



Board of Zoning Appeals and Property Review Committee

June 25, 2020 6:15 PM

Agenda

1. Call to Order
2. Roll call
3. Approval of prior minutes of May 17, 2020
4. Zoning Appeals
 - **VA-20-03 Projecting Sign (11 E Franklin)**
 - Staff Summary
 - Property Owner
 - Public Input
 - Board Discussion/Decision
5. Property Maintenance
 - **3961 Sable Ridge**
 - Staff Summary
 - Property Owner
 - Public Input
 - Board Discussion/Decision
6. Adjournment

Zoom information:

Topic: BZA PRC

Time: Jun 25, 2020 06:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/84328843604?pwd=bXZYdndyOWM1Q3dSQ3lIWUc3UDRtdz09>

Meeting ID: 843 2884 3604

Password: 193829

BELLBROOK BOARD OF ZONING APPEALS AND PROPERTY REVIEW COMMISSION
PUBLIC HEARING MINUTES
May 19, 2020

PRESENT: Glenn Costie
Aaron Burke
Philip Ograd
Sharon Schroeder
Chairperson Meredith Brinegar

CALL TO ORDER:

Chairman Brinegar called the meeting of the Board of Zoning Appeals to order at 6:15 PM. The Secretary called the roll. Mr. Costie, yes; Mr. Burke, yes; Mr. Ograd, yes; Mrs. Schroeder, yes; Mrs. Brinegar, yes.

It is noted for the record that the Planning and Zoning Assistant Jessica Hansen was in attendance.

APPROVAL OF MINUTES:

Mr. Ograd made a motion to approve the prior minutes of February 27, 2020. Mr. Burke seconded the motion. All were in favor. The motion carried 4-0.

NEW BUSINESS:

- **VA 20-02: Secondary Garage (2371 Barnett Street)**

Zoning Administrator Jessica Hansen presented the case stating that the reason for the variance request is that the size is larger than the zoning code allows. The proposed structure would be 30' by 40' in the backyard. Mrs. Hansen reported that she had received one letter in opposition, one with approval, plus the property owner had gathered the signatures of five neighbors who support Mr. Lucas.

John Lucas, 2371 Barnett Street is the property owner. He stated that the plans for the garage would place it within privacy fencing, be constructed by a contractor, and designed in neutral colors to match the house. The garage will be connected by a blacktop driveway with a gate.

Dean Moore 2383 Barnett said that as the next-door neighbor he had no issue with the proposed garage. He is confident Mr. Lucas will do a good job.

Nathan Easter 2426 Barnett Drive said he was in favor of the request.

The board discussed other local properties with similarly sized accessory buildings. The city has quite a few of these most of which have been in place for many years. Mr. Ograd's only concern was that garages tend to collect junk and he hopes that does not happen in this case.

Mr. Costie made a motion to approve VA-20-02 Secondary Garage (2371 Barnett Street). This was seconded by Mr. Ograd. The Clerk called the roll. Mr. Costie, yes; Mr. Ograd, yes; Mr. Burke, yes; Ms. Schroeder, yes; Chairman Brinegar, yes. The motion passed 5-0.

**BELLBROOK BOARD OF ZONING APPEALS AND PROPERTY REVIEW COMMISSION
PUBLIC HEARING MINUTES**

May 19, 2020

- **Property Maintenance Code Update: Repeat Offenders**

Mrs. Hansen presented methods to combat repeat property maintenance offenders and dilapidated buildings. Staff is working on code updates. Dilapidated properties and repeat offenders are ongoing problems for the city. The problem properties include both businesses and residences. At this time we have one property owner that has disregarded violation notices and fines to an extent that the case was sent to court. There is currently a warrant for the owner who is presently in Texas. Some options staff is considering include: raising fines to make them a better incentive. The second is updating codes defining vacant properties. The current code only designates a property as vacant if it has been foreclosed upon by the bank. A better definition would include properties that are not being lived in.

Mrs. Hansen recommends requirements and fines that give the city leverage but not be overly strict. Each time there is a complaint, staff time is required to review files, visit the property, and contact owners. Presently there is no cost to the owner for this work, Xenia charges \$100.00 every time an inspection is required.

Mrs. Hansen is also looking to add a list of volunteer agencies that could be called upon if the owner was in need of assistance.

The board was in favor of proceeding with the changes discussed. They like the escalating fee schedule along with the service organizations to show compassion. It was agreed that fees need to be raised and there should be a maximum.

- **Adjournment**

Chairman Brinegar adjourned the meeting at 7:15 PM.

To: Board of Zoning Appeals
From: Jessica Hansen, Planning & Zoning Assistant
Date: June 19, 2020
Subject: Staff Report for BZA Case VA-20-03, 11 East Franklin Projecting Sign

Summary

The request is to install a projecting sign on the property located at **11 East Franklin Street, Bellbrook, OH 45305**.

Applicant Information:

- **Applicant Name:** Jami S. Thompson-Bellbrook Barber Co
- **Applicant Address:** 11 East Franklin Street, Bellbrook, Ohio 45305
- **Property Owner:** Richard Brown
- **Property Owner Address:** 11 East Franklin Street, Bellbrook, Ohio 45305



Sign Information:

The request is to place a 24" diameter aluminum composite projecting sign from the existing mounting hardware at 11 E Franklin Street. The sign will be hung with chain hardware.

Size: 3.14 Square Feet, 3mm in thickness

Height: 11 Feet from ground to top of sign, 9 feet to bottom of sign from sidewalk.

Per section 18.20B(3)(b), *In no case should the sign or its supports extend above the highest point of the building supporting the sign. A sign may project from a building beyond the property line and over a public sidewalk providing:*

(1) it does not intrude more than 3/4 of the sidewalk width; and

(2) it clears the sidewalk by ten (10) feet.

Discussion

The sign meets all regulations with the exception of regulation *18.20B(3)(b)(2)* because the sign will end up being 9 feet over the sidewalk. The BZA should decide whether or not to grant a variance from the section *18.20B(3)(b)(2)* of the Zoning Ordinance.

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;

Without the variance the business could not have a sign on the bracket that is larger than 12 inches in height, which does not provide reasonable viewability for the business.

2) WHETHER THE VARIANCE IS SUBSTANTIAL;

This is not a substantial variance, given that the sign will still be 9 feet from the ground versus 10 feet.

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;

The character of the neighborhood would not be altered at all and the adjoining properties would not suffer at all as a result of this variance.

4) WHETHER THE VARIANCE WOULD ADVERSELY AFFECT THE DELIVERY OF GOVERNMENTAL SERVICES SUCH AS WATER, SANITARY SEWER OR GARBAGE REMOVAL;

This variance would have no effect on the governmental services.

5) WHETHER THE PROPERTY OWNER PURCHASED THE PROPERTY WITH KNOWLEDGE OF THE ZONING RESTRICTION;

Not applicable since this is related to a sign zoning restriction for a tenant of the property

6) WHETHER THE PROPERTY OWNER'S PREDICAMENT FEASIBLY CAN BE OBIATED THROUGH SOME METHOD OTHER THAN A VARIANCE; AND

The predicament could also be resolved by removing the existing bracket (since it has no space on the building to simply move up) and installing a new, custom constructed sign bracket, however this would cause some additional damage to the historic building which could be avoided by keeping the existing bracket.

7) WHETHER THE SPIRIT AND INTENT BEHIND THE ZONING REQUIREMENT WOULD BE OBSERVED AND SUBSTANTIAL JUSTICE DONE BY GRANTING THE VARIANCE.

The spirit and intent behind the sign zoning requirement would be observed and substantial justice would be done by granting this variance.





CITY OF BELLBROOK

ZONING PERMIT - SIGNS

15 EAST FRANKLIN STREET, BELLBROOK, OHIO 45305
(937) 848-4666 WWW.CITYOFBELLBROOK.ORG

APPLICANT INFORMATION

DATE RECEIVED 5/29/2020 PERMIT # 20-72
 PROPERTY ADDRESS 11 E Franklin Street, Bellbrook OH ZONING DISTRICT R-1A
 PROPERTY OWNER Richard Brown PHONE NUMBER _____
 APPLICANT NAME Amanda Adams PHONE NUMBER (937) 705-6014

REQUEST INFORMATION

BUSINESS NAME Bellbrook Barber Co
 BUSINESS MAILING ADDRESS 11 E Franklin Street, Bellbrook OH
 SIGN REQUEST NEW PERMANENT SIGN SIGN REFACE TEMPORARY OTHER New sign on existing bracket
 SIGN TYPE GROUND PROJECTING ROOF WALL SANDWICH BOARD BANNER OTHER
 SIGN DIMENSIONS HEIGHT 24" WIDTH 24" AREA 4 SQUARE FEET BUILDING FRONTAGE 15 LINEAR FEET
 SIGN LOCATION FRONT YARD SIDE YARD REAR YARD SIGN HEIGHT 11 FEET (FROM GROUND TO TOP OF SIGN)
 SIGN MATERIALS 3mm Aluminum Composite & Hanging chain hardware
 ADDITIONAL COMMENTS Circular hanging sign which will be hung from existing sign bracket

PLEASE PROVIDE AN ILLUSTRATION WHICH INCLUDES A COLOR RENDERING OF THE SIGN AND THE LOCATION OF THE SIGN ON THE BUILDING AND/OR PROPERTY.

I UNDERSTAND THAT APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE APPROVAL FOR ANY ADMINISTRATIVE REVIEW, CONDITIONAL USE PERMIT, VARIANCE, OR EXCEPTION FROM ANY OTHER CITY REGULATIONS WHICH ARE NOT SPECIFICALLY THE SUBJECT OF THIS APPLICATION. I UNDERSTAND THAT APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE APPROVAL OF A BUILDING OCCUPANCY PERMIT. I UNDERSTAND FURTHER THAT I REMAIN RESPONSIBLE FOR SATISFYING REQUIREMENTS OF ANY PRIVATE RESTRICTIONS OR COVENANTS APPURTENANT TO THE PROPERTY.

I CERTIFY THAT I AM THE APPLICANT AND THAT THE INFORMATION SUBMITTED WITH THIS APPLICATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT THE CITY IS NOT RESPONSIBLE FOR INACCURACIES IN INFORMATION PRESENTED, AND THAT INACCURACIES MAY RESULT IN THE REVOCATION OF THIS ZONING CERTIFICATE AS DETERMINED BY THE CITY. I FURTHER CERTIFY THAT I AM THE OWNER OR PURCHASER (OR OPTION HOLDER) OF THE PROPERTY INVOLVED IN THIS APPLICATION, OR THE LESSEE OR AGENT FULLY AUTHORIZED BY THE OWNER TO MAKE THIS SUBMISSION.

I CERTIFY THAT STATEMENTS MADE TO ME ABOUT THE TIME IT TAKES TO REVIEW AND PROCESS THIS APPLICATION ARE GENERAL. I AM AWARE THAT THE CITY HAS ATTEMPTED TO REQUEST EVERYTHING NECESSARY FOR AN ACCURATE AND COMPLETE REVIEW OF MY PROPOSAL; HOWEVER, AFTER MY APPLICATION HAS BEEN SUBMITTED AND REVIEWED BY CITY STAFF, I UNDERSTAND IT MAY BE NECESSARY FOR THE CITY TO REQUEST ADDITIONAL INFORMATION AND CLARIFICATION.

I HEREBY CERTIFY, UNDER PENALTY OF PERJURY, THAT ALL THE INFORMATION PROVIDED ON THIS APPLICATION IS TRUE AND CORRECT.

APPLICANT SIGNATURE *Amanda Adams* DATE 5/28/2020

OFFICE USE ONLY		
PERMIT FEE \$ <u>50.00</u>	PAYMENT TYPE CASH <input type="checkbox"/> CHECK <input type="checkbox"/> #	REVIEW AUTHORITY ADMINISTRATIVE <input type="checkbox"/> BZA <input checked="" type="checkbox"/> VRB <input checked="" type="checkbox"/>
APPROVED <input type="checkbox"/> DENIED <input type="checkbox"/>	STAFF SIGNATURE _____ DATE ____/____/____	
APPROVED-CONDITIONS <input type="checkbox"/>		

Not yet paid
will also need
\$100 variance fee



Board of Zoning Appeals/Property Review Commission Public Hearing Notice

REMOTE MEETING VIA ZOOM*

Date	Time	Location
June 25, 2020	6:15 pm	Via Zoom and Livestreaming on the City's YouTube page (Bellbrook City Hall)

The Bellbrook Board of Zoning Appeals/Property Review Commission will hold a public hearing on Variance Case for 11 E Franklin Street (Bellbrook OH). The public is invited to view the meeting on YouTube.

V20-72 This is a request by Jami S. Thompson owner of Bellbrook Barber Co. for a projecting sign at 11 E Franklin Street, Bellbrook OH, 45305. Zoning code 18.20B(3)(b)(2) requires signs to clear the sidewalk by ten (10) feet. The Bellbrook Barbershop sign will be located 9 feet above the sidewalk.

Should any member of the public wish to give their input on the above case may send it to j.hansen@cityofbellbrook.org or by submitting a written letter to the Board of Zoning Appeals by mailing or dropping it off at 15 E Franklin Street, Bellbrook OH, 45305. Any input received in writing/email will be given to the board for their review.

Anyone wishing to speak via zoom must contact the Clerk of Council by 3 PM on 6/18/20 at p.timmons@cityofbellbrook.org.

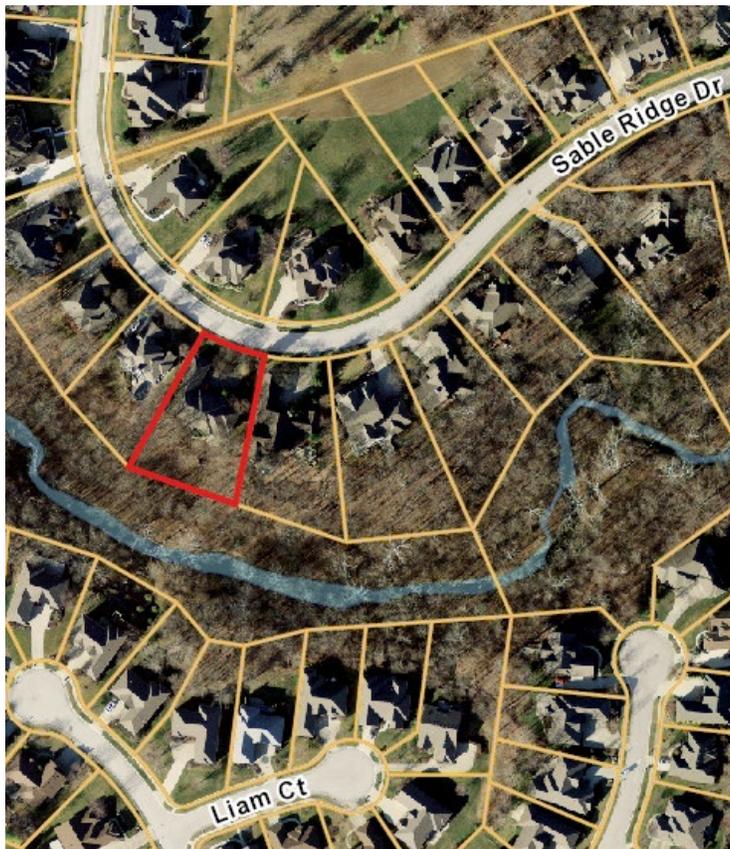
To: Property Review Commission
From: Jessica Hansen, Planning & Zoning Assistant
Date: June 19, 2020
Subject: Property Review Commission Staff Report for, 11 East Franklin Projecting Sign

Summary

On May 5th of 2020 a complaint was made by a resident in Regent Park Place Section 2 against **3961 Sable Ridge Dr.** The Complainant stated that on **March 9th of 2020** a group of individuals chopped up the remains of what was a fallen tree. She stated she gave them sometime to remove the remains, however they never did. On **May 7th** I verified the remains of the tree were indeed left in the rear of the property in very large portions. Refer to the aerial photos to the referenced tree that was there until March of 2020.

Property Owner Information:

- **Name:** Deborah & Charles Dean
- **Address:** 3961 Sable Ridge Dr, Bellbrook, Ohio 45305



Violations(s) in letter:

(J) Outside Storage. (j) 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.

(K) Storage of Firewood. Firewood must be staked and piled in a reasonably compact and orderly fashion.

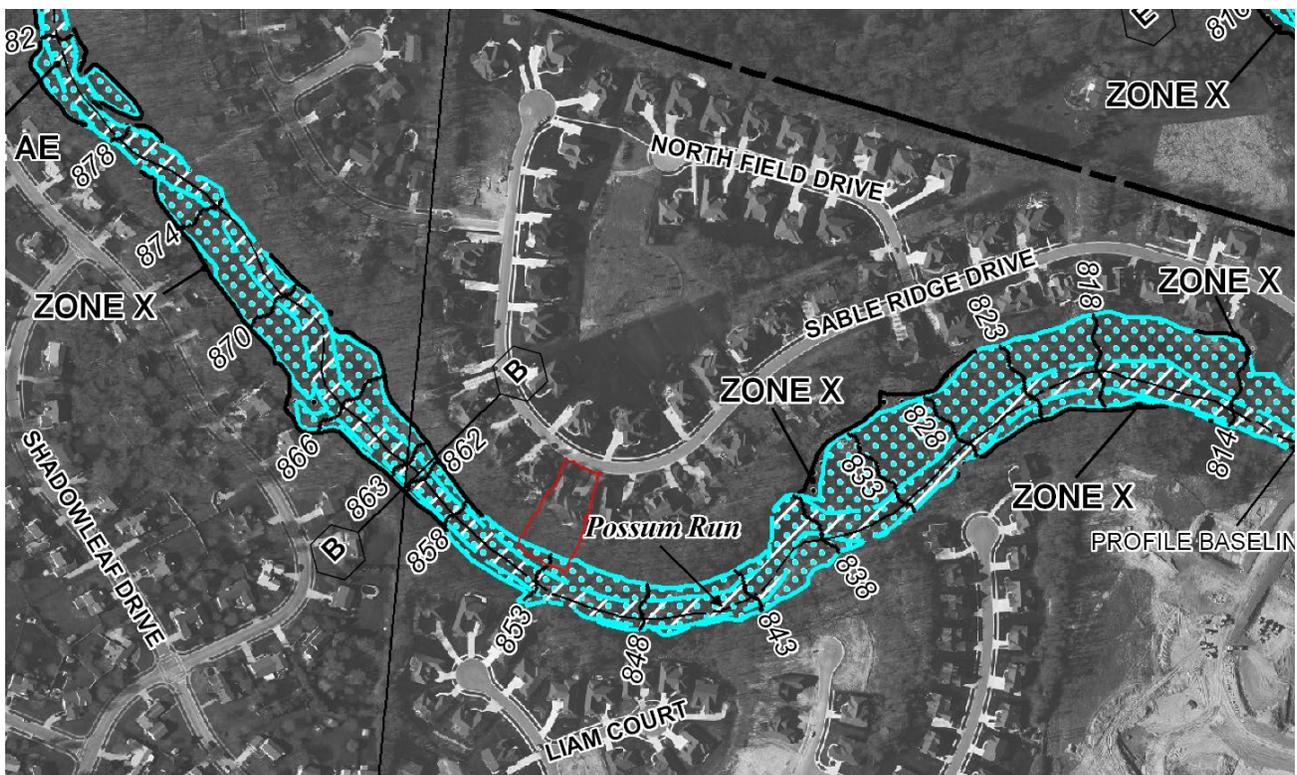
Violation(s) not included in letter:

1450.31 (d) Vegetation. All premises and exterior property shall be maintained free from weeds or plant growth in accordance with Chapter 678 of the Bellbrook Municipal Code. **(1) All plant materials, including trees and shrubs,** afflicted with decay, disease, insect infestation, or otherwise considered dangerous to other plant material, **shall be removed** or appropriately treated, and dead trees and shrubs and “high risk” trees that pose an imminent danger to subject property or adjacent properties shall be removed. All sound plant materials, including trees and shrubs, shall be properly maintained and have no evident signs of neglect. **(2) All lawns, hedges, bushes, trees and other vegetation shall be kept trimmed and shall not be permitted to become overgrown and unsightly where exposed to public view or where such vegetation may constitute a blighting influence on adjoining property.**

Note: This violation was not included in the original letter sent to the property owner on 06/01/2020.

Flood Plain Management Article 15.02 (3) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage.

Filling: is the depositing or dumping of any matter onto, or into the ground, except common household gardening and ground care.



Protective Covenants and Restrictions O.R. 954, PG. 478-493 (18) NO LOT SHALL BE USED OR MAINTAINED AS A DUMPING GROUND FOR RUBBISH, TRASH, GARBAGE OR OTHER WASTE SHALL NOT BE KEPT, EXCEPT IN A CLEAN AND SANITARY CONTAINER. All INCINERATORS OR OTHER EQUIPMENT FOR THE STORAGE AND DISPOSAL OF SUCH MATERIAL SHALL BE KEPT IN A CLEAN AND SANITARY CONDITION.

Merian Webster Definition of rubbish

1: useless waste or rejected matter : TRASH

2: something that is worthless or nonsensical

Synonyms for rubbish

Synonyms

chaff, **deadwood**, debris, dreck (also drek), dross, dust, effluvium (also effluvia), garbage, junk, litter, offal, offscouring, raffle, refuse, riffraff, scrap, spilth, trash, truck, waste

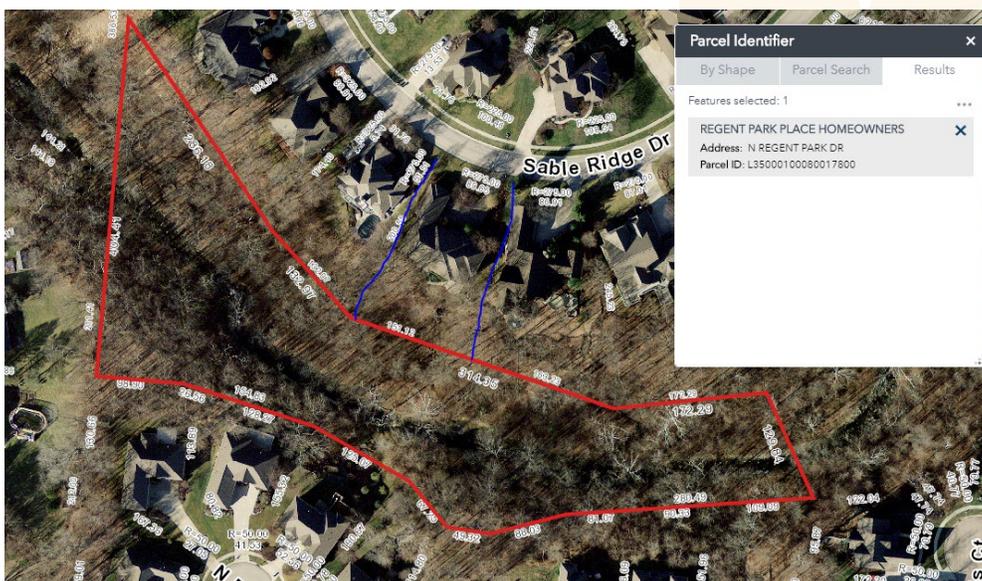
source: <https://www.merriam-webster.com/dictionary/rubbish#synonyms>

Section 1060.07 (d) Bellbrook Municipal Code - Depositing. No person shall deposit, or cause to be deposited, sort, scatter or leave, any **rubbish**, earth, ashes, cinders, sawdust, ice, glass, manure, filth, paper, dirt, grass, leaves, **twigs, brush**, garbage or other offensive material in any public street or public property of the City, or on any private property, except on approved private or public dumps, and except where certain of these materials are used in a normal manner for improving property by grading, fertilizing or surfacing.

Actions Requested in letter by 6/26/2020: Chop/cut and stack wood or remove from property.

Information:

The Open Space Lot behind 3961 Sable Ridge Dr is owned by the Regent Park Place Homeowners Association. This is where the AE Flood Zone lies as well as the regulated floodway. See the image below for the parcel information. If you will notice in the attached images in 2018-March of 2020 there was a rather large dead tree located on the property of 3961 Sable Ridge Dr.



Discussion

The appeal states that the remains of the tree, i.e. the timber, is not outside storage however, if the timber is not being used for firewood then it is essentially rubbish and therefore outside storage and a violation of the City of Bellbrook Property Maintenance Code and also their Protective Covenants and Restrictions.

Secondly, the tree was clearly on the aerial imagery on their property, yet they claim it is now in the open space owned by Regent Park Place and what is also the Flood Plain. Dumping on someone else's property is in violation of the Bellbrook Municipal Code and is also in violation of the Flood Plain Management Regulations adopted by the City of Bellbrook. However, I cannot with certainty say that the timber is on their property or in the Regent Park Open Space.

Also, even though not mentioned in the original letter the tree is in violation of the City of Bellbrook's Property Maintenance Code regarding Vegetation, and their claim that the remains of the tree will be covered by Honey Suckle is only perpetuating this violation. The complaint was made because the property owners in Regent Park Place can clearly see the remains of the tree in the Fall-Spring months. Claiming that honeysuckle will shield the timber from view negates the purpose of the Property Maintenance Code.

Lastly, it is the responsibility of the property owner when purchasing a property to consider the state of the property. The owners moved into the house in February of 2020 and the timber was cut on March 9th of 2020. It can be argued that if people were capable of getting down to cut the remains of the rather large dead tree as seen in the aerials then they can further cut down the timber into manageable pieces for removal to abate the violation. The timber in the images I can see has clearly been cut. It is not just fallen trees that have managed to make their way down the hillside. Again, when you purchase a house you take on the responsibility for the whole property, not just part of it. However, this decision lies in the hands of the Property Review Commission.