

LAKE COUNTY OFFICE OF PLANNING AND ZONING
BOARD OF ADJUSTMENT STAFF REPORT

Board of Adjustment



May 10, 2018

<p>VAR-18-24-5 Millson Property</p>	<p>Commissioner District 5</p>	<p>Agenda Item #3</p>
--	---------------------------------------	------------------------------



Applicant Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 3.02.06 to allow the property to be developed with 20% impervious surface ratio (ISR) in lieu of 10% ISR.

Owners and Applicants: Scott Millson and Kristin Millson (the "Owners" and "Applicants")

– Site Location & Information –

Size	0.45 +/- acres
Location	East of State Road 19 and east of Dorr Road adjacent to Dorr Lake in the Altoona area
Alternate Key #	1201101
Future Land Use	Rural
Existing Zoning District	Agriculture (A)
Overlay Protection Area	Wekiva-Ocala Rural Protection Area (RPA)
JPA/ISBA	None
Commission District	5

– Land Use Table –

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
North	Rural	Agriculture	Residential	Single Family Residence
South	Rural	Agriculture	Residential	Single Family Residence
East	NA	NA	Lake	Adjacent to Lake Dorr
West	Rural	Agriculture	Road	Adjacent to Dorr Road

– Summary of Staff Determination –

STAFF RECOMMENDATION: Staff recommends **Approval with Conditions** of the variance from Lake County Land Development Regulations (LDR) Section 3.02.06 to allow the subject property to be developed with 20% ISR in lieu of 10% ISR, with the condition that the plot plan for the proposed single family dwelling unit must show the proposed impervious surface ratio (ISR).

– Background –

The subject property is identified as Alternate Key Number 1201101 and is generally located east of State Road 19 and east of Dorr Road adjacent to Dorr Lake in the Altoona area. The parcel is zoned Agriculture (A) with a Rural Future Land Use Category (FLUC). The subject property contains 0.45 +/- acres and is currently undeveloped. According to the GIS Map, the property lies within a floodplain and there is an indication of wetlands; therefore, a survey that shows the jurisdictional wetland line will be required with an application for a zoning permit to develop a single family residence.

Both the Agriculture zoning district and the Rural Future Land Use Category have a minimum density requirement of one (1) dwelling unit per five (5) net acres. The subject property contains less than five (5) net acres and therefore does not meet its density requirement. To obtain an exception to the density requirements, a Lot of Record for the density exception was submitted for the property in 1998. Lot of Record (LOR) 1998L-0022 granted the subject property one building site.

– Reason for Request –

The Applicant has requested a variance from LDR Section 3.02.06 which states that any parcel zoned Agriculture (A) is allowed a maximum impervious surface ratio (ISR) of 10%. Per LDR Chapter 2, Impervious Surface is defined as “A surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes semi-pervious surfaces such as compacted clay, as well as most conventionally surfaced street, roofs, sidewalks, parking lots, and other similar surfaces”. The Applicants have requested to allow a maximum ISR of 20%

consistent with Comprehensive Plan Policy I-1.4.4, *Rural Future Land Use Category*, because they desire to construct a single family dwelling unit and concrete patio that will exceed 10% ISR.

As seen in the Concept Plan (Attachment #1), the subject property is 18,850 square feet in size and the proposed single family dwelling unit and concrete patio is 2,854 square feet in size which will result in an ISR of 15.14%. The Applicant also intends to add 1,780 square feet of mulch for the driveway and sidewalks. The addition of the mulch will not increase the ISR as mulch does not meet the definition of Impervious Surface as defined in LDR Chapter 2.

– Staff Analysis –

LDR Section 14.15.02 states that variances will 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

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

The **intent of the Code**, LDR Section 3.02.06, is to protect the public health, safety and welfare by limiting the amount of impervious surface in order to reduce flooding and increase water quality. An impervious surface ratio is a measurement of the amount of the base site area that is covered by any material that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land. Impervious surfaces include, but are not limited to roofs and roads, sidewalks and parking lots paved with asphalt, concrete, compacted sand, limerock or clay. The impervious surface ratios (ISR) in Table 3.02.06 are applicable to both residential and nonresidential development.

The Applicants provided the following explanation for meeting the intent of the code: *“We are quite cognizant of the beauty of Lake County’s Lake Dorr Road neighborhood and Lake Dorr itself and intend to achieve the purpose of the LDR and associated ISR by building a home that is of similar size to our neighbors’ and maintain sufficient vegetation and natural landscaping.”*

Although the Applicant has requested to increase the maximum allowed ISR from 10% to 20%, the intent of the code will continue to be met because 80% of the lot will remain undeveloped. Additionally, the proposed single family dwelling will meet all required setbacks as shown in LDR Table 3.02.02, *Setback Requirements*, as shown in Attachment #1.

2. The 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. For purposes of this Section, "principles of fairness" are violated when the literal application of a Land Development Regulation affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the Land Development Regulation.

The Applicants provided the following hardship statement: *“We are applying for a variance under the Principles of Fairness allowance in that the other homeowners on Dorr Road have been able to build homes in excess of the 10% ISR limitation. We have reached out to several Dorr Road home owners and they are in support of this variance request (see attached).”*

The Applicant has stated that other single family dwelling units within the Lake Dorr subdivision have been developed with an ISR that exceeds 10% as allowed within the Agriculture zoning district. Additionally, the 10% ISR as required by the Agriculture zoning district would greatly impact the development of the subject parcel as it

is only 0.45 acres in size. The Applicant has provided a Letter of Support that was signed by community members and which is included as Attachment #2.

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

- This request is consistent with Land Development Regulations (LDR) Table 3.01.03, Schedule of Permitted and Conditional Uses, which permits single-family dwelling units and residential accessory structures within the Agriculture (A) Zoning District;
- The proposed single family dwelling unit will maintain all required setbacks as found in LDR Table 3.02.02, Setback Requirements.
- This request is consistent with Comprehensive Plan *Policy I-1.4.4 Rural Future Land Use Category*, which allows residential uses; and
- This request is consistent with Comprehensive Plan *Policy I-1.4.4 Rural Future Land Use Category*, which allows a maximum impervious surface ratio (ISR) of 20%.

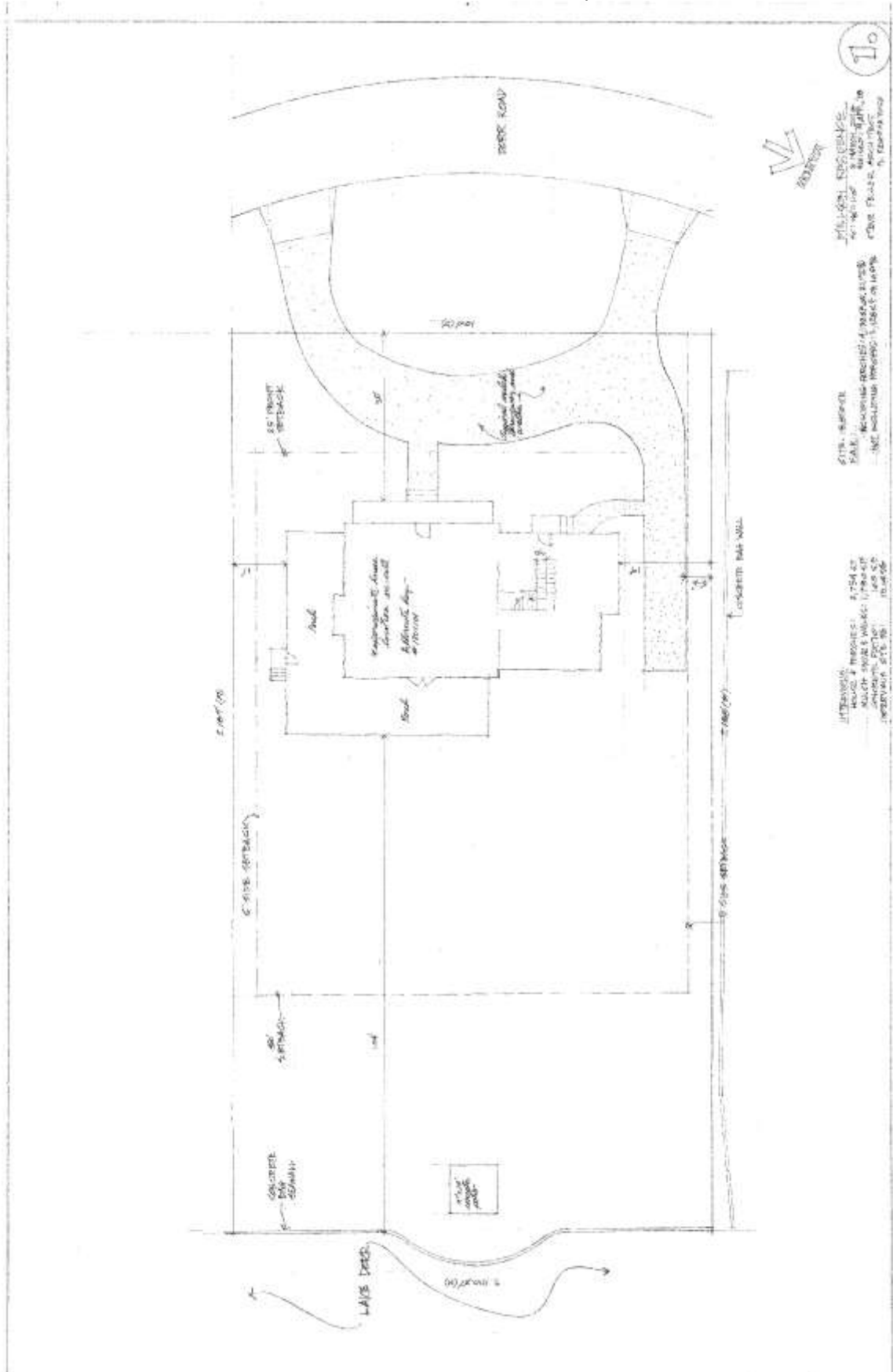
The Applicants have submitted evidence of meeting the intent of the Code and have provided evidence of a substantial hardship indicating that the application of the Code would violate principles of fairness. Based on the Findings of Fact and Analysis stated above, staff recommends **Approval with Conditions** of the variance from Lake County Land Development Regulations (LDR) Section 3.02.06 to allow the subject property to be developed with 20% ISR in lieu of 10% ISR with the following condition:

1. The plot plan for the proposed single family dwelling unit must show the proposed impervious surface ratio (ISR).

WRITTEN COMMENTS FILED: **Support: -1-** **Concern: -0-** **Opposition: -0-**

Case Manager: Christine Rock, Planner

Attachment #1 – Concept Plan



SITE: 18,850 S.F.
 HOUSE & PORCHES: 2,754 S.F.
 MULCH DRIVE & WALKS: 1,780 S.F.
 CONCRETE DRIVEWAY: 100 S.F.
 IMPERVIOUS SITE: 96: 15.14%

SITE: 18,850 S.F.
 F.A.R.:
 INCLUDING PORCHES: 1.122 S.F. OR 21.92%
 NOT INCLUDING PORCHES: 3,128 S.F. OR 16.59%

Attachment #2 – Letter of Support

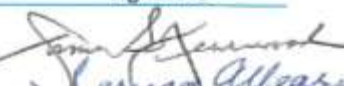
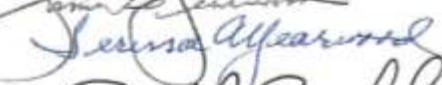
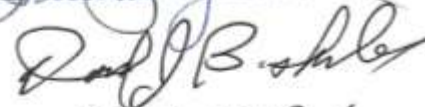
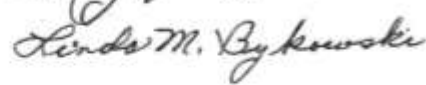
Dear Members of Lake County Department of Economic Growth,

We, the undersigned, all reside on Dorr Road in Altoona, FL and are in support of Scott and Kristin Millson's Application for Variance with respect to the Land Development Regulation (LDR) and under the "Principles of Fairness" allowance. It is our understanding that the zoning for Dorr Road was ~~recently~~ ^{for} changed (~~2013~~) from Residential to Agricultural, which is curious given that there is no real form of agriculture in our neighborhood with the exception of a few horses at the front of our neighborhood. As a result of this new zoning, any new construction is subject to an Impervious Ratio Restriction of 10%. The vast majority, if not all, of the homes on Dorr Road were built prior to 2013 and are all well above the current 10% restriction and grandfathered in.
































Dorr Road is a tight-knit, lakefront community that is made up of approximately 20 lots and 18 homes. There are only two vacant lots in our neighborhood. We are quite comfortable with the Millson Family's request for an LDR Variance, given that their plans and request for variance are not in excess of what any of the rest of us has enjoyed as we built and maintained our homes. If Lake County were to enforce the new LDR on the Millson Family, it would seem to violate the "Principles of Fairness" which is defined by Lake County as a violation of, "the literal application of a LDR [when it] affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the LDR."

We thank you in advance for your consideration.

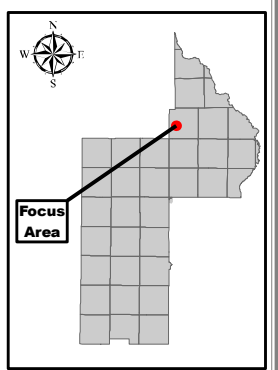
Sincerely,

<u>Name</u>	<u>Address</u>	<u>Signature</u>
JAMES S. YEARWOOD	19651 Dorr Rd.	
TERESSA A. YEARWOOD	19651 Dorr Rd	
DAVID J BYKOWSKI	19653 DORR RD	
Linda M Bykowski	19653 Dorr Rd	



FUTURE LAND USE LEGEND		
 Bella Collina	 Mt Plymouth-Sorrento Main Street District	 Regional Commercial
 Cagan Crossings	 Mt Plymouth-Sorrento Neighborhood	 Rural
 Conservation	 Mt Plymouth-Sorrento Receiving Area	 Rural Transition
 Green Swamp Core Conservation	 Regional Office	 Sending Area A-1-20
 Green Swamp Interlachen	 Public Service Facility and Infrastructure	 Sending Area A-1-40
 Green Swamp Ridge	 Receiving Area A-1-20	 South Lake Regional Park
 Green Swamp Rural	 Recreation	 Summer Bay
 Green Swamp Rural Conservation		 Urban Low Density
 Heavy Industrial		 Urban Medium Density
		 Urban High Density
		 Wellness Way 1
		 Wellness Way 2
		 Wellness Way 3
		 Wellness Way 4
		 Towncenter

NAME: MILLSON PROPERTY
CASE NUMBER: VAR-18-24-5
LOCATION (S-T-R): 20-17-27
REQUEST: IMPERVIOUS SURFACE RATIO (ISR) ADJUSTMENT

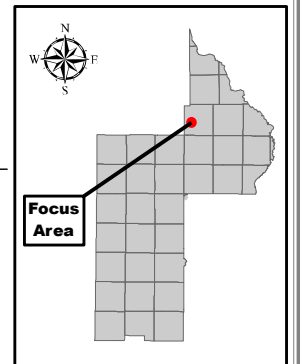




ZONING LEGEND

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	

NAME: MILLSON PROPERTY
CASE NUMBER: VAR-18-24-5
LOCATION (S-T-R): 20-17-27
REQUEST: IMPERVIOUS SURFACE RATIO (ISR) ADJUSTMENT



**Final Development Order
Millson Property
VAR-18-24-5**

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

WHEREAS, Scott Millson and Kristin Millson (the "Applicants") submitted an application to request a variance from Land Development Regulations (LDR) Section 3.02.06 to allow the property to be developed with 20% impervious surface ratio (ISR) in lieu of 10% ISR; and

WHEREAS, the subject property consists of 0.45 +/- acres and is located east of State Road 19 and east of Dorr Road adjacent to Dorr Lake in the Altoona area, in Section 20, Township 17 South, Range 27 East, Alternate Key Number 1201101 and is more particularly described below (the "Property");

Lot 11-2, Thomas Holdings, also described as: From the Southwest corner of Lot 3, J.M. Thomas Holdings, in Ravenswood, recorded in Plat Book 5, Page 38, Public Records of Lake County, Florida, run thence East 828.10 feet, thence North 24°33' West, 131.29 feet to the Point of Beginning; thence North 65°49'30" East, 168.84 feet, more or less, to Lake Dorr, being designated as Point "A"; return to the Point of Beginning and run North 24°33' West, 100 feet; thence North 65°49'30" East, 161 feet, more or less, to Lake Dorr; thence Southeasterly along Lake Dorr to herein designated Point "A".

WHEREAS, after giving notice of a hearing on a petition for a variance to the Lake County Land Development Regulations, including notice that the request for a variance would be presented to the Board of Adjustment of Lake County, Florida, on May 10, 2018; and

WHEREAS, the Board of Adjustment reviewed the 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 10, 2018, 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:

Section 1. Terms: The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-18-24-5 to be developed with 20% impervious surface ratio (ISR) in lieu of 10% ISR with the following condition:

1. The plot plan for the proposed single family dwelling unit must show the proposed impervious surface ratio (ISR).

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, the holding will in no way affect the validity of the remaining portions of this Ordinance.

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

ENACTED this 10th day of May, 2018.

EFFECTIVE May 10, 2018.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

Catherine Hanson, Chairman

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this May 10, 2018 by CATHERINE HANSON, who is personally known to me.

(SEAL)

Signature of Acknowledger