



## PLANNING REPORT

# Board of Zoning Appeals

Thursday, August 25, 2022

## KOESTER RESIDENCE 22-087V

<https://dublinohiousa.gov/bza/22-087>

### Case Summary

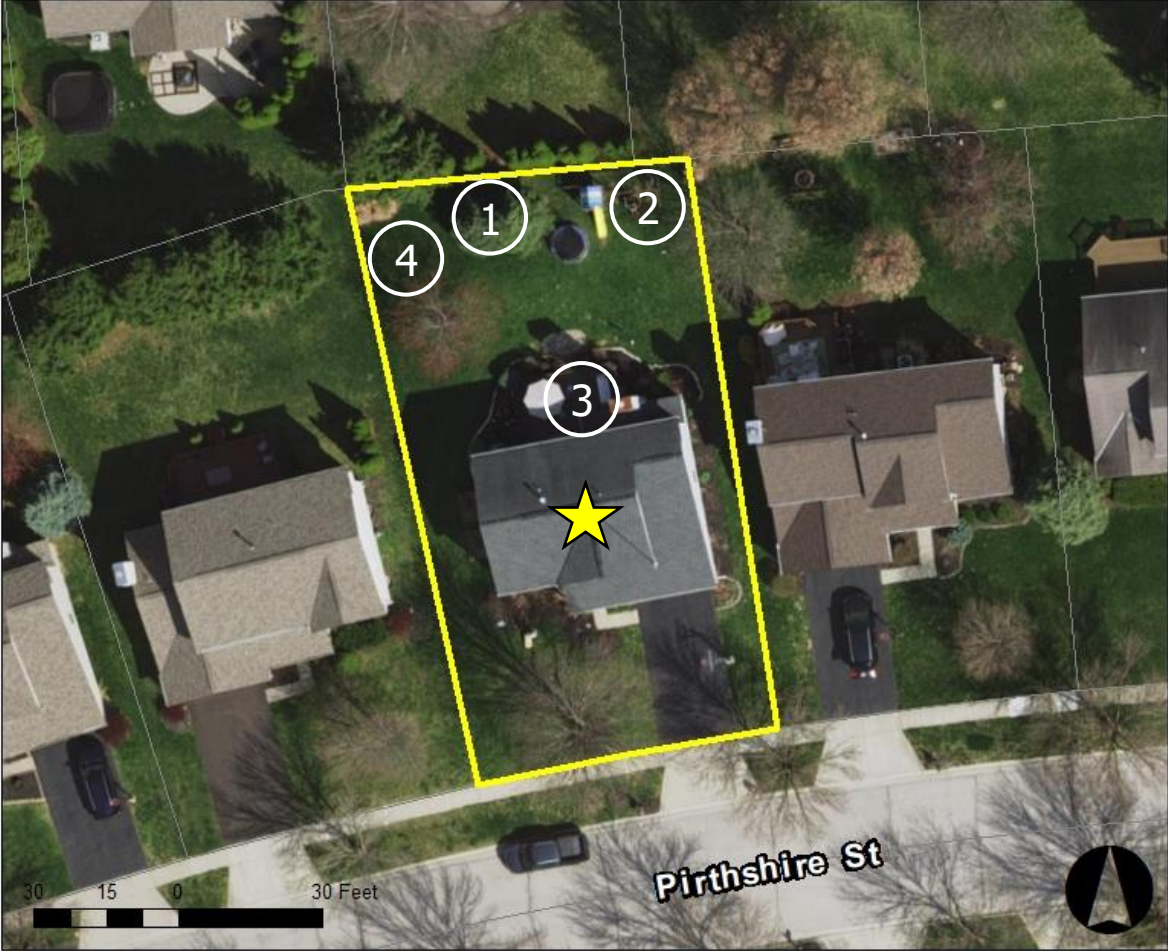
Address	6226 Pirthshire St, Dublin, OH 43016
Proposal	Request for a variance to allow a paver patio, connected wood beams and a raised fire pit to encroach into the rear yard setback on a 0.19-acre site.
Request	Review and approval for Non-Use (Area) Variance under the provisions of Zoning Code Section §153.231(H).
Zoning	PLR, Planned Low Density Residential District
Planning Recommendation	<u>Disapproval of Non-Use (Area) Variance</u> Planning recommends disapproval of the Non-Use (Area) Variance to allow a paver patio, connected wood beams and a raised fire pit to encroach into the rear yard setback.
Next Steps	The Board of Zoning Appeals (BZA) is the final reviewing body for this application. If approved by the BZA, the applicant may apply for a Certificate of Zoning Plan Approval. If denied, the applicant will need to revise the patio and pergola location to conform to all development standards.
Applicant	Jeremy Koester, Property Owner
Case Manager	Taylor Mullinax, Planner I (614) 410-4632 <a href="mailto:tmullinax@dublin.oh.us">tmullinax@dublin.oh.us</a>

Site Location Map

22-087V | Koester Residence



- Site Features**
- 1 Existing tree stand and tree row.
  - 2 Existing play set
  - 3 Existing deck/patio
  - 4 Paver Patio, wood beams and raised fire pit



# 1. Overview

## Background

The property contains a single-family residence situated on an approximately 0.19 acre lot, and is zoned PLR – Planned Low Density Residential District. The residence is located in the Sandy Corners subdivision, located northeast of the intersection of Pirthshire Street and Sandy Rings Lane.

The property owner has constructed a paver patio, connected wood beams, and a raised stone fire pit (hereafter referred to as paver patio and associated features) that were installed without a permit and encroach approximately 15 feet into the rear yard setback. The applicant is requesting a variance for this encroachment to allow the proposed paver patio and associated features to remain in the current location. Additionally, the applicant is required to obtain a Certificate of Zoning Plan Approval (CZPA) for the patio whether it is approved in its proposed/existing location, or denied approval of the proposed location and is relocated within the rear yard.

The proposed patio and associated features were originally constructed within the side and rear yard setbacks and have been modified to only be located in the rear yard setback. The applicant removed the paver patio and associated features from the side yard setback because it was also a platted drainage easement. To prevent drainage issues, the applicant removed the features from the side yard setback but it remains in the rear yard setback. The applicant has stated that the patio is constructed with loose paver stones that are not permanently affixed and does not include mortar. Wood beams extend from the corners of the patio to provide a support system for future hanging furniture. It also includes a raised stone fire pit.



## Site Information

The lot is located within Section 1 of the Sandy Corners subdivision and is rectangular in shape with the left corner of the rear property line slightly slanting. The site contains a single-family residential structure with a patio directly to the north. The site also contains a swing set and trampoline in the rear yard. The request is based on an existing paver patio, wood beam structure, and raised fire pit which are located to the farthest northwestern corner of the property. Natural features in the rear yard include an established maple tree immediately south

of the proposed patio features, an existing tree stand centrally located in the rear yard, and a tree line along the rear property line.

## 2. Proposal

The applicant is requesting a Variance to Zoning Code Section 153.074(B)(6)(a) to allow a 192-square-foot paver patio, a wood beam structure, and a raised fire pit to encroach into the rear yard setback by 15 feet. The paver patio is 12-feet by 16-feet with four wood beams connected at the top and constructed at the corners of patio. The applicant is proposing to keep the proposed patio features in the northwest corner of the property.

The proposed patio features were originally installed without any approvals from the City of Dublin Planning Division and without a CZPA. The applicant has been notified of the violation and the applicant is requesting a variance to allow the structure to remain in the rear yard setback.

### *Required Setbacks*

Setbacks are intended to provide adequate separation between homes within subdivisions that are void of structures, provide green space, and frequently contain easements for utility access (public or private). Required setbacks for the subject lot are described in the figure below.

<b>Setback Requirements – PLR: Planned Low Density Residential District, Sandy Corners</b>		
Front (south)	Side (east and west)	Rear (north)
30 feet	6 feet minimum one side, 13 feet total	25 feet

## 3. Plan Review and Recommendation

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.

### **Criteria A | Non-Use (Area) Variance Analysis - Section 153.231(H)(2)(a)**

All three criteria are required to be met:

Criteria	Review
1. 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.	<b>Criteria not met:</b> There are no special conditions, circumstances, or practical difficulties on the lot which prevents the applicant from meeting the development standards. The site is a typical shape and no extenuating features exists. It also should be noted that the same development standards apply to all properties located in the Sandy Corners subdivision.
2. That the variance is not necessitated because of any action or inaction of the applicant.	<b>Criteria not met:</b> The variance request is necessitated by the applicant and is the result of installing the paver patio and associated features in the improper location and without required permits.
3. Granting the variance will not cause a substantial adverse effect to the property or improvements in the vicinity or will not materially impair the intent and purposes of the requirement being varied	<b>Criteria not met:</b> If granted, the variance to permit the paver patio and associated features would impact adjacent neighbors without proper setbacks and minimal separation.

**Criteria B | Non-Use (Area) Variance Analysis - Section 153.231(H)(2)(b)**

At least two of the following criteria are required to be met:

Criteria	Review
1. 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.	<b>Criteria not met:</b> If the Variance is approved, the applicant would be receiving special privilege that would allow their paver patio and associated features to encroach into the rear yard setback. There are other locations on the property within the rear yard area that meet all required development standards for the 192-square-foot paver patio and associated features to be relocated.
2. The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as	<b>Criteria not met:</b> The request is not recurrent in nature to warrant a Code update to allow such encroachments into rear yard setbacks. A vast majority of properties within the City of Dublin permit

Criteria	Review
to make the formulation of a general regulation for those conditions reasonably practicable.	accessory structures to the rear or side of the principal dwelling and meet the development standards. This site contains several opportunities to relocate the proposed paver patio and associated features that meet the development standards.
3. The variance would not adversely affect the delivery of governmental services.	<b>Criteria met:</b> The proposed location of the paver patio and associated features would not affect the delivery of governmental services.
4. The practical difficulty could not be eliminated by some other method, even if the solution is less convenient or most costly to achieve.	<b>Criteria not met:</b> There are other options for the proposed paver patio and associated features to be relocated on the property that meet all development standards. The applicant has already modified the paver patio and associated features to meet the side yard setback.

**Planning Recommendation:** Disapproval of the Non-Use (Area) Variance  
Planning recommends disapproval of the Non-Use (area) Variance to allow a patio, wood beam structure, and a raised fire pit to encroach into the required rear yard setback.