

Variance Justification: 21-ZONE-0023; 75071/2 and 7509 Mt. Washington Road; Parkside Subdivision; Ball Homes

The Applicant, Ball Homes, hereby requests variances from the requirement of LDC Chapter 7.11 Conservation Subdivision Dimensional and Diversity Standards to exceed the maximum front yard setback of 25' on Lots 133,134, 135, 136, 137, 138 and 139 for the following reasons:

1. The variance will not adversely affect the public health, safety, or welfare because Lot 136 has been identified by geotechnical examination to have a large sinkhole area in the front yard which requires moving the footprint of the building back 43' for a variance of 18'. This will enable the lot to retain its required rear yard. In order to maintain a well-designed residential development, which is the first purpose of the Conservation Subdivision Regulations (LDC 7.11.3.A), the adjacent Lots 133, 134, 135, 137, 138 and 139 are also tapered back to be more compatible with Lot 136 and maintain a more uniform and attractive layout of the homes on these lots. Lot 133 will have a front setback of 26' (a 1' variance), Lot 134 will have a 31' front setback (a 6' variance), Lot 135 will have a front setback 36' (an 11' variance), Lot 137 will have a front setback of 36.5' (an 11.5' variance), Lot 138 will have a 31.5' front setback (a 6.5' variance) and Lot 139 will have a 26.5' front setback (a 1.5' variance). These homes have not been constructed so any buyer will be aware of the increased setbacks on these lots.

2. The variances will not alter the essential character of the general vicinity because the homes have not yet been constructed and the affected lots will be limited to one area where the lots adjacent to 136 will have its front yards "tapered" so as to not create an unsightly and irregular building line configuration.

3. The variances will not cause a hazard or a nuisance to the public because it is made necessary by an unavoidable physical element of the land, i.e., sinkhole, which must be avoided and protected. These variance will allow for protection of this natural feature in such a way as to not cause an unusual lot configuration and denial of the variances would actually be harmful to public health and safety.

4. The variances will not allow an unreasonable circumvention of the requirements of the zoning regulations because only few lots in this large subdivision are affected. In fact, the variances will promote the purpose and intent of the Conservation Subdivision Regulations to permit flexibility of design in order to promote environmentally sensitive and efficient use of land (LDC 7.11.2.C) and permits grouping of houses on less environmentally sensitive areas necessary for residential development (LDC 7.11.3.D).

Additional considerations:

1. The Variances arise from special circumstances, which do not generally apply to land in the general vicinity because of the presence of a sinkhole area which must be avoided and protected.
2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the protection of the sinkhole area can be accommodated without sacrificing an otherwise buildable home site and make the adjacent home sites more compatible.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because the sink hole was found to interfere with the required setback after the subdivision approval.