

# Board of Zoning Adjustment Staff Report

August 1, 2022



<b>Case No:</b>	22-VARIANCE-0094
<b>Project Name:</b>	Parkside at Mt. Washington
<b>Location:</b>	8410 – 8422 Gateway Run Road (Lots 133-139)
<b>Owner:</b>	Ball Homes LLC
<b>Applicant:</b>	Ball Homes LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	23 – James Peden
<b>Case Manager:</b>	Joel Dock, AICP, Planning Coordinator

## REQUEST:

- **Variance** from Land Development Code, Section 7.11.10.C to exceed the maximum front setback of 25'

Lot (address #)	Required (max.)	Variance	Provided
133 (8410)	25'	1'	26'
134 (8412)	25'	6'	31'
135 (8414)	25'	11'	36'
136 (8416)	25'	18'	43'
137 (8418)	25'	11.5'	36.5'
138 (8420)	25'	6.5'	31.5'
139 (8422)	25'	1.5'	26.5'

## CASE SUMMARY

The subject properties are located within a subdivision under construction along Mt. Washington Road - Parkside at Mt Washington. The variances being requested occur across multiple adjoining lots in order to accommodate the increased setback necessary to avoid a sinkhole on lot 136. This lot will have the greatest setback at 43'. The adjacent lots will have decreasing setbacks until reaching the maximum 25' setback or below. The sinkhole on lot 136 has been remediated, along with several other karst features throughout the subdivision.

## STAFF FINDINGS

The requested variance has been adequately justified based on staff's analysis contained in the standard of review.

Based upon the information in the staff report, and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a variance established in the Land Development Code.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the increased setback allows for the primary structure on lot 136 to be located away from the sinkhole.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The proposed variance will not alter the essential character of the general vicinity as the subdivision is under construction and the setback of the lots to the left and right of lot 136 gradually and consistently decreases until reaching the maximum.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as increased setback allows for the primary structure on lot 136 to be located away from the sinkhole and the subdivision is under construction and the setback of the lots to the left and right of lot 136 gradually and consistently decreases until reaching the maximum.

### **ADDITIONAL CONSIDERATIONS:**

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do not generally apply to the land in the generally vicinity or the same zone as karst features are located on lot 136.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the subdivision is under construction and the increased setback allows for the primary structure on lot 136 to be located away from the sinkhole.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

**VARIANCE PLAN REQUIREMENT**

In accordance with LDC Section 11.5B.1.C (Requirement to Follow Approved Plan), a variance shall be approved only on the basis of the plan approved by the Board and shall be valid only for the location and area shown on the approved plan. All construction and operations must be conducted in accordance with the approved plan and conditions attached to the variance.

**NOTIFICATION**

Date	Purpose of Notice	Recipients
07/15/22	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 23
	Hearing before BOZA	Notice posted on property

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

