



BOARD OF ADJUSTMENT

AGENDA JANUARY 9, 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)

Vacant (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
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

January 9, 2014

1:00 p.m.

- I. Call to Order
- II. Minutes Approval – December 12, 2013
- III. Public Comment
- IV. Public Hearings

CONSENT AGENDA

CASE NO.	OWNER(S)/APPLICANT(S) NAME	AGENDA NO.
BOA # 18-13-4	Kenneth J. McGrath	1

REQUESTED ACTION: The owner is requesting a variance from Lake County Land Development Regulations, Section 3.02.06 Density, Impervious Surface, Floor Area, and Height Requirements to allow a pool and accessory structures that will exceed the maximum 30% impervious surface allowed in Rural Residential (R-1) zoning district.

REGULAR AGENDA

CASE NO.	OWNER(S)/APPLICANT(S) NAME	AGENDA NO.
BOA # 19-13-2	Christopher & Donna Larson	2

REQUESTED ACTION: The owners are requesting a variance from Lake County Land Development Regulations, Section 3.01.04 Key to Conditions in Table of Permitted and Conditional Uses to allow s livestock building to be located 25 feet from the property line.

- V. Close

**MINUTES
BOARD OF ADJUSTMENT
PUBLIC HEARING
December 12, 2013**

The Lake County Board of Adjustment met on December 12, 2013 in the Commission Chambers on the second floor of the County Administration Building in Tavares, Florida to consider requests for variances and any other petitions that may be submitted in accordance with Chapter XIV of the Lake County Land Development Regulations.

Board Members Present:

Catherine Hanson, Vice-Chairman
Craig Covington
Phyllis Luck
Lloyd M. Atkins, Jr.
Marie Wuenschel

Board Members Absent:

Donald Schreiner, Chairman

Staff Present:

Anita Greiner, Chief Planner, Planning & Community Design Division
Jennifer Cotch, Senior Planner, Planning & Community Design Division
Melanie Marsh, Deputy County Attorney
Donna R. Bohrer, Public Hearing Associate, Planning & Community Design Division

Vice-Chairman Hanson called the meeting to order at 1:00 p.m. She noted for the record that there was a quorum present. She confirmed Proof of Publication for the case as shown on the screen. She added that if a variance is approved, the owner/applicant should give staff at least 24 hours before proceeding to the zoning counter to finalize their paperwork.

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<u>CASE NO.</u>	<u>OWNER/ APPLICANT</u>	<u>AGENDA NO.</u>
<u>Consideration of Minutes</u>	November 14, 2013	
<u>Public Comment</u>		
<u>Opening Remarks</u>		
<u>Regular Agenda:</u>		
BOA # 18-13-4	Kenneth J. McGrath	1
<u>Closing Remarks</u>		
<u>Adjournment</u>		

DRAFT

Opening Remarks

Anta Greiner, Chief Planner, Planning and Community Design, said there were no changes to the agenda.

Minutes

MOTION by Craig Covington, SECONDED by Phyllis Luck to APPROVE the November 14, 2013 Board of Adjustment Public Hearing Minutes, as corrected.

FOR: Hanson, Luck, Atkins, Covington, Wuenschel
ABSENT: Schreiner
AGAINST: None
MOTION CARRIED: 5-0

Public Comment

There were no public comments.

Regular Agenda

BOA# 18-13-4
OWNERS/APPLICANTS: Kenneth J. McGrath

Jennifer Cotch, Senior Planner, Planning and Community Design explained the applicant was requesting a variance from the Lake Development Regulations (LDRs) to allow a pool and accessory structure that will exceed the maximum 30% impervious surface ratio (ISR) allowed in the Rural Residential (R-1) zoning district. She said the ISR on the applicant's property is currently 35% and with the proposed improvements, it would be in excess of 40%. She explained that the residence is 1/3 of an acre, with a single-family residence, two paved driveways, a garage and an addition.

Ms. Cotch explained that the land use and property size are in conflict with the future land use, which will be addressed during the county-wide rezoning. She said the medium residential zoning would be more suitable, which allows an ISR of 35%. She said the LDRs have changed and this property is currently restricted to a 30% ISR.

Ms. Cotch said the intent of the Code is to limit the ISR in order to reduce flooding and to protect water quality. She said the applicant has not demonstrated how he could meet the intent of the Code, and the ISR on the property currently exceeds the allowable ISR. She said staff is recommending denial.

Mr. Kenneth McGrath addressed the Board, stating he believed several other variances have been allowed in his community related to the ISR. He said the pool would be utilized for a medical benefit, because this particular pool equipment would create a current for him to swim against.

Lloyd Adkins, Board Member, discussed the amount of the ISR created by the planned pool and the surrounding surfaces. Mr. McGrath said he is willing to remove one of the concrete driveways, and to have pervious pavers around the pool. He said he would do as much as possible to accommodate the pool while reducing the impervious surface. Vice-Chairman Hanson said if the ISR could be reduced to meet the allowable ISR, the need for a variance would cease to exist. Mr. Adkins noted this area was subject to significant standing water during rain events. He said removing some of the concrete might make the pool meet the LDRs. Mr. McGrath did not believe he could meet the 30% requirement. He agreed there was some standing water issues but didn't believe there was extreme flooding.

Vice-Chairman Hanson asked the applicant if the pool could be smaller, and asked Ms. Cotch if it was possible to reduce the ISR to a level allowed by the LDRs.

Ms. Cotch said this application could be postponed to address ways for Mr. McGrath to reduce the amount of ISR on his property. Mr. Adkins said the ISR needs to get as close to 30% as possible, because he has seen significant flooding in the past.

PUBLIC COMMENT

Sharon Clower, neighbor, said she did not object to the pool. She agreed there has been some significant flooding in the past during rain events. She said her front yard and that of her neighbors has flooded in the past. She was concerned about retention of stormwater on Mr. McGrath's property.

Vance Jokim introduce himself as the author of the Fiscal Rangers blog. He said it was his observation that the owner did not seem to have much information regarding this process. He asked if the pool could be pervious because it can be drained. He thought that perhaps staff could provide information on alternatives.

Ms. Greiner said the variance application lists what is necessary, but if the owner has someone else make application on their behalf, as in this case, staff meets with the applicant instead of the owner. She stated that pools are an impervious surface, it does not matter if there is a drain. She also noted that staff notifies the applicant of the staff recommendation.

MOTION by Craig Covington, SECONDED by Lloyd Adkins to postpone BOA #18-13-4 to the January 9, 2014 meeting with the stipulation that staff and the owner come back with alternatives to reduce the amount of the ISR.

FOR: Hanson, Luck, Covington, Wuenschel, Atkins

ABSENT: Schreiner

AGAINST: None

MOTION CARRIED: 5-0

Adjournment

There being no further business, the meeting was adjourned at 1:32 p.m.

Respectfully submitted,

Donna Bohrer
Public Hearing Associate

Donald Schreiner
Chairman

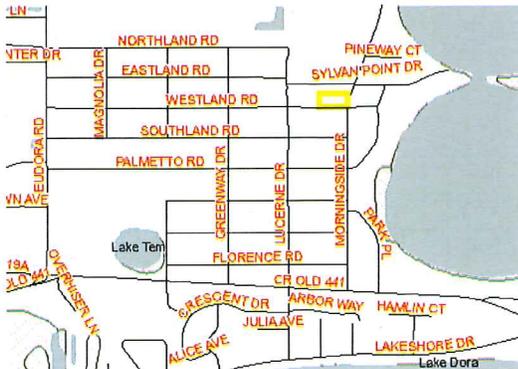


VARIANCE REQUEST
 Presented to the
BOARD OF ADJUSTMENT
 January 9, 2014

CASE NO.: BOA# 18-13-4	AGENDA ITEM #: 1
OWNER & APPLICANT: Kenneth J. McGrath	

REQUESTED ACTION: The owner is requesting a variance from Lake County Land Development Regulations, Section 3.02.06 Density, Impervious Surface, Floor Area, and Height Requirements to allow a pool and accessory structures that will exceed the maximum 30% impervious surface allowed in Rural Residential (R-1) zoning district.

GENERAL LOCATION: Mt Dora area – East on CR Old 441, then left on Morningside Drive (N), to site on left, #1755, AK# 1533678 (Sec. 25, Twp. 19, Rng. 26).



FUTURE LAND USE DESIGNATION: Urban Low Density

EXISTING ZONING: R-1 (Rural Residential)

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Urban Low Density (4 du / net acre)	R-1 (Rural Residential District) (1 du / acre)	Single-family dwelling unit
South	Urban Low Density (4 du / net acre)	R-1 (Rural Residential District) (1 du / acre)	Single-family dwelling unit
East	Urban Low Density (4 du / net acre)	R-1 (Rural Residential District) (1 du / acre)	Single-family dwelling unit
West	Urban Low Density (4 du / net acre)	R-1 (Rural Residential District) (1 du / acre)	Single-family dwelling unit
Posted:	December 18, 2013; postcards mailed to adjacent property owners on December 17, 2013		

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 owner is requesting a variance to allow the construction of a pool and accessory structures that will increase the impervious surface ratio (ISR) over thirty percent. The Code (3.02.06 Density, Impervious Surface, Floor Area, and Height Requirements) limits the maximum ISR to 0.30 in the R-1 Zoning District.

The parcel is located in Sylvan Shores, a residential subdivision platted in 1926. All of the lots in the subdivision are developed with conventional single-family dwelling units. The owner's parcel is developed with a single-family dwelling unit, detached garage, and enclosed porch. A copy of the survey showing the location of all improvements is attached (Exhibit "A"). The total square footage of the property is 14250 square feet (0.33 acre). The total existing structures are 4874 square feet or 34% impervious surface ratio. With the proposed pool and pavement the total impervious surface would be 0.40 or forty percent.

The owner is proposing to construct an 840 square foot pool with patio. The building would meet all setback requirements and would be located in the side/rear yard as required by the Code.

The parcels to the north, south, east and west are developed with single-family dwelling units. The subject parcel is zoned R-1 (Rural Residential District) and the Future Land Use is Urban Low Density. The Future Land Use and the zoning are in conflict, and will be addressed during the County-wide rezoning. The 2030 Comprehensive Plan Policy I-1.3.2 *Urban Low Density Future Land Use*, states the maximum ISR shall not exceed 0.60 or sixty percent. Under current regulations, the Sylvan Shores subdivision would not be allowed to develop under the R-1 Zoning District since the average lot size is approximately one-third of an acre. The more appropriate zoning classification based on the Future Land Use and the existing development would be Medium Residential District (R-3), which according to the Code (3.02.06) allows a maximum ISR of 0.35 or thirty-five percent. The parcel contains no flood zones or jurisdictional wetlands.

The Land Development Regulations have been updated since the applicants last permit application, which allowed up to 35% impervious surface. Under the previous LDR's, Chapter 3.02.06, lots that were non-conforming to the existing zoning classification could utilize the ISR category which was closest to the

actual area of the non-conforming lot. Since the applicants lot area was most consistent with the R-3 zoning, the applicant was allowed to obtain a maximum ISR of thirty-five percent (35%). The current LDR's do not have this provision.

On December 12, 2013, the variance request was presented to the Board of Adjustments, with a recommendation of denial. At the hearing, the Board members authorized a postponement of one month to allow staff and the applicant time to work on reducing the proposed impervious surface area. On December 20, 2013, Mr. McGrath met with staff and proposed the following: 1. The pool patio area will be constructed out of pervious materials, reducing the pool's impervious surface area from 840 square feet to 425 square feet.

2. Once construction of the pool is complete, the southernmost driveway will be removed.
3. The applicant will keep and maintain the existing cistern system designed to capture rainwater from the roof of the existing home.

With the proposed conditions in place, the ISR will be 35%, the same that exists presently.

The **intent of the Code** (3.02.06) is to protect the public health, safety and welfare by limiting the amount of impervious surface in order to reduce flooding and increase water quality. An impervious surface ratio is a measurement of the amount of the base site area that is covered by any material that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land. Impervious surfaces include, but are not limited to roofs and roads, sidewalks and parking lots paved with asphalt, concrete, compacted sand, limerock or clay. The impervious surface ratios (ISR) in Table 3.02.06 are applicable to both residential and nonresidential development.

The owner submitted the following reasons as proof of meeting the **intent of the Code**: *"Under reasonable requirements that exist under state guidelines."*

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**: *"Cannot put a pool in without this revision. Also, it seems there are many homes on the same street that far exceed the R-1, 30% Impervious."*

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

WEKIVA RIVER PROTECTION AREA: N/A

LAKE APOPKA BASIN: N/A

TRANSPORTATION IMPROVEMENTS: N/A

GREEN SWAMP AREA OF CRITICAL STATE CONCERN: N/A

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

1. The applicant was allowed to increase the impervious surface ratio to 35% under the previous Land Development Regulations (LDRs). The current LDRs limit lots to a maximum 30% ISR in the Rural Residential Zoning Classification; and
2. The parcel will remain at an impervious surface ratio of 35% by removing one driveway and using pervious pavers for the pool patio; and
3. The applicant has a cistern system that collects runoff rainwater from the existing single-family home.

Staff finds that the applicant has submitted proof of meeting the intent of the Code and has shown proof of a substantial hardship or that that application of the Code would violate the principles of fairness. Based on the Findings of Fact and Analysis, Staff recommends **APPROVAL** of the variance request.

**BOA# 18-13-4
Photo Evidence**

Views of the site



Views of the postings



**Final Development Order
Kenneth J. McGrath
BOA # 18-13-24**

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

WHEREAS, Kenneth J. McGrath (the "Owner") requested a variance to allow accessory structures that will exceed the maximum impervious surface ratio (ISR) allowed in Rural Residential (R-1) zoning; and

WHEREAS, the subject property consists of 0.33 acres +/- and is generally located south of Mt Dora in Section 25, Township 19 South, Range 26 East, being composed of alternate key number 1533678 and is more particularly described as:

SYLVAN SHORES S 55FT OF LOT 20, N 40 FT OF LOT 21, BLK 15

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 January 9, 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 January 9, 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# 18-13-4 to allow an Impervious Surface Ratio (ISR) of .35 or thirty-five percent with the following conditions:

- A. The pool patio area (425 square feet) shall be constructed of pervious materials; and
- B. The southernmost driveway shall be completely removed prior to a final inspection of the pool and associated pervious patio; and
- C. The applicant must keep and maintain the existing cistern system that collects rainwater from the existing single-family home.

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 9th day of January, 2014.

EFFECTIVE January 9, 2014.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Donald Schreiner, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

**The foregoing instrument was acknowledged before me this January 9, 2014 by DONALD SCHREINER who is personally known to me.
(SEAL)**

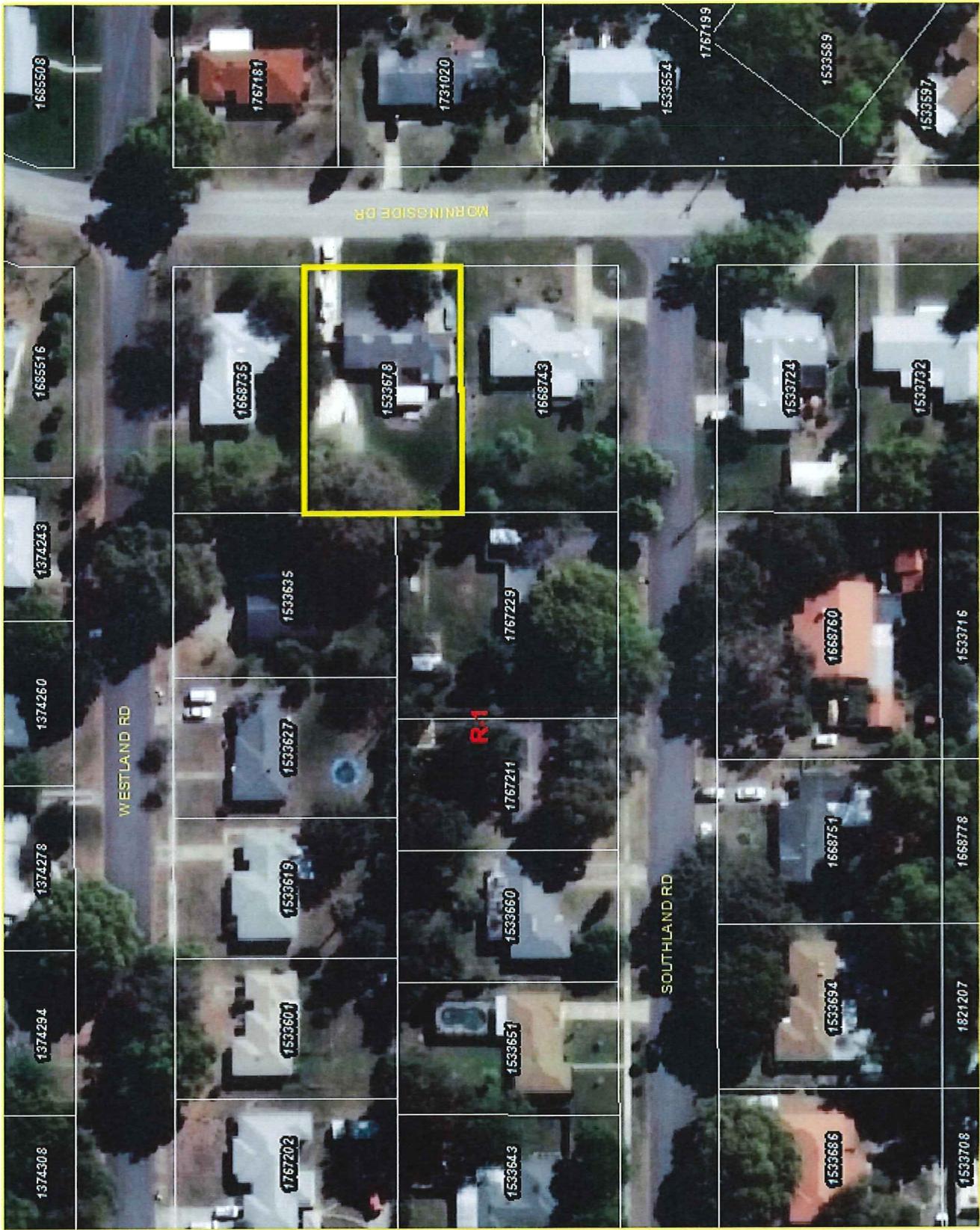
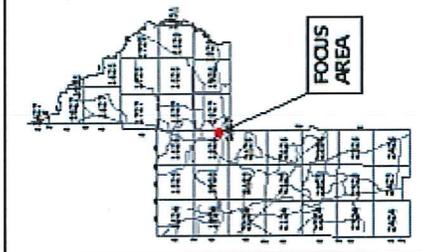
Signature of Acknowledger

Serial Number: _____

My Commission Expires: _____



Case Location (S-T-R):
25-19-26



Owner: Kenneth J. McGrath
Applicant: Kenneth J. McGrath
BOA#: 18-13-4



1 inch = 83,333.333 feet



VARIANCE REQUEST
Presented to the
BOARD OF ADJUSTMENT
January 9, 2014

CASE NO.: BOA# 19-13-2	AGENDA ITEM #: 2
OWNERS/APPLICANTS: Christopher and Donna Larson	

REQUESTED ACTION: The owners are requesting a variance from **Lake County Land Development Regulations, 3.01.04 Key to Conditions in Table of Permitted and Conditional Uses** to allow a livestock building to be located 25 feet from the property line; due to the size of the parcel, the Code requires the building to be as closely centered on the parcel as possible, and requires a minimum setback of 50 feet from all property lines.

GENERAL LOCATION: Montverde area – SE on CR 455 to Fosgate Road (S) to Paddock Drive (W) to Arabian Way (W) to Appaloosa Trail (N) #16739, AK# 3028228 (Sec. 09, Twp. 22, Rng. 26).



FUTURE LAND USE DESIGNATION: Rural Transition

EXISTING ZONING: Agriculture Residential (AR)

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Rural Transition (1 du/5 acres)	AR (Agriculture Residential) (1 du / 2 acres)	single-family dwelling unit
South	Rural Transition (1 du/5 acres)	AR (Agriculture Residential) (1 du / 2 acres)	single-family dwelling unit
East	Rural Transition (1 du/5 acres)	AR (Agriculture Residential) (1 du / 2 acres)	single-family dwelling unit
West	Rural Transition (1 du/5 acres)	AR (Agriculture Residential) (1 du / 2 acres)	single-family dwelling unit
Posted:	December 18, 2013; notification cards mailed out December 17, 2013		

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 a barn containing horses to be located twenty-five (25) feet from the south property line, 110 feet from the north property line, 150 feet from the west property line, and 390 feet from the east (front) property line. The Code, 3.01.04(1)(a), requires a livestock building to be located a minimum of two hundred (200) feet from all property lines. In the event that a livestock building cannot be constructed because of the two hundred (200) foot setback, then the livestock building shall be as closely centered as possible between the property lines and a fifty (50) foot setback shall be maintained from all property lines.

LAND DEVELOPMENT REGULATION:

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.

Livestock. "Livestock" shall include, but not be limited to, all animals of the equine, ratite, bovine or swine class, including goats, sheep, mules, horses, hogs, cattle, ostriches and other grazing animals. The term livestock shall specifically exclude exotic animals.

Livestock Building. A Structure used for milking, feeding, or sheltering of farm animals.

The parcel is located in the Trails of Montverde subdivision; the subdivision was platted in 1986. The subject parcel is an interior lot and is surrounded by seven other lots located in the subdivision, all improved with single-family dwelling units. The parcel is approximately 3.58 acres and is roughly 600 feet (east to west) by 200 feet (north to south) in size. The applicant could not meet the 200-foot setback to the north and south property boundaries and therefore would be required to center the barn and maintain a minimum 50-foot setback from both the north and south property lines.

The **intent** of the Code (Table 3.02.04) is to promote a logical development pattern, provide for safe setbacks between structures and encourage a visually pleasing environment, as well as to ensure that the residents in the surrounding area are not disrupted by the noises and smells by the use of such structures.

The applicants submitted the following reasons as proof of meeting the **intent of the Code**: *"The purpose of the Land Development Regulation has been met by the configuration of our property. The neighborhood around our lot is fully developed. All dwellings (with the exception of one) are greater than 500 feet from our proposed barn site. That one is greater than 250 from the barn site. We are also separated on 2 sides from our neighbors by the horse trail."*

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**: *"The primary reason we are getting horses is our Autistic grandson. Research proves that there is a connection that children with Autism have with horses and this is certainly true with our Isaac. The area where we plan to build the barn is a large flat piece of land on our otherwise sloped property. Building the barn to the south side of the property would allow us to have a riding ring where he can be contained but independent. The second reason is that building the barn to the south of our property would place the barn in line with our driveway and would facilitate bringing feed and supplies. The third reason is there is a live oak in the middle of our corral and we would have to remove it to place the barn near the center of the corral."*

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

1. This request is inconsistent with LDR Table 3.01.04(1)(a), which attempts to promote standardized setbacks for specific zoning districts and uses.
2. There is sufficient room to construct the barn, without encroaching into the required building setbacks.

The owners have not shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. The owners have not submitted proof of meeting the intent of the Code. Based on the Findings of Fact and Analysis, Staff recommends **denial** of the variance request to allow a barn to be located twenty-five (25) feet 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

FLOODPLAIN: N/A

JOINT PLANNING AGREEMENT: N/A

WEKIVA RIVER PROTECTION AREA: N/A

LAKE APOPKA BASIN: YES

TRANSPORTATION IMPROVEMENTS: N/A

GREEN SWAMP AREA OF CRITICAL STATE CONCERN: N/A

**BOA# 19-13-2
Photo Evidence**



Views of the postings



**Final Development Order
Christopher and Donna Larson
BOA # 19-13-2**

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

WHEREAS, Christopher and Donna Larson (the "Owners") made a request to allow a livestock building (horse barn) to be located 25 feet from a property line; the Code requires the building to be as closely centered on the parcel as possible and meet a minimum setback of 50 feet from property lines; and

WHEREAS, the subject property consists of 3.58 acres +/- and is generally located south of Montverde in Section 09, Township 22 South, Range 26 East, being composed of alternate key number 3028228 and is more particularly described as:

TRAILS OF MONTVERDE SUB LOT 136 PB 28 PGS 6-11 ORB 4060 PG 1458

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 January 9, 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 January 9, 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# 19-13-2 to allow a livestock building (horse barn) to be located twenty-five (25) feet from the property line with the following **conditions**:

- A. The owner shall provide a Type "C" landscape buffer along the south property boundary. The buffer shall be designed and constructed per the standards set forth in Lake County Land Development Regulation Chapter IX.
- B. An inspection of the landscape buffer by Lake County Planning & Community Design Division, to ensure the conditions as stated above are met, must be conducted and approved within 30 days of variance

approval. The owner and subsequent owner(s) shall be required to maintain the landscape plan as approved.

- C. Manure, used bedding, and any other associated animal waste, generated by the stable, shall be disposed of off-site on a weekly basis (7-day week). The organic waste stockpile shall be stored a minimum of 200 feet from all property lines and shall be placed within a three-sided enclosure. Spreading the waste on site shall be prohibited. A manifest detailing the receivership of waste shall be maintained at the stable, and shall be subject to review by Lake County.

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 9th day of January, 2014.

EFFECTIVE January 9, 2014.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

Donald Schreiner, Chairman

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this January 9, 2014 by DONALD SCHREINER, who is personally known to me.
(SEAL)

Signature of Acknowledger

Serial Number: _____
My Commission Expires: _____

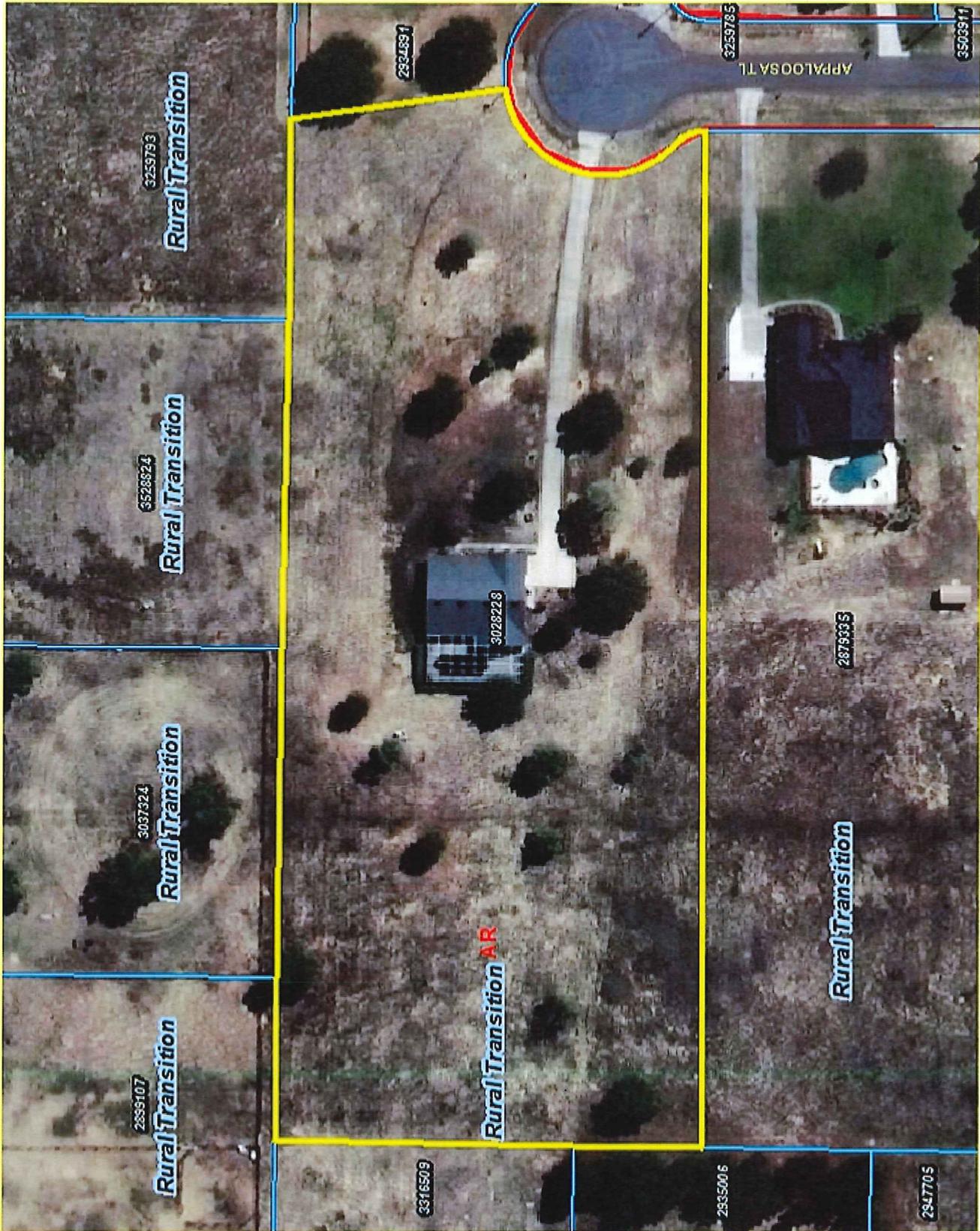
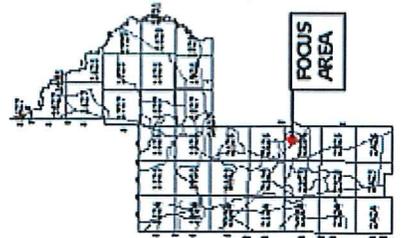


LAKE COUNTY
 DEPARTMENT OF
 GROWTH MANAGEMENT
 Community Services Division

Legend

- Tax Parcel
- Zoning
- Subject Property

Case Location (S-T-R):
 9-22-26



Owners/Applicant : Christopher and Donna Larson
 BOA# 19-13-2



1 inch = 83,33333 feet