

General Waiver 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.

Waiver of LDC Section 7.3.30.E to allow more than 15% of a required rear yard of a buildable lot to be encompassed by a drainage easement.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because it is located on lots in the interior of the development or adjacent to large undeveloped tracts and is a typical occurrence for sewer and drainage easements to be located in the rear yard, since this does not reduce the depth of the yard and since the easement is needed to provide a space within it that will keep any increased runoff from this development from causing a negative impact to the adjacent properties.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Plan 2040 Comprehensive Plan filed with the original rezoning application and since adequate drainage facilities will be provided to serve the development, since this will not affect the applicant's ability to preserve existing vegetation nor affect any other aspect of this development's compliance with either the Plan 2040 or the requirements of the Land Development Code.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because in order to allow for the best design of the individual lots. It has been generally accepted that drainage easements be located in the rear yard either along the rear property line or offset from this area typically used to preserve existing vegetation. Without the waiver the applicant would be required to locate the drainage way a minimum of 20' from the rear property line and therefore in close proximity to the homes. It would reduce the usable area close to the homes that would otherwise be used by the homeowners as their private yard, an area typically reserved for outdoor dining, entertainment, relaxation and/or recreation.
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

locating the drainage easement in the rear yard has been the preferred and acceptable practice and now requiring it to be a minimum of 20 feet off the rear property line create an unnecessary hardship for the homeowner by reducing the usable area of the private yard with a ditch separating the area adjacent to the home from the rest of the rear yard.

8000 Broad Run Road; Highgates Management, Applicant

Case Nos. 22-MSUB-0001; 22-FF0-0002; 20-ZONE-0122; 20-ZONEPA-0095

General Waiver Justification:

A waiver of 7.3.30.F.3 of the LDC is requested of the required TCCA in order to have adequate space for the evergreen buffer required by LDC section 4.3.20.E.3.C.

1. The waiver will not adversely affect adjacent property owners because the intent of the regulation is to provide a vegetative buffer between smaller lots and five-acre residential tracts and is adequately met by the MRDI required 20' evergreen buffer.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Comp Plan 2040 and the MRDI regulation filed with the preliminary plan filed with this application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the space needed to fulfill the MRDI evergreen buffer is largely populated by existing trees that are currently required to be preserved.
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 to plant the required evergreen trees between existing mature trees would be extremely costly in terms of labor and time, and it's highly unlikely the trees would even survive.

*Final buffer/buffer yard requirements will be decided during the landscape and tree preservation approval process