



AGENDA MEMO

9/22/2020 Agenda

TO: Honorable Chair and members of the Board of Adjustment

FROM: Patrick Baugh, Community Development Director

SUBJECT: Consider an appeal of the Director's interpretation of the Zoning Ordinance Section 5.3.12.3 limiting the number of mechanical units to five in a side yard.

BACKGROUND:
Applicant McElfresh

Applicant, Mr. Jeffery McElfresh residing at 3625 Caruth Boulevard, requests an appeal of the decision of the Community Development Director regarding the applicability of Zoning Ordinance **Section 5.3.12. Air Conditioner Condensing Units and other Mechanical** Equipment relative to his proposed motor/generator set installation. The regulation states, in part:

... Air conditioner condensing units, swimming pool pumps, power generators and similar mechanical equipment are subject to the following regulations:

...3. No more than 5 pieces of mechanical equipment may be located in a single side yard. A minimum clearance of 2 feet must be maintained between equipment and the side property line...

Section 11.28...

Yard, Side: a yard extending along a side lot line between the front yard and the rear lot line, including the required setback.

The existing number of mechanical equipment units in the side yard of the residence currently total seven. No action is indicated to pursue a reduction in that number of units to provide compliance, however; staff is not authorized to increase any nonconformity or noncompliant situation. Staff is committed to gain compliance of proposed projects at time of plan review, prior to permit issuance.

Prior to submittal of an application/plans for construction permit, preliminary discussions were held between the applicant's contractor and city staff. Some confusion of the regulations in all participants' understanding resulted. The plan review resolved the issue by identifying the existing excessive number of units and the permit was denied. The applicant prefers to move forward with the proposed installation of the unit regardless, and has appealed the permit denial decision.

NOTIFICATION:

A public notice was published in the Daily Commercial Record on September 10th 2020 and notices were mailed to owners of real property within 200 feet of the subject site. At the time of this report X number of responses were received and are attached. Staff will provide an update on responses at the meeting.

RECOMMENDATION:

Staff recommends the Board deny the appeal and affirm enforcement of the Zoning Ordinance requirements of **Section 5.3.12. Air Conditioner Condensing Units and other Mechanical Equipment**, limiting the number of such equipment in a side yard to five units.

ATTACHMENTS:

Application

Letter of permit issuance denial - Carlos Fransen Building Official

Summary of Responses