency (FEMA) maps, the southern portion of the lot lies within the 100-year flood zone (Flood zone A). The property is zoned R-1 (Rural Residential) and is part of the Rural Transition Future Land Use Category. The property is located within the Umatilla Joint Planning Area (JPA). The property is currently developed with a single-family dwelling unit.

The applicant is requesting a variance to allow an accessory structure to be 75 feet in height in lieu of 25 feet. The proposed accessory structure is a wind turbine which would provide the applicant with an alternative energy source. The Lake County Comprehensive Plan, specifically Policy III-4.2.3 *Alternative Energy Sources*, promotes and encourages the development of power generating facilities that use energy efficient technologies, use diverse fuel sources, and take advantage of clean energy resources.

The Lake County Land Development Regulations do not outright regulate wind turbines or other alternative energy sources. Through the interpretation of the County Attorney and the Planning Manager, wind turbines are thereby defined and classified as an accessory structure. Per Land Development Regulation 10.01.01 *General Requirements for Accessory Structures*, the height of accessory structures are limited to 25 feet in height.

The **intent of the Code**, LDR Section 10.01.01 is to allow and regulate the installation, configuration, and the use of accessory and temporary structures and uses in order to preserve the community and property values and to protect community character. Boat docks have been identified as one of the allowed uses and align with the regulations for accessory structures.

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The applicants submitted the following reasons as proof of **meeting the intent of the Code** and proof that the application of the Land Development Regulation would create a **substantial hardship or would violate principles of fairness**

“The turbine is not effective unless exposed to steady clean win. Manufacturer recommends a minimum height of 100 feet and 40 feet above the nearest obstruction within a 330 foot radius. Pine trees are located all over the property and are over 80 feet and 100 feet tall which would not allow the turbine to function if it was 25 feet tall. Additionally the height restriction imposed would cause the blades to strike someone standing or approaching the base of the structure”

“The Lake County Comprehensive Plan strongly encourages alternative energy sources and names wind turbines specifically. The intent of the regulation has been met by allowing the turbine placement within the confined restrictions imposed to achieve functionality of the device while maintaining no impact to surrounding properties.”

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

1. This request is consistent with the intent of LDR 10.00.00
2. The request is consistent and fully supported by the Lake County Comprehensive Plan Policy III-4.2.4 *Alternative Energy Sources*, which states the County shall encourage the development of power generating facilities that use energy efficient technologies, use diverse fuel sources, and take advantage of clean energy resources.

The owner 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 from Section 10.01.01(E) to allow the height of a wind turbine (accessory structure) to be 75 feet in lieu of the required twenty-five (25) feet with the following conditions:

1. Minimum of 25 foot ground clearance for moving parts (rotor/turbine blades);
2. The wind turbine tower shall be painted white or neutral color. Nacelles and blades shall be painted white or neutral color that is identical or similar with the color of the tower.
3. No illumination of the wind turbine shall be allowed unless required by the FAA or other governmental entities having jurisdiction. If lighting is required, the lighting shall comply will all applicable regulations; and

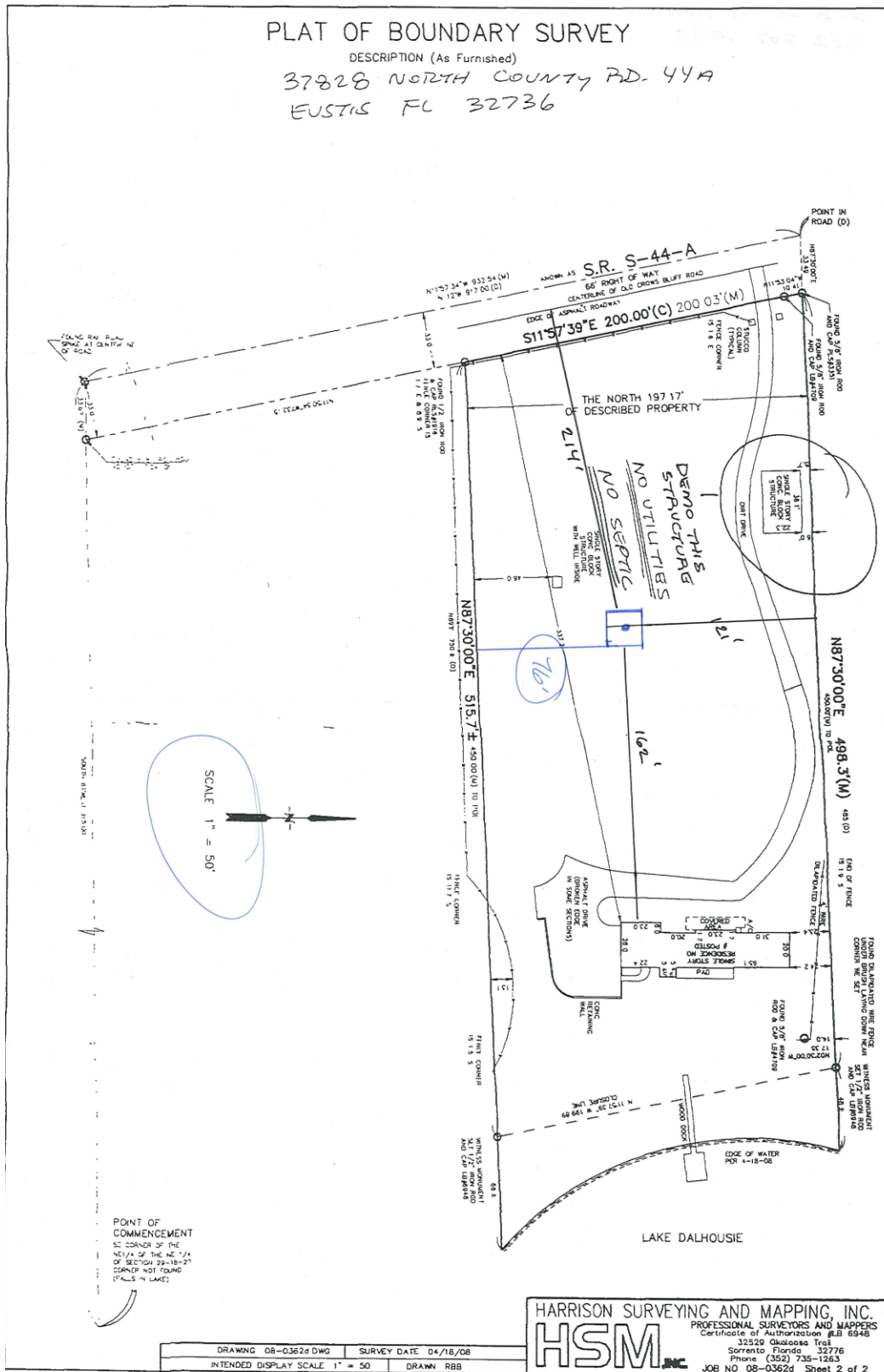
WRITTEN COMMENTS FILED:

Support: -0-

Questions: -0-

Opposition: -0-

Case Planner: Tim McClendon



Final Development Order
Robert Hennis
VAR-16-19-5

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

WHEREAS, Robert Hennis (the “Applicants” and the “Owners”) requested a variance to Land Development Regulation (LDR) Section 10.01.01(E) to allow the height of a wind turbine (accessory structure) to be 75 feet in lieu of the required twenty-five (25) feet; and

WHEREAS, the subject property consists of 2.01+/- acres and is located directly east of North County Road 44A in the Eustis area, in Section 29, Township 18 South, Range 27, Alternate Key Number 1309166 and is more particularly described below (hereinafter referred to as the “Property”):

N 197.17 FT OF THE FOLLOWING DESCRIBED PROPERTY: FROM SE COR OF NE 1/4 OF NE 1/4 RUN S 89-0-0 W ALONG S LINE OF NE 1/4 OF NE 1/4 A DIST OF 915 FT TO CENTERLINE OF OLD CROWS BLUFF RD, THENCE N 12-0-0 W ALONG SAID CENTERLINE OF RD A DIST OF 917 FT FOR POB, RUN N 87-30-0 E 485 FT TO THE LOW WATER MARK OF LAKE DALHOUSIE & PT A, RETURN TO POB, RUN S 12-0-0 E ALONG SAID CENTERLINE OF RD A DIST OF 705 FT, N 89-0-0 E 750 FT TO SAID LOW WATER MARK OF LAKE DALHOUSIE, THENCE NW'LY ALONG SAID WATERS OF LAKE DALHOUSIE TO PT A
ORB 3620 PG 719

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 June 16, 2016; 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 June 16, 2016, the Lake County Board of Adjustment approved the variance for the above property.

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. Recitals: The foregoing recitals are true and correct and incorporated herein by reference.

Section 2. Terms: The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-16-19-5 to allow the height of a wind turbine (accessory structure) to be 75 feet in lieu of the required twenty-five (25) feet with the following conditions:

1. Minimum of 25 foot ground clearance for moving parts (rotor/turbine blades);
2. The wind turbine tower shall be painted white or neutral color. Nacelles and blades shall be painted white or neutral color that is identical or similar with the color of the tower.
3. No illumination of the wind turbine shall be allowed unless required by the FAA or other governmental entities having jurisdiction. If lighting is required, the lighting shall comply will all applicable regulations; and

Section 3. 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 4. Effective Date. This Ordinance shall become effective as provided by law.

ENACTED this 16th day of June, 2016.

EFFECTIVE June 16, 2016.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Donald Schreiner, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this June 16, 2016 by DONALD SCHREINER, who is personally known to me.

(SEAL)

Signature of Acknowledger