

# PLANNING REPORT

## Board of Zoning Appeals

Thursday, September 26, 2024

### Conrad Residence – Pool 24-015V

<https://dublinohiousa.gov/bza/24-015>

#### Case Summary

Address	7618 Mill Springs Dr.
Proposal	Request for a Variance to allow a pool, patio, fence, and accessory structure to encroach into the rear yard setback.
Request	Request for review and approval of a Non-Use (Area) Variance under the provisions of Zoning Code Section 153.231(H).
Zoning	PLR, Planned Low Density Residential District – Bishop’s Crossing.
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 apply for a building permit.
Applicant	Brian Lorenz, WD Partners
Case Manager	Zach Hounshell, Planner II (614) 410-4652 <a href="mailto:zhounshell@dublin.oh.us">zhounshell@dublin.oh.us</a>



#### Community Planning and Development



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Site Location Map



# 24-015V | Conrad Residence – Pool

- ### Site Features
- 1 Path located along southern property line
  - 2 Flat, rectangular lot with minimal natural features



# 1. Background

## Background

The 0.27-acre site is zoned PLR, Planned Low Density Residential District, Bishop's Crossing and is located northeast of the intersection of Mill Springs Drive and Bishop's Crossing Circle. The zoning for Bishop's Crossing was approved in 2000, with the Final Plat for Bishop's Crossing approved by City Council in 2004. This property (7618 Mill Spring Drive) was developed in 2007.

## Case History

In May 2024, the Board of Zoning Appeals (BZA) reviewed this application to reduce the rear yard setback for a swimming pool and associated improvements. The Board found that the site did not have any special conditions that were unique when compared to the surrounding neighborhood. At the applicant's request, the application was tabled to allow the applicant the opportunity to work with Staff and determine an alternate route.

## Update

Since the May BZA hearing, the applicant has updated their Variance Statement with additional supporting information for the setback request, as well as additional information on properties in the vicinity with pools. The Variance request has not been modified since the original hearing date.

## Process

A *Non-Use (Area) Variance* is an application intended for properties where making a strict enforcement of the applicable development standard (ex. Rear yard setback) is unreasonable, and there is evidence of practical difficulty to meet the requirement present on the property. Variance applications should be reviewed on a case-by-case basis and based on the merits of the subject property/structure. This application is reviewed and determined upon by the BZA, which is the final determining body. Criteria is split between 2 different categories: A and B. All criteria of Category A are required to be met, while 2 of the 4 criteria in Category B are required to be met.

Should a Variance be approved, the applicant would be required to submit a building permit prior to construction. Should a Variance be disapproved, the applicant would be required to meet the requirements of the zoning code.

## Site Information

### *Lot Layout*

The site is rectangular, with a lot width of approximately 85 feet along the front and rear property lines. The lot is generally consistent in size and dimension with adjacent properties to the north and south, and throughout the development. The site is not adjacent to any reserve or open space, but is adjacent to a public bike path located within a public access easement along the southern property line. The single-story home is centrally located on the lot, 26 feet from the front property line. An existing patio is located approximately 35 feet from the rear property line, with the house approximately 50 feet from the rear property line. There are minimal natural features on the site.

**Zoning Requirements**

Bishop’s Crossing is regulated by the development requirements of the Bishop’s Crossing Planned Low-Density Residential District. All residential properties within the district are required to meet the following setback requirements:

Front Building Line	25 or 30 feet (varies based on plat)
Minimum Side Yard Setback	6 feet per side / 18 feet total
Minimum Rear Yard Setback	25% of the lot depth (max 50 feet)

The front building line for this property is 25 feet, where immediately adjacent properties are 30 feet. The building line is staggered between 25 feet and 30 feet throughout the development to create variation in the locations of homes on each lot. The rear yard setback for this property is 35 feet, given the depth of the lot is 140 feet. Swimming pools are required to be located at least 10 feet from the residence and enclosed by a pool barrier, and patios are permitted to encroach up to 5 feet into the rear yard setback. The proposed site layout meets the 10-foot separation between the pool and the house but does not meet the rear yard setback.

**2. Proposal**

**Summary**

The applicant is requesting the following Variance for an existing single-family residential dwelling:

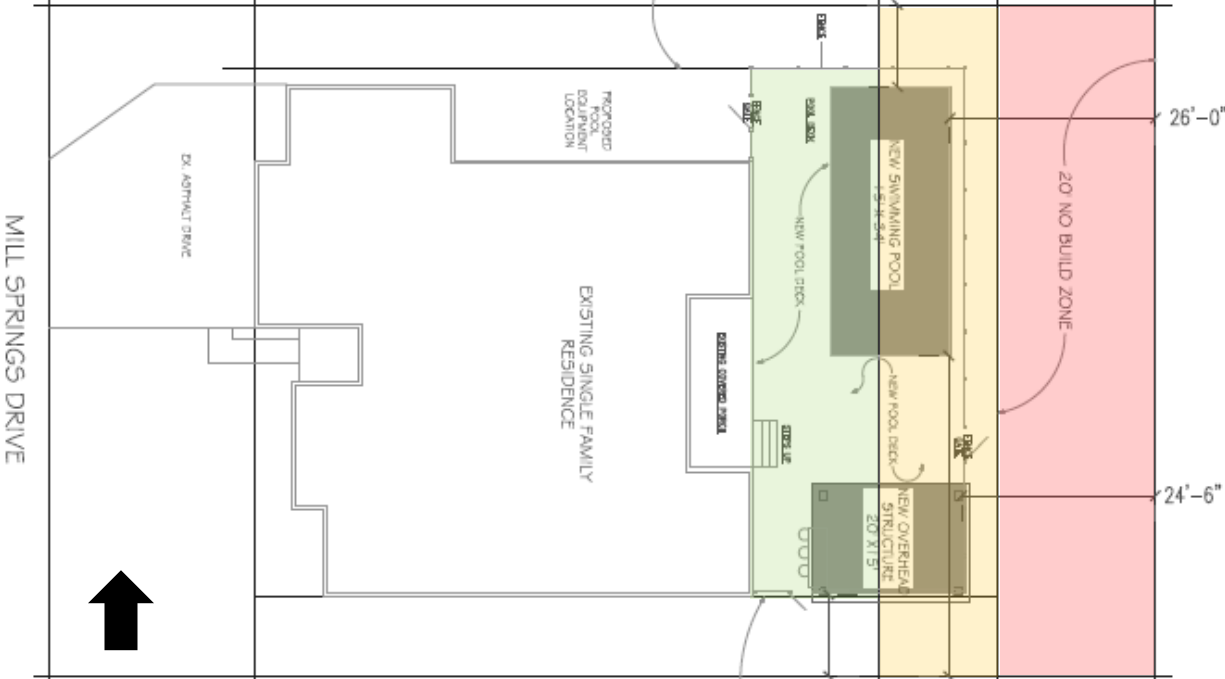
<b>Variance #</b>	<b>Code Section</b>	<b>Requirement</b>	<b>Request</b>
#1	Bishop’s Crossing Development Text Yard and Setback Requirements	Rear yard setback shall be 25% of lot depth or a maximum of 50 feet (35 feet).	To allow a pool, patio, fence, and accessory structure to encroach approximately 10 feet into the rear yard setback (25 feet from rear property line).

This request is for a new approximately 510-square-foot pool, 300-square-foot overhead accessory structure, patio and fence to be constructed approximately 25 feet from the rear property line, whereas 35 feet is required. This is resulting in a variance request for a 10-foot encroachment into the rear yard setback. The proposed improvements would remain outside of a 20-foot no-build zone along the rear property line. This requirement is a platted restriction and is not eligible for a variance request.

The applicant has provided an updated Variance Statement addressing the reasoning for the request. The applicant states that the property is encumbered by several stringent setbacks and easements, making the improvement particularly difficult to achieve. The applicant states that the zoning code does not distinguish between varying lot sizes in the development, as all lots are subject to a 25% rear yard setback requirement regardless of the size. Additionally, the applicant has provided several properties in the vicinity that have pools that have either received a variance or appear to encroach the rear setback. However, within the Bishop Crossing neighborhood, there are no pools that have been constructed.

### 3. Site Plan

The site plan below highlights the permitted buildable area (green), the rear yard setback area (orange), and the 20-foot no-build zone (red). The green box represents the approximately 15 feet from the rear of the home to the setback line. The orange box represents the approximately 15 feet from the setback line to the no-build zone.



**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: Criteria Not Met.</b> The site is rectangular in geometry, and of a similar size to several lots within the development. The depth of the lot (140 feet) is generally consistent with properties to the north and south of the site, and with several rectangular lots within Bishop’s Crossing. The site has a 25-foot front building line setback, which is less than properties to the north and south of the lot (30 feet). Although there is a bike path that is located along the southern property line, this condition does not impact the developable area of the site. Based on these findings, Staff has not found any special conditions that distinguish the lot from other lots in the development.
2. That the variance is not necessitated because of any action or inaction of the applicant.	<b>#1: Criteria Met.</b> The applicant has not created the current conditions of the site, or made the conditions of the site worse.
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: Criteria Not Met.</b> The applicant is requesting to encroach the rear property line setback, which is shared with an adjacent property line. Rear setbacks are intended to allow natural, undisturbed space between houses and properties. Encroaching more into the setback without a special condition applicable to the site would impair the intent of the setback 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	<b>#1: Criteria Not Met.</b> The zoning requirements are consistent throughout the development, and applicable

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.	to lots the same size as this property that are already meeting the requirements. Approval of the variance would confer a special privilege to the applicant, as this condition is consistent throughout the neighborhood.
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: Criteria Met.</b> This request is not recurrent in nature within this neighborhood. No changes to the development text would be necessary
3. The variance would not adversely affect the delivery of governmental services.	<b>#1: Criteria Met.</b> The request will not impact the delivery of governmental services including emergency services, postal delivery or refuse collections.
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: Criteria Met.</b> Given the limitations on the location of swimming pools from houses (10 feet minimum), and the amount of available buildable area to the rear of the home (approximately 15 feet), a swimming pool would not be able to be constructed without a variance. However, the overhead structure could be modified to meet the rear yard setback.

## 5. Recommendation

**Planning Recommendation:** #1 (Rear Yard Setback Encroachment)

Planning Staff recommends **Disapproval** of the Non-Use (Area) Variance to the Bishop’s Crossing Development Text, Yards and Setback Requirements to allow a pool, patio, fence, and accessory structure to encroach approximately 10 feet into the rear yard setback.