



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 1

Public Hearing Date: March 12, 2020

Case No. and Project Name: VAR-19-69-1, Smith Property

Applicant: Kathy Smith

Owner: James M. and Kathy L. Smith

Requested Action: Variance to Lake County Land Development Regulations (LDR) Sections 10.01.03.B.4 and 10.01.03.B.5 to allow an accessory dwelling unit with a living area that is greater than one-thousand two-hundred (1,200) square feet, and which has a different architectural style than the principal dwelling unit.

Case Manager: Emily W. Johnson, Planner

Subject Property Information

Size: 5.14 +/- acres

Location: 20314 Montgomery Road, Clermont.

Alternate Key No.: 1404568

Future Land Use: Rural

Current Zoning District: Agriculture (A)

Flood Zone: "X"

Joint Planning Area / ISBA: Minneola ISBA

Overlay Districts: Yalaha – Lake Apopka Rural Protection Area

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural	Agriculture (A)	Agricultural and Residential	Single-family residence on large agricultural tract
South	Rural	Agriculture (A)	Agricultural and Residential	Single-family residence on large agricultural tract
East	Rural	Agriculture (A)	Agricultural and Residential	Single-family residence on large agricultural tract
West	Rural	Agriculture (A)	Agricultural and Residential	Single-family residence on large agricultural tract; adjacent to Montgomery Road

Summary of Request.

The subject property, identified as Alternate Key Number 1404568, contains 5.14 +/- acres, and is zoned Agriculture (A) with a Rural Future Land Use Category designation. The GIS Aerial Map does not indicate a presence of wetlands or flood zone. The property is generally located east of Montgomery Road in the Clermont area of unincorporated Lake County. The subject property is currently developed with a site built single-family residence.

The Applicant has requested a variance from Lake County Land Development Regulations (LDR) Sections 10.01.03.B.4 and 10.01.03.B.5 to allow an accessory dwelling unit with a living area that is greater than 1,200 square feet in size, and which has a different architectural style than the principal dwelling unit. The Applicant desires to install a modular home on the subject parcel to be used as an accessory dwelling unit (ADU), and a maximum living area not to exceed one-thousand four-hundred (1,400) square feet.

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.

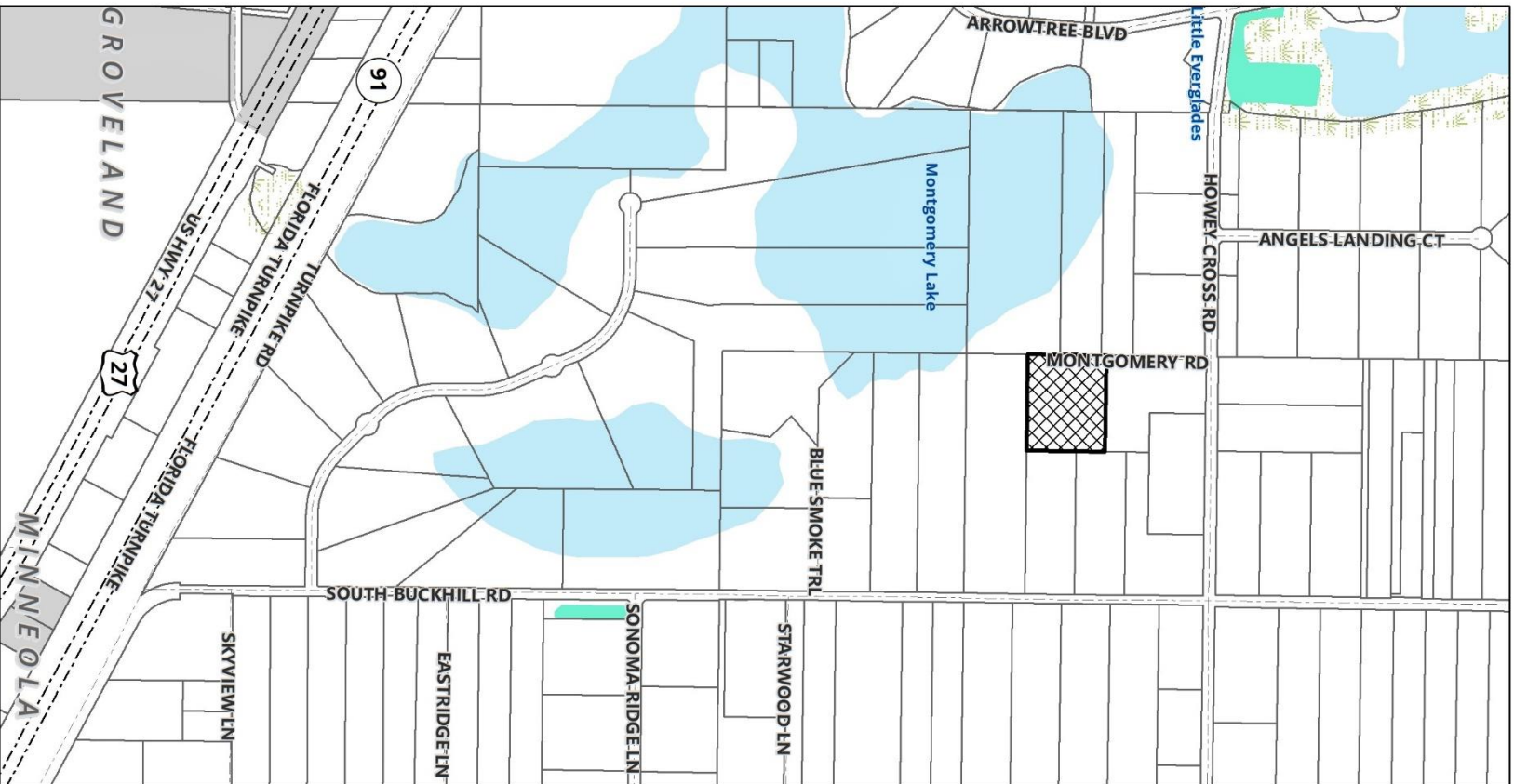
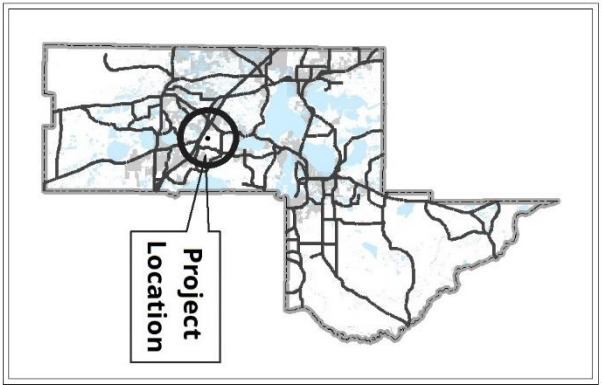
The Applicant provided the following statement as proof that the intent of the Land Development Regulation will be or has been achieved by other means, *"Modular home will meet all setbacks for well and septic (existing) and new electric on site. Setbacks for other property lines. Not really seen from road."*

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.

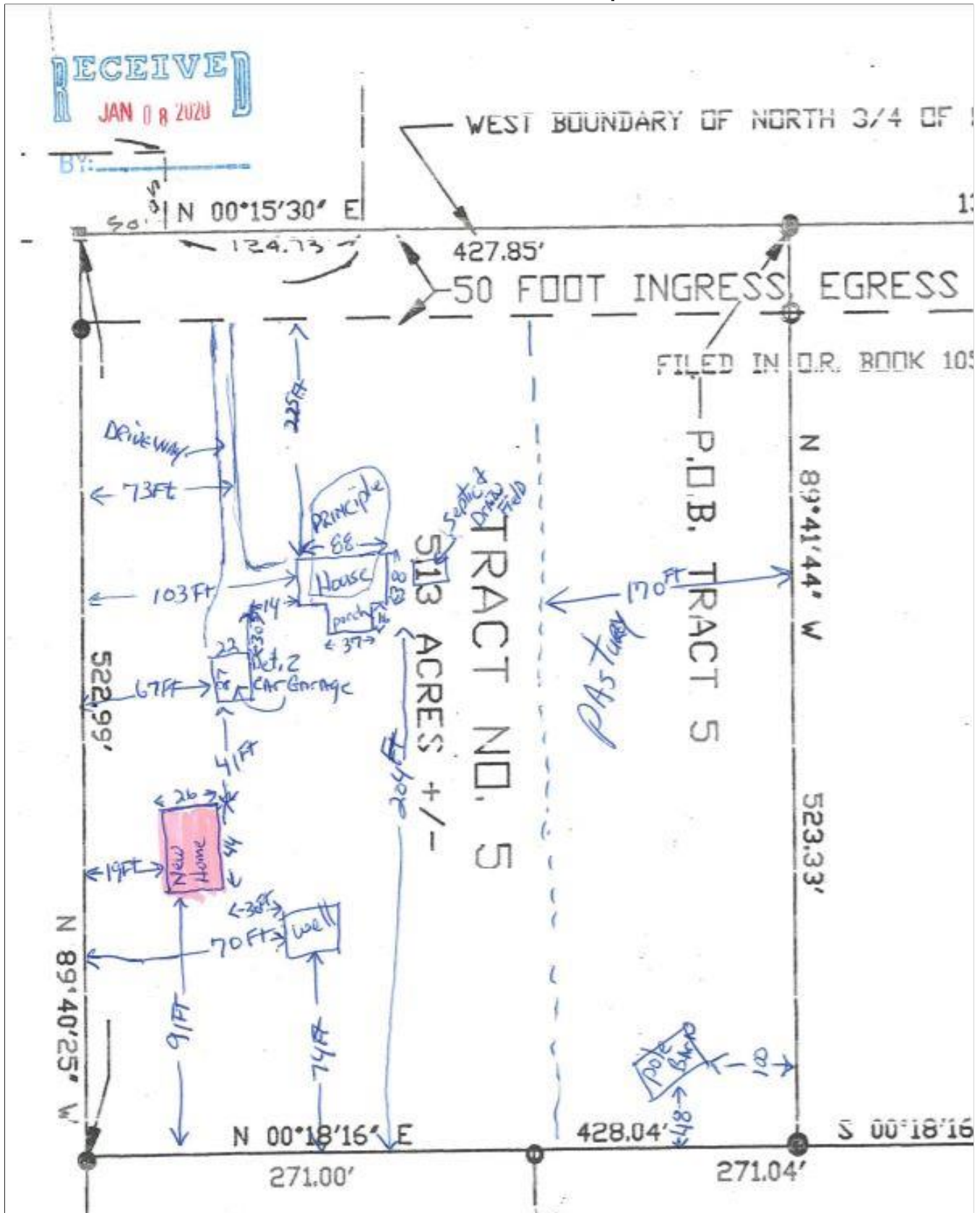
LDR Section 14.15.04, states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requested the variance.

The Applicant provided the following statement, *"Son relocating from Orlando area to help parents with financial and health issues. Can't afford time or money on a site built."*

Subject Property



Attachment A – Concept Plan



**Final Development Order
VAR-19-69-1
Smith Property**

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

WHEREAS, Kathy Smith (the "Applicant"), on behalf of James M. and Kathy L. Smith (the "Owners"), requested a variance from Land Development Regulations (LDR) Sections 10.01.03.B.4 and 10.01.03.B.5 to allow an accessory dwelling unit with a living area that is greater than 1,200 square feet in size, and which has a different architectural style than the principal dwelling unit; and

WHEREAS, the subject property consists of 5.14 +/- acres and is located at 20314 Montgomery Road, in the Clermont area of unincorporated Lake County, in Section 24, Township 21 South, Range 25 East, having Alternate Key Number 1404568, and more particularly described below; and

That portion of the North 3/4 of the Northeast 1/4 of the Southwest 1/4 Section 24, Township 21 South, Range 25 East, Lake County, Florida, described as follows:

Commence at the Northwest corner of the Southwest 1/4 of said Section 24; thence South 89° 41' 44" East along the North boundary of the said Southwest 1/4, a distance of 1328.26 feet to the West boundary of the Northeast 1/4 of the Southwest 1/4, said Section 24; thence South 00° 15' 30" West along said West boundary, 369.00 feet to the Point of Beginning; thence continue South 00° 15' 17" West along said West boundary, 427.85 feet to the South boundary of the North 3/4 of said Northeast 1/4 of the Southwest 1/4; thence South 89° 40' 25" East along said South boundary, 522.99 feet; thence North 00° 18' 16" East 428.04 feet; thence North 89° 41' 44" West 523.33 feet to the Point of Beginning, containing 5.13 acres, more or less, less County Roads.

Together with easement for ingress and egress over the East 50 feet of the South 507.00 feet of the North 987 feet of the Northwest 1/4 of the Southwest 1/4 of Section 24, Township 21 South, Range 25 East, Lake County, Florida. Less the North 124.73 feet thereof.

AND: That portion of the South 80 feet of the South 507.00 feet of the North 987 feet of the Northwest 1/4 of the Southwest 1/4 of Section 24, Township 21 South, Range 25 East, Lake County, Florida. Lying Easterly of the existing waters of lake.

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 March 12, 2020; 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 March 12, 2020, 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-19-69-1 to allow an accessory dwelling unit with a living area that is greater than one-thousand two-hundred (1,200) square feet, and which has a different architectural style than the principal dwelling unit, with the following condition:

1. The living area of the accessory dwelling unit shall not exceed one-thousand four-hundred (1,400) square 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.

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

ENACTED this 12th day of March, 2020.

EFFECTIVE March 12, 2020.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

**Lloyd Atkins, Chairman or
James Argento, Vice-Chairman**

State of Florida

County of Lake

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this _____ day of _____, 2020, by _____.

Personally Known OR Produced Identification

Type of Identification Produced _____

**Notary Signature
(SEAL)**