



PLANNING REPORT

Board of Zoning Appeals

Thursday, February 22, 2024

COOK RESIDENCE 24-018V

<https://dublinohiousa.gov/bza/24-018>

Case Summary

Address	8246 Timble Falls Dr, Dublin, OH 43016
Proposal	Variance to Zoning Code Section 153.074(C)(4)(c) to allow a swimming pool barrier to exceed the maximum 10-foot buffer from the edge of the pool.
Request	Request for review and approval of a Non-Use (Area) Variance under the provisions of Zoning Code Section 153.231(H).
Zoning	PUD, Planned Unit Development District - Riviera
Planning Recommendation	<u>Disapproval of the Non-Use (Area) Variance.</u>
Next Steps	The Board of Zoning Appeals (BZA) is the final reviewing body for this application. If approved by the BZA, the applicant may proceed to Building Standards for a revised site permit.
Applicant	Tyler Cook, Property owner
Case Manager	Zach Hounshell, Planner II (614) 410-4652 zhounshell@dublin.oh.us

Site Location Map

24-018V | Cook Residence



- Site Features**
- 1 Riviera Reserve to rear of property
 - 2 No natural features or significant grade on site



1. Background

Background

The 0.38-acre site is zoned PUD, Planned Unit Development District, Riviera and is located approximately 150 feet southeast of the intersection of Timble Falls Drive and Corna Court. The site is home to a single-family residence setback approximately 30 feet from the right of way. The site abuts the Riviera Reserve D1 to the east (rear), with single-family lots to the north and south.

Natural Features

The site is relatively flat with no natural features located on the site. A row of evergreen trees are planted along the southeast corner of the site. The property abuts a reserve to the east.

Lot Layout

The site has a lot depth of approximately 140 feet and a lot width of 76 feet at the front property line, making it one of the larger properties on the east side of Timble Falls Drive, but smaller than the lots on Oddi Place to the south. The lot gets wider as it approaches the rear of the lot. The home is positioned towards the west (front) property line, with a recently approved and currently constructed attached screened porch northeast of the home. The site most recently received permit approval for a new patio and swimming pool, which meets the 25-foot rear yard setback requirement for the site. The edge of the at-grade patio is approximately 20 feet from the rear property line, and the pool is 25 feet from the property line.

2. Proposal

The applicant is requesting a Non-Use (Area) Variance for the following code section:

Variance #	Code Section	Requirement	Request
#1	153.074(C)(4)(c) – Swimming Pool Barriers	Swimming pool barriers may be located within a required setback area, provided that the barrier is located at least 10 feet from any other fence on the property or not farther than 10 feet from the edge of the pool.	To allow a swimming pool barrier to exceed the maximum 10-foot buffer from the edge of the pool within the rear yard setback.

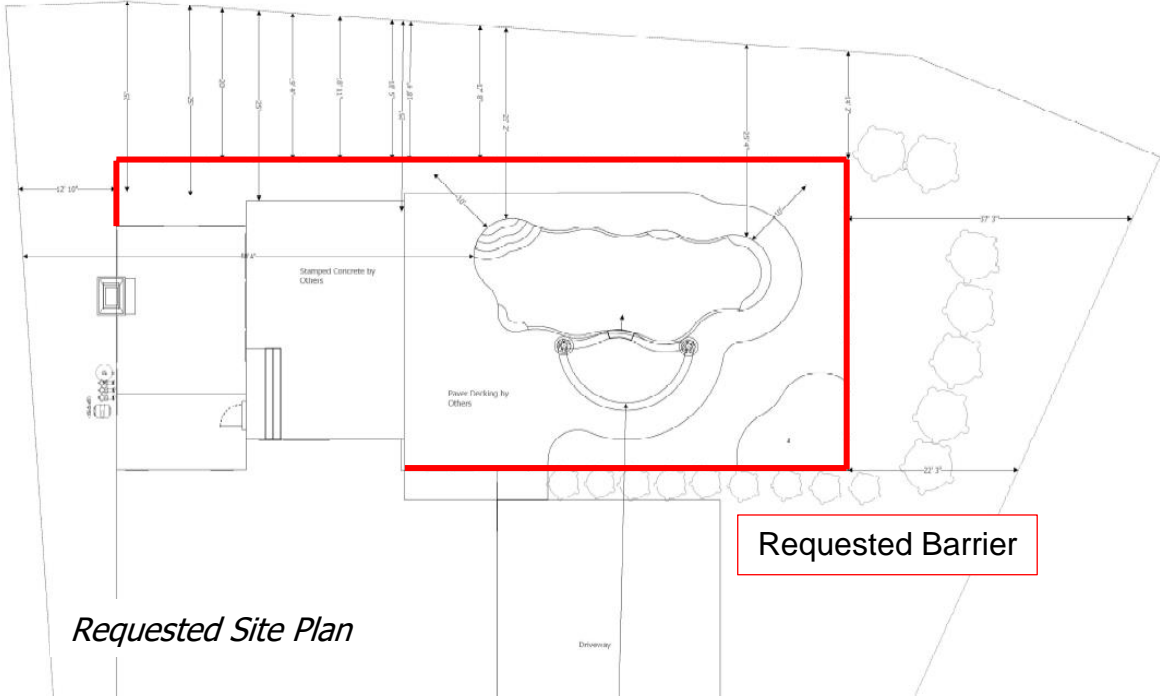
A swimming pool barrier is required by the Zoning Code with the construction of every swimming pool as a safety measure. Per the Zoning Code, swimming pool barriers are reviewed differently than regular fences. These barriers are permitted to encroach within a required rear yard setback, as long as the barrier is within 10 feet of the edge of the pool. Once a barrier is outside the 10-foot buffer, the barrier is required to meet all zoning setback requirements for the site.

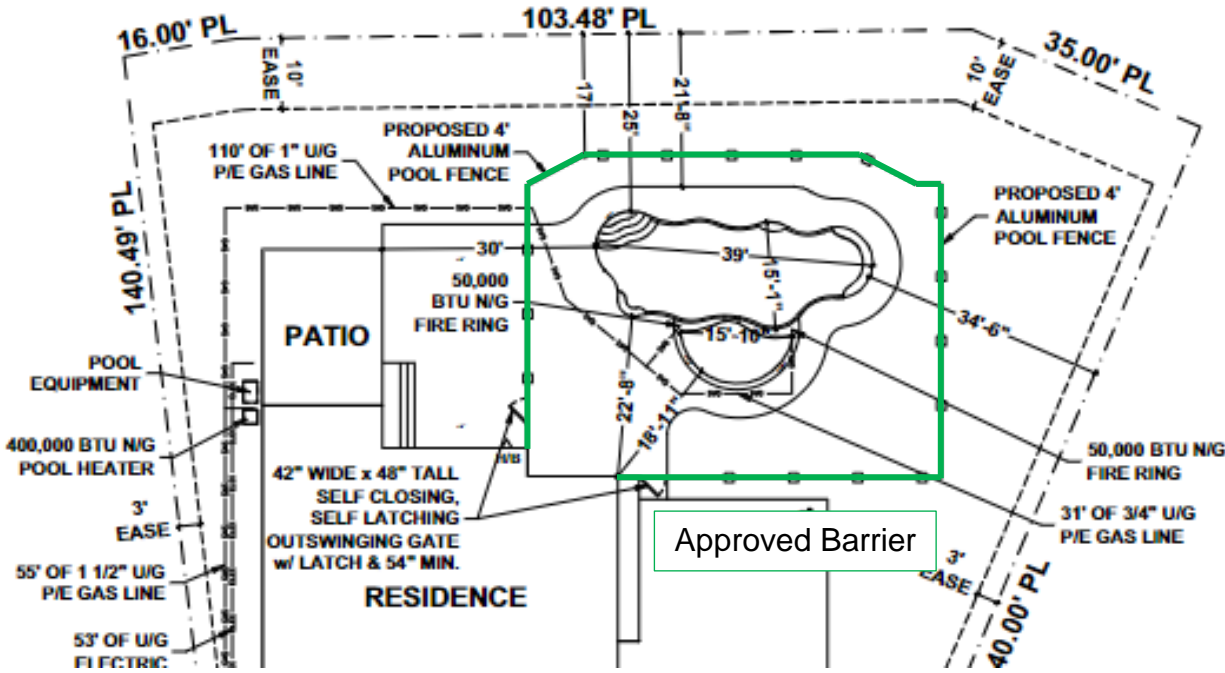
The site will feature a new patio to accompany the swimming pool, which extends as close as 20 feet from the rear property line. This is permitted by the Code, as at-grade patios are permitted to encroach up to 5 feet into the rear yard setback. The patio then extends north between the approved screened porch and the swimming pool. Enclosing the entirety of the patio area with the barrier would bring the barrier outside the 10-foot buffer zone of the pool,

and require the fence to meet the setback. The Variance request would permit the barrier to extend beyond the 10-foot buffer, up to as little as 11 feet from the rear property line, to enclose the whole patio area.

In November 2023, the property owner received an approved building permit for the construction of a swimming pool and patio addition. Included in the approval was a 4-foot tall aluminum swimming pool barrier which met the requirements of the zoning code. The approved site plan has been provided for reference. Staff worked with the applicant extensively to outline the requirements for the pool, patio, and pool barrier fence to meet the requirements of the Code, prior to the submission of the building permits for approval.

3. Site Plan





Approved Building Permit Site Plan (November 2023)

4. Plan Review

Zoning Code Section 153.231(H)(2) 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, and that the findings required in Zoning Code Section 153.231(H) have been satisfied.

Criteria A | Non-Use (Area) Variance Analysis - Section 153.231(H)(2)(a)

All three criteria are required to be met:

Criteria	Review
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.	Criteria Not Met. The site is relatively flat with minimal natural features to impact the location of the pool barrier. The size of the site is comparable with adjacent properties, with no conditions that are considered special to this specific site.

Criteria	Review
2. That the variance is not necessitated because of any action or inaction of the applicant.	Criteria Not Met. The Variance is being requested following an approved site permit which provided a barrier location that met the requirements of the Code. The Variance request also follows the approval of a screened porch and patio/swimming pool, which were initiated by the applicant.
3. Granting the variance will not cause a substantial adverse effect to the property or improvements in the vicinity or will not materially impair the intent and purposes of the requirement being varied.	Criteria Not Met. The intent of the swimming pool barrier buffer requirement is to eliminate the opportunity to take advantage of extending a pool barrier into a perimeter yard fence, as the requirement is intended as a safety measure. The request would be extending the buffer zone to apply to the entirety of the patio and swimming pool area, rather than just the swimming pool area as intended by Code. This would not align with the intent of the requirement.

Criteria B | Non-Use (Area) Variance Analysis - Section 153.231(H)(2)(b)

At least two of the following criteria are required to be met:

Criteria	Review
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.	Criteria Not Met. Granting the variance would provide special privileges to the property owner, as the entirety of the barrier would operate as a rear yard fence exceeding the rear yard setback, rather than a swimming pool barrier as required by Code for swimming pools.
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.	Criteria Met. Variance requests to the swimming pool barrier requirements are not recurrent in nature.
3. The variance would not adversely affect the delivery of governmental services.	Criteria Met. The request will not impact the delivery of governmental services.

Criteria	Review
4. The practical difficulty could not be eliminated by some other method, even if the solution is less convenient or most costly to achieve.	Criteria Not Met. The applicant has already received building permit approval for a swimming pool barrier that meets the requirements of the Zoning Code.

5. Recommendation

Planning Staff recommends **Disapproval** of the Non-Use (Area) Variance to Zoning Code Section 153.074(C)(4)(c) to allow a swimming pool barrier to exceed the maximum 10-foot buffer from the edge of the pool within the rear yard setback.