



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 3

Public Hearing Date: December 12, 2019

Case No. and Project Name: VAR-19-45-2, Vinola Drive LLC Property

Applicant: Craig Rager (the "Applicant")

Owner: Vinola Drive LLC (the "Owner")

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 10.01.03.B.4 to allow for an after-the-fact accessory dwelling unit to be larger than forty (40) percent of the air conditioned, enclosed living area of the principal dwelling.

Case Manager: Emily W. Johnson, Planner

Subject Property Information

Size: 20 +/- acres

Location: 18308 Triple E Road Clermont, Florida 34711

Alternate Key No.: 3277040

Future Land Use: Rural

Current Zoning District: Agriculture (A)

Flood Zone: "A" and "X"

Joint Planning Area/ISBA: Montverde ISBA

Overlay Districts: Lake Apopka Basin Overlay
Yalaha-Lake Apopka RPA
Ferndale

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural	Agriculture (A)	Residential	Single-Family Residence
South	Rural	Agriculture (A)	Residential	Single-Family Residence
East	Rural	Agriculture (A)	Residential	Single-Family Residence
West	N/A	N/A	Road	Triple E Road

Summary of Request.

The subject property, identified as Alternate Key Number 3277040, contains 20 +/- acres, and is generally located east of Triple E Road, in the unincorporated Clermont area. The parcel is zoned Agriculture (A), and is designated as Rural Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. The survey (Attachment "A") depicts the "A" and "X" floodplain areas, wetland area, and the location of the existing primary dwelling unit and after-the-fact accessory dwelling unit.

The Applicant is requesting a variance to Lake County Land Development Regulations (LDR) Section 10.01.03.B.4 to allow for an after-the-fact accessory dwelling unit to be larger than forty (40) percent of the air conditioned, enclosed living area of the principal dwelling.

On June 24, 2019, the Office of Code Enforcement issued a notice of code violation (Case No. 2019060145) for multiple unpermitted structures on the subject property. The Applicant cannot obtain zoning approval for the after-the-fact accessory dwelling unit (ADU) because the square footage of the ADU exceeds the forty (40) percent air conditioned, enclosed living area of the principal dwelling allowed by LDR Section 10.01.03.B.4. The ADU contains three-thousand twenty-four (3,024) square feet of living area; the property record card indicates that the principal dwelling contains three-thousand seventeen (3,017) square feet of living area, forty (40) percent of which would be one-thousand two-hundred six (1,206) square feet. Therefore, a variance must be approved before the Applicant can obtain permits, and resolve the code case.

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 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. Additional regulations are set in place for an Accessory Dwelling Unit (ADU) to ensure that the ADU meets the characteristics of the surrounding neighborhood and does not negatively impact overall regional density

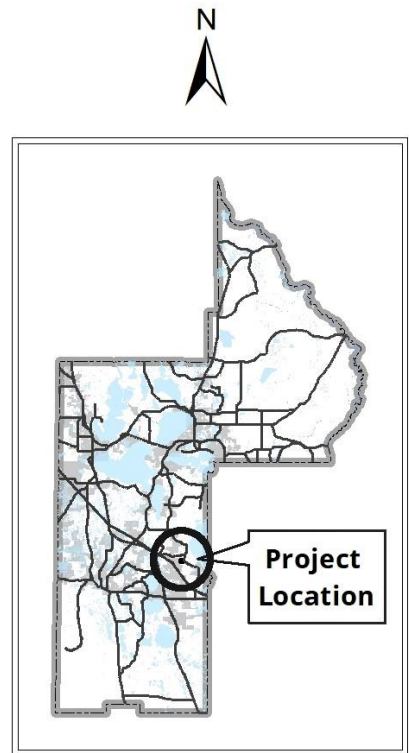
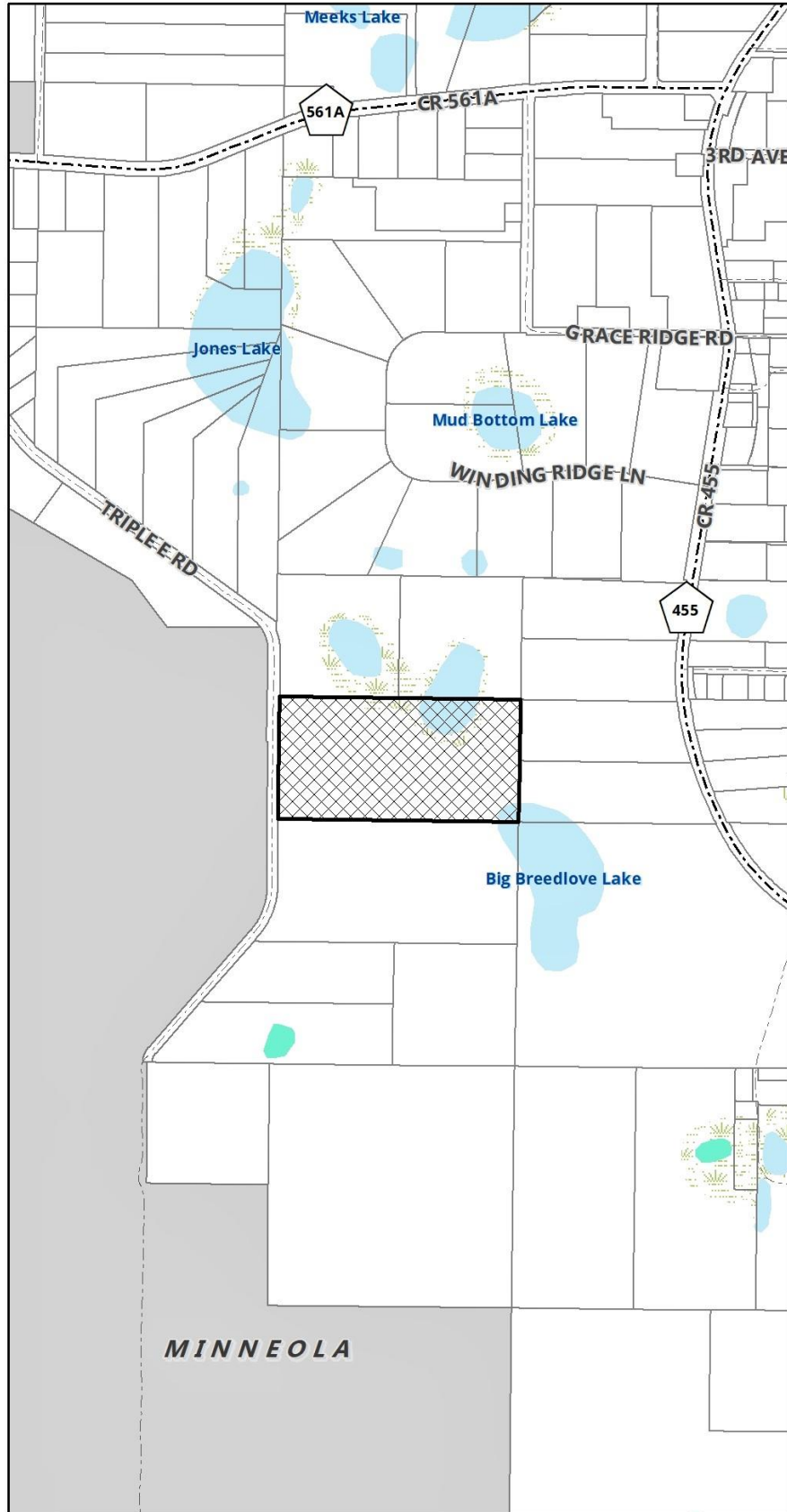
The Applicant submitted a written statement (Attachment "B") detailing how the purpose of the Land Development Regulations will be or has been achieved by other means.

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.

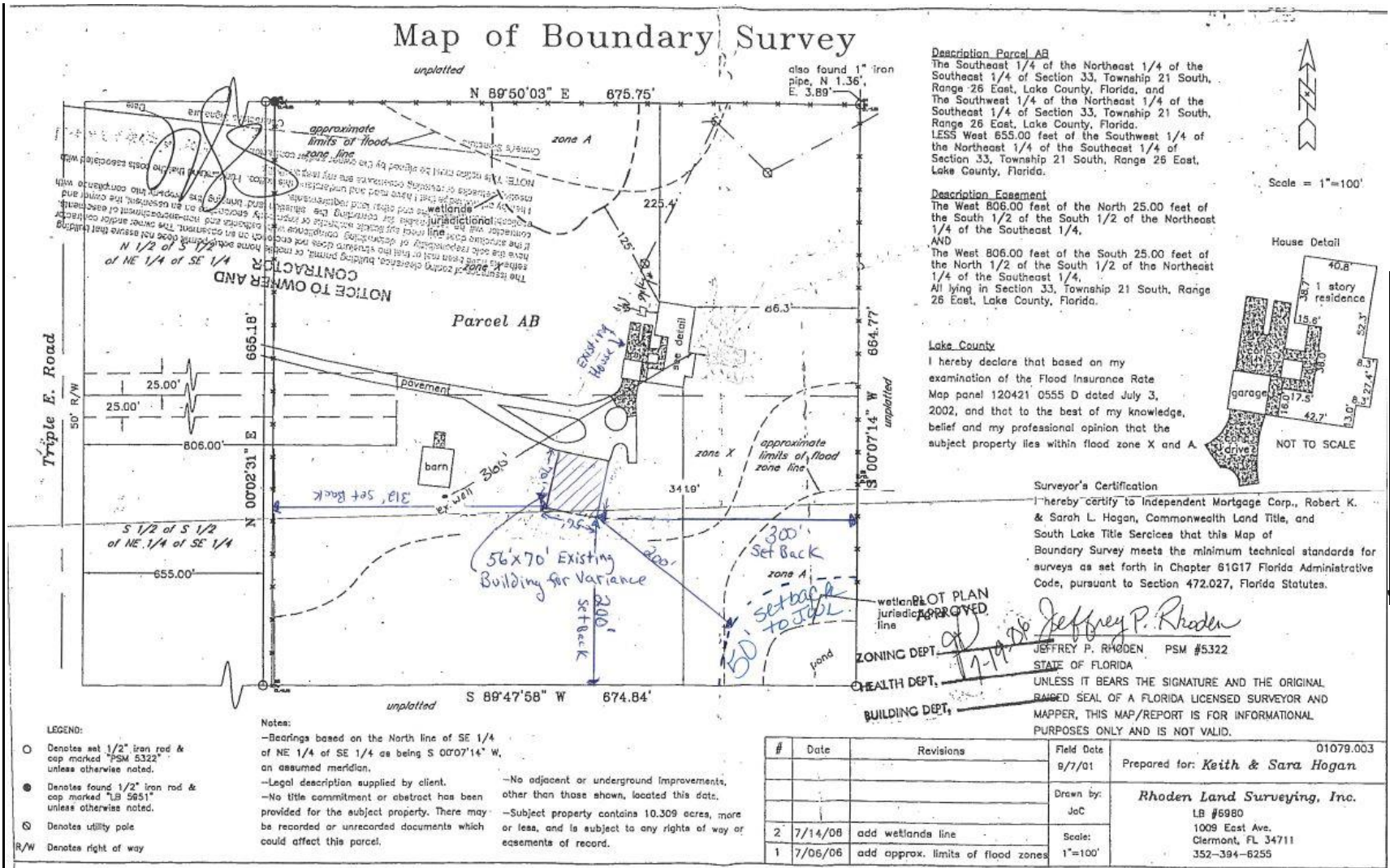
LDR Section 14.15.04 states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.

The Applicant submitted a written statement (Attachment "C") as proof of a substantial hardship.

SUBJECT PROPERTY



Attachment "A" - Survey



Attachment “B” – Intent to Meet the Purpose of the LDR

Describe how the purpose of the land development regulation will be or has been achieved by other means?

According to the 10.01.00 General Requirements for Accessory Structures.

- A. We have a lawful dwelling -3087 sqft.
- B. If we are allowed this variance, we can take the proper steps to bring this accessory structure with the county required codes
- C. This accessory structure meets all zonings set back requirements (see boundary survey)
- D. The land is 20 acres
- E. Structure meets the 25' means height requirement but is higher than the existing dwelling +/- seven feet difference
- F. Existing dwelling is a Ranch style home with a 36x44 built in the same fashion and time as the structure in question for variance.
- G. N/A
- H. N/A

As you can see the problem is we comply with all requirements except previous owners has converted to much living space, which doesn't meet the general requirements of accessory structures.

Attachment "C" – Statement of Hardship

The sale of the 20 acre parcel of property located at 18308 Triple E Road in Clermont, Florida occurred on 05/16/2014 per county records. This property has a two-story building that is located about 125 feet from the main ranch home. The main ranch home has 3017 sq ft of living space and the two-story building (56x70) building is a barn/ranch style. The two-story building was built and converted to living quarters between the years of 2006 and 2007 as per Lake county property records and appraiser verbal record. The two-story is well constructed with several high end building components being used for construction. It also matches the other smaller actual barn (36' x 44') 200' from the main house. Each of the exterior styles compliment all building structures on the 20 acre parcel. There is a real feel of country living as you approach the property. Our problem is the existing two-story building was built by the previous owner's in 2006-2007 per county and environmental health records, it has been used as extra living space for seven years before the new owner ever purchased the property. The current owner wanted the property because he owns the surrounding adjacent land adjoining all three sides of this property, which only closes the gap between his land. (please see submitted survey) The violation reflected that the two-story building permit was never issued or established to the owner's of the property dating back before the new owner's purchased the property. Understanding that the building and safety department missed getting the two-story structure permitted prior to the current owner purchasing the 20 acre parcel, the current owner is willing to comply to the county requirements of permitting this structure and in accordance with the zoning dept. The max limit of living space sq ft for an accessory building is based on the main house sq ft (40%) and that would be 1206 sq ft of living space in the two-story building. The owner is asking to keep all of the existing living sq ft of 2016 sq ft on the first floor and 1008 sq ft on the upper level instead of the minimum of 1206 sq ft. The owner has a very large family and has been able to accomodate family members during family visits. In addition, the owner is asking for the total existing sq ft because it was already in existence when he purchased the property and he had no idea that any of this building was in violation. He knows that it will cost a substantial amount of money due to impact fees plus construction cost to bring it in to compliance of the building and safety department. In the event that the owner must downsize this existing building space, then he will. The cost is going to be about the same whether the variance is approved for the additional living space because the extra impact fee expense versus the remodeling the living space to smaller 1206 sq ft will equal out. The owner's 350 acres is large and it is not obtrusive and it will blend in well with the surrounding area.

**Final Development Order
VAR-19-45-2
Vinola Drive LLC Property**

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

WHEREAS, Craig Rager (the “Applicant”), on behalf of Vinola Drive LLC (the “Owner”), submitted a variance request to Lake County Land Development Regulations (LDR) Section 10.01.03.B.4 to allow for an after-the-fact accessory dwelling unit to be larger than forty (40) percent of the air conditioned, enclosed living area of the principal dwelling; and,

WHEREAS, the subject property consists of 20 +/- acres and is located at 18308 Triple E Road, in the Clermont area of unincorporated Lake County, in Section 33, Township 21 South, Range 26 East, having an Alternate Key Number 3277040 and is more particularly described below as:

The South 1/2 of the Northeast 1/4 of the Northeast 1/4 of Section 33, Township 21 South, Range 26 East, Lake County, Florida, less the West 8 feet for road.

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 December 12, 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 December 12, 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-19-45-2 to Lake County Land Development Regulations (LDR) Section 10.01.03.B.4 to allow for an after-the-fact accessory dwelling unit to be larger than forty (40) percent of the air conditioned, enclosed living area of the principal dwelling, with the following conditions:

1. Development permits from the Office of Planning and Zoning and the Office of Building Services must be obtained for the after-the-fact accessory dwelling unit; and
2. No further additions or expansions may be approved for the accessory dwelling unit; and
3. If at any point in the future the accessory dwelling unit is to be replaced, the replacement must meet the requirements of the Land Development Regulations and Comprehensive Plan at the time of permitting.

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 12th day of December, 2019.

EFFECTIVE December 12, 2019.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Lloyd Atkins, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 12th day of December, 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