

21-172V – HOPKINS RESIDENCE

Summary

Request for a Non-Use (Area) Variance to allow a pergola to encroach 6 feet into a required rear yard setback.

Site Location

The site is located northeast of the intersection of Nicholson Way and Enfield Court.

Zoning

PUD – Planned United Development District, Tartan Ridge PUD.

Property Owners

David and Beryll Hopkins

Applicant/Representative

Thomas McCash, Attorney

Applicable Land Use Regulations

Zoning Code Section 153.231(H)

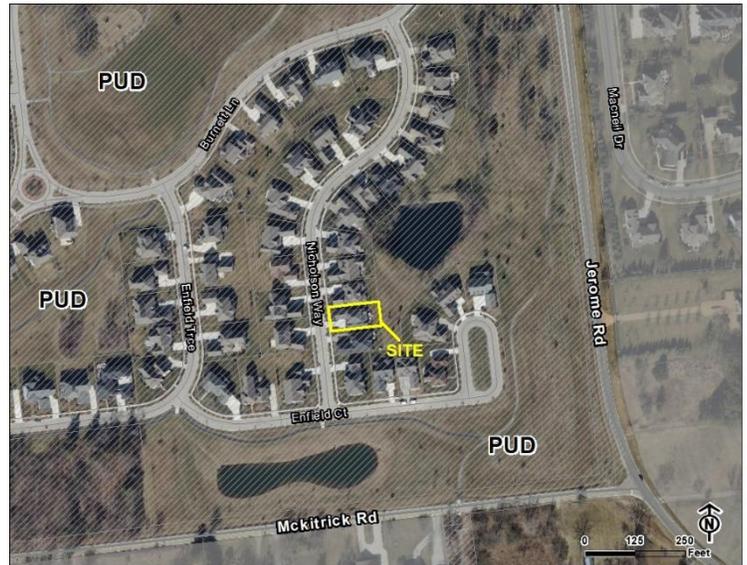
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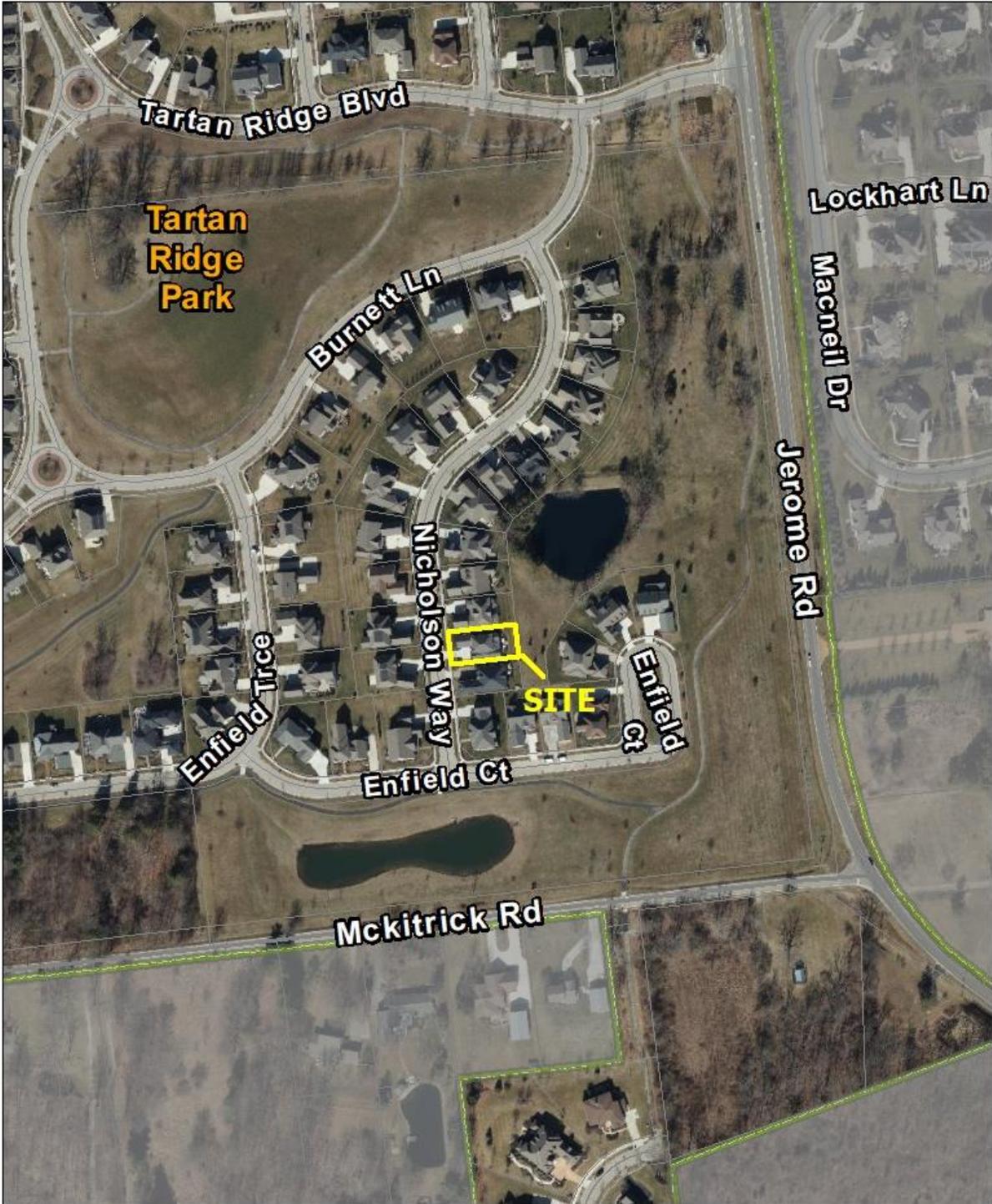
Next Steps

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 revise the pergola location to conform to all setbacks.

Zoning Map



1. Context Map



 <p>City of Dublin</p>	<p>17-172V Variance Request 9376 Nicholson Way</p>	<p>0 105 210 Feet</p> 
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2. Overview

Background

The site contains a single-family, residential structure that was constructed in 2016. The site is an approximately 0.17-acre site and is zoned PUD, Planned Unit Development District, located within the Tartan Ridge subdivision. The Tartan Ridge subdivision is a unique residential community that was approved in 2007. The intent of the subdivision was to combine the principles of a Suburban Conservation Design ideas with natural features and interconnected land uses. The subdivision was created to create a diverse mix of architectural design in a manner that preserves the natural features of the property. The development text was also created to create specific, high quality design standards that would create a residential community that is unique to Dublin.

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. An open space reserve is adjacent to the east of the property, where there is an additional 15-foot No Build Zone along the east 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: PUD, Planned Unit Development District (Single-Family Residential)

East: PUD, Planned Unit Development District (Single-Family Residential)

South: PUD, Planned Unit Development District (Single-Family Residential)

West: PUD, Planned Unit Development District (Single-Family Residential)

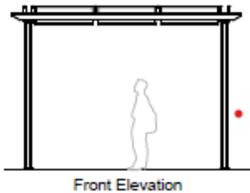
Road, Pedestrian and Bike Network

The site has vehicular access on Nicholson Way to the west. There is a pedestrian sidewalk to the west of the home via Nicholson Way.

Proposal

The applicant is requesting a Variance to the Tartan Ridge Development Text Section (VIII)(D)(3)(d) to allow for an existing pergola to be approved that extends into the required rear yard setback by six feet. The proposed pergola is approximately 11 feet in depth, and encroaches into the required rear yard setback by six feet. The pergola was installed over an existing at-grade patio that meets the required setback. The at-grade patio is permitted to encroach five feet into the rear yard setback based on the "open and uncovered" provisions of the Zoning Code.

The applicants' site is located in Subarea C of the Tartan Ridge Subdivision. This subarea is located in the south-central portion of the development and is intended to locate intermediately-sized lots clustered around expansive open spaces. The lots have reduced setback requirements that are intended to create a compact, village-like atmosphere.



The subdivision has specific lot types which dictates development standards for the lots. The applicants' lot type is a Court Lot and requires a 25-foot rear yard setback. The applicants' have constructed an at-grade patio that meets the requirements of the City of Dublin Zoning Code. They recently installed an aluminum pergola that is attached to the house. The pergola has columns to the rear that support the structure and a roof that is partially open with a retractable awning.

Applicant Statement/Planning Analysis

The applicants' site is similar in size, shape and design as most lots in the immediate vicinity. The applicant is permitted the existing at-grade patio based on the provision of the Zoning Code that allows "open and uncovered" structures to encroach an additional five feet into the required setback. This provision has not been historically applied to pergolas or trellis based on design of both structures being "partially covered" by slates to provide shading from light trespass. This is further supported by pergolas that have an additional awning or canopy that provide full shading and no light trespass rendering the structure fully covered.

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. The site is rectangular in shape and typical in size to other lots within the community. There are no natural features that warrant special consideration and, therefore, Staff would conclude that there are no special conditions or circumstances that are peculiar to the site.

2) Applicant Action/Inaction

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

Criteria Not Met. The applicants are designing a pergola that can vary in shape in size. This preference is not based on limitations associated with the design or manufacturing of the structure so they are contributing to the necessity of the 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 site does back up to an open space reserve and based on the design of the structure, would not create the same massing as a fully enclosed structure. For these reasons, Staff would state that the request would not have adverse impacts on surrounding residents.

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. Requiring the pergola to meet the setbacks of the City of Dublin Zoning Code would not prevent the ability to construct a structure and the intended purpose of providing shade to the rear yard. Allowing the structure to encroach the rear yard setback does pose special considerations that would not be permitted by other properties.

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. The pergola can meet the requirements of the City of Dublin Zoning Code, by reducing it in size, and still preserve the intended nature of the structure which is providing shade to the rear of the property.

4. Recommendation

Planning Staff recommends **Disapproval** of the Non-Use Variance to Zoning Code Section 153.231(H).