

# CASE 20-101V - EARLINGTON VILLAGE, SUBAREA B1 – SMITH 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 side-yard setback to permit a proposed fence to connect to an existing fence.

## Site Location

West of Caplestone Lane, approximately 325-foot southwest of the intersection with Dublinshire Drive.

## Zoning

PUD, Planned Unit Development

## Property Owner

Aaron Smith

## Applicant/Representative

Aaron Smith

## Applicable Land Use Regulations

Zoning Code Section 153.080 and 153.231(H)

## Case Manager

Zachary C. Hounshell, Planner I  
(614) 410-4652  
[zhounshell@dublin.oh.us](mailto:zhounshell@dublin.oh.us)

## 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 a Certificate of Zoning Plan Approval. If denied, the applicant will need to revise the fence location to conform to all setbacks.

## Zoning Map



## 1. Context Map



 <p>City of Dublin</p>	<p>20-101V Variance Smith Residence 5588 Caplestone Lane</p>	<p>0 75 150 Feet</p>	
---	--	--------------------------	---

## 2. Overview

### Background

The property at 5588 Caplestone Lane is located on Lot 6 within the Woods of Dublinshire neighborhood, which was accepted by City Council in 1992. The Woods of Dublinshire is located within Subarea B1 of the Earlington-Brandon Subdivision.

### Site Characteristics

#### Natural Features

The site is heavily wooded to the north of the home. No other natural features are present on the site.

#### Surrounding Land Use and Development Character

North: PUD, Planned Unit Development District (Dublinshire Neighborhood)

East: PUD, Planned Unit Development District (Woods of Dublinshire Neighborhood)

South: PUD, Planned Unit Development District (Woods of Dublinshire Neighborhood)

West: PLR, Planned Low Density Residential District (Woods of Dublinshire Neighborhood)

#### Road, Pedestrian and Bike Network

The site has frontage on Caplestone Lane and Dublinshire Drive. There is no pedestrian access on Caplestone Lane.

#### Utilities

The site is serviced by public utilities.

### Proposal

The applicant is requesting review and approval of a Variance to Zoning Code Section 153.080(B)(1)(a) to permit a 3.5-foot open fence to encroach the required 5-foot side setback to connect to an existing fence on the neighboring lot along the property line.

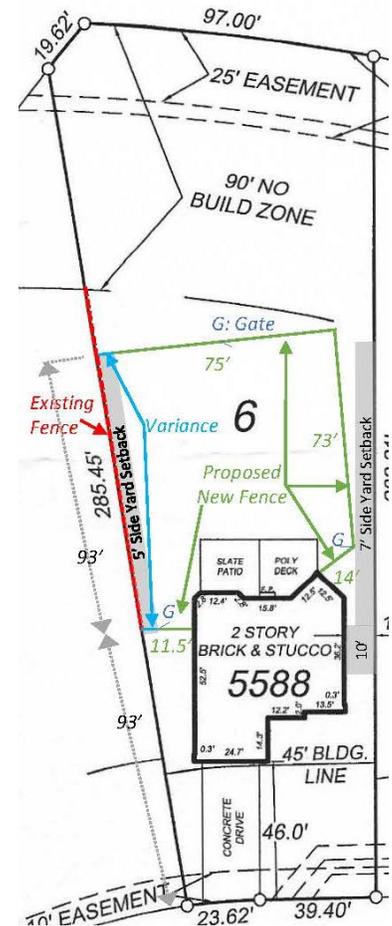
#### Proposal

The applicant is proposing a new 3.5-foot open fence on the 0.58-acre site. The applicant is meeting the required setbacks along the north and east portions of the site, but is proposing to connect to an existing neighboring fence that is located on the property line. The fence is maintained by the neighboring property and the existence of the fence predates the fencing regulations of the City of Dublin.

Zoning Code Section 153.080(B)(1)(a) states that "The open fence may be located only within the buildable area of the lot." In this instance the fence is required to be set back 5 feet from the side property line, per the Fence Code, which was adopted in 2000 and per the setback requirements in this subdivision.

#### Applicant Statement

The applicant has stated that the reasoning for the variance is due to the unique circumstances of their neighbor having the fence on the



property line. The applicant is pursuing the variance to eliminate a potential 5-foot 'no man's land' between the existing fence and the proposed fence, which would be difficult to maintain.

### 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 Not Met. Although the site is adjacent to a fence that does not meet current zoning requirements for fences, and is therefore considered non-conforming, this fact does not constitute a special condition or circumstance for the lot in consideration. The applicant can still meet zoning requirements for the proposed fence that does not involve the neighboring fence.

##### 2) Applicant Action/Inaction

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

Criteria Not Met. Although this condition was present at the time of the applicant acquiring the property, the fence is a request by the applicant. The fence can meet the requirements of the Zoning Code and is not required on a residential property.

##### 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 extension of the proposed fence to the existing fence along the property line would not create a substantial adverse effect to the property or its neighbors.

#### 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 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. This request has generally been recommended for disapproval in the past with fence applications requesting a variance.

**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. 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, “grandfathered” fences along the property lines, a vast majority of properties in Dublin either have no fence or a fence that meets Code. This type of request, to connect a new fence to an existing, non-conforming fence, is made occasionally, however Staff does not consider them to rise to the level of being recurrent.

**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 Not Met. The applicant could revise their plans to meet the required building setbacks on the lot.

## 4. Recommendation

Planning Staff recommends **disapproval** of the Non-Use Variance to Zoning Code Section 153.080(B)(1)(a) to permit a 3.5-foot open fence to encroach the required 5-foot side setback to connect to an existing fence along the property line.