

**BOARD OF BUILDING CODE APPEALS  
CITY OF NORTH OLMS TED  
MINUTES FOR JUNE 17, 2010**

**ROLL CALL**

The meeting was called to order at 5:33 p.m. in Council Chambers.

Present: Donna Sabo, Norman Althen, BJ Meder

Absent: Robert Lipcsey, Dan Jarachovic

Staff: Building Commissioner Dale Mitchell, Planning Secretary Tricia Granfors

**REVIEW AND CORRECTION OF MINUTES**

**Mr. Althen moved, seconded by Mrs. Sabo, to approve the May 20, 2010 minutes which were approved 3-0.**

**OLD BUSINESS**

**Anthony & Rosemary Hurst; 2845 Walter Road:**

Request consists of installing a HVAC condensing unit. Two variances are requested. 1. A variance for installing an HVAC condenser within the sideyard setback along the north side of property which is in violation of Section 1355.03. 2. A variance for exceeding maximum permissible sound level for single family residential district; code permits 60 Db between 8:00 a.m. to 7:00 p.m. and 50 Db between 8:00 p.m. to 7:00 a.m., the proposed sound level is 74 Db, which is in violation of Section 555.04.

Rosemary Hurst and contractor Paul Campbell of Air Rite were sworn in. Mrs. Hurst said she is planning on building an addition to the rear of the house. Installing the HVAC condensing unit on the side of the house will eliminate the need, complication, and additional expense of moving the unit during the construction project. Her research revealed that many, 28 or more, neighbors also have their units on the side of the house. Her neighbor on that side has submitted a letter in writing stating she has no objections to the proposed placement. Mr. Campbell said the Bryant unit to be installed is the quietest single-stage unit Bryant makes, their newest unit and one of their quietest, includes a sound blanket, and meets all seasonal energy efficiency rating codes.

Mr. Mitchell requests the variance be denied due to the visibility of the location, lack of landscape screening, and the Db level. Although the current neighbor has approved, a future neighbor may not. There are ways of installing the condensing unit behind the home that will make relocating it during the addition construction easier. The other neighborhood units located on the side of the house were possibly installed before the code was passed or without a permit. A location at the rear of the home is more suitable for this unit.

Mrs. Hurst confirmed to Mr. Althen that there is only grass between the homes; there is neither driveway nor landscaping in the 20' between the houses. Mrs. Sabo asked Mr. Campbell if other manufacturers offer units that meet the Db requirement; Mr. Campbell said there are not. Mr. Mitchell indicated that reverberation between the homes could be a problem. If the variance is

passed he recommends it be conditional on the installation of landscape screening. The existing unit, which is currently not operational, complies with the code where it is behind the rear corner of the house although no tests have been done on the Db level. Mr. Campbell confirmed adding that a new coil has been installed in preparation for the refrigerant requirement of the new unit.

**Mr. Meder moved, seconded by Mr. Althen, to grant Anthony and Rosemary Hurst of 2845 Walter Road a variance for the installation of an HVAC condensing unit within the side yard setback along the north side of property, which is in violation of Section 1355.03, and a variance for exceeding maximum permissible sound level for single family residential district at 74 Db, which is in violation of Section 555.04. The variance is conditioned upon the installation of landscape screening to reduce noise level. The motion was approved 3-0.**

**Gail Pirtle; 5096 Whitethorn Ave:**

Request consists of installing a HVAC condensing unit. Two variances are requested. 1. A variance for installing an HVAC condenser within the sideyard setback along the south side of property, which is in violation of Section 1355.03. 2. A variance for exceeding maximum permissible sound level for single family residential district; code permits 60 Db between 8:00 a.m. to 7:00 p.m. and 50 Db between 8:00 p.m. to 7:00 a.m., the proposed sound level is 71 Db, which is in violation of Section 555.04.

Gail Pirtle was sworn in. She plans to install a deck, patio and hot tub to the rear of the house where the condensing unit would normally be installed. She has not spoken to the neighbors nor does she have any written statements from them. Although the Db level is slightly lower than the previous case, Mr. Mitchell has the same concerns; visibility, noise, and the fact that the neighbors have not approved, although he acknowledges the surrounding neighbors were mailed notification of the meeting.

**Mr. Althen moved, seconded by Mr. Meder, to grant Gail Pirtle of 5096 Whitethorn Avenue a variance for the installation of an HVAC condensing unit within the side yard setback along the north side of property, which is in violation of Section 1355.03, and a variance for exceeding maximum permissible sound level for single family residential district at 71 Db, which is in violation of Section 555.04. The variance is conditioned upon the installation of landscape screening to the front and side of the unit to reduce noise level. The motion was approved 3-0.**

**NEW BUSINESS**

**Amy Tanski; 6075 Porter Road:**

Request consists of a 36 foot variance for a section of non-conforming fence installed where two neighbors chain-link fence already exists, which is in violation of Section 1369.03 (a)(3).

Amy Tanski was sworn in. She has adopted a retired greyhound racing dog. Currently there is an approximate 30" gap between their fence and a neighboring chain link fence in the northeast corner of the rear yard through which the dog could escape. The ability of the dog to jump the chain link fence is also a concern. The existing basket weave fence is to be removed and vinyl fencing installed along the north side and the rear of the yard. Currently the rear neighbors have

a chain link fence that runs approximately 32” into their property. The proposed fence would be 6” inside their own property line leaving 30” between the fences to allow for maintenance.

Cindy Busch of 6080 Burns Road indicated her property is directly behind Ms. Tanski’s. She has owned dogs both large and small and feels no fence can contain a dog from jumping over. The greyhound has been off leash for some time and the dog has not left the property. From drawings Mrs. Busch has seen she believes her fence is closer to 24” inside her property line. She feels back to back fences are unsightly and that the variance would create a negative precedence in the neighborhood. For these reasons she requests the variance be denied. If approved, Ms. Busch requests certain conditions be included. Since the measurements submitted are all estimates and there are no existing property pins from which to measure, she requests a property line survey be performed. Ms. Busch also requests uncompleted projects be finished before this new projects begins, that a professional fencing company perform the installation, that fencing be installed all the way around the rear yard, that they not be required to tie their fence into the new fence, and that a project completion date be established.

Mary Annandono of 6094 Burns Road said she lives next to Ms. Busch, next to and behind Ms. Tanski. If permitted, the variance could lead to the same situation with the neighbor directly behind her on Porter. She is therefore against it. Mr. Mitchell reviewed that the concern is maintenance issues with back to back fences. If permitted, the fences would need to be tied in together, which would require another variance to move the chain link fence. He confirmed that all property line dimensions and the measurements based off of them are estimates since no reliable staking was found and no survey was performed. A professional survey would be needed. For maintenance accessibility a second gate on the rear property line would be needed.

**Mrs. Sabo moved, seconded by Mr. Meder, to table this variance request pending the submittal of a property line survey performed by a professional surveyor or engineer, an exact plan on where the proposed fence and access gate will be installed with dimensions based on the survey, and additional dimensions including the north side of the house to the proposed side fence location and the rear of the garage to the property line. The motion was approved 3-0.**

Mrs. Sabo moved, seconded by Mr. Meder, to excuse the absence of Mr. Lipcey and Mr. Jarachovic, which was approved 3-0.

**ADJOURNMENT**

With no further business the meeting was adjourned at 6:07 pm.

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Donna Sabo, Chair

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Tricia Granfors, Planning Secretary

Approved:

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