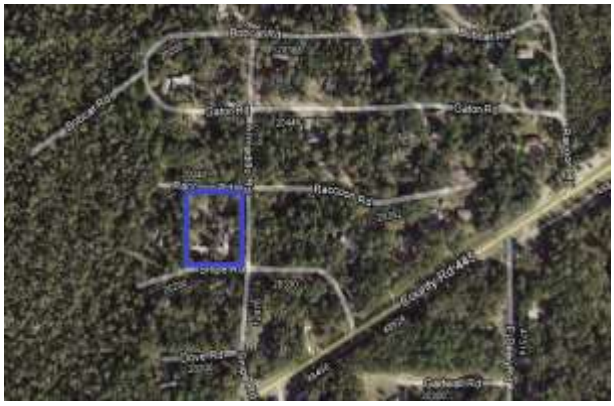
VARIANCE REQUEST
Presented to
LAKE COUNTY BOARD OF ADJUSTMENT
May 10, 2012

CASE NO.: BOA# 11-12-5	**AGENDA ITEM #:** 1
OWNERS: Mary Herman and Greg Duckham and Sonya Duckham	**APPLICANT:** Greg Duckham

REQUESTED ACTION: The applicant is requesting a variance from the **Lake County Land Development Regulations (LDRs) 10.01.01.E General Standards & Requirements, 10.01.02.C. Storage Buildings, Utility Buildings, Non-commercial Greenhouse and 1.08.04.A(1) & (3) Termination of Nonconforming Development** to allow accessory structures that will exceed 80% of the main floor area of the permitted principal structure, to allow accessory structures to be placed in front of the permitted principal structure and to allow additions to an existing non-conforming single-family dwelling unit (+/- 0.45 acre).

GENERAL LOCATION: Altoona area – North on SR 19 to CR 445, right on CR 445 to Armadillo Road, left on Armadillo Road to site on left, Address# 47601 Armadillo Road, AK# 1268109; 1268117 (Sec. 4, Twp. 17, Rng. 27).



FUTURE LAND USE DESIGNATION: Rural

EXISTING ZONING: Agriculture

Direction	Future Land Use	Zoning	Existing Use
North	Rural (1 du / 5 net acres)	Agriculture (1 du / 5 acres)	Vacant
South	Rural (1 du / 5 net acres)	Agriculture (1 du / 5 acres)	Residential
East	Rural (1 du / 5 net acres)	Agriculture (1 du / 5 acres)	Vacant
West	Rural (1 du / 5 net acres)	Agriculture (1 du / 5 acres)	Residential
DATE POSTED:	April 18, 2012 at County Road 455 and Armadillo Road, Altoona		

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 applicant is requesting a variance to allow two attached structures and two detached accessory structures to remain on the owner's parcel. The attached and detached structures were constructed over the past 10 years and a permit was not obtained prior to construction. The applicant is attempting to apply for permits and a variance to the Code is required before a permit can be issued.

The parcel is located in Ocala Forest Campsites, a rural subdivision in northeast Lake County. The area is heavily wooded and the County does not maintain the roads. The owner's live in a single-wide mobile home with their four children. The small size of the conditioned living space has prompted the addition of sheds, porches and detached garages. A copy of the attached plot plan shows all structures (Exhibit "A).

The applicant is asking for variances to the following Codes:

The Code (10.01.02 C Storage Buildings, Utility Buildings, Non-Commercial Greenhouses) requires accessory structures such as garages, carports and sheds to be located in the side or rear yard, one of the storage structures was constructed in front of the single-family dwelling unit;

The Code (1.08.04.A (1) & (3) Termination of Nonconforming Development) requires non-conforming structures to be brought into full compliance with the other requirements of the Code if the structure is expanded, enlarged or altered. The Code requires dwelling units to be at least 23 feet 4 inches wide at the narrowest point, the mobile home is a single-wide and does not meet the minimum width requirements; therefore, it is considered existing non-conforming. The owners built an attached front porch (16' X 16') and an attached back porch (24' X 20'), expanding the single-wide mobile home.

The Code (10.01.01.E General Standards and Requirements) allows accessory structures as long as the square footage does not exceed 80% of the main floor square footage of the enclosed living area of the permitted principal structure. The owners constructed two detached storage buildings (30' X 22' and 37.5' X 28'); the maximum square footage of accessory structures allowed by the Code is 672

square feet. The combined square footage of the storage buildings is 1,710 square feet. This amount exceeds the maximum square footage by 254%.

The **intent of the Code** (10.01.01.E General Standards and Requirements and 10.01.02 C Storage Buildings, Utility Buildings, Non-Commercial Greenhouses) is to regulate the installation, configuration, and use of accessory structures and the conduct of accessory and temporary uses in order to ensure that they are not harmful either aesthetically or physically to residents and surrounding areas. The Code also attempts to protect existing land uses from potential adverse visual impacts through sound planning, careful review of applications, proper permitting and adherence to appropriate regulations.

The **intent of the Code** (1.08.04 (A) 1 & 3 Termination of Nonconforming Development) is to regulate non-conforming uses so they are not enlarged or expanded. Reducing non-conforming uses over time allows for a gradual adjustment to new regulations. This Code brings properties and uses into compliance with the Land Development Regulations, without causing undue hardship on the properties owner.

The applicant submitted the following as proof of meeting the **intent of the Code** and as proof that the application of the Land Development Regulation would create a **substantial hardship or would violate principles of fairness:**

"Back when I put up the rear roof over the pool area for the little kids. Not only to protect them from the elements of mother nature also to try to save the lifespan of the plastic lined pool in which only has an air ring atop to keep the water in. The roof also helps the up keep of the pool and the water, more in expenses. Also at that time there were no permits needed for a none attached roof with no footers, cement or foundation.

In regards to the front porch, we would like to make it a sun room, that way it will add to the square footage of the place. The room will serve as the fourth room needed, especially at study time, and homework time. When a child needs the alone time undisturbed by nature as well as others in the room at the time. We have only been blessed with a three bedroom single wide trailer, two boys and two girls, one room short for single study time, example.

In regards to the garage roof back in 2000 when the county gave us permits for the cement pad. They only knew I had intended on putting a roof over the cement. For the county help me construct the roof with out using the cement as the foundation for the roof. Having only myself as a working crew it took longer than I had expected to build, unexpectedly the law's and building code's have changed.

Having said back when I started my tool shed/barn expressing my county right to said tool shed. Moving it from the center rear of the mobile home. Also I had remembered something about covering roof over extended over any unused driven daily autos that are running with titles of course. Which lead to the barn roof?

In the past when some kind of structure was built or being built the head of the building code at the county would inspect the structure and usually do one of three things. One tear it down, two fix a few things and pay a double permit fee or three just pa a permit fee. Time goes by and I need blue prints

for structure with Florida state stamp. So after I had Mr. Dagner of the building code comes out for an inspection. After I had a one-on-one face to face with code man Mr. Shepherd on Tuesday October 4th when I acquired building code of the county Mr. Dagner for a look see. He set time for October the 13th that was a Thursday morning. We started at the rear of the home. He then oked the roof structure for age and well constructed. We then went to the front porch in which was built on the same principle as the other roof. Not being attached to the home and being of newer construction said that the front porch as well as the roof over the garage cement pad. Needed blueprints with Florida stamp in order to get county and clerk of county stamp? So I did both, got the blue prints and Florida stamp for the front porch and garage roof over the cement. Mr. Dagner said my Agricultural roof/barn should be okay as well as Mr. Sheppard of the code enforcement.

No one just gets old. We all learn in our ventures of life in which I made it a point to do so, in past different jobs so I was prepared not only for fatherhood and being a husband, but also for myself and my family's future. Adjusting to our needs and growth of a common family. We feel like a family of turtles that have adjusted to there den's being threatened.

Thank you for your time, sincerely

Greg L. Duckham
Head of household

P.S. We would just like to get on with our lives. This is the Ocala National Forest Camp Ground sites. No highways, no cities, dirt roads, not being maintained by the county."

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

- The request is consistent with the intent of LDR 10.01.00, which attempts to regulate the quantity and size of accessory structures.

The applicant has submitted proof of meeting the intent of the Code and has 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 to allow accessory structures that will exceed 80% of the main floor area of the permitted principal structure, to allow accessory structures to be placed in front of the permitted principal structure and to allow additions to an existing non-conforming single-family dwelling unit with the following **conditions**:

- The maximum square footage of all detached accessory structures shall not exceed 1,710 square feet.
- The owners shall obtain building permits and final inspections on all of the unpermitted structures by December 10, 2012.
- Detached accessory structures shall be located as shown on Exhibit "A".

WRITTEN COMMENTS FILED: Support: -5- Concern: -0- Oppose: -0-

1.08.00 - Nonconforming Development.

1.08.01 Defined. The following provisions apply to Nonconforming Development as defined in Chapter II.

1.08.02 Normal Maintenance. Normal maintenance and incidental repair of a lawful nonconformity Shall be permitted provided that such maintenance and repair does not violate any other Section of these Regulations and is in full compliance with all building and technical codes adopted by Lake County.

1.08.03 Continuation of Nonconforming Development. Subject to the provisions below for terminating Nonconforming Development, such uses and development may, if otherwise lawful, remain in use in their nonconforming state.

1.08.04 Termination of Nonconforming Development.

A. Generally. Nonconforming development Shall be brought into full compliance with the other requirements of these Regulations, in conjunction with the following activities:

1. **Any expansion, change, enlargement, or alteration of a use or development in any way which increases its nonconformity. This Shall not be construed to include normal maintenance and incidental repair (e.g., painting, providing for a new roof, rescreening an existing porch, etc), nor Shall it include the modification or rebuilding of a nonconforming communication tower in order to accommodate co-location of additional communication antennas so long as the tower is of the same type which existed and there is no increase in height.**

2. Reconstruction of the principal or accessory structure after the structure has been substantially destroyed by fire or other natural disaster. A structure is "substantially destroyed" if the cost of reconstruction is fifty (50) percent or more of the fair market value of the structure before the fire or natural disaster. If there are multiple principal structures on a site, the cost of reconstruction Shall be compared to the combined fair market of all the structures. A nonconforming development may continue if, within two (2) years from the date that the principal structure was substantially destroyed, a Certificate of Occupancy is issued for the rebuilt principal structure.

3. **Structural alteration, as defined in Chapter II.**

4. Any change in the use of the property, whereby a change from one Use Classification identified in Subsection 3.01.03 to another Use Classification constitutes a change in the use of the property. This Shall not be construed to include normal maintenance and incidental repair (e.g., painting, providing for a new roof, rescreening an existing porch, etc.).

5. The discontinuance of any nonagricultural use or development for twelve (12) consecutive months or the registration of a business tax receipt for which the expiration has exceeded one (1) year.

6. The discontinuance of any agricultural uses (not requiring a CUP) for fifteen (15) consecutive years.

7. The substantial improvement of any nonconforming development that does not comply with the drainage and flood hazard area requirements of the Land Development Regulations.

10.01.00 - Accessory Uses and Structures.

10.01.01 General Standards And Requirements. Accessory Structures within residential and agricultural zoning districts may be allowed on a Lot, provided that the following requirements are met:

A. There Shall be a Permitted Principal Structure on the Lot that is in full compliance with all standards and requirements of these Regulations.

B. A structure for agricultiral purposes (General and Non-Intensive), on conforming Lots in Agriculture (A), Ranchette (RA) and Agricultural Residential (AR) Zoning Districts shall be considered the Proncipal Structure.

C. All Accessory Structures Shall comply with applicable standards and Codes, unless exempted or superseded elsewhere in these Regulations.

D. Accessory Structures Shall not be located in a required Buffer area, Landscape Buffer Strips, or minimum Building Setback area.

E. Accessory Structure square footage shall not exceed 80% of the main floor square footage of the enclosed living area of the Permitted Principal Structure, excluding features such as garages, patios, and porches. If there is more than one Accessory Structure, the combined square footage shall apply.

F. Accessory Structures Shall not exceed the height of the Principal Structure or 25 feet, whichever is greater.

G. Conforming Lots within the Agriculture (A), Ranchette (R) and Agricultiral Residential (AR) Zoning Districts that are two (2) acres in size or larger shall be exempt from Sections E. and F. above.

10.01.02 Storage Buildings, Utility Buildings, Non-Commercial Greenhouses.

A. No Accessory Buildings used for industrial storage of hazardous, incendiary, noxious, or pernicious materials Shall be located nearer than one hundred (100) feet from any property line.

B. Storage Buildings, non-commercial greenhouses, and the like Shall be Permitted only in compliance with standards for distance between Buildings, and Setbacks, if any, from property lines.

C. Storage Buildings, non-commercial greenhouses and the like Shall be Permitted only in side and rear yards, and Shall not encroach into any required Building Setback from an abutting Right-of-Way.

D. Vehicles, including Manufactured Housing and Mobile Homes, Shall not be used as storage Buildings, utility Buildings, or other such uses.

14.15.00 Variances and Appeals.

14.15.01 Purpose of Variances. Strict application of uniformly applicable Land Development Regulations can lead to unreasonable, unfair, and unintended results in particular instances. The Board of County Commissioners finds that it is appropriate in such cases to adopt a procedure to provide relief to persons subject to the Land Development Regulations. The Board of Adjustment is authorized to grant variances to requirements of the Land Development Regulations consistent with the rules contained in these regulations. This Section does not authorize the Board of Adjustment to grant variances inconsistent with the Comprehensive Plan nor to grant a variance to permit uses not generally permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of the Land Development Regulations in the zoning district. In addition, the existence of nonconforming use of neighboring lands or un-permitted use of neighboring lands shall not be considered grounds for authorization of a variance.

14.15.02 Generally. Variances shall 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. 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. 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.

ENVIRONMENTAL ISSUE: N/A

FLOODPLAIN: N/A

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

BOA# 11-12-5
Photo Evidence

Views of the site

Views of the postings

Final Development Order
Mary Herman & Greg Duckham & Sonya Duckham / Greg Duckham
BOA # 11-12-5

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

WHEREAS, Mary Herman & Greg Duckham & Sonya Duckham (the "Owners") made a request to allow accessory structures on the parcel that will exceed 80% of the main floor area of the permitted principal structure, to allow an accessory structure to be placed in front of the permitted principal structure and to allow additions to be added to the existing non-conforming single-family dwelling unit; and

WHEREAS, the subject property consists of 0.45 acre +/- and is generally located east of Altoona in Section 4, Township 17 South, Range 27 East, being composed of Alternate Key Numbers 1268109 and 1268117, and more particularly described as:

OCALA FOREST CAMPSITES NUMBER 2 LOT 13 & 14 PB 16
PG 10

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 10, 2012; 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 10, 2012, 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# 11-12-5 to allow accessory structures on the parcel that will exceed 80% of the main floor area of the permitted principal structure, to allow an accessory structure to be placed in front of the permitted principal structure and to allow additions to be added to the existing non-conforming single-family dwelling unit, with the following conditions:

- The maximum square footage of all detached accessory structures shall not exceed 1,710 square feet.
- The owners shall obtain building permits and final inspections on all of the unpermitted structures by December 10, 2012.
- Detached accessory structures shall be located as shown on Exhibit "A".

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 10th day of May, 2012.

EFFECTIVE May 10, 2012.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

_____
Donald Schreiner, Chairman

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this May 10, 2012 by DONALD SCHREINER, who is personally known to me.
(SEAL)

_____
Signature of Acknowledger

Serial Number: _____
My Commission Expires: _____

VARIANCE REQUEST
Presented to
LAKE COUNTY BOARD OF ADJUSTMENT
May 10, 2012

CASE NO.: BOA# 13-12-3	**AGENDA ITEM #:** 2
OWNER: Jay Manger	**APPLICANT:** Mary "Kitty" Cooper

REQUESTED ACTION: The applicant is requesting a variance from the **Lake County Land Development Regulations (LDRs) 3.01.04.1.a. Key to Conditions in Table of Permitted and Conditional Uses** to allow an existing livestock building to remain less than 200 feet from property lines (+/- 5 acres).

GENERAL LOCATION: Astatula Area – South on SR 19 to CR 561, veer left on CR 561 to CR 48, left on CR 48 to site on left, Address# 15436, AK# 2997281 (Sec. 27, Twp. 20, Rng. 26).

FUTURE LAND USE DESIGNATION: Rural

EXISTING ZONING: Agriculture

Direction	Future Land Use	Zoning	Existing Use
North	Rural (1 du / 5 net acres)	Agriculture (1 du / 5 acres)	Single-Family Dwelling Unit
South	Conservation	Agriculture (1 du / 5 acres)	Conservation
East	Rural (1 du / 5 net acres)	Agriculture (1 du / 5 acres)	Vacant
West	Rural (1 du / 5 net acres)	Agriculture + Conditional Use Permit (1 du / 5 acres)	Agritourism
DATE POSTED:	April 23, 2012 at County Road 48 and Ranch Road, Astatula		

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 applicant is requesting a variance to allow an existing livestock building to remain 60.7 feet from the western property line and 19.1 feet from the northern property line. The parcel which abuts this parcel to the north, where the livestock building is 19.1 feet from the property line, is owned and leased by the owners and applicant of this site. The building was constructed as an agricultural structure in 1989 and does not meet the current or previous setbacks for livestock buildings. The applicant is attempting to resolve a Code enforcement citation and will need to perform one of the following: obtain an approved variance for the building or remove/replace the building in order to meet the current setbacks.

The applicant is leasing the parcel with an option to purchase. The parcels under contract consist of a five-acre parcel with a livestock building and single-family dwelling unit and a five-acre parcel to the north with a single-family dwelling unit. The parcel and associated buildings are used by the applicant in a horse breeding operation. The applicant maintains multiple paddocks on both parcels for separating the horses and providing for grazing/exercise areas. The attached survey shows the location of parcel lines and existing structures (Exhibit "A").

The setback for livestock buildings in 1989 was 75 feet from all property lines. The current setback for livestock buildings is 200 feet from all property lines. If a 200-foot setback cannot be met, due to the width of depth of the parcel, a reduced setback is allowed as long as the building is centered on the parcel and there is a minimum setback of 50 feet from the parcels boundaries. The distance from the stalls housing animals to the property line along the west property is 71 feet. The remaining area under the roof is used for storage of feed and equipment, which is used in the horse breeding operation.

The parcel is bordered to the south by conservation lands and by agricultural lands on the remaining three sides. The barn is screened by existing trees and vegetation and is not visible from the County road.

The **intent of the Code** (3.01.04) is to allow development and use of property only in compliance with the goals, objectives and policies of Lake County as expressed in the Lake County Comprehensive Plan. This

regulation encourages a logical development pattern with minimum standards in each zoning district. Minimum setbacks are used to reduce negative impacts on adjoining property owners.

The livestock building has been in its current location for 23 years. The use of the structure has been continuous over time to house animals and related agricultural goods. The owner is proposing to install a type "A" landscape buffer between the livestock building and the western property line. This landscape buffer will augment the existing vegetation to further screen the building from the adjoining property owner.

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

> *"In order to meet the intent of the Land Development Regulations the two stalls on SE/SW side will be changed to store hay and supplies and I will provide class A landscaping along the fence line between the barn and the east wall of the neighbors home."*

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

> ***"****Demolishing and rebuilding the barn would be a totally prohibitive expense as it would involve not only building a new barn but refencing several pastures to change the fences to accommodate the new barn. The barn is necessary for the small breeding operation that is my personal business. I house my stallion and brood mares with foals in the barn."*

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

- The request is consistent with the intent of LDR 3.01.04, which regulates the placement of livestock buildings.

The applicant has submitted proof of meeting the intent of the Code and has 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 to allow an existing livestock building to remain in its current location, which is 60.7 feet from the western property line and 19.1 feet from the northern property line, with the following conditions:

- There shall be a type "A" landscape buffer (excluding groundcover) established between the existing livestock building and the western property line.
- The existing livestock building footprint shall not be expanded beyond what is shown on Exhibit "A".

WRITTEN COMMENTS FILED: Support: -0- Concern: -0- Oppose: -0-

3.01.04 Key to Conditions in Table of Permitted and Conditional Uses.

1. Keeping of Livestock for General Agriculture and Non-Intensive Agriculture. These uses Shall only be Permitted as shown in Table 3.01.03 Schedule of Permitted and Conditional Uses and Shall adhere to the following setbacks:

a. **A Livestock Building should maintain a two hundred (200) foot setback from the property line. In the event that a Livestock Building cannot be constructed because of the two hundred (200) feet setback, then the Livestock Building Shall be as closely centered as possible between the property lines AND Shall maintain a fifty (50) foot setback from the property line.**

b. If the Lot Width or Length is equal to or less than one hundred fifty (150) feet, then the Livestock Building Shall be as closely centered as possible between the property lines AND Shall maintain a fifty (50) foot setback from the property line.

14.15.00 Variances and Appeals.

14.15.01 Purpose of Variances. Strict application of uniformly applicable Land Development Regulations can lead to unreasonable, unfair, and unintended results in particular instances. The Board of County Commissioners finds that it is appropriate in such cases to adopt a procedure to provide relief to persons subject to the Land Development Regulations. The Board of Adjustment is authorized to grant variances to requirements of the Land Development Regulations consistent with the rules contained in these regulations. This Section does not authorize the Board of Adjustment to grant variances inconsistent with the Comprehensive Plan nor to grant a variance to permit uses not generally permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of the Land Development Regulations in the zoning district. In addition, the existence of nonconforming use of neighboring lands or un-permitted use of neighboring lands shall not be considered grounds for authorization of a variance.

14.15.02 Generally. Variances shall 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. 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. 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.

ENVIRONMENTAL ISSUE: N/A

TRANSPORTATION IMPROVEMENTS: N/A

GREEN SWAMP ACSC: N/A

FLOODPLAIN: N/A

LAKE APOPKA BASIN: N/A

JOINT PLANNING AGREEMENT: N/A

WEKIVA RIVER PROTECTION AREA: N/A

RURAL PROTECTION AREA: YES

BOA# 13-12-3
Photo Evidence

Views of the site

Views of the postings

Final Development Order
Jay Manger / Mary "Kitty" Cooper
BOA # 13-12-3

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

WHEREAS, Jay Manger (the "Owner") made a request to allow an existing livestock building to remain in its current location, which is 60.7 feet from the western property line and 19.1 feet from the northern property line; and

WHEREAS, the subject property consists of 5 acres +/- and is generally located east of Astatula in Section 27, Township 20 South, Range 26 East, being composed of Alternate Key Number 2997281, and is more particularly described as:

> UNDERHILL HAMMOCK SUB BEING PART OF LOTS 5 & 6 DESCRIBED AS FOLLOWS: BEG AT NE COR OF LOT 5, RUN S 0DEG 37MIN 48SEC E ALONG SAID E LINE OF SAID LOT 5 A DIST OF 1249.25 FT TO SE COR OF LOT 5, S 89DEG 24MIN 57SEC W ALONG S LINE OF LOT 5 A DIST OF 272.58 FT, N 08DEG 52MIN 27SEC W 632.63 FT, N 89DEG 25MIN 08SEC E 338.29 FT, N 0DEG 37MIN 48SEC W 598.21 FT TO A POINT THAT IS 25 FT S OF S'LY R/W LINE OF SR 48, THENCE S 89DEG 19MIN 39SEC W 51.84 FT TO A POINT OF CURVATURE OF A CURVE, SAID CURVE CONCAVE TO THE SE & HAVING A RADIUS OF 1357.69 FT, THENCE SW'LY ALONG THE ARC THEREOF THRU A CENTRAL ANGLE OF 03DEG 01MIN 49SEC, A DIST OF 71.81 FT, N 03DEG 42MIN 10SEC W 25 FT TO A POINT ON S'LY R/W LINE OF SR 48, THENCE NE'LY ALONG SAID S'LY R/W LINE OF SR 48 TO POB PB 26 PGS 73-75

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 10, 2012; 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 10, 2012, 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# 13-12-3 to allow an existing livestock building to remain in its current location, which is 60.7 feet from the western property line and 19.1 feet from the northern property line, with the following conditions:

- There shall be a type "A" landscape buffer (excluding groundcover) established between the existing livestock building and the western property line.
- The existing livestock building footprint shall not be expanded beyond what is shown on Exhibit "A".

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 10th day of May, 2012.

EFFECTIVE May 10, 2012.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

_____
Donald Schreiner, Chairman

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this May 10, 2012 by DONALD SCHREINER, who is personally known to me.
(SEAL)

_____
Signature of Acknowledger

Serial Number: _____
My Commission Expires: _____

VARIANCE REQUEST
Presented to
LAKE COUNTY BOARD OF ADJUSTMENT
May 10, 2012

CASE NO.: BOA# 14-12-4 **AGENDA ITEM #:** 3
OWNERS & APPLICANTS: Jack and Kelly Raley

REQUESTED ACTION: The owners are requesting a variance from the **Lake County Land Development Regulations (LDRs) 9.02.11.F.4. Heritage Trees and 9.02.06.D(1) Replacement Requirements,** to allow the removal of two heritage trees and to reduce the replacement tree caliper to a minimum of one inch in diameter (+/- 0.28 acre).

GENERAL LOCATION: Eustis area – North on SR 19 to US 441, right on US 441 to CR 44 B, left on CR 44 B to Waycross Avenue, Left on Waycross Avenue to East Lake Joanna Drive, Right on East Lake Joanna Drive to site on left, Address# 33337, AK# 1316707 (Sec. 18, Twp. 19, Rng. 27).

FUTURE LAND USE DESIGNATION: Urban Low

EXISTING ZONING: R-1 (Rural Residential)

Direction	Future Land Use	Zoning	Existing Use
North	Urban Low (4 du / net acre)	R-1 (Rural Residential) (1 du / acre)	Single-Family Dwelling Unit
South	Urban Low (4 du / net acre)	R-1 (Rural Residential) (1 du / acre)	Single-Family Dwelling Unit
East	Urban Low (4 du / net acre)	R-1 (Rural Residential) (1 du / acre)	Single-Family Dwelling Unit
West	Lake Joanna	Lake Joanna	Lake Joanna
DATE POSTED:	April 18, 2012 at Waycross Avenue and East Lake Joanna Drive, Eustis		

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 owners are requesting a variance to allow the removal of two heritage trees to allow the placement of their single-family dwelling unit and detached garage. Due to the parcels small size, the owners are also requesting to plant a majority of the replacement trees offsite. Lake County Public Resources Department will accept the replacement trees; however; they have requested all replacement trees have a caliper of one inch.

The parcel's dimensions are 100' wide by 223' deep. The owners are proposing a 4300-square-foot home with a 784-square-foot detached garage. Four trees are located within the proposed footprint of the home and garage. If the home and detached garage are constructed as proposed all building setbacks will be met. A plot plan detailing the location of the proposed structures and existing trees is attached (Exhibit "A")

The owners are requesting to remove two heritage trees, one specimen tree and one protected tree. The Code allows removal of the specimen and the protected tree with mitigation; the Code does not allow heritage trees to be removed, unless a variance is granted. The total caliper inches of trees being removed is 153 inches. The replacement standard requires 124-caliper inches of the trees be replaced. The owners are proposing to replace 12-caliper inches onsite following construction of the home. Four additional protected trees, which do not conflict with the construction of the home, will remain on the parcel.

The **intent of the Code** (9.02.00) is to recognize the importance of trees and palms and their meaningful contribution to a healthy, beautiful, and safer community attributable to their carbon dioxide absorption, oxygen production, dust filtration, wind and noise reduction, soil erosion prevention, lakeshore erosion protection, wildlife habitat, surface drainage improvement, beautification and aesthetic enhancement of improved and vacant lands and the general promotion of the health, safety, welfare and well-being of the community.

The owners reduced the amount of trees being removed through home design and placement. Due to the parcel's small size, coupled with the lakefront setbacks, the buildable area on the parcel is reduced. The owners will be unable to build their home and detached garage without the removal of the selected trees.

The Lake County Public Resources Department requested that all replacement trees being submitted for mitigation requirements be one inch in caliper. This request is being made due to the reduced maintenance and establishment cost of the smaller trees. Often the trees are being installed at remote locations and the infrastructure and manpower does not exist to ensure adequate early stage care. The Public Resources Department determined that the smaller trees have a better chance of survival than the larger 2.5 inch replacement trees.

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

> *"We will replace 100% of required trees and donate these trees to parks and recreation dept. or where ever county can / requires they be donated"*

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

> *"We need to remove trees to be able to build house. We have met all setback regulations. The trees or root balls will intrude on areas where the buildings will be built*."

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

- The request is consistent with the intent of LDR 9.02.00, which regulates the removal and replacement of trees and palms.

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 to allow the removal of two heritage trees and to reduce the replacement tree caliper to a minimum of one inch in diameter, with the following **conditions**:

- The minimum amount of trees mitigated on the owner's parcel shall be 12-caliper inches.
- The minimum amount of trees mitigated offsite shall be 112-caliper inches.
- The offsite mitigation trees shall be supplied to Lake County Public Resources Department, prior to the issuance of a Certificate of Occupancy.
- The onsite mitigation trees shall be inspected by the County Manager, or designee, prior to the issuance of a Certificate of Occupancy.

WRITTEN COMMENTS FILED: Support: -0- Concern: -0- Oppose: -0-

9.02.06 Replacement Requirements. When a tree removal permit is issued, the County Manager, or designee, Shall require the replacement of removed trees and palms as a condition of the issuance of a permit, as follows:

A. Protected Trees. Fifty (50) percent of the total number of caliper inches measured at diameter breast height (DBH) for Native and Florida-Friendly trees.

B. Specimen Trees. Fifty (50) percent of the total caliper inches of specimen trees.

C. Historic and Heritage Trees. One-hundred (100) percent of the total caliper inches of Heritage and Historic Trees.

D. Regulations regarding replacement trees.

1. More than one (1) tree may be used to replace a tree or trees that are removed, but the minimum caliper of the replacement canopy trees Shall be no less than two-and-one-half (2.5) inches and two (2) inches for replacement ornamental trees.

2. Minimum of seventy-five (75) percent of the replacement trees Shall be canopy trees.

3. Twenty-five (25) percent maximum of the replacement trees may be ornamental trees.

4. Palm trees and pine trees may be used but Shall not exceed four (4) inches credit per tree given as replacement regardless of their installed size.

5. Replacement trees may be used to meet the landscape requirements set out in Section 9.01.

E. Tree Sampling for Large Sites. Sites over fifty (50) acres may identify and sample trees to be removed as follows:

1. The locations of all historic, specimen and heritage trees protected or proposed for removal Shall be located.

2. Other protected trees Shall be surveyed as follows:

a. The first fifty (50) contiguous acres Shall be surveyed by accounting for all protected trees to be removed.

b. The remaining acreage may be surveyed using sample plots. The sample plots Shall be a minimum area of twenty (20) percent of the remaining part of the site to be developed and twenty (20) percent of each vegetative community within the remaining part of the site to be developed. Each of the sample survey plots Shall be a minimum of one hundred (100) feet by one hundred (100) feet in size and Shall conform to current forestry practices.

c. All protected trees three (3) inch DBH caliper or greater, unless the trees are part of a wetland, sand pine or xeric oak scrub community in which case trees two (2) inches DBH and larger Shall be counted.

3. The tree survey Shall be conducted by a registered Landscape Architect, certified arborist, or certified forester.

4. A tree survey report detailing all findings, including the number and caliper of trees surveyed, estimates of trees surveyed, estimates of protected trees and distribution based on survey plots, and the size and location of specimen, historic, or heritage trees, Shall be prepared and submitted to the County as part of the site plan review process. The methods of the tree survey Shall be clearly detailed in the written report provided to Lake County.

5. Lake County reserves the right to require more detailed tree sampling if the County Manager or designee determines that the information provided is insufficient or that site-specific considerations warrant additional information.

F. Landscape credit. The replacement trees may be used to meet the requirements of the landscape standards set out in Section 9.01. All replacement trees Shall be provided even if the total number exceeds the landscape requirement.

G. Replacement maintenance. The replacement trees Shall be maintained in good condition in perpetuity, and the property owner Shall guarantee survival.

H. Restriction on use of palm trees. Palm trees Shall not account for more than twenty (20) percent of the required replacement trees.

I. Replacement size. Replacement trees Shall conform to the size and planting requirements of the Landscape Code. Ornamental trees may not exceed twenty-five (25) percent of the total caliper replacement inches required.

9.02.11 Heritage Trees.

A. Purpose. It is the purpose of this Subsection to acknowledge the existence of certain trees within the County that are significant or unique due to factors such as age, size, or type and to protect such trees through their designation as heritage trees. Designation of heritage trees by the Board Shall be in accordance with the standards and procedures in this Subsection.

B. Designation Standards. At least one (1) of the following standards Shall apply in order for a tree to be designated a heritage tree:

1. Size. Trees with a forty-inch caliper or greater, or a circumference of ten (10) feet or greater, singly or with a combined trunk, measured at fifty-four (54) inches from the surface of the ground.
2. Age. Trees that are determined to be at least one hundred (100) years old or to be at approximate half-life maturity and are in good health.
3. Form. Trees that are determined to have a unique form or shape, due to geography, climate, environmental or natural growth habitat conditions, and are in good health.
4. Ecological Value. Trees that are determined to have an ecological value to the County in terms of soil or water conservation and management, wildlife habitat, or endemic native flora habitat, and are in good health.
5. Rarity. Trees that are determined to be non-indigenous, rare, or unique to the County, and are in good health.

C. Prohibited Trees are excluded from designation as a Heritage Tree.

D. Application Procedures.

1. Applications may be initiated by owners of the Property or developers as part of their development plan.
2. Applications on forms provided by the County Manager or designee Shall be completed and submitted to the County Manager or designee.
3. The County Manager or designee may request assistance from the Lake County Forester, State Division of Forestry, in determining compliance with any of the designation standards.

E. Mandatory Recognition of Heritage Trees Any non-prohibited trees with forty-inch caliper or greater, or a circumference of ten (10) feet or greater, singly or with a combined trunk, measured at fifty-four (54) inches from the surface of the ground Shall be recognized as a heritage tree without application. The applicant Shall identify the location, number and size of all heritage trees on the required tree survey submitted to the County for site plan or plat review. In addition, the County may identify heritage trees that are found to meet this criterion.

F. Approval and Protection.

1. Any non-prohibited tree satisfying one (1) or more of the size criteria for a heritage tree as specified above Shall be recognized and recorded as a heritage tree by the County Manager or designee, without approval by the Board of County Commissioners.
2. Upon review and approval by the County Manager or designee, any tree that has been submitted for consideration as a heritage tree and does not automatically qualify because of size Shall be scheduled for a public hearing before the Board of County Commissioners.
3. The Board of County Commissioners Shall approve or deny the request. Approval by the Board of County Commissioners Shall be in the form of a resolution.
4. **Removal of heritage trees Shall be prohibited, unless a variance is granted by the Board of Adjustment. The property owner Shall protect any tree designated as a heritage tree to ensure its long-term health.**

14.15.00 Variances and Appeals.

14.15.01 Purpose of Variances. Strict application of uniformly applicable Land Development Regulations can lead to unreasonable, unfair, and unintended results in particular instances. The Board of County Commissioners finds that it is appropriate in such cases to adopt a procedure to provide relief to persons subject to the Land Development Regulations. The Board of Adjustment is authorized to grant variances to requirements of the Land Development Regulations consistent with the rules contained in these regulations. This Section does not authorize the Board of Adjustment to grant variances inconsistent with the Comprehensive Plan nor to grant a variance to permit uses not generally permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of the Land Development Regulations in the zoning district. In addition, the existence of nonconforming use of neighboring lands or un-permitted use of neighboring lands shall not be considered grounds for authorization of a variance.

14.15.02 Generally. Variances shall 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. 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. 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.

ENVIRONMENTAL ISSUE: There are jurisdictional wetlands on the lakefront portion of the parcel.

FLOODPLAIN: The lakefront portion of the parcel is in the flood zone designated “A”

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

BOA# 14-12-4
Photo Evidence

Views of the site

Views of the postings

Final Development Order
Jack and Kelly Raley
BOA # 14-12-4

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

WHEREAS, Jack and Kelly Raley (the "Owners") made a request to allow the removal of two heritage trees and to reduce the replacement tree caliper to one inch in diameter and;

WHEREAS, the subject property consists of 0.28 acre +/- and is generally located east of Eustis in Section 18, Township 19 South, Range 27 East, being composed of Alternate Key Number 1316707, and is more particularly described as:

BELLEAUX ESTATES LOT 14 PB 8 PG 51

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 10, 2012; 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 10, 2012, 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# 14-12-4 to allow the removal of two heritage trees and to reduce the replacement tree caliper to a minimum of one inch in diameter, with the following **conditions**:

- The minimum amount of trees mitigated on the owner's parcel shall be 12-caliper inches.
- The minimum amount of trees mitigated offsite shall be 112-caliper inches.
- The offsite mitigation trees shall be supplied to Lake County Public Resources Department, prior to the issuance of a Certificate of Occupancy.
- The onsite mitigation trees shall be inspected by the County Manager, or designee, prior to the issuance of a Certificate of Occupancy.

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 10th day of May, 2012.

EFFECTIVE May 10, 2012.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

_____
Donald Schreiner, Chairman

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this May 10, 2012 by DONALD SCHREINER, who is personally known to me.
(SEAL)

_____
Signature of Acknowledger

Serial Number: _____
My Commission Expires: _____