

Questions for Applicant

Ms. Dalesandro expressed difficulty understanding how Criteria A.2 (variance not necessitated by applicant action/inaction) could ever be met given that the client installed the pergola prior to obtaining permits or a variance. She also asked about the 2021 staff report, confirming it had recommended disapproval overall despite meeting one criterion.

Public Comment

Ms. Noble stated that a petition was included in the Board's packet materials.

Board Discussion

Mr. Linville noted that while he understood the bad advice from the contractor and lack of intent to be non-compliant, intent was not one of the criteria - it was simply whether it was built with a permit or not. He also pointed out that the drawings stamped "requires HOA and City approval" clearly indicated both were needed, not just HOA. He could not see how they could get around the Criteria A.2 requirement. He also was not convinced there were special conditions for the lot, as it seemed they were in the same situation as all their neighbors with no terrain features causing the pergola placement.

Ms. Tyznik agreed that based on current rules and information, they were not in compliance and it did not seem justified to approve the variance.

Mr. Murphy expressed sympathy for the situation, acknowledging it was unfortunate that assurances from the HOA and contractor had not proven accurate. He noted that board members were volunteers and many were homeowners who could sympathize, but they were bound by the code. He offered the option to table the matter for further discussions with the City, but after checking with the applicants' preference, proceeded to a vote.

Ms. Dalesandro moved, Ms. Tyznik seconded approval of Case #25-103V.
Vote: Mr. Murphy, no; Mr. Linville, no; Ms. Tyznik, no; Ms. Dalesandro, no.
[Motion failed 0-4.]

Case #25-104V

Graham Residence

Non-Use (Area) Variance

Request for review and approval of a Non-Use (Area) Variance to allow retaining walls and a shed to encroach into a rear yard setback. The 0.52-acre site is zoned PUD, Planned Unit Development, AmberleighR-1, Restricted Suburban Residential District and is located at 4789 Carrigan Ridge Drive.

Staff Presentation

Ms. Noble presented

Board Questions

Ms. Noble presented the staff report, explaining this case dealt with a shed and retaining walls associated with construction that encroached into the setback. She noted the site was large, at

almost half an acre, located on a cul-de-sac with a slightly awkward shape based on frontage. The site backed up to Amberley Park with the Scioto River just east, which dictated some contour changes on the site.

Ms. Noble showed existing photos highlighting the slope of the property to the rear. She explained that along the north and west of the property was a no-build zone they were not encroaching into. The activity in question involved a legal patio that did not extend beyond the setback, but the proposed shed did encroach into the setback, as did associated retaining walls. She noted the house was located in the central portion of the site with all construction activity occurring to the rear.

Using a contour map with 1-foot intervals (later corrected to 2-foot intervals), Ms. Noble showed approximately a 24-foot descent from the beginning to the eastern end of the property. She stated staff believed the site was typical of a suburban lot with ample space in the rear for outdoor space, though noting the contour changes were not being equated to the proposed construction.

Regarding the variance criteria, staff determined that while the request had not been constructed yet, the applicants had worked with their design team to place elements where located. Staff concluded that granting the variance for preferred design elements would provide substantial remedies for applicants but would impair the intent of the code. Staff recommended disapproval, finding that none of the three Criteria A had been met, though acknowledging two of the four Criteria B had been met regarding special privileges and other methods available.

During initial questions, confusion arose about whether the retaining walls required a variance. Ms. Noble initially indicated there had been discussions about whether retaining walls with functionality would require setback compliance, but ultimately concluded they should be included in the application as structures under the code definition. Mr. Severyn clarified the board should vote in the shed and retaining walls separately for clarity.

Applicant Presentation

Tyler Graham, 4789 Kerrigan Ridge Court, Dublin, began by addressing the criteria, focusing on the special conditions of their land - the extremely steep topography and angle of the house. He explained that while 0.52 acres seemed like substantial land, most of the back was unusable due to the grade down to the river. The angle of their house meant much of their usable backyard space was behind their neighbor's house, which they were trying to avoid to maintain aesthetics and neighbor relations.

Mr. Graham explained they had hired a reputable company to design something that would not be obtrusive given the topography. They had HOA approval and an email approval from their only neighbor who could see their backyard, who were excited about the project. He emphasized that placing the shed in a compliant location would make it visible from both the street and their neighbor's property.

Jeff Houseler, Hidden Creek Landscaping, 3940 Scioto Darby Creek Road, Hilliard, clarified that the retaining walls were designed to create usable flat space from the currently steep grade. The existing stairs were described as "atrocious" with a foot gap from rocks to steps that they didn't let

their daughters use. The design would replace these with new stairs, reducing them from 8-9 steps to just 3 steps off the back deck due to the grade being raised by the retaining walls.

Board Questions

Mr. Linville asked about the purpose of the shed. Mr. Graham explained he had two young kids and needed storage for outdoor toys, cars, and equipment. He noted that until his daughters were about 3½ years old, they could not even walk in the backyard without falling due to the steep grade. They wanted outdoor space with protection from elements and wildlife (mentioning skunks that had cozied up to their foundation).

Board members asked about dimensions and alternatives. The shed was 20 feet by 16 feet. When asked about placing it to the north in the 15-foot no-build zone area, the designer explained that area had significantly steeper grade and would require removing mature trees, whereas the current location was in an already cleared area. The shed's foundation would tie into the retaining wall system, with the front portion of the shed closest to the house acting as part of the retaining structure along with the Unilock engineered stone retaining walls.

Regarding drainage, Mr. Graham explained the retaining wall placement was purposeful to ensure proper water drainage without dumping onto the neighbor's yard. There would still be a slope beyond the retaining walls for proper water management.

Public Comment

There was no public comment.

Board Discussion

During board discussion, members expressed different views on the bifurcated elements. Ms. Dalesandro indicated she could find criteria met for the retaining wall and patio due to the topography but struggled with the shed location given other usable space existed, even if not aesthetically ideal. Chair Murphy agreed, noting the steep decline and usability issues for children justified considering a variance for the retaining walls, but was not convinced the shed location was necessitated versus being a structural choice.

Mr. Graham asked the board to indicate where they believed the shed could feasibly be placed. Mr. Linville suggested farther to the west but understood it would involve more cost and materials or be too close to the existing porch. Ms. Dalesandro asked about south of the planned patio, acknowledging it would be more visible from the street and closer to the neighbor's house but feasibly possible. The designer noted this would require removing trees along the existing tree line in that area.

When Ms. Tyznik asked if a smaller shed might fit within the allowed space, dimensions were confirmed as 20 by 16 feet for storing lawnmower, power tools, and equipment needed to maintain the wooded property.

Mr. Severyn then read Section 8 of the Board of Zoning Appeals rules regarding tabling or withdrawing cases, explaining that applicants could request tabling verbally at the meeting and might do so after hearing board feedback to make minor changes or submit additional evidence.

He also read code section 153.231(e)(5) stating no disapproved application could be resubmitted for one year except with new significant facts that might result in favorable action.

After discussion about the December 18th meeting date (which Mr. Graham would miss due to travel but could have Jeff Houseler attend), submission deadlines (15 days before the meeting, so December 3rd), and the option to proceed without being physically present, Mr. Graham requested the board table the application.

Ms. Tyznik moved, Ms. Dalesandro seconded to table Case #25-104V.

Vote: Ms. Dalesandro, yes; Mr. Linville, yes; Mr. Murphy, yes; Ms. Tyznik, yes.

[Motion carried 4-0.]

COMMUNICATIONS

Ms. Noble presented potential meeting dates for 2026 to board members for planning purposes, asking them to notify staff of any conflicts. She suggested formally approving the dates at the December meeting in case any changes were needed after coordination with other boards and commissions. Ms. Tyznik indicated she was fine with the proposed dates.

ADJOURNMENT

The meeting was adjourned at 8:33 p.m.

Chair, Board of Zoning Appeals

Deputy Clerk of Council