



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 6

Public Hearing Date: June 13, 2019

Case No. and Project Name: VAR-19-15-1

Applicant: Cynthia Pettis

Owner: Cynthia Pettis

Requested Action: Variance to Lake County Land Development Regulations (LDR) Table 3.02.05, *Setback Requirements*, to allow an addition to the existing single-family dwelling unit to be located twenty-seven (27) feet from the right-of-way of a county secondary highway in lieu of fifty (50) feet.

Staff Determination: Staff recommends approval of the variance request.

Case Manager: Emily W. Johnson, Planner

Subject Property Information

Size: 4.34 +/- net acres (no wetlands or water bodies on subject property)

Location: 14447 South Bay Lake Road (CR 565), Groveland, FL 34736

Alternate Key No.: 1299993

Future Land Use: Green Swamp Rural Conservation

Current Zoning District: Agriculture (A)

Floodzone: "X"

Joint Planning Area/ ISBA: Mascotte ISBA

Overlay Districts: Green Swamp Area of Critical State Concern – Comments requested, none received.

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Green Swamp Rural Conservation	Agriculture (A)	Residence	Single-family dwelling unit
South	Green Swamp Rural Conservation	Agriculture (A)	Residential	Single-family dwelling unit
East	N/A	N/A	County Road	Bay Lake Road (CR 565)
West	Green Swamp Rural Conservation	Agriculture (A)	Residential	Sing-family dwelling unit

Summary of Request.

The applicant has submitted the variance request for lesser setbacks in order to facilitate the issuance of a zoning permit for a residential addition, the proposed residential addition will not meet the front setback mandated by the current code. The Applicant is requesting a variance to Lake County Land Development Regulations (LDR) Table 3.02.05, *Setback Requirements*, to allow an addition to the existing single-family dwelling unit to be located twenty-seven (27) feet from the right-of-way of a county secondary highway in lieu of fifty (50) feet.

The property record card indicates that the existing single-family dwelling unit (SFDU) was constructed in 1930, preceding

the requirement of building permits in Lake County. County records indicate that the subject parcel received a building permit in 2004 for a remodel; the plot plan for this building permit (permit no. 2004080821) indicates that the existing SFDU is located sixty-four (64) feet from the centerline of Bay Lake Road. The right-of-way for Bay Lake Road is fifty (50) feet wide, placing the SFDU approximately thirty-nine (39) feet from the right-of-way; the survey provided by the applicant is consistent with the aforementioned plot plan, and shows the closest point of the existing SFDU as thirty-nine (39) feet from the right-of-way.

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 Table 3.02.05, *Setback Requirements*, is to ensure the adherence of safe distances between structures and right-of-ways, and to avoid impediment of proper drainage.

The Applicant submitted the following statement as evidence of meeting the intent of the code, *"By keeping the architectural design and character of the 1930's home, the property development will look as if the home always existed. [The home] Sits on less than 5 acres of agricultural land and runs alongside the County Road 565 (Bay Lake Road)."*

Staff has found that the proposed Single Family Dwelling Unit meets the intent of the code in that constructing the proposed addition at the requested twenty-seven (27) feet from right-of-way would not impose a negative effect on the safe distance between the structure and the right-of-way. The Florida Department of Transportation (FDOT) 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 (also known as 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, rural arterial and collector roads with a speed limit of 55 miles per hour have a recommended minimum roadway clear zone of twenty-four (24) feet measured from the edge of through travel lane. The proposed addition would be outside of the clear zone area if constructed with a twenty-seven (27) foot setback from the right-of-way.

This request is consistent with Land Development Regulations (LDR) Table 3.01.03, *Schedule of Permitted and Conditional Uses*, which states that single-family units are an allowed use in the Agriculture (A) zoning district. The request is also consistent with LDR Table 3.02.06, *Density, Impervious Surface, Floor Area, and Height Requirements*, and the proposed addition will be meeting the side and rear setbacks for the Agriculture (A) zoning district contained within LDR Table 3.02.05, *Setback Requirements*.

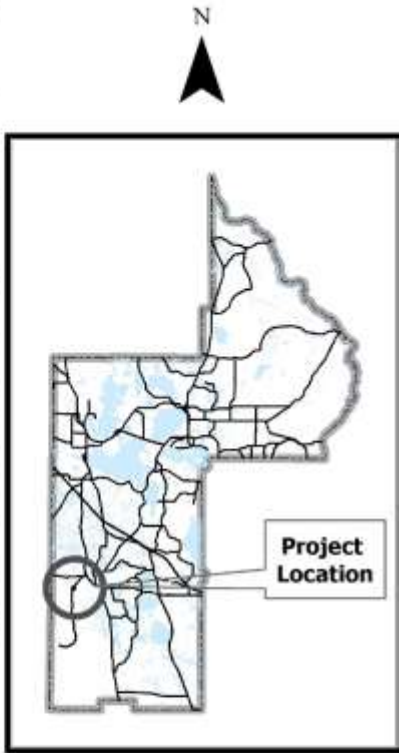
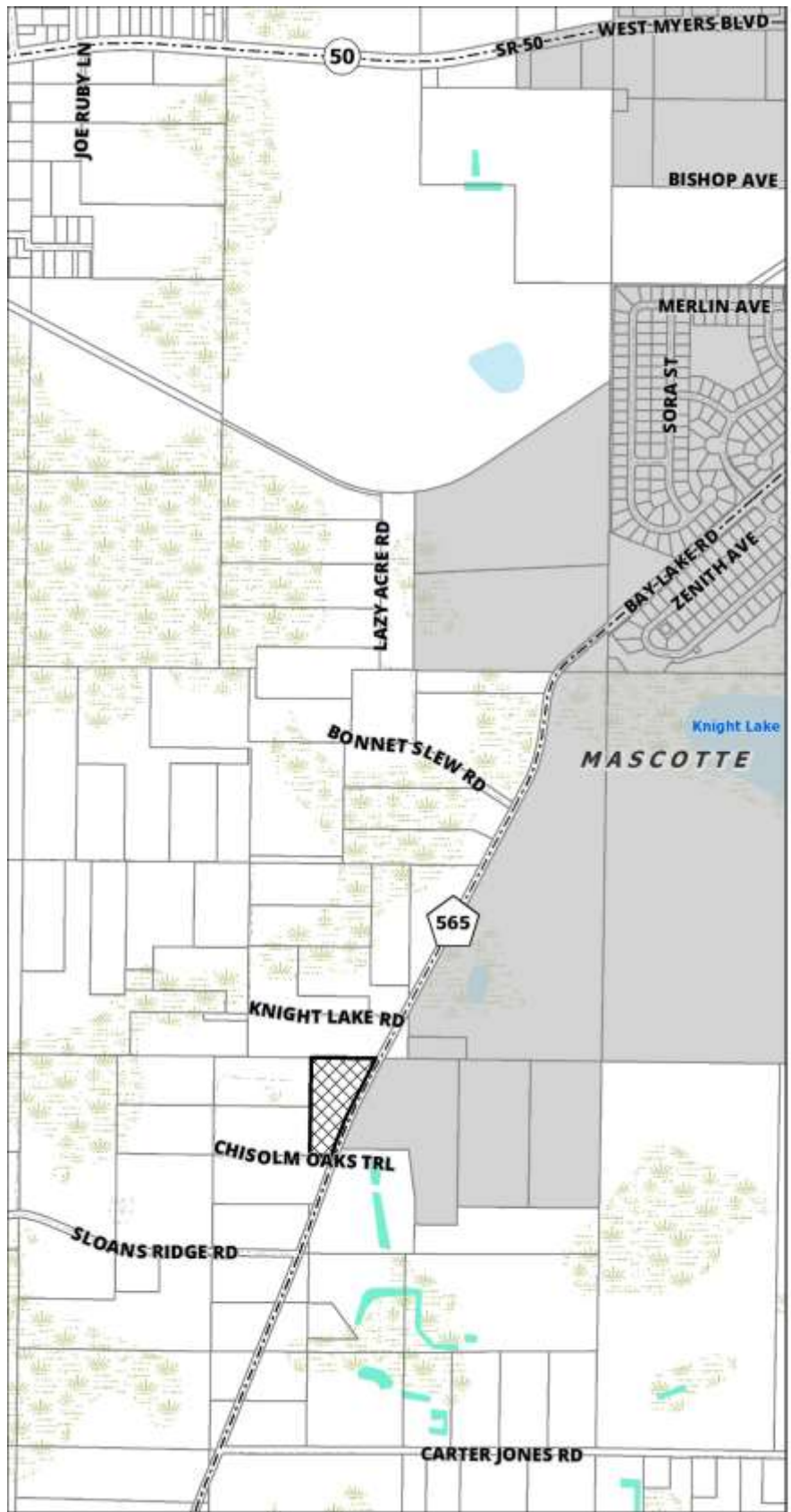
The request was reviewed by the Florida Department of Economic Opportunity (DEO) for consistency with regulations pertaining to the Green Swamp Area of Critical State Concern. DEO did not provide any objections to the variance request.

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 submitted the following statement as evidence of a hardship; *"I am requesting to be able to add on to my home that was built in 1930 and setback was grandfathered in. Because of the way the home sites at the angle of the road, my home would not meet the 50 ft. setback as my home does not set [sic] 50 ft. currently."*

LDR Section 14.15.04, states that for the purposes of this section “substantial hardship” means a demonstrated economic, technological, legal, or other type of hardship to the person requested the variance. The most recent development approval for the subject property indicates that the existing single-family dwelling unit (SFDU) is located within the required setback, and that the septic tank and drainfield are located to the north of the SFDU. The survey of the property shows that the air conditioning (AC) unit is located to the rear (west) of the SFDU, and relocating the AC unit in order to accommodate the addition would pose a considerable hardship to the applicant. Requiring the applicant to offset the addition so that it meets the setback would alter the design characteristic of the home, which has existed since 1930 and has an intrinsic historic value, and impose a financial hardship as the construction plans would have to be re-drawn. Therefore, the literal application of the code would impose a hardship to the applicant and violate principles of fairness.

Map of Subject Property



**Final Development Order
VAR-19-15-1
Pettis Property**

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

WHEREAS, Cynthia Pettis (the “Owner” and “Applicant”) made a variance request to Lake County Land Development Regulations (LDR) Table 3.02.05, *Setback Requirements*, to allow an addition to the existing single-family dwelling unit to be located twenty-seven (27) feet from the right-of-way of a county secondary highway in lieu of fifty (50) feet; and,

WHEREAS, the subject property consists of 4.34 +/- acres and is located at 14447 South Bay Lake Road in the Groveland area, in Section 21, Township 22 South, Range 24 East, having an Alternate Key Number 1299993 and is more particularly described below as:

That part of the Northeast 1/4 of the Northwest 1/4 of the Southeast 1/4 lying Westerly of the right-of-way of Highway C-565 (Bay Lake Road), in Section 21, Township 22 South, Range 24 East, 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 June 13, 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 June 13, 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-19-15-1 to Lake County Land Development Regulations (LDR) Table 3.02.05, *Setback Requirements*, to allow an addition to the existing single-family dwelling unit to be located twenty-seven (27) feet from the right-of-way of a county secondary highway in lieu of fifty (50) feet.

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.

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

ENACTED this 13th day of June, 2019.

EFFECTIVE June 13, 2019.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Lloyd Atkins, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 13th day of June, 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