

20-190V – DESCHLER 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

Located east of Greenland Place, approximately 100-feet south of the intersection with Primrose Court.

Zoning

PUD, Planned Unit Development – Oak Park

Property Owner

Rosemarie Deschler

Applicant/Representative

Rosemarie Deschler

Applicable Land Use Regulations

Zoning Code Section 153.231(H)

Case Manager

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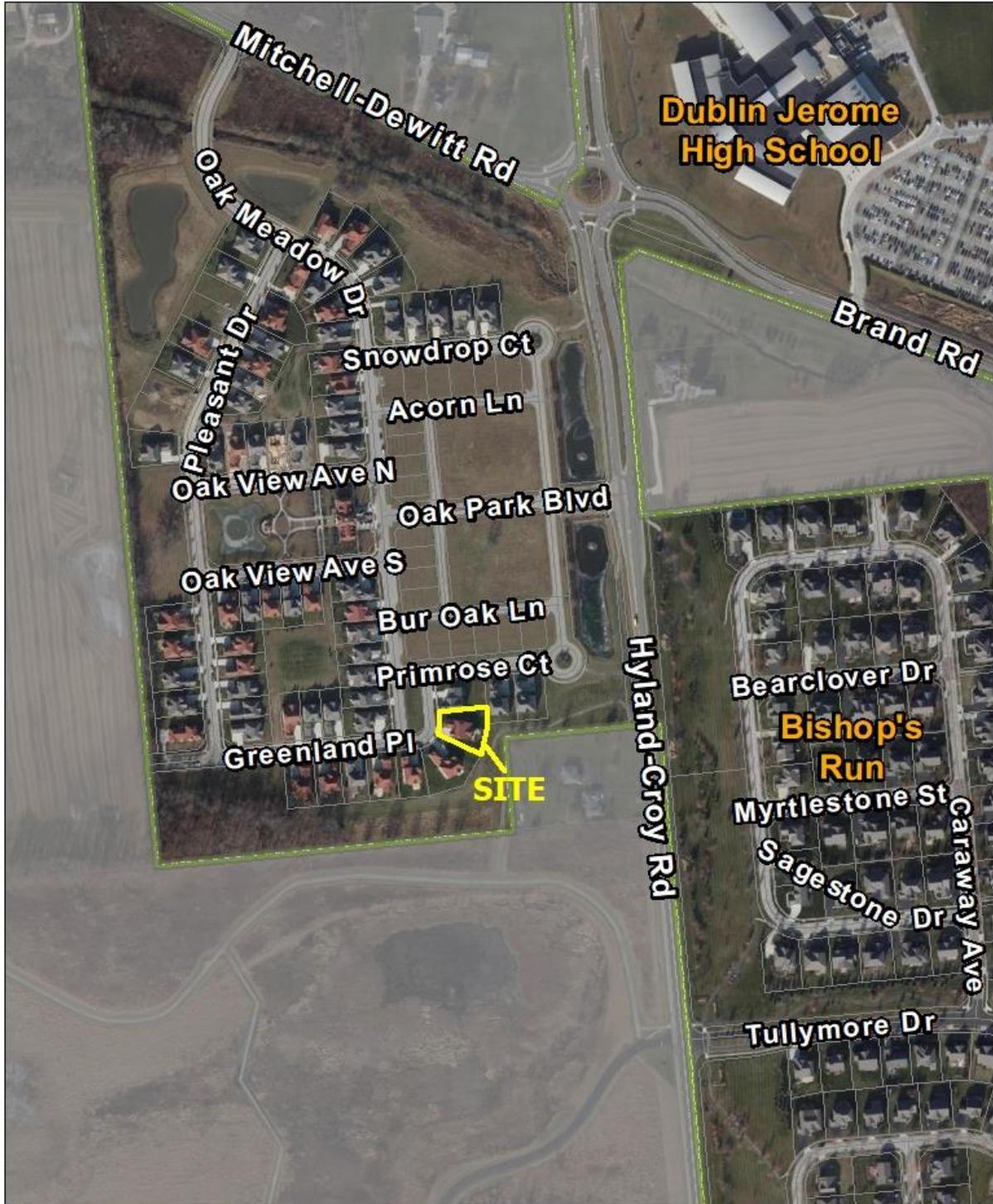
Next Steps

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>20-190V Variance Deschler Residence 7023 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 7023 Greenland Place is located on Lot 4 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 is designated as open space at the intersection of Oak Meadow Drive and Primrose Court.

Surrounding Land Use and Development Character

North: PUD, Planned Unit Development District (Oak Park)

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 west.

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 – 6 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

The applicant contracted a landscape architect to install the patio on the site in 2013. The landscape architect did not receive the appropriate permits to install the patio. 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 three other patios throughout the development. The applicant has received an encroachment agreement with the City of Dublin in October 2020, as the existing patio extends into a 20-foot drainage easement along the rear of the property.

Proposal

The applicant is requesting approval of an approximately 5-foot – 6-inch Variance into the rear setback for an existing stone patio. The rear yard setback within the Oak Park Development Text states that 'Park Homes' shall maintain a 25-foot rear yard setback; however, at-grade patios are permitted to encroach 5 feet into the required setback per the Dublin Zoning Code. This allows for a minimum 20-

foot setback for patios within this development. The patio is approximately 14 feet – 6 inches from the rear property line.

Applicant Statement

The applicant has provided a statement explaining the reasons for the request. The applicant states that when they contracted with a landscape architect in 2013, it was their understanding that the contractor had followed all necessary requirements and obtained all applicable permits. It was not until they received a letter from the City of Dublin in October 2020, that the applicant was informed of their non-conforming stone patio.

3. Criteria Analysis

Zoning Code Section 153.231(H)(2) allows the Board of Zoning Appeals to approve requests for nonuse (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. There is a 20-foot drainage easement east of the building that occupies a majority of the rear yard. The site is also adjacent to a reserve space that prohibits development to the rear of the site. These items create special 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 applicant has stated that the business they contracted to construct the patio was responsible for obtaining the appropriate permits with the City of Dublin. The property owner was not aware that their patio was non-compliant until City Staff notified them in October 2020. Due to this, the applicant is now required to correct the mistake of their contractor to allow for their patio through a Variance.

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 stone patio does not affect the surrounding areas as it is adjacent to a Reserve Area and bike path that leads to the Metro Park. The patio is also screened by landscaping on all sides.

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 multiple neighbors within the Oak Park development. 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. Although the patio is existing, it is at the fault of the contractor for not receiving the proper permits for this project at the time of construction. The only other method available would be to remove the portion of the patio that extends into the required setback. However, this solution is impractical and costly.

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 5 feet – 6 inches.