

Variance Statement

As owners of the home at 5588 Caplestone Ln. we are seeking approval to construct a fence up to the existing fence already built along our property line. The Earlington/Brandon PUD Development text includes a side yard setback with a minimum distance of 5 feet on each side and a total minimum distance of 12 feet.

Presently, the owner of 5584 Caplestone Lane owns and maintains a fence that runs directly down the property line. This fence was built prior the five foot setback requirement. Construction of a fence five feet from the existing fence would result in an unusable and unsightly five foot strip of land running down the side of the properties. Due to these unique circumstances a variance is necessary in this situation to avoid an ugly and hard to maintain 'no man's land' separating the two properties.

This board may grant a variance when the criteria set forth in §153.231(H) are met. The request for this variance meets that criteria.

First, a variance can be granted because all of the following are present as is required pursuant to §153.231(H)(2)(a):

1. The special condition unique to our property is the existence of a fence already constructed on our property line. This condition is uncommon in our development and creates a practical difficulty in meeting the setback requirements. The existing fence was built before the setback requirement, and is therefore, grandfathered-in. Usually, the setback requirement would result in both owners building fences five feet from the property line. This would allow for a ten foot or greater tract split between the properties. The conditions in this circumstance are unique because the grandfathered fence results in a five foot strip of wasted land only on the edge of our property.
2. The variance is not required due to any action or inaction on our part as this condition has existed prior to the purchase of our property last year.
3. Granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity and will not materially impair the intent and purposes of the requirement. In fact, not granting the variance will cause adverse effect to the properties and improvement in the vicinity. As previously stated, adhering to the setback will result in an unsightly five foot strip of wasted land between the two fences. Additionally, according to City of Dublin Planning Technician Mike Kettler, the purpose of the five foot setback, he believes, is "to restrict the footprint of fences so that neighborhoods had the aesthetic of open yards and no obstructions." The property at issue is a .6 acre mostly wooded lot. This particular neighborhood, The Woods at Dublinshire, does not have an open aesthetic, but rather a wooded private aesthetic. The fence, therefore, would not impair the intent and purpose of the requirement, as it will not ruin the aesthetic of the neighborhood or create obstructions. As can be viewed from the attached photos, the backyard of this property is mostly not visible from the street, does not attach to another property in the rear, and there is no open aesthetic.

In addition to the previous section, a variance can be granted when two of the following conditions are met pursuant to §153.231(H)(2)(b):

1. Granting of the variance would not confer on the property any special privileges. As previously stated, the neighboring property already has an existing fence built to the property line, we are merely seeking to construct on our property up to the existing fence.
2. The conditions of an existing fence, built on the property line, combined with a wooded private lot make our situation unique and would not necessitate the formulation of a general regulation.
3. The delivery of government services would not be impacted by granting this variance.
4. The practical difficulty requiring a variance on our property cannot be overcome by any means other than the variance. To forego the variance would necessitate construction of additional fence line 5 feet from the existing fence and create the no man's land previously described. The creation of this no man's land runs counter to the actual purpose of the development requirements intended to create an "aesthetic of open yards and no obstructions".

In conclusion, the granting of a variance is appropriate in this case. The overall scope of the variance is limited, as only two spots of the newly constructed fence will meet the existing fence. The remainder of the fence will meet all setback requirements. By granting the variance, this board will be adhering to the intent of the requirement rather than adhering to strict enforcement of the requirement itself.

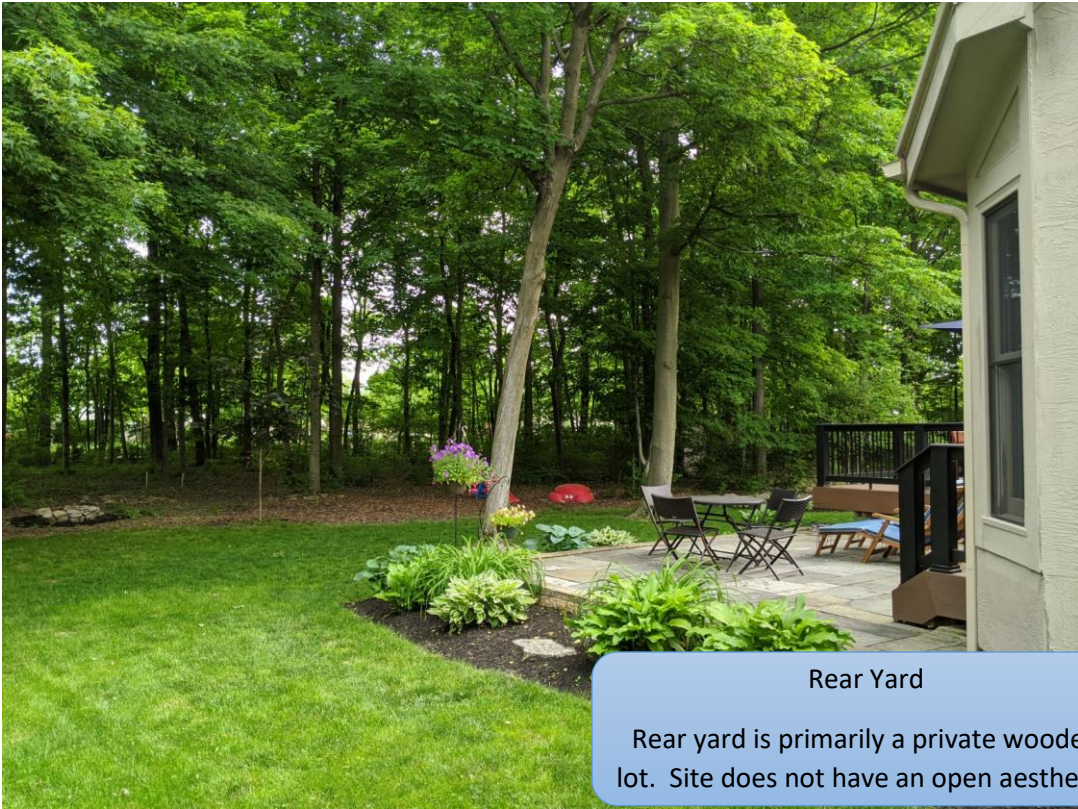
Appendix (Site Photos)





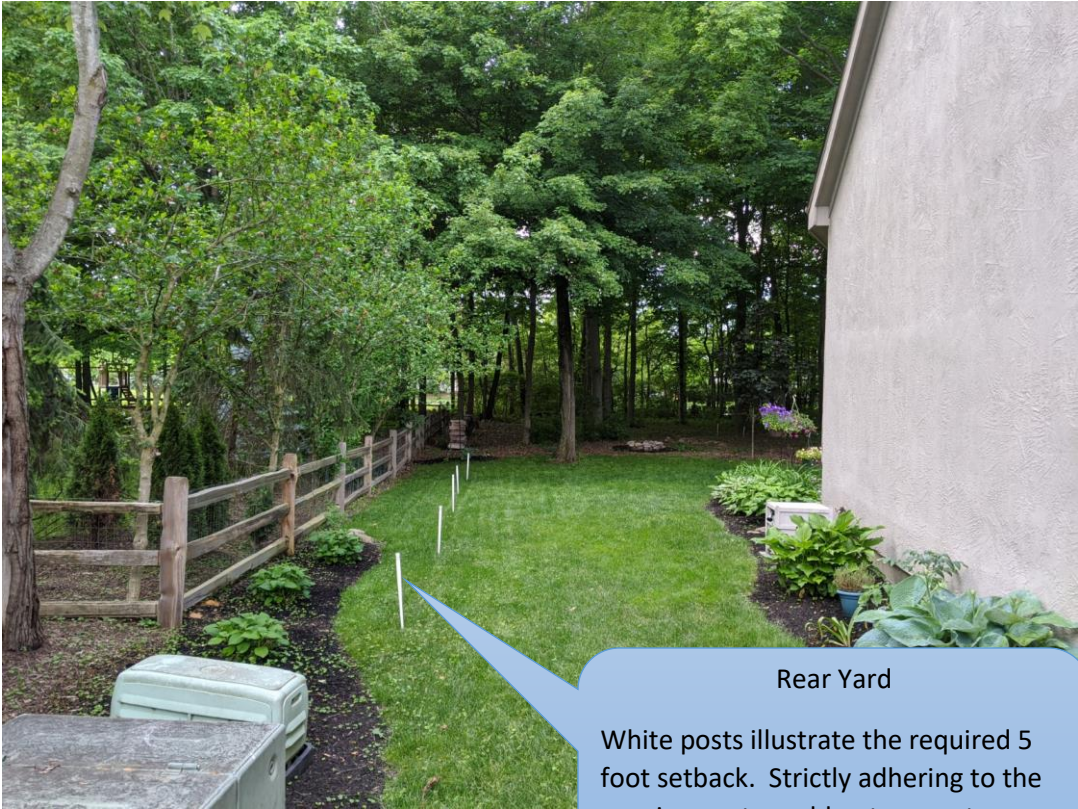
Rear Yard

Location of requested variance. Limited visibility from street in either direction.



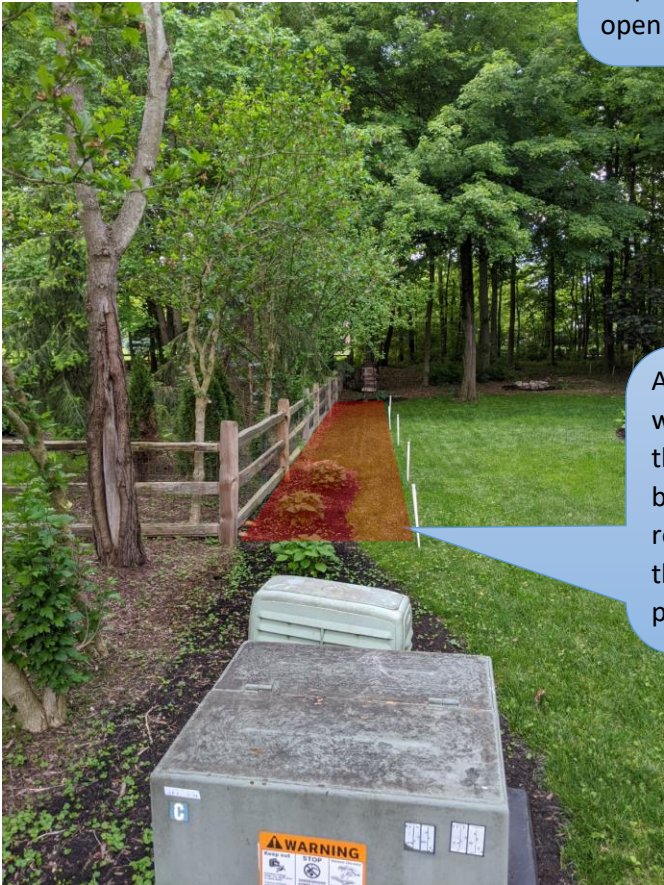
Rear Yard

Rear yard is primarily a private wooded lot. Site does not have an open aesthetic.



Rear Yard

White posts illustrate the required 5 foot setback. Strictly adhering to the requirement would not promote an open aesthetic.



Adhering to the requirement will create a wasted no man's land between the properties that will be hard to maintain and unsightly for both owner and neighbors. Adhering to the requirement in this situation does not serve the intent of the requirement and serves no public benefit; a variance is warranted.