

**MARIEMONT PLANNING COMMISSION**  
**REGULAR MEETING HELD NOVEMBER 17, 2021**

The Mariemont Planning Commission met November 18, 2021. Mayor Brown called the meeting to order at 5:35 p.m. Present were Ms. Reed, Mr. Rich and Mr. Van Stone. Mr. Rod Holloway was in attendance as the Village Building Zoning Officer.

1. Request from Stephen & Elizabeth Bybee of 6944 Miami Bluff Dr, Mariemont, OH 45227 to locate a new A/C condenser unit on their side yard adjacent (and behind) an existing unit. The request is based on 3 points below:
  - a. There is already an existing unit in the same area
  - b. The location in the rear could result in safety/damage concerns
  - c. Willingness to add shrubbery/fencing to reduce visibility from street view

*Finding of the Building Department:*

**§ 151.024 POWERS AND DUTIES OF THE PLANNING COMMISSION**

(3) Property variances.

(a) The Commission shall have the power to grant a variation in the property provisions and requirements of this chapter which will not be contrary to the public interest or intent and purpose of this chapter, so that the public health, safety, convenience, comfort, prosperity, and general welfare will be conserved and substantial justice done, but only where, owing to special conditions pertaining to a specific piece of property, the strict application of the provisions or requirements of this chapter would cause a clearly demonstrable hardship.

(b) Variances may be granted under the following circumstances:

1. When there is reasonable doubt as to any provision of this chapter or the building zone map as applied to such property; or
2. When the following facts and conditions exist:
  - a. An exceptional narrow, shallow, or irregular lot, exceptional topographical conditions existing and of record June 27, 1941; or
  - b. Large "specimen" trees are in jeopardy; or
  - c. Where, by reason of extraordinary or exceptional circumstances or conditions, the literal enforcement of the requirements of this chapter would involve practical difficulty or would cause unnecessary hardship, or would not carry out the spirit and purpose of this chapter; and
  - d. Such variance is necessary for the use and enjoyment of the property in a manner similar to that which other property in the village is used; and
  - e. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity in which the property is located; and
  - f. That the condition or situation of the subject property, or the intended use of the property, for which variance is sought, is not so general or recurrent a nature as to make reasonably practical the formulation of general regulations for such conditions or situation.

**§ 151.087 PERMITTED OBSTRUCTIONS IN REQUIRED YARDS**

(E) Heating, ventilating, refrigerating, condensing, or air-conditioning equipment, or combinations thereof may be placed in a required rear yard; provided, that there be no more than two such obstructions and that no such obstruction shall extend more than three feet above the

ground at the point of the obstruction and that such obstructions do not occupy more than 12 square feet of the required rear yard, and further; provided, that such obstructions be placed as close to the residence for which the required rear yard is provided as is reasonably possible. Similar equipment may be permitted in any side yard but may not be placed closer to the side yard property line than the required side yard setback. No similar equipment is permitted in the front yard of any structure. Utility meters may not be installed on the wall of any structure facing a street. Utility meters may be placed above grade on the side or rear wall of any structure;

A 9.5ft setback is required for this side lot per §151.086 TABULATION AND FORMULAE, section c. Additional pictures, lot survey, and building sketches available upon request from [bldgdept@mariemont.org](mailto:bldgdept@mariemont.org).

Mr. Holloway distributed pictures for the Planning Commission members to review.

Mrs. Elizabeth Bybee read the following:

To the Building Department:

We wish to keep our current air conditioning unit on the side of the house, where it was when we purchased the home in 2019. We also wish to keep the new (additional) unit, for the second floor, on the side of the house as well. This second unit cannot be seen from the street as it sits behind the first existing unit.

Our reasons for keeping the units on the side of the house include:

1. This was the original location of the air conditioning unit when we purchased the home.
2. The location of the units at the back of the house is not ideal due to the usage of the backyard for our children. They play in the backyard and often are playing with balls and bats. I worry the unit could be struck by their toys, resulting in damage. The units are in a safer location on the side of the house.
3. We plan to hide the units with landscaping and/or fencing upon completion of the home renovations.

Please let us know if you have any questions or concerns. We love this community and appreciate the work done to maintain the charm and style of the homes here. We understand your point of view. At the same time, we also love our backyard and plan to spend many, many afternoons and evenings with our children playing whiffle ball and basketball as much as we can while they still hang out with us. We strive to achieve the most aesthetically pleasing outcome to hide the units in the interest of the property values of the community, as well as our neighbors, while also keeping the space available in the backyard open for our family to spend time together.

Discussion ensued regarding the setback requirements for the air conditioning unit and the fact that many houses in the Village have the units located on the side of the home. Mr. Mike Townsend, contractor for the homeowner, went over the construction plans with the members of the Planning Commission. There is no recent permit for the existing unit to see if previous variance was granted.

Mr. Van Stone voiced concern about putting additional shrubbery/fencing around the unit due to restricted access for firemen. The unit could be placed in the backyard with a fence to prevent possible damage from child's play.

Mrs. Bybee said in February 2021 there was a variance issued for the proposed addition and porch. At that time there the existing air conditioning unit was not discussed or noted. The variance

meeting was scheduled for February 24, 2021 but with Covid going through the Building Department at that time the meeting was not held. Building Administrator Keyes spoke with Mayor Brown and it was agreed that the variance was minor enough to approve without the hearing.

Mr. Van Stone pointed out that was for the addition, but not for the location of the air conditioning unit. The plans submitted today do not show a second air conditioning unit marked indicating that the drawing approved for the variance there was not a secondary unit. There was no information given to the Building Department that there was going to be a second unit. Mrs. Bybee said it was never brought up as an issue. At that point the plans could have been redesigned. The project is now so far down the road it will make the project last even longer.

Mr. Rich said the architect let them down by not alerting this issue out to the homeowners. He does not object to it being put there, but he finds it very unfortunate that the homeowners were let down by the professional they hired to execute the project. The homeowner has been burdened with professionals that have not given adequate advice resulting in practical difficulty to the homeowner in time and cost.

Mr. Holloway said it is noted by the architect on the drawings that a minimum of 9'6" setback with from the property line to the far extreme corner of the covered porch is 9'7". We are within one inch of the original variance. The actual variance was for total side yard setback, not one side.

Mayor Brown was concerned that granting the variance will not meet any of the listed criteria. Ms. Reed said assumptions were made but the air conditioning unit is there now. If the request was to just now put it there, she would not agree to it, but as it is she does not have a problem with the request.

Mr. Van Stone made a motion to deny the request based on §151.024(3)(b)(2)(c)(d)(f). With no second motion, the motion failed.

Mr. Rich moved, seconded by Ms. Reed to approve the variance based on §151.024(3)(b)(2)(c)(d)(e)(f). On roll call; three ayes, one nay (Mr. Van Stone).

The meeting adjourned at 6:08 p.m.

Respectfully Submitted,

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Ms. Shelly Reed, Secretary