



Interoffice Memorandum

DATE July 9, 2019

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental, and Development Services Department

CONTACT PERSON: Jennifer Moreau, AICP, Zoning Manager, Zoning Division
407-836-5856

SUBJECT: August 6, 2019 – Board Called Public Hearing
Applicant: Rod Billette
BZA Case #VA-19-04-015, April 4, 2019; District 2

Board of Zoning Adjustment (BZA) Case # VA-19-04-015, located at 7751 Sadler Rd., in District 2, is a Board called public hearing to be heard on August 6, 2019. The applicant is requesting variances to allow a lot split to create two new lots; one with a minimum lot width of 85 ft. in lieu of 130 ft. and another with a minimum lot width of 52 ft. in lieu of 130 ft.

The subject property is located on the north side of Sadler Rd., west of N. Orange Blossom Trail on Lake Ola.

At the April 4, 2019 BZA hearing, staff recommended denial of the variances. The BZA stated that the drainage ditch, which bisects the property, is a special condition to this lot and approved the variances with a 4-3 vote.

At the June 4, 2019 BCC hearing, the case was continued at the request of the District 2 Commissioner to allow the applicant to explore other options regarding the eastern portion of his property.

The application for this request is subject to the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, which mandates the disclosure of expenditures related to the presentation of items or lobbying of items before the BCC. A copy is available upon request in the Zoning Division.

If you have any questions regarding this matter, please contact Jennifer Moreau at 6-5856.

ACTION REQUESTED: Approve the applicant's request; or approve the applicant's request with modifications and/or conditions; or deny the applicant's request. District 2.

**PLANNING, ENVIRONMENTAL DEVELOPMENT SERVICES DEPARTMENT
ZONING DIVISION PUBLIC HEARING REPORT
August 6, 2019**

The following is a public hearing before the Board of County Commissioners on August 6, 2019 at 2:00 p.m.

APPLICANT: ROD BILLETTE

REQUEST: Variances in the R-CE zoning district to allow a lot split with minimum lot widths as follows:
1) To allow a minimum lot width of 85 ft. in lieu of 130 ft.
2) To allow a minimum lot width of 52 ft. in lieu of 130 ft.

LOCATION: 7751 Sadler Rd., Mount Dora, FL 32757, north side of Sadler Rd., west of N. Orange Blossom Trail on Lake Ola

TRACT SIZE: 137 ft. x 667 ft. (avg) / 2.06 acres

ZONING: R-CE

DISTRICT: #2

PROPERTIES NOTIFIED: 46

BOARD OF ZONING ADJUSTMENT (BZA) HEARING SYNOPSIS ON REQUEST:

Staff gave a presentation on the case covering the location of the property, location of the ditch, the site plan, and photos of the site.

The applicant stated that such a ditch is normally on the property line, not thru the middle of a property, and does not feel the request will set a precedent because no other lot has a ditch in a similar location on their property. The applicant also stated that he has additional support from neighbors, and he presented a letter from an appraiser stating that the split will not have any negative impacts on property values.

No neighbors spoke in favor of the request.

Four neighbors spoke in opposition. The following issues were raised: Approval will set a precedent for many others in the area to request similar variances/lot splits. An increase in density will mean more septic tanks, and lead to degradation of lake water quality. They also stated that the applicant knew about the ditch when he purchased the property.

BZA #VA-19-04-015 - April 04, 2019 – Rod Billette

The BZA noted that nonconforming lots of record in the area are not grounds for a variance, and that the condition was there previously and the other portion of the lot is useable. However, the BZA noted that the ditch is a special condition that is not self-created, and that no other lots have a ditch running thru the middle of a property.

Staff received two commentaries in favor of the application, and 9 in opposition to the application.

The BZA approved the variances.

BZA HEARING DECISION:

A motion was made by Gregory A. Jackson, seconded by Jose A. Rivas, Jr. and carried to APPROVE the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (4 in favor and 3 opposed):

1. Development in accordance with the site plan dated January 30, 2019, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

BZA STAFF REPORT

Planning, Environmental, & Development Services/ Zoning Division

Meeting Date: **APR 04, 2019**
Case #: **VA-19-04-015**

Case Planner: **Nick Balevich**
Commission District: **#2**

GENERAL INFORMATION

APPLICANT(s): ROD BILLETTE

OWNER(s): RODERICK BILLETTE

REQUEST: Variances in the R-CE zoning district to allow a lot split with minimum lot widths as follows:

1) To allow a minimum lot width of 85 ft. in lieu of 130 ft.

2) To allow a minimum lot width of 52 ft. in lieu of 130 ft.

PROPERTY LOCATION: 7751 Sadler Rd., Mount Dora, FL 32757, north side of Sadler Rd., west of N. Orange Blossom Trail on Lake Ola

PARCEL ID: 17-20-27-4696-00-020

LOT SIZE: 137 ft. x 667 ft. (avg) / 2.06 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 46

DECISION: APPROVED the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (4 in favor and 3 opposed):

1. Development in accordance with the site plan dated January 30, 2019, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
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3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

SYNOPSIS: Staff gave a presentation on the case covering the location of the property; location of the ditch; site plan; and, photos of the site.

The applicant stated that such a ditch is normally on the property line, not through the middle of a property, and does not feel the request will set a precedent because no other lot has a ditch in a similar location on their property. The applicant also stated that he has additional support from neighbors, and he presented a letter from an appraiser stating that the split will not have any negative impacts on property values.

No neighbors spoke in favor of the request.

Four (4) neighbors spoke in opposition. The following issues were raised: Approval will set a precedent for many others in the area to request similar variances and/or lot splits. An increase in density will mean more septic tanks, and lead to degradation of lake water quality. They also stated that the applicant knew about the ditch when he purchased the property.

The BZA noted that nonconforming lots of record in the area are not grounds for a variance, the condition was there previously, and the other portion of the lot is useable. However, the BZA noted that the ditch is a special condition that is not self-created, and no other lots have a ditch running through the middle of a property.

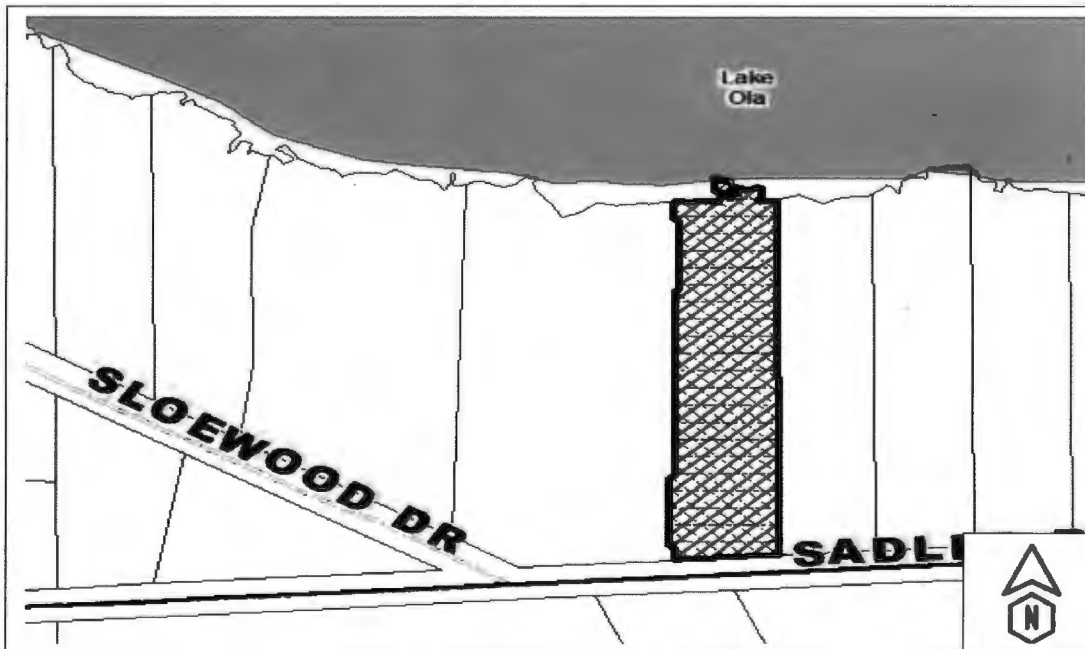
Staff received two (2) commentaries in favor and nine (9) in opposition to the application.

The BZA approved the variances.

STAFF RECOMMENDATIONS

Final, however if the BZA recommends approval then staff recommends the conditions of approval found in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-CE	Lake Ola	R-CE	R-CE	R-CE
Future Land Use	RS-1/1	Lake Ola	RS-1/1	RS-1/1	RS-1/1
Current Use	Single-family residence	Lake Ola	Vacant (HOA), Retention pond	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

Description and Context

The subject property is zoned R-CE, Country Estate, which allows for primarily single family development on one (1) acre lots and certain rural uses.

The property is located in the Tangerine Rural Settlement, which is comprised of single-family homes on required one (1) acre minimum lots.

In January of 2019, the applicant applied for a 2 lot split to create a 1.09 acre lot with 85 ft. of frontage, and a .52 acre lot with 52 feet of frontage. The lot split was denied as neither of the lots meet the required 130 ft. lot width.

The lot was platted in 1985, as lot #2 in the Lake Ola Estates Plat and has deviated slightly from the original platted configuration as it is 7 to 10 feet wider on the west side, and is considered to be a single conforming lot of record. There is a 3,056 sq. ft. (gross area), 2,013 sq. ft. (living area) single family home and a boat dock on the lot which was constructed in 2005. The applicant purchased the property in 2003.

The property is bisected by a ditch, and the applicant states that the lot can be divided along said ditch. The property has sufficient acreage to be split but does not have the width.

There are other substandard properties on Lake Ola, the majority of which were parcels of record, or are platted lots.

District Development Standards

	Code Requirement	Proposed
Max Height:	N/A	N/A
Min. Lot Width:	130 ft.	52 ft./85 ft.
Min. Lot Size:	1 ac.	1.01 ac./1.03 ac.

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The applicant has not demonstrated any special conditions or circumstances that are unique to this property that do not apply to all other properties with the same area.

Not Self-Created

The lot is developable, and currently has a home and boat dock. The need for the variance is self-created as the applicant wants to split the lot to create a second buildable lot.

No Special Privilege Conferred

Approval of the request will grant the applicant special privilege that is denied to other lands, building, or structures in the same zoning district, which are required to comply with the minimum lot width requirement.

Deprivation of Rights

The applicant would not be deprived of rights commonly enjoyed by other properties in the same zoning district as site already has a home and boat dock.

Minimum Possible Variance

The request is not the minimum variance as the site is currently developed and utilized with a home and a dock.

Purpose and Intent

Approval of this request will not be in harmony with the purpose and intent of the zoning regulations and will set a precedent in the area.

CONDITIONS OF APPROVAL

1. Development in accordance with the site plan dated January 30, 2019, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

c: Billette Roderick
PO Box 361
Tangerine, FL 32777

COVER LETTER

To Whom It May Concern:

1/29/19

The accompanying survey details my 2.1-acre tract located at 7751 Sadler Rd, Mount Dora, Orange County, Fl.

The accompanying survey shows my EXISTING single-family residence on Lot One which is 1.09 acres. Proposed Lot two would be 1.01 acres.

This proposal to create a new lot of record CONFORMS to R-CE zoning of one-acre minimum lots, and although non-conforming in width my lot proposal IS CONSISTENT, SIMILAR, and COMPATIBLE with over 30 other non-conforming lots on Lake Ola where I reside. I have attached these for your review.

Also shown on the survey is an old grove ditch which Orange County uses to direct effluent through my property to Lake Ola. This ditch effectively bisects my property into two separate geographical lots.

This drainage includes water and runoff from Greater Country Estates Subdivision located to the southeast as well as over 240 acres of undeveloped, but proposed for development, land to the southwest. It may be noted that Orange County has no easement or written permission for this runoff to cross my property.

To reiterate, this effluent, considered essential by Orange County Engineering, already creates a *de facto* geographical split of my property into two, one acre lots.

Therefore, due to the reasons stated, I am applying for a variance:

- 1) A geographic split naturally bisects my property into two separate lots.
- 2) The width of the proposed new lot of record is consistent with the width of over 30 existing lots of record on Lake Ola. Nearly all these lots have residences and are non-conforming. It may also be noted quite a number of these existing lots also do not meet the R-CE one-acre minimum requirement.

RECEIVED

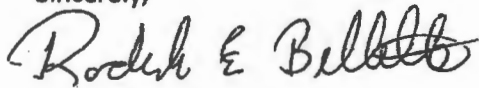
JAN 30 2019
ORANGE COUNTY
ZONING DIVISION

-
- 3) The new proposed Lot of record WOULD CONFORM to the one-acre minimum R-CE zoning.
 - 4) Water and other effluents (oil, etc.) are being dumped through my land without permission. *De facto*, I am left to do all maintenance on said ditch.

In conclusion, I am requesting a lot split as proposed on the accompanying survey, so that I may have the full use of my land.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Roderick E. Billette". The signature is written in dark ink and is positioned above the printed name.

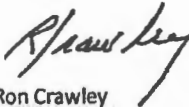
Roderick E. Billette

Ron Crawley
7759 Sadler Road
Mount Dora, FL 32757

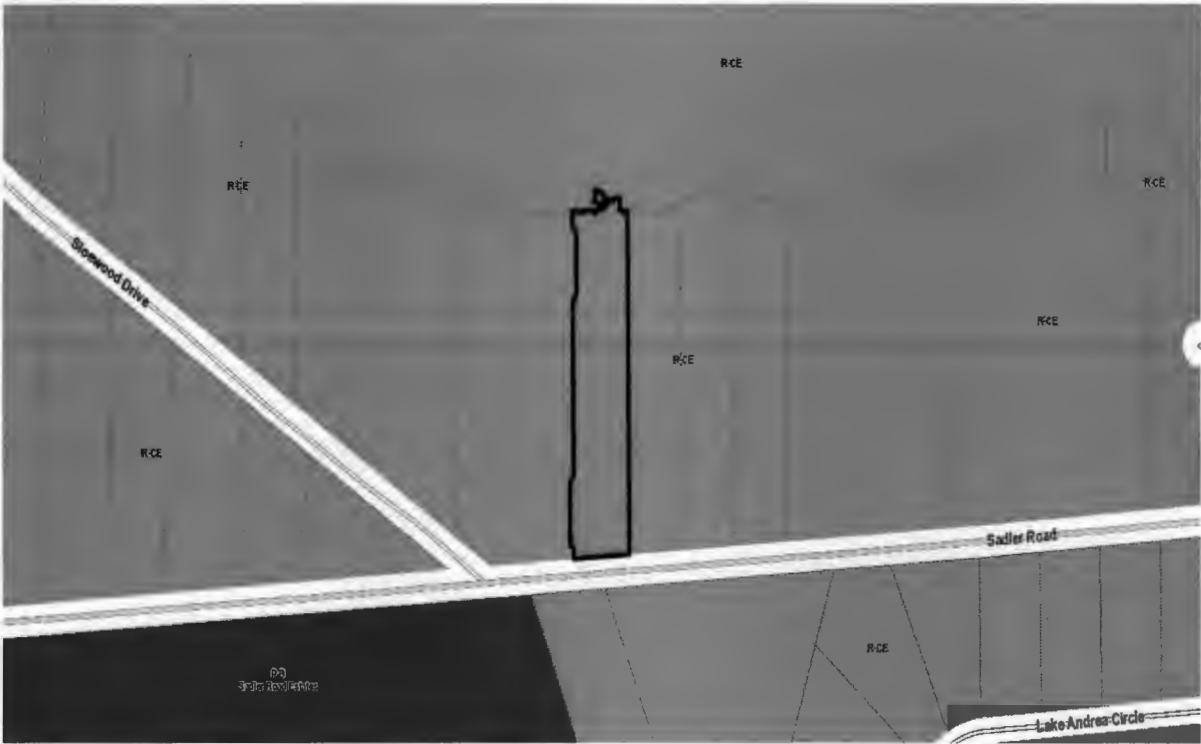
January 29, 2019

TO WHOM IT MAY CONCERN:

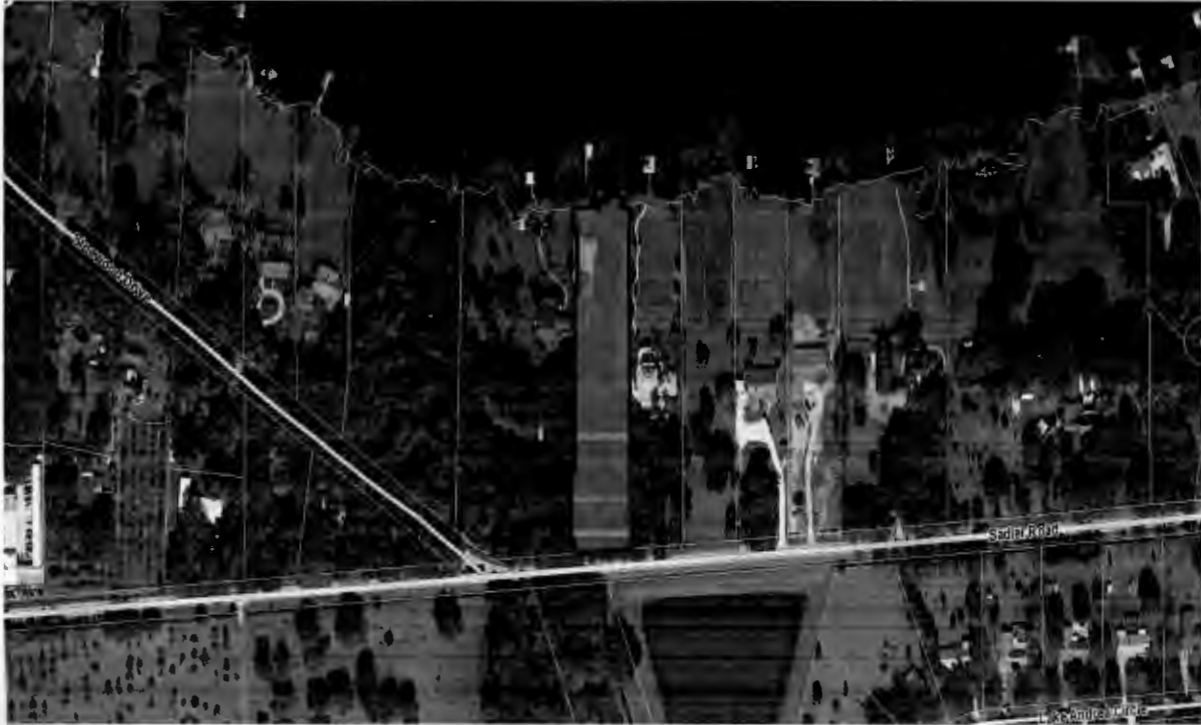
I have no objection to a variance allowing the split of parcel 17-20-27-4961-00-020, 7751 Sadler Road, Mount Dora, FL into two one acre lots.


Ron Crawley
407-257-7154

ZONING MAP



AERIAL MAP



SITE PHOTOS



Ditch from Front of Property



Ditch Looking towards front of property

Ditch





House



Rear-Lake Ola