

Docket No. 21-ZONEPA-0129; 3608 College Drive; General Waiver Justification:

The Applicant requests a 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 for the following reasons:

1. The waiver will not adversely affect adjacent property owners because it 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. Thus, rather than an adverse effect, it will be a benefit to adjacent neighbors.
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 allow Applicant's ability to preserve existing vegetation and will not 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 individual lots, it has been generally accepted that drainage easements may 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 which would reduce the usable area close to the homes that would otherwise ordinarily 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 creates 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.