



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 17  
 Public Hearing Date: May 14, 2020  
 Case No. and Project Name: VAR-20-18-1, Lake Minnehaha Sidewalks  
 Applicant: Dale J. Ladd (the "Applicant")  
 Owner: Lake Minnehaha, Inc (the "Owner")  
 Requested Action: Variance to Land Development Regulation (LDR) Section 14.08.00.C.2, to allow a Developer's Agreement to delay the construction of sidewalks for eleven (11) years from the recording of the final plat in lieu of four (4) years for seven (7) lots within the Highland Overlook Subdivision.  
 Case Manager: Michele Janiszewski, Chief Planner

### Subject Property Information

Size: 1.94 +/- acres  
 Location: Matanilla Dr, Clermont  
 Alternate Key No.: 3891415, 3891416, 3891417, 3891419, 3891420, 3891421 & 3891422  
 Future Land Use: Urban Low Density  
 Current Zoning District: Medium Residential District (R-3)  
 Flood Zone: "X"  
 Joint Planning Area/ISBA: Clermont JPA  
 Overlay Districts: N/A

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low Density	Medium Residential District (R-3)	Residential	Single-Family Residences & Common Area Tract with Wetland
South	Urban Low Density	Medium Residential District (R-3)	Residential	Single-Family Residences
East	Urban Low Density	Medium Residential District (R-3)	Residential	Single-Family Residences & Common Area Tract with Wetland
West	Urban Low Density	Medium Residential District (R-3)	Residential	Matanilla Dr & Single Family Residences

### Summary of Request.

The subject properties are platted as Lots 16, 17, 18, 20, 21, 22 & 23 of the Highland Overlook Subdivision which is recorded in Plat Book 65, Page 89-90, Public Records, Lake County, Florida.

The Developer executed a Developer's Agreement to delay the construction of sidewalks within the Highland Overlook subdivision. The Developer's Agreement gave the Developer four (4) years from the date the plat was recorded to install sidewalks across ten (10) of the twenty-eight (28) lots within the subdivision. In conjunction with the Developer's Agreement, the Developer posted a \$7,141.20 cash surety which was accepted by the Board of County Commissioners on May 6, 2014. The final plat was recorded on May 23, 2014. The Developer was then granted an extension under Emergency Orders to extend the installation of the sidewalks until February 8, 2020. Currently, two (2) single family residences have been built with sidewalks and there are eight (8) lots which are vacant without sidewalks.

The Applicant has requested a variance to LDR Section 14.08.00.C.2, to allow a Developer's Agreement to delay the construction of sidewalks for eleven (11) years from the recording of the final plat in lieu of four (4) years for seven (7) lots within the Highland Overlook Subdivision. If approved as proposed, the Developer would have until May 23, 2025 to install the sidewalks. Public Works objects to the variance request.

### 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.**

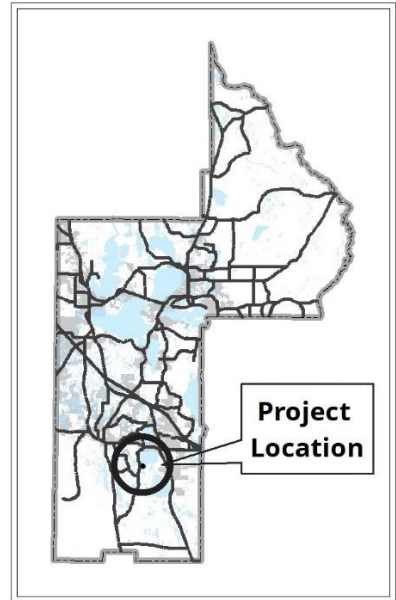
The intent of the Code, LDR Section 14.08.00.C, is to provide a process to allow Developers to delay the construction of sidewalks which would be in front of the single-family residences to ensure sidewalks are constructed prior to the dwelling units receiving a certificate of occupancy.

The Applicant 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: *"Sidewalks will be constructed concurrent with the construction of the residences. The end result will be sidewalks throughout the community."*

**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 proof of a substantial hardship: *"1. The subdivision is on a cul-de-sac, there is minimal traffic on the road. 2. No one had complained about the lack of sidewalks. 3. We do not want to install the sidewalks twice. They will get destroyed during construction of the home and have to be ripped out and replaced and the material that was ripped out will be discarded in the landfill. 4. All lots are either owned by the developer or one current resident."*

### Subject Property



**Final Development Order  
VAR-20-18-1  
Lake Minnehaha Sidewalks**

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

**WHEREAS**, Dale J. Ladd (the "Applicant"), on behalf of Lake Minnehaha, Inc. (the "Owner"), submitted a variance request to Lake County Land Development Regulations (LDR) 14.08.00.C.2, to allow a Developer's Agreement to delay the construction of sidewalks for eleven (11) years from the recording of the final plat in lieu of four (4) years for seven (7) lots within the Highland Overlook Subdivision; and,

**WHEREAS**, the subject property consists of 1.94 +/- acres and are located along Matanilla Dr, in the Clermont area of unincorporated Lake County, in Section 2, Township 23 South, Range 25 East, Alternate Key Numbers 3891415, 3891416, 3891417, 3891419, 3891420, 3891421 & 3891422, and is more particularly described below as:

Lots 16, 17, 18, 20, 21, 22 & 23 of the Highland Overlook Subdivision, recorded in Plat Book 65, Page 89-90, Public Records, 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 May 14, 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 May 14, 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-20-18-1 to Lake County Land Development Regulations (LDR) Section 14.08.00.C.2, to allow a Developer's Agreement to delay the construction of sidewalks for eleven (11) years from the recording of the final plat in lieu of four (4) years for seven (7) lots within the Highland Overlook Subdivision with the condition that the Developer's Agreement be amended to reflect this variance request.

**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.

*[Remainder of Page Left Intentionally Blank]*

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

ENACTED this 14<sup>th</sup> day of May, 2020.

EFFECTIVE May 14, 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)