LAKE COUNTY
FLORIDA

LAKE COUNTY BOARD OF ADJUSTMENT

April 12, 2012

PLEASE BRING THIS BOOKLET TO PUBLIC HEARING

LAKE COUNTY
FLORIDA

BOARD OF ADJUSTMENT

AGENDA ▪ APRIL 12, 2012

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)

Mary Link Bennett, Vice Chairman (At-Large Representative)

Christopher L. Cheshire (District 1)

Robert Peraza (District 2)

Marie Wuenschel (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

Jennifer Hill, Vice Chairman	District 1
Sean Parks	District 2
Jimmy Conner	District 3
Leslie Campione, Chairman	District 4
Welton G. Cadwell	District 5

County Staff

David Heath, AICP, Deputy County Manager
Melanie Marsh, Deputy County Attorney
Erin Hartigan, Assistant County Attorney

Growth Management Department Staff

Amye King, AICP, Director, Department of Growth Management
Brian T. Sheahan, AICP, Planning Manager, Division of Planning & Community Design
Anita Greiner, Chief Planner, Division of Planning & Community Design
Donald P. Simmons, Planner, Division of Planning & Community Design
Karen Chester, Associate Planner, 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

April 12, 2012
1:00 p.m.

I. Call to Order
II. Minutes Approval – March 8, 2012
III. Public Hearings

CASE NO.	OWNER(S)/APPLICANT(S) NAME	AGENDA NO.

POSTPONEMENT:

BOA # 11-12-5	Mary Herman & Greg Duckham & Sonya Duckham / Greg Duckham	2

REQUESTED ACTION: The applicant is requesting a variance from the **Lake County Land Development Regulations (LDRs) 10.01.01.E General Standards & Requirements and 10.01.02.C. Storage Buildings, Utility Buildings, Non-commercial Greenhouse** to allow accessory structures on the parcel that will exceed 80% of the main floor area of the permitted principal structure; and to allow accessory structures to be placed in front of the permitted principal structure (+/- 0.45 acre).

CONSENT AGENDA:

BOA # 10-12-4	Eunice Eldridge / Bill Neifer	1

REQUESTED ACTION: The applicant is requesting a variance from the **Lake County Land Development Regulations (LDRs) Table 3.02.05 Setback Requirements** to allow a handicap ramp 10 feet from the right-of-way of Oak Circle (+/- 0.11 acre).

BOA # 12-12-5	Joyce Edwards / Leslie Edwards	3

REQUESTED ACTION: The applicant is requesting a variance from the **Lake County Land Development Regulations (LDRs) 10.01.05.B.4 Accessory Dwellings** to allow an accessory dwelling unit that exceeds the maximum square footage by 480 square feet (+/- 5 acres).

IV. Close

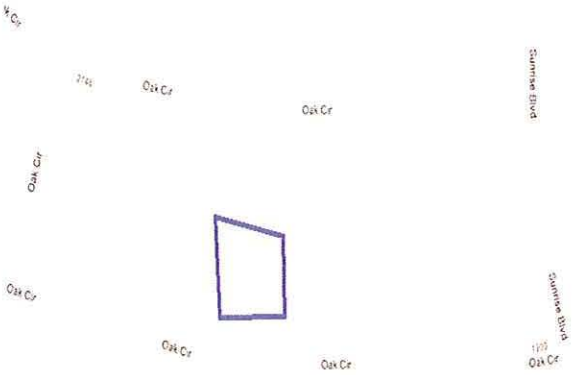
LAKE COUNTY
DEPARTMENT OF
GROWTH MANAGEMENT
Planning & Community Design Division

VARIANCE REQUEST
Presented to
BOARD OF ADJUSTMENT
April 12, 2012

CASE NO.: BOA# 10-12-4	**AGENDA ITEM #:** 1
OWNER: Eunice Eldridge	**APPLICANT:** Bill Neifer

REQUESTED ACTION: The applicant is requesting a variance from the **Lake County Land Development Regulations (LDRs) Table 3.02.05 Setback Requirements** to allow a handicap ramp 10 feet from the right-of-way of Oak Circle (+/- 0.11 acre).

GENERAL LOCATION: Mount Dora area – South on US Hwy 441 to Wolf Branch Road, left on Wolf Branch Road to Sunrise Boulevard, left on Sunrise Boulevard to Oak Circle, left on Oak Circle to site on right, Address# 2060 Oak Circle, AK# 1816203 (Sec. 21, Twp. 19, Rng. 27).



FUTURE LAND USE DESIGNATION: Urban Low Density

EXISTING ZONING: RM (Mixed Home Residential)

Direction	Future Land Use	Zoning	Existing Use
North	Urban Low Density (4 du / net acre)	RM (Mixed Home Residential) (8 du / acre)	Single-family dwelling unit
South	Urban Low Density (4 du / net acre)	RM (Mixed Home Residential) (8 du / acre)	Single-family dwelling unit
East	Urban Low Density (4 du / net acre)	RM (Mixed Home Residential) (8 du / acre)	Single-family dwelling unit
West	Urban Low Density (4 du / net acre)	RM (Mixed Home Residential) (8 du / acre)	Single-family dwelling unit
DATE POSTED:	March 27, 2012 at Oak Circle and Sunrise Boulevard, Mount Dora		

Donald P. Simmons, Planner, Planning & Community Design Division

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 handicap ramp to remain in the front setback. The recently constructed ramp provides access for the owner of the parcel and her disabled child. The ramp was constructed without a permit and does not meet the minimum setback requirements from the right-of-way. The applicant is attempting to obtain permits for the structure and an approved variance is required prior to approval.

The owner constructed a handicap ramp to facilitate entering into the single-family dwelling. Two exterior doors provide access to the dwelling unit. One of the doors enters from a porch and the other door is on the opposite side of the home under an existing carport. If the handicap ramp is located under the carport, there would not be sufficient room to park the owner's vehicle. A copy of a plot plan showing the placement of the handicap ramp is attached (Exhibit "A").

The Florida Department of Transportation has guidelines concerning clear zones on roadways. A clear zone, as defined in The Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (aka the Florida Green Book), is the area outside of the traveled road available for use by errant vehicles. The type of road is used to determine the minimum width for a roadway clear zone. In accordance with the chart in the Florida Green Book, if there is no curb and gutter along the drive, as in this instance, the recommended minimum roadway clear zone is six (6) feet measured from the edge of the through-travel lane. The handicap ramp is located 10 feet from the edge of the through-travel lane, which would exceed the minimum clear zone area.

The **intent of the Code** (Table 3.02.05) is to promote aesthetic appeal in addition to promoting a safe setback distance from roads. If this handicap ramp is allowed to remain as constructed it will not create a hazard for the area.

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

> *"The site is located in a mobile home subdivision with 15 mph speed limits, and the street is lightly traveled. The deck is behind two palm trees which would further protect it from an accidental crash.*

The location of the deck is near the average setback for other homes in the area. I was unaware a variance was needed, and am now trying to comply with all applicable codes."

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:**

"Due to deteriorating health, a new main access to the house is needed in order to accommodate a wheelchair or walker. The Front door of the house is 36" wide. The only other door is located in the carport and is only 32" wide. Because of the need to change directions when entering the house, a turnaround area on the deck is needed to permit maneuvering the wheelchair. Railings are needed to prevent accidents. The ramp will be adjacent to the driveway and in line with the existing sidewalk. My 41 year old Down's Syndrome daughter is having increased difficulty with stairs and needs the use of the handicap ramp."

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

1. This request is consistent with the Florida Green Book, which provides minimum setbacks from right-of-ways.
2. The request is consistent with LDR 3.02.05, which promotes safe setbacks from existing roads.

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 a handicap ramp 10 feet from the right-of-way of Oak Circle.

WRITTEN COMMENTS FILED: Support: -29- Concern: -0- Oppose: -0-

Table 3.02.05- Setback Requirements

	Front	
Zoning District	**Existing Development**	New Development
A RA AR R1 R2 R3 R4 R6 R7 R10 RP RM	**Property adjacent to state, federal, and County secondary highways Shall maintain a 50-foot setback from the highway ROW for any structure. Property adjacent to Roads other than state, federal, and County secondary highways Shall maintain, for any structure, a setback of 62 feet from the centerline of the Road or 25 feet from the Road ROW, whichever is greater**	Property adjacent to state, federal, and County secondary highways Shall maintain a 50-foot setback from the highway ROW for any structure. Property adjacent to Roads other than state, federal, and County secondary highways Shall maintain a 25-foot setback from the ROW for any structure or 50 feet from the centerline of the traveling surface of a prescriptive Road. The side and rear setbacks for a farm Building Shall be 25 feet. In the RP and RM districts, in the case of internal easements for ingress or egress, where such easements have been legally created, the setback Shall be 25 feet from the ROW easement.

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

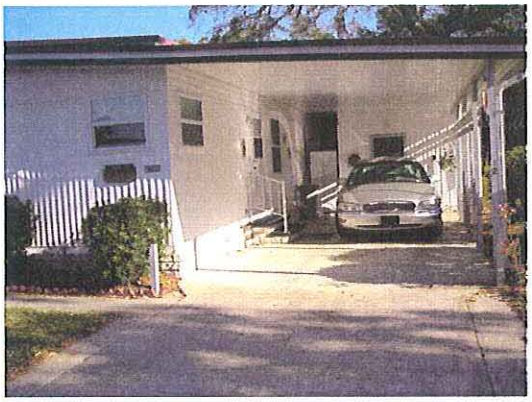
LAKE APOPKA BASIN: N/A

WEKIVA RIVER PROTECTION AREA: N/A

TRANSPORTATION IMPROVEMENTS: N/A

GREEN SWAMP AREA OF CRITICAL STATE CONCERN: N/A

BOA# 10-12-4
Photo Evidence



Views of the site

Views of the postings

Final Development Order
Eunice Eldridge / Bill Neifer
BOA # 10-12-4

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

WHEREAS, Eunice Eldridge (the "Owner") made a request to allow a handicap ramp 10 feet from the right-of-way of Oak Circle; and

WHEREAS, the subject property consists of 0.11 acre +/- and is generally located east of Mount Dora in Section 21, Township 19 South, Range 27 East, being composed of Alternate Key Number 1816203, and more particularly described as:

> DORA PINES SUBDIVISION, UNIT THREE LOT 12--LESS BEGAN AT NORTHEAST CORNER LOT 12 RUN SOUTH 10 FEET ALONG EAST LINE THEREOF, NORTHWESTERLY TO NORTHWEST CORNER OF LOT 12, EAST ALONG NORTH LINE TO POINT OF BEGINNING

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 April 12, 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 April 12, 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# 10-12-4 to allow a handicap ramp 10 feet from the right-of-way of Oak Circle.

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 12th day of April, 2012.

EFFECTIVE April 12, 2012.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

_____
Donald Schreiner, Chairman

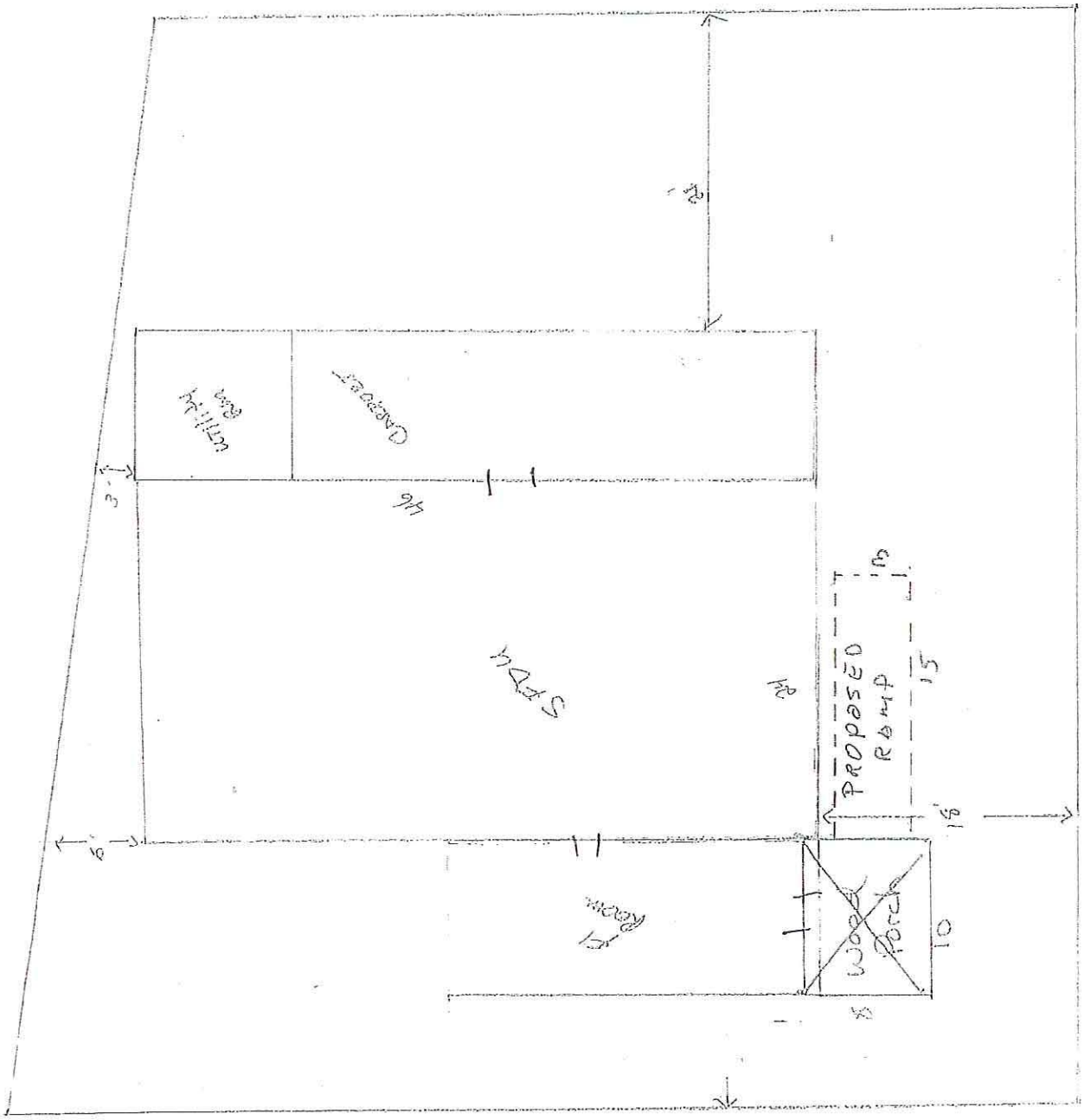
STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this April 12, 2012 by DONALD SCHREINER, who is personally known to me.
(SEAL)

_____
Signature of Acknowledger

Serial Number: _____
My Commission Expires: _____

BOA# 10-12-4
EXHIBIT "A"



2060 OAK CIRCLE MT. DORA, FL 32757

N

100 SCALE

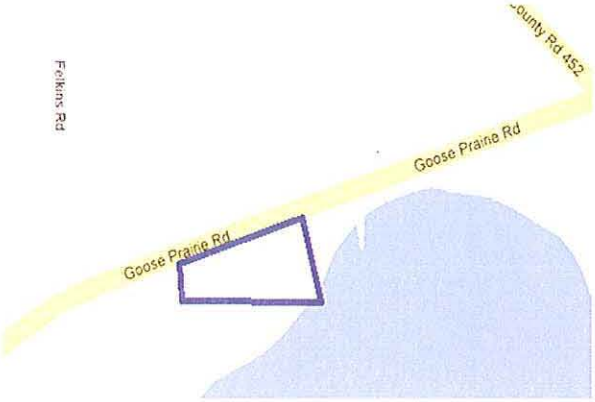
LAKE COUNTY
DEPARTMENT OF
GROWTH MANAGEMENT
Planning & Community Design Division

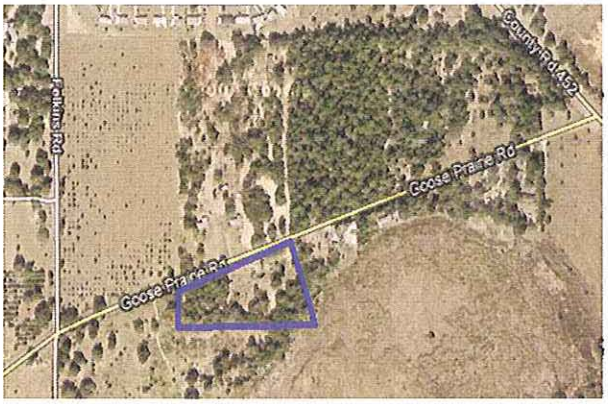
VARIANCE REQUEST
Presented to
BOARD OF ADJUSTMENT
April 12, 2012

CASE NO.: BOA# 12-12-5	**AGENDA ITEM #:** 3
OWNER: Joyce Edwards	**APPLICANT:** Leslie Edwards

REQUESTED ACTION: The applicant is requesting a variance from the **Lake County Land Development Regulations (LDRs) 10.01.05.B.4 Accessory Dwellings** to allow an accessory dwelling unit that exceeds the maximum square footage by 480 square feet (+/- 5 acres).

GENERAL LOCATION: Leesburg area – North on SR 19 to CR 452, left on CR 452 to Goose Prairie Road, left on Goose Prairie Road to site on left, Address #11430 Goose Prairie Road AK# 2686600 (Sec. 25, Twp. 18, Rng. 25).





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)	Residential
South	Rural (1 du / 5 net acres)	Agriculture (1 du / 5 acres)	Agricultural
East	Rural (1 du / 5 net acres)	Agriculture (1 du / 5 acres)	Storage Building
West	Rural (1 du / 5 net acres)	Agriculture (1 du / 5 acres)	Agricultural
DATE POSTED:	March 27, 2012 at Goose Prarie Road and County Road 452, Leesburg		

Donald P. Simmons, Planner, Planning & Community Design Division

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 proposing an accessory dwelling unit on the owner's parcel. The accessory dwelling unit will be occupied by the owner's daughter and her family. The daughter, and her family, will assist in the upkeep and maintenance of the parcel and the care of her aging parents.

The Code, 10.01.05.B.4 Accessory Dwelling Units, allows for an accessory dwelling unit as long as the specified criteria within this section are met. One of the criteria is that an accessory dwelling unit shall not exceed one thousand two hundred (1,200) square feet or forty (40) percent of the air conditioned, enclosed living area (excluding garages, patios, porches and the like) of the principal dwelling.

The parcel was purchased by the owner in November, 1983 and is approximately five acres in size; it is developed with a single-family dwelling unit that is 1998 square feet. The applicant purchased an accessory dwelling unit to be placed on the parcel, which is 1680 square feet. This will exceed the maximum square footage allowed by 480 square feet; the proposed accessory dwelling unit meets all other criteria required by the Code. A copy of the plot plan showing the location of the existing single-family unit and proposed accessory dwelling unit is attached (Exhibit "A").

The parcel is zoned Agriculture and the Future Land Use is Rural. The maximum density allowed on the parcel is one dwelling unit per five acres. However, the Code allows an accessory dwelling unit on a parcel that is one acre in size or larger and has an agricultural or residential zoning. A small portion of the parcel in the southeast corner is located in the 100-year flood zone, designated as Flood Zone "A", the accessory dwelling unit will not be placed within the 100-year flood zone.

The **intent of the Code** (10.01.05) 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 provide for less expensive housing units to accommodate growth, provide housing for relatives and to provide for security.

The proposed accessory dwelling unit will not negatively affect the surrounding parcels due to the additional 480 square feet. The proposed accessory dwelling unit will provide affordable housing for the owner's relatives and will not be harmful to the surrounding area.

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

"I have more than 5 acres and I'm only exceeding the maximum allowed by 480 sq. ft. The primary residence is 2000 sq. ft. The additional Home will still be significantly smaller than the primary. Both homes will exceed the 100' from the road. The home has already been purchased and is waiting to be delivered. Site preparation has already been paid for."

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:**

"1200 sq.ft. is not enough room for a family of six. My husband is 75 years old and is infirm. I am 69. Due to our advancing age we would feel much safer with an individual with medical experience close by. I've had back surgery and not able to maintain my property as it should be, as well as multiple medical issues."

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

- This request is consistent with LDR 10.01.05.A, which attempts to provide affordable housing for relatives.

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 accessory dwelling unit that exceeds the maximum square footage by 480 square feet.

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

10.01.05 Accessory Dwellings.

A. Purpose. The purpose of this Section is to provide for less expensive housing units to accommodate growth, provide housing for relatives and to provide for security.

B. Standards. Accessory Dwellings may be allowed in agricultural and residential zoning districts provided that all of the following requirements Shall be met:

1. The Lot must be a Lot of Record or a legally created Lot and must be 43,560 square feet or greater in size.

2. No more than one (1) principal structure and one (1) Accessory Dwelling Shall be permitted on any Lot of Record, or legally created Lot. Prior to the date a Building Permit is issued for an Accessory Structure or prior to the use of an existing Structure as an Accessory Dwelling, the Owner Shall execute and the County Manager or designee Shall record in the public records of

Lake County, Florida, at the Owner's expense, a legal document that requires the principal Structure and the Accessory Dwelling to remain in the same ownership.

3. Accessory Dwellings may be attached to a principal Structure, an apartment unit within the principal structure, or a stand-alone building.

4. **An Accessory Dwelling unit Shall not exceed one thousand two hundred (1,200) square feet or forty (40) percent of the air conditioned, enclosed living area (excluding garages, patios, porches and the like) of the principal dwelling.**

5. The Accessory Dwelling Shall be located and designed not to interfere with the appearance of the principal Structure as a one-family Dwelling Unit.

6. Accessory Dwelling units must meet the setback requirements of the principal Structure.

7. Impact fees Shall be paid on Accessory dwelling units as if they were a separate dwelling.

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: A portion of the parcel is designated as Flood Zone "A".

JOINT PLANNING AGREEMENT: N/A

LAKE APOPKA BASIN: N/A

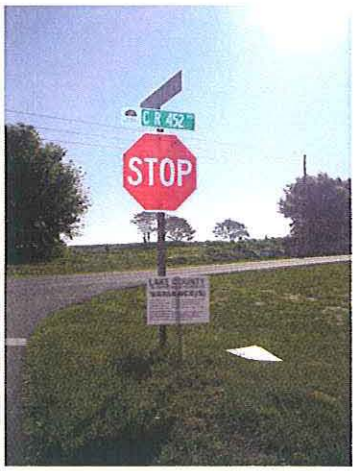
WEKIVA RIVER PROTECTION AREA: N/A

TRANSPORTATION IMPROVEMENTS: N/A

GREEN SWAMP AREA OF CRITICAL STATE CONCERN: N/A

BOA# 12-12-5
Photo Evidence

Views of the site



Views of the postings

Final Development Order
Joyce Edwards / Leslie Edwards
BOA # 12-12-5

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

WHEREAS, Joyce Edwards (the "Owner") made a request to allow an accessory dwelling unit that exceeds the maximum square footage by 480 square feet; and

WHEREAS, the subject property consists of 5 acres +/- and is generally located south of Leesburg in Section 25, Township 18 South, Range 25 East, being composed of Alternate Key Number 2686600, and more particularly described as:

> E AST 1/2 OF SOUTHEAST 1/4 OF NORTHWEST 1/4 LYING SOUTH OF ROAD RIGHT-OF-WAY, BEGIN AT SOUTHWEST CORNER OF NORTHEAST 1/4 RUN NORTH 396.04 FEET TO ROAD, SOUTH 12 DEGREES 31 MINUTES 20 SECTION EAST 406.81 FEET, WEST 90 FEET TO POINT OF BEGINNING SECTION 25, TOWNSHIP 18 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA.

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 April 12, 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 April 12, 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# 12-12-5 to allow an accessory dwelling unit that exceeds the maximum square footage by 480 square feet.

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 12th day of April, 2012.

EFFECTIVE April 12, 2012.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

_____
Donald Schreiner, Chairman

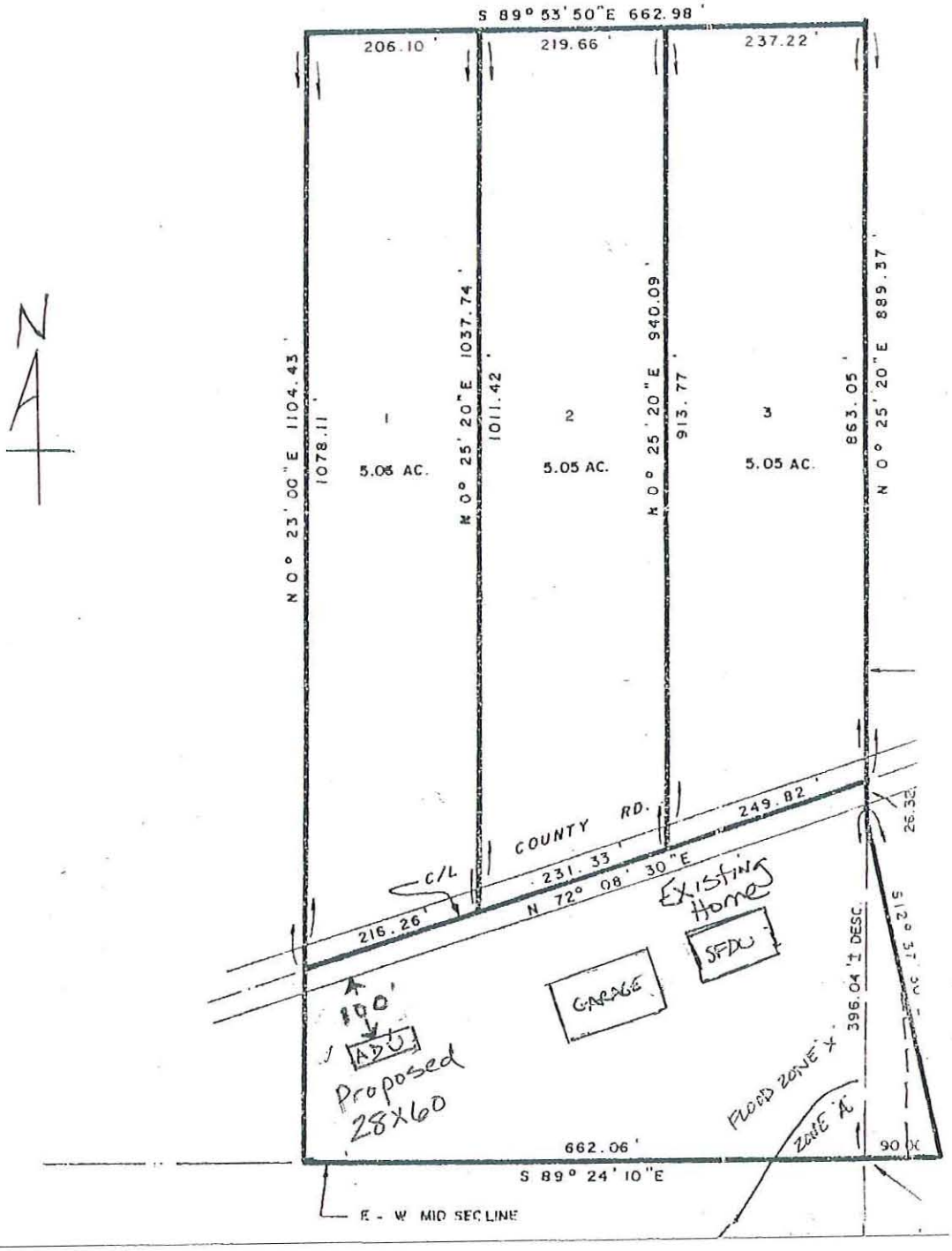
STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this April 12, 2012 by DONALD SCHREINER, who is personally known to me.
(SEAL)

_____
Signature of Acknowledger

Serial Number: _____
My Commission Expires: _____

BOA#12-12-5
EXHIBIT "A"



MINUTES
BOARD OF ADJUSTMENT
PUBLIC HEARING
March 8, 2012

The Lake County Board of Adjustment met on March 8, 2012 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:

Donald Schreiner, Chairman
Mary Link Bennett, Vice Chairperson
Marie Wuenschel
Christopher Cheshire
Bob Peraza
Craig Covington

Board Members Absent:

Lloyd M. Atkins, Jr.

Staff Present:

Brian T. Sheahan, Planning Manager, Planning & Community Design Division
Anita Greiner, Chief Planner, Planning & Community Design Division
Donald P. Simmons, Planner, Planning & Community Design Division
Janie Barron, Associate Planner, Planning & Community Design Division
Melanie Marsh, Deputy County Attorney

Chairman Schreiner called the meeting to order at 1:00 p.m. He noted for the record that there was a quorum present. He confirmed Proof of Publication for the case as shown on the screen. He 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.

TABLE OF CONTENTS

CASE NO.	OWNER/ APPLICANT	AGENDA NO.
Consideration of Minutes	February 9, 2012	
Opening Remarks		
Consent Agenda:		
BOA #8-12-1	Frank and Peggy Hollinger	3
BOA #9-12-2	John Grainger and Natalie Cockerill	4
Regular Agenda:		
BOA #6-12-2	Liberty Baptist Church, Inc. / SCI Towers, LLC	1
BOA #7-12-3	Donald and Edna Welling	2
Closing Remarks		
Adjournment		

Minutes

MOTION by Craig Covington, SECONDED by Mary Link Bennett to APPROVE the February 9, 2012 Board of Adjustment Public Hearing minutes, as submitted.

FOR: **Bennett, Cheshire, Wuenschel, Schreiner, Peraza, Covington**

ABSENT: **Atkins**

AGAINST: **None**

MOTION CARRIED: 6-0

Opening Remarks

Anita Greiner, Chief Planner, stated that there are a couple changes to the agenda. Staff would like to move agenda item #1 BOA #6-12-2 and agenda item #2 BOA #7-12-3 to the regular agenda. Staff received letters of opposition on both cases.

Consent Agenda

CASE NO.: **BOA #8-12-1** **AGENDA NO.:** **3**

OWNER/APPLICANT: **Frank and Peggy Hollinger**

There was no one who wished to speak regarding the above consent agenda item.

MOTION by Mary Link Bennett, SECONDED by Christopher Cheshire to APPROVE the Consent Agenda with conditions as submitted by staff.

CASE NO.: **BOA #9-12-2** **AGENDA NO.:** **4**

OWNER/APPLICANT: **John Grainger and Natalie Cockerill**

There was no one who wished to speak regarding the above consent agenda item.

MOTION by Mary Link Bennett, SECONDED by Christopher Cheshire to APPROVE the Consent Agenda with conditions as submitted by staff.

FOR: **Bennett, Cheshire, Wuenschel, Schreiner, Peraza, Covington**

ABSENT: **Atkins**

AGAINST: **None**

MOTION CARRIED: 6-0

Regular Agenda

CASE NO.: **BOA #6-12-2** **AGENDA NO.:** **1**

OWNER/APPLICANT: **Liberty Baptist church, Inc. / SCI Towers, LLC**

Melanie Marsh, Deputy County Attorney, advised the Board that under the Telecommunications Act they cannot consider health issues, radiation or electric magnetic frequencies in their deliberations in this case. She asked the Board to keep in mind that there will be a rezoning on this case and to not confuse the rezoning issues with the issues that are before them today. She reminded the Board that they are making a decision on a very narrow scope regarding a particular variance for particular provisions of the LDRs and their job is strictly limited to whether or not the request meets the intent of the Code and whether or not there is a substantial hardship or violation of principals of fairness, so any testimony that they hear today or any deliberation they make needs to be limited to thet specific issue.

Donald Schereiner, Chairman, asked the Board members if they had any questions for the attorney.

Paul Simmons, Planner, presented the case. He stated that the owners are requesting a variance to Land Development Regulation 3.13.07 Setbacks and to Chapter 15.02.04.J Architectural Standards to allow a camouflaged communications tower to be located off center on the parent parcel and to have a maximum height of 175 feet. He stated that the property has been continuously used as a church since the 1970s and in the mid 1980s they applied for and received a rezoning to Community Facilities District (CFD), the CFD zoning allows a church, parsonages, associated outbuildings and cemeteries. The site is surrounded by citrus groves and the terrain consists of rolling hills. Mr. Simmons stated that the applicant submitted the design to the City of Clermont and the City Council approved the height to be 175 feet and recognized the proposed flag pole design as camouflaged. The addition of this telecommunications tower on this site will require an amendment to the existing CFD Zoning. The intent of the Code is to adapt to the growing and changing needs of the wireless community and not negatively affect the area. If the tower is placed in the center of this parcel is will be directly in front of the existing cemetery and in the parking area of the church, which is in front of the existing sanctuary. The applicant is requesting the variance to allow the tower to be placed behind the sanctuary, which will not be centered, but will meet the minimum setback distances from the surrounding property lines. The proposed placement of the tower will not conflict with the intent of the Code. The applicant submitted their proof of hardship and how they will meet the intent of the Code.

Mr. Simmons stated that staff recommends approval of this variance request to allow the placement of a camouflage communications tower off center on the parcel and to allow the tower to exceed the height allowance by 35 feet, with the following conditions:

1. The communications tower shall be placed as indicated on Exhibit "A".
2. The tower shall be a monopole communications tower, not to exceed 175 feet in height.
3. The tower shall be a camouflage monopole design with a flag.
4. A generator shall be required to provide emergency power to the communications tower.

Paul Simmons stated that staff received two letters of opposition from the adjoining neighbors.

Craig Covington, Board member, asked for the difference in elevation from the two opposing neighbors and the proposed tower site.

Paul Simmons indicated that he could not give a clear answer without mapping it.

Christopher L. Cheshire, Board member, asked if staff knew who the tower carriers were.

Paul Simmons explained that would be up to the applicant.

Mary Link Bennett, Board member, asked if there were any other monopole towers within 5 miles.

Paul Simmons responded that the tower meets the minimum separation distance and there are no towers within 3000 feet.

Mary Link Bennett, Board member, responded that it is only a little over half a mile.

Paul Simmons explained that it meets the minimum separation requirements.

Russell Morrison representing SCI Towers, LLC, explained that throughout the past few years there has been a need to establish additional communication facilities and wireless market in the area. The need was established in a number of ways, including the number of dropped calls. The location was selected because the site is in the coverage area and will best serve the customer in that area. The closest tower to the site is three miles away on Highway 27. Mr. Morrison explained that the site is surrounded by an orange grove and is zoned CFD. He also stated that SCI Towers has worked with staff since April, 2011 to identify which tower design would qualify as a camouflaged tower. Florida High Speed Internet is interested in this site, along with other carriers. Mr. Morrison stated that the additional 35 feet in height has been approved by the City of Clermont. Part of the intent of the Code is to reduce the number of towers; that is the reason for the additional 35 feet height request, which establishes the ability to provide more carriers on the tower and reduce the need for additional towers in the future.

Richard Langley, Attorney and member of Liberty Baptist Church, indicated that the American Flag tower is on the corner of the South Lake Connector and Highway 27. Mr. Langley stated that Mr. Suggs is the property owner of the land that surrounds the church on all sides and he does not object to this request. He stated that Mr. Suggs does not get cell phone service in that area. Mr. Langley indicated that the Clermont City Council gave an approval with the condition that the company have a full-time standby generator.

Les Lindgren, citizen, stated that four years ago he requested the same variance; BOA #34-08-2 after Verizon Wireless approached him about a tower. Mr. Lindgren indicated that at that time he did not want to center the tower within his 10 acres and his variance request was denied. Mr. Lindgren stated that SCI wants two variances; they do not want to be centered and they want to go from 140 feet to 175 feet to accommodate more carriers. Mr. Lindgren indicated that SCI claims they have investigated several sites, but he was never approached and he believes that he has the best site. He stated that Verizon Wireless indicated to him that his property elevation was more appropriate and that he was centrally located within four towers. Mr. Lindgren stated that the church site will provide an over coverage to the east and not enough coverage on the west side for the residents in the Green Swamp. He stated that if the rule for him was to center the tower on his lot, the same rule should apply to SCI. Mr. Lindgren stated that variances are granted for hardships and he does not believe the applicant has a valid hardship because nothing has been built

or needs to be demolished and rebuilt. He stated that the unfairness was to him because he has a nice site and he would like to put a tower on his site. Mr. Lindgren stated that he has submitted an application for a tower that he will be building and Verizon, AT&T, T-Mobile, Sprint and possibly MetroPCS will be the carriers. Mr. Lindgren summarized by indicating that he was denied a variance, he does not recommend approval of this variance because it is not in the best location in the County, it will cause damages from the tower falling and does not meet Code.

Craig Covington, Board member, asked Mr. Lindgren if his tower is a camouflage tower. Mr. Lindgren indicated that his tower is a monopole tower and stated that there is no definition for a camouflage tower.

Harry Suggs, surrounding property owner, indicated that he does not have any objection. The only question he has is how the flag pole will relate to the cemetery that his parents and grandparents rest in. Mr. Suggs indicated that the tower will provide him with cellular service.

Richard Langley, Attorney and member of Liberty Baptist Church, indicated that if the tower has to be centered on the site, it will be right next to the cemetery and in the center of the existing parking lot.

David Allyn, citizen, questioned what type of flag will be displayed on the tower.

David McFadden, citizen, stated throughout the years he questioned if a flag pole is considered camouflage and he was told that is determined on a case-by-case basis. Mr. McFadden asked if the flag pole is an American Flag, if it will need to have a light on it at night and if it will make a difference for visibility. Mr. McFadden stated that he felt there is no hardship and asked if the applicant plans on increasing the height of the tower in the future.

Christopher Johnson, Pastor of Liberty Baptist Church, indicated that the approval of this variance will help the cause of their church and the community. Mr. Johnson discussed the location of the proposed tower and thanked Mr. Suggs for his support.

Russell Morrison, representing the applicant, readdressed the Board to clarify citizen issues. Mr. Morrison explained that the towers are built to meet the guidelines set by the Telecommunications Industry, which are more stringent than state structural codes. Mr. Morrison discussed the design of the tower, why the church site was selected and the location of the tower in relationship to other towers in the area and reminded the board of the approval from the City of Clermont.

Mary Link Bennett, Board member, asked if it is possible for the proposed tower to function without the additional 35 feet in height. Mr. Morrison explained that with a lower height tower the antennas are unable to transmit as far and that a taller tower was established to compensate for the antenna they are required to use on this type of tower.

Mary Link Bennett, Board member, explained that the primary reason for the request is not to see how many carriers can be supported by this tower and questioned if they could use a two carrier tower. Mr. Morrison explained that the reason for the taller tower is to reduce the need of an additional tower.

Robert Peraza, Board member, asked if there is coverage east and west of the area. Mr. Morrison explained that there is existing coverage in the area, but it is a weak signal and it is related to the population density.

Donald Schreiner, Chairman, asked if the footprint of the tower will overlap. Mr. Morrison explained that the footprint of all towers overlap to some degree.

Mary Link Bennett, Board member, asked if they considered all types of towers. Mr. Morrison explained that they would like to construct a standard monopole tower, but it does not meet the definition of camouflage.

David Allyn, citizen, informed the Board that he is concerned because he does lose his calls, but also is concerned about the eyesore the tower may create. Mr. Allyn disagrees with the proposed location of the tower.

Paul Simmons clarified that the tower will be camouflaged and it will meet the minimum setback distances from structures in residential zoning districts. He displayed a conceptual site plan identifying the approximate location on the site if the tower were to be centered on the parcel. He explained that staff reviews camouflage on a case-by-case basis and that Lake County prefers co-location because it reduces the amount of towers in the County.

Donald Schreiner, Chairman, explained that co-location has been a consideration of the Board. Mr. Schreiner questioned the requirement for a flag. Mr. Simmons explained that this design was determined and accepted by the Clermont City Council and the Planning & Community Design Manager. Mr. Schreiner and Mr. Simmons discussed the requirements of lighting the flag.

Melanie Marsh, Deputy County Attorney, explained that for purposes of the tower there is no Code under the FCC requirement for lighting, but that there might be a protocol.

MOTION by Christopher Cheshire, SECONDED by Robert Peraza, to APPROVE variance request BOA #6-12-2 with the conditions of staff along with an additional condition that the flag must meet the regulations of the display code.

FOR: **Peraza, Cheshire, Wuenschel, Schreiner**

ABSENT: **Atkins**

AGAINST: **Covington, Bennett**

MOTION CARRIED: 4-2

CASE NO.: **BOA #7-12-3** **AGENDA NO.:** **2**

OWNER/APPLICANT: **Donald and Edna Welling**

Paul Simmons, Planner, presented the case. He stated that the owners and applicants are Donald and Edna Welling. The owners are requesting a variance to Land Development Regulations 3.01.02.A.1.b Classification of Uses to allow a single-family dwelling unit to be placed on the property with a roof pitch that is less than one foot of rise for each four feet of horizontal run, which is typically referred to in the Building Industry as a 3/12 pitch. Mr. Simmons explained that the owners recently purchased lot 78 in Spark's Village and the owners would like to construct a custom single-family dwelling unit. Mr. Simmons stated that the home will be simple concrete block structure with unique "green" features. He discussed the design and construction

of this custom single-family dwelling unit. Mr. Simmons explained the intent of the Code and stated that the homes in Spark's Village vary in architectural styles. He stated that the owners submitted their plan to meet the intent of the Code and their proof of hardship, both of which are listed in the staff report. Staff reviewed the application and found that it is consistent with the Comprehensive Plan Policies and Land Development Regulations, which attempts to encourage green development. Staff recommends approval of the request with the condition that the roof pitch meet the Florida Building Code, as amended.

Don Welling, owner, explained that he and his wife would like to construct a home that is safe, secure, economical and easy to maintain. He explained that they built their first green home in Kansas and discussed how they are planning to construct the proposed home. He stated that the house was designed by a Florida Architect.

Gene Grantham, a neighbor, explained that he provided staff with a letter of opposition from the Morgans, which are adjoining neighbors. Mr. Grantham stated that he disagrees with staff's recommendation, is against the look of the proposed home and objects to the type of roof.

John Veldhuis, a citizen, stated that he lives in the neighborhood and is opposed to the type of roof that is being proposed. Mr. Veldhuis discussed humidity, mold and the effect it will have with the design of this home. Mr. Veldhuis explained that there are alternative green building types that will meet architectural standards that he prefers.

Sharon Carl, a neighbor, explained that she and her son are neighbors. Ms. Carl stated that she is opposed to this request, described the design of her house and the design of her son's proposed home. Ms. Carl stated that the proposed home does not resemble her home and she does not want to look at a home like the one proposed.

Gloria Grantham, a neighbor, stated that if the other homes have to meet the Code then this proposed home will need to meet the same Code. She expressed that the proposed home will not fit in the neighborhood and will decrease the value of the other homes.

Mr. Simmons stated that the proposed home will meet the minimum requirements of the Florida Building Code and that the Land Development Regulations require the 3/12 pitch roof. Mr. Simmons reminded the Board that the variance request is for the slope of the roof only, and they have to decide if the owners have proven that they will meet the intent of the Code and that a hardship exists.

Mary Link Bennett, Board member, questioned if there is a problem if they decrease the pitch of the roof. Mr. Simmons stated the owners will submit the design and will be required to meet the minimum standards of the Florida Building Code.

Robert Peraza, Board member, questioned a finding of fact in the staff report. Mr. Simmons clarified that there was a typo and it should have stated that the request is consistent with LDR 3.01.02.

MOTION by Robert Peraza, SECONDED by Mary Link Bennett, to APPROVE variance request BOA #7-12-3 to include the condition as set by staff:

- **The roof pitch shall meet the Florida Building Code, as amended**

FOR: **Bennett, Cheshire, Peraza, Wuenschel, Covington, Schreiner**

ABSENT: **Atkins**

AGAINST: **None**

MOTION CARRIED: 6-0

Closing Remarks

Adjournment

There being no further business, the meeting was adjourned at 2:27 p.m.

Respectfully submitted,

Janie Barron Associate Planner	Donald Schreiner Chairman