

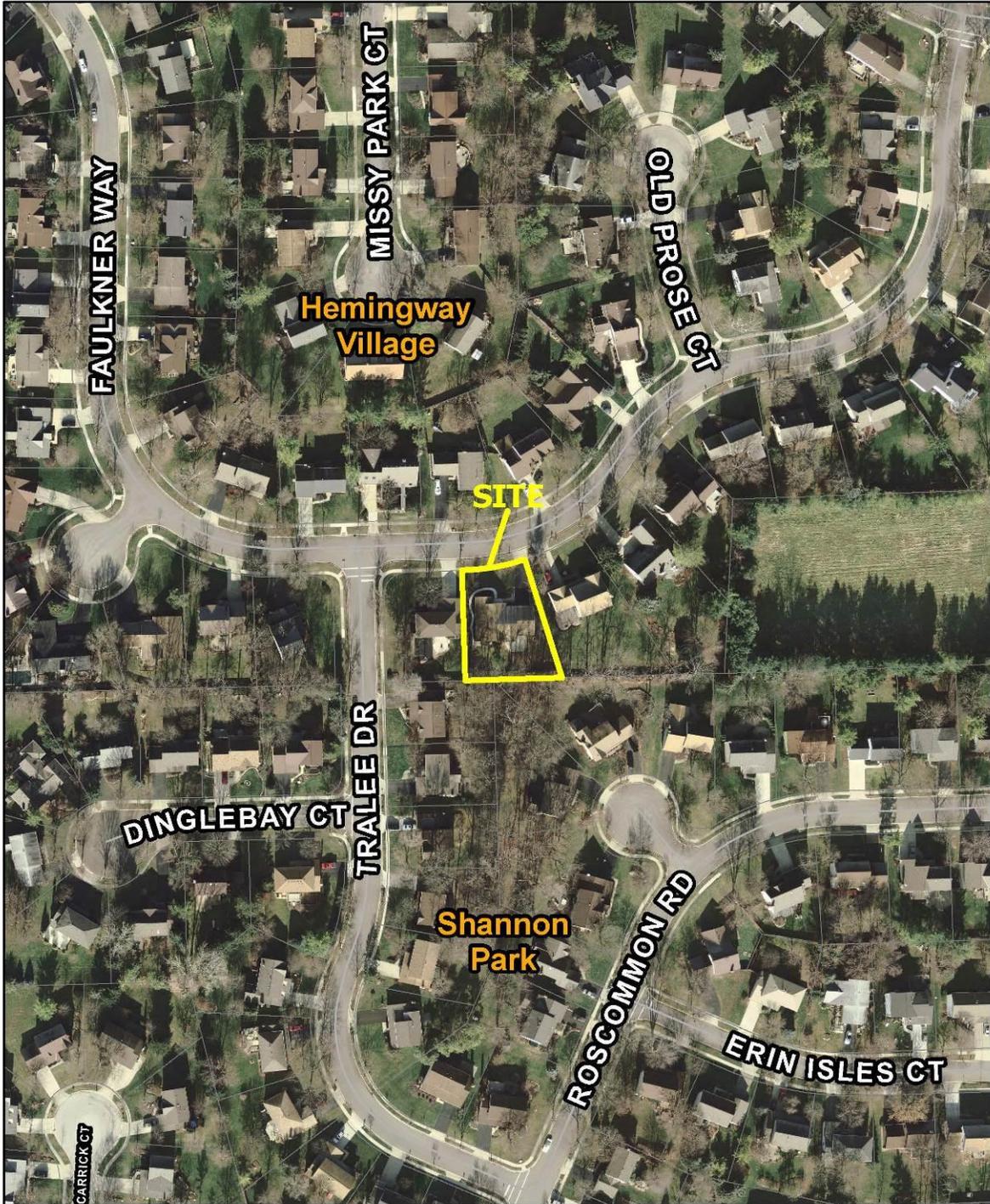
Planning Report

Thursday, July 23, 2015

Reynolds Residence – 7024 Fitzgerald Road

Case Summary

Agenda Number	1
Case Number	15-063V
Location	7024 Fitzgerald Road South side of Fitzgerald Road approximately 100 east of Tralee Road.
Proposal	To construct a fence that is located 27 feet within the rear yard setback.
Request	Non-use (area) variance to Section 153.080(B)(1)(a) to permit a fence that is located 27 feet within the rear yard setback. Requires review and approval by the Board of Zoning Appeals based on the review criteria of Zoning Code Section 153.231.
Applicants	Richard and Rhonda Reynolds, Property Owners.
Planners	Tammy Noble, Senior Planner.
Planning Contact	(614) 410-4649 or tnoble@dublin.oh.us
Planning Recommendation	Approval Based on Planning’s analysis, the request meets the review criteria for a non-use (area) variance and approval is recommended.



 <p>City of Dublin</p>	<p>15-063V Variance Reynolds Property Setback Variance 7024 Fitzgerald Road</p>	<p>0 75 150 Feet</p> 
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Facts	
Site Description	The site is 0.25 acres in size and is located within the Hemingway Village subdivision. The site is a regularly shaped lot that contains a single-family, residential house. Until recently, the site contains a solid wood privacy fence that was located within the required side and rear yard setback. The site also contains mature vegetation and underground utilities to the rear of the property.
Zoning	R-4, Suburban Residential District.
Surrounding Zoning and Uses	To the north, east and west is zoned R-4, Suburban Residential District and contains single-family, residential homes. To the south is zoned PUD, Planned Unit Development and located in the Shannon Village PUD and contains single-family, residential homes.
Proposal	<p>The applicant is proposing to replace a recently removed fence with a four-foot tall, wrought iron fence along the east and south property lines. The proposed fence will connect with the west neighboring property fence.</p> <p>Section 153.083(C) allows the fence to in the same location as it was when removed (see below) which is eight feet from the rear property line. As the removed fence was being replaced the contractor discovered underground utilities. As a result, the applicants are requesting to replace the fence along the south property line which will encroach in the rear yard setback by 27 feet.</p> <p>(Insert Map)</p>

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(B)(1)(a) of the City of Dublin Zoning Code requires that that open or partially open fences be located within the buildable area of a property unless the fence is constructed before 1998. If the latter applies, the fence can be replaced in the same location. In this instance,

Details	Rear Yard Setback
	<p>the fence was constructed on the east property line, with zero setback, and eight feet from the rear property line.</p> <p>Section 153.083(C) states that “in all residential districts fences erected prior to the effective date of Ordinance 75-98 shall not be considered non-conforming structures and shall be permitted to be replaced in the same location and the same or lesser height as existed on the effective date of Ordinance 75-98.”</p> <p>The applicant attempted to replace the fence in the same location as the previous fence but encountered underground utilities. The applicant is now requesting to place a new fence on the east and south property lines. Since the location of the south portion of the fence is changing a variance is required.</p> <p>A new south portion of the fence would be required to be placed in the buildable area of the lot. This lot has a required 27-foot rear yard. If approved, this variance would grant the applicant the ability to construct the fence on the rear lot line, which equals a 27-foot variance.</p> <p>The east property line fence is covered by Section 153.083(C) and can be rebuilt on the lot line.</p>

Analysis	Rear Yard Setback
<i>ALL THREE OF THE FOLLOWING STANDARDS MUST BE MET</i>	
(1) <i>Special Conditions</i>	<p>Standard Met. The rear property contains mature vegetation and underground utilities that prevent the fence from being constructed in the same location as previously constructed. Constructing the fence in the buildable area would severely restrict the available rear yard within the fence line. A location between the previous fence and the rear property line (for a lesser variance) is restricted by the presence of mature trees.</p>
(2) <i>Applicant Action/Inaction</i>	<p>Standard Met. The conditions of the site were created prior to the applicants owning the property and therefore are not related to action, or inaction, of the applicants. The utility line locations were installed with the development.</p>

Analysis	Rear Yard Setback
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<p>(3) <i>No Substantial Adverse Effect</i></p>	<p>Standard Met. Many of the adjacent properties have fences that are constructed on the perimeter of the properties. The applicants’ fence will be of similar height and location of these surrounding properties and therefore will not have any adverse effects on the surrounding community.</p>
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<i>AT LEAST TWO OF THE FOLLOWING FOUR STANDARDS MUST BE MET</i>
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<p>(1) <i>Special Privileges</i></p>	<p>The following standards have been reviewed with the finding that three standards have been met.</p> <p>Standard Met. All properties that have fences constructed prior to 1998 are permitted to replace the fence in the same location. In this instance the property owners attempted to construct the fence in this permitted location but encountered underground utilities. Allowing the property owners to move the fence eight feet to the rear property line allows them to avoid the utilities and mature vegetation and will not confer special privileges to the applicant.</p>
<p>(2) <i>Recurrent in Nature</i></p>	<p>Standard Met. This request is unique to any application made to the Board of Zoning of Appeals and is not recurrent in nature.</p>
<p>(3) <i>Delivery of Governmental Services</i></p>	<p>Standard Met. The request will not effect the delivery of governmental services.</p>
<p>(4) <i>Other Method Available</i></p>	<p>Standard Not Met. Although limited, the applicants could construct the fence in the buildable area of the property however the fence would be approximately fifteen feet from the exterior of the building and create an inefficient and dissected usable space.</p>

Recommendation	Approval
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<p>Approval</p>	<p>Based on Planning’s analysis the requested variance meets the required non-use (area) variance standards, therefore approval of the variance is recommended.</p>
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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.*