

Joshua A. Scoggins  
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### VARIANCE JUSTIFICATION STATEMENT

**Re: Applicant: CalAtlantic Homes**  
**Subject Property: 39.2 Acres Designated as Cherokee County Tax Parcel(s): 15N18 171 & 172**  
**Current Zoning: AG**  
**Proposed Zoning: R3-A**  
**Proposed Use: 106 unit Single Family Residential Subdivision**  
**ROW Access: Neese and Gunnin Road**

The Applicant requests as part of its Rezoning and Annexation Application, the following variances for the Subject Property and submits the following justifications for each request:

**1. LDC § 7.753 – Variance to reduce front setback from 25 feet to 20 feet.**

- a. Are there extraordinary and exceptional conditions pertaining to the subject property because of its size, shape, or topography? Please describe them.**

Yes, the property's shape is very irregular and the existence of a power line easement through the center of the property severely limits the property's buildable area. The shape, size, and topography of the property necessitate the requested variance and placement of structures in the locations proposed by the Applicant in order to permit feasible development of the subject property.

- b. Would the application of the Land Development Code standards as they relate to this particular property create a practical difficulty or unnecessary hardship? Please explain.**

Yes, application of the LDC standards as they relate to the subject property would create both a practical difficulty and an unnecessary hardship due to the fact that maintaining a minimum 25 foot front setback would result in the construction of smaller, less expensive homes, which would serve to reduce the value of surrounding properties.

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**c. Are there conditions that are peculiar to the subject property?**

Yes, the property's irregular shape, the existence of a power line easement through the center of the property and a stream traversing the property southwest to northeast severely limit the property's buildable area. These conditions are unique to the subject property and necessitate the requested variance.

**d. Would a literal interpretation of this ordinance deprive the applicant of any rights that others in the same district are allowed?**

Yes, a literal interpretation of the LDC would deprive the Applicant of rights that others in the same district currently enjoy.

**e. Would relief, if granted, cause substantial detriment to the public good or impair the purpose and intent of the LDC?**

No, the relief if granted would not cause a substantial detriment to the public good nor would it impair the purpose and intent of the LDC.

**f. Are there any special circumstances or conditions applying to the building or land or building and land in question peculiar to such premises and do not apply generally to other land or buildings in the vicinity?**

Yes, the property's irregular shape, the existence of a power line easement through the center of the property and a stream traversing the property southwest to northeast severely limit the property's buildable area. These conditions are unique to the subject property and necessitate the requested variance.

**g. Is granting of the application necessary for the preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant?**

The requested variance is the minimum necessary to accommodate the proposed structures and allow the property to be developed in an economically feasible and physically practical manner

**h. Will the condition from which relief or a variance is sought not result from willful action by the applicant?**

No, the condition for which the variance is sought is not the result of any willful action by the

Applicant.

- i. **Will authorizing the variance not impair adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets, increase the danger of fire, imperil the public safety, unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the City?**

No, approving the variance will not impair an adequate supply of light and air to adjacent property nor will it unreasonably increase the congestion of public streets, increase the danger of fire, imperil the public safety, unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the City.

**2. LDC § 7.753 – Variance to reduce side setback from 10 feet to 5 feet.**

- a. **Are there extraordinary and exceptional conditions pertaining to the subject property because of its size, shape, or topography? Please describe them.**

Yes, the property's irregular shape, the existence of a power line easement through the center of the property and a stream traversing the property southwest to northeast severely limit the property's buildable area. These conditions are unique to the subject property and necessitate the requested variance.

- b. **Would the application of the Land Development Code standards as they relate to this particular property create a practical difficulty unnecessary hardship? Please explain.**

Yes, application of the LDC standards as they relate to the subject property would create both a practical difficulty and an unnecessary hardship due to the fact that maintaining a minimum 10 foot side building setback would result in the construction of smaller, less expensive homes, which would serve to reduce the value of surrounding properties.

**c. Are there conditions that are peculiar to the subject property?**

Yes, the property's irregular shape, the existence of a power line easement through the center of the property and a stream traversing the property southwest to northeast severely limit the property's buildable area. These conditions are unique to the subject property and necessitate the requested variance.

**d. Would a literal interpretation of this ordinance deprive the applicant of any rights that others in the same district are allowed?**

Yes, a literal interpretation of the LDC would deprive the Applicant of rights that others in the same district currently enjoy.

**e. Would relief, if granted, cause substantial detriment to the public good or impair the purpose and intent of the Zoning Code?**

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**3. LDC § 7.753 – Variance to reduce 45 foot buffer adjacent to GC to a 15 foot graded and replanted buffer.**

**a. Are there extraordinary and exceptional conditions pertaining to the subject property because of its size, shape, or topography? Please describe them.**

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**b. Would the application of the Land Development Code standards as they relate to this particular property create a practical difficulty unnecessary hardship? Please explain.**

Yes, application of the LDC standards as they relate to the subject property would create both a practical difficulty and an unnecessary hardship due to the fact that maintaining a minimum 10 foot side building setback would result in the construction of smaller, less expensive homes, which would serve to reduce the value of surrounding properties.

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**4. LDC § 7.753 – Variance to allow the 25 foot buffer adjacent to residential to be graded and replanted as necessary.**

**a. Are there extraordinary and exceptional conditions pertaining to the subject property because of its size, shape, or topography? Please describe them.**

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- b. Would the application of the Land Development Code standards as they relate to this particular property create a practical difficulty unnecessary hardship? Please explain.**

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**5. LDC § 7.753 – Variance to allow the undisturbed buffers to be part of the lots.**

- a. Are there extraordinary and exceptional conditions pertaining to the subject property because of its size, shape, or topography? Please describe them.**

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Sincerely,



Joshua A. Scoggins  
Attorney for CalAtlantic Homes

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