

Administrative Appeal Narrative

Property: 4967 Galway Dr, Donegal Cliffs Planned Unit Development
Appeal Type: Administrative Appeal — Certificate of Zoning Compliance
Subject: Accessory Structure (Children's Clubhouse / Playhouse)

I. EXISTING SPECIAL CIRCUMSTANCES OR CONDITIONS PECULIAR TO THIS LAND OR STRUCTURE

The subject property contains a legally established accessory structure that was previously approved by the City of Dublin and existed on the lot prior to the current ownership (2016), for more than a decade. The prior owners of the property who received approval from the City of Dublin are Mr. Rick Malir and Mrs. Bonnie Malir.

This prior City approval created a property-specific regulatory condition that does not apply to other lots within the Donegal Cliffs Planned Unit Development that did not receive similar approval. The accessory structure historically functioned as a children's clubhouse/playhouse, was located on the lot in a consistent location, and remained in place for more than a decade without enforcement action.

The current structure occupies the same general location and continues with the same recreational, child-oriented use as the previously approved structure. It does not introduce a new accessory use or alter the lot in a manner inconsistent with its historical, City-approved condition. These circumstances are peculiar to this property due solely to its unique approval history.

II. SPECIAL CONDITIONS ARE NOT THE RESULT OF THE APPLICANT'S ACTIONS OR INACTIONS

The special conditions giving rise to this appeal are not self-created and are not the result of any action or inaction by the current property owners.

The condition exists solely due to:

- The City of Dublin's prior approval of a children's clubhouse/playhouse on this lot; and
- The natural deterioration of that structure over time, necessitating replacement for safety and maintenance purposes.

The replacement structure was undertaken in good faith to maintain an existing, previously approved recreational improvement, not to expand, intensify, or introduce a new accessory use. The applicants did not alter the location, scale, or use of the structure and did not act to circumvent the Donegal Cliffs Development Text.

III. PROPOSED USE WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD

The replacement structure does not alter the essential character of the Donegal Cliffs neighborhood and is not detrimental to adjacent properties or the surrounding area.

The structure:

- Functions exclusively as a children's clubhouse/playhouse;
- Is consistent in scale, appearance, and use with playground-type features commonly found throughout the neighborhood, a few of which are included in Appendix A;
- Does not increase density, height, lot coverage, or impervious surface beyond what previously existed;
- Does not generate traffic, lighting, noise, or activity beyond customary residential use.

The structure is not temporary in nature as contemplated by the Development Text. It replaces a long-standing approved recreational improvement and is not used as a residence or for storage purposes. Its permanence and use are consistent with the historical condition of the lot and surrounding neighborhood.

IV. PROPERTY CANNOT BE REASONABLY USED UNDER THE ADMINISTRATIVE INTERPRETATION APPLIED

The Notice of Violation cites Dublin Code §153.074(B)(1), which requires accessory uses to comply with applicable requirements of the Code or an approved Development Text.

The applicants acknowledge that Section C of the Donegal Cliffs Development Text, adopted pursuant to Dublin Code §153.056, limits newly introduced accessory structures. The issue on appeal is not whether new accessory structures are generally permitted.

Rather, the issue is whether the replacement of a previously approved children's clubhouse/playhouse, continuing the same use and general form, may be treated as a newly prohibited use where neither the Development Text nor the cited Code provision expressly addresses replacement, repair, or continuation of a City approved accessory structure.

The Development Text is silent on this issue. Under Section I (Prevailing Code) of the Development Text, "when the text is silent, the current Dublin Code shall prevail." The administrative decision did not apply this provision and did not identify any Dublin Code standard governing the replacement of a previously approved accessory structure. Instead, the replacement was treated as a per se violation without completion of the required analysis.

V. CONCLUSION

This appeal is submitted with the understanding that the Board of Zoning Appeals is not being asked to amend the Donegal Cliffs Planned Unit Development or to grant an exception, but rather to determine whether the administrative decision was made using the proper requirements and standards of the Dublin Zoning Code, as required by §153.231(F).

Because the Development Text is silent on the replacement of a previously approved children's clubhouse/playhouse, and because the administrative decision failed to apply the Development Text's Prevailing Code provision or identify any applicable Code standard governing such replacement, the decision was not made using the proper requirements and standards of the Code.

Accordingly, the administrative decision should be reversed.