

21-099V – SHAFFER RESIDENCE

Summary

Request for a Non-Use (Area) Variance to allow a pergola to encroach 5 feet into a required rear yard setback.

Site Location

The site is located southwest of the intersection of Sagestone Drive and Caraway Avenue.

Zoning

PLR – Planned Low Density Residential District

Property Owner

Jody Shaffer

Applicant/Representative

Jody Shaffer, Property Owner

Applicable Land Use Regulations

Zoning Code Section 153.231(H)

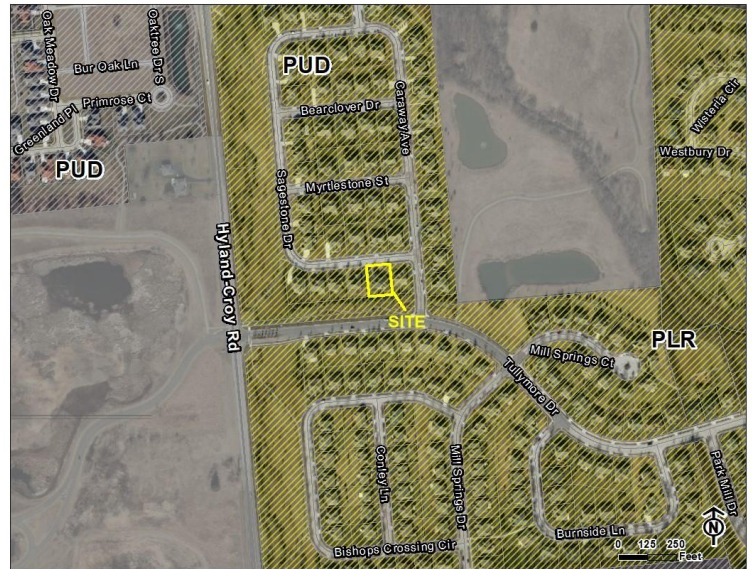
Case Manager

Zachary C. Hounshell, Planner I
(614) 410-4652
zhounshell@dublin.oh.us

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 pergola location to conform to all setbacks.

Zoning Map



1. Context Map



21-099V
Non-Use (Area) Variance
Shaffer Residence
6813 Sagestone Drive

0 130 260
Feet

A scale bar showing 0, 130, and 260 feet. To the right is a north arrow pointing upwards with the letter 'N' inside a circle.

2. Overview

Background

The site contains a single-family, residential structure that was constructed in 2007. The site is an approximately 0.30-acre site. The site is zoned PLR, Planned Low Density Residential District and located within the Bishop's Run subdivision.

Site Characteristics

Natural Features

The site is developed with a single-family dwelling located at the center of the property. There is an existing patio to the rear of the house, with an existing walkway from the front entry of the home to the front of the garage. An open space reserve is adjacent to the south of the property, where there is an additional 20-foot No Build Zone along the south property line. There are no significant trees or other natural features that would need to be considered as part of this application.

Surrounding Land Use and Development Character

North: PLR, Planned Low Density Residential District (Single-Family Residential)

East: PLR, Planned Low Density Residential District (Single-Family Residential)

South: PLR, Planned Low Density Residential District (Single-Family Residential)

West: PLR, Planned Low Density Residential District (Single-Family Residential)

Road, Pedestrian and Bike Network

The site has vehicular access on Sagestone Drive to the north. There is a pedestrian sidewalk to the north of the home via Sagestone Drive.

Utilities

The site is serviced by a storm sewer system to the east and has sanitary sewer system access via the North Fork Indian Run.

Proposal

The applicant is requesting a Variance to Zoning Code Section 153.020(C)(3) to allow a pergola to encroach 5 feet into a 32.5-foot rear yard setback. The pergola is proposed to cover an existing patio that was built in 2008. The pergola is 10 feet in depth and 35 feet in length, equaling 350 square feet in size. The existing patio encroaches 5 feet into the 32.5-foot rear yard setback which is permitted for at grade patios and decks under the Zoning Code regulations. This only applies to "open and uncovered" patios which are allowed to encroach 5 feet into the rear yard setback. Pergolas are not considered "open and uncovered" and are required to meet the required setback.

Applicant Statement/Planning Analysis

The applicant has provided a detailed statement explaining the need for the variance. The applicant built the home on this property in 2007. The applicant states they were not aware of the required rear yard setback although this is a common requirement for all residential lots. Additionally, the applicant states that due to the staggering of building lines throughout the neighborhood and the location of their lot, they have a 35-foot front building line where their adjacent neighboring properties have a 30-foot front building line, eliminating 5 additional feet for rear yard development. These items, as well as the side-loaded garage placement on the lot, equate to the need for the Variance.

Staff has evaluated the request and determined that there are no special conditions that apply to this lot that would not be commonly found in other platted lots. The configuration of the lot is not unique and the location of the house is based on the required setbacks. Furthermore, there are no natural features on the site that would impact the design and/or development of the site. In terms of the staggering setback requirement, the City of Dublin Subdivision regulations require staggering setbacks to avoid a uniformly "row" of housing that does not provide visual interest from the public right-of-way. This setback applies to every other lot in the subdivision.

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 Not Met. Although the applicant states that the staggered front building line aides in the special conditions for the site, the staggered front building lines are requirements throughout the City for all platted subdivisions. Additionally, the lot is a typical four-sided lot with no special conditions particular to the lot. This lot has the same depth (130 feet) as its adjacent neighbors, as well as a number of other lots in the subdivision. Due to these conditions, Staff has determined that this criteria is not met.

2) Applicant Action/Inaction

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

Criteria Not Met. Since the applicants are the original home owners of the property and the conditions of the site are based on the desired house size, location, and features associated with the layout of the home.

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 Not Met. Rear yard setbacks are meant to create open visual corridors along the rear of properties that is not unduly interrupted by building mass. At grade patios are allowed to encroach into the required setback because they do not create this visual barriers, whereas a

pergola would. Under this premise, staff has concluded that the request will have an adverse effect on the intended purpose of the Code.

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 Not Met. Although the Zoning Code allows for an encroachment of 5 feet for open and uncovered patios, such as the one currently on the applicant's property, the Zoning Code explicitly requires accessory structures to meeting the required setbacks for a lot. Granting the Variance would allow a special privilege to this property over adjacent properties that have the similar site layout and site dimensions as this property.

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. Variances for pergola encroachments are not recurrent in nature and therefore do not necessitate a code modification.

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 Not Met. There are many different methods to achieve shade of an outdoor area than obtaining a Variance for a permanent structure. A Variance is not required if pursuing a temporary object to provide shade, such as sun sails, umbrellas, and retractable awnings. Staff has worked with the applicant to discuss these options, however the applicant prefers to request a variance.

4. Recommendation

Planning Staff recommends **Disapproval** of the Non-Use Variance to Zoning Code Section 153.020(C)(3)