



City of Dublin

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City of Dublin Board of Zoning Appeals

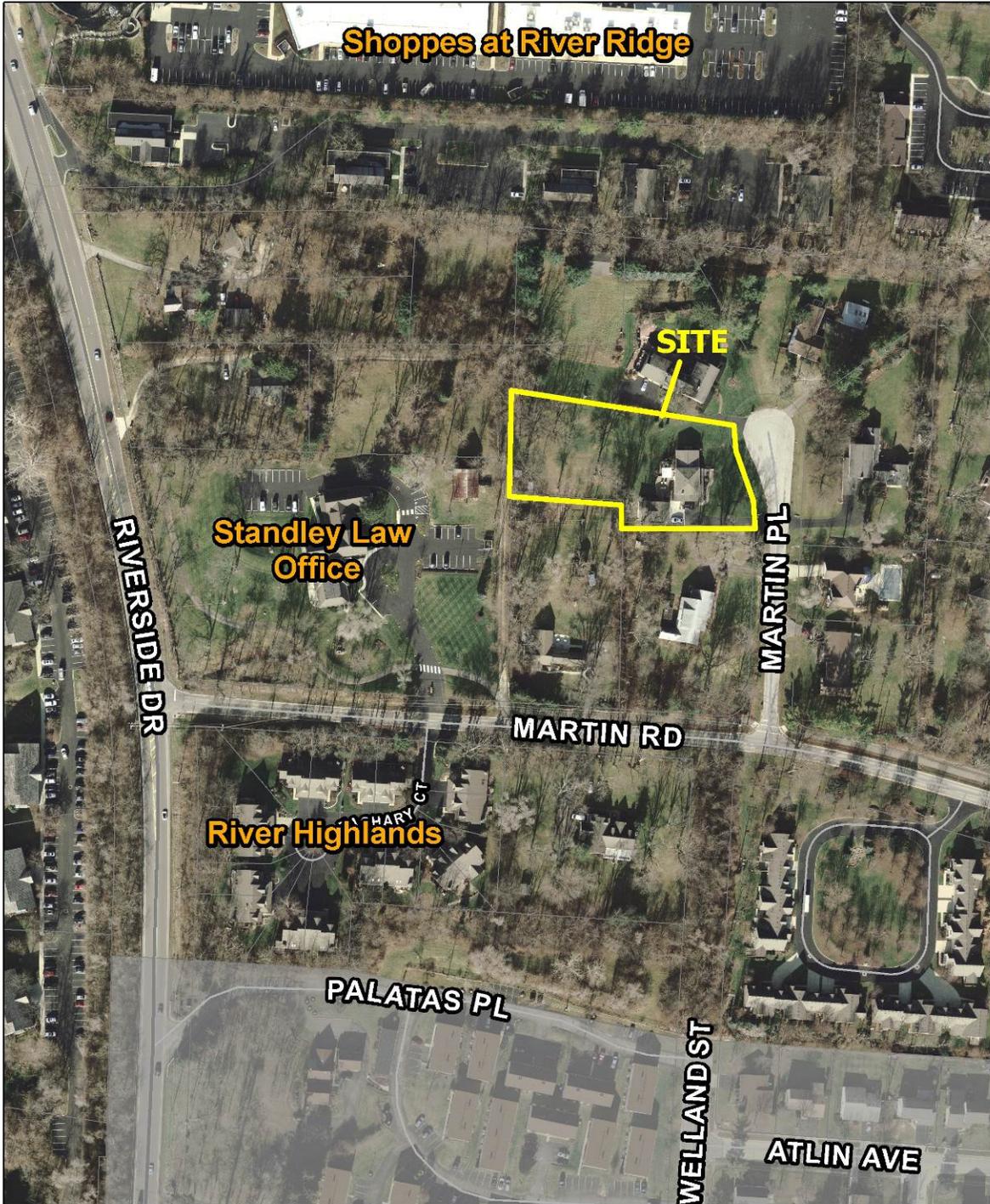
Planning Report

Thursday May 28, 2015

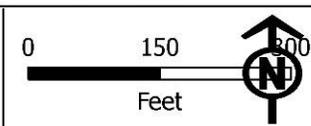
Flint Residence - 6449 Martin Road Fence Variance

Case Summary

Agenda Number	1
Case Number	15-037V
Location	6449 Martin Road West side of Martin Road approximately 250 feet north of Martin Road.
Proposal	To construct a six-foot privacy fence along the rear and partial side of a residential property whereas four feet is permitted.
Request	Non-use (area) variance to Section 153.080(A) to permit a six-foot privacy fence for a variance of two feet. Requires review and approval by the Board of Zoning Appeals based on the review criteria of Zoning Code Section 153.231.
Applicants	Gary Flint, owner.
Planners:	Tammy Noble-Flading, Senior Planner.
Planning Contact:	(614) 410-4649 or 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 disapproval is recommended.



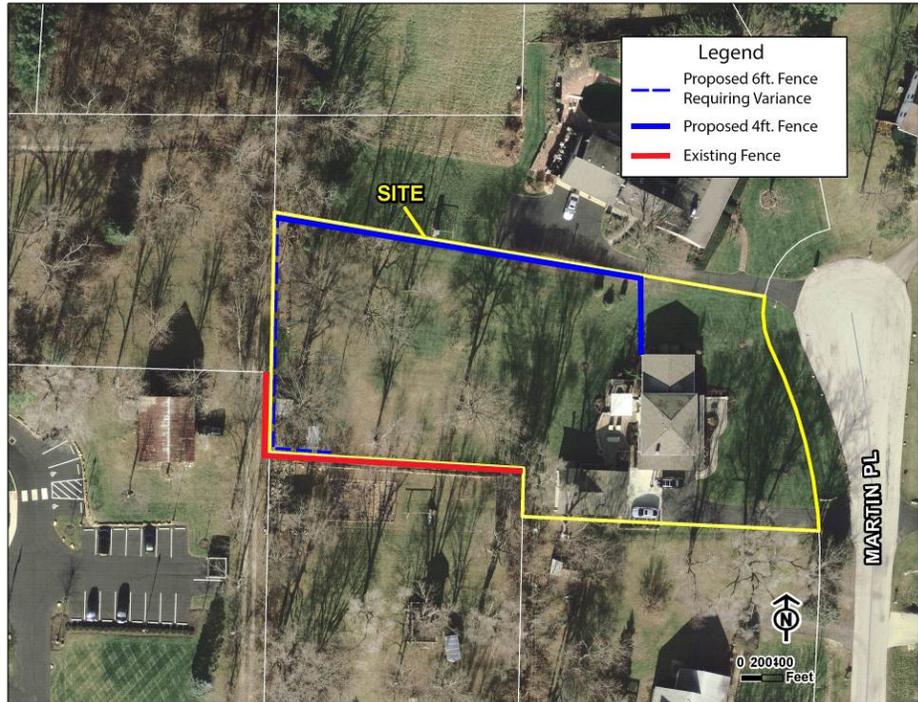
15-037V
Non-Use Variance
Flint Residence
6449 Martin Pl



Facts	
Site Description	<p>The property is a one acre site located on west side of Martin Place approximately 250 feet north of Martin Road. Martin Place is a cul-de-sac extending from Martin Road that provides access to seven lots. The lots are large sized lots, typically one acre or more in size, and located in a subdivision called Colony Estates. The subdivision is zoned R-2, Limited Suburban Residential District and is regulated under this provision of the zoning district.</p> <p>The site contains a single-family residential house on Martin Place. The site is slightly wooded to the rear and is surrounded by properties that contain privacy fences, including the properties located to the south and west of the site. The applicant is requesting to supplement the existing fences with a six-foot privacy fence along the west property line and a small portion of the southwestern property line. He is also constructing a four-foot privacy fence on the north property line that does not require a variance.</p>
Zoning	R-2, Limited Suburban Residential District
Surrounding Zoning and Uses	<p>The site is surrounded with residential development and includes:</p> <p>North: Zoned R-2, Limited Suburban Residential District with large lot parcels with single-family homes.</p> <p>East: Zoned R-2, Limited Suburban Residential District with large lot parcels with single family homes.</p> <p>South: Zoned R-2, Limited Suburban Residential District with large lot parcels with single-family homes.</p> <p>West: Zoned PUD, Planned Unit Development and is located within the Standley Law Office PUD with a large office building.</p>
Proposal	<p>The applicant is requesting a variance to the fence regulations to allow a six-foot privacy fence along the west and southwest corners of the property. A four-foot privacy fence being erected on the north property line meets the Zoning Code. The fence will be placed along the perimeter of the property which is permitted since the lot exceeds 30,000 square feet.</p> <p>The applicant notes that this request is based on conditions related to surrounding properties. This includes the office use to the west that has an access drive parallel to the rear of the applicant's site. The applicant has stated that this access drive is creating trespassing issues on his property and that, in part, is the reason for the variance request.</p> <p>The basis of the request is issues with neighboring properties ranging from potential zoning violations, unsightly conditions, light trespass and an alleged dilapidated barn (from office use to the west), and</p>

Facts

trespassing issues associated with the access easement to the west of his property.



The applicant has requested enforcement action from the City of Dublin and a response to these issues is enclosed in a letter dated May 15, 2015 (see attached response). The applicant has also requested assistance from the local City of Dublin Police Department specifically regarding the issue of trespassing. The City's Zoning Inspector and Code Enforcement Officers have met with the property owners of the Standley Law Offices to ensure the site meets all landscaping requirements and to inspect the structural integrity and general condition of the existing barn. The site meets the requirements of their landscaping plan and the barn has been found to be structurally sound and does not require repair under the Property Maintenance Code.

Details		Rear Yard 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 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).	
Variance Request	Section 153.080(A) of the City of Dublin Zoning Code requires that fences be limited to four feet in height in residential areas of the City. The applicant is proposing a six-foot privacy fence along the west property line and the southwest corner of the property. The fence would exceed the permitted height by two feet.	

Analysis		Rear Yard Setback
ALL THREE OF THE FOLLOWING STANDARDS MUST BE MET		
(1) <i>Special Conditions</i>	<p>Standard Not Met.</p> <p>The applicant's site does not have an unusual shape or contain significant features that would distinguish the property from other properties in the vicinity or the City of Dublin. The basis of the applicant's request is its adjacency to an office building and undesirable conditions of surrounding properties. There are numerous areas of the City where residential communities transition to office and commercial developments, and instances where property owners have varying preferences in the upkeep and visual appearance of their properties. These conditions are not unique to this property or this portion of the City.</p>	
(2) <i>Applicant Action/Inaction</i>	<p>Standard Not Met.</p> <p>The applicant purchased the property on December 28, 2009, after the approval of the Standley Law Office on September 5, 2006. The conditions associated with this office complex were well established prior to the applicant's ownership of the property and therefore this issue raised by the applicant (incompatibility with a residential use) is condition that resulted from his own actions.</p>	
(3) <i>No Substantial Adverse Effect</i>	<p>Standard Not Met.</p> <p>The Code does not permit six-foot privacy fences in residential areas, although rare exceptions have been made in residential PUDs and for specialized uses, such as day care or specialized medical facilities. The City has adopted residential fence code regulations to allow unimpeded views to the extent possible. Granting a variance to the height restrictions would be in conflict with this regulation and would have</p>	

Disapproval

Based on Planning's analysis the requested variance does not meet the required non-use (area) variance standards, therefore disapproval of the variance is recommended.

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.*