



## PLANNING REPORT

# Board of Zoning Appeals

Thursday, March 28, 2024

## DANIELS RESIDENCE 24-037V

<https://dublinohiousa.gov/bza/24-037>

### Case Summary

Address	8431 Trails End Dr, Dublin, OH 43016
Proposal	A Variance to Zoning Code Sections 153.080(A) and 153.080(B)(2) to allow a solid fence to be 10 feet in height and located in the side yard.
Request	Request for review and approval of a Non-Use (Area) Variance under the provisions of Zoning Code Section 153.231(H).
Zoning	R-1, Restricted Suburban Residential District
Planning Recommendation	<u>Disapproval of the Non-Use (Area) Variances.</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 permitting for the fence.
Applicant	Robert Daniels, Property Owner
Case Manager	Daniel Klein, Planning Assistant (614) 410-4696 <a href="mailto:dklein@dublin.oh.us">dklein@dublin.oh.us</a>

Site Location Map

24-037V | Daniels Residence



- Site Features**
- 1 Existing residence
  - 2 Existing detached structure



# 1. Background

## Background

The 1.28-acre site is zoned R-1, Restricted Suburban Residential District, and is located at the northwest end of Trails End Drive. The site has frontage along Liberty Township to the north and the Wedgewood Glen neighborhood to the west. The site abuts single-family lots to the north and west, and another large single-family lot to the south.

## Site Information

### Lot Layout

The lot is rectangular in shape with an indented northeast corner. The site contains a single-family residential structure setback approximately 115 feet from the right of way. The site also contains a detached garage that is 12 feet northwest of the residence, connected to the residence by an asphalt drive. The site also contains a utility pole, septic tank, and leach field to the rear of the property.

### Natural Features

There is a significant amount of mature vegetation throughout the site. There is approximately 20 feet of mature vegetation between the proposed fence and the property line. The west half of the property is entirely mature vegetation with the exception of the leach field. Additionally, there is some varying grade change throughout the site, with properties north of the site elevated approximately 6 feet above the subject site.

## Code Requirements

The following code requirements are applicable to the application. The requirement is stated along with the request from the applicant.

Variance #	Code Section	Requirement	Request
#1	153.080(A)	Fences shall not exceed 4 feet in height.	To allow a fence at a height of 10 feet.
#2	153.080(B)(2)	Solid fences shall be permitted in all zoning districts only in rear yards.	To allow a solid fence to be built within the side yard.

Fence variances are rare and are seldom approved due to the challenges associated with meeting the variance criteria, which are intended for properties where practical difficulties of a site prevent a property owner from conforming to the requirements of the Code. Fence regulations were established in 1998, and were intended for the conservation and protection of property, the assurance of safety and security, the enhancement of privacy, and the improvement of the visual environment. This includes the provision of a neat and orderly appearance consistent with the neighborhood and community character.

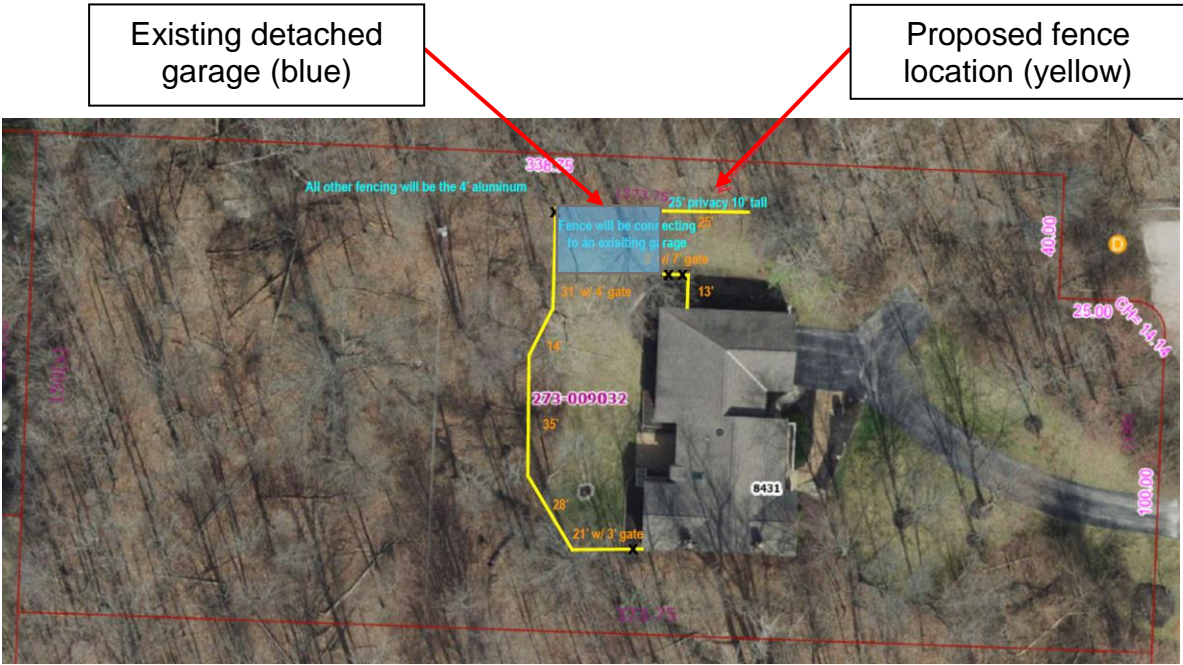
Fences that were installed prior to the fence code being implemented in 1998 are considered existing non-conforming fences. These fences are permitted to remain on a site, but once replaced, are required to meet the current zoning requirements.



### 2. Proposal

The applicant is requesting a Non-Use (Area) Variance to Zoning Code Sections 153.080(A) and 153.080(B)(2) to allow a 10-foot tall solid fence in a side yard. The proposed solid fence is 25 feet wide, and intended as a "wall extension" to provide privacy for the existing asphalt drive and potential future deck and patio. The fence would be flush with the northern wall of the existing detached structure and match the color of the structure. This fence would meet the side yard setback requirement of 8 feet.

### 3. Site Plan and Elevations



### 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.	<b>#1, 2: Criteria Not Met.</b> There are no natural or structural elements present on the site that inhibit the ability or practicality of a code-compliant fence. The basis of the applicant’s request is privacy from neighboring properties, and this basis is not unique to this property or this area of the city. Additionally, the same development standards apply to all properties zoned Restricted Suburban Residential District. Based on these findings, there are no special conditions, circumstances, or practical difficulties on the lot which prevents the applicant from meeting the development standards.
2. That the variance is not necessitated because of any action or inaction of the applicant.	<b>#1, 2: Criteria Not Met.</b> The applicant is requesting the taller fence to screen a future outdoor amenity space on the north side of the house. As the request is based on a future improvement by the applicant, the request for the Variance is necessitated 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.	<b>#1, 2: Criteria Not Met.</b> Although the variance request may not cause a substantial adverse effect to the property of improvements in the vicinity, the request impairs the intent and purposes of the requirement being varied. The purpose of regulated fencing is to ensure a neat and orderly appearance consistent with the neighborhood and community character. This request would deviate from that purpose.

**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	<b>#1, 2: Criteria Not Met.</b> If the variance is approved, the applicant would be receiving special privilege that

Criteria	Review
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.	would allow their fence to be over twice the maximum height requirement and within the side yard. There are other possibilities for achieving privacy that are possible, practical, and code-compliant.
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.	<b>#1, 2: Criteria Met:</b> The request is not recurrent in nature to warrant a Code update to allow fences of this height and placement. The vast majority of properties zoned Restricted Suburban Residential District have fences that conform. There are no recent requests for a 10-foot solid fence that does not conform to multiple code requirements.
3. The variance would not adversely affect the delivery of governmental services.	<b>#1, 2: Criteria Met:</b> The proposed location of the fence would not affect the delivery of governmental services.
4. The practical difficulty could not be eliminated by some other method, even if the solution is less convenient or most costly to achieve.	<b>#1, 2: Criteria Not Met:</b> The applicant is able to construct a four-foot privacy fence that would buffer most of the visual impacts from the surrounding properties. There are other options for achieving privacy that meet all development standards.

**5. Recommendation**

**Planning Recommendation: #1 (Fence Height)**  
 Planning Staff recommends **Disapproval** of the Non-Use (Area) Variance to Zoning Code Section 153.080(A) to allow a fence to exceed four feet in height.

**Planning Recommendation: #2 (Fence Location)**  
 Planning Staff recommends **Disapproval** of the Non-Use (Area) Variance to Zoning Code Section 153.080(B)(2) to allow a solid fence to be built within a side yard.