

LAKE COUNTY PLANNING AND ZONING DIVISION
VARIANCE STAFF REPORT



Board of Adjustment

May 12, 2016

LAKE COUNTY
FLORIDA

<p>VAR-16-13-3 Mission Village at Mount Dora</p>	<p>District 3</p>	<p>Agenda Item # 2</p>
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Requested Action: A variance to Land Development Regulation (LDR) Section 10.01.04(A)(3) to allow the repair of a private boat dock on a lot that is not adjacent or contiguous to a developed residential lot.

Owner: Mission Village at Mount Dora HOA

Applicant: Jamie Harris

- Site Location & Information -

Size	0.05 +/- acres
Property Address	30844 Mission Avenue
Location	Directly south of the intersection of Lakeshore Drive and Mission Avenue, in the Tavares / Mount Dora area
Alternate Key No.	2809132
Future Land Use	Urban Low
Zoning District	R-2 (Estate Residential)
Overlay Districts	NA
Joint Planning Area/ISBA Area	Mount Dora 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	R-2	Vacant	Vacant
South	Lake Dora	Lake Dora		Lake Dora
East	Urban Low	R-1	Boat dock	Single Family Residences
West	Urban Low	R-3	Boat dock	Single Family Residences

- Summary of Staff Determination -

STAFF RECOMMENDATION: Staff recommends **APPROVAL** of the variance to Land Development Regulation (LDR) Section 10.01.04(A)(3) to allow the repair of a private boat dock on a lot that is not adjacent or contiguous to a developed residential lot.

-Staff Analysis-

The subject property is 0.05 +/- acres and is located directly south of the intersection of Lakeshore Drive and Mission Avenue in the Tavares / Mount Dora 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 AE). The property is zoned R-2 (Estate Residential) and is part of the Urban Low Future Land Use Category. The property is located within the Groveland ISBA. The property is currently developed with a nonconforming boat dock.

The subject property is part of the Mission Village at Mount Dora subdivision. The original plat for Mission Village identified the subject parcel as part of a larger tract dedicated to the Mission Village Home Owners Association (Tract "C", Exhibit A). That larger tract was illegally subdivided into several smaller tracts and associated/tied together with other nonadjacent lots within the Mission Village subdivision in order to create lake front properties. The lots along the shoreline that were created were never legally recorded on an amended Mission Village plat. Since this time, homeowners have built several boat docks on said lots. None of the lots created are large enough to accommodate any development other than boat docks.

The owner/applicant is applying for a variance to Land Development Regulation (LDR) Section 10.01.04(A)(3) to allow the repair of a private boat dock on a lot that is not adjacent or contiguous to a developed residential lot. The boat dock in question was not legally permitted by Lake County. Due to the extent of the repair, Section 1.08.02(B) *Repair or Reconstruction of Nonconforming Structures* does not apply.

The County Attorney's Office made a determination in 2013 that stated no further building permits for boat docks would be authorized by Lake County until a variance was applied for from Section 10.04.01(A)(3) to allow private boat docks on lots

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not adjacent or contiguous to a developed residential lot and a replat of the Mission Village at Mount Dora subdivision had been recorded to reflect the lots that were created through the non-recognized subdividing of Tract "C".

The **intent of the Code**, LDR Section 10.01.04 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.

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 original tract "C" lake frontage was split in 1980 by legal metes and bounds and has been split by the property appraisers office since 1989 of a common HOA Lake frontage with dock and 5 individual private lakefront lots with 3 have an existing dock. Tract "C" was no re-platted in zoning and we are in desperate need of zoning approval for a replacement dock to provide the members of the HOA with a safe, working dock."

"In the past, dock permits had bypassed the re-plat to convey the necessary zoning requirements in order to build a dock or repair an existing dock. We feel due to the property appraisers' office having proper documentation and the issuance of separate parcels for the properties, that we should be permitted to replace the original dock built in the late 80s without a re-plat of Tract "C".

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

1. This request is consistent with LDR Table 10.01.04, which allows private boat docks as an accessory structure/use. and
2. The Lake County Attorney's Office sent a memo (Exhibit B) clearly indicating that the property owners would be required to apply for a variance to allow for a private boat dock on non-adjacent land that does not have a residence on site as well as re-plat the Mission Village at Mount Dora subdivision to reflect the subdivision of Tract "C".

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 10.01.04(A)(3) to allow the repair of a private boat dock on a lot that is not adjacent or contiguous to a developed residential lot with the following condition.

1. Prior to the issuance of a zoning permit, the applicant must re-plat and amend Mission Village at Mount Dora (Plat Book 27, Page 14) Tract 'C' to reflect the lots that were created and sold through the metes & bounds process.

WRITTEN COMMENTS FILED:

Support: -0-

Questions: -0-

Opposition: -0-

Case Planner: Tim McClendon

Greiner, Anita

From: Marsh, Melanie
Sent: Thursday, January 31, 2013 4:12 PM
To: Greiner, Anita
Subject: FW: County Commissioner Campione - docks at Mission Village

From: Marsh, Melanie
Sent: Tuesday, January 29, 2013 4:07 PM
To: 'campionelaw@comcast.net'
Cc: Hanson, Jodine
Subject: RE: County Commissioner Campione - docks at Mission Village

Commissioner Campione:

The 1989 letter is only one portion of the opinion that a boat dock cannot be built on Tract C. Although platted as a single tract in April 1984, the developer at some point sold off portions of Tract C in metes & bounds to some of the lot owners in the Mission Village subdivision. A replat was never recorded showing the division of Tract C into individual lots. So for zoning purposes, the County only recognizes Tract C, which, at this point, includes 3 boat docks and a community dock. The issuance of the 3rd boat dock permit is what spurred the 1989 letter from then County Attorney Annette Lustgarten.

For purposes of Lot 7, it looks like a portion of Lot C was not included in the title until 1993 (OR 1270/2047), several years after the County Attorney opined that **no further permits would be issued until a replat was approved and recorded.**

The second part of the equation involves the current LDRs. Although the current LDR does not limit the number of boat docks that can be on a particular parcel, Section 10.04.01 only allows private boat docks to be constructed on land that is adjacent and contiguous to property that holds the main residential structure. Since Lot 7 is not adjacent and contiguous to the portion of Tract C that was transferred to the Lot 7 owner in 1993, a permit for a private boat dock cannot be issued without a variance.

If I can provide any further information, please let me know.

Sincerely,

Melanie Marsh
Deputy County Attorney
Lake County, Florida
Post Office Box 7800
Tavares, Florida 32778
Phone: (352) 343-9787
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Final Development Order
Mission Village at Mount Dora HOA
VAR-16-13-3

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

WHEREAS, Mission Village at Mount Dora HOA (the “Applicants” and the “Owners”) requested a variance to Land Development Regulation (LDR) Section 10.01.04(A)(3) to allow the repair of a private boat dock on a lot that is not adjacent or contiguous to a developed residential lot; and

WHEREAS, the subject property consists of 0.05+/- acres and is located directly south of the intersection of Mission Avenue and Lakeshore Drive in the Mount Dora/Tavares area, in Section 35, Township 19 South, Range 26 East, Alternate Key Number 2809132 and is more particularly described below (hereinafter referred to as the “Property”):

MISSION VILLAGE AT MOUNT DORA SUB THAT PART OF TRACT C DESC AS FOLLOWS:
BEG NE COR TRACT C, RUN SW'LY ALONG THE S'LY R/W OF SR C-452 A DIST OF 101
FT, SE'LY PARALLEL WITH E LINE OF 30 FT SR DRAINAGE EASEMENT TO WATERS OF
LAKE DORA, NE'LY ALONG & WITH WATERS OF LAKE DORA TO A POINT ON THE E
LINE OF SAID TRACT C, N 0DEG 43MIN E TO POB: PB 27 PG 14

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 May 12, 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 May 12, 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-16-13-3 to allow the repair of a private boat dock on a lot that is not adjacent or contiguous to a developed residential lot with the following condition:

- 1) Prior to the issuance of a zoning permit, the applicant must re-plat and amend Mission Village at Mount Dora (Plat Book 27, Page 14) Tract 'C' to reflect the lots that were created and sold through the metes & bounds process.

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 12th day of May, 2016.

EFFECTIVE May 12, 2016.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Donald Schreiner, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this May 12, 2016 by DONALD SCHREINER, who is personally known to me.

(SEAL)

Signature of Acknowledger