



BOARD OF ADJUSTMENT

AGENDA MAY 8, 2014

MEETING INFORMATION

Location & Time

Lake County Commission
Chambers
2nd Floor, County
Administration Building
315 West Main Street
Tavares, FL 32778-7800
1:00 p.m.

Board of Adjustment Members

Donald R. Schreiner,
Chairman (At-Large
Representative)

Catherine Hanson, Vice-
Chairman (At-Large
Representative)

Marie Wuenschel (District 1)

Peter Caracciolo (District 2)

Phyllis Luck (District 3)

Lloyd M. Atkins, Jr.
(District 4)

Craig Covington (District 5)

The Board of Adjustment reviews applications that have been submitted for a variance to the Land Development Regulations; they approve or deny the applications based upon staff reports and evidence submitted during the hearing, taking into consideration the applicant's and other testimony in favor or against the request, in accordance with section 14.15.00 of the Land Development Regulations.

The Board of Adjustment meetings are held the second Thursday of each month.

Board of County Commissioners

Timothy I. Sullivan	District 1
Sean Parks, Vice Chairman	District 2
Jimmy Conner, Chairman	District 3
Leslie Campione	District 4
Welton G. Cadwell	District 5

County Staff

David Heath, County Manager
Melanie Marsh, Deputy County Attorney

Growth Management Department Staff

Amye King, AICP, Director, Department of Growth Management
Chris Schmidt, Manager, Division of Planning & Community Design
Anita Greiner, Chief Planner, Division of Planning & Community Design
Jennifer Cotch, Senior Planner, Division of Planning & Community Design
Donna Bohrer, Public Hearing Coordinator, Division of Planning & Community Design

For any questions, comments, or concerns, please contact the Planning & Community Design Division at (352) 343-9641 or email zoning@lakecountyfl.gov.

All oral and written communication between Board Members and the Public concerning a case are prohibited by Florida Law unless made at the Public Hearing.

If any person decides to appeal any decision made by the Board, a record of the proceedings will be needed. For purposes of appeal, the record of proceedings should be a verbatim record of all proceedings which take place and should include the testimony and evidence upon which any appeal is to be based.

Persons with disabilities needing assistance to participate in any of these proceedings should contact the Office of Facilities and Capital Improvement at (352) 343-9760, 48 hours in advance of the scheduled meeting.

Board of Adjustment

May 8, 2014

1:00 p.m.

- I. Call to Order
- II. Minutes Approval – April 10, 2014
- III. Public Comment
- IV. Public Hearings

CONSENT AGENDA

REGULAR AGENDA

CASE NO.	OWNER(S)/APPLICANT(S) NAME	AGENDA NO.
BOA # 9-14-5	Steven W. Smith	1

REQUESTED ACTION: The owner is requesting a variance from the **Lake County Land Development Regulations (LDRs) 14.11.01.D.2 Minor Lot Splits** to allow a minor lot split on a parcel that does not front on a paved publicly-maintained road (+/- 10 acres)

- V. Election of Chairman and Vice-Chairman
- VI. Close



VARIANCE REQUEST
 Presented to
BOARD OF ADJUSTMENT
 May 8, 2014

CASE NO.: BOA# 9-14-5 **AGENDA ITEM #:** 1

OWNER & APPLICANT: Steven W. Smith

REQUESTED ACTION: The owner is requesting a variance from the **Lake County Land Development Regulations (LDRs) 14.11.01.D.2 Minor Lot Splits** to allow a minor lot split when the parcel does not front on a paved publicly-maintained road (+/- 10 acres).

GENERAL LOCATION: Astor area – East on Highway 40 to Alco Road (south), east on Dexter Road to River Racetrack (north), property on left, AK# 3793985 (Sec. 07, Twp. 15, Rng. 27).



FUTURE LAND USE DESIGNATION: Rural
EXISTING ZONING: A (Agriculture)

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Conservation	Agriculture (1 du / 5 ac)	Conservation
South	Rural (1 du / 5ac)	Agriculture (1 du / 5 ac)	Single-Family Dwelling and Vacant Land
East	Conservation	Agriculture (1 du / 5 ac)	Single-Family Dwelling Unit
West	Conservation and Rural (1 du / 5ac)	Agriculture (1 du / 5 ac)	Single-Family Dwelling Unit
Date Posted:	April 17, 2014; Notification cards mailed April 17, 2014		

14.15.02 Granting Variances and Appeals

Variances shall be granted when the person subject to the 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.

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 the 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.

Variances may also be granted to allow for the reconstruction, rehabilitation, or restoration of structures listed on, or classified as contributing to a district listed on the National Register of Historic Places, Florida Master Site File or local surveys of historical resources. In such instance, the variance shall be the minimum necessary to protect the historical integrity of the structure and its site.

ANALYSIS: The subject five-acre parcel is part of a recognized ten-acre parcel. In 2000, the ten (10)-acre parcel was assigned two alternate key numbers by the Property Appraiser's Office, both of which described five-acre parcels. However, the ten (10)-acre parcel was never split utilizing the lot split process through the Planning and Community Design Division, and is therefore recognized as one parcel consisting of 10 acres. The north five (5) acres was sold to Mr. Steve Smith, the current owner and applicant. Since the subject five (5)-acre parcel is not recognized, building permits cannot be issued on the lot without first creating the parcel through the minor lot split process.

The owner is requesting a variance to allow the parcel to be split through the minor lot split process; the parcel fronts on a privately-maintained road, instead of a paved publicly-maintained road. The Code (14.11.01.D.2) allows two lots to be created from the original legally created lot or lot of record, with each lot fronting on a paved publicly-maintained road; the Code allows an exception for parcels consisting of 20 acres or larger, such parcels are allowed to front on an easement, private road, or non-paved County-maintained road.

The 10-acre parcel is located in a rural area surrounded by agricultural land. The southern half of the parcel is developed with a single-family dwelling unit and the subject five acre site is forested. The parcel is accessed from of a semi-paved, privately-maintained easement and is approximately 1,700 feet from a paved, county-maintained road. The owner is requesting a variance to allow him to utilize the minor lot split process to create his parcel, which will allow him to build a home close to elderly relatives. The parcel the applicant is proposing to create is approximately 660 feet wide by 1320 feet long.

A representative from the Public Works Department has inspected the easement and will not oppose the application for a minor lot split.

The parcel is zoned Agriculture and the Future Land Use Category is Rural; both of which allow a density of one dwelling unit per five net acres. There are portions of the property that lies within the 100-year flood

zone, designated as "A" and "AE". The proposed lot will meet the minimum density requirements and has sufficient area outside of the 100-year flood zone to construct a home.

The minor lot split process was created to allow a parent parcel to be split, creating two parcels. The **intent** of the Code (Section 14.11.01.D.2) is to ensure that properties being split have the facilities that are required for the development of parcels, such as roads. If the subject five-acre parcel is created, it will not create high density and will not negatively affect the surrounding area.

The owner submitted the following as proof of meeting the **intent of the Code**:

"The existing paved easement has been sufficient for all other dwellings in the area including fire and emergency vehicles, garbage pick-up and recent building permits."

The owner submitted the following as proof that the application of the Land Development Regulation would create a **substantial hardship or would violate principles of fairness**:

"To build a single family dwelling for caretakers of elderly grandparents and their properties. Principles of fairness violated when other surrounding properties in similar situations were granted permission."

14.11.00 Minor Lot Splits, Family Density Exception and Agricultural Lot Splits.

14.11.01 Minor Lot Splits

A. Generally. The County may approve a minor lot split of a legally created lot that conforms to the requirements of this Subsection. An applicant for a minor lot split shall have six (6) months from the date the application is submitted to the County to finalize the lot split. No extensions shall be permitted.

B. Initial Submittal. The County shall consider a proposed minor lot split upon the submittal of the following materials:

1. An application form provided by the County.
2. One (1) paper copy of the proposed minor lot split.
3. A statement indicating whether water and/or sanitary sewer service is available to the property.
4. Soils map showing the proposed minor lot split boundaries overlain.
5. Two (2) aerial photographs no older than the most recent aerials available from the County Manager or designee showing the proposed minor lot split boundaries overlain.
6. Current property record card for the subject property.
7. Current warranty deed for the subject property.
8. Federal Emergency Management Agency (FEMA) flood insurance map with property boundaries overlain.

C. Review Procedure.

1. The County Manager or designee shall transmit a copy of the proposed minor lot split to any other appropriate departments of the County for review and comments.
2. If the proposed minor lot split meets the conditions of these regulations and otherwise complies with all applicable laws and ordinances, the County Manager or designee shall approve the minor lot split.
3. Any other information as required by the County Manager or designee.

D. Standards. All minor lot splits shall conform to the following standards:

1. Only two (2) lots may be created from the original legally created lot or lot of record. The total number of lots created shall include the original parcel. The original parcel shall be known as the

parent parcel and those lots created out of the parent parcel shall not be entitled to another minor lot split.

2. Each lot Shall either (1) front on a publicly maintained paved road and conform to the required minimum lot dimensions for the land use category and zoning district where the lots are located OR (2) contain a minimum of twenty (20) acres with at least one (1) acre of uplands AND front either on a publicly maintained clay road OR an easement meeting the following requirements:

a. Non-exclusive easement for ingress and egress, dedicated to the public for road, utility, and drainage purposes, if satisfying the criteria set forth in Section 14.00.08, Land Development Regulations, and accepted by the Board of County Commissioners. However, a private easement may be permitted if it is determined that there is no need for a future road corridor.

b. Connect to a publicly maintained road.

c. Have a minimum width of fifty (50) feet.

d. Not obligate the County to maintain the easement.

e. Have road name signs installed in accordance with applicable County regulations.

f. Record deed restrictions which require the property owners to maintain the paved private road or easement. Such restrictions must be recorded prior to the recordation of the approved lot split.

3. If any lot abuts a publicly maintained road that does not conform to the right-of-way specifications provided or adopted by reference in these regulations, the owner may have to dedicate the required right-of-way width necessary to meet the minimum design if satisfying the criteria set forth in Section 14.00.08, Land Development Regulations.

4. Easements created pursuant to this Section Shall comply with the Federal Emergency Management Agency (FEMA) regulations and Lake County floodplain management regulations.

5. The creation of a lot wholly within the 100 year flood zone is prohibited.

6. Flag lots are prohibited.

7. A minor lot split shall not be approved within a platted subdivision when such lot split changes the character of the subdivision, or where the lot split increases the density, beyond the general nature of the subdivision.

8. A minor lot split which authorizes the development of five (5) or more lots or dwelling units Shall not be approved by the County Manager, or designee, unless the School Board has provided a certification in accordance with Chapter V-A of these regulations indicating that there is or will be sufficient school capacity to provide education services for the students who will live in dwelling units placed or constructed on such lots.

9. All other Sections of the Land Development Regulations, and all requirements of the Comprehensive Plan Shall apply.

E. Final Submittal. Prior to final approval, in addition to any other requirements the following shall be required:

1. Legal descriptions, acreage and square footage of the original and proposed lots together with the legal description of any existing or proposed easements shall be shown on a boundary survey prepared by a professional land surveyor registered in the State of Florida. In the event the proposed lot split contains parcels greater than forty (40) acres in size, a sketch of description for the land area containing such parcels shall be accepted instead of a boundary survey. However, a

boundary survey shall be required for the land area containing parcels forty (40) acres or less in size. (Example: A fifty (50) acre parcel being split into a twenty (20) acre parcel and a thirty (30) acre parcel would require a boundary survey of the fifty (50) acre parcel, but a fifty (50) acre parcel being split into a forty-five (45) acre parcel and a five (5) acre parcel would only require a boundary survey of the five (5) acre parcel.) The survey must show all structures, easements, surface water bodies, flood zones with base elevation, wetlands and amount of acreage inside and outside of the wetland jurisdiction line.

2. A title opinion of an attorney licensed in Florida or a certification by an abstractor or a title company dated through the date of final approval, showing all persons or entities with an interest of record in the property, including but not limited to, the record fee owners, easement holders, mortgage and lien holders. The report shall include the tax identification number(s) for the property and copies of all documents such as deeds, mortgages etc. referenced in the title opinion.

F. Recordation. Upon approval of the minor lot split, the County Shall record the minor lot split on the appropriate maps and documents, and shall, at the applicant's expense, record the minor lot split in the public records of Lake County, Florida.

ENVIRONMENTAL ISSUE: N/A

FLOODPLAIN: Portions of the parcel lie in the 100-year flood zone designated as "A" and "AE".

JOINT PLANNING AGREEMENT: N/A

LAKE APOPKA BASIN: N/A

WEKIVA RIVER PROTECTION AREA: N/A

TRANSPORTATION IMPROVEMENTS: N/A

GREEN SWAMP AREA OF CRITICAL STATE CONCERN: N/A

FINDINGS OF FACT: Staff reviewed the application for this variance request and found:

- This request is consistent with the intent of LDR 14.11.01, which allows the creation of two lots as long as sufficient infrastructure exists.
- The creation of one additional parcel will not create high density on the private easement.
- The parcel is located approximately 1,700 feet from a paved County-maintained road.

The owners have submitted proof of meeting the intent of the Code and have shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. Based on the Findings of Fact and Analysis, Staff recommends **approval** of the variance request.

WRITTEN COMMENTS FILED: Support: -0-

Concern: -0-

Oppose: -1-

BOA# 9-14-5
Photo Evidence



Looking south on semi-paved easement



Looking north from Dexter Rd onto easement



Corner of Dexter Road and easement



Dexter Road and easement intersection



South half of 10-acre parcel and easement



Forested north half of 10-acre parcel

**Final Development Order
Steven W. Smith
BOA # 9-14-5**

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

WHEREAS, Steven W. Smith (the "Owner") made a request to allow a minor lot split when the parcel does not front on a paved publicly-maintained road; and

WHEREAS, the subject property consists of 5 acres and is generally located in the Astor area, north of Dexter Road and west of River Racetrack, AK# 3793985 (Sec. 07, Twp. 15, Rng. 27).

AND, after giving Notice of Hearing on petition for a variance to the Lake County Land Development Regulations, including notice that said variance would be presented to the Board of Adjustment of Lake County, Florida, on May 8, 2014; and

WHEREAS, the Board of Adjustment reviewed said 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 8, 2014, the Lake County Board of Adjustment approved the variance for the above property; and

NOW THEREFORE, BE IT ORDAINED by the Board of Adjustment of Lake County, Florida, that the Land Development Regulations of Lake County, Florida, be altered and amended as they pertain to the above subject property subject to the following terms:

Section 1. Terms: The County Manager or designee shall amend the Official Zoning Map to reflect the approval of BOA# 9-14-5 to allow a minor lot split to create the subject five-acre parcel, which does not front on a paved publicly-maintained road.

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, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

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

ENACTED this 8th day of May, 2014.

EFFECTIVE May 8, 2014.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

Donald Schreiner, Chairman

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this May 8, 2014 by DONALD SCHREINER,
who is personally known to me.
(SEAL)

Signature of Acknowledger

Serial Number: _____

My Commission Expires: _____

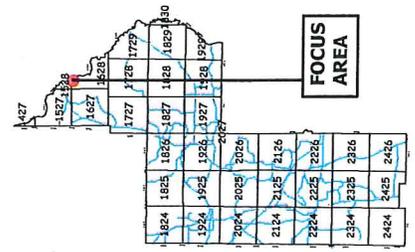


LAKE COUNTY
 DEPARTMENT OF
 GROWTH MANAGEMENT
 Customer Service Division

Legend

- Tax Parcels
- Zoning
- Subject Property

Case Location (S-T-R):
 07-15-27



Owner/Applicant : Steven W. Smith
 BOA# 9-14-5



1 inch = 104.415979 feet

Attn: Jennifer Cotch, Lake County Planning Dept.

Via: E-mail (jcotch@lakecountyfl.gov)

Date: April 19, 2014

Re: Case # BOA # 9-14-5

Dear Ms. Cotch

My name is Charles R. Elliott. I reside at 53704 Rivertrace Rd., Astor, Florida 32102. I am writing about the proposed variance request by Mr. Smith for property which adjoins Rivertrace Rd.

Rivertrace Rd. is the only means I have to gain access to my residence. I own one of approximately 12 properties which lie between Mr. Smith's property and the river. The 12 are separated from Mr. Smith's property by Rivertrace Rd. Because there are only a few full-time residents, Rivertrace Rd. receives only light traffic.

As you know, Rivertrace Rd. is not maintained by the County. Exactly who is responsible for maintenance of this road is questionable. Occasionally I put asphalt patch into some of the deeper potholes to minimize damage to my vehicles. Someone trims brush from the sides once in a while, but I do not know who. This road has once had some kind of paving, but in my opinion can be described as usable but in only fair condition. There is a drainage culvert in the vicinity of Mr. Smith's property which appears to be in poor condition.

It is my understanding that Mr. Smith is requesting this variance as a prelude to developing his property for residential use. I am opposed to the granting of this variance for the following reasons:

1. Drainage of Mr. Smith's property appears to be through the culvert under Rivertrace Rd. or across Rivertrace Rd. and across the property owned by me among others. Additional development of that property would probably require raising the grade to permit building, which would increase the amount of natural and storm water runoff across Rivertrace Rd and adjacent properties. I don't know what the environmental impact of such development would be, but am not aware that it has been adequately studied.
2. Any development or construction activity undertaken on the subject property would certainly increase traffic activity on Rivertrace Rd. and some of that traffic would be in the nature of heavy trucks. This traffic would almost certainly cause further deterioration of Rivertrace Rd. with an accompanying adverse effect on the quality of life for residents (like myself) who live "downstream" of the construction and road deterioration. When developed residentially, the amount of traffic borne by Rivertrace Rd. would also be

increased causing additional deterioration of a road that is not currently maintained.

I recognize that Mr. Smith should have the ability to improve his property, but believe that he should not be able to do so to the detriment of others who use Rivertrace Rd. A public policy decision which has an adverse effect on the property value and quality of life of others does not meet the test of fairness.

Therefore, I propose that Mr. Smith's request for a variance be denied until he has made, or agreed to make, the repairs necessary to make Rivertrace Rd. a reasonably well constructed rural residential road. This should not be an unreasonable request because I have reason to believe that Mr. Smith acquired this property not at Fair Market Value, but through a related-party transaction, the related party being the person who sold the property to Mr. Smith.

It is my opinion that any development which fails to take into account the infrastructure required to support that development is ill-advised, and only creates a greater problem with the passage of time. Such would be the case if additional development along Rivertrace Rd. is allowed causing additional wear and tear on a road whose maintenance is already questionable. It would be making an undesirable situation worse.

Respectfully submitted,

Charles Robert Elliott

53704 Rivertrace Rd.

Astor, Florida 32102

(407) 416-8410

c.r.elliott@outlook.com