

# PLANNING REPORT

## Board of Zoning Appeals

Thursday January 29, 2026

### Coffman Residence Fence 25-116AA

#### Case Summary

|                         |  |
|-------------------------|--|
| Address                 | 7068 Anselmo Court Dublin, OH 43017  |
| Proposal                | An Administrative Appeal of a determination by the City of Dublin Community Planning and Development Division regarding whether a new fence is considered a replacement fence for purposes of Zoning Code Section 153.083(C). The 0.26-acre site is zoned R-4, Suburban Residential District and is located approximately 40 feet northeast of the intersection of Scribner Way and Anselmo Court. |
| Request                 | Review and approval of an Administrative Appeal under the provisions of Zoning Code Section 153.231(F).  |
| Zoning                  | R-4, Suburban Residential District   |
| Planning Recommendation | <u>Affirmation of Staff's determination.</u>   |
| Next Steps              | The Board of Zoning Appeals is the final reviewing body for this application. If approved by the BZA, the appellant may apply for a Certificate of Zoning Plan Approval to maintain the rear fence. If disapproved by the BZA, the appellant would have to remove the rear fence built without zoning approval and modify the plans to meet the required setback.                                  |
| Appellant               | Mitchell Coffman, Property Owner   |
| Case Manager            | Zach Hounshell, Planner II<br>(614) 410-4652<br><a href="mailto:zhounshell@dublin.oh.us">zhounshell@dublin.oh.us</a>   |



Community Planning and Development



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## Site Location Map

# 25-116AA – Coffman Residence Fence



### Site Features

1

New fence location



## **1. Overview**

### **Site Summary**

The 0.26-acre site is zoned R-4, Suburban Residential district and is located just north of the intersection of Scribner Way and Anselmo Court. The site contains a 2,500 square-foot dwelling built in 1985. The property is located in Hemingway Village, Section 2 and listed as lot 115 on the plat.

### **Site Information**

The property is largely rectangular in shape with a curved front property line along the cul-de-sac. The property is flat with minimal natural features located on the site. The southern property line is the longest on the lot measuring 146.63 feet, with the lot depth decreasing to 109.52 feet at the northern property line. A 30-foot front building line is provided for all properties in the neighborhood. The 2-story home is located centrally on the property, approximately 36 feet from the rear property line. The home does have an existing patio located to the rear of the home. Mature vegetation was located along the rear property line, however, much of the vegetation has been removed.

In the Spring of 2024, the property owner installed an open fence in the rear yard without approval of a Certificate of Zoning Plan Approval, which is required for all fences. Code Enforcement was notified of the fence and engaged the property owner to obtain compliance. The current fence is located within the rear and side yard setbacks, which is not permitted without approval of a Variance.

In November 2024, the appellant requested a variance to encroach into both the rear and side yard setbacks. The request was to allow a fence to encroach approximately 25 feet into the rear yard setback, approximately 5 feet into the northern side yard setback, and approximately 4 feet into the southern side yard setback. The BZA reviewed the application and disapproved the request.

### **Process**

Zoning Code Section 153.231(F) states that an appeal may be taken from any person or any governmental department affected or aggrieved, and review any order, requirement, decision or determination where it is alleged by the appellant that there is error or misinterpretation in any order, requirement, decision, grant or refusal made by an administrative official or body charged with the enforcement and administration of the Zoning Code.

In deciding the appeal, the Board is to determine whether or not the decision that was made was done so using the proper requirements and standards in the Zoning Code. The Board is limited to the information that was available to the administrative official or body who made the decision being appealed. Additional testimony is not appropriate.

If the Board determines that the administrative official or body making the decision did so improperly, the Board may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination appealed from, and may make an order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative official or body from whom the appeal was taken.

## **2. Analysis**

### **Summary**

The appellant is appealing the decision by the City of Dublin that a new fence that the appellant constructed on the property is not considered a replacement fence under Zoning Code Section 153.083(C). The materials provided with this report include Staff's official determination issued to the appellant on October 6, 2025, the appeal request by the appellant on October 25, 2025, and supporting evidence provided by the appellant. The following provides a summary of Staff's analysis as provided in the official determination, followed by the appellant's reasoning for the appeal.

### **Background**

On April 9, 2025, the appellant submitted a PowerPoint presentation to Dublin Staff described as a "fence Compliance proposal." The appellant previously requested variances to the rear and side yard setbacks that, if granted, would have allowed them to maintain the fence as erected. *See Case #24-111V – Coffman Residence Fence* in the provided materials. The appellant provided various materials, including oral testimony, with that submission. The Board denied the request, and the appellant did not appeal its decision.

Based on previous conversations with the appellant and the previous presentation to the Board, Staff interpreted the April 9, 2025 "fence Compliance proposal" as a request for an official determination from Staff regarding whether the portion of the existing fence that was erected in 2024 near the rear lot line falls within the exception set forth at Zoning Code Section 153.083(C). The request for an official determination affects only the portion of fence that was constructed near the rear lot line.; the other portions of the still-present fence remain out of compliance with the Dublin Zoning Code.

The appellant has stated to Staff that "at some time" before 2024, the rear lot line was lined with existing vegetation, which included "trees, flowers, vines and other vegetation supported by rope and 6-foot stakes." *See Original Variance Drawings, p. 11.* The appellant also stated that they unilaterally interpreted Zoning Code Section 153.083(C) to allow them to remove the pre-existing vegetation and erect a new fence in the same location as a "replacement" at a later date.

The appellant provided aerial photos of 7068 Anselmo Court on August 5, 2025, and September 1, 2025, via email. These photos were considered as part of Staff's review of the materials and code analysis. Additional information was provided by the appellant on September 1, 2025, outlined existing properties within close proximity to the site that had existing fences prior to 2000 and after 2000. This evidence was reviewed by Staff but not considered as material evidence for Staff's determination as it was not relevant to the question of whether the new fence on the property would be considered a replacement fence under Zoning Code Section 153.083(C). All materials provided by the appellant have been included in the Board's packets.

### **Staff Analysis**

Zoning Code Section 153.079 defines a fence as "any structure composed of wood, metal, stone, plastic, cellular vinyl, or other natural and permanent material erected and positioned as to enclose or partially enclose any premises or any part of any premises. Trellises, or other structures supporting, or for the purpose of supporting vines, flowers and other vegetation when erected in such position as to enclose or partially enclose or separate any premises shall

be included within the definition of the word FENCE. Hedges, retaining walls, or radio controlled fences, shall not be included within the definition of the word FENCE." Staff's application of the requirement is that the underlined section states that trellises or similar structures that support vegetation to enclose or partially enclose any premise shall be included within the definition. The code does not state that vegetation alone shall be counted as a "fence."

Under Zoning Code Section 153.083(C), "Notwithstanding any other provisions in this Code, in all residential districts fences erected prior to the effective date of Ord. 75-98 shall not be considered non-conforming structures and shall be permitted to be replaced in the same location and at the same or lesser height as existed on the effective date of Ord. 75-98. In addition, the replacement fence shall be of a material as provided in Code § 153.080(C). A Certificate of Zoning Plan Approval shall be required."

The appellant bears the burden of showing that the portion of the existing fence that was erected near the rear lot line falls within that exception. To do so, the appellant must first demonstrate that the pre-existing fence structure was "erected prior to the effective date of Ord. 75-98," which occurred on or about April 20, 2000, and meets the definition of a fence as stated above.

Based on previous evidence submitted with the Variance application 24-111V, and aerial photos provided via email on August 5 and September 1, Staff agrees that the property appears to have vegetation near the rear of the property. However, while the aerial photos demonstrate that 7068 Anselmo Court contained vegetation near the rear lot line prior to the effective date of Ord. 75-98, Staff did not find that they provide probative evidence of a qualifying "fence" structure for three separate reasons.

First, the discernable "vegetation" in the aerial photos is not consistent with the vegetation within the definition of "fence." The aerial photos show approximately five to six small trees near the rear lot line, but no vines, flowers, or similar vegetation. While trees may colloquially fall within the broad category "vegetation," Staff determines that trees are not included within the category "other vegetation" for purposes of Code § 153.079. The Dublin Zoning Code does not define "vegetation," but Code § 153.131 states that it is "the purpose of [the landscaping] subchapter to specifically promote the preservation and replacement of trees and significant vegetation removed in the course of land development[.]" By using both the words "trees" and "vegetation" in that section, Staff has determined that City Council intended "trees" and "vegetation" to be interpreted as separate and distinct categories. Thus, to the extent that the rear lot line of 7068 Anselmo Court contained trees, those trees cannot be considered part of any "fence" that existed near the rear lot line.

Second, vines, flowers, and other vegetation are not considered a "fence" unless they are growing on or supported by "trellises or other structures supporting, or for the purpose of supporting" such vegetation. Code § 153.080(C). Staff determines that City Council's intention was to require property owners who plant such vegetation on their properties to keep and maintain such vegetation in a clean and visually appealing manner, which trellis structures allow for. This interpretation is consistent with Code § 153.135, which states that "[t]he owner of the property shall be responsible for the continued proper maintenance of all landscaping materials, and shall keep them in a proper, neat and orderly appearance ... at all times." The appellant has stated that the pre-existing vegetation at 7068 Anselmo Court was "supported by rope and 6-

foot stakes." Staff determines that such "rope and 6-foot stakes" are not the kinds of vegetation-supporting "structures" that City Council had in mind when it adopted Code § 153.079 because they are not like trellises, which are designed to support and facilitate vegetation growth in a visually appealing manner, nor do they typically support applicable vegetation.

And third, the structures that support the vegetation must have been "erected in such position as to enclose or partially enclose or separate any premises[.]" *Id.* Neither the aerial photos nor the appellant's statement that the vegetation was supported by "rope and 6-foot stakes" demonstrate that such rope and/or stakes were erected to fully or partially enclose the rear lot line or meaningfully separate it from any other premise. Staff has determined that such stakes and rope, to the extent they can be discerned from the aerial photos, were not erected to enclose 7068 Anselmo Court near the rear lot line or separate it from a neighboring premises. Each of the above-stated reasons independently precludes Staff from determining that the pre-existing vegetation at 7068 Anselmo Court is considered a "fence" for purposes of Code§ 153.083(C).

Separately, even if Staff had determined that 7068 Anselmo Court had a qualifying fence structure at the rear lot line in January 2000, Staff would nevertheless have to conclude that the current fence near the rear lot line is not a "replacement fence" for purposes of Code§ 153.083(C) because you did not acquire a "Certificate of Zoning Plan Approval" before erecting that portion of the new fence.

For these reasons, Staff determines that the appellant has not satisfied their burden of showing that the portion of the existing fence that was erected near the rear lot line falls within Code§ 153.083(C).

### **Appellant Statement**

The appellant provided a request for the administrative appeal via email on October 25, 2025. The following list captures verbatim the appellant's reasoning for the appeal:

- 1) The City of Dublin extended my time to provide additional Information to September 2, 2025. I provided additional Information September 1, 2025 and this information was not considered in the determination.
- 2) The City of Dublin did a site inspection (Sited in prior submissions), This person was not qualified, and did not perform a proper site assessment (Did a drive by and did not get out of his Auto), did not walk the site or talk with me or my team that were on site at this time.
- 3) When the City of Dublin sent their written communs did not have the correct property address, and in discussions with the individual he stated that he copied and pasted another letter and that it was in error.
- 4) Per Code replacement fence, We believe it is a fence replacement, per code 153.079 Defines a fence as "any structure composed of wood, metal, stone, plastic, cellular vinyl or other natural and permanent material erected and positioned as to enclose any premises or any part of any premises. Trellises, or any other structures supporting, or for the purpose of supporting vines, flowers and other vegetation when erected in such position as to in close or separate any premises shell be included within the definition of the word FENCE.

- 5) In My September 1, 2025, Documentation it cited 66 properties reviewed (Parcel Numbers provided) just in my one block, 21 (38%) have fences on property border lines, of the 21 fences, 13 (61.9%) did not have a fence prior Code Change in the year 2000.
- 6) In a review of the Auditor's website in the year 2000, the 13 properties cited in E above, had less or no vegetation on their borders where fences were later built after the year 2000. (Note: Parce property # cited and provided to the city of dublin as evidence.
- 7) Also cited in prior submissions, the fence was installed for the safety of two disabled children, on each side of the property at 7068 Anselmo Ct.
- 8) In my first appeal to the Board November 2024, although replacement fence information was included in submission, (I was sworn in under oath), as I went to present this Information, the city of Dublin Planning Representative present at this 11/24 Board meeting would not allow me to present this information ( I feel my personal Rights to Appeal were violated).
- 9) The City of Dublin Planning has incorrectly disallowed the Information I submitted September 1, 2025, I will present this information to the Board of Zoning.
- 10) The City of Dublin Planning has on numerous occasions, changed their mode of communication, Certified Letter, to Emails, and several different individuals within the department, plus I receive communications from one person they indicate to communicate with another person (extremely confusing), so I have worked to include multiple city of Dublin personnel.

### **3. Recommendation**

Planning recommends that the Board of Zoning Appeals affirm Staff's determination that the existing fence does not qualify as a replacement fence.