

WAIVER OF SECTION 10.2.4.B.3 TO ALLOW A UTILITY EASEMENT TO ENCROACH INTO MORE THAN 50% OF THE LBA ALONG THE EASTERN PROPERTY LINE

Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent properties because the waiver results from larger than normal drainage easements being requested from MSD in order to address the drainage issues in the overall area. The waiver also does not adversely affect adjacent property owned by the Kentucky Artificial Breeding Association, which is not residential in nature, given that that desired levels of landscaping can still be accomplished on this property line with the main overlap only at the back-side corner.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Goals, Objectives and Policies of the 2040 Comp Plan filed with RDDDP.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because much of the easement will remain unaffected by the proposed overlap which is predominantly at one corner of the property.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the reason for the requested waiver results largely from the increased size of the drainage easements requested from MSD in order to address drainage from the overall surrounding area.

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