

CITY OF HIGHLAND HEIGHTS, OHIO
MINUTES OF A PLANNING AND ZONING COMMISSION MEETING
HELD: SEPTEMBER 25, 2023 7:00 PM
Highland Heights City Hall Council Chamber

PRESENT: Commissioners Vince Adamus, Brad Hull, Joe Mercurio, Bill Urban; Recording Clerk Susan Olson; Building Commissioner Dale Grabfelder; Assistant Law Director Tim Paluf

ABSENT: Commissioner Sean Milroy

Chairman Adamus called the regular meeting to order at 7:27 p.m.

MOTION ON THE MINUTES: The Commission dispensed with a reading of the minutes of the regular meeting held September 11, 2023. Mr. Hull moved to accept the minutes as written; seconded by Mr. Urban.

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 Ralph DiCamillo held September 11, 2023. Mr. Mercurio moved to accept the minutes as written; seconded by Mr. Urban.

FURTHER DISCUSSION: None.

VOTE: Ayes all; motion carried.

SUBJECT: DON SHAFFER, 1080 BARKSTON DRIVE
PZ23023 VARIANCE TO EXCEED MAXIMUM AREA REQUIREMENT FOR SHED; VARIANCE TO EXCEED WALL HEIGHT FOR SHED; VARIANCE TO LOCATE SHED OUTSIDE THE LINES OF THE HOUSE

Don Shaffer, homeowner, 1080 Barkston Drive, Highland Heights, Ohio 44143, appeared before the Commission to obtain variances for a shed on property located at 1080 Barkston Drive. Mr. Shaffer's corner lot is at the southwest intersection of Barkston Drive and Ridgebury Boulevard. Mr. Shaffer has nearly completed construction of a 10-foot by 20-foot shed for which he neither applied for nor obtained a permit. The shed violates three ordinances. The public hearing was held immediately prior to this regular meeting.

Mr. Adamus informed the applicant that only four of the five Commissioners were present and extended the option to delay 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 extended the applicant the right to be represented by an attorney. The applicant waived that right.

MOTION: Variance #1 – Size: A motion was made by Mr. Urban to grant Don Shaffer, on property located at 1080 Barkston Drive, Highland Heights, Ohio 44143, a variance of 37 square feet from HHCO 1123.05(e)(1): "ACCESSORY USES; Recreational Facilities", which allows a maximum accessory building size of 144 square feet or one percent (1%) of the lot area on a

single family residentially zoned lot of 20,000 square feet or less, whichever is greater, to allow a 200 square-foot tool shed on this 16,300 square-foot lot; seconded by Mr. Mercurio.

FURTHER DISCUSSION: Mr. Adamus said the applicant did not present a justification for the extra size of the shed and expressed opposition to setting precedent because most people want shed sizes greater than what is allowed by code.

VOTE: Nays all; motion denied.

POLL: The consensus of the Commission for denying a variance of 37 feet to allow a shed area of 200 square feet was because there is no practical difficulty or hardship or justification for the extra shed size; and the negative consequence of setting precedent because most people want shed sizes greater than what is allowed by code.

MOTION: Variance #2 – Wall height: A motion was made by Mr. Mercurio to grant Don Shaffer, on property located at 1080 Barkston Drive, Highland Heights, Ohio 44143, a variance of 3 feet 9 inches from HHCO 1123.17(a): “YARDS FOR ACCESSORY BUILDINGS AND SOLID WALLS”, which requires that the height to solid walls for tool sheds on corner lots shall not be more than 6 feet, to allow a tool shed with a solid wall height of 9 feet 9 inches on the north elevation only, per the drawing dated August 31, 2023; seconded by Mr. Hull.

FURTHER DISCUSSION: Messrs. Mercurio and Adamus said they support the variance to allow a wall height of 9 feet 9 inches on the north elevation only for the proposed “lean-to” style shed because it falls under the maximum roof peak height allowance of twelve feet allowed by code for “A-frame” style sheds.

VOTE: Ayes all; motion carried.

POLL: The consensus of the Commission for granting a variance of 3 feet 9 inches to allow a shed height of 9 feet 9 inches on the north elevation only is because it falls under the maximum roof peak height allowance of twelve feet allowed by code for “A-frame” style sheds.

MOTION: Variance #3 – Location: A motion was made by Mr. Mercurio to grant Don Shaffer, on property located at 1080 Barkston Drive, Highland Heights, Ohio 44143, a variance of 22 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 tool shed to be located 22 feet outside the lines of the house in the southwest rear yard, for a building length of 10 feet; seconded by Mr. Urban.

FURTHER DISCUSSION: Mr. Urban said he is somewhat sympathetic to the applicant’s situation because the house is not centered on the lot and the offset results in a loss of seventeen feet on the south side for locating a shed behind the shadow of the house. He expressed concern that if the fence along Ridgebury Boulevard were to be removed the shed would be only five feet from the public sidewalk and highly visible to Ridgebury Boulevard. In response to Mr. Urban’s inquiry if the applicant would consider moving the shed, Mr. Shaffer replied this is the only location where trees would not have to be cut down. Mr. Adamus agreed the shed is too close to the public sidewalk for justification. Mr. Shaffer replied he installed his privacy fence for security reasons because of theft from his property and he will not remove the fence. Mr. Adamus replied that Mr. Shaffer’s reasoning for installing the fence was to negate the effects of the high volume of pedestrian and vehicular traffic on Ridgebury Boulevard. He said the shed is now visibly in that public realm and is obtrusive because it extends higher than the fence. Mr. Adamus said a smaller shed that complies with the size allowed by code could be placed in another location of the yard.

VOTE: Nays all; motion denied.

POLL: The consensus of the Commission for denying a variance of 22 feet to allow a shed to be located 22 feet outside the lines of the house is because there are other feasible options to place a smaller shed that complies with size requirements given the size of the yard; the concern that the shed would be only five feet from the Ridgebury Boulevard public sidewalk if the existing fence was removed; the negative consequence of setting precedent to allow sheds outside the lines of the house because many people will request the variance to maximize yard space for recreational use; the location of the shed is visibly obtrusive to the public rights-of-way because it extends higher than the fence; and the potential safety risk of obstruction of view into the applicant's yard by city responders due to the roof height along Ridgebury Boulevard.

Mr. Adamus advised the applicant of his right to appeal the decision of the Planning and Zoning Commission as permitted under HHCO Section 1114 by filing an appeal within two weeks after approval of tonight's meeting minutes to the Highland Heights Board of Building and Zoning Appeals through the Building Department.

SUBJECT: CINDY BOSETIN, 5619 BLAIR DRIVE
PZ23024 VARIANCE TO MINIMUM REAR YARD SETBACK REQUIREMENT FOR PROPOSED REPLACEMENT GAZEBO

Cindy Bosetin, homeowner, 5619 Blair Drive, Highland Heights, Ohio 44143, appeared before the Commission to obtain a variance for the location of a proposed replacement gazebo-like structure to be placed on top of an existing deck in the rear yard, on property located at 5619 Blair Drive. The public hearing was held immediately prior to this regular meeting.

Mr. Adamus informed the applicant that only four of the five Commissioners were present and extended the option to delay 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 extended the applicant the right to be represented by an attorney. The applicant waived that right.

MOTION: A motion was made by Mr. Mercurio to grant Cindy Bosetin, on property located at 5619 Blair Drive, Highland Heights, Ohio 44143, a variance 3 feet from HHCO 1123.08: "AREA, YARD AND HEIGHT REGULATIONS", which requires a minimum rear yard setback of 50 feet, to allow a rear yard setback of 47 feet, for a building length of approximately 21.7 feet, per the drawing dated August 6, 2023; seconded by Mr. Urban.

FURTHER DISCUSSION: Mr. Adamus said he is not opposed to the variance because the amount of 3 feet is minimal; the gazebo will be placed in the same footprint on top of the existing permanent deck; and the gazebo is within all other required setbacks.

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 to allow a rear yard setback variance of three feet for a replacement gazebo-like structure is that the variance amount is minimal; the lot is pie-shaped and the gazebo would be well within the allowable setback if it was located on the opposite end of the house; the southwest rear lot line veers significantly closer to the house than at the other end; the existing gazebo will be removed and the new gazebo will be placed in the same footprint on the existing permanent deck; no variances to other setbacks are required; the view of the gazebo is obstructed by the house; the

gazebo does not change the character of the lot as it exists today; there are no negative effects to public safety and welfare; the neighbor most impacted stated she has no objections; and there are no objections by other neighbors.

SUBJECT: B-ROX, 5604 WILSON MILLS ROAD
PZ23026 APPROVAL OF PROPOSED FRONT BUILDING SIGN

Scott Thompson, Yesco Sign & Lighting Service, 38348 Apollo Parkway Suite 1, Willoughby, Ohio 44094, appeared before the Commission to obtain approval for a proposed front building wall sign for B-ROX, on property located at 5604 Wilson Mills Road, Highland Heights, Ohio 44143, the former site of Harry Buffalo's restaurant at the southeast intersection of Wilson Mills Road and Brainard Road. Building Commissioner Grabfelder stated the sign was approved by the City ARB earlier today and is smaller than the existing sign and no variances are required.

MOTION: A motion was made by Mr. Mercurio to grant approval for a proposed front building wall sign at B-ROX, on property located at 5604 Wilson Mills Road, Highland Heights, Ohio 44143, per the drawing dated September 11, 2023; seconded by Mr. Urban.

FURTHER DISCUSSION: None.

VOTE: Ayes all; motion carried.

SUBJECT: TIJUANA'S STREET TACOS, 5596 HIGHLAND ROAD
PZ23027 APPROVAL OF PROPOSED SIDE (WEST) BUILDING WALL SIGN

Building Commissioner Grabfelder addressed this matter before the Commission due to the unavailability of the applicant.

The proposed sign will be installed on the west side of the building facing Bishop Road. There is an existing sign on the front of the building. Mr. Grabfelder said code allows both front and side signs for buildings facing two major highways. He stated the existing billboard sign on the west side of the building will come down and that no variances are required. He said the sign was approved by the City ARB earlier today.

MOTION: A motion was made by Mr. Urban to grant approval for a proposed building wall sign to be located on the west side of the building at Tijuana's Street Tacos, 5596 Highland Road, Highland Heights, Ohio 44143, per the drawing submitted with the application received by the Building Department on September 13, 2023; seconded by Mr. Mercurio.

FURTHER DISCUSSION: None.

VOTE: Ayes all; motion carried.

SUBJECT: PLANNED UNIT RESIDENTIAL DEVELOPMENT (PURD) ZONING
PZ23013 DISCUSSION OF PURD RECOMMENDATIONS

The Commission has been submitting recommendations to City Council that would allow the creation of a Planned Unit Residential Development (PURD) Zoning District in the city to avoid using current U-1 Single Family Residential zoning code restrictions for proposed high-density subdivisions. Building Commissioner Grabfelder said the ordinance created by Law Director Lograsso is on tomorrow's agenda for review by the Legislative and Finance Committee.

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. Hull. Ayes all; motion carried. Mr. Adamus declared the meeting adjourned at 7:56 p.m.

Susan M. Olson, *Recording Clerk*

Vince A. Adamus, *Chair*

**CITY OF HIGHLAND HEIGHTS, OHIO
MINUTES OF A PLANNING AND ZONING MEETING
PUBLIC HEARING FOR DON SHAFFER - PZ23023
HELD: SEPTEMBER 25, 2023
Highland Heights City Hall Council Chamber**

PRESENT: Commissioners Vince Adamus, Brad Hull, Joe Mercurio, Bill Urban; Recording Clerk Susan Olson; Building Commissioner Dale Grabfelder; Assistant Law Director Tim Paluf

ABSENT: Commissioner Milroy

**SUBJECT: DON SHAFFER, 1080 BARKSTON DRIVE
PZ23023 VARIANCE TO EXCEED MAXIMUM AREA REQUIREMENT FOR SHED; VARIANCE TO EXCEED WALL HEIGHT FOR SHED; VARIANCE TO LOCATE SHED OUTSIDE THE LINES OF THE HOUSE**

Chairman Adamus called the public hearing to order at 7:02 p.m. Notices of this hearing were mailed in accordance with HHCO Section 1113.04. Variances appeared as follows:

Variance #1 – Size: Variance of 37 square feet from HHCO 1123.05(e)(1): “ACCESSORY USES; Recreational Facilities”, which allows a maximum accessory building size of 144 square feet or one percent (1%) of the lot area on a single family residentially zoned lot of 20,000 square feet or less, whichever is greater, to allow a 200 square foot tool shed on this 16,300 square foot lot.

Variance #2 – Wall height: Variance of 6 feet from HHCO 1123.17(a): “YARDS FOR ACCESSORY BUILDINGS AND SOLID WALLS”, which requires that the height to solid walls for tool sheds on corner lots shall not be more than 6 feet, to allow a tool shed with a solid wall height of 12 feet. *(The variance amount was later amended to 3 feet 9 inches.)*

Variance #3 – Location: Variance of 22 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 tool shed to be located 22 feet outside the lines of the house in the southwesterly rear yard, for a building length of 10 feet.

Don Shaffer, homeowner, 1080 Barkston Drive, Highland Heights, Ohio 44143, appeared before the Commission to obtain variances for a shed on property located at 1080 Barkston Drive. Mr. Shaffer’s corner lot is at the southwest intersection of Barkston Drive and Ridgebury Boulevard. Mr. Shaffer has nearly completed construction of a 10-foot by 20-foot shed for which he neither applied nor obtained a permit. The shed violates three ordinances.

Variance #1 - Size: Code allows a maximum shed size of 1% of a lot area under 20,000 square feet. A variance of 37 square feet is required to allow a shed area of 200 square feet on this 163,000 square-foot lot. Mr. Shaffer said he prefers a 200-square foot shed because it is easy to build.

Variance #2 – Wall height: The shed at issue is a “lean-to” style meaning it has only one slope or pitch. The south wall height is 6 feet and the north wall height is 9 feet 9 inches. Code allows a maximum wall height of 6 feet. A variance of 3 feet 9 inches is required to allow a north wall height of 9 feet 9 inches. Building Commissioner Grabfelder said the majority of sheds are an “A-frame” style with a dual roof pitch for which code allows a maximum roof peak height of 12 feet and a maximum wall height of 6 feet.

Variance #3 - Location: Code requires that no shed be located closer to the side yard line than the main use structure. A variance of 22 feet is required to allow the shed to be 22 feet (not 0 feet) outside the lines of the house in the far southwest corner of the rear yard. Mr. Shaffer said he chose to place the shed in that corner for three reasons. The first reason is to have an unobstructed view and full access to the westerly adjacent rear property neighbor, who he assists in times of need. The second reason is because he does not need to remove trees. The third reason is because there are no drainage issues. Mr. Shaffer said he will demolish the existing dilapidated 10 foot by 14 foot shed that is located toward the northwest corner of the rear yard. He said he does not want to place the new shed in that location because his property drains into that area and it would require the shed to be built on stilts. The new shed as built today meets the minimum rear yard setback requirement of 10 feet. Mr. Urban said he is somewhat sympathetic to the applicant’s situation because the house is not centered on the lot and is located further to the north than the south side, and this offset is the reason there is less available area to locate a shed behind the lines of the house on the south side.

The new shed is set on a wood platform with no concrete. Mr. Grabfelder said foundations are not required for sheds less than 400 square feet.

The applicant previously installed the existing 6-foot high solid privacy fence that extends east-west along his south side lot line adjacent to the public sidewalk on Ridgebury Boulevard. The fence is two feet away from the public sidewalk. The shed is three feet to the north of the fence. Mr. Adamus showed many photos of the area and it was apparent the shed height is greater than the fence height and the proximity of the shed to the fence and public sidewalk make it clearly visible to pedestrians and traffic along Ridgebury Boulevard.

Mr. Shaffer inquired if he could build a one-car garage onto the south side of his house. The house is set back 27 feet from the Ridgebury Boulevard sidewalk. The minimum side yard setback requirement is 10 feet. A distance of 17 feet remains as buildable area in the side yard.

Public hearing opened to the public.

Tony Frusteri, 5839 Ridgebury Boulevard, Highland Heights, Ohio 44143, the adjacent westerly property owner, appeared before the Commission and expressed support for the variances. His property is most impacted by the shed. He said he prefers the shed be located in the far southwest corner of the applicant’s yard because it does not impede the view or access between their yards, and that his easy access to Mr. Shaffer’s yard offers him a sense of security.

Mr. Shaffer presented a letter to the Commission written by Brian and Debbie Greenberg, 1068 Barkston Drive, Highland Heights, Ohio 44143, the adjacent northerly property owners, stating they have no problems in regard to the location of the shed he is building in his backyard.

No one else spoke nor was any additional correspondence received from the public on this matter. Public hearing closed at 7:23 p.m.

Susan M. Olson, *Recording Clerk*

Vince A. Adamus, *Chair*

CITY OF HIGHLAND HEIGHTS, OHIO
MINUTES OF A PLANNING AND ZONING MEETING
PUBLIC HEARING FOR CINDY BOSETIN - PZ23024
HELD: SEPTEMBER 25, 2023
Highland Heights City Hall Council Chamber

PRESENT: Commissioners Vince Adamus, Brad Hull, Joe Mercurio, Bill Urban; Recording Clerk Susan Olson; Building Commissioner Dale Grabfelder; Assistant Law Director Tim Paluf

ABSENT: Commissioner Milroy

SUBJECT: CINDY BOSETIN, 5619 BLAIR DRIVE
PZ23024 VARIANCE TO MINIMUM REAR YARD SETBACK REQUIREMENT
FOR PROPOSED GAZEBO

Chairman Adamus called the public hearing to order at 7:24 p.m. Notices of this hearing were mailed in accordance with HHCO Section 1113.04. Variance appeared as follows:

1. Variance of 3 feet from HHCO 1123.08: “AREA, YARD AND HEIGHT REGULATIONS”, which requires a minimum rear yard setback of 50 feet, to allow a rear yard setback of 47 feet.

Cindy Bosetin, homeowner, 5619 Blair Drive, Highland Heights, Ohio 44143, appeared before the Commission to obtain a variance for the location of a proposed gazebo, on property located at 5619 Blair Drive.

There is a deck attached to the rear of the house that extends along the entire length of the house. At the southwest corner of the deck there is a 4-post gazebo-like structure placed on top of the deck. Ms. Bosetin said she proposes to remove the structure and replace it with a new 6-post gazebo-like structure in the same location as the existing structure. The lot is pie-shaped and the southwest rear property line veers significantly closer to the house than at the northwest end. A variance of 3 feet from the minimum rear yard setback requirement of 50 feet is required to allow the new gazebo to be a distance of 47 feet from the rear property line. Ms. Bosetin said the house blocks the view of the gazebo.

Public hearing opened to the public.

Jo Ann Davis, 611 Bishop Road, Highland Heights, Ohio 44143, owner of the undeveloped westerly adjacent rear parcel 822-03-013, addressed the Commission and stated she has no objection to the variance and proposed location of the gazebo.

No one else spoke nor was any additional correspondence received from the public on this matter. Public hearing closed at 7:26 p.m.

Susan M. Olson, *Recording Clerk*

Vince A. Adamus, *Chair*