



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 5

Public Hearing Date: November 10, 2022

Case No. and Project Name: VAR-22-33-2, Miller & Kaffenberger Property

Applicant: Susan Miller

Owner: Theodora S. Kaffenberger and Susan M. Miller, JTWROS

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 14.11.02(D)(7)(b) to allow for the creation of the two (2) parcels through the family density exception lot split process to utilize an easement that does not connect to a publicly-maintained road; and to LDR Section 3.10.00 to allow for the creation of two (2) parcels through the family density exception lot split process, to front on an easement connected to a publicly-maintained road with 119-feet of roadway frontage, in lieu of the 150-foot requirement;

Case Manager: Ryan Winkler, Senior Planner

Subject Property Information

Size: 5.01 +/- acres

Location: West of Grace Ridge Road, in the unincorporated Clermont area.

Alternate Key No.: 1117755

Future Land Use: Rural

Current Zoning District: Agriculture (A)

Flood Zone: "X"

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

Overlay Districts: Yalaha-Lake Apopka Rural Protection Area
Lake Apopka Basin Overlay District

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural	Rural Residential (R-1)	Residential	Single-Family Dwelling Units
South	Rural	Agriculture (A)	Residential	Single-Family Dwelling Units
East	Rural	Agriculture (A)	Residential	Single-Family Dwelling Units, adjacent to Grace Ridge Road
West	Rural	Agriculture Residential (AR)	Residential	Single-Family Dwelling Units

Summary of Request.

The Applicant has submitted a variance request to Lake County Land Development Regulations (LDR) Section 14.11.02(D)(7)(b) to allow for the creation of the two (2) parcels through the family density exception lot split process to utilize an easement rather than one that does not connect to a publicly-maintained road; and to LDR Section 3.10.00 to allow for the creation of two (2) parcels through the family density exception lot split process, to front on an easement connected to a publicly-maintained road with 119-feet of roadway frontage, in lieu of the 150-foot requirement.

The subject 5 +/- acre parcel is identified by Alternate Key Number 1117755; the parcel is zoned Agriculture (A) and is part of the Rural Future Land Use Category (FLUC). The subject parcel is located within the Yalaha-Lake Apopka Rural Protection Area and within the Lake Apopka Basin Overlay District. The parcel is presently vacant. If the variance request is approved, the Applicant intends to submit an application for a family density exception lot split to create two (2) parcels.

The variance application was sent to Public Works to be reviewed for consistency with the Comprehensive Plan and Land Development Regulations. Public Works provided the following conditions to be incorporated into the final development order:

1. A shared/joint driveway access will be required off Grace Ridge Road for both proposed parcels.

The variance application was sent to the Building Services for a Fire Safety review, and the Fire Review staff provided the following comments, *"The parcels will be sharing an access easement, fire requests that the driveway surface be a minimum of 20-feet for fire department access."*

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 LDR Section 3.10.00 is to ensure that all lots created pursuant to Subsections 14.11.01 (Minor Lot Splits) and 14.11.02 (Family Density Exception Lot Splits) shall have the minimum frontage at the road and building setback line.

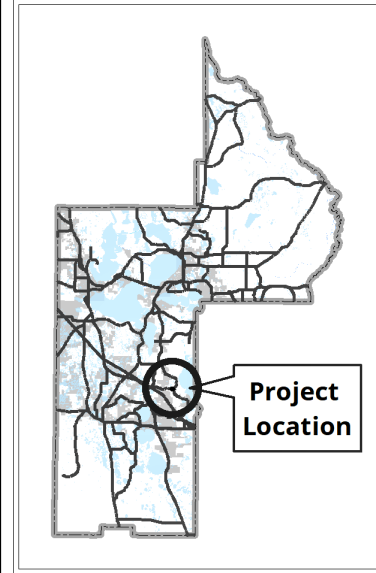
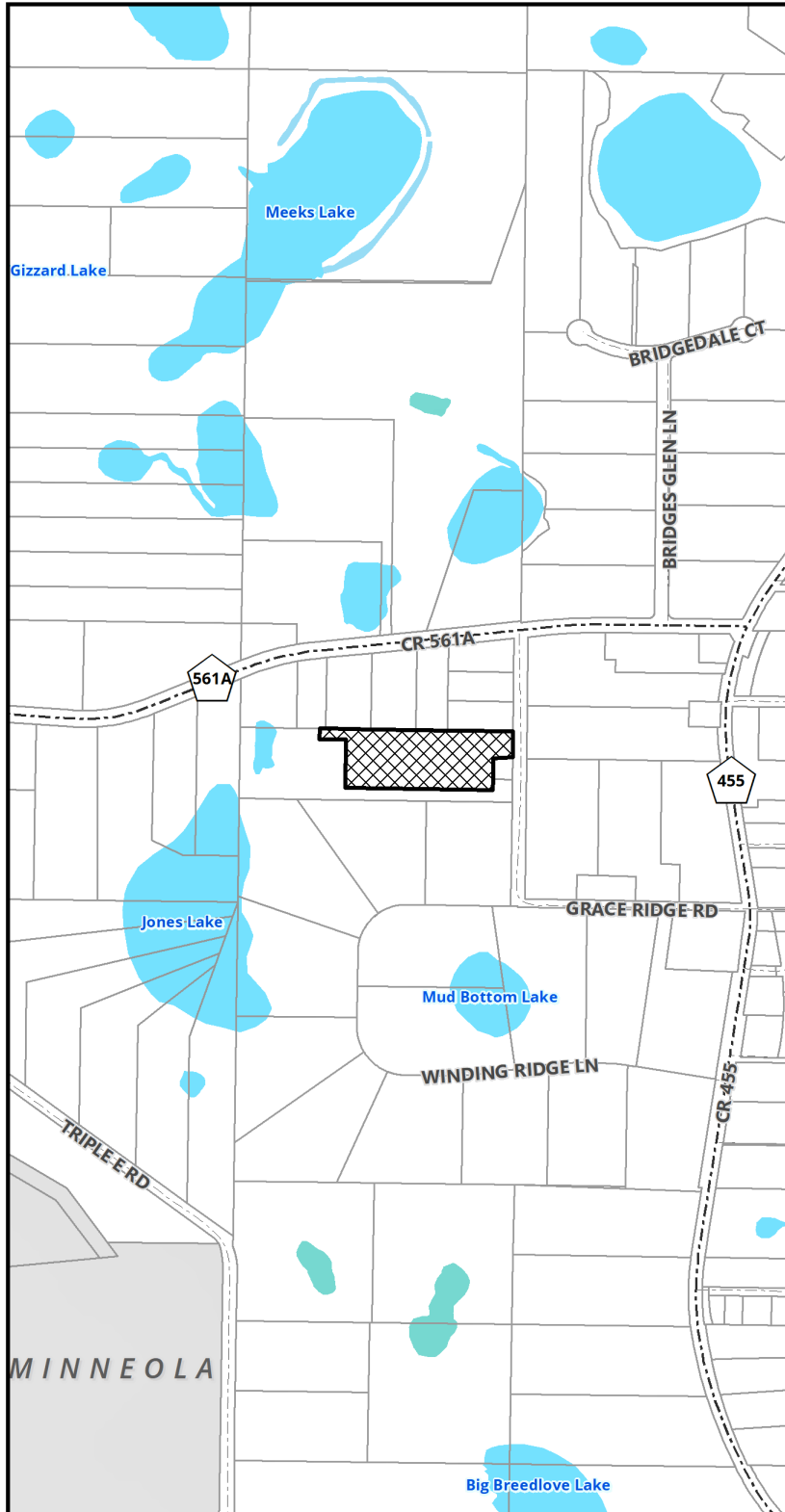
The Applicant provided the following statement as proof that the intent of the LDR will be or has been achieved by other means, *"The land is currently zoned Agriculture, but the Applicant proposed (through the Family Density Exception Application to be filed) to subdivide the subject property to Applicant's lineal decedents to construct two single-family residences"*

- 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.

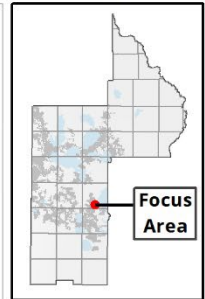
The Applicant provided the following statement, *"The subject property only has approximately 119 feet of roadway frontage without the ability to obtain more frontage to a publicly maintained road."*

Map of Subject Property

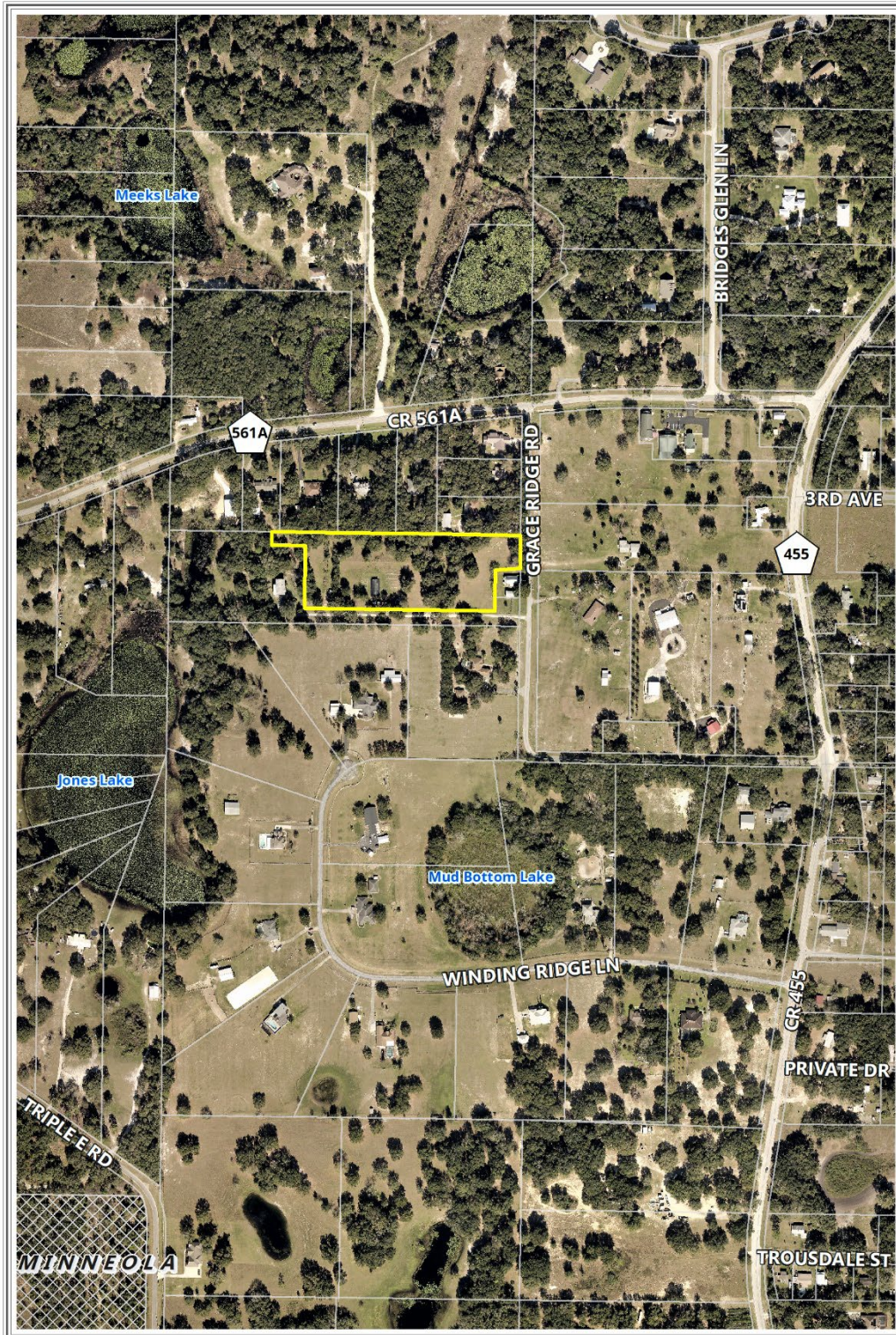


AERIAL MAP

VAR-22-33-2
Kaffenberger-Miller Property



Family Density
Exception (FDE) Road
Frontage Adjustment



Final Development Order
VAR-22-33-2
Miller & Kaffenberger Property

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

WHEREAS, Susan M. Miller (the “Applicant”) on behalf of Theodora S. Kaffenberger and Susan M. Miller, JTWR0S (the “Owners”) requested a variance to Lake County Land Development Regulations (LDR) Section 14.11.02(D)(7)(b) to allow for the creation of the two (2) parcels through the family density exception lot split process to utilize an easement rather than that does not connect to a publicly-maintained road; and to LDR Section 3.10.00 to allow for the creation of two (2) parcels through the family density exception lot split process, to front on an easement connected to a publicly-maintained road with 119-feet of roadway frontage, in lieu of the 150-foot requirement; and

WHEREAS, the subject property consists of 5 +/- acres and is generally located west of Grace Ridge Road, in the unincorporated Clermont area of Lake County, Florida, in Section 33, Township 21 South, Range 26 East, having Alternate Key Number 1117755 and more particularly described in Exhibit “A” – Legal Description; and

WHEREAS, after giving notice of the hearing on the petition for a variance to the Lake County Land Development Regulations (LDR), including notice that the variance would be presented to the Board of Adjustment of Lake County, Florida, on November 10, 2022; 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 10, 2022, 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-22-33-2, to allow for the creation of the two (2) parcels through the family density exception lot split process to utilize an easement rather than that does not connect to a publicly-maintained road; and to allow for the creation of two (2) parcels through the family density exception lot split process, to front on an easement connected to a publicly-maintained road with 119-feet of roadway frontage, in lieu of the 150-foot requirement, with the following condition(s):

1. The lot split application be submitted within six (6) months from the Board of Adjustment (BOA) approval; and
2. The new parcels being created through the family density exception lot split process shall not be split any further.
3. A shared/joint driveway access will be required off Grace Ridge Road for both proposed parcels.
4. The paved traveling surface shall be a minimum width of 20-feet for fire department access.

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 10th day of November 2022.

EFFECTIVE November 10, 2022.

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 10th day of November 2022, 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

The South 330.0 feet of the North 825.0 feet of the Northeast ¼ of the Northeast ¼ of Section 33, Township 21 South, Range 26 East, Lake County, Florida, LESS the South 50.0 feet thereof. ALSO LESS the West 503.0 feet thereof. ALSO LESS the North 50.0 feet of the South 100.0 feet of the East 125.0 feet thereof. ALSO LESS the following: Begin at a point on the East line of the Northeast ¼ of said Section 33 that is 614.0 feet South of the Northeast corner of said Section 33, Township 21 South, Range 26 East and run thence South along said East line of the Northeast ¼ for a distance of 111.0 feet; thence run West for a distance of 125.0 feet; thence run North for a distance of 100.0 feet; thence run North 84°58'15" East for a distance of 125.49 feet to the Point of Beginning

AND the North 50.0 feet of the East 125.0 feet of the West 503.0 feet of the South 330.0 feet of the North 825.0 feet of the Northeast ¼ of the Northeast ¼ of Section 33, Township 21 South, Range 26 East, Lake County, Florida.