



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 4

Public Hearing Date: December 9, 2021

Case No. and Project Name: VAR-21-69-1, Muilenburg Property

Owners/Applicant: Wayne Muilenburg and Lin Muilenburg

Requested Action: Variance to Land Development Regulations (LDR) Table 3.02.05, to allow a single-family dwelling unit and accessory structures (pool, pool deck and pool enclosure) to be constructed 10-feet from the right-of-way, in lieu of 62-feet from the centerline of the road.

Case Manager: Ruth Mitchell, Planner

Subject Property Information

Size: 0.89 +/- acres

Location: North of Middle Street, Groveland

Alternate Key No.: 3907764

Future Land Use: Rural Transition

Current Zoning District: Rural Residential (R1)

Flood Zones: "A" and "X"

Joint Planning Area (JPA) / ISBA: City of Groveland ISBA

Overlay Districts: N/A

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural Transition	Rural Residential (R1)	Residential	Single-Family Residence
South	N/A	N/A	Street	Middle Street
East	N/A	N/A	Lake	Lake Emma
West	Rural Transition	Rural Residential (R1)	Vacant Lot	Vacant Lot

Summary of Request.

The subject 0.89 +/- acres, identified as Alternate Key Number 3907764, is zoned Rural Residential (R1), and is designated with a Rural Transition Future Land Use Category by the 2030 Comprehensive Plan. Based on the conceptual plan (Attachment "A"), the subject parcel lies with flood zones "A" and "X" and wetlands exist on the site. The subject parcel is generally located north of Middle Street in the unincorporated Groveland area.

The Owners' contacted the Office of Planning and Zoning to receive setback requirements to construct a single-family dwelling unit and accessory structures (pool, pool deck and pool enclosure) on the subject property. Once staff provided setback information, the Owners' realized that due to the layout of the lot and proposed configuration of the single-family dwelling unit and accessory structures, the front setback would not be met.

There is a platted road along the whole south side of this parcel; the proposed structure would have a setback of 62-feet from the centerline of that road. There are wetlands on the east and north side of the parcel and the proposed structures have a setback of 50-feet from the jurisdictional wetland line. The Owners are adhering to the rear setback to protect the wetlands; therefore, the Owners would not be able to meet the front setback. The Owners are requesting a variance to LDR Table 3.02.05, to allow a single-family dwelling unit to be constructed 10-feet from the property line in lieu of 62-feet from the centerline of the road.

The variance application was sent to the Public Works Department for a determination of consistency with their regulations and the Department of Public Works identified the following condition for inclusion in the draft development order: "A detailed survey (to verify exact location of rights-of-way and all property lines) will need to be provided at the time of permitting."

The subject parcel is located within the City of Groveland Interlocal Service Boundary Area (ISBA). 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 Table 3.02.05, is to ensure structures are located a safe distance from roads and there is enough area for safe passage of vehicles.

The Owners will be meeting the required rear and side setback from the jurisdictional wetland line as required by Land Development Regulations Section 6.01.04.A and Policy III-2.2.7, Protection of Shorelines of the 2030 Comprehensive Plan.

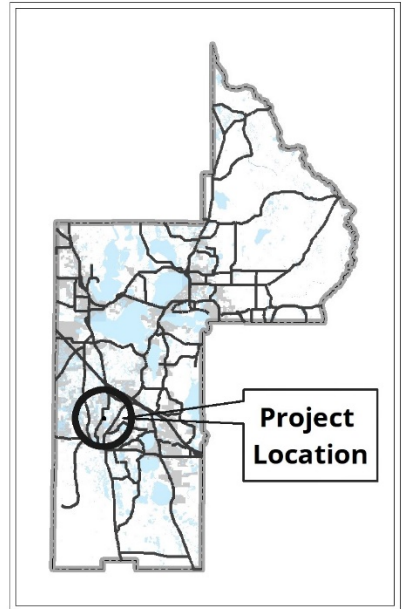
To show that the intent of the code will be or has been achieved by other means, the Applicant provided a written statement, [Attachment "B" – Intent of Meeting the Code Statement].

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.

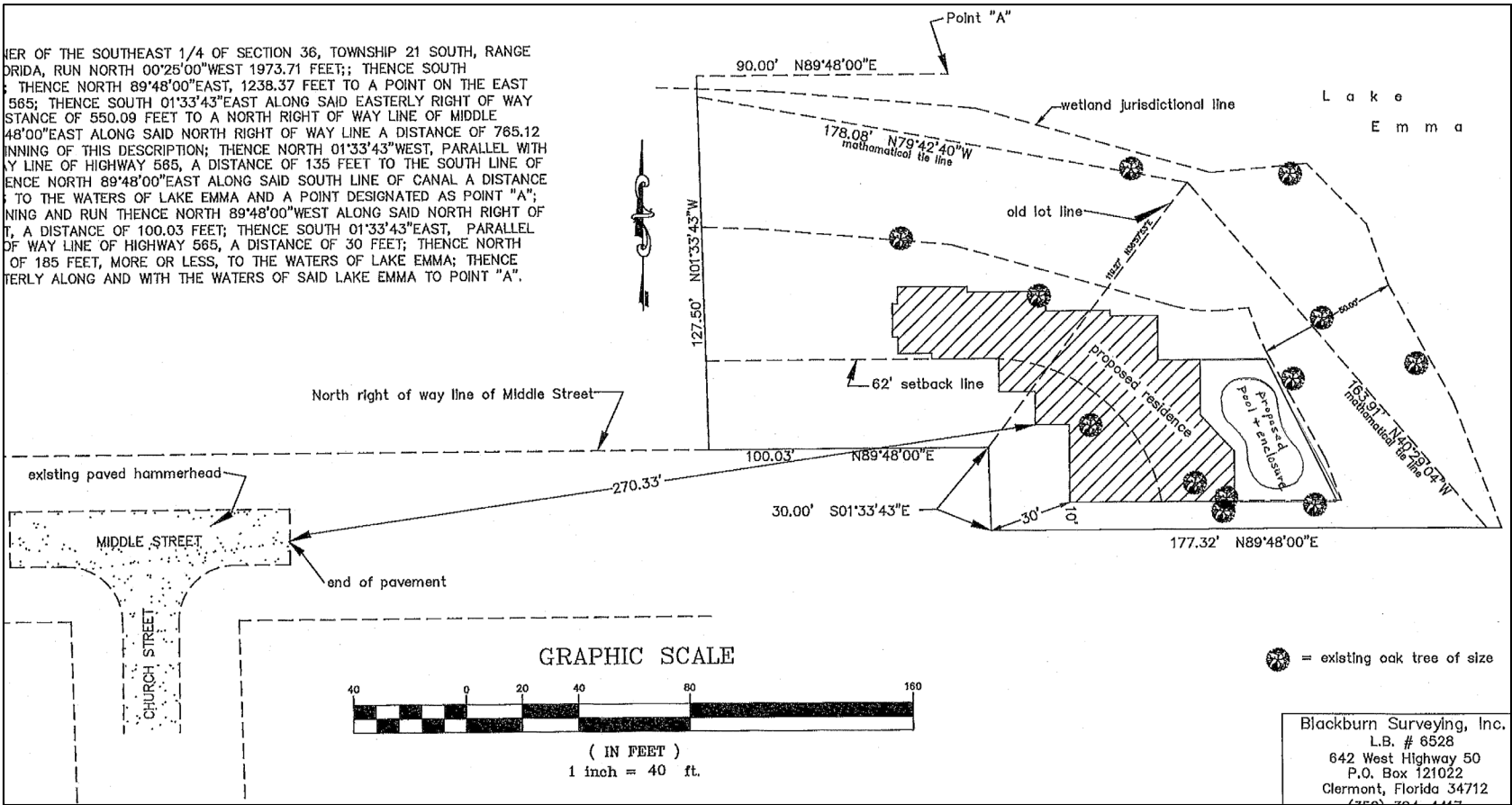
Due to the irregular shape of the lot and the fact there are wetlands, the proposed placement of the residence is the least environmentally impactful location for the proposed structures. Also, even though Middle Street is a platted street, it is not currently developed.

To show substantial hardship, the Applicant provided a written statement, [Attachment "C" – Hardship Statement].

Map of Subject Property



Attachment "A" - Concept Plan



Attachment “B” – Intent of Meeting the Code Statement

Describe how the purpose of the Land Development Regulation will be or has been achieved by other means:

Importantly, we are asking for a variance to build our home closer to the center-line of undeveloped Middle Street, rather than asking for a variance on the lake-front side, in order to protect both the wetlands that surround our lot and several mature oak trees along the lakefront perimeter of our lot. We want to maintain a 50-foot setback from the jurisdictional wetland line, thereby meeting Land Development Regulations (LDR) Section 6.01.04(A).

We would meet the intent of the Code, LDR Section 3.02.05 — to promote a logical development pattern, provide for safe setbacks between structures and encourage a visually pleasing environment — in several ways. Given that Middle Street is neither developed nor a county maintained road, and that the northern lane of undeveloped Middle Street is only used to access our lot and dead-ends into our property, there is no traffic on the “street”. Furthermore, since Lake County recently permitted the construction of two hammerheads to access the lots on Middle Street (see Permit Numbers 9663 and 9664), it would appear the County has no intention of developing Middle Street in the future. Building closer to the center-lane doesn’t adversely affect safety or use of the road. Finally, the nearest neighbor’s property line would still be over 100’ from the section of our house that requires the variance, so the setback would still be very safe and the siting of the home visually pleasing.

Attachment "C" – Hardship Statement

What is the substantial hardship in meeting the specific code requirement?

Our lot is 0.89 acres, which, upon purchase, seemed like plenty of space to build a modest 3/2.5 home. However, the lot is surrounded on two sides by wetlands, each with a 50-foot setback; and the undeveloped Middle Street dead-ends into our lot with a 62-foot setback from the center-line. The reduction in buildable area leaves a very narrow and strangely shaped parcel on which to build. The resulting home would have a bizarre, narrow-yet-sprawling footprint that would be far less attractive and more expensive to build than our proposed design. Furthermore, the buildable area available without a variance is not adequate to fit a small swimming pool and pool enclosure that Lin Muilenburg needs for rehabilitation. The approval of this variance will allow us to build a visually pleasing home that fits the character of the neighborhood and meets our needs as we age in place.

Final Development Order VAR-21-69-1 Muilenburg Property

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

WHEREAS, Wayne Muilenburg and Lin Muilenburg (the "Owners"), requested a variance to Land Development Regulations (LDR) Table 3.02.05, to allow a single-family dwelling unit and accessory structures (pool, pool deck and pool enclosure) to be constructed 10-feet from the right-of-way, in lieu of 62-feet from the centerline of the road; and

WHEREAS, the subject property consists of 0.89 +/- acres and is located north of Middle Street, in the Groveland area of unincorporated Lake County, in Section 36, Township 21, Range 24, having Alternate Key Number 3907764, and more particularly described below; and

From the Southwest corner of the Southeast $\frac{1}{4}$ of Section 36, Township 21 south, Range 24 East, Lake County, Florida, run North 00°25'00" West, 1973.71 feet; thence South 68°14'00" East, 424.67 feet; thence North 89°48'00" East, 1238.37 feet to a point on the East right of way of Highway No. 565; thence South 01°33'43" East along said Easterly right of way line of Highway 565, a distance of 550.09 feet to a North right of way line of Middle Street; thence North 89°48'00" East along said North right of way line a distance of 765.12 feet to the Point of Beginning of this description; thence North 01°03'43" West, parallel with the Easterly right of way line of Highway 565, a distance of 135 feet to the South line of a 30 feet wide canal; thence North 89°48'00" East, along said South line of canal a distance of 90 feet, more or less, to the waters of Lake Emma and a point hereby designated as Point "A"; return to the Point of Beginning and run thence North 89°48'00" West, along said North right of way line of Middle Street, a distance of 100.03 feet; thence South 01°33'43" East, parallel with the Easterly right of way line of Highway 565, a distance of 30 feet; thence North 89°48'00" East, a distance of 185 feet, more or less, to the waters of Lake Emma; thence Northerly and Northwesterly along and with the waters of said Lake Emma to Point "A". Also known as Lots 15 and ISA, of the unrecorded plat of Villa City Shores, in Section 36, Township 21 South, Range 24 East, Lake County, Florida. As described in OR BK 5577, PPG 130, 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 request for a variance would be presented to the Board of Adjustment of Lake County, Florida, on December 9, 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 December 9, 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-21-69-1, to allow a single-family dwelling unit and accessory structures (pool, pool deck and pool enclosure) to be constructed 10-feet from the right-of-way, in lieu of 62-feet from the centerline of the road; with the following conditions:

1. A signed, detailed survey, showing all property lines, exact location of rights-of-way, 2012 flood zones, jurisdictional wetland line, all proposed structures and location of the proposed well and septic, if applicable, will need to be provided at the time of permitting.
2. The septic, if applicable, will need to meet the 100-foot setback from the jurisdictional wetland line or shall be an advanced treatment system designed to remove nutrients from the effluent.

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 9th day of December 2021.

EFFECTIVE December 9, 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 9th day of December 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)