

20-219V – BECKMAN RESIDENCE

Summary

Request for a Non-Use (Area) Variance to allow an at-grade patio to encroach 5 feet – 3 inches into the 20-foot rear yard setback for patios on the 0.24-acre site.

Site Location

The site is located south of Greenland Place, approximately 375 feet east of the intersection with Pleasant Drive.

Zoning

PUD, Planned Unit Development – Oak Park

Property Owner

Emily Beckman

Applicant/Representative

Emily Beckman

Applicable Land Use Regulations

Zoning Code Section 153.231(H)

Case Manager

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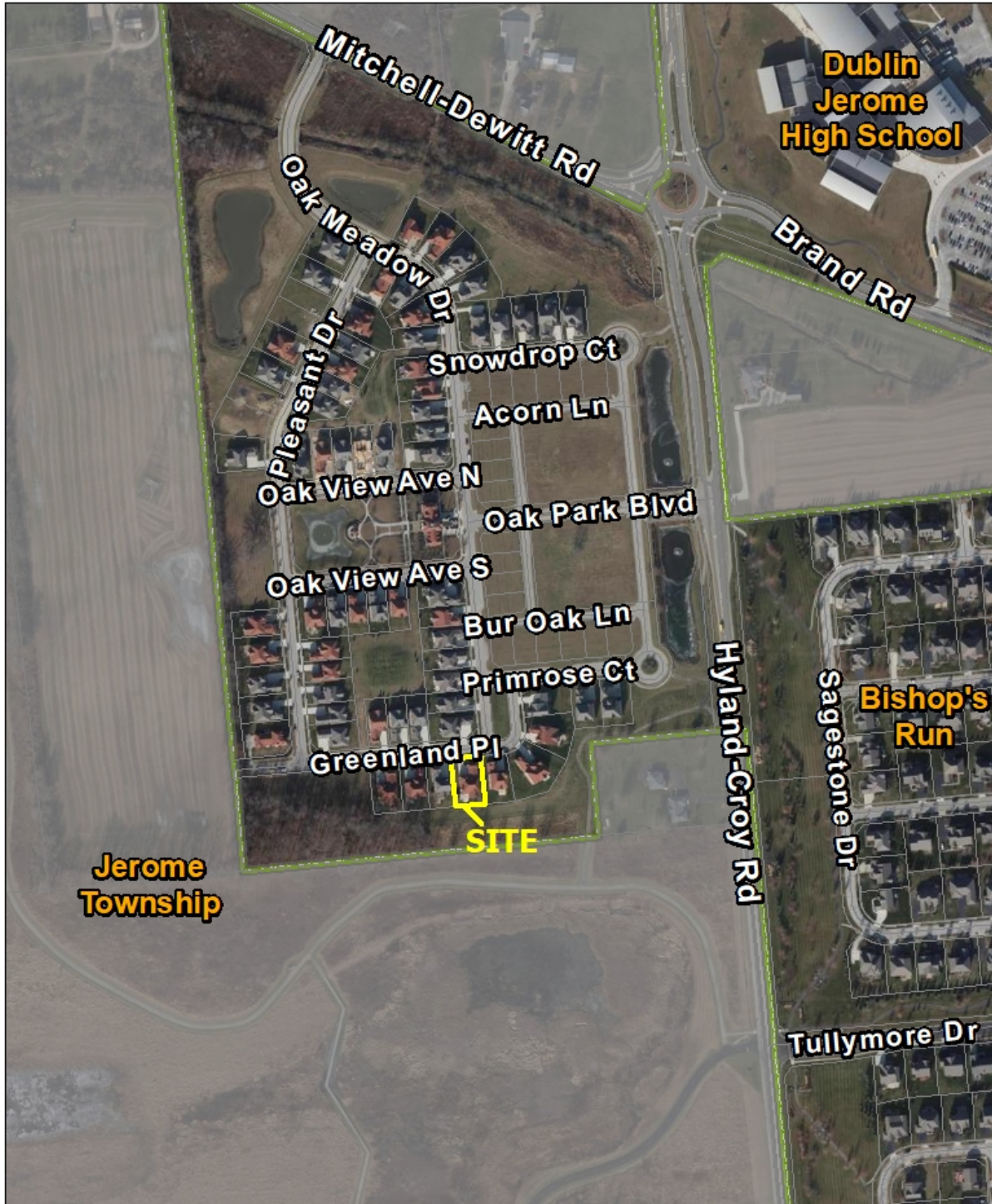
Next Steps



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>20-219V Variance Beckman Residence 7047 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 7074 Greenland Place is located on Lot 7 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 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 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 uncovered patio by approximately 5 feet – 4 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 2012. Allegedly, the landscape architect received a permit from the City of Dublin to install the patio. However, based on review and research from Planning and Building Department Staff, no permit has been identified for this patio. As installed, the patio is non-compliant with the regulations of the Oak Park Development Text. y Staff was notified in September 2020 of the non-compliant nature of this patio, as well as three other patios throughout the development.

Proposal

The applicant is requesting approval of a Variance to encroach 5 feet – 4 inches into the rear setback for an existing 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 – 8 inches from the rear property line.

Applicant Statement/Planning Analysis

The applicant has provided a statement identifying how the request addresses the criteria. The applicant states that when they contracted with a landscape architect in 2012, 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 illegal patio. The applicant has also stated that the location of the patio was cleared by the Oak Park development in 2012, and the patio does not impair the green space to the south of the property.

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. The site is adjacent to a reserve space that prohibits development to the rear of the site. The home is sited to the rear of the lot, 25 feet from the rear property line. The location of the home eliminates permissible outdoor amenity space. 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 contractual agreements with the landscape architect included the architect to secure all necessary permits with the City of Dublin. The property owner was not aware that their patio was non-compliant until notified by staff. Therefore, the construction of the patio within the required setback is not due to action or inaction of the applicant. To address this issue, staff is encouraging property owners to verify that contractual obligations are met, including permits, before construction begins.

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 patio does not affect the surrounding community based on its proximity to an adjacent reserve leads to the Metro Park. The patio is also surrounded by landscaping on all sides and will have no visual impacts on the surrounding community.

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 properties within the Oak Park development. All requests have been similar in the fact that additional space is needed to ensure the space is functional. 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 the Building Department 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.

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 patio has been constructed based on the reliance of proper permits.

Requesting the patio to be removed is not a feasible option at this time.

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 an uncovered patio by approximately 5 feet – 4 inches.