



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 8

Public Hearing Date: November 12, 2020

Case No. and Project Name: VAR-20-54-1, Stewart Property

Owners/Applicants: Kenneth L. and Marie L. Stewart

Requested Action: Variance to Lake County Code, Land Development Regulations (LDR) Section 10.01.03(B)(7), to allow the existing primary residence and proposed accessory dwelling unit to have their own individual access from the same right-of-way.

Case Manager: Janie Barrón, Senior Planner

Subject Property Information

Size: 1.41 +/- acres

Location: 18781 South O'Brien Road, Groveland

Alternate Key No.: 1082064

Future Land Use: Rural

Current Zoning District: Rural Residential (R-1)

Flood Zone: "X"

Joint Planning Area/ ISBA: None

Overlay Districts: None

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural	Rural Residential (R-1)	Residential	Single-Family Dwelling Unit
South	Rural	Agriculture (A)	Residential	Large Tract of Land with Single-Family Dwelling Unit
East	Rural	Agriculture (A)	Right-of-Way, Agriculture	South O'Brien Road, Large Agriculture Tract of Land East of the R-O-W
West	Rural	Agriculture (A)	Residential	Large Tract of Land with Single-Family Dwelling Unit

Summary of Request.

The Owner has submitted a variance request to Lake County Code, Land Development Regulations (LDR) Section 10.01.03(B)(7), to allow the existing primary residence and proposed accessory dwelling unit to have their own individual access from the same right-of-way.

The subject 1.41 +/- acre parcel is identified by Alternate Key Number 1082064. The parcel is zoned Rural Residential District (R-1) and is part of the Rural Future Land Use Category (FLUC). The subject parcel was originally created through the minor lot split process in 1992 (MLS 92-149), and is currently developed with a single-family dwelling unit.

The subject parcel is located within the City of Groveland ISBA; therefore, the variance application was sent to the City of Groveland for a determination of consistency with their regulations. The City of Groveland had no comments or objections to the 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 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.

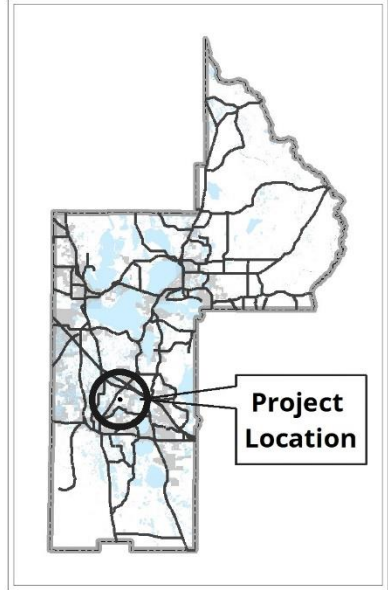
The Owner has submitted the following intent of the Code statement: *"The property is triangular in shape, 1/3 acres in size having 240 foot depth at the widest northern point and zero at the narrow end south 440 feet along the right of way for South Obrien Road. In order to fit the accessory residence in and meet front setbacks for the road, the well, and the septic system it required the garages for each dwelling to be oriented facing opposing directions. To connect the driveways would require clearing the minimal front yard of trees, paving most of it, and creating a severe slope along the right of way (the residences are about 5' below the roadway).*

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.

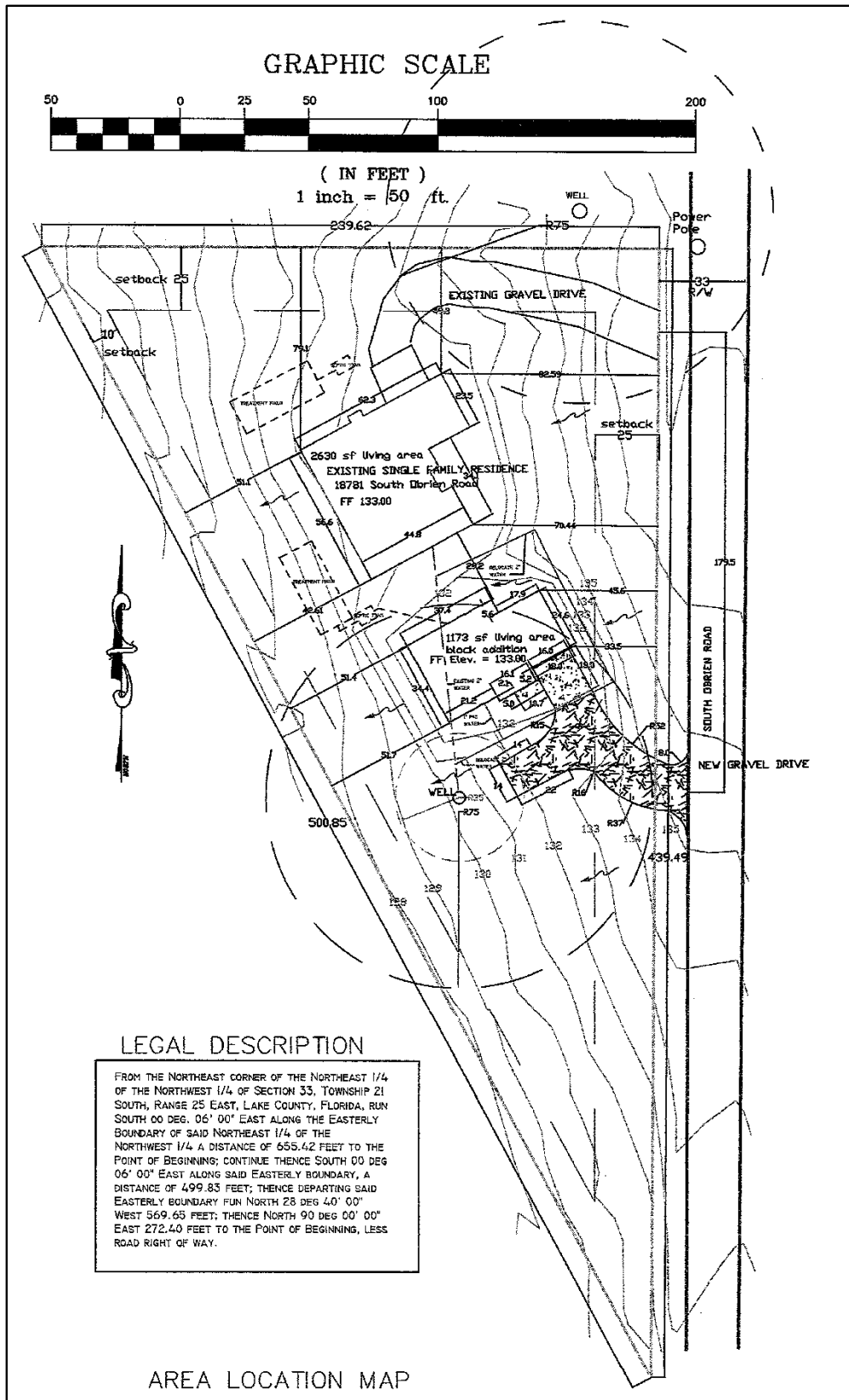
LDR Section 14.15.04 states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.

The Owners submitted the following statement and setback table as proof that the LDR would create a substantial hardship or would violate principles of fairness: *"I believe the requirement for attached driveways was to prevent drive approaches too close together for safe exit on to the right of way. The front of my property is about 440 feet and the new driveway is proposed to be about 180 feet from the existing principal residence. I believe this distance exceeds what is permitted in subdivisions with much more traffic than the clay paved rural road experiences. As an example, my neighbors drive approach is only about 50 feet from my own. I suggest that the distance between the proposed drive and the principal residence driveway preserves the safety aspect of having drives that are separated by a reasonable distance."*

Map of Subject Property



Attachment "A", Survey.



**Final Development Order
VAR-20-54-1
Stewart Property**

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

WHEREAS, Kenneth L. and Marie L. Stewart (the “Owners” and “Applicants”) submitted a variance request to Lake County Code, Land Development Regulations (LDR) Section 10.01.03(B)(7), to allow the existing primary residence and proposed accessory dwelling unit to have their own individual access from the same right-of-way; and

WHEREAS, the subject property consists of 1.41 +/- acres, located at 18781 South O’Brien Road, in the Groveland area of unincorporated Lake County, Florida, in Section 33, Township 21 South, Range 25 East, having Alternate Key Number 1082064, and more particularly described as:

From the Northeast corner of the Northeast 1/4 of the Northwest 1/4 of Section 33, Township 21 South, Range 25 East, Lake County, Florida, run South 00°06’00” East along the Easterly boundary of said Northeast 1/4 of the Northwest 1/4, a distance of 655.42 feet to the Point of Beginning; continue thence South 00°06’00” East along said Easterly boundary, a distance of 499.83 feet; thence departing said Easterly boundary run North 28°48’00” West 569.65 feet; thence North 90°00’00” East 272.40 feet to the Point of Beginning, less road right-of-way.

WHEREAS, after giving notice of the hearing on the 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 November 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 November 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-20-54-1, to allow the existing primary residence and proposed accessory dwelling unit to have their own individual access from the same right-of-way.

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 November, 2020.

EFFECTIVE November 12, 2020.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

**James Argento, as Chairman of the Lake
County Board of Adjustment**

State of Florida

County of Lake

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 12th day of November, 2020, by James Argento, as Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

Notary Signature

(SEAL)