



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 1

Public Hearing Date: October 10, 2019

Case No. and Project Name: VAR-19-17-1, J & K Sargeant Properties, LLC Variance

Applicant: Merideth Nagel, P.A.

Owner: J & K Sargeant Properties, LLC

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 3.01.04.4.a to allow a riding stable/academy to be located on a 4.79 +/- acre lot, in lieu of a 10-acre lot, and to LDR Section 3.01.04.4.b to allow two (2) existing structures that house animals to maintain setbacks of 35.39-feet from the eastern property line, 23.98-feet from the southern property line, 62.26-feet from the southern property line, and 165.53-feet from the western property line, in lieu of 200-feet from all property lines.

Staff Determination: Staff recommends approval of the variance request, subject to the conditions contained in the draft development order.

Case Manager: Christine Rock, AICP, Senior Planner

Subject Property Information

Size: 4.79 +/- acres

Location: Adjacent to Colony Barn Road, south of Last Chance Road in the Clermont area.

Alternate Key No.: 3374321

Future Land Use: Green Swamp Rural Conservation

Current Zoning District: Agricultural Residential (AR)

Flood Zone: N/A

Joint Planning Area / ISBA: N/A

Overlay Districts: Green Swamp Area of Critical State Concern

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Green Swamp Rural Conservation	Agricultural Residential (AR)	Residential and agricultural	N/A
South	Green Swamp Rural Conservation	Agricultural Residential (AR)	Residential and agricultural	N/A
East	Green Swamp Rural Conservation	Agriculture (A)	Residential and agricultural	N/A
West	Green Swamp Rural Conservation	Urban Residential (R-6)	Residential	Adjacent to Colony Barn Road

Summary of Request

The subject property, identified as Alternate Key Number 3374321, contains approximately 4.79-acres, is zoned Agricultural Residential (AR), and is designated as Green Swamp Rural Conservation Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. The GIS Aerial Map does not indicate that the subject property lies within a flood zone or contains wetlands. The property is generally located adjacent to Colony Barn Road, south of Last Chance Road in the Clermont area of unincorporated Lake County. The subject property is developed with several agricultural buildings.

On November 20, 2019, the Owner was issued a Notice of Code Violation for operating a stable/riding academy without proper zoning approvals (Code Case No. SM 2018-11-0170). In order to allow a public stable/riding academy within the Agricultural Residential (AR) zoning district, the Owner would need to obtain a Conditional Use Permit (CUP). The Settlement Agreement between Lake County and the Owner states that the Owner will come into conformance with the Land Development Regulations or move operations off of the subject property.

Land Development Regulations (LDR) Section 3.01.04.4.a requires public or private riding stables or academies to be located on properties that are at least ten (10) acres in size. The subject property contains approximately 4.79-acres. As such, the Owner must obtain a variance to LDR Section 3.01.04.4.a to allow a riding stable/academy to be located on a 4.79-acre lot in lieu of a ten (10) acre lot to facilitate the submittal of a Conditional Use Permit (CUP) application for the riding stable/academy. A Riding Stable or Academy use is defined by LDR Section 3.01.02.F.2, as, "A stable, other than a private stable, used for the care of horses, ponies or other livestock to be used for instruction, recreation, renting or hiring or for boarding such animals".

In researching similar cases, staff found that on February 11, 2010, the Lake County Board of Adjustments approved BOA #4-10-2, with conditions (as seen in Attachment B), to allow a stable on a comparable-sized property of 5.23-acres. Staff reviewed, and took into consideration, the conditions that were previously approved by the BOA for a riding academy/stable on a similar sized piece of property.

The proposed development order contains the following conditions, should the variance be approved:

1. A Type "C" landscape buffer of 15-feet in width must be located between the existing structures that house animals with reduced setbacks and the southern property line. The landscape buffer must be established and maintained in perpetuity.
2. Manure, used bedding, and any other associated animal waste(s) generated by the riding stable/academy shall be disposed of off-site on a weekly basis (7-day week). The organic waste stockpile shall be stored in a location that is as centered as possible on the property, but no less than 50-feet from the adjacent property. Spreading the waste on site shall be prohibited.
3. The riding stable/academy parking area shall be located as centered as possible on the property, but no less than 50-feet from the adjacent property.
4. The riding stable/academy is to be limited to a maximum number of horses, and not to exceed 20 horses, including foals. They are to be kept confined within the boundaries of the Owner's property.
5. The two (2) existing structures that house animals and which have a reduced setback may not be enlarged or expanded.
6. A Conditional Use Permit (CUP) application shall be submitted for the riding academy/stable use.

Additionally, the Applicant has requested a variance to LDR Section 3.01.04.4.b to allow two (2) existing structures which house animals to maintain setbacks of less than 200-feet from several property lines. As seen in the survey (Attachment A), the first structure (pole barn with stalls) is located 35.39-feet from the eastern property line and 23.98-feet from the southern property line; the second structure that houses animals (stable) is located 165.53-feet from the western property line and 62.26-feet from the southern property line, in lieu of 200-feet from all property lines.

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 3.01.04, is to regulate the placement of structures and the use of a parcel in order to ensure that they are not aesthetically or physically harmful to residents and surrounding areas. Impacts with a potential to be harmful to surrounding property owners may include increased propagation of dust, odors, noise, and traffic levels.

The property owner provided the following statement as proof of meeting the intention of the code, *"The horse stable only operates during the day at reasonable business hours. Individual riding lessons are held no earlier than 9 am and no later than 6 pm. There are no outside lights that would create a nuisance to any surrounding properties as the facility does not operate during evening hours. There is no outside sound system associated with the facility. To help alleviate odor from the associated animal waste, the Owners [will] not continue to spread the waste, but will instead have the waste removed on a weekly basis. Either a landscape buffer or approved fence/wall shall be installed between the stables, the pole barn and the parcel to the south or our parcel, with a minimum width being that of the actual structure. At no time will there be more than 20 horses on the property."*

The subject property is approximately 4.79-acres, which does not meet the 10-acre minimum requirement for a stable/riding academy. Pursuant to LDR Table 3.01.03, riding stables/academies are a conditionally allowed use within the Agriculture and Agricultural Residential zoning districts.

Although the existing structures that house animals do not meet the setbacks from several property lines, they do meet the required setbacks from the remaining property lines. Additionally, the development order contains a condition to require a landscape buffer along the southern boundary to minimize any adverse impacts that may result from the lesser setbacks.

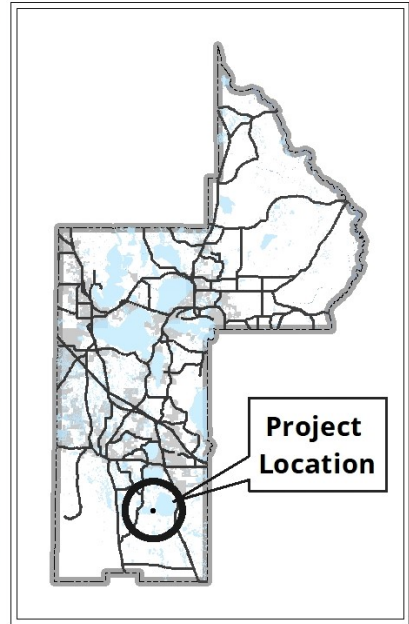
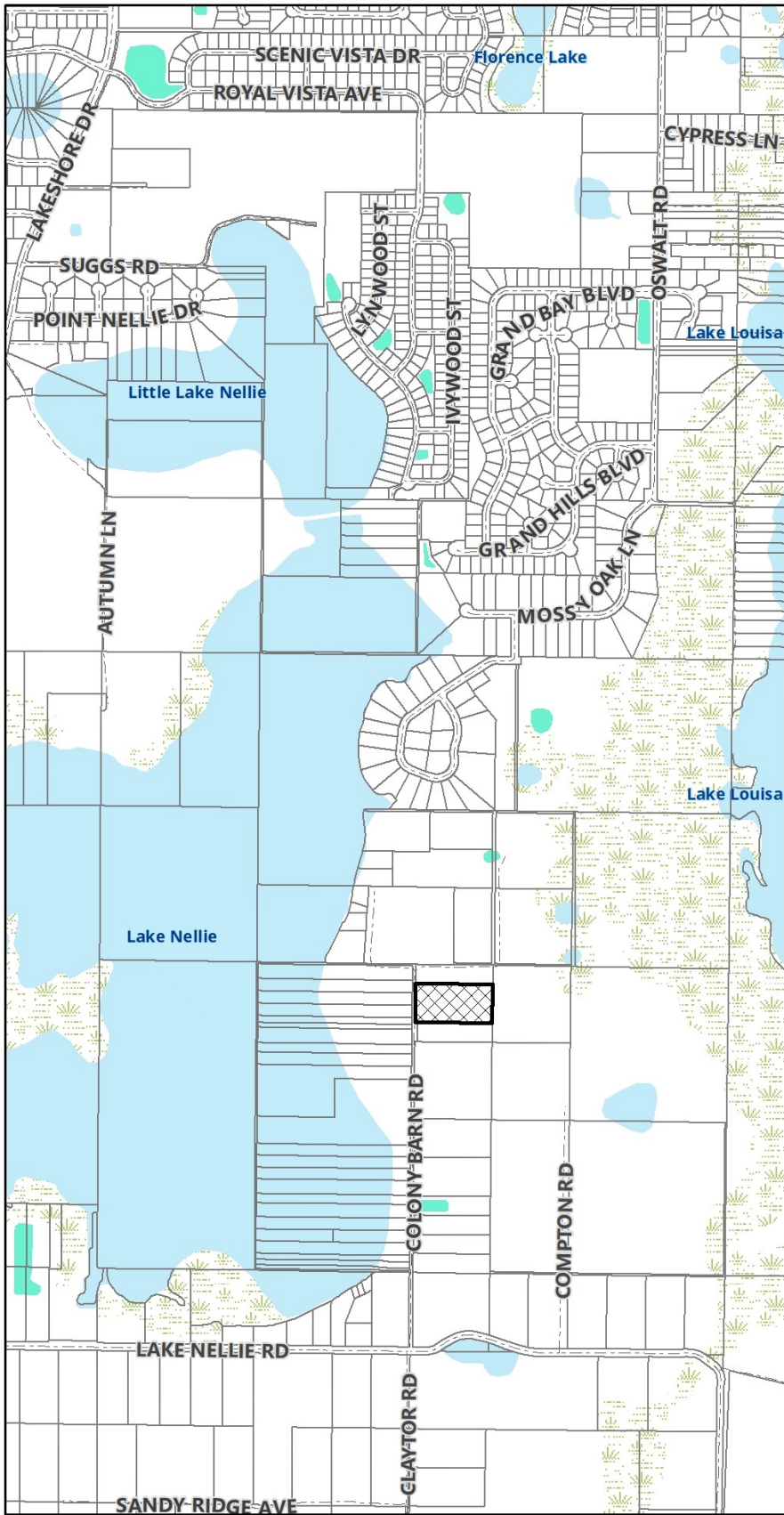
Additionally, the proposed organic waste storage setback and associated parking setback meets the intent of the code as it will ensure adequate separation between the use and adjacent property and is consistent with the conditions included in approved BOA #4-10-2. The setback of 200-feet from all property lines as included within previously approved BOA #4-10-2 cannot be applied to the subject property as the subject property is less than 400-feet wide. However, the setback of at least 50-feet from the property line or as centered as possible is appropriate as it meets the intent of the code which is to separate the use and adjacent properties. The alternative setback is typically used for livestock buildings that cannot meet the required setback of 200-feet from all property lines.

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.

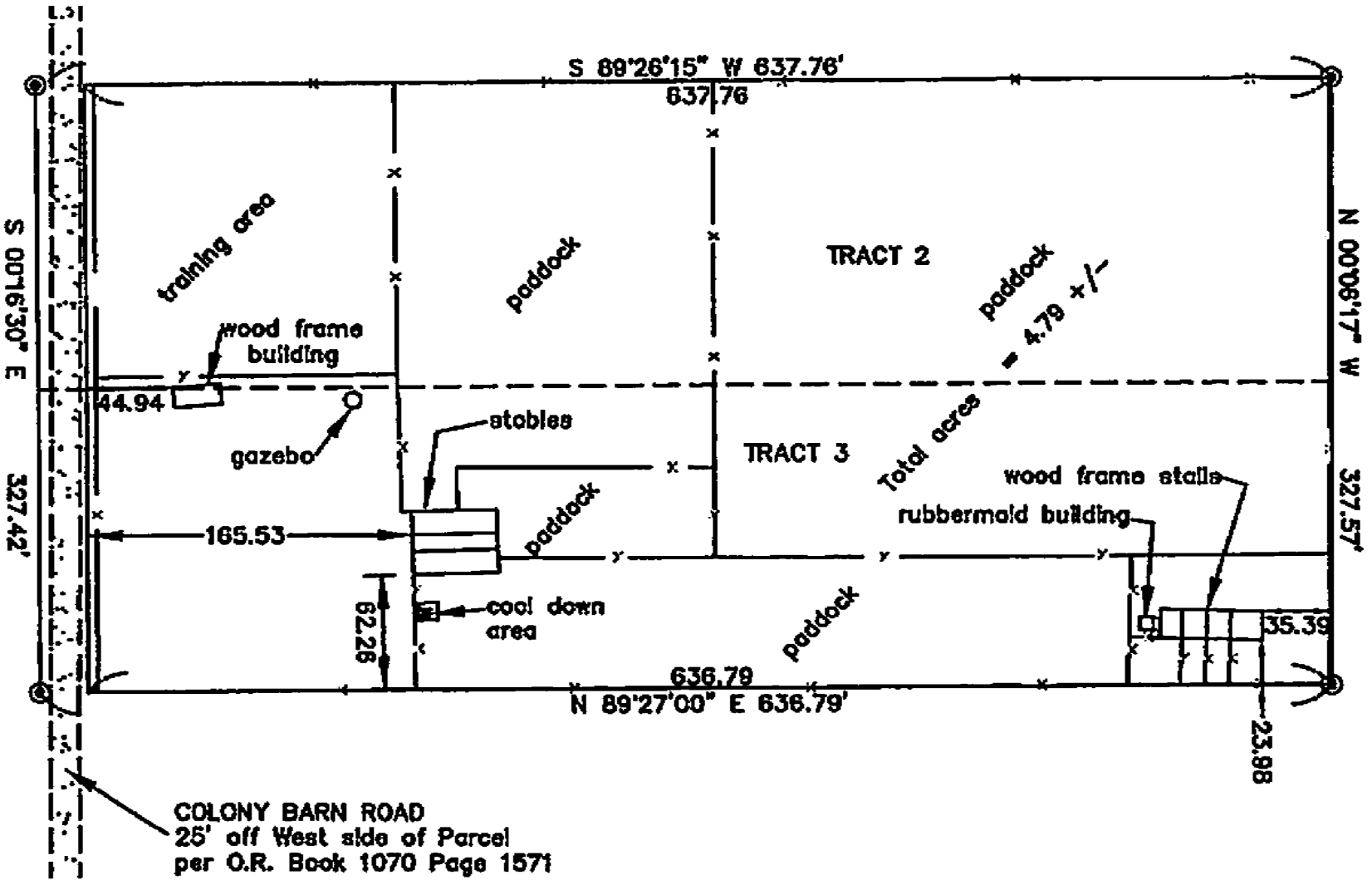
The Applicant provided the following statement, *"The property has been used as a horse boarding/training facility for the past 15 years and has served the community well during this time. The Owner has no other land to add to this parcel in order to achieve the required 10 acres. If variances are not granted the business will be required to shut down, creating an undue hardship on multiple families."*

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 requesting the variance. The Applicant has indicated that there is no land available to add to the subject property in order to obtain the required acreage. As both structures that house animals are existing it may be financially unfeasible to relocate them.

Map of Subject Property



Attachment A. - Survey



Attachment B. – BOA #4-10-2 (3 Pages)

CFN 2010093783
Bk 03949 Pgs 1658 - 1660 (3pgs)
DATE: 09/17/2010 10:57:07 AM
NEIL KELLY, CLERK OF COURT
LAKE COUNTY
RECORDING FEES 27.00

CORRECTED TO ADD REQUEST AND APPROVAL

ORDER OF THE LAKE COUNTY BOARD OF ADJUSTMENT


OWNER: Gabriela S. Lobe

CASE NO.: BOA #4-10-2

LAKE COUNTY, a political subdivision of the State of Florida, hereby grants a variance(s) from the Lake County Land Development Regulations, as amended, for the property legally described in EXHIBIT "A" requesting a variance(s) as outlined and approved in EXHIBIT "B".

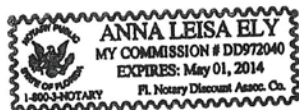
This Order hereby incorporates by reference, the Board of Adjustment Minutes, Hearing Exhibits, and Lake County Staff file. These items are located at 315 West Main Street, Tavares, Florida 32778, and may be acquired through a public record request.

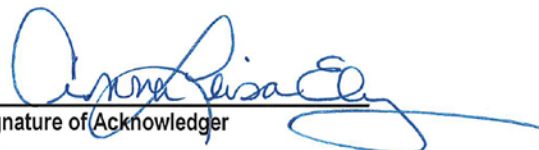
LAKE COUNTY, A Political Subdivision
of the State of Florida


Donald Schreiner, Chairman
Lake County Board of Adjustment

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this July, 2010 by DONALD SCHREINER, who is personally known to me.




Signature of Acknowledger

Anna Leisa Ely
Name of Acknowledger (Typed or Print)

Public Hearing Coordinator
Title or Rank

DD 972040
Serial Number, if any
MY COMMISSION EXPIRES: May 1, 2014
(SEAL)

PLANNING AND COMMUNITY DESIGN
315 WEST MAIN STREET
5TH FLOOR RM 511
TAVARES, FL 32778



Attachment B. – BOA #4-10-2 (Cont. Page 2 of 3)

EXHIBIT "A"
LEGAL DESCRIPTION
BOA #4-10-2
Gabriela S. Lobe
February 11, 2010

LEGAL DESCRIPTION: FROM SE COR OF NE 1/4 OF NE 1/4 RUN N 44DEG 51MIN 23SEC W 1154.24 FT FOR POB, CONT N 44DEG 51MIN 23SEC W TO NW COR OF NE 1/4 OF NE 1/4, N 89DEG 58MIN 10SEC E ALONG N LINE 863.94 FT, S 35DEG 24MIN 06SEC W 621.72 FT TO POB - SEC 12 - TWP 23 - RGE 26

Attachment B. – BOA #4-10-2 (Cont. Page 3 of 3)

EXHIBIT "B"
APPROVED VARIANCE
BOA #4-10-2
Gabriela S. Lobe
February 11, 2010

On Thursday, February 11, 2010, the Board of Adjustment approved the variance request from the **Lake County Land Development Regulations, 3.01.04. 4 a & b Key to Conditions in Table of Permitted and Conditional Uses**, to allow a stable which will be located closer than 200 feet from all parcel boundaries; and to allow the operation of said stable on a tract of land less than ten acres in size

Approved with the following conditions:

1. The owner shall provide a Type "C" landscape buffer, 15 feet in width, between the stable and the affected parcels. The buffer shall commence at the southern most point of the parcel stopping at the north east corner of the parcel. On the northern boundary, the planting shall commence at the north east corner of the parcel and shall continue to a point north of the northwest corner of the stable as shown on the site plan. The buffer shall be designed and constructed per the standards set forth in Lake County Land Development Regulation Chapter IX.
2. An inspection of the landscape buffer by Lake County Conservation and Compliance Department, to ensure the conditions as stated above are met, must be conducted and approved within 30 days of variance approval. The owner and subsequent owner(s) shall be required to maintain the landscape plan as approved.
3. Manure, used bedding, and any other associated animal waste, generated by the stable, shall be disposed of off-site on a weekly basis (7-day week). The organic waste stockpile shall be stored a minimum of 200-feet from all property lines and shall be placed within a three sided enclosure. Spreading the waste on site shall be prohibited. A manifest detailing the receivership of waste shall be maintained at the stable, and shall be subject to review by Lake County Code Enforcement Division.
4. The owner shall be required to maintain the public easement (Terra Vista Court) for the duration of the Conditional Use Permit, if approved. The easement shall be maintained to provide access for emergency vehicles and existing parcel owners.
5. The stable parking area shall not be located within 200-feet of the parcels eastern boundary for the duration of the Conditional Use Permit, if approved.
6. The stable is to be limited to a maximum number of horses, not to exceed 20 horses including foals. They are to be kept confined within the boundaries of the owner's owned and leased properties.