

20-128V – BHOGULA RESIDENCE

Summary

Review and approval of a Non-Use (Area) Variance under the provisions of Zoning Code Section 153.231(H) to allow an uncovered patio to encroach into the rear yard setback.

Site Location

Approximately 200 feet northwest of the intersection of Pleasant Drive and Greenland Place.

Zoning

PUD, Planned Unit Development – Oak Park

Property Owner

JayaPrakash Bhogula

Applicant/Representative

JayaPrakash Bhogula

Applicable Land Use Regulations

Zoning Code Section 153.231(H)

Case Manager

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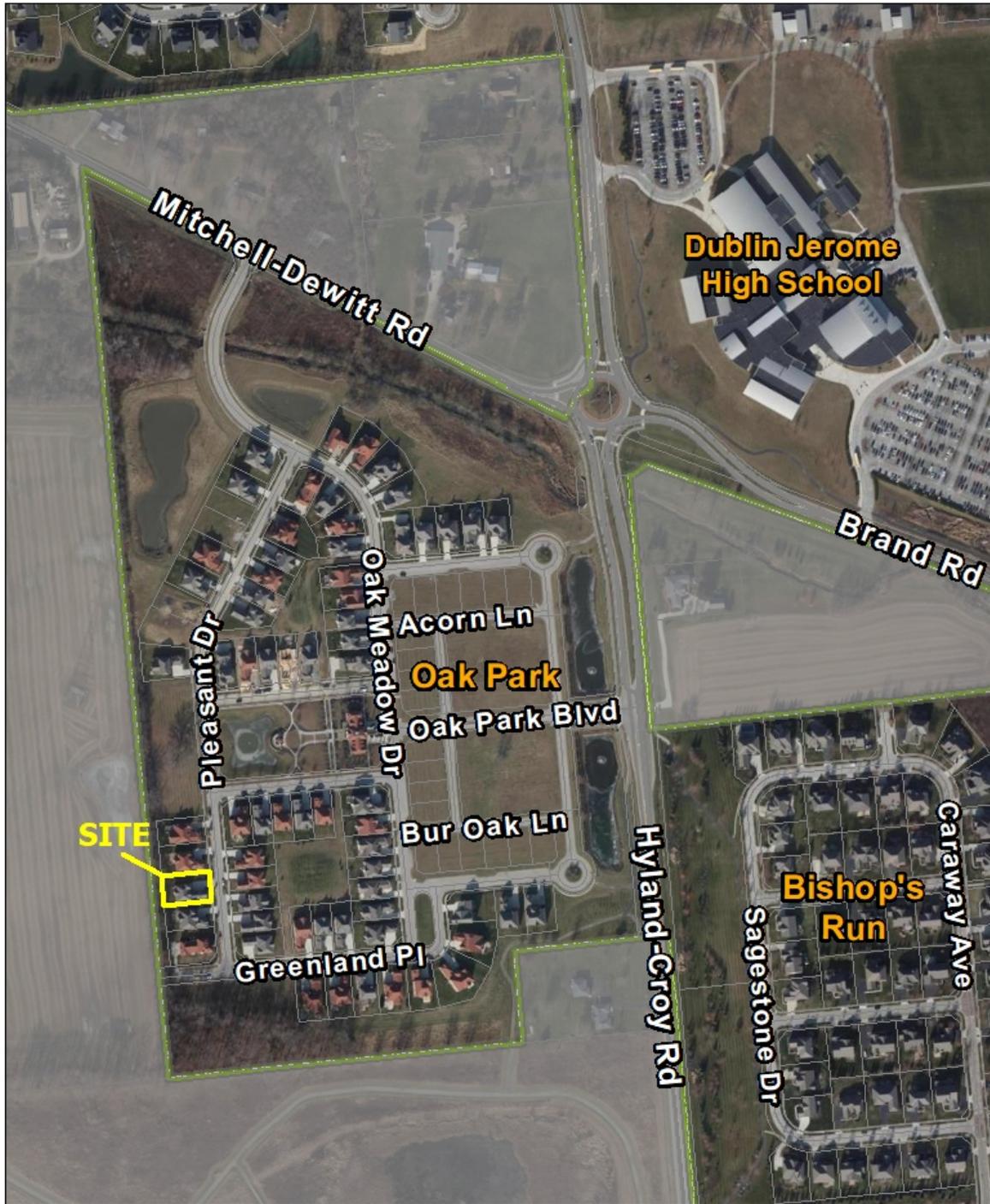
Next Steps

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 patio location to conform to all setbacks.

Zoning Map



1. Context Map



 <p>City of Dublin</p>	<p>20-128V Variance Bhogula Residence 7979 Pleasant Drive</p>	<p>0 155 310 Feet</p> 
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2. Overview

Background

Oak Park is a neighborhood located west of Hyland-Croy Road, southwest of Dublin Jerome High School. The property at 7979 Pleasant Drive is located on Lot 13 of the Oak Park subdivision, which was accepted by City Council in August 2007.

Site Characteristics

Natural Features

The site is adjacent to a reserve maintained by the City of Dublin to the west of the property. The reserve space is a buffer between Oak Park and the unincorporated land west of the area.

Surrounding Land Use and Development Character

North: Rural residential homes in unincorporated Jerome Township (across Mitchell-Devitt Road

East: PUD, Planned Unit Development District (Bishop's Run, across Hyland Croy Road)

South: Glacier Ridge Metro Park (Jerome Township)

West: Vacant/Farmland (Jerome Township)

Road, Pedestrian and Bike Network

The site has vehicular and pedestrian access on Pleasant Drive to the east.

Utilities

The site is serviced by public utilities.

Proposal

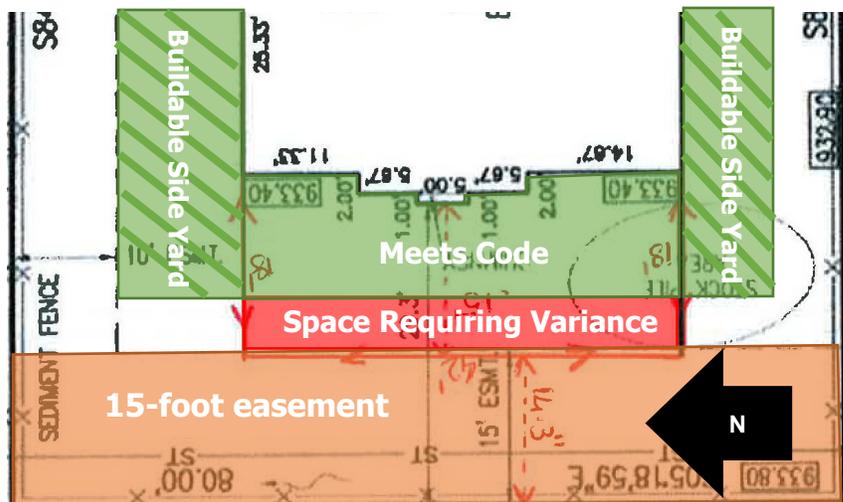
The applicant is requesting a Variance to the Oak Park Development Text – Subarea A: "Park Homes" (III)(C) to encroach within the required 20-foot rear yard setback for uncovered patios by approximately 5 feet – 7 inches.

Proposal

The applicant is proposing a new 721-square-foot patio located to the rear (west) of the principal structure. Although the rear yard setback within the Oak Park Development Text states that Park Homes shall maintain a 25-foot rear yard setback, at-grade patios are permitted to encroach 5 feet into the required setback per the Zoning Code. This allows for a minimum 20-foot setback for patios within this subarea. The applicant is proposing to encroach farther into the rear yard setback, to construct a patio, by 5 feet and 7 inches to a 15-foot easement that runs along the rear property line.

Applicant Statement

The applicant has provided a statement explaining the reason for the request. The applicant states



that due to the unconventional garage layout of the three-car garage, the house was pushed back in the lot, which limits the amount of usable space for a patio to the rear of the home. The applicant states that as a first time homebuyer, he was not involved in the positioning/placing of the building on the lot and was not informed of the limitations in setbacks for the site. This culminated in the request for a variance to expand past the rear yard setback to enjoy their backyard.

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. The side-loaded garage located at the northeast corner of the house sites 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. However, the site has the same setbacks and site layout as neighboring properties that have been able to install rear yard patios and meet development standards. A similar request for a variance occurred in 2016 for a rear yard setback encroachment within Oak Park at 7118 Snowdrop Court, which was approved.

However, the applicant of the approved request bought the site from the first homeowner, had approximately 5 feet of rear yard space for a patio behind their home, and had approximately 2.5 feet of buildable side yard space to the north and south of the building. This applicant chose the specific home layout with the three-car garage, has approximately 9-12 feet of rear yard space for a patio behind their home, and has approximately 10 feet of buildable side yard space to the north and 9 feet of buildable side yard space to the south. Planning Staff has determined there is ample space to the rear of the home to construct a patio that meets zoning requirements and can accommodate additional features for the patio, such as seating and a grill.

2) Applicant Action/Inaction

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

Criteria Not Met. The residence was selected by the applicant and constructed by the builder in its current location without leaving adequate area to construct the patio size and layout desired by the applicant. However, the variance could be avoided by meeting the setback requirements and constructing a smaller, potentially wider patio.

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 adjacent property owners have patios that would be similar in scale to the proposed patio, while meeting setback requirements. To the west of the property is a reserve and unincorporated land, which would not be affected by this variance.

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 Not Met. The applicant could eliminate the variance request by revising their site plan to remove the encroachment into the rear yard setback for patios.

4. Recommendation

Planning Staff recommends **disapproval** of the Non-Use Variance to the Oak Park Development Text – Subarea A: “Park Homes” (III)(C) to encroach within the required 20-foot rear yard setback for uncovered patios by 5 feet and 7 inches.