

UPDATED 9/8/2024

The Conrad Family, residents at 7618 Mill Springs Drive are seeking approval from the City of Dublin Board of Zoning Appeals to allow the encroachment of a pool and changing structure to enter the rear yard setback by 13'. The property is encumbered by several stringent setbacks as well as no build easements, making the proposed improvement particularly difficult to secure. The Bishop's Run subdivision has a 20' no build zone to the rear as well as 5' utility easement. Another specific issue on Conrad's lot is the 10' bike path easement along the west property line. Along with these limitations, the Dublin Code requires that a pool must be located 10' from any main structure. These factors create a practical difficulty not caused by the property owners. There are several pools in this neighborhood which appear to be placed within the rear yard setback and commentary on these follows, Therefore, it should be assumed that special relief was granted in the past. The Conrad family has received approval from their HOA and this is the minimum necessity requested in order for the project to go forward. The unique physical conditions which justify the variance are based upon the size of the building versus the site constraints placed on the lot. The rear yard setback is based upon 25% of the lot depth which equates to 35'. There are no topographical issues that are creating a hardship. The basis for the proposed variance is like others in this neighborhood has encountered where the zoning codes do not distinguish between various lot sizes. For example, other lots in Bishop's Run having lots depth of 100' would equate to a 25' rear setback. In this instance a variance request on this lot would only be 3'. The varying lot depths of Bishop's Run creates the practical difficulty. The rear setback requirement combined with the no build zone makes it difficult for placement of a pool in any lot within the subdivision. The request is to encroach the rear setback variance is just. It will not create a special advantage to the property owner, nor will it cause any blight, create traffic issues, or alter any utilities or services distributed to the neighborhood. The granting of the proposed variance would not affect the essential character of the area since this is a residential neighborhood with several pools existing that are permitted under the code.

As a follow-up to our previous meeting, the BZA had requested that we provide additional examples of pools where it was questionable as to whether these met the threshold for a variance. After collecting data and investigating several properties, the following locations were reviewed.

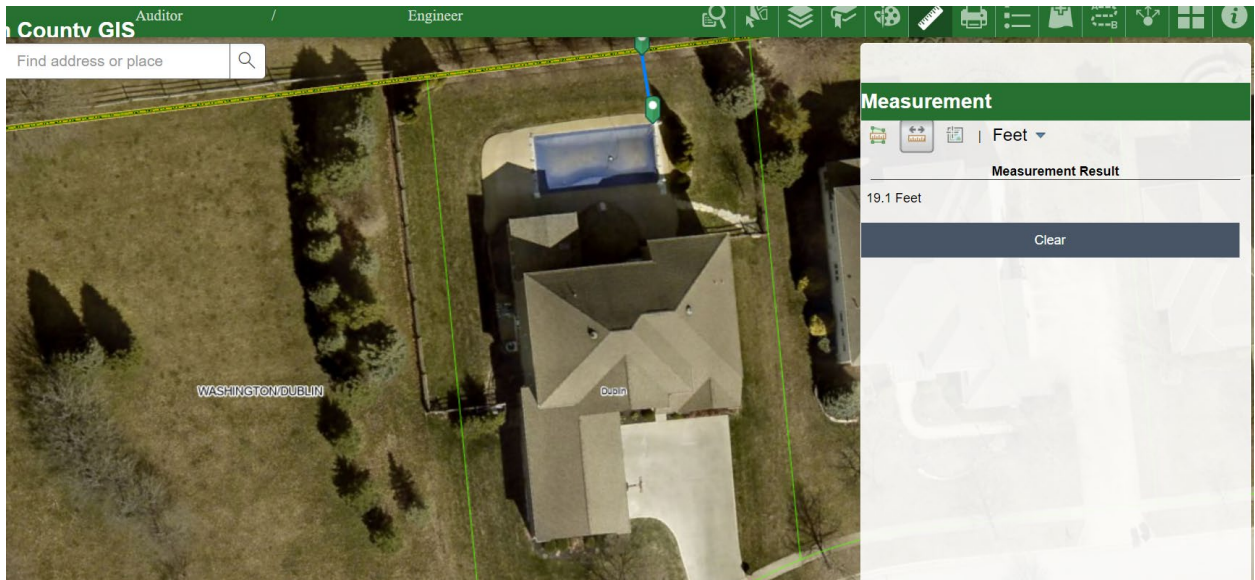
1. 7559 Barrister Drive.

According to Dublin records this site does have a rear yard setback and a lot of less than .25 acres. When questioned as to the siting of the pool and subsequent standards, City Staff acknowledged the pool is following the code, but field verification will be required. Construction of the project appears to be pending.



1. 8038 Sagestone Avenue.

Correspondence was sent to the City of Dublin on June 26, 2024, to verify the parameters of this pool under the address of 8038 Caraway Ave. The city indicated there are no records or request for permits available. Under the Bishop's Run/Bishop's Crossing Plan it is assumed there is a 20' rear no build zone which this pool appears to encroach, providing an unfair advantage over the Conrad proposal. Measuring the distance of the pool edge to the rear property line shows an encroachment of 11". In addition, the pool deck appears to encroach the no build by approximately 2'. While Bishop's Run and Bishop's Crossing are "separate" Subdivisions, they are inclusive under one HOA with uniform design and setback standards.



2. 7099 Old Prose Court. In February of 2021 BZA approved a pool to be separated from the permanent structure by 3' 1". Due to a large rear setback, such as on the Conrad property, it was determined that instead of granting a variance of 2' into a 28' rear setback the homeowner be granted the above referenced variance. This eliminated the need for an area variance. While both lots are unique to one another, and in different parts of the city, they both exhibit an extensive rear yard setback which may not be consistent with most residential lots within the City of Dublin.

After careful consideration of the Conrad Family's request and asking for the minimum necessary while reducing the width of the proposed pool, the applicant would consider a dwelling separation variance as an alternative to the area variance or the encroachment of the rear setback/no build zone. Since BZA has ruled on similar cases prior this presents an opportunity to remedy the practical application of the code while satisfying the fairness condition. It also specifically addresses section 153.231 (H)(2)(a)(2) the "Self-Created Hardship" in variance evaluation criteria.

To better meet the spirit of the code, the proposal has been reduced to a ask for a 10.5' variance. Previous requests totaled up to 13'.

In addition, as mentioned in the previous meeting and in several submissions, there are a number of factors limiting the Conrad family with respect to adhering to the required setbacks, which, like the construction of the dwelling, are not a self-imposed hardship. These include but are not limited to the bike path and subsequent easement on the South property line as well as the mature tree line at the East property line. Finally, the other unique factor is that the Conrad home is a ranch and not a two-story dwelling. I believe it is important to consider this in our deliberations because the square footage is more spread out on the lot footprint.

Due to the manmade environment and number of encumbrances on the property, not initiated by the homeowner, we feel we meet the criteria for a hardship as illustrated in section 153.231 and would appreciate an affirmative decision from the Board. We look

forward to discussing this with the Board later this month. Other factors germane to the Findings of Fact will be discussed at the Board meeting.

*Brian Lorenz*