

# LAKE COUNTY OFFICE OF PLANNING AND ZONING VARIANCE STAFF REPORT

Project Information	
Project Name and Case No.	Dease Property, VAR-19-07-4
Applicant	Jamie Blunt
Owner	Don'l and Laura Dease
Requested Action	Variance to Lake County Land Development Regulations (LDR) Table 3.02.05 <i>Setback Requirements</i> , to allow a proposed single family residence to be located seventeen (17) feet from the northern side property line in lieu of twenty-five (25) feet and to allow a proposed driveway to be located five (5) feet from the southern side property line in lieu of twenty-five (25) feet.
Board of Adjustment Board Hearing Date	April 11, 2019
Staff Analysis/Determination	Staff recommends <b>APPROVAL with Conditions</b> as provided in the draft Development Order.
Case Manager	Emily W. Johnson, Planner

Subject Property Information	
Size	5.01 net acres (no wetlands or water bodies on subject property)
Location	North of the intersection of State Road 46 and Hojin Street, in the Sorrento area
Alternate Key No.	3771975
Future Land Use	Mt. Plymouth-Sorrento Receiving Area
Current Zoning District	Agriculture (A)
Floodzone	X
Joint Planning Area/ ISBA	N/A
Overlay Districts	Wekiva River Protection Area, Wekiva Study Area, Mt. Plymouth-Sorrento

Land Use Table				
Direction	Future Land Use	Zoning	Existing Use	Comments
North	Mt. Plymouth-Sorrento Receiving Area	Agriculture (A)	Residential	Hojin Gardens Lot #3
South	Mt. Plymouth-Sorrento Receiving Area	Agriculture (A)	Residential	Hojin Gardens Lot #1
East	Mt. Plymouth-Sorrento Receiving Area	Agriculture (A)	Open Space, Retention and Landscape Tract	Serenity at Redtail Tract H
West	N/A	N/A	Road	Hojin Street

Summary of Request
<p>The Applicant is requesting a variance to Lake County Land Development Regulations (LDR) Table 3.02.05 <i>Setback Requirements</i>, to allow a proposed single family residence to be located seventeen (17) feet from the northern side property line in lieu of twenty-five (25) feet and to allow a proposed driveway to be located five (5) feet from the southern side property line in lieu of twenty-five (25) feet.</p> <p>The variance application was submitted to facilitate permitting for the proposed SFR and related accessory uses, including but not limited to a lanai and driveway. The plat of Hojin Gardens was approved in 1997, subsequent to July 16, 1991, and</p>

### Summary of Request

meets the definition of new development contained in Land Development Regulations Chapter II *Definitions*. Pursuant to Land Development Regulations (LDR) Table 3.03.05 *Setback Requirements*, the side setbacks for new development in the Agriculture (A) zoning district are twenty-five (25) feet from the property line. Neither the location of the proposed SFR or driveway meets the setbacks required in the Land Development Regulations.

The subject property, identified as Alternate Key Number 3771975, is approximately 5.01 +/- acres in size and is located north of the intersection of State Road 46 and Hojin Street, in the Sorrento area. The property is zoned Agriculture (A) and is designated by the 2030 Comprehensive Plan as Mt. Plymouth-Sorrento Receiving Area Future Land Use Category (FLUC). GIS Aerials do not indicate a presence of wetlands or flood zone. The attached survey (Attachment A) shows that the subject parcel is currently vacant.

### 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, Land Development Regulations (LDR) Table 3.02.05, is to ensure the adherence of safe distance between structures and right-of-ways, and to avoid impediment of proper drainage.

The Applicant has submitted the following statement as proof that the purpose and intent of the Land Development Regulations will be or has been achieved by other means: *"We are meeting the front and left side and rear setbacks, with the exception of the right setback being compromised 7.1 feet."*

During Staff's review of the application it was determined that in addition to the proposed single family residence not meeting the required side setback, the proposed driveway also does not meet the required twenty-five (25) foot side setback. Although, the proposed drive way does not meet the twenty-five (25) foot side setback, its location is consistent with five (5) foot setback required pursuant to Land Development Regulations (LDR) Section 9.11.00 *Lot grading*. The Department of Public Works reviewed the application and did not provide any objections to the proposed variance, so long as the lot grading setback was met and no easements were impacted by the development. The plat of Hojin Gardens, recorded in Plat Book 38, Page Numbers 73 through 74, indicates a ten (10) foot drainage and utility easement in the front of the subject property, five (5) foot utility easements on the sides of the subject property, and twenty-five (25) foot drainage and utility easement at the rear of the subject property; none of these easements will be encroached upon by the proposed development. All proposed development shown on the plot plan will be meeting the front and rear setbacks. Given the location of the drainage and utilities easements, staff has determined that the intent of the code will be met.

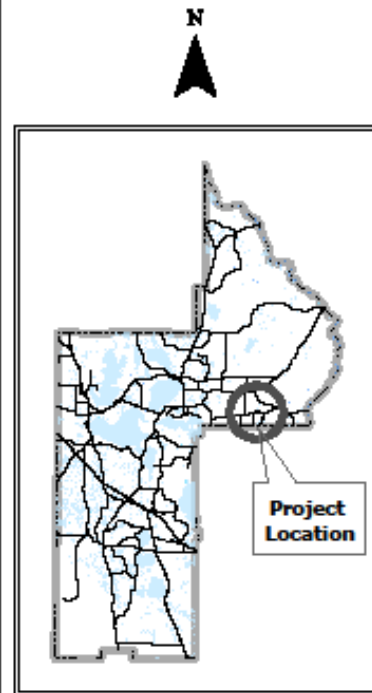
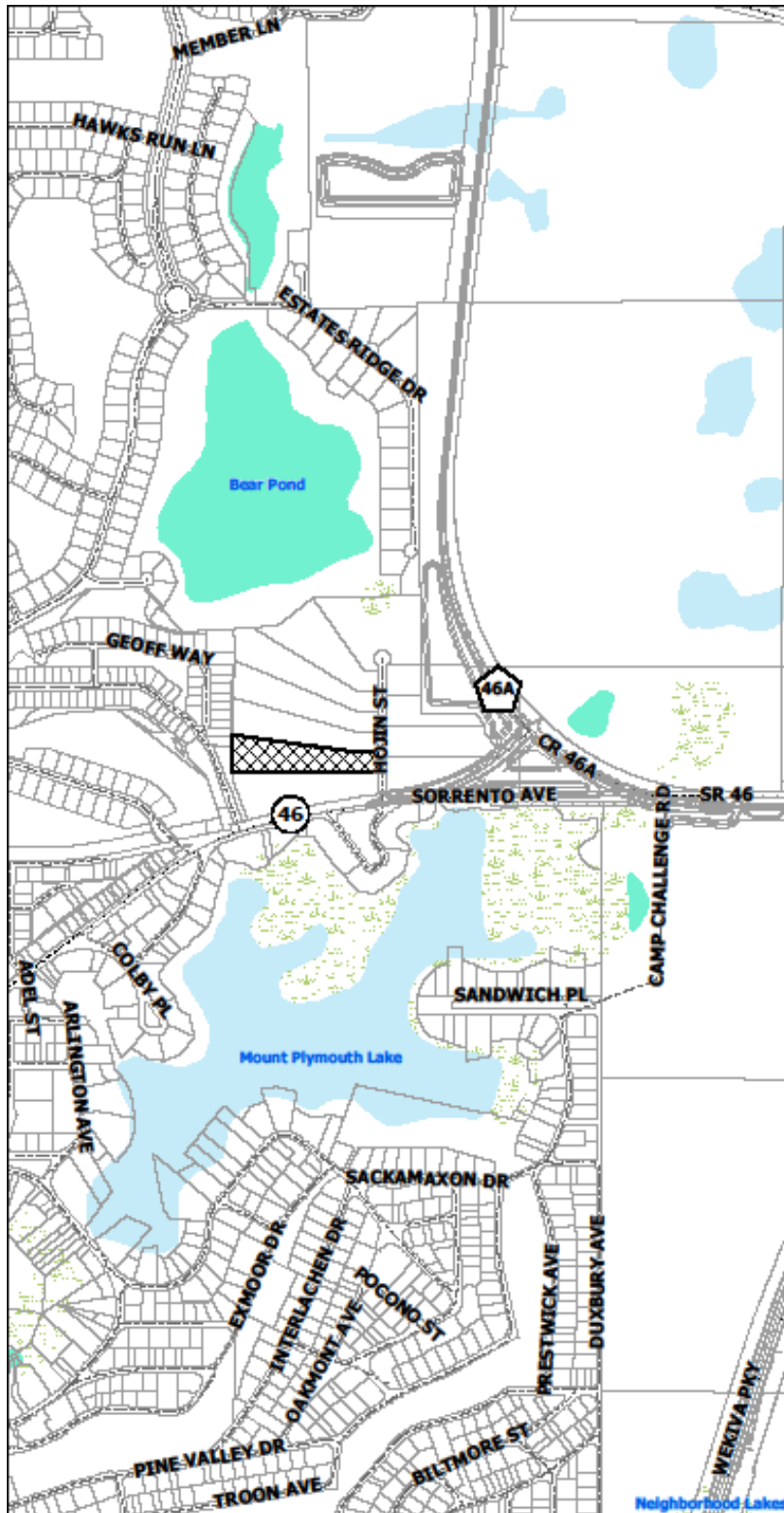
**2. The application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. 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 Applicant has submitted the following statement as proof of a substantial hardship: *"This lot, out of all in the neighborhood, is narrowest in the front portion (154' depth, 150' wide), causing an issue with the width of the home's design, and the side setbacks. The garage is side entry, meaning we would need at least 28' on the side where the garage is located to allow access into. As we have the home placed, we have already cleared 150' back onto the property. The home has been placed at 100' feet from the property line, 33.3' from side where garage is located and 17.9' on right side from property line. In order to place this home on the lot, we would have to go back an addition*

*100' to meet side setbacks. Causing a huge financial burden to the customer of over \$2,000, not including the addition 150 X 100 square feet of trees and underbrush that would need to be cleared and prepared for buildings. The loan has already been closed for this build, so any additional cost would have to be out of pocket. And would take away from the privacy and natural feel of the community. We are asking for a 7.1' side setback variance on the right side of the property. Thank you for your consideration."*

The dimensions and overall shape of the subject property are similar to those in the subdivision on the same side of the street. However, staff acknowledges that the subject property has already been prepared for construction, and that requiring the proposed SFR and driveway to be relocated would cause a substantial financial hardship to the Owners in concrete and tree removal costs.

# Subject Property



**Final Development Order**  
**VAR-19-07-4**  
**Dease Property**

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

**WHEREAS**, Jamie Blunt (the “Applicant”), on behalf of Don’l and Laura Dease (the “Owners”), made a variance request to Lake County Land Development Regulations (LDR) Table 3.02.05 *Setback Requirements*, to allow a proposed single family residence to be located seventeen (17) feet from the northern side property line in lieu of twenty-five (25) feet and to allow a proposed driveway to be located five (5) feet from the southern side property line in lieu of twenty-five (25) feet; and,

**WHEREAS**, the subject property consists of 5.01 +/- acres and is located north of the intersection of State Road 46 and Hojin Street, in the Sorrento area, in Sections 21 and 28, Township 19, Range 28, having an Alternate Key Number 3771975, and is more particularly described below as:

Lot 2, Hojin Gardens, according to the map or plat thereof, as recorded in Plat Book 38, Page(s) 73 and 74, of the Public Records of Lake County, Florida.

**WHEREAS**, after giving notice of a hearing on a petition for a variance to the Lake County Land Development Regulations, including notice that the variance would be presented to the Board of Adjustment of Lake County, Florida, on April 11, 2019; 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 April 11, 2019, 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-19-07-4 to Lake County Land Development Regulations (LDR) Table 3.02.05 *Setback Requirements*, to allow a proposed single family residence to be located seventeen (17) feet from the northern side property line in lieu of twenty-five (25) feet and to allow a proposed driveway to be located five (5) feet from the southern side property line in lieu of twenty-five (25) feet, with the following condition:

1. No structures or impervious surfaces may encroach into the five (5) foot setback mandated by Land Development Regulations (LDR) Section 9.11.00 *Lot grading*.

**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 11<sup>th</sup> day of April, 2019.**

**EFFECTIVE April 11, 2019.**

**BOARD OF ADJUSTMENT  
LAKE COUNTY, FLORIDA**

\_\_\_\_\_  
**Lloyd Atkins, Chairman**

**STATE OF FLORIDA  
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of April, 2019, 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**