



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 1

Public Hearing Date: February 11, 2021

Case No. and Project Name: VAR-20-66-1, Mills Property

Owner: Debra A. Mills

Applicant: Jimmy D. Crawford, Esq.

Requested Action: Variance to Land Development Regulations (LDR) Sections 3.01.04(1)(a) and 3.01.04(4)(b) to allow for an existing barn to be located less than 200-feet from the property lines, and on a tract of land less than 10-acres in size, to facilitate approval of a Conditional Use Permit for an equestrian boarding facility.

Case Manager: Emily W. Johnson, Senior Planner

Subject Property Information

Size: 9.72 +/- acres

Location: 23915 Palm Avenue, in the unincorporated Howey-In-The-Hills area of Lake County.

Alternate Key No.: 1257794

Future Land Use: Rural

Current Zoning District: Agriculture (A)

Flood Zones: "A" and "X"

Joint Planning Area (JPA) / ISBA: Howey-In-The-Hills

Overlay Districts: Yalaha – Lake Apopka Rural Protection Area (RPA)

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural Transition	AR	Residential	Single-Family Residence
South	Rural	A	Residential	Single-Family Residence
East	Rural	A	Residential	Single-Family Residence
West	N/A, Howey-In-The-Hills	N/A, Howey-In-The-Hills	Lake, Vacant	Lake Bertha, and vacant undeveloped land in Howey-In-The-Hills

Summary of Request.

The subject property, identified as Alternate Key Number 1257794, contains 9.72 +/- acres, is zoned Agriculture (A), and is designated with a Rural Future Land Use Category by the 2030 Comprehensive Plan. Generally, the subject property is located west of Palm Avenue and east of Lake Bertha, in the unincorporated Howey-In-The-Hills area of Lake County. The subject property is located within the Howey-In-The-Hills Interlocal Service Boundary Area Agreement (ISBA); the Town of Howey was provided with the variance application and indicated that they have no comments or objections to the request. The subject property is currently developed with a single-family dwelling unit, barn, gated corral/paddocks, and other accessory uses.

The Applicant has requested a variance to LDR Sections 3.01.04(1)(a) and 3.01.04(4)(b) to allow for the existing barn to be located less than 200-feet from the property lines, and on a tract of land less than 10-acres in size. It is the intention of the Owner to utilize the barn for equestrian boarding purposes; should the variance be approved, a subsequent application for a conditional use permit will be required for proposed boarding facility use. The location of the existing barn is depicted on the plot plan (Attachment "A"), and was originally permitted via a Non-Residential Structure Waiver in association with the agricultural use of the property in 2007. The Non-Residential Structure Waiver approved the barn for hay and equipment storage; as the structure was not permitted as a livestock building, it was not required to meet the 200-foot setbacks at the time of its permitting. As the Owners intend to utilize the barn for a livestock building in their future endeavor, a variance to the setback requirements for a livestock building, as well as the acreage requirement for an equestrian boarding facility, is required to facilitate approval of a conditional use permit application.

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 Applicant provided the following statement as proof that the intent of the code will be or has been achieved by other means, *"Ms. Mills intends to utilize an existing barn. A barn that was permitted by the same LDR section she now requires a waiver from since Ms. Mills has acquired Lot 4, in addition to Lot 3, which the barn was originally permitted on. Ms. Mill's plan [sic] to avoid permissive waste of her property by utilizing the existing structures that have been permitted by the County."*

The Applicant provided an additional written statement in regards to the purpose of the Land Development Regulation, which is included as Attachment "B" (2 pages).

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.

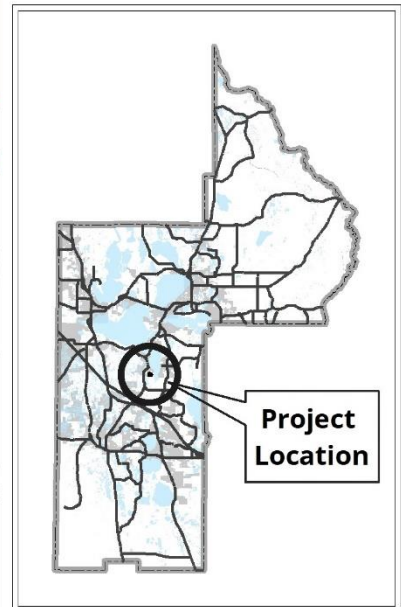
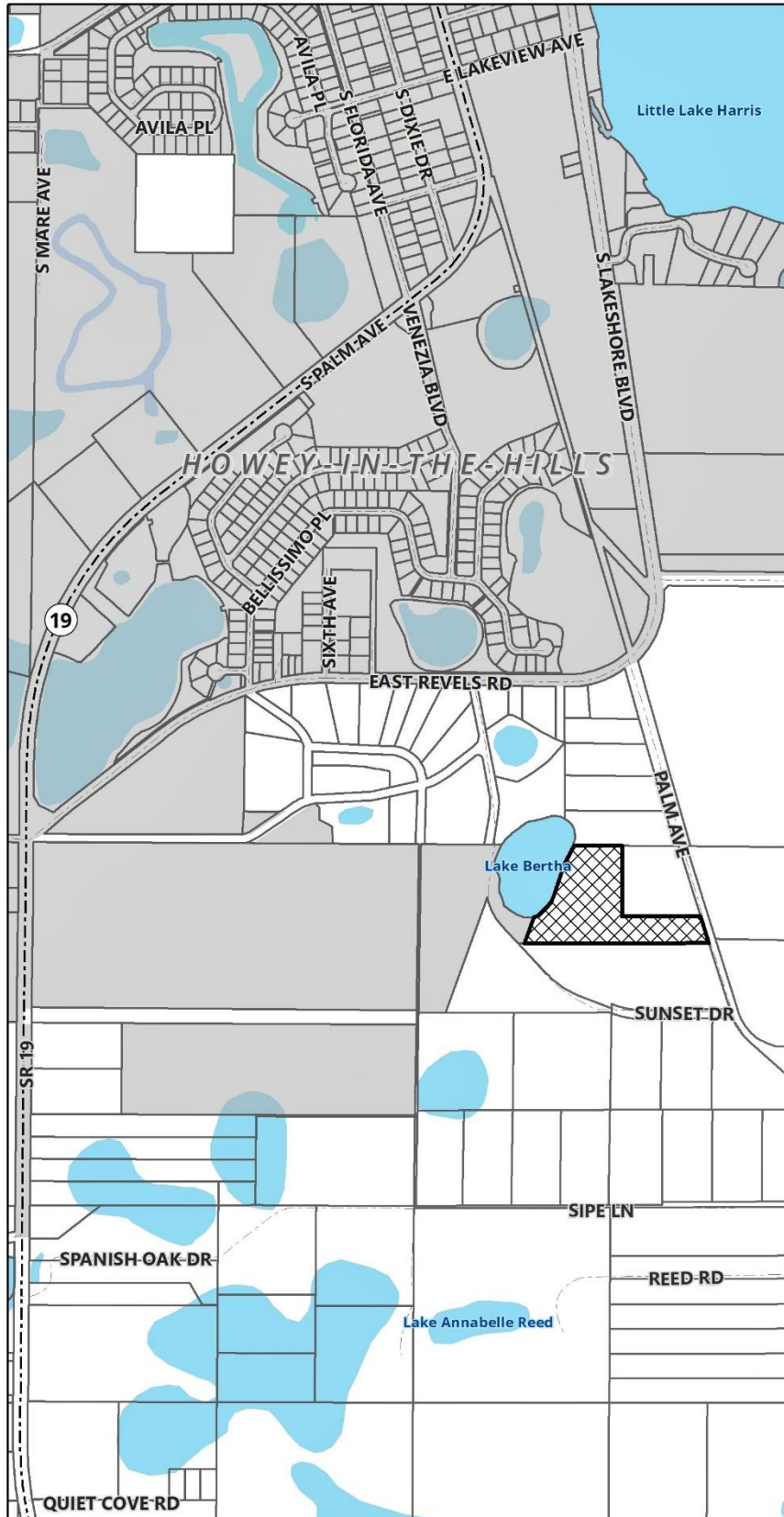
LDR Section 14.15.04, states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requested the variance.

The Applicant provided the following statement, *"Ms. Mills owns both lots 3 & 4 in the 1st Subdivision of Howey. In 2007, the owner of Lot 3 obtained a permit to construct a barn that is centered on lot 3 with a minimum 50-ft from the property*

lines, in accordance with LDR 3.01.04(1)(b). Ms. Mills intends to utilize this barn for the boarding of horses. Since lots 3 & 4 have been united, a variance to the same LDR provision is not required, as well as LDR 30.01.04(4)(b)."

The Applicant provided an additional written statement in regards to the hardship, which is included as Attachment "B" (2 pages).

Map of Subject Property



Attachment “B” – Additional Applicant Statement (Page 1 of 2)

Request for Variance and CUP for a Horse Stable

Ms. Debra Mills recently purchased 9.7 +/- acres identified as 23915 Palm Ave., Howey in the Hills (the “Property”). The Property consists of both lots 3 and 4 of the 1st Subdivision of Howey, as recorded in Plat Book 5, Page 32 Lake County Records. The Property was purchased improved with a 3,200 sq. ft. single-family home, a 4,900 sq. ft. barn, and gated corral. The Property is surrounded to the north, east and south with other single-family homes on large lots. To the west is an isolated wetland. The Property is located within the Rural Future Land Use Category and is zoned Agriculture. Ms. Mills would like to operate a Public Horse Stable, which requires a Conditional Use Permit (CUP) according to the Land Development Regulations 3.01.03.

Ms. Mills purchased the property with the intent of boarding horses in the existing barn. There are no improvements to the Property that would be required prior to operation. According to LDR 3.01.04, all stables are to be located on a tract of land 10 acres or more in size, and structures to house animals shall be at least 200-ft from adjacent property boundaries. Therefore, Ms. Mills is also requesting a variance to both requirements of the LDR condition. As recently as this year, the County approved the J&K Sargent Horse Stable-Riding Academy CUP located on a 4.79-acre with a structure to house animals less than 36-feet from its eastern property line. Additionally, the Board of Adjustments approved a stable on a property of 5.23-acres. Not only is the difference between the size of Ms. Mill’s property at 9.7+/- acres and the required 10 acres, minimal, the layout of the land utilizes the Property to its highest potential as a stable. The existing barn was permitted in 2007 by the owner of Lot 3, who did not own Lot 4. The barn centered on Lot 3 and is setback 34.9 feet from the south property line.

Ms. Mills offers the following to support her variance and CUP request.

1. The purpose of the Land Development Regulations will be or has been achieved by other means.

The intent of LDR Section 3.01.04, is to regulate the use and location of structures to ensure that they are not aesthetically or physically harmful to the surrounding neighborhood. Ms. Mills has increased the size of Lot 3 that had previously been permitted with the existing structures on the property. Furthermore, Ms. Mills intends the facility to be a public boarding facility only and will not offer riding lessons. The operation will only take place during daylight hours and no additional lighting or sound systems will be installed.

2. The application of the LDR would create a substantial hardship or would violate principles of fairness.

Ms. Mills is relying of this Property to generate income for her and her daughter to survive. The owner did not create the hardship she now requests relief from. Further, the existing structures were permitted on a parcel that is half the size of what Ms. Mills has acquired.

Attachment “B” – Additional Applicant Statement (Page 2 of 2)

3. The proposed conditional use will not have an undue adverse effect upon nearby property.

The applicant is not offering or providing riding lessons. Proposed hours of operation are 9 am to sunset. There will be no extra lighting or sound system added to the Property. There will be no adverse impacts to nearby properties from the proposed stable for horse boarding. The Property is surrounded by similar uses in agriculture zoning.

4. The proposed conditional use is compatible with the existing or planned character of the neighborhood in which it would be located.

The proposed stable is compatible with the surrounding agricultural uses and the existing rural character of the community. All the surrounding properties are zoned Agriculture, with exception to the adjacent lot to the north, which is zoned Agriculture Residential (AR).

5. All reasonable steps have been taken to minimize any adverse effect of the proposed conditional use on the immediate vicinity through design, landscaping, and screening.

The Property is already constructed for equestrian uses. The Applicant will be requesting a variance to allow the existing barn to remain located its current location, which is not 200-ft from the nearest property line. There is a row of trees that screens the barn from the neighboring property.

6. The proposed conditional use will be constructed, arranged, and operated so as not to interfere with the development of neighboring property, in accordance with applicable district regulations.

The proposed stable will be operated so as not to interfere with the development of neighboring properties. Equestrian uses are conditionally permitted within the Agriculture and Agriculture Residential zoning districts. Finally, the Rural Land Use Category in which the Property is located includes states that equestrian uses are typical uses within the category.

All applicable levels of service are within acceptable levels and will not be adversely impacted. Furthermore, the requested amendment will not fiscally burden county services.

The Property site does not contain any wetlands or protected upland communities.

**Final Development Order
VAR-20-66-1
Mills Property**

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

WHEREAS, Jimmy D. Crawford, Esq. (the “Applicant”), on behalf of Debra A. Mills (the “Owner”), requested a variance to Land Development Regulations (LDR) Sections 3.01.04(1)(a) and 3.01.04(4)(b) to allow for an existing barn to be located less than 200-feet from the property lines, and on a tract of land less than 10-acres in size, to facilitate approval of a Conditional Use Permit for an equestrian boarding facility; and

WHEREAS, the subject property consists of 9.72 +/- acres and is located at 23915 Palm Avenue, in the Howey-In-The-Hills area of unincorporated Lake County, in Section 01, Township 21, Range 25, having Alternate Key Number 1257794, and more particularly described in Exhibit “A” – Legal Description; and

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 February 11, 2021; 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 February 11, 2021, 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-20-66-1, to allow for an existing barn to be located less than 200-feet from the property lines, and on a tract of land less than 10-acres in size.
- 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.

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**Section 3. Effective Date. This Ordinance will become effective as provided by law.
ENACTED this 11th day of February, 2021.
EFFECTIVE February 11, 2021.**

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

James Argento, 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 _____, 2021, by James Argento, as Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

**Notary Signature
(SEAL)**

Exhibit "A" – Legal Description

Parcel B of the Lot Line Deviation Adjustment recorded in Official Records Book 1575, Page 605, Public Records of Lake County, Florida, also described as follows: Lots 3 and 4 1st Subdivision of Howey, as recorded in Plat Book 5, Page 32, of the Public Records of Lake County, Less and Except Parcel A of the Lot Line Deviation Adjustment recorded in Official Records Book 1575, Page 605, Public Records of Lake County, Florida, also described as follows: That Part of Lot 3, 1st Subdivision of Howey, as recorded in Plat Book 5, Page 32, of the Public Records of Lake County, Florida, described as follows: Commence at the Northeast corner of said Lot 3; thence run South 89 Degrees 50 Minutes 22 Seconds West along the North line of said lot, a distance of 383.61 feet; thence run South 00 Degrees 09 Minutes 38 Seconds East, a distance of 476.65 feet to the South line of said Lot 3; thence run North 89 Degrees 50 Minutes 22 Seconds East along the South line of said Lot 3, a distance of 503.25 feet to the Westerly right-of-way line of Palm Avenue and the Southeast corner of said Lot 3; thence run North 17 Degrees 15 Minutes 38 Seconds West along the said West right-of-way line, a distance of 498.7 feet to the Point of Beginning.

Together with a non-exclusive easement for the purpose of ingress and egress to the portion of Lot 3 contained in Parcel B conveyed hereinabove, Grantee shall refrain from using this easement until such time as a single family residence is constructed on the portion of Lot 3 conveyed herein, and any road established on said easement shall be located in the Northern most part of the easement allowed by all government authorities over and across the North 50 feet of Parcel A also described as follows:

Begin at the Northeast corner of Parcel A, Lot 3, 1st Subdivision of Howey, as recorded in Plat Book 5, Page 32, of the Public Records of Lake County, Florida; thence run South 89 Degrees 50 Minutes 22 Seconds West along the North property line of said Parcel A or Lot 3, a distance of 383.61 feet to the West line of Parcel A; thence run South 00 Degrees 09 Minutes 38 Seconds East along the West line of Parcel A, a distance of 50.0 feet; thence run North 89 Degrees 50 Minutes 22 Seconds East to the Westerly right-of-way line of Palm Avenue; thence North 17 Degrees 15 Minutes 38 Seconds West along said Westerly right-of-way line to the Northeast corner of said Parcel A or Lot 3 to the Point of Beginning.