

20-180V – GUNDA 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

South of Greenland Place, approximately 125 feet west of the intersection with Oak Meadow Drive.

Zoning

PUD, Planned Unit Development – Oak Park

Property Owner

Rajendra Gunda

Applicant/Representative

Rajendra Gunda

Applicable Land Use Regulations

Zoning Code Section 153.231(H)

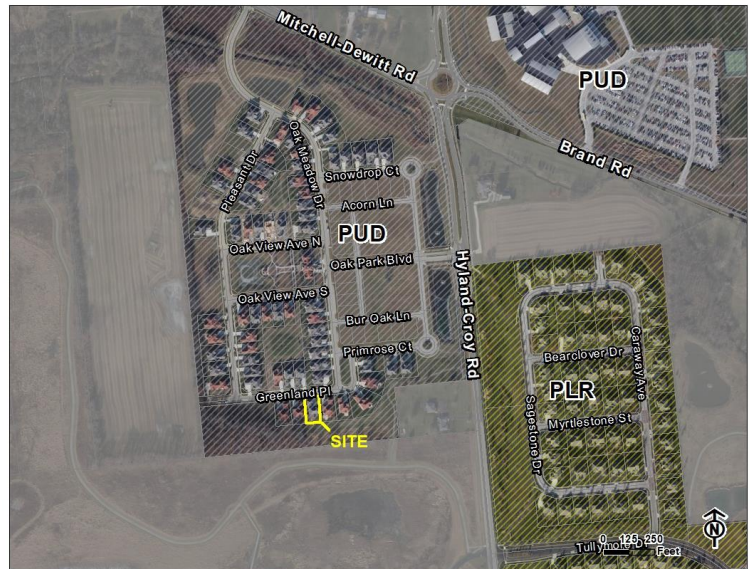
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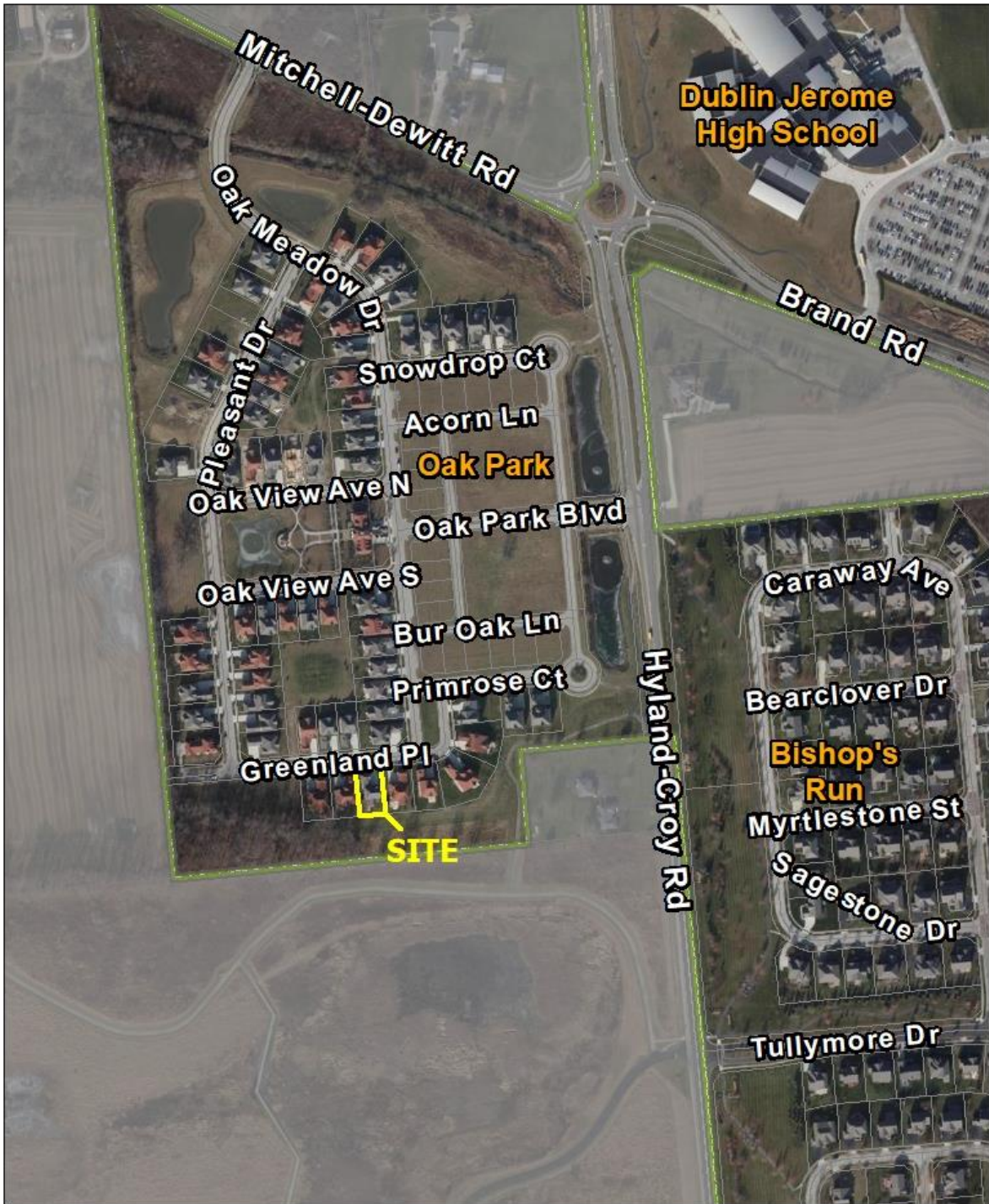
Next Steps



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 remove the portions of the patio that are within the rear yard setback.

Zoning Map



1. Context Map



 <p>City of Dublin</p>	<p>20-180V Variance Gunda Residence 7055 Greenland Place</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 7055 Greenland Place is located on Lot 8 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 south of the property. The reserve space is a buffer between Oak Park and Glacier Ridge Metro Park.

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 Greenland Place to the north.

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 an existing uncovered patio by approximately 2 feet – 7 inches. The patio is currently installed at the property and this variance request would allow the applicant to maintain the patio as is. Code Enforcement received notification of illegally installed patios within the Oak Park development that have been constructed in previous years. Planning Staff has consulted with the Law Director's office regarding these non-compliant items and identified that a Variance procedure is the appropriate route to consider these items.

History

In 2013, the original homeowner of the building applied for and received approval of an approximately 391-square-foot patio addition to the rear (south) of the building. The applicant received approval through a Certificate of Zoning Plan Approval (CZPA) for the patio, but built a patio that did not meet the specifications of the approved site plan. The patio that was built following the approval of the 2013 CZPA is the patio that is currently located on the site. The patio is not approved and is non-compliant with the regulations of the Oak Park Development Text. City Staff was notified in September 2020 of the non-compliant nature of this patio, as well as other patios throughout the development.

Proposal

The applicant has an approximately 605-square-foot patio located to the rear (south) 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 into the rear yard setback by approximately 2 feet – 7 inches.

Applicant Statement

The applicant has provided a statement explaining the reason for the request. The applicant bought this home in May 2018 after the previous owner had installed the non-conforming patio. The applicant has made no modifications to the patio since becoming the homeowner and was not aware of the non-complaint nature of the patio until they received notification from City Staff in October. The applicant has stated that since he was not the original homeowner, he was not involved in the placement of the building on the site, which the permitted space for outdoor amenities to the rear of the home due to the three-car garage that pushes to siting of the building further into the rear of the lot.

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 three-car garage located at the northwest 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. These 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 existing residence and patio was constructed by previous owners in its current location. Although the patio is non-conforming, the applicant is not responsible for the non-conforming nature of the patio and has thus been required to take action for an issue they must resolve.

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 area adjacent to the proposed patio is located contiguous to a large reserve area to the south of the property. Although there are adjoining side yards to this property, no rear yards are adjacent to this property and the improvements will not expand further towards either adjoining neighbors. This variance should not create adverse effects.

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 Not Met. The Board has reviewed and approved requests to extend accessory structures/uses into the rear yard setback for various neighbors within the Oak Park development, as many of the issues have occurred with miscommunication from the builder of the homes and the allowance for rear yard space for future amenities. All requests have been similar in asking for a rear yard setback Variance for functional space of a patio. Staff has determined that this application would be recurrent in nature. Staff has notified the developer of these issues and will continue to work with Building Standards Staff to assure sufficient space for future building permits within this development.

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. Since this patio was existing prior to the current homeowner occupying the property, a Variance request is the only route to allow for the existing patio to remain. The only route towards compliance without a Variance would be to remove portions of the patio that are illegal, which is not a practical method to alleviating the issue.

4. Recommendation

Planning Staff recommends **approval** 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 approximately 2 feet – 7 inches.