

GROWTH AND RESOURCE MANAGEMENT DEPARTMENT PLANNING AND DEVELOPMENT SERVICES DIVISION

123 West Indiana Avenue, DeLand, Florida 32720 (386) 736-5959

PUBLIC HEARING: February 15, 2018 – Planning and Land Development

Regulation Commission (PLDRC)

CASE NO: V-18-012

SUBJECT: Variance to the minimum yard requirements on Rural

Agriculture (A-2) zoned property

LOCATION: 2100 Hamilton Avenue, Orange City

APPLICANT/AGENT: Alison Root, Gallery Homes of DeLand, Inc.

OWNER(S): Joseph A. and Rebecca Amici

STAFF: Patricia Smith, AICP, Planner II

I. SUMMARY OF REQUEST

The applicant is requesting two variances to construct a single-family dwelling on a nonconforming, corner lot measuring ±42,123 square feet in area, near Orange City. The variance requests are as follows:

- 1) A variance for a south front yard from the required 50 feet to 38.2 feet for the construction of a single-family dwelling; and
- 2) A variance for a north side yard from the required 25 feet to 10 feet for the construction of a single-family dwelling on Rural Agriculture (A-2) zoned property.

Staff Recommendation: Approve variance requests 1 and 2, case number V-18-012, subject to staff recommended conditions, as they meet all five criteria for granting said variances.

II. SITE INFORMATION

1. Location: Northeast corner of the intersection of Hamilton Avenue and

Elgin Avenue, Orange City

Parcel No(s): 7032-03-13-0050
 Property Size: ±42,123 square feet

4. Council District: 1

5. Zoning: Rural Agriculture (A-2)

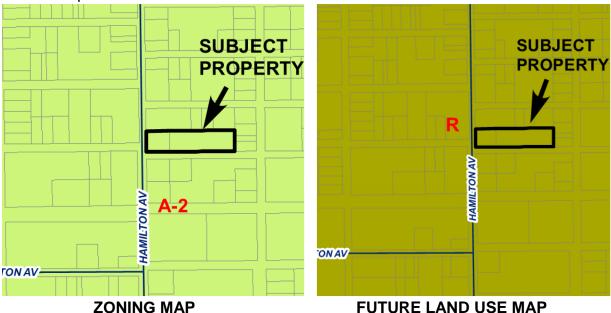
6. Future Land Use: Rural (R)

7. ECO Overlay: No 8. NRMA Overlay: No

9. Adjacent Zoning and Land Use:

DIRECTION	ZONING	FUTURE LAND USE	CURRENT USE	
North:	A-2	R	undeveloped	
East:	A-2	R	undeveloped	
South:	A-2	R	Elgin Avenue (platted), single- family dwelling	
West:	A-2	R	undeveloped	

10. Maps:



III. BACKGROUND AND OVERVIEW

The subject parcel includes Lots 5 through 8 and Lots 21 through 32, Block M, DeLand Heights. It is an average of ±42,123 square feet in size and an average of 102.24 feet by 412 feet deep. The parcel fronts on two, platted rights-of-way, but only Hamilton

Avenue to the west is an open and usable roadway. As shown on the survey, the lot width is 102.08 linear feet along the Hamilton frontage. Legal access via Elgin Avenue would require the applicant to develop and pave the platted right-of-way to current county roadway standards.



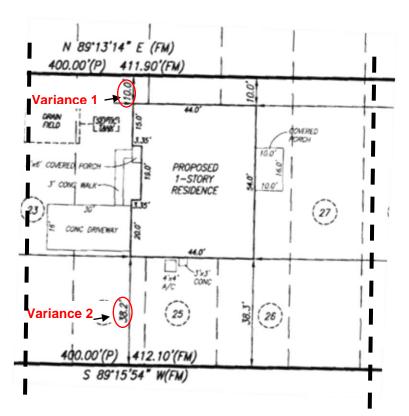
Source: Volusia County Property Appraiser

The minimum lot size in the A-2 zoning classification is five acres. The minimum lot width is 150 feet. The parcel falls below the size and width requirements of the Azoning classification. Therefore, this parcel considered to be nonconforming lot. A review of historical zoning maps revealed that the property was nonconforming prior to 1994.

The Volusia County Zoning Ordinance allows property owners to apply to develop a nonconforming parcel if the current owner or any prior owners have not owned contiguous properties or adjacent properties of land divided by or across rights-of-way. The applicant submitted a Nonconforming Lot Letter, dated January 23, 2018, prepared by Attorneys' Title Fund Services, LLC, as part of the variance application package. The letter certifies that at no time, since July 28, 1980, have the present owners or any prior owners of the subject property owned any adjacent or contiguous property, including parcels located across a public or private road.

The parcel previously consisted of two adjacent parcels. Mr. and Mrs. Amici purchased both parcels in late 2017. Since the parcels are now held in common ownership, they are required by code to be combined into a single parcel. Land Development staff processed and approved a Subdivision Exemption Application to combine Parcel 7032-03-13-0050 (10,000 square feet) and Parcel 7032-03-13-0210 (30,000 square feet) into a unified parcel, the Barnes Unrecorded, in October 2017. A copy of the letter is attached. Following the approval, the Property Appraiser assigned the unified parcel with the Parcel #7032-03-13-0050.

Since the property is a corner lot that fronts on two rights-of-way, it is defined in the code as having two front yards and two side yards. The following A-2 zoning classification minimum yard sizes are applicable for a corner lot: Front (Hamilton Avenue) -50 feet; Front (Elgin Avenue) -50 feet; Side (north side) -25 feet; and Side (east side) -25 feet.



The applicant desires to build an approximate 2,376 square foot singlefamily dwelling, facing Hamilton Avenue. The home will be set back 200 feet from Hamiloton Avenue and approximately 168 feet from the eastern property boundary. This require a variance to the front vard Elgin on Avenue from 50 feet to 38.2 feet. It will also require a variance to the north side yard from 25 feet to 10 feet.

The Environmental Permitting staff reviewed the variance application and conducted a site visit. Staff noted that the parcel contains multiple gopher tortoise burrows. These burrows require a 25-foot buffer during construction. If the 25-foot buffer cannot be maintained during construction, a Florida Fish and Wildlife Conservation Commission gopher tortoise relocation permit will be required.

IV. REVIEW CRITERIA AND ANALYSIS

Section 72-379(1)a.4 contains five applicable criteria by which a variance application may be granted. The following staff evaluation is based on these criteria:

i. Special conditions and circumstances exist which are peculiar to the land, structure, sign, or building involved and which are not applicable to other lands, structures, signs, or buildings in the same zoning classification.

DeLand Heights was platted with 25-foot wide by 100-foot deep lots in 1925, prior to the enactment of county subdivision regulations. Today, parcels vary in size and shape throughout the area. The smaller parcels are not wide enough to accommodate the current yard requirements. The platted lots are more consistent with a denser, urban setting instead of the more rural setting in which they are located.

A review of historical zoning maps revealed that the property was zoned A-3 prior to 1994. At that time, the minimum lot size in the A-3 zoning classification was one acre. The combined subject parcel did not meet the minimum lot size at that time.

In 2017, the applicant combined a total of 16 lots into the Barnes Unrecorded in order to obtain one buildable lot. Prior to the lot combination, only the four lots that front Hamilton Avenue were considered to have legal status. The remaining twelve lots abut a platted, undeveloped right-of-way. By combining the lots, the applicant was able to obtain a subdivision exemption.

Staff finds this criterion is met.

ii. The special conditions and circumstances do not result from the actions of the applicant.

The area was platted many years prior to acquisition by the current owner in 2017. Following the purchase, the applicant proactively took steps to combine 16 lots in order to obtain one buildable parcel. By doing so, the applicant improved the situation by eliminating 12 lots with non legal status.

Staff finds this criterion is met.

iii. Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification, under the terms of the ordinance, and would work an unnecessary and undue hardship on the applicant.

The combined parcel is less than one acre in size. The zoning ordinance requires at least five acres and a 150-foot wide lot to build in the A-2 zoning classification. Due to the varied lot sizes in the DeLand Heights plat, the applicant would need to purchase additional parcels, beyond the 16 lots already acquired, to achieve five acres. This would create a hardship for the property owner.

Due to the location of the subject parcel on a county-maintained road, the Land Development Office has determined through the subdivision exemption process that the parcel, as currently configured, does qualify as a buildable lot. However, construction of an approximate 2,376 square foot, single-family dwelling will require variances to one front and one side yard.

Staff finds this criterion is met.

iv. The variance granted is the minimum variance that will make possible the reasonable use of the land, building, structure, or sign.

The applicant is requesting to build a one story, single-family dwelling measuring approximately 2,376 square feet in size. Without a variance, the dwelling would need to fit within a 25-foot wide by 300-foot deep footprint. The proposed width of the residence is 54 feet, and it is designed to face Hamilton Drive. The proposed depth is 44 feet. If the proposed dwelling was rotated 90 degrees counterclockwise to achieve a 44-foot width and a 54-foot depth, variances to the requested front and side yards would still be required. However, an additional 10 feet would be available to apply towards the north

side yard. In this scenario, the north side yard would be reduced from the required 25 feet to 20 feet, instead of the proposed 10 feet.

Given that access to the property will be via Hamilton Avenue, it is reasonable to situate the front of the house towards Hamilton Avenue, as currently proposed by the applicant.

Staff finds that this criterion is met.

v. The grant of the variance will be in harmony with the general intent and purpose of this ordinance and the Volusia County Comprehensive Plan Ordinance No. 90-10, as amended, and that such variance will not be injurious to the area involved.

The surrounding area remains mostly undeveloped. There is one single-family dwelling located adjacent to the subject parcel on the south side of Elgin Avenue that measures approximately 2,285 square feet in size. The addition of one single-family home that is similar in size and character to the existing, adjacent home will not be injurious to the area involved.

The future land use designation for the area is Rural. The applicant is planning to utilize an on-site well and an on-site septic system. Policy 6.1.1.5 of the Volusia County Comprehensive Plan states that central sewer is not required for non-urban areas, except as required by Florida Administrative Code, Chapter 64E-6 (Standards for On-Site Sewage Treatment and Disposal Systems). Policy 7.1.1.12 states that individual potable water wells are allowed if the lot is not designated for urban land uses by the Future Land Use Map.

Staff finds this criterion is met.

V. STAFF RECOMMENDATION

Approve variance request 1, case number V-18-012, with the following conditions, as the application meets all five criteria for granting said variance:

A variance for a south front yard from the required 50 feet to 38.2 feet for the construction of a single-family dwelling in the Rural Agriculture (A-2) zoning classification; and

Approve variance request 2, case number V-18-012, with the following conditions, as the application meets all five criteria for granting said variance:

A variance for a north, side yard from the required 25 feet to 10 feet for the construction of a single-family dwelling in the Rural Agriculture (A-2) zoning classification.

Conditions:

- 1) The variances are limited to a proposed single-family dwelling, consistent with the enclosed plot plan prepared by Blackwell and Associates for Gallery Homes of Deland, dated 12/28/17; and
- The property owner or authorized agents shall obtain and complete all required building and development permits and inspections for the proposed new house; and
- 3) The applicant shall comply with Article III, Division 17 of the land development regulations which provide standards for gopher tortoise protection.

VI. ATTACHMENTS

- Written Petition
- Survey
- Subdivision Exemption Letter
- Plot Plan Prepared by Blackwell and Associates
- Nonconforming Lot Letter
- Staff Comments
- Map Exhibits

VII. AUTHORITY AND PROCEDURE

The commission may, except as otherwise provided in Section 72-379 of the zoning code, authorize, after due public notice upon application on a form prescribed by the zoning enforcement official, such variance or variances from the terms of this ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provision of this ordinance would result in unnecessary and undue hardship. Said variance application shall be heard only if it is presented by the person owning 51 percent or more of the specific area of land involved or upon an administrative application by the county council.

Any new information to be presented at the Planning and Land Development Regulation Commission meeting for any application will be grounds to continue an application to the next Planning and Land Development Regulation Commission meeting. Applicants shall inform and provide staff with the new information prior to the planning and land development regulation commission meeting.



GALLERY HOMES OF DELAND, INC.

December 29, 2017

County of Volusia 123 W. Indiana Ave. DeLand, FL 32720

RE: Variance Application

To Whom it May Concern:

Gallery Homes of Deland, Inc. is seeking a variance on behalf of Rebecca Amici for property identified as parcel #'s 7032-03-13-0050, 7032-03-13-02140. This property has been declared a non-conforming lot (see attached application 2018-S-EXM-0005, RSN 892008). The property lies within the A-2 zoning which would normally require a 5-acre parcel. As you can see on the attached survey, this property is less than 1 acre in size.

Due to the property size, the setbacks required for A-2 zoning have caused a hardship in building a new home on the property. Current setbacks for this property would require a 50' minimum setback on the South property line since it abuts a platted roadway and 25' for the North property line, which would only accommodate a home 25' wide, which is not typical to this area.

We are seeking a variance on the side setbacks for this property. We propose to build the home at a 10' setback on the North property line and a 38' setback on the South property line (see attached plot plan of proposed construction). This would maintain a reasonable setback from the platted roadway while maintaining an adequate setback to the North based on the property size. There are other homes constructed in this area with similar setbacks, meaning the proposed setbacks would maintain the aesthetics of the area.

We thank you for your consideration in this matter and look forward to speaking with you.

Sincerely,

Alison Root General Manager

A=Arc Length AC=Acres A/C=Ar Conditioning Unit ASPH=Asphat BFP=Back Flow Preventer BLDG=Building BLK=Block BM=Benchmark (C)=Computed Data CATV=Coble TV Service C/B=Cotch Bash CB=Chard Blearing CHB=Chard Distance C/LF=Chain Link Fence C/LF=Corrugated Metal Pipe		LAWTON AVENUE (PLAT) HAMILTON AVENUE (FIELD) 50.0' RIGHT OF WAY	
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Growth & Resource Management Land Development

October 13, 2017

Ms. Rebecca Amici 440 S. Cedar Avenue Orange City, Florida 32763

Re:

Subdivision Exemption Application 2018-S-EXM-0005, RSN 892008

Barnes Unrecorded

Tax Parcel Numbers: 7032-03-13-0050, 7032-03-13-0210

Dear Ms. Amici:

All the requirements of Section 72-537 (a)(4)b of the Land Development Code of Volusia County, Florida (Code) have been satisfied for the above-referenced application, as evidenced by the attached memorandum from Gerald N. Brinton, P.E., Acting County Development Engineer, dated October 11, 2017. Based upon the configuration of the lots as shown on the approved plan (copy enclosed), the sale and/or development of your property may take place. When applying for a building permit, or when requesting additional information, please refer to the above-referenced application number.

This approval is not intended to supersede any private restrictions that may affect this property; nor does it entitle you to impact any wetlands that may exist. Any development of these lots must comply with all applicable regulations including, but not limited to, the uniform Zoning Ordinance, Building Codes, Wetland and Tree Ordinances; and the requirements of any other governmental agency, such as the Health Department, for septic tanks and potable water wells. If you plan to use an individual septic tank and/or potable water well, you should contact the Health Department.

This approval was made based on the information provided to this office. No determination was made as to the actual ownership of the property and this letter is not to be relied upon as evidence of ownership.

If you have any questions, please feel free to call the Land Development office. The project name and number should be referenced on all inquiries.

Sincerely,

John G. Thomson, AICP Land Development Manager JThomson@volusia.org

JGT/vib

C:

Kenny Ruegger, Appraisal Activity Director Laura Kramer, Septic Program Coordinator



INTER-OFFICE MEMORAN PUMLAND DEVELOPMEN ACTIVITY

OCT 11 2017

RECEIVED

To:

John G. Thomson, AICP

Land Development Manage

Date:

October 11, 2017

From:

Gerald N. Brinton, P.E.

DE-18-001

County Engineer

Acting County Development Engineer

Subject:

Barnes Unrecorded

2018-S-EXM-0005 RSN 892008

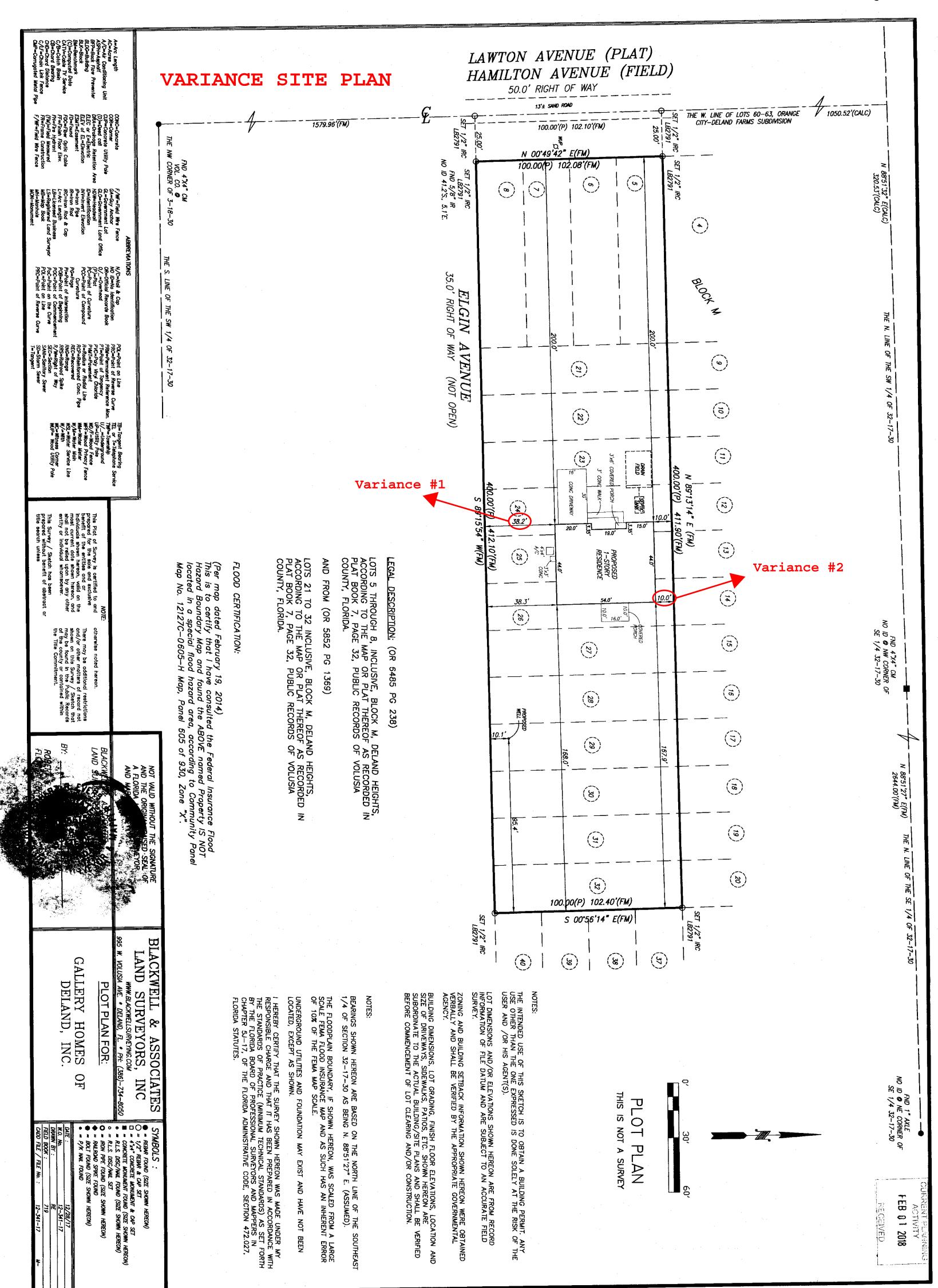
At the request of the applicant, this office has concluded our review of the subject proposal for compliance with the exemption criteria provided by Section 72-537, Volusia County Code of Ordinances. The following are our findings:

- The applicant proposes to combine sixteen (16) lots described as Lots 5-8 and 21-32, BLK M Deland Heights MB 7 PG 32, to produce one (1) building site.
- DeLand Heights was platted prior to the enactment of subdivision regulations. Lots 5-8 front on Hamilton Avenue (platted Lawton Avenue), a dirt, emergency maintained roadway that was opened in 1976 per the 1976 aerial. Lots 5-8 have legal standing status.
- 3. Lots 21-32 front on platted, unopen Elgin Avenue. Lots 21-32 do not have legal standing status.
- The subject property is zoned A-2, requiring a minimum lot of 5 acres. The proposed combination results in a unified building site of approximately .92 acres, and does not meet the requirements of the existing A-2 zoning. A Non-conforming Lot Letter has been included as a part of this application.
- 5. The proposed combination results in one (1) lot and does not create a lot with less area or width than the original lots of record.

This office approves the subject proposal on the basis that it complies with Section 72-537(a)(4)b of the Land Development Code.

GNB/IsI

c: Scott H. Martin, P.E., Engineering Section Manager Tadd Kasbeer, P.E., Assistant County Engineer





ATTORNEYS' TITLE Fund Services, LLC

Order #502058-A1

Date: January 23, 2018

LEGAL DESCRIPTION:

Lots 5 through 8, inclusive, Block M, DELAND HEIGHTS, according to the map or plat thereof as recorded in Plat Book 7, Page 32, Public Records of Volusia County, Florida. (Tax Parcel 7032-03-13-0050)

And

Lots 21 through 32, inclusive, Block M, DELAND HEIGHTS, according to the map or plat thereof as recorded in Plat Book 7, Page 32, Public Records of Volusia County, Florida. (Tax Parcel 7032-03-13-0210)

Dear Customer:

This letter is to certify that we have searched the Public Records of Volusia County, Florida, to and including September 19, 2017, and find the present owner of the described property is Joseph A. Amici and Rebecca Amici by Warranty Deed recorded in O.R. Book 7477, Page 931, of the Public Records of Volusia County, Florida.

Further, we certify that at no time since July 28, 1980, has the present owner(s) nor any prior owner(s) of the above described property owned any adjacent or contiguous property [including parcels located across a public or private road].

Trusting this is the information you desire, we remain,

Truly Yours,

Tammy M. Gillis, Senior Title Examiner Attorneys' Title Fund Services, LLC

1-800-637-0767 Ext. 5208

TGillis@thefund.com

This Title Search is prepared and furnished for information only.

Maximum liability for incorrect information is \$1,000.00 under Section 627.7843(3), F. S.

CURRENT PLANNING ACTIVITY JAN 25 2018

RECEIVED

Inter-Office Memorandum



TO: Patricia Smith, Planner II DATE: January 19, 2018

FROM: Keith Abrahamson, Environmental Specialist III

SUBJECT: Planning & Land Development Regulation Commission meeting for

Date: February 15, 2018 Parcel #: 7032-03-13-0050

Case #: V-18-012

Environmental Permitting (EP) has reviewed the variance application and conducted a site visit. This parcel has multiple gopher tortoise burrows on site. If any GT burrows or their 25 foot buffer cannot be avoided with development and/or construction, a Florida Fish and Wildlife Conservation Commission GT relocation permit will be required.

EP has no objection to this variance request. However, the applicant needs to be aware that this project must meet all the applicable environmental requirements of the Land Development Code.

VARIANCE CASE NUMBER V-18-012





AERIAL IMAGE DATE 2015



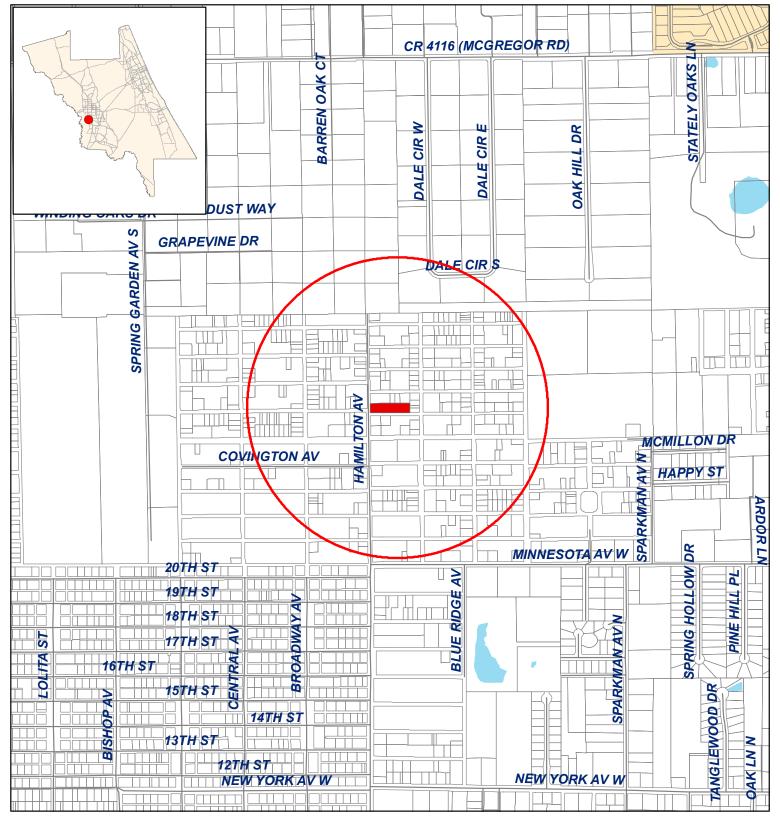
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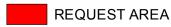
VARIANCE CASE NUMBER V-18-012

Page 16 of 19





REQUEST AREA LOCATION



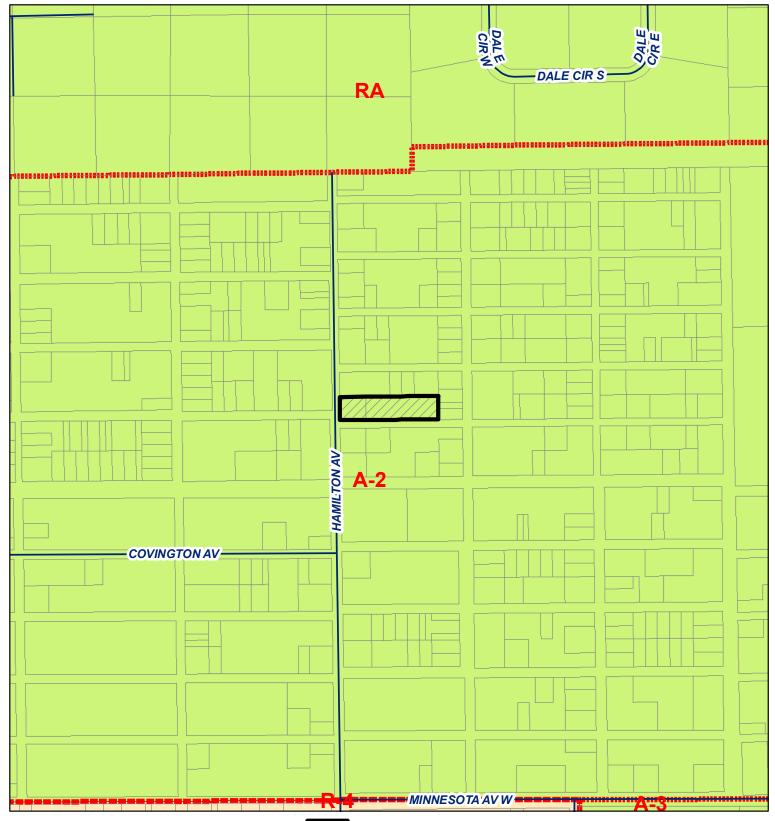
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VARIANCE CASE NUMBER V-18-012

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ZONING CLASSIFICATION

REQUEST AREA

1 " = 400 ' 1/11/2018



RESIDENTIAL

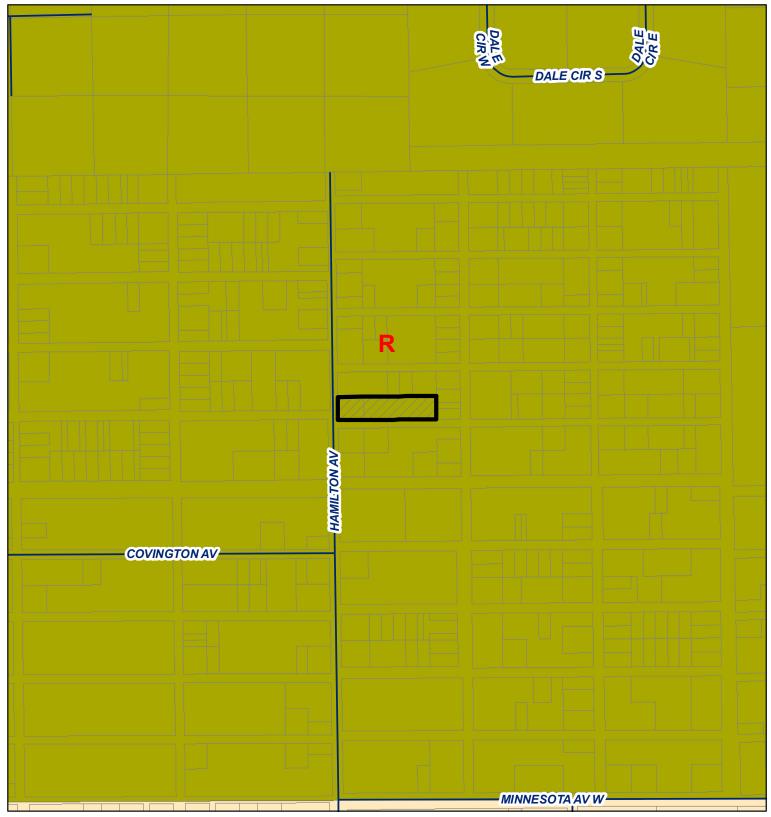




VARIANCE CASE NUMBER V-18-012

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1 " = 400 ' 1/11/2018



RURAL



VARIANCE CASE NUMBER V-18-012

Page 19 of 19





ECO\NRMA

REQUEST AREA

1 " = 400 ' 1/11/2018



NRMA

ECO

