

**CITY OF HIGHLAND HEIGHTS
REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION
HELD AT THE HIGHLAND HEIGHTS COMMUNITY CENTER
SEPTEMBER 27, 2021 7:00 PM**

Chair of Commission Adamus presiding.

PRESENT: Commissioners Adamus, DiLalla, Hull, Mercurio, Urban; Recording Clerk Olson; Building Commissioner Grabfelder

ABSENT: Law Director Paluf

MOTION ON THE MINUTES: The reading of the minutes of the regular meeting held September 13, 2021 was dispensed with. Mr. Hull moved to accept the minutes as written; seconded by Mr. DiLalla.

FURTHER DISCUSSION: An amendment to the minutes was requested by Mr. Adamus as follows: Page 2, 1st paragraph, last sentence, change “The Commission signed the mylar at tonight’s meeting.” to “The mylar was brought to tonight’s meeting for signatures.” Vote on amendment to main motion: Ayes all; motion carried.

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

**SUBJECT: CHANNING PRESTON, 1055 COLONY DRIVE
PZ21027 VARIANCE TO FENCE DESIGN REQUIREMENTS TO ALLOW
SUPPORTING POSTS TO FACE A PROPERTY OTHER THAN THE
OWNER OF THE FENCE FOR AN EXISTING FENCE AT 1055 COLONY
DRIVE**

Channing Preston, homeowner, 1055 Colony Drive, Highland Heights, Ohio 44143, and Nate Ploskonka, contractor, Wiler Fence Company, PO Box 31212, Seven Hills, Ohio 44131, appeared before the Commission to request a variance to permitted fence design and construction requirements for an existing, newly constructed cedar fence along the rear lot line, on property located at 1055 Colony Drive. The public hearing was held immediately prior to tonight’s regular meeting.

Mr. Adamus advised the applicant of his right to be represented by an attorney. The applicant waived that right and chose to proceed.

MOTION: A motion was made by Mr. Mercurio to grant Channing Preston, on property located at 1055 Colony Drive, Highland Heights, Ohio 44143, a variance from HHCO 1123.21(g): “FENCES; Maintenance”, which establishes that permitted fences shall be designed, constructed and finished so that the supporting members thereof shall face the property of the owner of the fence, to instead allow the existing, newly constructed fence located along the rear lot line at 1055 Colony Drive to remain as-is, constructed with vertical, supporting posts alternating along both fence sides, that face the owner of the existing fence and the adjacent property to the rear of the owner of the existing fence; seconded by Mr. Urban.

FURTHER DISCUSSION: None.

VOTE: Nays all; motion denied.

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 denying the variance is that Code should be upheld and protected because there are no special circumstances to justify the variance; the Commission presented a viable solution to modify the fence that eliminates the need for the variance while assuring the applicant's property rights will not be negatively impacted; a variance cannot be granted solely on aesthetics; and, the neighbor to the rear of the applicant is amenable with the fence modification as presented by the Commission.

Mr. Adamus advised the applicant of his right to appeal the decision of the Commission with the City of Highland Heights Board of Building and Zoning Appeals by filing a request with the Building Department within the next two weeks.

SUBJECT: SOLAR PANELS
PZ21028 DISCUSSION

Mr. DiLalla reported City Council will discuss solar panels at tomorrow's Council meeting. Building Commissioner Grabfelder said he will provide Council with copies of the ordinances that regulate solar panels in surrounding cities. The Commissioners informally discussed solar panels. The consensus of the Commission was that solar panel regulation is a relevant topic that should be addressed by the City and that the Commission should be permitted to offer input regarding this matter.

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. DiLalla to adjourn the meeting; seconded by Mr. Urban. Ayes all; motion carried. Mr. Adamus declared the meeting adjourned at 8:00 p.m.

Susan M. Olson, *Recording Clerk*

Vince A. Adamus, *Chair*

**CITY OF HIGHLAND HEIGHTS
PUBLIC HEARING OF THE PLANNING AND ZONING COMMISSION
HELD AT THE HIGHLAND HEIGHTS COMMUNITY CENTER
SEPTEMBER 27, 2021 7:00 PM**

Chair of Commission Adamus presiding.

PRESENT: Commissioners Adamus, DiLalla, Hull, Mercurio, Urban; Recording Clerk Olson; Building Commissioner Grabfelder

ABSENT: Law Director Paluf

**SUBJECT: CHANNING PRESTON, 1055 COLONY DRIVE
PZ21027 VARIANCE TO FENCE DESIGN REQUIREMENTS TO ALLOW
SUPPORTING POSTS TO FACE A PROPERTY OTHER THAN THE
OWNER OF THE FENCE FOR AN EXISTING FENCE AT 1055 COLONY
DRIVE**

Public hearing was called to order at 7:03 p.m. Notices of this hearing were mailed in accordance with HHCO 1113.04. Variance appeared as follows:

1. Variance from HHCO 1123.21(g): “FENCES; Maintenance”, which establishes that permitted fences shall be designed, constructed and finished so that the supporting members thereof shall face the property of the owner of the fence, to instead allow the existing, newly constructed fence located along the rear lot line at 1055 Colony Drive, Highland Heights, Ohio 44143, to remain as-is, constructed with vertical, supporting posts alternating along both fence sides, that face the owner of the existing fence and the adjacent property to the rear of the owner of the existing fence.

Channing Preston, homeowner, 1055 Colony Drive, Highland Heights, Ohio 44143, and Nate Ploskonka, contractor, Wiler Fence Company, PO Box 31212, Seven Hills, Ohio 44131, appeared before the Commission to request a variance to permitted fence design and construction requirements for an existing, newly constructed cedar fence along the rear lot line, on property located at 1055 Colony Drive.

At issue is a recently constructed cedar fence for which a permit was neither requested nor obtained, on property located along the rear lot line at 1055 Colony Drive. HHCO 1123.21(g): “FENCES; Maintenance”, establishes that permitted fences shall be designed, constructed and finished so that the supporting members thereof shall face the property of the owner of the fence. The existing fence is constructed with four vertical, supporting posts that face the owner of the existing fence (allowed by Code) and four additional vertical, supporting posts that face the adjacent property to the rear of the owner of the fence (not allowed by Code). The fence is approximately six feet high and does not exceed the six-foot maximum allowable fence height. The fence does not encroach into any adjoining yards and meets all other Code requirements.

Mr. Preston said he was unaware of his responsibility to obtain a permit to replace the former, 30-year-old dilapidated rail fence along his rear lot line. He stated he paid \$8,000 for the fence

and an additional \$4,000 to remove large trees along the rear lot line that were damaged during a heavy snowstorm. He said the fence observes the intent of Code because it is aesthetically appealing, will not alter the essential character of the neighborhood, is not detrimental to the public welfare and enhances his yard. He stated it would be ludicrous to take apart the fence to comply with the Code requirement.

When asked by Mr. Urban if he researched permit requirements prior to fence construction, Mr. Ploskonka replied no and further stated the fence should be allowed to remain as-is because he has installed this style of fence in ten municipalities over a period of seven years without repercussion. Mr. Urban said the onus was on Mr. Ploskonka to obtain a permit and inquired if modifications can be made to bring the fence into compliance with Code. Mr. Adamus said Code should be upheld and protected in this matter because there are no special circumstances that justify the variance.

The Commission discussed modification options to bring the fence into compliance with Code. One option was to remove the vertical posts that face the adjacent rear property and reposition them on Mr. Preston's side of the fence. Mr. Preston said he is opposed to removing and repositioning posts or slats because the cedar posts would be weakened. A second option was to add six horizontal slats to cover each of the two sets of two posts that are spaced 32 inches apart and that face the adjacent rear lot, while leaving all other fence pieces intact. Building Commissioner Grabfelder said adding six slats to each of the two sets of vertical posts would be adequate to comply with the 25% minimum light and air requirement and further stated all fence material must be the same. Mr. Ploskonka said he is willing to make any modifications necessary to comply with Code.

In response to Mr. Hull's inquiry if modifying the fence by adding slats will substantially impair the usage and structure of the fence, Mr. Ploskonka replied no. The consensus of the Commission and applicant was that substantial property rights of the applicant will not be lost if the variance is not granted, nor will the absence of the variance negatively affect the applicant's ability to enjoy his yard.

Public hearing opened to the public.

Recording Clerk Olson received an email dated September 24, 2021 that was signed as "Anonymous neighbor". Law Director Paluf opined anonymous comments have no credibility. The Commission will not consider the contents of the email due to its anonymous nature.

Brian Stewart, 1056 Eastlawn Drive, Highland Heights, Ohio 44143, appeared before the Commission to object to the variance and said Code should be upheld. He stated he is amenable with augmenting the portion of the fence that is in violation with cedar slats as suggested by the Commission.

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

Public hearing closed at 7:35 p.m.

Susan M. Olson, *Recording Clerk*

Vince A. Adamus, *Chair*