

**BOARD OF BUILDING CODE APPEALS
CITY OF NORTH OLMDSTED
MINUTES FOR APRIL 21, 2011**

ROLL CALL

Chair Sabo called the meeting to order at 5:30 p.m. in Council Chambers.

Present: Donna Sabo, Julianne Nader, BJ Meder

Absent: Robert Lipcsey, Dan Jarachovic

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

REVIEW AND CORRECTION OF MINUTES

Ms. Nader moved, seconded by Mr. Meder, to approve the Board of Building Code Appeals minutes of March 17, 2011, which failed 2-0 as Mr. Meder abstained.

NEW BUSINESS

Mark Weston; 4403 West Ranchview

Proposal consists of installing fencing where a fence is already installed. The following variance is requested: A variance to install an 85 foot section of fence along rear property line where a fence already exists, section 1369.03(a)(3).

Mathew McMillen of Budget Fencing Company was sworn in. Mr. McMillen said the rear neighbor has an existing fence which they do not wish to remove. The fence area involved two properties. The fence was installed in the 70's and his clients fence will be installed 5 feet inward from the existing fence. Mr. Mitchell said clarification was needed as it was not clear if the existing fence is on the applicant's property line or the neighbors. If it is the neighbor's fence and it is on the property line then he would have to go onto Mr. Weston's property to maintain the fence. Mr. McMillen said that the fence was in very poor condition and has not been maintained, which is why his client wanted to replace it and neither neighbor wants it removed hence the variance to install the fence 5 feet inward from his property line.

Mr. O'Malley asked if the property owner was present as the contractor could not represent the homeowner. Under the board's rules they could proceed without the owner being present however they are not compelled to make a ruling. Mr. Meder asked if the building department had to wait until a complaint is filed by a neighbor as it is quite clear seeing the fence that it is in very poor condition, in fact it is in major disrepair. Mr. Mitchell said the applicant would have to give consent for the neighbors to be on his property to repair their fence. Once that is done he can issue the violations for the fences to be repaired or replaced. Once an owner is cited they have 30 days in which to correct the violation. Mrs. Sabo asked how the members would like to proceed. All members felt the issue should be tabled until the owner had an opportunity to appear and the building department conducts a property maintenance inspection.

Mr. Meder moved, seconded by Ms. Sabo, to table Mark Weston of 4403 West Ranchview so a property maintenance inspection can be conducted and so that the owner can be present which passed 3-0.

Scott Mago; 23138 Stoneybrook

Proposal consists of installing an HVAC condenser in the side yard. The following variances are requested:

1. A variance for no screening; code requires unit to be screened by shrubbery or trees so as not to be visible from front property line, applicant shows no screening; Section 1355.04.
2. A variance for an HVAC unit exceeding maximum sound levels; code permits 60 dba, applicant shows sound levels exceeding 60 dba; Section 1355.06.
3. A variance for a HVAC being within the side yard setback, code requires 5 foot applicant shows 3 feet.

Mr. Mago was sworn in. He said he purchased the foreclosed home last November and after replacing the furnace they found that the existing air conditioner was not compatible with the new furnace. Therefore they must replace the air conditioning unit. They would like to place the new unit in the same location the original unit was placed. To move the unit to code the unit would be 5 feet inward on his back patio. He asked to be allowed to place his unit on the same slab as the old unit. He is willing to install shrubs or fencing which ever the board prefers and noted that the outer edge of the unit will be 17 feet from the neighbor's wall. The neighbor signed a note stating they had no objections to the neighbor's request. Mr. O'Malley said there had been a misnotification as there should have been a third variance for the unit being less than 5 feet from the sideyard line. However notices were sent to all abutting neighbors therefore the board could rule on the matter.

Mrs. Sabo reviewed the variances required for the applicant. One is for not wanting to screen the unit from being viewed which Mr. Mago said it would be screened as he intends to plant shrubs however if the board prefer a fence he would do fencing. Mrs. Sabo said second variance is for the sound exceeding maximum 60 dba. Mr. Mago said the contractor said that it would be very hard to find a condensing unit that is less than 60 dba no matter how efficient. Mr. Mitchell said shrubs would decrease the sound levels however even plants require distance from the unit for air circulation. He is concerned if there are window openings on that side of the neighbor's home it would be very loud. Mr. Mago said that side of the neighbor's home along the first floor has no windows and is the garage. Mr. Mitchell said the unit is not grandfathered as it is a new unit and the unit can be placed to code. Mrs. Sabo asked law to advise whether or not the condensing unit could/should be grandfathered. Mr. O'Malley said grandfathering was more of a zoning concept then a building concept in terms of regulations. If the city allowed new units to be grandfathered then it could never enforce not exceeding the 60 dba requirements. He advised the board that code requires condensing units in the rear yard or in a side yard which has more than 10 feet. Mr. Meder asked the commissioner if the original unit which was on the side of the home if not changed is grandfathered and Mr. Mitchell said yes. Mr. Meder then noted that older condenser units were much louder then what was being proposed. He asked if the condenser would meet code moving it behind the fence. Mr. Mitchell said it would be out of the side yard but would still be required to be 5 feet off the property line. Mr. Meder said the condensing unit sits atop a concrete pad it is not a fixed structure so the lines could be extended along the outside

of the home a short distance and place the condenser on the other side of the fence. Mr. Mitchell said if the condenser is 5 feet from the side yard it would meet code. The applicant could place the condensing unit on the opposite side of the home which would meet code. Mr. Mago said that the new unit was sure to be quieter than the existing unit which has been in place for years. To place the condenser along the back of the home would require a section of his brick patio be removed which is very small. There is no way to move the unit to the other side of the home as he has no basement just a crawl space and the addition on the home is a slab so the copper and electrical lines can not be easily moved. Mr. Mitchell asked why the unit wasn't moved to the other side. Mr. Mago said all electrical, gas, water, furnace and phone are all on the same side of the basement to move everything needed to the other side of the building would be very expensive. Mrs. Sabo said she did not feel the board had enough information to act.

Mrs. Sabo moved, seconded by Mr. Meder, to table Scott Mago of 23138 Stoneybrook until meeting next with the following conditions:

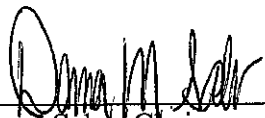
- 1. The size and specs for the condensing unit to be installed are to be submitted**
- 2. Have an HVAC representative to answer questions the commission may have.**
- 3. The applicant is to explore the pros and cons of moving the unit to the other side of the home including whether it is cost prohibited.**

The motion passed 3-0.

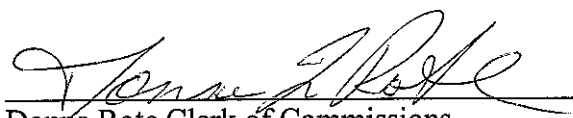
ADJOURNMENT

Mrs. Sabo moved, seconded by Mr. Meder, to excuse the absence of Mr. Lipcsey, Mr. Jarachovic, which passed 3-0.

With no further business the meeting was adjourned at 6:30 p.m.

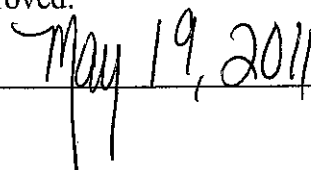


Donna Sabo, Chair



Donna Rote Clerk of Commissions

Approved:



May 19, 2011