

**CITY OF HIGHLAND HEIGHTS
PLANNING AND ZONING COMMISSION – REGULAR MEETING
CITY HALL COUNCIL CHAMBER
JANUARY 9, 2023 7:00 PM**

2023 COMMISSION APPOINTMENTS AND TERM EXPIRATION DATES: Joe Mercurio (12/31/23); Bill Urban (12/31/24); Brad Hull (12/31/25); Vince Adamus (12/31/26); Sean Milroy, City Council representative (12/31/23).

Chair of Commission Adamus presiding.

PRESENT: Commissioners Adamus, Mercurio, Milroy, Urban; Recording Clerk Olson; Assistant Building Commissioner Drazetic; Assistant Law Director Paluf

ABSENT: Commissioner Hull; Building Commissioner Grabfelder

MOTION TO APPOINT CHAIR FOR 2023: A motion was made by Mr. Milroy to re-appoint Vince Adamus as Chair of the Planning and Zoning Commission for 2023; seconded by Mr. Mercurio.

FURTHER DISCUSSION: Mr. Adamus accepted the nomination.

VOTE: Ayes Mercurio, Milroy, Urban; abstain Adamus. Motion carried.

MOTION ON THE MINUTES: The Commission dispensed with a reading of the minutes of the regular meeting held December 12, 2022. Mr. Urban moved to accept the minutes as written; seconded by Mr. Milroy.

FURTHER DISCUSSION: None.

VOTE: Ayes all; motion carried.

MOTION ON THE MINUTES: The Commission dispensed with a reading of the minutes of the public hearing for Nick Pinzone held December 12, 2022. Mr. Urban moved to accept the minutes as written; seconded by Mr. Mercurio.

FURTHER DISCUSSION: None.

VOTE: Ayes all; motion carried.

MOTION TO APPROVE THE 2023 MEETING SCHEDULE: A motion was made by Mr. Milroy to approve the 2023 Planning and Zoning meeting schedule dated January 9, 2023 as submitted by Recording Clerk Olson; seconded by Mr. Mercurio.

FURTHER DISCUSSION: None.

VOTE: Ayes all; motion carried

**SUBJECT: GREGORY GORJANC, 963 BARKSTON DRIVE
PZ22023 VARIANCES TO ALLOW PROPOSED FENCES FORWARD OF REAR
BUILDING LINE OF HOUSE AND VARIANCE TO ALLOW MULTIPLE
FENCE TYPES IN REAR YARD**

Gregory and Camille Gorjanc, homeowners, 963 Barkston Drive, Highland Heights, Ohio 44143, appeared before the Commission to obtain variances to allow proposed fences to be located

forward of the rear building of the house and a variance to allow multiple fence types in the rear yard, on property located at 963 Barkston Drive. The public hearing was held immediately prior to this regular meeting.

VARIANCE #1 - MOTION: A motion was made by Mr. Urban to grant Gregory Gorjanc, on property located at 963 Barkston Drive, Highland Heights, Ohio 44143, a variance of 36 feet from HHCO 1123.21(b)(4): “Fences; Permitted Fences; Privacy Fences”, which requires that privacy fences shall be permitted only in rear yards provided that such fences may be erected not more than six feet in height and further provided that it does not encroach upon the required side and rear yard requirements, to allow a six-foot high board-on-board privacy fence to extend 36 feet (not zero feet) forward of the north rear building line of the house; seconded by Mr. Mercurio.

FURTHER DISCUSSION: Messrs. Adamus and Urban said they do not support the variance because it would set a negative precedent and other homeowners would request similar variances. Mr. Adamus extended the applicants the option to continue with the vote or delay the vote until all five Commissioners are present at the next meeting. The applicants chose to proceed.

VOTE: Nays all; motion denied.

VARIANCE #2 - MOTION: A motion was made by Mr. Mercurio to grant Gregory Gorjanc, on property located at 963 Barkston Drive, Highland Heights, Ohio 44143, a variance of 36 feet from HHCO 1123.21(b)(4): “Fences; Permitted Fences; Privacy Fences”, which requires that privacy fences shall be permitted only in rear yards provided that such fences may be erected not more than six feet in height and further provided that it does not encroach upon the required side and rear yard requirements, to allow a six-foot high board-on-board privacy fence to extend 36 feet (not zero feet) forward of the south rear building line of the house; seconded by Mr. Urban.

FURTHER DISCUSSION: Messrs. Adamus and Urban said they do not support the variance because it would set a negative precedent and other homeowners would request similar variances.

VOTE: Nays all; motion denied.

VARIANCE #3 - MOTION: A motion was made by Mr. Urban to grant Gregory Gorjanc, on property located at 963 Barkston Drive, Highland Heights, Ohio 44143, a variance from HHCO 1123.21(c)(2) to allow multiple non-uniform fence types in the rear yard; seconded by Mr. Mercurio.

FURTHER DISCUSSION: Messrs. Adamus and Milroy expressed support for the variance because the differing fence types would be barely noticeable.

VOTE: Ayes all; motion carried.

Mr. Adamus advised the applicants of their right to appeal the decision of the Planning and Zoning Commission as permitted under HHCO Section 1114 by filing an appeal through the Building Department with the Highland Heights Board of Building and Zoning Appeals within two weeks after the approval of tonight’s meeting minutes on January 23, 2023.

Mr. Adamus requested the Clerk poll the Commissioners in the majority for their reasoning in the manner in which they voted. The consensus of the Commission for granting the variance to

allow multiple fence types in the rear yard is that the differing fence types would be barely noticeable and are not detrimental to the appearance of the property. The consensus of the Commission for denying the variances to allow proposed fencing forward of the rear building line of the house is the significant amount of the variance; this type of variance is typically limited to allow a fence to extend a small amount forward of the rear building line of the house to enclose an air conditioner or garage man-door; there is no compelling practical difficulty for the variances; the variances requested are a matter of the applicants' preference only; granting the variances would set a negative precedent and many homeowners would request similar variances; and there is existing significant screening for privacy.

SUBJECT: THOMAS PESTOTNIK, 5651 BLAIR DRIVE
PZ22024 VARIANCE TO LOCATE PROPOSED FENCE CLOSER TO SIDE LOT LINE THAN THE HOUSE

Thomas Pestotnik, homeowner, 5651 Blair Drive, Highland Heights, Ohio 44143, appeared before the Commission to obtain a variance to allow a proposed 10-foot wide by 12-foot long tool shed to be located closer to the side yard line than the house, on property located at 5651 Blair Drive. The public hearing was held immediately prior to this regular meeting.

MOTION: A motion was made by Mr. Mercurio to grant Tom Pestotnik, on property located at 5651 Blair Drive, Highland Heights, Ohio 44143, a variance of seven feet from HHCO 1123.17(a): "YARDS FOR ACCESSORY BUILDINGS AND SOLID WALLS", which requires that no solid wall, tool shed or other enclosed structure be located closer to the side yard line than the main use structure, to allow a proposed 10-foot wide by 12-foot long tool shed to be located thirteen feet from the northeasterly side yard line, for a building length of twelve feet. (The house is located 20 feet from the easterly side yard line. The minimum required side yard setback is 20 feet.); seconded by Mr. Milroy.

FURTHER DISCUSSION: Mr. Milroy stated the proposed location will keep the shed out of the rear swale and the applicant has agreed to add additional landscaping to screen the shed. Mr. Adamus said the location is logical because it is the most minimally invasive and positively screened.

VOTE: Ayes all; motion carried.

Mr. Adamus requested the Clerk poll the Commissioners in the majority for their reasoning in the manner in which they voted. The consensus of the Commission for granting the variance is that the shed size complies with code; the lot is pie-shaped which poses difficulties with shed location; the proposed location meets the intent of code because the shed will not be visible from the street with the additional landscaping the applicant has agreed to add; the proposed location is logical given the small depth of the yard and the existing trees that will obstruct the view of the shed; the shed location flows with the existing landscape bed area; the shed will not negatively impact the neighbors' views; the shed would be too close to the house without the variance and negatively impact recreational use of the yard; and the shed will not be located too close to the rear swale.

SUBJECT: WAYNE TWARDOKUS, 276 HALTON TRAIL
PZ22025 VARIANCE TO LOCATE PROPOSED FENCE CLOSER TO SIDE LOT
LINE THAN THE HOUSE

Wayne Twardokus, homeowner, 276 Halton Trail, Highland Heights, Ohio 44143, appeared before the Commission to obtain a variance to allow a proposed 12-foot wide by 16-foot long tool shed to be located closer to the side yard line than the house, on property located at 276 Halton Trail. The public hearing was held immediately prior to this regular meeting.

MOTION: A motion was made by Mr. Urban to grant Wayne Twardokus, on property located at 276 Halton Trail, Highland Heights, Ohio 44143, a variance of 8 feet from HHCO 1123.17(a): “YARDS FOR ACCESSORY BUILDINGS AND SOLID WALLS”, which requires that no solid wall, tool shed or other enclosed structure be located closer to the side yard line than the main use structure, to allow a proposed 12-foot wide by 16-foot long tool shed to be located 12 feet from the northwesterly side yard line, for a building length of 16 feet. (The house is located 42.75 feet from the northerly side yard line. The minimum required side yard setback is 20 feet.); seconded by Mr. Mercurio.

FURTHER DISCUSSION: Mr. Milroy stated the proposed location is the best solution to avoid the very wet soil conditions resulting from the wetlands and swale on the property and that the existing landscaping in the yard totally screens the view of the shed on all sides.

VOTE: Ayes all; motion carried.

The consensus of the Commission for granting the variance is that the proposed location meets the intent of code because the existing landscaping will obstruct the view of the shed on all sides in the yard and from the street; the location will not negatively impact the neighbors’ views; support for the variance from the adjacent neighbor to the north who is most impacted by the proposed location; the size of the shed complies with code; the location is the best solution given the very wet soil conditions due to the wetlands and swale in the rear yard.

SUBJECT: TIJUANA’S STREET TACOS, 5596 HIGHLAND ROAD
PZ23001 APPROVAL OF FRONT AND SIDE BUILDING SIGNAGE

Tom Evans, Fastsigns, 1783 Brittain Road, Akron, Ohio 44310, appeared before the Commission to obtain approval for signage at Tijuana’s Street Tacos located at 5596 Highland Road, Highland Heights, Ohio 44143.

Signage includes a 4-foot high by 16-foot long front building wall sign on the north elevation mounted on the top façade of the building. A second 3-foot high by 4-foot long side building wall sign on the west elevation will be mounted on the brick to replace the existing wall sign.

Assistant Building Commissioner Drazetic said the signage complies with code and was approved by the ARB today.

MOTION: A motion was made by Mr. Milroy to grant Tijuana’s Street Tacos, on property located at 5596 Highland Road, Highland Heights, Ohio 44143, approval of a 4-foot high by 16-foot long front building wall sign on the north elevation and a 3-foot high by 4-foot long side

building wall sign on the west elevation, per the drawing submitted by the applicant for the meeting on January 9, 2023; seconded by Mr. Mercurio.

FURTHER DISCUSSION: None.

VOTE: Ayes all; motion carried.

ADJOURNMENT: There being no further business before the Commission, Mr. Adamus asked if anyone wished to make a motion to adjourn the meeting. A motion was made by Mr. Urban to adjourn the meeting; seconded by Mr. Mercurio. Ayes all; motion carried. Mr. Adamus declared the meeting adjourned at 7:45 p.m.

Susan M. Olson, *Recording Clerk*

Vince A. Adamus, *Chair*

**CITY OF HIGHLAND HEIGHTS
PUBLIC HEARING OF THE PLANNING AND ZONING COMMISSION
CITY HALL COUNCIL CHAMBER
JANUARY 9, 2023 7:00 PM**

Chair of Commission Adamus presiding.

PRESENT: Commissioners Adamus, Mercurio, Milroy, Urban; Recording Clerk Olson;
Assistant Building Commissioner Drazetic; Assistant Law Director Paluf

ABSENT: Commissioner Hull; Building Commissioner Grabfelder

**SUBJECT: GREGORY GORJANC, 963 BARKSTON DRIVE
PZ22023 VARIANCE TO ALLOW PROPOSED FENCES FORWARD OF REAR
BUILDING LINE OF HOUSE AND VARIANCE TO ALLOW MULTIPLE
FENCE TYPES IN REAR YARD**

Public hearing was called to order at 7:00 p.m. Notices of this hearing were mailed in accordance with HHCO Section 1113.04. Variances appeared as follows:

1. Variance of 36 feet from HHCO 1123.21(b)(4): “Fences; Permitted Fences; Privacy Fences”, which requires that privacy fences shall be permitted only in rear yards provided that such fences may be erected not more than six feet in height and further provided that it does not encroach upon the required side and rear yard requirements, to allow a six-foot high board-on-board privacy fence to extend 36 feet (not zero feet) forward of the north rear building line of the house.
2. Variance of 36 feet from HHCO 1123.21(b)(4): “Fences; Permitted Fences; Privacy Fences”, which requires that privacy fences shall be permitted only in rear yards provided that such fences may be erected not more than six feet in height and further provided that it does not encroach upon the required side and rear yard requirements, to allow a six-foot high board-on-board privacy fence to extend 36 feet (not zero feet) forward of the south rear building line of the house.
3. Variance from HHCO 1123.21(c)(2) to allow multiple non-uniform fence types in the rear yard.

Gregory and Camille Gorjanc, homeowners, 963 Barkston Drive, Highland Heights, Ohio 44143, appeared before the Commission to obtain variances to allow proposed fences to be located forward of the rear building of the house and a variance to allow multiple fence types in the rear yard, on property located at 963 Barkston Drive.

Mr. Adamus informed the applicants that only four of the five Commissioners were present and extended the option to defer the public hearing until such time when all Commissioners would be present because three affirmative votes are required to grant a variance. The applicants chose to proceed. Mr. Adamus informed the applicants of their right to be represented by an attorney. The applicants waived that right.

Mr. Gorjanc said he proposes to add board-on-board privacy fences that will extend 36 feet forward of the rear building line of the house all the way to the front building line of the house on both the northerly and southerly side elevations. The applicants stated they want the fence to extend past the window on the north side of their house for privacy and to screen the view of garbage cans on the adjacent property. There is no landscaping on the north side of the applicants' property that would provide privacy. The applicants said they want the fence on the south side of their property for privacy. There are existing arborvitae on the south side that provide privacy. The applicants said the fences will eliminate wildlife from entering their yard, provide privacy when they entertain and reduce the noise they hear from activity in the neighborhood.

A variance is also required for the chain link and board-on-board multiple fence types in the rear yard. The applicants want to keep their existing 42-inch high chain link gates that extend from the north and south rear corners of the house to the nearest side lot lines. There is an existing board-on-board fence along the applicants' southerly lot line in the rear yard. The applicants propose to add board-on-board fencing along the rear lot line and northerly side lot line in the yard, both permitted by code.

Mr. Adamus said he is skeptical to support a variance of 36 feet which is a significant amount. He said variances have been granted in the past to allow fences to extend a much smaller amount forward of the rear building line of the house to enclose an air conditioner or a garage man-door. Mr. Urban said there is no compelling practical difficulty to support the variance that would allow the fences to extend to the front building line of the house.

Public hearing opened to the public.

No one spoke nor was any additional correspondence received from the public in this matter.

Public hearing closed at 7:08 p.m.

Susan M. Olson, *Recording Clerk*

Vince A. Adamus, *Chair*

**CITY OF HIGHLAND HEIGHTS
PUBLIC HEARING OF THE PLANNING AND ZONING COMMISSION
CITY HALL COUNCIL CHAMBER
JANUARY 9, 2023 7:00 PM**

Chair of Commission Adamus presiding.

PRESENT: Commissioners Adamus, Mercurio, Milroy, Urban; Recording Clerk Olson;
Assistant Building Commissioner Drazetic; Assistant Law Director Paluf

ABSENT: Commissioner Hull; Building Commissioner Grabfelder

**SUBJECT: THOMAS PESTOTNIK, 5651 BLAIR DRIVE
PZ22024 VARIANCE TO LOCATE PROPOSED FENCE CLOSER TO SIDE LOT
LINE THAN THE HOUSE**

Public hearing was called to order at 7:09 p.m. Notices of this hearing were mailed in accordance with HHCO Section 1113.04. Variance appeared as follows:

1. Variance of seven feet from HHCO 1123.17(a): “YARDS FOR ACCESSORY BUILDINGS AND SOLID WALLS”, which requires that no solid wall, tool shed or other enclosed structure be located closer to the side yard line than the main use structure, to allow a proposed 10-foot wide by 12-foot long tool shed to be located thirteen feet from the northeasterly side yard line, for a building length of twelve feet. (The house is located 20 feet from the easterly side yard line. The minimum required side yard setback is 20 feet.)

Thomas Pestotnik, homeowner, 5651 Blair Drive, Highland Heights, Ohio 44143, appeared before the Commission to obtain a variance to allow a proposed 10-foot wide by 12-foot long tool shed to be located closer to the side yard line than the house, on property located at 5651 Blair Drive.

Mr. Adamus informed the applicant that only four of the five Commissioners were present and extended the option to defer the public hearing until such time when all Commissioners would be present because three affirmative votes are required to grant a variance. The applicant chose to proceed. Mr. Adamus informed the applicant of his right to be represented by an attorney. The applicant waived that right.

Mr. Pestotnik stated he is proposing to construct a 10-foot by 12-foot shed in the northeast corner of his pie-shaped lot, nestled in a wooded area. He said he will add more trees after the shed is installed to obstruct its view from the street. He said that without the variance, the shed would have to be located approximately ten feet from his rear patio door that would prevent recreational use of his back yard. He said there is a swale near the rear lot line with frequent wet soil conditions. He stated the roof and siding materials will match the house.

Public hearing opened to the public.

The Commission is in receipt of an email dated January 9, 2023 from Stacey Doberdruk, 5650 Ashley Circle, Highland Heights, Ohio 44143, the property adjacent to the rear and north of the applicant, that states “I am opposed to a massive shed blocking the view out of the back of my home.”

No one else spoke nor was any additional correspondence received from the public in this matter.

Mr. Pestotnik replied the shed is not massive and complies with the size allowed by code. Assistant Law Director Paluf agreed and said the difficulties presented with a pie-shaped lot should be considered and that the proposed location meets the intent of code because the shed will not be visible from the street with the landscape screening. Mr. Adamus stated he supports the location of the shed because the yard depth is narrow, the shed location flows with the existing landscape bed area, the shed will not negatively impact the neighbors’ views and the shed would be too close to the house without the variance. Assistant Building Commissioner Drazetic said the proposed shed location is preferred because there are many existing trees that will obstruct the view of the shed. Mr. Milroy noted the shed will not be located too close to the rear swale.

Public hearing closed at 7:15 p.m.

Susan M. Olson, *Recording Clerk*

Vince A. Adamus, *Chair*

**CITY OF HIGHLAND HEIGHTS
PUBLIC HEARING OF THE PLANNING AND ZONING COMMISSION
CITY HALL COUNCIL CHAMBER
JANUARY 9, 2023 7:00 PM**

Chair of Commission Adamus presiding.

PRESENT: Commissioners Adamus, Mercurio, Milroy, Urban; Recording Clerk Olson;
Assistant Building Commissioner Drazetic; Assistant Law Director Paluf

ABSENT: Commissioner Hull; Building Commissioner Grabfelder

**SUBJECT: WAYNE TWARDOKUS, 276 HALTON TRAIL
PZ22025 VARIANCE TO LOCATE PROPOSED FENCE CLOSER TO SIDE LOT
LINE THAN THE HOUSE**

Public hearing was called to order at 7:16 p.m. Notices of this hearing were mailed in accordance with HHCO Section 1113.04. Variance appeared as follows:

1. Variance of 8 feet from HHCO 1123.17(a): “YARDS FOR ACCESSORY BUILDINGS AND SOLID WALLS”, which requires that no solid wall, tool shed or other enclosed structure be located closer to the side yard line than the main use structure, to allow a proposed 12-foot wide by 16-foot long tool shed to be located 12 feet from the northwesterly side yard line, for a building length of 16 feet. (The house is located 42.75 feet from the northerly side yard line. The minimum required side yard setback is 20 feet.)

Wayne Twardokus, homeowner, 276 Halton Trail, Highland Heights, Ohio 44143, appeared before the Commission to obtain a variance to allow a proposed 12-foot wide by 16-foot long tool shed to be located closer to the side yard line than the house, on property located at 276 Halton Trail.

Mr. Adamus informed the applicant that only four of the five Commissioners were present and extended the option to defer the public hearing until such time when all Commissioners would be present because three affirmative votes are required to grant a variance. The applicant chose to proceed. Mr. Adamus informed the applicant of his right to be represented by an attorney. The applicant waived that right.

Mr. Twardokus stated he is proposing to construct a 12-foot by 16-foot shed in the northwest corner of his pie-shaped lot amongst existing evergreen trees. The size of the shed complies with code. The applicant said the shed will not be visible from the street nor the adjacent property owner. He said there is an underground storm drain and wetlands on his property.

Mr. Adamus stated the proposed shed location is a perfect spot and would not be visible on all sides with the existing landscape screening, but he is conflicted with the location because the yard is large and can accommodate a shed behind the lines of the house. Mr. Urban said the proposed location is less visible than if it were directly behind the lines of the house. Assistant

Law Director Paluf said the location meets the intent of code which is to obstruct the view of the shed from the street. Assistant Building Commissioner Drazetic said the location is the driest part of the yard because of the wetlands and swale in the rear yard.

Public hearing opened to the public.

Mr. Twardokus presented the Commission with an email dated December 5, 2022 from Daniel Fedeli, 270 Halton Trail, Highland Heights, Ohio 44143, the adjacent property to the north of the applicant whose property would be most impacted, stating he has no problem with the proposed shed location.

No one else spoke nor was any additional correspondence received from the public in this matter.

Public hearing closed at 7:19 p.m.

Susan M. Olson, *Recording Clerk*

Vince A. Adamus, *Chair*