

20-050V – BOGG'S RESIDENCE

Summary

Review and approval of a Non-Use (Area) Variance under the provisions of Zoning Code Section 153.231(H) to allow a variance to the rear-yard setback and the principal structure setback for a proposed swimming pool.

Site Location

North of Albanese Circle, approximately 140 east of the intersection with Tantalus Drive.

Zoning

PUD, Planned Unit Development - Riviera

Property Owner

Phillip Berthel & Debi Boggs

Applicant/Representative

Easy Living Pools

Applicable Land Use Regulations

Zoning Code Section 153.231(H)

Case Manager

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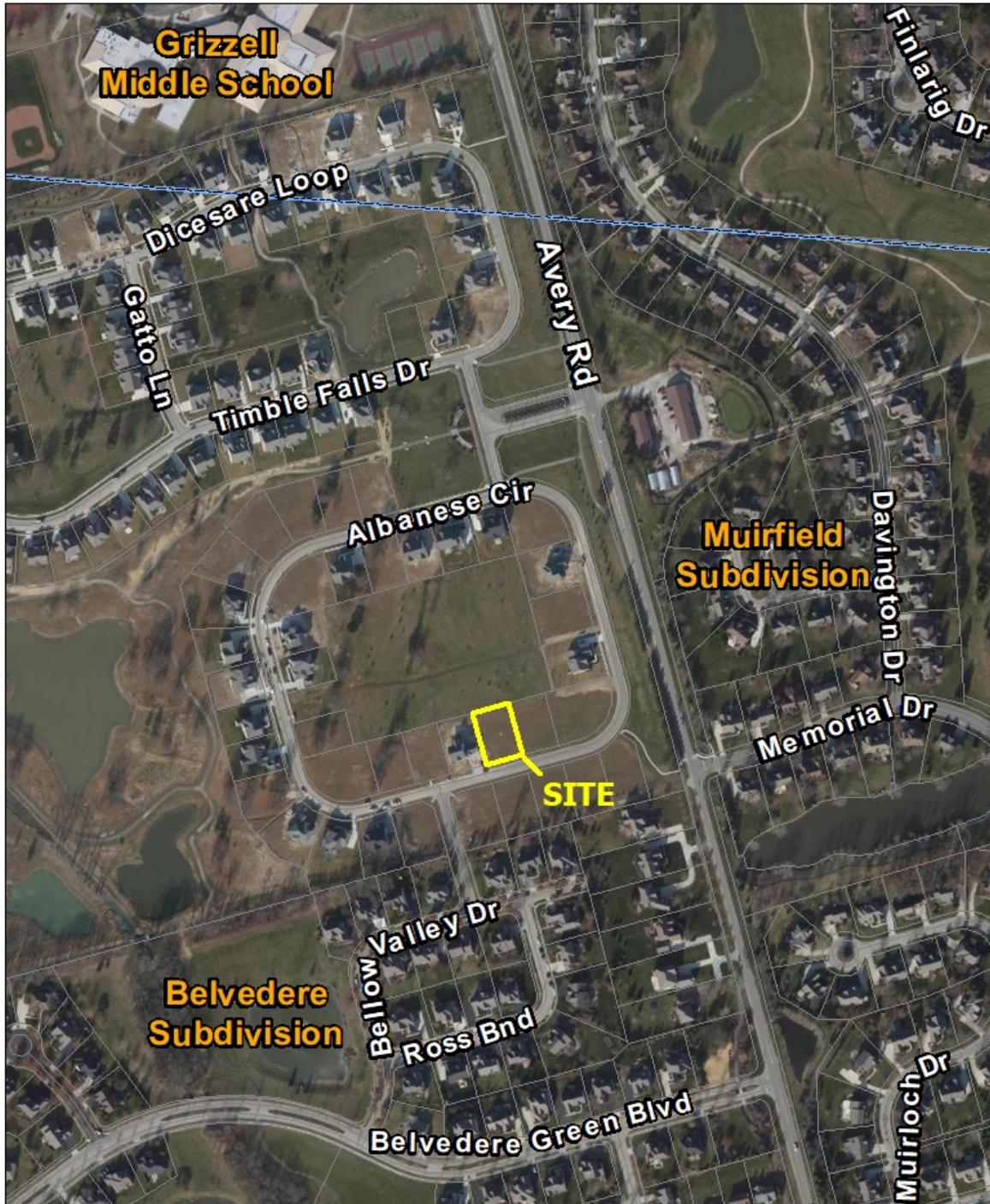
Next Steps

The Board of Zoning Appeals (BZA) is the final reviewing body for this application. Upon approval from the BZA, the applicant may apply for building permits. If denied, the applicant will need to revise the pool location to conform to all setbacks.

Zoning Map



1. Context Map



 <p>City of Dublin</p>	<p>20-050V Non-Use (Area) Variance Bogg's Residence 6386 Albanese Circle</p>	<p>0 155 310 Feet</p> 
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2. Overview

Background

Riviera is a neighborhood located west of Avery Road, north of Belvedere, and south of Grizzell Middle School. The property at 5686 Albanese Court is located on Lot 35 within Section 1 of the Riviera subdivision, which was accepted by City Council in April 2016.

Site Characteristics

Natural Features

The site is adjacent to a 5-acre open space reserve that is to be maintained by the Riviera HOA. The site has no natural features.

Surrounding Land Use and Development Character

North: PUD, Planned Unit Development District Riviera (Reserve/Open Space)

East: PUD, Planned Unit Development District Riviera (Residential)

South: PUD, Planned Unit Development District Riviera (Residential)

West: PUD, Planned Unit Development District Riviera (Residential)

Road, Pedestrian and Bike Network

The site has frontage on Albanese Circle. The site has pedestrian access from a sidewalk along Albanese Circle.

Utilities

The site is serviced by public utilities.

Proposal

The applicant is requesting review and approval of two Variances. Specifically, the applicant is requesting a Variance to Zoning Code Section 153.074(C)(3) to permit a swimming pool to encroach the required 10-foot distance between the principal structure and the edge of the pool by 2 feet, and a Variance to the Riviera Development Text – Section DS-1(IV)(A)(3)(c) to encroach within the required 25-foot rear yard setback by 18 inches. These variance requests are to aid in the development of a swimming pool and surrounding pool deck and patio proposed on a 0.33-acre parcel.

Proposal

The applicant is proposing a new 465-square-foot swimming pool located within a 1,200-square-foot concrete terrace. The water surface of the pool is proposed 23.5 feet from the rear property line, encroaching 1.5 feet (18 inches) into the required 25-foot setback. North of the pool is a 3.5-foot wide concrete pool deck proposed to be 20 feet from the rear property line. Open and uncovered hardscapes are permitted to encroach 5 feet into rear yard setback and this part of the proposal meets Code.

The pool is proposed 8 feet from the principal structure, encroaching 2 feet (24 inches) into the required 10-foot distance between the water surface of the pool and principal structure. The proposal also includes a 4-foot tall pool barrier that encloses the proposed pool and patio space, which also meets Code.

Applicant Statement

The applicant has provided a statement explaining the reasoning for the request. The applicant has stated that the homeowner has considered alternative pool shell designs that may be able to meet setback requirements. However, due to physical health limitations and physical therapy needs, the homeowner requires a pool design with tapered entries and steps/shelves within the water. According to the applicant, this need can only be accommodated by a pool of this size, per the manufacturer and is not available at a smaller size.

The home features a covered porch, which projects from the main part of the house approximately 8 feet. The main portion of the home provides a minimum of 16 feet of distance between the pool. However, the porch is part of the foundation of the house and under the same roof and therefore considered as part of the principal structure.

3. Criteria Analysis

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.

A. Non-Use (Area) Variance Analysis [153.231(H)(2)] **All three of the following criteria must be met:**

1) Special Conditions

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.

Criteria Met. The side-loaded garage located at the southeast corner of the house locates the house farther into the lot, which affects the usable amount of space that the applicants have to the rear of the house. The lot is adjacent to an open space reserve that prohibits development of the rear adjacent site. The proposed pool is requested for physical therapy and alternative designs or sizes are unavailable. The addition of the covered porch to the house creates an additional 8-foot projection from the main part of the house, which is considered part of the principal structure. These conditions result in unique conditions for the site.

2) Applicant Action/Inaction

That the Variance is not necessitated because of any action or inaction of the applicant.

Criteria Met. The residence was constructed by the builder in its current location without leaving adequate area to construct a pool of the proposed size. The applicant chose the pool size based on physical therapy reasons, which followed the construction of the house.

3) No Substantial Adverse Effect

Granting the Variance will not cause a substantial adverse effect to property or improvements in the vicinity or will not materially impair the intent and purposes of the requirement being varied or of this chapter.

Criteria Met. The property is adjacent to a large reserve as part of the Riviera subdivision. The proposed pool will be properly screened from the adjacent neighbors, reducing any adverse effects on the surrounding environment.

B. Non-Use (Area) Variance Analysis [153.231(H)(2)]
At least two of the following four criteria must be met:

1) Special Privileges

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.

Criteria Met. The Board has granted variances for lots with similar conditions based on the design of the site and its proximity to land that is undevelopable, such as open space reserves. Previous cases have been approved to allow accessory structures such as patios and decks to encroach into the rear yard setback. If approved, this action will not offer special privileges to the property owner.

2) Recurrent in Nature

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.

Criteria Met. While the Board has reviewed and approved requests to extend accessory structures/uses into the rear yard setback, the number of requests are not considered recurrent in nature. Each request has had unique circumstances or site constraints that would not warrant an amendment to the zoning regulations.

3) Delivery of Government Services

The variance would not adversely affect the delivery of governmental services (e.g., water, sewer, garbage).

Criteria Met. This request will not affect the delivery of governmental services.

4) Other Method Available

The practical difficulty could be eliminated by some other method, even if the solution is less convenient or most costly to achieve.

Criteria Met. The only method of omitting the need for the Variances would be to choose a different design or size for the pool to work within the required rear yard setback and the principal building setback. Due to the required pool design due to the homeowner's needs and the constraints of the site, a different layout for the pool cannot be achieved without a variance.

4. Recommendation

Planning Staff recommends **approval** of the Non-Use Variance to Zoning Code Section 153.074(C)(3) to encroach 2 feet into the 10-foot required distance between the swimming pool and principal structure with no conditions.

Planning Staff also recommends **approval** of the Non-Use Variance to Riviera Development Text – Section DS-1(IV)(A)(3)(c) to encroach within the required 25-foot rear yard setback by 18 inches with no conditions.