



LAKE COUNTY

BOARD OF ADJUSTMENT

AGENDA

JUNE 11, 2015

Location & Time

Commission Chambers
County Admin. Building
315 West Main Street
Tavares, FL 32778-7800
BOA: 1:00 p.m. 06/11/15

The Lake County Board of Adjustment (BOA) 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 BOA meetings are held the second Thursday of each month.

Board of Adjustment Members

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

Catherine Hanson
(At-Large Representative)

Marie Wuenschel
(District 1)

Peter Caracciolo
(District 2)

Phyllis Luck
(District 3)

Lloyd M. Atkins, Jr.
(District 4)

Craig Covington
Vice-Chairman
(District 5)

Board of County Commissioners

Timothy I. Sullivan	District 1
Sean Parks	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

Economic Growth Department and other Staff

Robert L. Chandler IV, CEcD, Director, Department of Economic Growth
Chris Schmidt, Manager, Division of Planning & Community Design
Tim McClendon, Chief Planner, Division of Planning & Community Design
Melving Isaac, Senior Planner, Division of Planning & Community Design
Michele Janiszewski, Planner, Division of Planning & Community Design
Christina Rice, 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 planning@lakecountyfl.gov.

LAKE COUNTY BOARD OF ADJUSTMENT (BOA)
June 11, 2015

I. Call to Order

II. Agenda Update

III. Minutes Approval – May 14, 2015

IV. Public Comment

V. Consent Agenda

The Consent Agenda contains item(s) that are recommended for approval and that are not controversial. The BOA will adopt the entire consent agenda in one motion if no one from the Board or audience has questions, concerns or objections. An item may be removed from the Consent Agenda for a full public hearing at the request of any Commissioner, staff member, or member of the public.

Tab 1

VAR-15-06-1

Kurt DuMond & Helen Gailey/LPG Urban & Regional
Planners

REQUESTED ACTION: The applicant is requesting a variance from **Lake County Land Development Regulations, TABLE 3.02.05 Setback Requirements** to allow an accessory structure to be located sixteen (16) feet from the property line on Agriculturally zoned land in lieu of the required twenty-five (25) feet.

Regular Agenda

VI. Other Business

VII. Adjourn

Board of Adjustments



June 11, 2015

VAR-15-06-1	Case Manager: Michele Janiszewski, Planner	Agenda Item #1
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REQUESTED ACTION: The applicant is requesting a variance from Lake County Land Development Regulations, TABLE 3.02.05 Setback Requirements to allow an accessory structure to be located sixteen (16) feet from the property line on Agriculturally zoned land in lieu of the required twenty-five (25) feet.

- Site Location and Information -



Owners	Kurt DuMond and Helen Gailey
Applicant	Greg Beliveau, LPG Urban & Regional Planners
Address of Property	22111 O'Brien Road
General Location	West of State Road 19 in the Groveland area
Size	9.41 acres
Alternate Key	3786479
Future Land Use (FLU)	Rural
Zoning District	Agriculture
Overlay Districts	Yalaha-Lake Apopka RPA
Joint Planning Area	Howey-in-the-Hills
ISBA	Groveland
Flood Zone / FIRM Panel	A and X-unshaded / 0495E
Commissioner's District	District 1, Sullivan

Property Posted: May 28, 2015
Notification Cards Mailed Out: May 28, 2015

Land Use Table

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Rural	Agriculture	Wetlands and non-agriculture acreage
South	Rural	Agriculture	Single Family Residence on a large lot
East	Rural	Agriculture	Vacant Residential
West	Rural and City of Groveland	Agriculture and City of Groveland	Orange Groves

14.15.01 Purpose of Variances. In the strict application of uniformly applicable Land Development Regulations (LDR), the Board of County Commissioners (BCC) finds that it is appropriate in such cases to adopt a procedure to provide relief to persons subject to the LDR. The Board of Adjustment (BOA) is authorized to grant variances to requirements of the LDR when its application leads to unreasonable, unfair, and unintended results to the development and use of land. However, the variance must be consistent with the rules contained in these regulations. This Section does not authorize the BOA to grant variances inconsistent with the Comprehensive Plan nor to grant a variance to allow uses not generally permitted in the applicable zoning district or any use expressly or by implication, prohibited by the terms of the LDR for that zoning district. Additionally, the existence of nonconforming use of neighboring lands or unpermitted use of neighboring lands shall not be considered grounds for authorization of a variance.

14.15.02 Granting Variances and Appeals

Variances may be granted when the person subject to the LDR demonstrates that the purpose of the LDR will be or has been achieved by other means, and when application of a LDR 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. The "principles of fairness" are violated when the literal application of a LDR affects a particular person in a manner significantly different from the way it affects other similarly situated persons or properties who are subject to the LDR.

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

-ANALYSIS-

The subject property is +/- 9.85 acres and is part of the O'Brien Subdivision, located west of State Road 19 in the Groveland Area. The lot is approximately 1,297 feet deep and 331 feet wide. The Lake County Geographic Information Services (GIS) wetland map indicates that wetlands exist on the northern portion of the lot; and according to the 2012 Federal Emergency Management Agency (FEMA) maps, portions of the lot lie within the 100-year flood zone (Floodzone A). The property and the adjacent properties are zoned Agriculture and are part of the Rural Future Land Use Category. The property is currently developed with a single-family residence, associated residential structures, and a metal transmission tower (located within a 170' wide Florida Power Easement).

On February 26, 2015, a code officer cited the property owner for building without a permit and issued a stop work order. The subject structure was to replace a pre-existing accessory structure in the same location. The owner is required to obtain a zoning and building permit for the accessory structure. When the owner sought a zoning permit from the Planning Division it was discovered that the accessory structure did not meet the required twenty-five (25) foot setback. It was determined that a variance was needed to make the accessory structure conforming at its present location.

The applicant is requesting a variance to Land Development Regulations Table 3.02.05 *Setback Requirements* to allow the subject accessory structure to be placed sixteen (16) feet from the property line in lieu of the required twenty-five (25) feet in agriculture zoning. This would allow the owner to receive a zoning permit for subject building at its current location and apply for a building permit. The application states that when the previous building was built the side setback was measured from the fence line which was believed to be the property line. When a survey was completed of the property it was discovered that the fence was off set four (4) feet from the property line.

According to the survey submitted by the applicant, the accessory structure is located outside of the 100-year flood zone and not within the wetlands. Comprehensive Plan Policy III-2.2.7 *Protection of Shorelines* states that all new development must be setback fifty (50) feet from the jurisdictional wetland line. The accessory structure and concrete pad are located +/- 130 feet from the jurisdictional wetland line, as depicted in the submitted survey, which is consistent with the Comprehensive Plan. The applicant states that the accessory structure is being used as a workshop with a bathroom and utility room.

The **intent** of the Code (Table 3.02.05) is to ensure the adherence of safe distances between structures and right-of-ways.

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

"Setbacks are generally intended to promote light, air, ventilation, allow for road widening, and prevent overcrowding. Allowing a lesser setback, a difference of 9' would not impede light, air, ventilation, or overcrowding. The lesser setback would not create an undesirable condition. The property west of the barn is also zoned Agriculture and is currently undeveloped."

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**:

"When the barn was constructed the side setback was measured from the fence line which the contractor and owner thought was the property line. It was discovered after the fact that the fence was offset from the property line. The barn is constructed and tearing it down would be a financial hardship."

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

- The existing accessory structure is not located within fifty (50) feet of the jurisdictional wetland line, consistent with Comprehensive Plan Policy III-2.2.7 *Protection of Shorelines*; and
- The use of the accessory structure as a workshop will have limited to no impact to the surrounding properties and will not negatively affect the adjacent property, which is currently undeveloped; and
- The sixteen (16) foot reduced setback will meet the intent of the code and provide a safe distance from the adjacent property; and
- Relocating the subject accessory structure would create a financial hardship on the applicant; and

The owners and applicant 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 stated above, Staff recommends **approval** of the variance requesting to allow an accessory structure and associated concrete pad to maintain a sixteen (16) foot setback from the property line in agriculture zoning in lieu of the required twenty-five (25) foot setback with conditions.

Final Development Order
Kurt DuMond and Helen Gailey
VAR-15-06-1

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

WHEREAS, Greg Beliveau of LPG Urban & Regional Planners (the "applicant"), on behalf of Kurt DuMond and Helen Gailey (the "Owners"), requested a variance allow an accessory structure to be located sixteen (16) feet from the property line on Agriculturally zoned land instead of the required twenty-five (25) feet; and

WHEREAS, the subject property consists of 9.41 +/- acres and is generally in the Groveland area, west of State Road 19, in Section 10, Township 21 South, Range 25 East, Alternate Key Number 3786479 and is more particularly described as:

Lot 1 of the O'Brien Estates Subdivision, as recorded in Plat Book 41, Page 48 in Lake County Public Records.

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 June 11, 2015; 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 June 11, 2015, 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 VAR-15-06-1 to allow the placement of the accessory structure and concrete pad depicted in Attachment A to be located only sixteen (16) feet from the property line, in accordance with the following **conditions**:

1. The accessory structure depicted in Attachment A shall not to be used as a livestock building or to house, feed, exercise or otherwise maintain a total of five (5) or more cats or dogs. Should the accessory structure be used as a livestock building or to house, feed, exercise or otherwise maintain a total of five (5) or more cats or dogs, the property owner will be required to obtain a new variance to the required two-hundred (220) foot setback for such uses and any other applicable permits.

2. The accessory structure depicted in Attachment A shall not to be used as, or converted into, an accessory dwelling.
3. This variance applies solely to the accessory structure and concrete pad depicted in Attachment A; all future development on the subject property will need to conform to the setbacks established by the Land Development Regulations.

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 11th day of June, 2015.

EFFECTIVE June 11, 2015.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

Donald Schreiner, Chairman

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this June 11, 2015 by DONALD SCHREINER, who is personally known to me.

(SEAL)

Signature of Acknowledger

