



PLANNING REPORT

Board of Zoning Appeals

Thursday, November 21, 2024

Coffman Residence - Fence 24-111V

<https://dublinohiousa.gov/bza/24-111/>

Case Summary

Address	7068 Anselmo Court, Dublin, OH 43016
Proposal	Request for a variance to allow a fence to encroach into both the rear and side yard setbacks.
Request	Review and approval of a Non-Use (Area) Variance under the provisions of Zoning Code Section 153.231(H).
Zoning	R-4, 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 apply for a Certificate of Zoning Plan Approval. If disapproved, the applicant would need to meet the development standards.
Applicant	Joetta and Mitchell Coffman, Property Owner
Case Manager	Zach Hounshell, Planner II (614) 410-4652 zhounshell@dublin.oh.us Tammy Noble, Senior Planner (614) 410-4649 tnoble@dublin.oh.us

Community Planning and Development



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Site Location Map

24-111V - Coffman Residence - Fence



Site Features

- 1 Vegetation along rear property line
- 2 Existing patio



1. Background

Site Summary

The 0.26-acre site is zoned R-4, Suburban Residential district and is located just north of the intersection of Scribner Way and Anselmo Court. The site contains a 2,500 square-foot dwelling built in 1985. The property is located in Hemingway Village, Section 2 and listed as lot 115 on the plat.

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 setbacks) 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 receive a Certificate of Zoning Plan Approval prior to construction. Should a Variance be disapproved, the applicant would be required to meet the requirements of the zoning code.

Site Information

The property is largely rectangular in shape with a curved front property line along the cul-de-sac. The property is flat with minimal natural features located on the site. The southern property line is the longest on the lot measuring 146.63 feet, with the lot depth decreasing to 109.52 feet at the northern property line. A 30-foot front building line is provided for all properties in the neighborhood. The 2-story home is located centrally on the property, approximately 36 feet from the rear property line. The home does have an existing patio located to the rear of the home. Mature vegetation was located along the rear property line, however, much of the vegetation has been removed.

Earlier in 2024, the property owner installed an open fence in the rear yard without approval of a Certificate of Zoning Plan Approval, which is required for all fences. Code Enforcement was notified of the fence and engaged the property owner to obtain compliance. The current fence is located within the rear and side yard setbacks, which is not permitted without approval of a Variance.

Zoning Requirements

Hemingway Village is regulated by the R-4, Suburban Residential District. All residential properties within the district are required to meet the following setback requirements:

Front Building Line	30 feet
Minimum Side Yard Setback	5-foot minimum / 15 feet total
Minimum Rear Yard Setback	25.5 feet (20% of the lot depth)

Open fences are permitted in all zoning districts but are required to be no greater than 4 feet in height. These fences may only be located within the buildable area of a lot, which are defined

by the established easements and setbacks on a property. These fences are only permitted to fully enclose the rear yard of a property.

2. Project

Summary

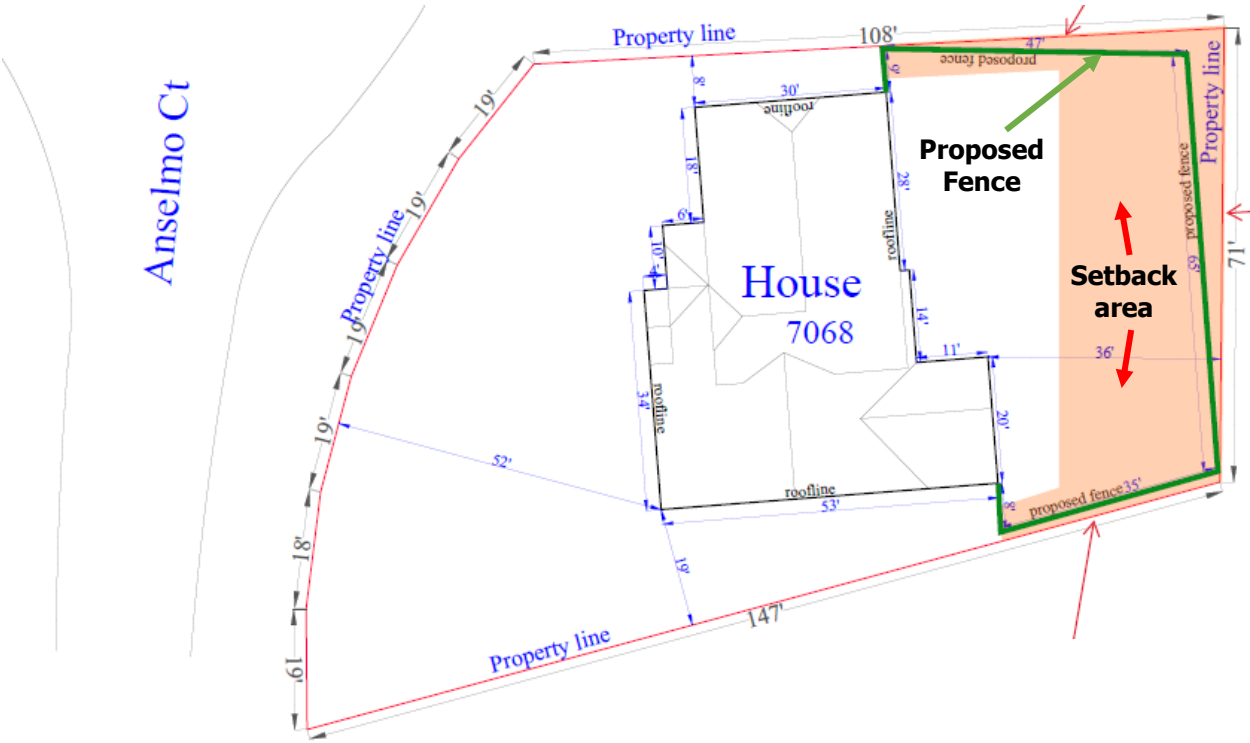
The applicant is requesting 2 Non-Use (Area) Variances from the following code sections:

Variance #	Code Section	Requirement	Request
#1	153.023(C)(3)	For single-family dwellings or associated accessory buildings there shall be a total of side yards of 15 feet or more with a minimum of five feet on one side..	To allow a fence to encroach approximately 5 feet into the side yard setback.
#2	153.080(C)(4)	For main buildings there shall be a rear yard of 20% or more of the lot depth, except that a rear yard of more than 50 feet shall not be required.	To allow a fence to encroach approximately 25 into the rear yard setback.

The applicant is requesting a variance to encroach into both the rear and side yard setbacks. The fence encroaches approximately 25 feet into the rear yard setback, immediately adjacent to the rear property line. The fence also encroaches approximately 5 feet into the northern side yard setback, immediately adjacent to the property line, and approximately 4 feet into the southern side yard setback.

In the applicant statement, the property owner states that the need for the fence is for safety of members of the home, neighboring homes, and dogs in the neighborhood. The applicant also states that the fence at the rear of the lot is a replacement fence. The fence takes the place of vegetation that was removed with the installation of the fence. The topic of whether the rear fence is a replacement fence is not within the purview of this Variance application. The purview of this request is solely for the side and rear yard setback encroachments.

3. Site Plan



4. Plan Review

Non-Use (Area) Variance	
All three criteria are required to be met:	
Criteria A	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.	#1,2 - Criterion Not Met: The property is largely consistent with adjacent properties in the neighborhood. There are no natural features that impact the ability to meet the setback requirements for a fence. The zoning requirements are consistent with adjacent properties in the neighborhood. Based on these findings, there are no special conditions or circumstances peculiar to the property.
2. That the variance is not necessitated because of any action or inaction of the applicant.	#1,2 - Criterion Not Met: The variance request is necessitated by the applicant installing a non-compliant fence within the required setbacks.

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.

#1,2 - Criterion Not Met: The purpose of the fence regulations are to prevent perimeter fences along side and rear property lines that “close off” properties from adjacent properties. It is also intended to create and maintain open corridors of viewsheds unrestricted by buildings or fences. This perimeter fence would impair the intent of the requirements.

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

Criteria B	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.	<p>#1,2 - Criterion Not Met: The approval of the variance would grant a special privilege to the property owner, allowing them to utilize area outside the buildable area, and use a material currently not permitted by the development text. This request has generally been recommended for disapproval in the past with fence variance applications.</p>
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.	<p>#1,2 - Criterion Met: Since the adoption of the Fence Code in 2000, many new residential developments have been approved, which all must adhere to the Fence Code. While there are properties with pre-existing legal “nonconforming” fences along the property lines, a vast majority of properties in Dublin either have no fence or a fence that meets Code. Staff does not consider these requests recurrent in nature.</p>
3. The variance would not adversely affect the delivery of governmental services.	<p>#1,2 - Criterion Met: The request would not impact the delivery of governmental services.</p>
4. The practical difficulty could not be eliminated by some other method, even if the solution is less convenient or most costly to achieve.	<p>#1,2 - Criterion Not Met: The applicant could construct a fence that meets the required setbacks and materials on the site. There are no conditions on the site that would prohibit this route.</p>

Recommendation

Planning Recommendations: #1 (Side Yard Setback)
 Planning Staff recommends **Disapproval** of the Non-Use (Area) Variance to Zoning Code Sections 153.023(C)(3) to allow a fence to encroach approximately 5 feet into the side yard setback.

Planning Recommendations: #2 (Rear Yard Setback)

Planning Staff recommends **Disapproval** of the Non-Use (Area) Variance to Zoning Code Sections 153.023(C)(4) to allow a fence to encroach approximately 25 feet into the rear yard setback.