

Fifth DCA Holds a Local Government Can Only Exercise Power in a Zoning Hearing that is Expressly Granted by its Land Development Code.

The Lake County Office of Public Safety filed a rezoning application for a parcel of county-owned land in order to build a public safety communications tower. The rezoning application requested waivers of mandatory setbacks regularly mandated by the County's Land Development Regulations ("LDRs"). The Mt. Plymouth Land Owners' League ("Mt. Plymouth") opposed the rezoning application on both aesthetic grounds and because the zoning application did not comply with the mandatory setbacks. The County's Planning and Zoning Board recommended that the Board of County Commissioner's ("BOCC") deny the application. The BOCC, however, approved the application and the setback waivers. Mt. Plymouth brought suit arguing that the BOCC was not empowered to grant variances or waivers under the County's LDRs. The court of appeals ruled in favor of Mt. Plymouth.

The appellate court analyzed the County's LDRs and found that the BOCC was empowered to grant a zoning with or without conditions, but was not empowered to grant zoning variances and waivers. The County's LDRs were silent as to whether the BOCC had the power to grant variances and waivers, but expressly stated that the County's Board of Adjustment had the power to grant variances and waivers. Additionally, the County's LDRs did not give the BOCC the power to overturn decisions by the Board of Adjusters.

Land development requirements and regulations are unique to each local government. However, local governments are bound by the language of their own ordinances and regulations.