



City of Dublin

Land Use and
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City of Dublin Board of Zoning Appeals

Planning Report

Thursday, October 24, 2013

Pilkington Residence – 5152 Glenaire Drive Front Building Setback Variance

Case Summary

Agenda Number	1
Case Number	13-097V
Location	5152 Glenaire Drive The site is 0.88-acres located on the north side of Glenaire Drive, east of intersection with Dublin Road.
Proposal	The proposal is to allow a detached accessory structure and an at-grade patio to encroach into the front building line setback.
Request	Non-Use (Area) Variance to permit a detached accessory structure and patio to encroach in the front building line setback. Requires review and approval by the Board of Zoning Appeals based on the review criteria of Zoning Code Section 153.231.
Applicants	John and Kymn Pilkington, Property Owners.
Planner:	Tammy Noble-Flading, Senior Planner
Planning Contact:	(614) 410-4649; tflading@dublin.oh.us
Planning Recommendation	Disapproval Based on Planning's analysis, the request does not meet the review criteria for a non-use (area) Variance and therefore Planning is recommending disapproval for this variance request.



 <p>City of Dublin</p>	<p>13-097V Setback Variance Pilkington Residence 5152 Gelnaire Drive</p>	<p>0 75 150 Feet</p> 
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Facts	
Site Description	<ul style="list-style-type: none"> • 0.88-acre site located on a corner lot with frontage along Dublin Road and Glenaire Drive. • The site has a single access point from Glenaire Drive. • Site contains a single-family residential structure. This structure is located to the center portion of the site and exceeds the minimum setback along Glenaire Drive. The result is a smaller area to construct in the rear of the property. • An existing privacy fence is located to rear of the property. The fence predates current zoning regulations. • The applicant has constructed a circular patio area and gazebo which are the subjects of the variance request. This area has also been supplemented with extensive landscaping.
Zoning	R-2, Limited Suburban Residential District.
Surrounding Zoning and Uses	<p>North: R-1, Restricted Suburban Residential District East: R-2, Limited Suburban Residential District South: R-2, Limited Suburban Residential District West: PUD, Planned Unit Development District</p> <p>Land Use: Single-family, residential uses</p>
Site Features	<ul style="list-style-type: none"> • Triangular shaped lot; width along the frontage of Glenaire Drive, narrowing to the northwest. • Significant vegetated areas at the rear portion of the site. • Greater setback along Dublin Road based on the existing right-of-way width.
Proposal	The applicant is requesting to allow a 196-square-foot accessory structure and additional patio area that encroaches 18 feet into the required building setback of Dublin Road.

Details	
Front Building Line Setback	
Process	Zoning Code Section 153.231(C)(3) allows the Board of Zoning Appeals to approve requests for non-use (area) variances only in cases where the Board finds that there is evidence of a practical difficulty present on the property, limiting conformance to the strict requirements of the Zoning Code. The Board shall make a finding that the required review standards have been appropriately satisfied (refer to the last page of this report for the full wording of the review standards).

Details Front Building Line Setback	
Variance Requests	Section 153.072 of the City of Dublin Zoning Code requires that building lines be established, along all street right-of-ways, and no structures or use of land be permitted in these required setbacks. The applicant is proposing an accessory structure and patio that encroach in the required building setback for Dublin Road.

Analysis Front Building Line Setback	
<i>Variance Request</i>	The variance request, if approved, would permit an accessory structure and patio to encroach approximately 18 feet into the required building line setback of Dublin Road.
ALL THREE OF THE FOLLOWING STANDARDS MUST BE MET	
(1) <i>Special Conditions</i>	Standard Is Not Met. The property is triangular in shape and has significant vegetation to the rear of the property. Although these are property conditions, they are not extraordinary nor do they unreasonably restrict additional outdoor area to the rear of the house that would could the existing setback requirement.
(2) <i>Applicant Action/Inaction</i>	Standard Met. The configuration of the site, right-of-ways, and existing vegetation existed prior to the development of the site and are therefore, not a result of the action or inaction of the applicant.
(3) <i>No Substantial Adverse Effect</i>	Standard Met. The purpose of building setbacks is to create uninterrupted open areas along public and private road ways that are unobstructed by buildings or use of land. As the site exists today, there is significant mature vegetation and a non-conforming six-foot opaque fence within the building setback that already significantly impact these view sheds. The improvements, proposed in this application, will not be visible based on these existing conditions and therefore will not have adverse impacts to the surrounding community.
AT LEAST <u>TWO</u> OF THE FOLLOWING FOUR STANDARDS MUST BE MET	

Analysis	Front Building Line Setback
<p>(1) <i>Special Privileges</i></p> <p>(2) <i>Recurrent in Nature</i></p> <p>(3) <i>Delivery of Governmental Services</i></p> <p>(4) <i>Other Method Available</i></p>	<p>The following standards have been reviewed with the finding that only Standard #2 and #3 has been met.</p> <p>Standard Not Met. Front building lines setbacks are essential in creating consistent and uninterrupted green space along residential roadways. By allowing construction within these setbacks, the property would gain a benefit not available to other property owners along segments of Dublin Road.</p> <p>Standard Met. There is no record of any similar requests that have been made to the Board of Zoning Appeals within the last five years. Planning would conclude that based on this infrequency of this type of variance request, it is not recurrent in nature.</p> <p>Standard Met. The accessory structure and patio area is to the rear of the structure and will not impede the delivery of governmental services such as fire protection, emergency assistance or postal services to the site.</p> <p>Standard is Not Met. Although heavily vegetated, the site does have a portion of the rear yard that meets the current zoning restrictions and would permit the construction proposed in this application. The area is directly northeast of the proposed location and would continue to allow a private outdoor space to the rear of the property.</p> <p>Based on this concept, Planning is concluding that other areas within the site can provide ample space for the construction and therefore is not preventing the applicant a right commonly provided to other residents.</p>

Recommendations	Disapproval of Variance
<p>Disapproval</p>	<p>Based on Planning's analysis the requested variances does not meet the required non-use (area) variance standards, therefore disapproval of the variance is recommended.</p>

NON-USE (AREA) VARIANCES

Section 153.231(H)(1) Variance Procedures

On a particular property, extraordinary circumstances may exist making a strict enforcement of the applicable development requirements of this Code unreasonable and, therefore, the variance procedure is provided to allow the flexibility necessary to adapt to changed or unusual conditions that meet the standards of review for variances. In granting any variance, the Board of Zoning Appeals shall prescribe appropriate conditions and safeguards to maintain the intent and spirit of the zoning district in conformity with the Zoning Code.

Non-Use (Area) Variances. Upon application, the Board of Zoning Appeals shall only approve a request for a non-use variance only in cases where there is evidence of practical difficulty present on the property in the official record of the hearing, and that the findings required in (a) and (b) have been satisfied with respect to the required standards of review (refer to the last page of this Report for the full wording of the review standards):

(a) That all of the following three findings are made:

- (1) That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district whereby the literal enforcement of the requirements of this Chapter would involve practical difficulties. Special conditions or circumstances may include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this Chapter or amendment; or by reason of exceptional topographic or environmental conditions or other extraordinary situation on the land, building or structure; or by reason of the use or development of the property immediately adjoining the property in question.*
- (2) That the variance is not necessitated because of any action or inaction of the applicant.*
- (3) Granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or will not materially impair the intent and purposes of the requirement being varied or of this Chapter.*

(b) That at least two of the following four findings are made:

- (1) That a literal interpretation of the provisions of the Zoning Code would not confer on the applicant any special privilege or deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter.*
- (2) The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for those conditions reasonably practicable.*
- (3) The variance would not adversely affect the delivery of governmental services (e.g., water, sewer, garbage).*
- (4) The practical difficulty could be eliminated by some other method, even if the solution is less convenient or most costly to achieve.*

