

LAKE COUNTY PLANNING AND ZONING DIVISION
VARIANCE STAFF REPORT



Board of Adjustment

September 8, 2016

LAKE COUNTY
FLORIDA

VAR-16-33-5 Advantage AC	District 5	Agenda Item #1
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Requested Action: A variance to Land Development Regulation (LDR) Section 10.01.01.A. and LDR Table 3.02.05, to allow an accessory structure on a lot without a residence to be located less than sixty-two (62) feet from the centerline of the road.

Owner: Advantage Air Conditions Refrigeration and Appliance, Inc., Robert Schmeltz as the registered agent (the "Owner")

Applicant: Derek A. Schroth (the "Applicant")

- Site Location & Information -

Size	5.32 +/- acres
Property Address	39040 Forest Drive, Eustis, Florida
Location	East of State Road 44 in the Wekiva River Protection Area
Alternate Key No.	2721057
Future Land Use	A-1-20 Sending Area
Zoning District	Agriculture (A)
Overlay Districts	Wekiva River Protection Area
Joint Planning Area/ISBA Area	Not Applicable

-Land Use Table-

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
North	A-1-20 Sending Area	Agriculture (A)	Residential	Single Family Residences on Large Lots
South	A-1-20 Sending Area	Agriculture (A)	Residential	Single Family Residences on Large Lots
East	A-1-20 Sending Area	Agriculture (A)	Residential	Single Family Residences on Large Lots
West	A-1-20 Sending Area	Agriculture (A)	Residential	Single Family Residences on Large Lots

- Summary of Staff Determination -

STAFF RECOMMENDATION: Staff recommends **APPROVAL** of the variance request to LDR Section 10.01.01.A. and LDR Table 3.02.05, to allow an accessory structure on a lot without a residence to be located less than sixty-two (62) feet from the centerline of the road.

-Staff Analysis-

The subject property is 5.32 +/- acres and East of State Road 44 in the Wekiva River Protection Area. The Lake County Geographic Information Services (GIS) wetland map indicates that there are wetlands on the eastern portion of the property. According to the 2012 Federal Emergency Management Agency (FEMA) maps, the eastern portion of the property lies within the 100-year flood zone. The property is zoned Agriculture (A) and is part of the A-1-20 Sending Area Future Land Use Category. The property was previously developed with a Single Family Residence and accessory structures but the residence was demolished in 2015 (Building Permit No. 2015030080).

In February the property owner received a code violation for building a metal building without permits. When applying for a Zoning Permit, it was discovered that the structure did not meet its setbacks and there was not a residence on the property.

The applicant is applying for a variance to Land Development Regulation (LDR) Sections 10.01.01.A. and LDR Table 3.02.05 in order to obtain zoning and building permits for the structures. LDR Section 10.01.01A states that accessory structures are only permitted on lots which have a dwelling unit. The house was demolished in 2015 and the owner does not wish to place a residence on the property at this time. LDR Table 3.02.05 requires structures within the Agriculture (A) zoning district to maintain a front setback of sixty-two (62) feet from the centerline of the road or twenty-five (25) feet from the right of way, whichever is greater. Forest Drive is a sixty-six (66) foot right of way, so any structure on the property would need to be a minimum of twenty-nine (29) feet from the property line. The structure is currently located 10.2' from the front property line.

The Florida Department of Transportation has guidelines concerning clear zones on roadways. A clear zone, as defined in The Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (aka the Florida Green Book), is the area outside of the traveled road available for use by errant vehicles. The type of road is used to determine the minimum width for a roadway clear zone. According to Table 3-13 in the Florida Green Book (Attachment C), a local road with a speed limit of 35 miles per hour without a curb and gutter, has a recommended minimum roadway clear

VAR-16-33-5

zone of six (6) feet measured from the edge of the through-travel lane. The structure is thirty four (34) feet from the edge of the through-travel lane, which would exceed the clear zone area.

The **intent of** Table 3.02.05 is to promote aesthetic appeal in addition to promoting a safe setback distance from roads. If this metal building is allowed to remain as constructed it will not create a hazard for the area.

The **intent of the Code**, LDR Section 10.00.00, is to regulate the installation, configuration, and use of Accessory and temporary Structures and uses in order to preserve the community and property values and to protect the community character. The property is zoned Agriculture and is surrounded by agriculturally zoned properties. General Agriculture is a permitted use within the Agriculture zoning district and structures in conjunction with the agriculture use are permitted prior to residences. Allowing an accessory structure on this property without a residence would not alter the character of the community.

The applicant has submitted the Attachment A as proof that the application of the Land Development Regulation would create a **substantial hardship or would violate principles of fairness** and proof of meeting the **intent of the Code**.

The Lake County Land Development Regulations, Section 14.15.02 states that 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.

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

1. This request is consistent with LDR Table 3.02.05, which promotes aesthetic appeal and a safe setback distance from the road; and
2. This request is consistent with safe setback distances outlined in The Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (aka the Florida Greenbook); and
3. The property is zoned Agriculture and surrounded by agriculturally zoned properties which allow General Agriculture and associated buildings as a permitted use without a residence; and
4. Allowing an accessory structure not in conjunction with an agricultural operation on vacant land would not alter the character of the community.

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 with conditions** of the variance request to LDR Section 10.01.01.A. and LDR Table 3.02.05, to allow an accessory structure on a lot without a residence to be located less than sixty-two (62) feet from the centerline of the road.

WRITTEN COMMENTS FILED:

Support: -0-

Questions: -0-

Opposition: -0-

Case Manager: Michele Janiszewski, Planner

Attachment A.

Proof the LDR creates a substantial hardship or would violate principles of fairness and proof of meeting the intent of the Code.

What is the substantial hardship in meeting the specific code requirement?

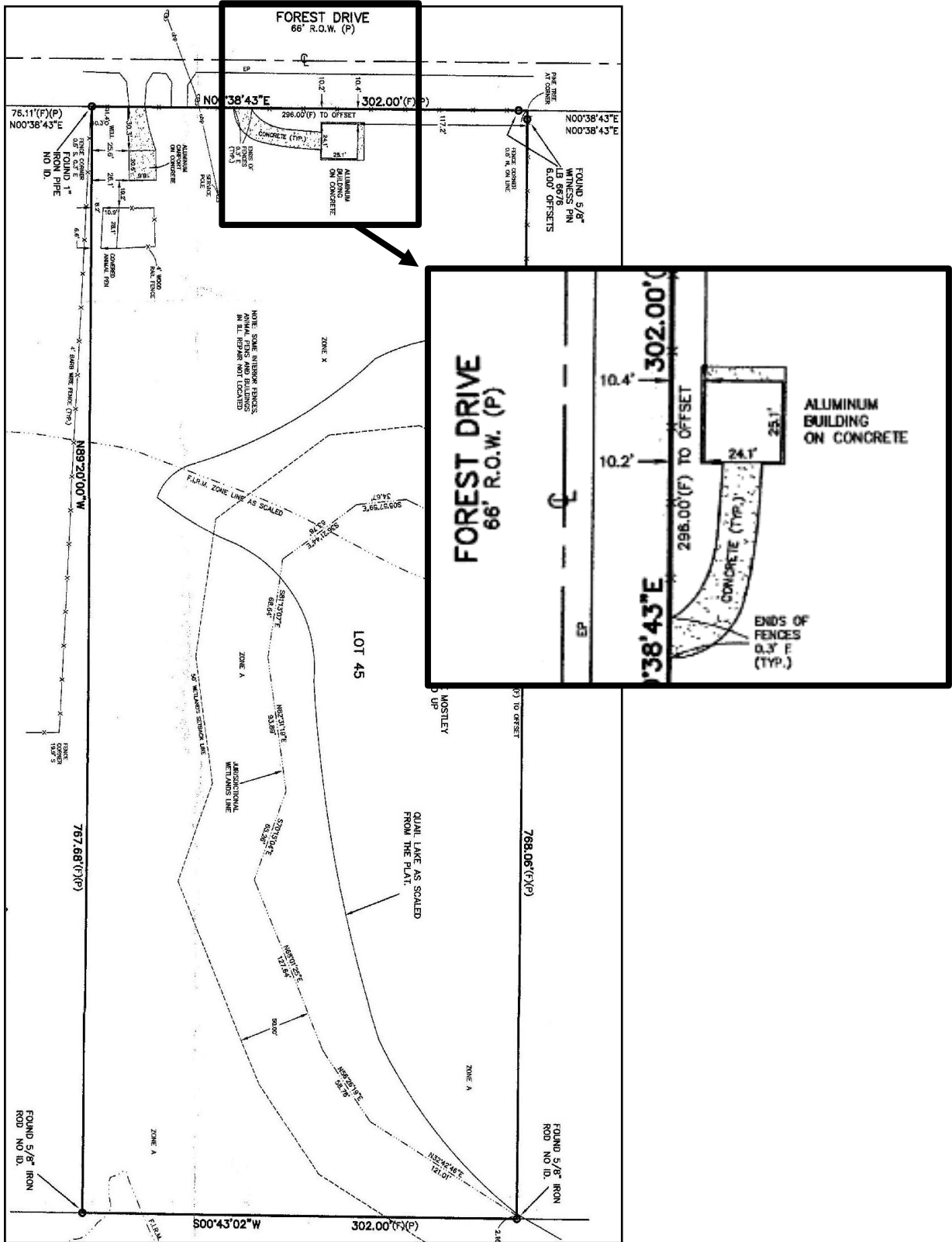
Over 50% of this property is designated wetlands, and an additional significant portion is in F.I.R.M Zone A, so strict adherence to all setbacks would unfairly reduce the buildable area. The only buildable portion of the property is the area along the road frontage, where the accessory structure is located. Further, the limited buildable area has a slope towards the wetlands, so building farther back on the property could impact the wetlands. The accessory structure was built with roughly the same setback as the pre-existing structures on the property, and directly in line with the well, all of which have been in place for over 20 years. Another residence near the property is located the same distance within the setback. Also, the accessory structure is already in place, so tearing down and rebuilding the structure would be a significant financial hardship. The owner obtained electrical permits from Lake County for the accessory structure. The owner previously discussed agricultural structures with Lake County Code Enforcement, and based on those discussions was under the impression that properties zoned Agricultural did not need a permit for accessory structures. After emplacing the structure, Code Enforcement cited the owner for not pulling the proper permits. When the owner attempted to pull the proper permits, the owner was unable to do so do to the setback issue.

Describe how the purpose of the Land Development Regulation will be or has been achieved by other means.

The purpose of the setback requirements in Table 3.02.05 is to ensure there are safe distances from other structures and roads. In this case, the accessory structure is located with roughly the same setback as the pre-existing structures on a lightly traveled road in a fairly undeveloped area. There is a swale between the road and the fence line of the property, so it would be very unlikely for any errant vehicles to cross onto the property and reach the accessory structure. The property closest to the accessory structure is undeveloped, and also zoned Agricultural. Also, placing the accessory structure closer to the road achieves the purpose of 6.01 and the Comprehensive Plan by providing a larger buffer for the wetlands and flood zone, and mitigating development impact on the wetlands.

As to the lack of a principal dwelling, there was a dwelling on the property at the time the owner constructed the accessory structure. However, the owner removed the old dwelling after erecting the accessory structure.

Attachment B. Survey of Subject Property



Attachment C.

Table 3-13, Manual Of Uniform Minimum Standards For Design, Construction And Maintenance For Streets And Highways, State of Florida Department of Transportation, May 2013.

**TABLE 3 – 13
MINIMUM WIDTH OF CLEAR ZONE**

Type of Facility	DESIGN SPEED (MPH)							
	25 and Below	30	35	40	45	50	55	60 and Above
MINIMUM CLEAR ZONE (FEET)								
Rural •	6	6 Local 10 Collectors 14 Arterials	6 Local 10 Collectors 14 Arterials	10 Collectors 14 Arterials	14 Arterials and Collectors ADT < 1500 18 Arterials and Collectors ADT ≥ 1500	14 Arterials and Collectors ADT < 1500 18 Arterials and Collectors ADT ≥ 1500	18 Arterials and Collectors ADT < 1500 24 Arterials and Collectors ADT ≥ 1500	18 Arterials and Collectors ADT < 1500 30 Arterials and Collectors ADT ≥ 1500
Urban *	1 ½	4 **	4 **	4 **	4 **	N/A **	N/A **	N/A **

- * From face of curb
- ** On projects where the 4 foot minimum offset cannot be reasonably obtained and other alternatives are deemed impractical, the minimum may be reduced to 1 ½'.
- Use rural for urban facilities when no curb and gutter is present. Measured from the edge of through travel lane on rural section.
- ** Curb and gutter not to be used on facilities with design speed > 45mph.

NOTE: ADT in Table 3-13 refers to Design Year ADT.



ZONING LEGEND

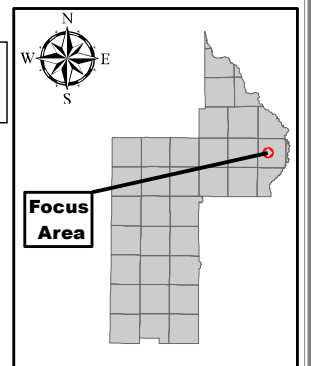
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AR	R-1	R-3	R-6	RP	RM	C-1	CP	HM	CFD	

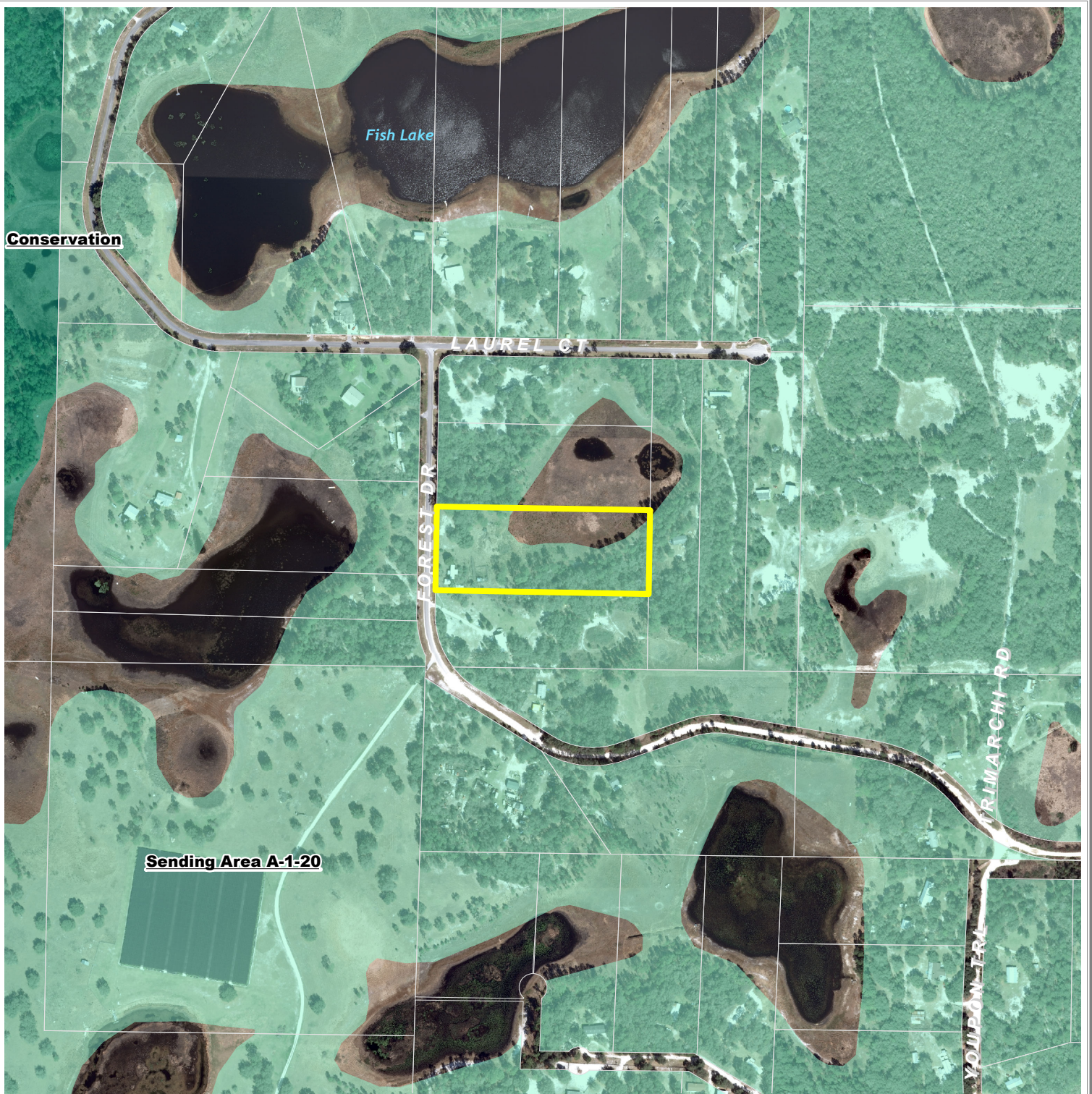
NAME: ADVANTAGE AC REFRIGERATION & APPLIANCE

CASE NUMBER: VAR-16-33-5

LOCATION (S-T-R): 16-18-29

REQUEST: SETBACK ADJUSTMENT





FUTURE LAND USE LEGEND

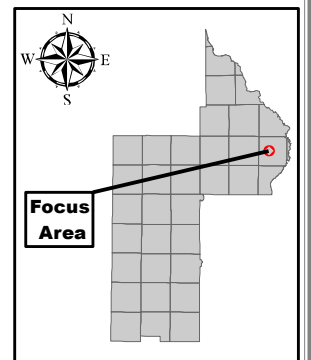
- | | | | |
|--------------------------------|--------------------------------------------|---------------------|----------------------|
| Bella Collina | Heavy Industrial | Recreation | Urban Low Density |
| Cagans Crossing | Mt Plymouth-Sorrento Main Street District | Regional Commercial | Urban Medium Density |
| Conservation | Mt Plymouth-Sorrento Neighborhood | Rural | |
| Green Swamp Core Conservation | Mt Plymouth-Sorrento Receiving Area | Rural Transition | |
| Green Swamp Ridge | Regional Office | Sending Area A-1-20 | |
| Green Swamp Rural | Public Service Facility and Infrastructure | Sending Area A-1-40 | |
| Green Swamp Rural Conservation | Receiving Area A-1-20 | Urban High Density | |

NAME: ADVANTAGER AC REFRIGERATION & APPLIANCE

CASE NUMBER: VAR-16-33-5

LOCATION (S-T-R): 16-18-29

REQUEST: SETBACK ADJUSTMENT



Final Development Order
Advantage Air Conditions Refrigeration and Appliance, Inc.
VAR-16-33-5

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

WHEREAS, Derek A. Schroth (the “Applicant”), on behalf of Advantage Air Conditions Refrigeration and Appliance, Inc., Robert Schmeltz as the registered agent (the “Owner”), requested a variance to Land Development Regulation (LDR) Section 10.01.01.A. and LDR Table 3.02.05, to allow an accessory structure on a lot without a residence to be located less than sixty-two (62) feet from the centerline of the road; and

WHEREAS, the subject properties consist of 5.32+/- acres East of State Road 44 in the Wekiva River Protection Area, Alternate Key Numbers 2721057, and are more particularly described below (hereinafter referred to as the “Property”):

Lot 45, Forest Lakes & Hills Subdivision, as recorded in Plat Book 18, Pages 33-42, Lake County Public Records.

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 September 8, 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 September 8, 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-16-33-5 to allow a Variance to LDR Section 10.01.01.A. and LDR Table 3.02.05, to allow an accessory structure on a lot without a residence to be located less than sixty-two (62) feet from the centerline of the road with the following conditions:

- A. The structure must maintain its current setback of 10.2 feet from the property line, consistent with Exhibit A.
- B. The structure cannot be expanded if it increases its non-conformity in any way.
- C. This reduced setback shall only apply to the structure labeled as ‘Aluminum Building on Concrete’ on Exhibit A; all future structures must comply with the setbacks established within the Land Development Regulations, as amended.

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 8th day of September, 2016.

EFFECTIVE September 8, 2016.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Donald Schreiner, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this September 8, 2016 by DONALD SCHREINER, who is personally known to me.

(SEAL)

Signature of Acknowledger

