

20-050V – DUNCAN 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 principal structure setback for a proposed swimming spa.

Site Location

North of Locherbie Court, approximately 750 southwest of the intersection with Muirfield Drive.

Zoning

PUD, Planned Unit Development – Muirfield Village

Property Owner

Gary Duncan

Applicant/Representative

Gary Duncan

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 spa location to conform to all setbacks.

Zoning Map



1. Context Map



 <p>City of Dublin</p>	<p>20-186V Variance Duncan Residence 8831 Locherbie Court</p>	<p>0 115 230 Feet</p>	
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2. Overview

Background

Muirfield Village is a neighborhood that was originally developed in the 1970s and is the largest development within the City of Dublin. The property at 8831 Locherbie Court was developed in 1986 and is located within Section 14 of the Muirfield Village subdivision.

Site Characteristics

Natural Features

The site is adjacent to The Country Club at Muirfield Village, 1 of 2 golf courses within the Muirfield Village development. The golf course is located to the rear (north) of the site.

Surrounding Land Use and Development Character

North: PUD, Planned Unit Development District Muirfield Village (Residential)

East: PUD, Planned Unit Development District Muirfield Village (Residential)

South: PUD, Planned Unit Development District Muirfield Village (Residential)

West: PUD, Planned Unit Development District Muirfield Village (Country Club at Muirfield Village)

Road, Pedestrian and Bike Network

The site has frontage and pedestrian access on Locherbie Court.

Utilities

The site is serviced by public utilities.

Proposal

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 4 feet.

Proposal

The applicant is proposing a new 135-square-foot swimming spa located within a proposed patio terrace. The water surface of the swimming spa is proposed 6 feet from the principal structure, encroaching 4 feet into the required 10-foot distance between the water surface of the swimming spa and principal structure. The location of the proposed swimming spa does meet the minimum side yard setback of 7 feet - 6 inches.

A swimming spa has many features that relates to a hot tub. Per Zoning Code, "Hot tubs are permitted accessory structures, and may be either below or above grade, *provided that they do not exceed 100 square feet in total water surface area*, or depth or height as measured from finished grade." Since the proposed swimming spa exceeds the 100-square-foot maximum water surface area, the spa is considered under the requirements of a residential swimming pool.

Applicant Statement

The applicant has provided a statement explaining the reasoning for the request. The location of the house being adjacent to the Country Club at Muirfield Village played a large factor in determining the location of the swimming spa. The applicant states that the location offers more privacy and better proximity to the house, while providing a safer location from the golf course and any potential stray

golf balls that may land on the property. The applicant also states that the swimming spa is for water therapy and their own relaxation.

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 site has limitations on the placement of accessory structures due to the location of the home on the lot, and the proximity of the rear yard to the golf course to the west. The site does have a 50-foot building setback to the rear of the house, which occupies much of the rear yard of the site. Due to the nature of golf courses and the variability of the sport, the spa would be in a more dangerous location if it were located to the rear yard rather than the opening located at the northeast corner of the home.

2) Applicant Action/Inaction

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

Criteria Met. The applicants have resided at this property since it was developed in 1986. The location of the site limits any development towards the golf course due to being a commercial business. Given the development and innovation of outdoor amenities in recent years, the consideration for an amenity of this stature would not have been possible when the applicant originally purchased the site. The ability to add an outdoor amenity of this kind is only possible through a setback variance due to the previously stated conditions.

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 location of the swimming spa meets all other applicable setback requirements and will be screen accordingly with the development of the project. The variance would not create an adverse effect for the adjacent property owners.

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 swimming pools to encroach into the principal structure 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. This request is unique in nature due to the proximity of the property to the Country Club at Muirfield Village to the rear of the site. The request for encroaching the principal structure setback for a swimming spa is unique in nature given the location of this site.

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 Variance would be to choose a different design or size for the spa to work within the required principal setback. However, due to the small space the applicant is proposing to locate the spa within, a different layout for the spa 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 4 feet into the 10-foot required distance between the swimming spa and principal structure.