

LAKE COUNTY PLANNING AND ZONING DIVISION
VARIANCE STAFF REPORT



Board of Adjustment

July 13, 2017

LAKE COUNTY
FLORIDA

VAR-17-26-5 Tighe Property	District 5	Agenda Item #3
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Requested Action: Variance to Land Development Regulation (LDR) Section 10.01.03(B)(4) to allow an accessory dwelling unit with 1,284 square feet living area in lieu of 1,200 square feet living area.

Owner/Applicant: Gregory F. Tighe and Lorraine A. Tighe

- Site Location & Information -

Size	3.75 +/- acres
Property Address	16939 Peru Road, Umatilla, FL 34705
Location	North of Peru Road, Umatilla area
Alternate Key No.	3840554
Future Land Use	Rural Transition
Zoning District	Agriculture Residential (AR)
Overlay Districts	N/A
Joint Planning Area/ISBA Area	Umatilla

-Land Use Table-

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
North	Rural Transition	Agriculture Residential	Residential	Single Family Residence
South	City of Umatilla	City of Umatilla	City of Umatilla	City of Umatilla
East	Urban Low	Medium Residential	Vacant Lot	Lake Cooley Estates
West	Rural Transition	Agriculture Residential	Residential	Single Family Residence

- Summary of Staff Determination -

STAFF RECOMMENDATION: Staff recommends **APPROVAL** of the variance request to (LDR) Section 10.01.03(B)(4) to allow an accessory dwelling unit with 1,284 square feet living area in lieu of 1,200 square feet living area.

-Staff Analysis-

The subject property is +/- 3.75 acres and is located on the north side of Peru Road, in the Umatilla area. The property is zoned Agricultural Residential (AR) and is part of the Rural Transition Future Land Use Category. Lake County Geographic Information Services (GIS) wetland map does indicate the presence of wetlands on the property and it appears that the parcel is located within flood zone AE. Currently the property is developed with a single family dwelling unit and a storage building.

The Lake County Property Appraiser’s Office records (property record card) indicate that the living area of the existing single family residence is 1,284 square feet. Based on LDR Section 10.01.03(B)(4), forty percent of the principle dwelling unit would equal to 513 square feet living area so the owner/applicant would be able to have an accessory dwelling unit with a maximum living area of 1,200 square feet.

The owner/applicant intends to construct an additional single family residence that would be designated as the primary residence and which would contain between 2,000 to 2,500 square feet of living area. The existing smaller single family dwelling unit which consists of 1,284 square feet would be used as the accessory dwelling unit.

The owner/applicant is applying for a variance to Land Development Regulation (LDR) 10.01.03(B)(4) which states that 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 of the principal dwelling (excludes garages, patios, porches and the like), whichever is greater. The owner/applicant is requesting a variance to allow an accessory dwelling unit with 1,248 square feet of living area in lieu of 1,200 square feet of living area, which exceeds the permitted square footage of living area by 84 square feet which totals to seven percent (7%).

The **intent of the Code**, LDR Section 10.01.03, is to provide for less expensive housing units to accommodate growth, provide housing for relatives and to provide for security. The owner/applicant is meeting the intent of the code as they are getting older and are having mobility issues. The new primary residence will consist of 2,000 to 2,500 square feet of living area and will be handicap

accessible in order to accommodate for any mobility issues that the Applicants currently have or may have in the future. The removal of the existing smaller dwelling would create a financial hardship and would eliminate the possibility of allowing a possible future caretaker to live on the property.

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.

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

"The purpose of LDR Section 10.01.03, Accessory Structures that are Dwellings, is to provide for less expensive Housing units to accommodate growth, provide housing for relatives and to provide for security.

As demonstrated on the associated concept plan submitted with the application, the proposed accessory dwelling unit meets the setback requirements for the proposed principal dwelling unit. In looking (aesthetics) at the proposed accessory dwelling unit, the additional 124 SF would not be noticeable (difference in size) as to whether the building was 1200 or 1324 SF in size. The proposed accessory dwelling unit meets the purpose of the regulations by providing less expensive housing for relatives, guest, or a potential caregiver if the need should arise in the future. Based on what the owners/applicants have to work with, they have demonstrated a substantial hardship and that they have attempted to meet the intent of the regulations as best they can."

The applicant submitted the following as proof that the application of the Land Development Regulations would create a **substantial hardship or would violate principles of fairness**:

"The building in question was built in 1991 as an office building (accessory structure) for a home occupation (marketing and cattle sales) on what was a 16+/- acre parent parcel with 2900+/- sf principal dwelling and a 3.2+/- acre parcel with the accessory structure under Minor Lot Split #2001-074 (development order attached). The office building was converted into a SFR for the current owners/applicants and the 13+/- acre parcel with the original principal dwelling was sold

The current owners/applicants wish to build a new home (between 2,000 and 2,500 SF) on the property and convert the existing SFR into an accessory dwelling unit. The owners/applicants are getting up in age and mobility is becoming an issue. The new home would be able to be designed and built for handicap accessibility to meet the future needs of the owners/applicants.

It would be a substantial monetary and logistics hardship to remove 124 SF from the existing structure size to meet the maximum size requirement of the 1,200 SF and would even be a greater hardship to adapt the existing dwelling unit for handicap accessibility. Without the variance the owners/applicants would not be able to build a larger home to fit their needs."

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

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

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 request to allow an accessory dwelling unit with 1,248 square feet living area in lieu of 1,200 square feet living area.

WRITTEN COMMENTS FILED:

Support: -0-

Questions: -0-

Opposition: -0-

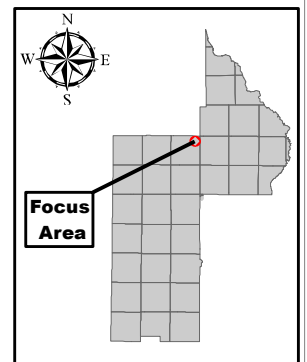
Case Planner: Ruth Mitchell, Associate Planner



FUTURE LAND USE LEGEND

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|--------------------------------|--|---------------------|----------------------|
| Bella Collina | Heavy Industrial | Recreation | Urban High Density |
| Cagan Crossings | Mt Plymouth-Sorrento Main Street District | Regional Commercial | Urban Low Density |
| Conservation | Mt Plymouth-Sorrento Neighborhood | Rural | Urban Medium Density |
| 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 | Summer Bay | |

NAME: TIGHE PROPERTY
CASE NUMBER: VAR-17-26-5
LOCATION (S-T-R): 11-18-26
REQUEST: ACCESSORY DWELLING UNIT
SQUARE FOOTAGE ADJUSTMENT

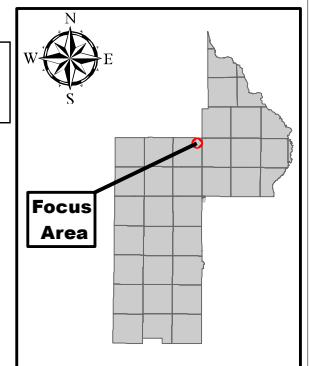




ZONING LEGEND

A	RA	R-2	R-4	R-7	RMRP	RV	C-2	LM	MP	PUD
AR	R-1	R-3	R-6	RP	RM	C-1	CP	HM	CFD	

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Final Development Order
Gregory F. Tighe & Lorraine A. Tighe
VAR-17-26-5

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

WHEREAS, Gregory F. Tighe and Lorraine A. Tighe (the “Applicants” and “Owners”), requested a variance to Land Development Regulation (LDR) Section 10.01.03(B)(4) to allow an accessory dwelling unit with 1,284 square feet of living area in lieu of 1,200 square feet of living area; and

WHEREAS, the subject properties consist of +/- 3.75 acres North of Peru Road, in the Umatilla area, in Section 11, Township 18, Range 26, having Alternate Key Number 3840554 and is more particularly described below as:

Commence at the Southwest Corner of the North ½ of the Northeast ¼ of the Northeast ¼ of Section 11, Township 18 South, Range 26 East, Lake County, Florida, and run thence South 89°40'02” East along aforesaid South line of North ½ of the Northeast ¼ of the Northeast ¼ of Section 11, Township 18 South, Range 26 East, a distance of 917.30 feet for a point of beginning, continue thence South 89°40'02” East along said line South line of the North ½ of Northeast 1/4, of the Northeast ¼ of Section 11, Township 18 South, Range 27 East a distance of 406 feet to the East line of the North ½ of the Northeast ¼, of the Northeast ¼, Section 11, Township 18 South, Range 26 East, thence North 01°35'21” West along said East line, a distance of 615.58 feet; thence South 45°59'17” West 408.89 feet; thence South 16°07'21” West, 342.03 feet to the point of beginning. **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 July 13, 2017; 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 July 13, 2017, 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-17-26-5 to allow an accessory dwelling unit on the subject Property with 1,248 square feet of living area in lieu of 1,200 square feet of living area.

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 13th day of July, 2017.

EFFECTIVE July 13, 2017.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Catherine Hanson, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by _____, who is personally known to me or who has produced _____, as identification and who did _____ or did not _____ take an oath.

(SEAL)

Signature of Acknowledger
