

March 13, 2018



## Memorandum for the Board of Zoning Appeals

### City of Bellbrook

15 East Franklin Street  
Bellbrook, Ohio 45305

T (937) 848-4666

F (937) 848-5190

[www.cityofbellbrook.org](http://www.cityofbellbrook.org)

### Subject: Public Hearing on March 20, 2018

This is to confirm that the Board of Zoning Appeals/Property Review Commission will conduct a public hearing on **March 20, 2018** at **6:15 PM** to review one variance request and one property maintenance case. Please find enclosed an agenda for the meeting, the minutes to approve from August 15, 2017 and January 16, 2018 and case materials. **Please note on the agenda that we will be electing a chair and vice-chair for the upcoming year.**

#### **BZA Case #18-01: 4361 Cypress Lane (Dixon)**

The property owners are requesting a variance to allow the relocation of a shed from the rear yard to the side yard. The proposed placement of the shed does not conform to the Zoning Code which does not allow accessory structures in side yards and the shed will be less than eight feet from the side property line. The justification for moving the shed to the side yard is to allow for an in-ground pool in the rear yard and the lack of another viable location in the rear yard to place the shed. Article 18.05 of the Zoning Code has been included with highlights for you to review the applicable language for this case.

Please find enclosed the Application for Variance, the justification narrative, one map of the lot, several pictures, an excerpt from the Zoning Code regarding Accessory Buildings, and the Standards for Considering a Variance.

#### **PRC Case #18-04: 4171 Woodedge Drive (Harnish)**

This case involves two violations. The first violation pertains to outside storage of various items and junk. The property owner was notified about the storage of items in December, January and February. There was a previous complaint in 2014 for Outside Storage. The second violation is regarding the maintenance of an Accessory Structure (shed). The property owner was notified in January, February and March regarding this issue.

Please let us know if you have any questions on this material.

Sincerely,

Don Buczek  
Assistant to the City Manager

Melissa Jones  
Code Enforcement Officer



## Bellbrook Board of Zoning Appeals Public Hearing

March 20, 2018 6:15 PM

### Agenda

1. Call to Order
2. Roll call
3. Approval of prior minutes:
  - August 15, 2017 (BZA)
  - January 16, 2018 (PRC)
4. Election of Chair and Vice-Chair
5. Old Business
  - Code Enforcement Officer Update
6. New Business
  - BZA Case #18-01: 4361 Cypress Lane (Dixon)
  - PRC Case #18-04: 4171 Woodedge Drive (Harnish)
7. Open Discussion
8. Adjournment



**BELLBROOK BOARD OF ZONING APPEALS**  
**PUBLIC HEARING MINUTES**  
**AUGUST 15, 2017**

**PRESENT:** Ms. Meredith Glick Brinegar  
Mr. Robert Middlestetter  
Mr. Philip Ogrod  
Ms. Sharon Schroder – arrived at 6:05 pm  
Chairman Robert Guy

**GUESTS:** Mr. and Mrs. Mike Sogard, The Ashgard Group

**CALL TO ORDER:**

Chairman Guy called the meeting of the Board of Zoning Appeals to order at 6:03 PM and requested questions regarding the prior minutes; hearing none, Chairman Guy moved to approve the prior minutes of May 24, 2017 and June 15, 2017; Mr. Middlestetter seconded the motion. Roll was called. Chairman Guy, yes; Mr. Middlestetter, yes; Ms. Glick Brinegar, yes; Mr. Ogrod, yes; Ms. Schroder, abstain. The motion carried 4-0 with one abstention; the prior minutes stand approved. It is noted for the record that Mr. Don Buczek, Assistant to the City Manager and Ms. Eileen Minamy, City Board Secretary, were also present at this public hearing.

Chairman Guy requested that those individuals who wished to speak at the hearing this evening to stand and be sworn in at this time. Once the witnesses were duly sworn, Chairman Guy opened the public hearing.

**OLD BUSINESS:**

Chairman Guy stated that the BZA is required to elect a new Chairman and Vice Chairman annually and since this has not yet been done for the current calendar year, the board will conduct the election at this meeting. The secretary stated that board members can self-nominate or nominate someone else for the positions in question. A simple voice vote completes the process. Mr. Middlestetter nominated Mr. Guy to retain the Chairmanship of the board. Chairman Guy nominated Mr. Middlestetter as Vice Chair. No other nominations were submitted. A voice vote of all ayes confirmed the officers for the remainder of 2017.

**NEW BUSINESS:**

**BZA CASE #17-06, 1478 KENSINGTON DRIVE (THE ASHGARD GROUP)**

This request for variance is to allow the replacement of an existing 5' tall chain-link fence with a 6' tall wooden privacy fence in the front yard on Kensington Drive. The property in question is a corner lot which includes an in-ground pool. Pool regulations require a fence that is at least 5' tall, constructed either around the pool or around the property. The current fence was approved and installed in 1981. A new Zoning Permit is required because the property owner wants to change the style, height and materials of the fence. However, since the fence is changing it now has to meet the provisions of the current Zoning Code. Front yard fences are allowed at a maximum height of 4' and the fence must be at located at least 5' from the front property line. The current fence is more than 5' from the front property line on Kensington Drive. The property owner wishes to keep the use of the front yard in connection with the pool. The variance is requested to allow a fence taller than 4' to be installed in the front yard.

Chairman Guy requested those individuals who wished to speak in favor of the variance to come to the podium at this time and to present their comments to the board.

Mike Sogard, The Ashgard Group, stated that he and his wife own the home on Kensington Drive and intend to remodel the home to sell for profit. The chain link fence on the property has plastic slats for a privacy effect. Mr. Sogard stated that the fence is unsightly and he feels that it would hinder the property from being sold at a value that the supports the neighborhood.

Don Buczek, Assistant to the City Manager, re-stated the request for the board's information and for the record. Chairman Guy requested Mr. Buczek's recommendation regarding the disposition of the case. Mr. Buczek stated that the fence is hidden behind the trees and is @ 8' from the front property line. Mr. Ogrod questioned whether the new fence would be in the same location as the existing fence, which Mr. Sogard confirmed. Ms. Glick Brinegar stated that the trees along Kensington Drive are located in front of the fence. The secretary clarified that the fence would be comprised of wood. Mr. Sogard stated that the fence has also sustained some damage over the years and does not function well.

Chairman Guy requested additional board discussion. Ms. Glick Brinegar stated that the trees are taller and further toward the road than the fence, so she does not believe the fence would create any hindrance to sight visibility of traffic on Kensington Drive. Mr. Middlestetter stated that he does not have any problem with this request. Chairman Guy also agreed as did Ms. Glick Brinegar. Ms.



**Board of Zoning Appeals**  
**August 15, 2017**

Schroder agreed that it makes sense and will look much better than the existing fence as an improvement to the property and neighborhood. There being no further discussion, Chairman Guy closed the public hearing and requested a motion.

Mr. Ogrod moved to approve the variance for a 6' privacy fence in a front yard on a corner lot in the same location as the existing 5' chain link fence; Ms. Schroder seconded the motion. Mr. Ogrod, yes; Ms. Schroder, yes; Ms. Glick Brinegar, yes; Mr. Middlestetter, yes, Chairman Guy, yes. The motion carried 5-0; the variance is granted.

**OPEN DISCUSSION:** None

**ADJOURNMENT:**

There being no further business to discuss, Mr. Middlestetter adjourned the meeting at 6:15 PM.

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Robert Guy, Chairman

Date

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Jami Kinion, Secretary

Date

**BELLBROOK PROPERTY REVIEW COMMISSION**  
**PUBLIC HEARING MINUTES**  
**JANUARY 16, 2018**

**PRESENT:** Ms. Meredith Glick Brinegar  
Mr. Robert Middlestetter-arrived at 6:18  
Mr. Philip Ogrod  
Chairman Robert Guy

**ABSENT:** Ms. Sharon Schroder

**GUESTS:** Mr. Lee S. Castor  
Mr. Zac Castor

**CALL TO ORDER:**

Chairman Guy called the meeting of the Property Review Commission to order at 6:16 PM and requested questions from the board regarding the prior minutes; hearing none, Chairman Guy moved to approve the prior minutes of August 15, 2017; Ms. Brinegar seconded the motion. Roll was called. Chairman Guy, yes; Ms. Brinegar, yes; Mr. Middlestetter, yes; Mr. Ogrod, yes. The motion carried 4-0. It is noted for the record that Mr. Don Buczek, Assistant to the City Manager and Ms. Melissa Jones, Code Enforcement Officer and Ms. Jami Kinion, City Board Secretary, were also present at this public hearing.

Chairman Guy requested that those individuals who wished to speak at the hearing this evening to stand and be sworn in at this time. Once the witnesses were duly sworn, Chairman Guy opened the public hearing.

**OLD BUSINESS:** None

**NEW BUSINESS:**

Mr. Buczek introduced Ms. Melissa Jones to the Board. She is the new part time Code Enforcement Officer for the City of Bellbrook.

**PRC CASE # 18-01: 274 PINEGROVE DRIVE (BURTON)**

Ms. Jones stated that this case involves one violation. The violation pertains to outside storage of various items and junk. The property owner was notified about the storage of items in May, June and December. In August the property was inspected and no violations were found. When re-inspected in December, the junk was present on the property. The violation has occurred over several years and has been before the Property review Commission in the past.

Mr. Buczek said Mr. Burton has been in front of the Property Review Commission and he has also been to court three or four times.

Mr. Buczek said civil penalties are now in place for enforcement. The options here are to go to court or to assess civil penalties. The first round of civil penalties is \$25.00 a day for a maximum of ten days or \$250.00. If these are left unpaid, a lien is placed on the property. Mr. Buczek said it is the Board's decision to make.

Ms. Brinegar asked if civil penalties are assessed, are they still expected to comply in addition to paying the penalties. Mr. Buczek said yes. He said the board can decide to assess fines, court or both.

Mr. Ogrod asked to have the process for civil penalties explained. Mr. Buczek said the property owner is mailed a certified letter to notify them. A date is established when the penalties will start. Mr. Buczek said we have to try several methods to contact the resident. First, a letter is sent certified mail. If the resident does not respond to the letter, a posting on the property is the next step.

Mr. Middlestetter said he is open to assessing the civil penalties. He said for some people it won't matter. Mr. Middlestetter also said if the penalties are not paid, a lien would be placed on the property, the next step is court.

Mr. Buczek said an option is to establish a due date that the violations need to be resolved.

Chairman Guy requested additional board discussion; hearing none, he requested a motion regarding this case. Ms. Brinegar made a motion to assess civil penalties effective immediately. The resident has 60 days to resolve the violation, if not resolved; this case will proceed to court. Seconded by Mr. Ogrod. Roll was called. Ms. Brinegar, yes; Mr. Ogrod, yes; Mr. Middlestetter, yes; Chairman Guy, yes. The motion carried 4-0.

#### **PRC CASE # 18-02: 191 PINEGROVE DRIVE (BROWN)**

This case involves one violation. The violation pertains to outside storage of various items and junk. The property owner was notified about these violations in April, May and December. The owner sent a letter to us in May stating the issue was resolved. The violation has occurred over several years and has not been resolved.

Ms. Jones said a faxed letter was received by Mr. Brown which stated the property was cleaned up. Ms. Jones took pictures of the property prior to the meeting which showed the property was not cleaned up.

Mr. Buczek said this case has been before the Property Review Commission in the past. The last time he was brought before the PRC, he constructed a temporary shed on the side of his house. He put the junk into this shed so it was out of view. At that point, the case was mute. However, the city followed up with Mr. Brown and told him the temporary shed was in an illegal location. The temporary shed has since fallen down. Mr. Buczek said there are still parts of the shed in his yard.

Ms. Brinegar said based upon Mr. Brown's letter, he felt he was being targeted by the city because other neighbors have trashcans outside too. Ms. Brinegar said it is just not about the trashcans. It is a collection of things.

Ms. Jones told Mr. Brown in a letter back in December to remove unused trashcans, tubs, coolers, bottles and shovel from view. The trashcans that Ms. Jones referenced are

unused crack ones that are laying in his yard. She also mentioned in the letter that this is a repeat of a violation from 2016.

Ms. Brinegar asked what actions have been taken against Mr. Brown in the past. Mr. Buczek said when he constructed the temporary shed and put the items out of view that resolved the case. There was the issue with the temporary shed being in an illegal spot, which was a zoning issue. That issue is resolved due to the temporary shed falling down.

Mr. Middlestetter said since there has not been any communications; they should proceed with a motion similar to the previous case.

Ms. Brinegar said the cases are similar but the previous case has been to court. Chairman Guy said there are different rules now with the assessing of the civil penalties. Ms. Brinegar agreed with that but she thought with the other case, there was a consensus of a harsher penalty since the case had been to court.

Chairman Guy requested additional board discussion; hearing none, he requested a motion regarding this case. Mr. Middlestetter made a motion to assess civil penalties effective immediately. The resident has 60 days to resolve the violations, if not resolved, this case will proceed to court. Seconded by Chairman Guy. Roll was called. Mr. Middlestetter, yes; Chairman Guy, yes; Ms. Brinegar, yes; Mr. Ograd, yes. The motion carried 4-0.

#### **PRC CASE #18-03: 2187 PLANTATION TRAIL (CASTOR)**

Ms. Jones said this case involves two violations. The first violation pertains to stacking of firewood. The second violation pertains to the overgrowth of vegetation. The firewood is being left in the driveway, unstacked. The overgrowth of vegetation is impeding traffic as the growth is over the road. The property owner was notified about these violations in November and December. She said Mr. Castor has made no attempt to contact the city to get these issues resolved. The violation for the stacking of firewood has occurred over several years.

Mr. Castor, property owner at 2187 Plantation Trail said he heats his home with wood and has for the past 25 years.

Chairman Guy asked Mr. Castor if he had another place to store the wood. Mr. Castor said his back patio holds about one cord of wood. The other cord remains in the driveway, unstacked. Mr. Castor said he goes through about 8-10 cords of wood a year.

Mr. Buczek said the issue here is the fire wood needs to go somewhere else so it is not dumped in the driveway. Mr. Castor said the company that he purchases the wood from will back into his driveway and dump 1-2 cords of wood onto the driveway.

Ms. Brinegar said she does not have an issue with the wood being delivered there but it needs to be put out of view.

Mr. Ograd asked Mr. Castor if there was another place to store the wood after it is delivered. Mr. Castor said he will bring it around to the Florida room and then it is consumed. This is a continual process.

Ms. Brinegar said there are many ways to solve this. You could get a new form of heat. She said that seems like an expensive alternative. She said the easiest alternative is to find another place to stack the wood. Mr. Castor said it is a lot of work to move 2 cords of wood.

Mr. Middlestetter asked about the past violations. Ms. Jones said he was notified about these violations in November and December. He was asked to properly stack the fire wood. Ms. Jones said there has been no attempt to contact the city to resolve this.

Mr. Buczek clarified that firewood must be stacked in an orderly fashion. It does not say which location of the yard it needs to be in. The key is to neatly stack the fire wood.

Mr. Middlestetter asked Mr. Castor if he had intentions of moving the firewood in his driveway. Mr. Castor said there is no firewood in the driveway. Currently, all of the wood is located on the back patio. He has consumed it due to the cold weather. He also said on Thursday there will be 2 more cords of wood delivered. Mr. Middlestetter said the wood being delivered cannot be left in the driveway until spring. Mr. Castor said the wood in the driveway is just a staging area for the wood until he has room on the back patio. Mr. Middlestetter said when he has mulch delivered in his driveway; it is not there for weeks at a time. It is there for 3-5 days. Mr. Buczek said with mulch, it is not being delivered every two weeks all summer long.

Ms. Brinegar said she understands the storing but she said the net effect is constantly having a pile of wood in the driveway in the winter.

Mr. Middlestetter said it appears that Mr. Castor is currently not in violation since there is no wood in the driveway. Mr. Middlestetter asked Mr. Castor when he gets future loads of wood delivered, does he have a reasonable timetable of moving the wood out of the driveway and place it in an orderly form. Mr. Castor said three weeks has been about the average amount of time that the wood has been in the driveway.

Ms. Jones asked if the wood could be stacked behind the RV on the property. Mr. Castor said his trash cans are located there so the wood could not be placed there.

Mr. Castor asked if this violation was a result of a neighbor complaining. Mr. Buczek said without going back and looking there very well could have been a complaint about the wood in the driveway.

Mr. Castor said he is not heating his home with wood by choice. He has an older furnace that is not very efficient. It is costly for him to have a new system installed. He is asking the Committee to bear with him. He has been a member of the community a long time. He said he is doing the best he can.

Mr. Middlestetter said Mr. Castor is currently not in violation and asked him to move the wood within a week after it is delivered. Mr. Castor said again, it is usually three weeks. Mr. Middlestetter said the three weeks is not defined in the ordinance.

Ms. Brinegar read from the ordinance that fire wood must be stacked and piled in a reasonably compact and orderly fashion. When the wood is delivered it is just dumped onto the driveway. Ms. Brinegar asked Mr. Castor if he thought the wood was in a pile after it was delivered. He replied, yes. A pile is a pile. Ms. Brinegar said her view is that it is dumped and it is not piled in a reasonably compact and orderly fashion.

Mr. Middlestetter said the fire wood ordinance needs to be reviewed. He said the time needs to be defined for the placement of wood. Mr. Ogrod agreed and said both time and the objectiveness on what is stacked and piled in an orderly fashion needs to be better defined. Mr. Buczek said he will have this ordinance reviewed.

Being no current violation with the wood, the next violation is the overgrowth of vegetation by the road and side of the house.

Ms. Jones said the overgrowth of vegetation is impeding traffic as the growth is over the road. Mr. Castor said the he will make sure that the vegetation is not impeding traffic.

Chairman Guy requested additional board discussion; hearing none, he requested a motion regarding the overgrown vegetation. Mr. Ogrod made a motion directing the owner, Mr. Lee Castor, to trim the ornamental grass no later than January 22, 2018; Ms. Brinegar seconded the motion. Roll was called. Mr. Ogrod, yes; Ms. Glick Brinegar, yes; Mr. Middlestetter, yes; Chairman Guy, yes. The motion carried 4-0.

**OPEN DISCUSSION:**

Mr. Buczek said at the next Board of Zoning Appeals Meeting, a new chair and vice chair will need to be decided upon. The next meeting will be on February 20, 2018.

**ADJOURNMENT:**

There being no further business to discuss, Chairman Guy adjourned the meeting at 7:25 PM.

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Robert Guy, Chairman

Date

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Jami Kinion, Secretary

Date

## **BZA Case #18-01: 4361 Cypress Lane (Dixon)**



## APPLICATION FOR VARIANCE

City of Bellbrook  
15 E. Franklin Street  
Bellbrook, Ohio 45305

T (937) 848-4666  
F (937) 848-5190

[www.cityofbellbrook.org](http://www.cityofbellbrook.org)

Application #: 18-01

Name of Applicant: PAUL & TERRA DIXON

Mailing Address: 4361 Cypress Lane

City: Bellbrook State: OH Zip: 45305

Telephone Number: Home: 937 848-3965 Business: 937 904-6669

1. Locational Description: Subdivision Name: WINTERHAVEN Section: Block A

Township: \_\_\_\_\_ Range: \_\_\_\_\_ Block: \_\_\_\_\_ Lot #: 18 Address: 4361 Cypress Ln  
(If not in a platted subdivision, attach a legal description)

2. Nature of Variance: Describe generally the nature of the variance:

Relocate 8' x 12' shed to west side of property  
and install an in ground pool on southwest part  
of property.

In addition, two (2) copies of the plans drawn to scale must accompany this application showing dimensions and shape of the lot, the size and locations of existing buildings or alterations and any natural or topographic peculiarities of the lot in question.

3. **Justification of variance:** In order for a variance to be granted, the applicant must prove to the Board of Zoning Appeals that the provisions of the Bellbrook Zoning Ordinance, Section 20.13.2 pertain.

**PLEASE ATTACH COMMENTS ON A SEPARATE SHEET - SEE BACK OF FORM.**

I certify that the information contained in this application and its supplement is true and correct.

[Signature]  
Applicant Signature

2/20/18  
Date

**PLEASE FILE ONE COPY WITH THE BELLBROOK ZONING OFFICE, 15 E FRANKLIN STREET, BELLBROOK.**



## JUSTIFICATION OF VARIANCE

4361 CYPRESS LANE, BELLBROOK, OH 45305

Paul and Debra Dixon (property owners) would like to install a 14'x25' in ground swimming pool on the southwest side of the property.

4361 Cypress Lane is a corner lot in the Winterhaven subdivision. This corner lot property has a backyard no deeper than 28' and only 23' at the proposed location of the swimming pool.

The intent is to take the pool curtain up to within 1' of the rear property line and within 5' of the west side property line. Based on the construct of the property's backyard, it is impossible to maintain a minimum of 8' from the side or rear lot lines as outlined in Bellbrook Ordinance 18.05A.

The pool and backyard will be enclosed with a 5' wooden privacy fence once the pool is constructed, assuming the variance is approved.

The pool will not be visible from Cypress Lane or Lakeman Drive. The layout will not impact utility services that currently exist.

In addition, when the house was purchased in May 1999, a 8'x12' shed already existed on the property and is located on the southwest side of the property. We would also request a variance granted to relocate the shed on the west side of the property parallel to the garage, between the driveway and the back of the Millpond garages. The shed would not extend beyond the side lot line or the front house line.

Zoning Ordinance 20.13.2 questions:

1) Yes

2) No

3) No

4) No

5) No

6) No

7) Yes. Placement of the pool and shed would not impede upon the neighboring property to the south and west of the property consists of the garages of Mill Pond.

4361 CYPRESS LANE

SOUTH WEST SIDE OF PROPERTY

Fence

42' Edge of House to Property Line

25'

23' House to Fence

14'

3' concrete curtain around all sides of pool  
Length of pool concrete ends 1' from fence  
Width of pool concrete edge 5' from property line



7'8"

Patio

25'7"

House to edge of driveway

40'

House to Property Line

32'  
House

Shed

12'3"

8'3"

Driveway

39'

House to Property Line

41' House to Street

CYPRESS LANE

M  
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S

Cypress Ln

38 FT

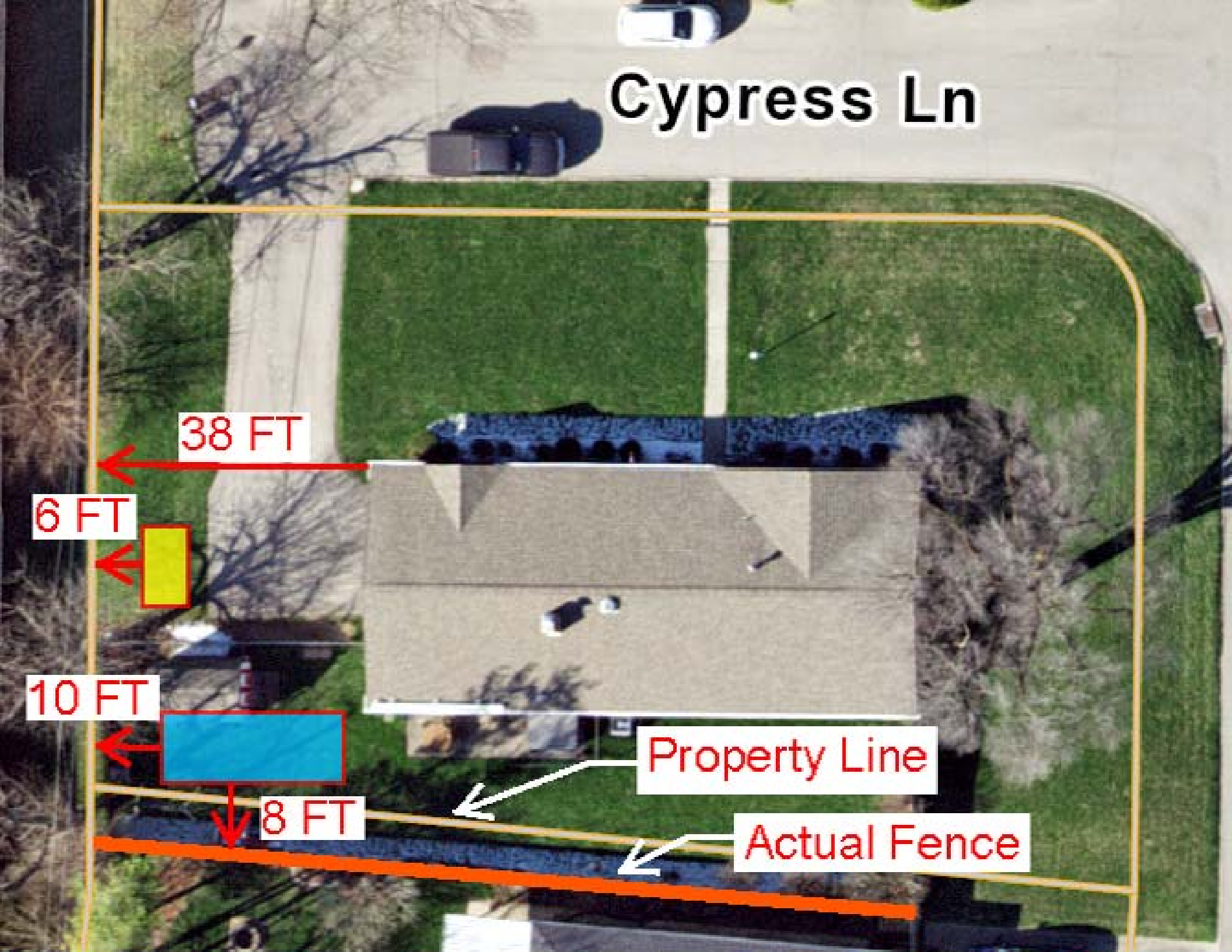
6 FT

10 FT

8 FT

Property Line

Actual Fence



























18.05A

**ACCESSORY BUILDINGS:**

In a residential zone, no garage or other accessory building shall be erected within a required side yard or front yard.

When located at least sixty (60) feet from the front property line and completely to the rear of the main dwelling, the accessory building may be erected not less than eight (8) feet from the side or rear lot lines. Provided that when access to a garage is from an alley, such garage shall be located not less than ten (10) feet from the alley.

When located less than sixty (60) feet from the front property line and not completely to the rear of the dwelling, garages shall be constructed as a part of the main building or connected thereto by a covered breezeway.

Corner lot accessory buildings must be placed within the boundaries of the required rear yard as governed by Article #7, Sec. 7.09, Yard & Lot Requirements or Article # 17, Sec. 17.05, PD-1 Planned Residential Development and not less than 8' from the side and rear lot lines.

No detached accessory building measuring up to three hundred (300) square feet in Residential and B-1 Districts shall exceed one (1) story or twelve (12) feet in height and no detached accessory building in Residential and B-1 Districts measuring from 301-600 square feet shall exceed one (1) story or 15' in height.

Detached accessory buildings (including garages) constructed on a one-family lot shall not exceed, in the aggregate, six hundred (600) square feet.

18.05B

**SWIMMING POOLS:**

(1) Every outdoor swimming pool, or the entire rear yard of the property on which it is located, shall be completely fenced or walled to prevent uncontrolled access. The fence or wall shall be not less than five (5) feet in height and shall be maintained in good condition with a gate or device that shall be self-locking and secured when not in use. Fences surrounding pools shall meet the requirements of Section 18.06(1)(a). A dwelling, house or accessory building may be used as part of such enclosure; and

## Standards for Considering a Variance

### Procedures and Requirements for Variances (Zoning Code 20.13)

To vary the strict application of any of the requirements of this ordinance in the case of exceptionally irregular, narrow, shallow or deep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship - not economic in nature – that would deprive the owner of reasonable use of the land or building involved but in no other case. The fact that another use would be more profitable is not a valid basis for legally granting a variance. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance. The variance requested shall not alter the essential character of the locality, nor be in conflict with the Comprehensive Master Plan. In making this determination, the Board of Zoning Appeals shall be advised by the recommendation of the Planning Board. In cases involving properties situated within the Village District, as defined by Article 14, Section 14.02 of the Bellbrook Zoning Code, the Village Review Board shall, when possible, make a recommendation to the Board of Zoning Appeals regarding the disposition of the variance request.

### Application and Standards for Variances (Zoning Code 20.13.2)

A variance from the terms of this ordinance shall not be granted by the Board of Zoning Appeals unless and until a written application for a variance is submitted to the Zoning Inspector and the Board of Zoning Appeals containing:

- a) Name, address and phone number of applicants;
- b) Legal description of property; and a site plan based on an accurate survey showing existing and/or future building locations and the locations of buildings on adjacent properties. This site plan should be prepared by a registered surveyor attesting to the accuracy of same;
- c) Description of nature of variance requested;
- d) Variances from the terms of the Zoning Ordinance shall be granted only where the property owner shows that the application of a zoning requirement to the property is inequitable causing the property owner practical difficulties in the use of the property. Factors to consider include, but are not limited to:
  - 1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
  - 2) Whether the variance is substantial;

- 3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- 4) Whether the variance would adversely affect the delivery of governmental services such as water, sanitary sewer or garbage removal;
- 5) Whether the property owner purchased the property with knowledge of the zoning restriction;
- 6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and
- 7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. The Board shall determine, after and weighing the factors described above and any other factors the Board deems relevant, whether the property owner has shown practical difficulties so inequitable as to justify granting a variance to the property owner.

## **PRC Case # 18-04: 4171 Woodedge Drive (Harnish)**

## Property Complaint

**Complaint Number**

125

**Complaint Date**

11/30/2017

**System Entry Date**

11/30/2017

**Complainant****First Name**

Ron

**Last Name**

Clark

**St Number**

0

**Street Name**

Lakeview Dr

**City**

Bellbrook

**State**

OH

**Zip Code**

45305

**Phone****Email****Complaint****First Name**

Tia

**Last Name**

Harnish

**St Number**

4171

**Street Name**

Woodedge Dr

**City**

Bellbrook

**State**

OH

**Zip Code**

45305

**Complaint Description**

-Junk accumulating on side of house and by garage

**Contact Prop Owner?**☐**If Yes, express concerns in writing?**☐**Action taken to remedy problem****Acknowledgement to Complainant****Date****Letter**☐**Phone Call / In Person Discussion**☐**Inspec Date 1**

12/6/2017

**Inspector**

MJ

**Inspec Date 2****Inspector****Inspec Date 3****Inspector****Violation: Prop Maint**☒**Violation: Zoning**☐**Violation: Stormwater**☐**Violation Description**

- Outside Storage - In residential zones, all outdoor storage shall be effectively screened from view and storage of miscellaneous items must be within enclosed structures or screened as required in the Zoning Code. No person shall accumulate, cause to be accumulated, or allow to be accumulated junk upon any property located within the City. (1450.31 (j))

**Action Requested**

- Clean up around front/side of house.

**Letter 1 Date**

12/11/2017

**Action 1 Date**

1/1/2018

**Letter 2 Date**

1/11/2018

**Action 2 Date**

1/18/2018

**Letter 3 Date****Action 3 Date****Disposition****Disposition Date****Disposition: Resolved**☐**Disposition: Prop Rev Comm**☐**Disposition: Prosecutor**☐

Wednesday, March 14, 2018

## Property Complaint

### Property Owner

|            |           |         |      |       |          |
|------------|-----------|---------|------|-------|----------|
| First Name | Last Name | Address | City | State | Zip Code |
|            |           |         |      |       | 0        |
| First Name | Last Name | Address | City | State | Zip Code |
|            |           |         |      |       | 0        |

### Foreclosure

|            |           |         |      |       |          |
|------------|-----------|---------|------|-------|----------|
| First Name | Last Name | Address | City | State | Zip Code |
|            |           |         |      |       | 0        |

### Notes

2017-11-30 - rcvd complaint, told complainant I would inspect house next week. (MJ)

2017-12-7 -drove by the house. Can see where items are accumulating in front and side of house.

2017-12-11 mailed out letter

2017-12-19 drove by to look at another complaint, property still has not been cleaned up. I will recheck after the 1st.

2018-01-02 - no change in status. Spoke with home owner and she stated it will be cleaned up this weekend. Will recheck week og 2018/01/08

2018-01-09 no change will send out final letter with PRCH notice

2018-01-12 rcvd phone call from Ron 937-602-4157 regarding a follow up on above property, stated there is no change and the place is a disaster. Stated to him we are aware of the siutation and she has until 2018-01-18 to clean it up or she will be going to the PRCH in Feb.

2018-01-16 no change, will recheck after the 18th

2018-01-29 a few items have been cleaned up however the rest has not. Putting a new violation in for the shed (see 2018 complaints). Will send out one more letter regarding storage, if not cleaned up will send to PRCH.

2018-02-08 stopped by residence. Walked around property an told her what exactly needed done. She stated she will not repair shed as that is the way is came with property. I told her if she will not repair the shed, she will need to remove it from property. She also stated the couches were frozen to the ground at that point and someone should pick them up when they unfreeze. I also told her about the garbage mixed in with the vegetation that it needs cleaned up. We could not see it at this time as snow was on the ground. It was pointed out that the ladder even needed to be removed or put away out of view.

2018-02-28 there still has been no change to property. When snow melted you could even see more debris in the backyard. There was a burnt frame from what appears to be a recliner. There were clothes in the firepit. Metal was sticking out of the wood in the back(looks like an old trampoline base)

December 11, 2017



Tia Harnish  
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***Property Maintenance Violation***

This is to notify you that the property located at 4171 Woodedge Dr, Bellbrook, OH 45305, is in violation of the Property Maintenance Code. Property information of the City of Bellbrook and Greene County indicate that you are the owner of record for this address.

**Violation(s):**

- Outside Storage - In residential zones, all outdoor storage shall be effectively screened from view and storage of miscellaneous items must be within enclosed structures or screened as required in the Zoning Code. No person shall accumulate, cause to be accumulated, or allow to be accumulated junk upon any property located within the City. (1450.31 (j))

**Please take the following action(s) by 1/1/2018:**

- Clean up around front/side of house.

Thank you for your assistance with this issue.

Melissa Jones  
Code Enforcement Officer



## PROPERTY MAINTENANCE ENFORCEMENT PROCEDURES

*After the violation has been confirmed, a Property Maintenance Notice of Violation will be issued allowing a reasonable time to correct the violation (1450.11 (C)(4)). If the violator decides to appeal, he/she has 20 days to submit a written appeal to the Code Official (1450.11 (C)(5)). If the violator does not submit a written appeal and does not correct the violation, the case is forwarded on to the Bellbrook Property Review Commission for a public hearing and decision by the Board (Sec. 1450.03 (B)(2)).*

## APPEAL TO PROPERTY MAINTENANCE NOTICE OF VIOLATION AND HEARING BY BPRC

*If the violator submits a written appeal to the Code Official, the Bellbrook Property Review Commission must set a hearing date for the appeal within 30 days of receipt of the petition. If the Board denies the appeal, the applicant has 10 days (Zoning 20.11) to appeal this decision to the Court of Common Pleas of Greene County. If the applicant does appeal, the decision of Court would rule.*

## DEBRIS REMOVAL OPTIONS

*Bulk Pick Up: furniture, appliances and other bulky items can be picked up by Rumpke free of charge for residential customers. A fee may apply for certain appliances. This can be done by scheduling a bulk pick up by calling Rumpke at (800) 223-3960.*

*Yard Waste: residents may dispose of yard waste with Greene County which accepts leaves, grass and brush no longer than 4 feet and no more than 4 inches in diameter. The Greene County central site is located at 2145 Greene Way Blvd. in Xenia. Call Greene County Environmental Services at (937) 562-5925 for more information.*

*Special Items: hazardous waste, batteries, electronics, appliances and scrap metal are recycled by Greene County. They do not accept paint, motor oil, televisions, computers or computer accessories. Call Greene County Environmental Services at (937) 562-5925 for more information.*

January 11, 2018



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**Please take the following action(s) by 1/18/2018:**

- Clean up around front/side of house.

The next course of action will be a public hearing before the Property Review Commission on **February 20, 2018** (see the Enforcement Procedures on the next page). To find an alternate resolution, please contact me as soon as possible.

Thank you for your assistance with this issue.

Melissa Jones  
Code Enforcement Officer

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January 29, 2018



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Thank you for your assistance with this issue.

Melissa Jones  
Code Enforcement Officer

## ENFORCEMENT PROCEDURES

### BELLBROOK PROPERTY REVIEW COMMISSION (BPRC)

#### Duties of the BPRC (Sec. 1450.03(b))

- (1) Review suspected violations. The BPRC may, at the request of the Code Official, review any suspected violations of this code and submit a written recommendation to the Code Official.
- (2) Review violation orders. When the Code Official requests prosecution of a violation order, then the BPRC shall review the violation order. If the Code Official finds that an emergency exists under the provisions of this code, he or she may request prosecution of the violation order without the review of that violation order by the BPRC. However, the Code Official shall notify the BPRC of the emergency action taken.

### PENALTIES & VIOLATIONS: LEGAL AND EQUITABLE REMEDIES

#### (SEC. 1450.99)

- (f) In addition to any other remedy or penalty provided in the Property Maintenance Code or the Ohio revised Code, an owner who fails to comply with a notice of violation or order served in accordance with this code may incur a civil penalty.
- (g) The Code Official shall provide notice to the owner of a civil penalty in accordance with section 1450.11 Notices and orders.
- (h) Any violation of the Property Maintenance Code that is a first offense shall be twenty-five dollars (\$25) per day, per offense, or two hundred fifty dollars (\$250) per offense total.
- (i) Any violation of the Property Maintenance Code that is a second offense shall be twenty-five dollars (\$50) per day, per offense, or two hundred fifty dollars (\$500) per offense total.
- (j) Any violation of the Property Maintenance Code that is a third offense shall be twenty-five dollars (\$75) per day, per offense, or two hundred fifty dollars (\$750) per offense total.
- (k) nothing herein contained shall prevent the City from taking such other lawful action as necessary to prevent or remedy any violation.

The city has a right to file a lien against property, if civil penalties are not paid in full (Sec. 1450.11(7)).

























01-29-2018 12:00

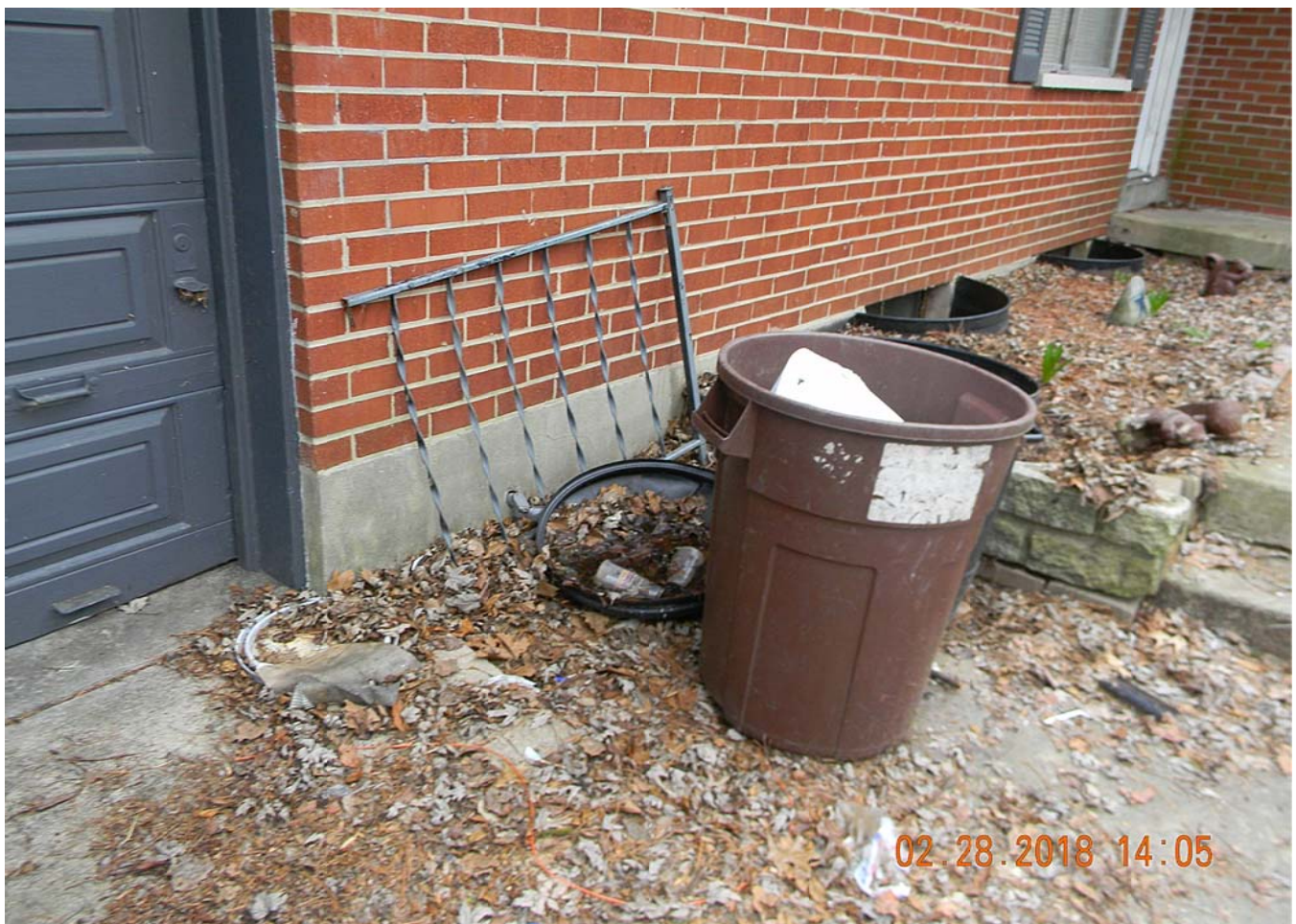


01-29-2018 12:01

























## Property Complaint

**Complaint Number**

29

**Complaint Date**

1/29/2018

**System Entry Date**

1/29/2018

**Complainant****First Name**

City of Bellbrook

**Last Name**

Anonymous

**St Number**

0

**Street Name**

Bellbrook

**City**

Bellbrook

**State**

OH

**Zip Code**

45305

**Phone****Email****Complaint****First Name**

Tia

**Last Name**

Harnish

**St Number**

4171

**Street Name**

Woodedge Dr

**City**

Bellbrook

**State**

OH

**Zip Code**

45305

**Complaint Description**

- Shed behind house in disrepair

**Contact Prop Owner?**☐**If Yes, express concerns in writing?**☐**Action taken to remedy problem****Acknowledgement to Complainant****Date****Letter**☐**Phone Call / In Person Discussion**☐**Inspec Date 1**

1/29/2018

**Inspector**

MJ

**Inspec Date 2**

2/8/2018

**Inspector**

MJ

**Inspec Date 3****Inspector****Violation: Prop Maint**☒**Violation: Zoning**☐**Violation: Stormwater**☐**Violation Description**

Accessory structures. All accessory structures, including but not limited to detached garages, sheds, permanent outdoor play equipment, lighting fixtures, fences and walls shall be maintained structurally sound and in good repair at all times.

**Action Requested**

Repair or remove shed.

**Letter 1 Date**

1/29/2018

**Action 1 Date**

2/19/2018

**Letter 2 Date**

3/1/2018

**Action 2 Date**

3/14/2018

**Letter 3 Date****Action 3 Date****Disposition****Disposition Date****Disposition: Resolved**☐**Disposition: Prop Rev Comm**☐**Disposition: Prosecutor**☐

Wednesday, March 14, 2018

## Property Complaint

### Property Owner

|            |           |         |      |       |          |
|------------|-----------|---------|------|-------|----------|
| First Name | Last Name | Address | City | State | Zip Code |
|            |           |         |      |       | 0        |
| First Name | Last Name | Address | City | State | Zip Code |
|            |           |         |      |       | 0        |

### Foreclosure

|            |           |         |      |       |          |
|------------|-----------|---------|------|-------|----------|
| First Name | Last Name | Address | City | State | Zip Code |
|            |           |         |      |       | 0        |

### Notes

2018-01-29 when out for Outside storage, seen shed was in disrepair. Mailed out letter with 2017 case#124.

2018-02-08 stopped by residence for case #124 in 2017. Walked around property an told her what exactly needed done. She stated she will not repair shed as that is the way is came with property. I told her if she will not repair the shed, she will need to remove it from property.

2018-02-28 shed is not repaired or removed. Will send out another letter. Sending to PRCH on March 20th, 2018.

January 29, 2018



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**Violation(s):**

Accessory structures. All accessory structures, including but not limited to detached garages, sheds, permanent outdoor play equipment, lighting fixtures, fences and walls shall be maintained structurally sound and in good repair at all times.

**Please take the following action(s) by 2/19/2018:**

Repair or remove shed.

Thank you for your assistance with this issue.

Melissa Jones  
Code Enforcement Officer

## PROPERTY MAINTENANCE ENFORCEMENT PROCEDURES

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Special Items: *hazardous waste, batteries, electronics, appliances and scrap metal are recycled by Greene County. They do not accept paint, motor oil, televisions, computers or computer accessories. Call Greene County Environmental Services at (937) 562-5925 for more information.*

March 1, 2018



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**Please take the following action(s) by 3/14/2018:**

Repair or remove shed.

The next course of action will be a public hearing before the Property Review Commission on March 20, 2018 (see the Enforcement Procedures on the next page). Civil and/or Criminal penalties may be assessed if the repairs and improvements required are not completed by the stated date. (Sec1450.11(C)(5)) To find an alternate resolution, please contact me as soon as possible.

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Code Enforcement Officer



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