

**BOARD OF BUILDING CODE APPEALS
CITY OF NORTH OLMSTED
MINUTES FOR SEPTEMBER 17, 2009**

ROLL CALL

The meeting was called to at 5:35 p.m. in Council Chambers.

Present: Donna Sabo, Norman Althen, Dan Jarachovic

Absent: Robert Lipcsey, BJ Meder

Staff: Assistant Law Director Bryan O'Malley, Assistant Building Commissioner Dale Mitchell, Clerk of Commissions Donna Rote

Mr. O'Malley announced that as there were only three board members present and three votes are required for approval applicants could request to be tabled until more members were present and both applicants chose to proceed.

REVIEW AND CORRECTION OF MINUTES

Mr. Jarachovic moved, seconded by Mr. Althen, to approve the August 20, 2009 minutes which was unanimously approved 3-0.

NEW BUSINESS

Robert Dehoff; 25171 Doe Drive:

Proposal consists of a chainlink fence enclosing the rear yard. The following variance is requested: A variance to construct a 75 foot section of 4 ft high black vinyl chainlink fence along the rear property line where a neighbor's chainlink fence exists and is in violation of section 1369.03 (A (3)). Note; there is a 10 ft CEI easement between the two properties.

Mr. Dehoff was sworn in and said the fence was needed for privacy and the family pet. He was not aware the fence was not allowed until he applied for the permit. The fence would be installed outside of the CEI easement which is just about the same location of the white decretive fence shown in the pictures submitted. Mrs. Sabo questioned if the decretive fence would be removed and Mr. Dehoff said it would be removed when the chainlink fence was installed. Mr. Mitchell noted there were several homes within the area which had fences and did not object to the request if the decretive fence was removed. Mr. Jarachovic questioned if the applicant understood that the board was only addressing the 75 foot rear section and he would have to seek a variance from BZA for the side section of fence and Mr. Dehoff said he was scheduled for the October first BZA meeting. Mrs. Sabo asked if there would be a gate along the back and Mr. Dehoff said there would be two gates along either side of his home but not the rear. He and his rear neighbor work together to ensure the area between the fences are maintained.

Mr. Althen moved, seconded by Mr. Jarachovic, to grant Robert Dehoff of 25171 Doe Drive a variance to construct a 75 foot section of 4 ft high black vinyl chainlink fence along the rear property line where a neighbor's chainlink fence exists as long as there is 10 feet

between both fences which is in violation of section 1369.03 (A (3)) and was unanimously approved 3-0.

Robert Pritchard; 25930 Kennedy Ridge Road:

Proposal consists of replacing existing non-conforming air conditioning condenser and the following variance is requested: A variance to install an air conditioning condenser within the sideyard setback along the east side property line, which is in violation of section 1355.03.

Mr. & Mrs. Pritchard were sworn in and Mr. Pritchard said the condenser is on the east side of the home not west as stated. They are replacing the existing condenser and furnace during the rebate incentive period as both are quite old. They had the original condenser installed in the late 80's along the east side of the home because the yard severely slopes downward away from the back of the home. A letter from the abutting neighbor and photos of the back of the home were submitted. The neighbor's letter stated she did not object to the location of the condenser.

Mr. Mitchell reviewed building departments files showed that in 2002 a permit for air conditioning ductwork was pulled and then in 2004 a site survey was submitted which does not show the condenser along the east side of the home. Mr. Pritchard said in 2002 a dormer was added to the home which required ductwork and the 2004 survey was for the rear yard landscaping which was competed and he's not sure why the survey didn't show the condenser which was in place. Mr. Althen said he though condensers were allowed on the sideyard if it's not visible from the street and neither the existing nor new condenser would be visible unless the landscaping is removed. Mr. Mitchell said although the condenser is not visible from the street the proposed condenser would only be 2 feet off the property line which is why the permit was denied. Mr. Althen said he objected to a condenser being installed 2 feet from the property line regardless if it is visible or not. Mr. Pritchard said the back of the home has a 3 foot decline and the condenser could not be placed along the back. Mr. Althen said if the condenser has to be 1 foot from the house to service and the condenser itself is 3 feet wide the 6 foot side yard would only be 2 feet which is unacceptable. Mr. Jarachovic said shelves were available which could be connected to the back of the home to support and keep the condenser level. Mrs. Pritchard said the downspout at the back east corner and drain tiles could not support a condenser.

A discussion ensued regarding the size and distance from the home and whether or not a condenser with the same rating but narrower could be installed to allow a 3 foot setback and the applicants said the condenser could not be any smaller or it would not meet their needs. Mr. Althen questioned if the matter could be tabled to allow the owners the opportunity to find out if a narrower condenser is available or if it would be possible to run the condenser to a shelf at the back east corner of the home and Mr. O'Malley advised that the owners could agree to be tabled or they could chose to be addressed as submitted. Mr. Pritchard said the rebate is only for the condenser size chosen which is required to meet the cooling needs of the homes size. Mr. Althen questioned if the board was within their right to grant relief and limit the sideyard distance to a specific distance and Mr. O'Malley said it was within the board authority to set a specified distance. Mr. Althen said the neighbor could install a privacy fence and if the condenser is two feet away it would impeded it from working properly and the area couldn't be maintained. Mrs. Sabo questioned if the current condenser was the same size and Mr. Prichard said it was not as

efficient and requests the two foot variance as the condenser can not be placed at the back east corner. Mr. Mitchell said if the board grants relief he request the sideyard distance be stated and location of property line identified. Mr. Pritchard said the neighbor can not see the condenser nor has she complained of noise and moving the unit adds distance from the main unit therefore they wish to place the new condenser in the same location as the existing unit which they believe to be the best location.

Mr. Althen moved, seconded by Mr. Jarachovic to grant Robert Pritchard of 25930 Kennedy Ridge Road a variance to install an air conditioning condenser unit 3 feet off the east sideyard property line and the property line is to be defined, which is in violation of section 1355.03 and was unanimously approved 3-0.

COMMUNICATIONS

Mr. Jarachovic moved, seconded by Mr. Althen to excuse the absence of members Robert Lipcsey and BJ Meder which was unanimously approved 3-0.

ADJOURNMENT

With no further business pending the meeting was adjourned at 6:35 p.m.

Donna Sabo, Chair

Donna Rote, Clerk of Commissions

Approved:
