

ZONING ADMINISTRATOR INTERPRETATION

DATE: February 23, 2009

CODE SECTION: 17.71.070.A – Nonconforming Uses - Repair and Maintenance

QUESTION NEEDING INTERPRETATION: What constitutes repair and maintenance on a fence or wall? If a homeowner demolishes a portion of the fence, can it be replaced without meeting the current code requirements? What is ordinary repair?

INTERPRETATION:

Section 17.71.070.A - Repair and Maintenance states:

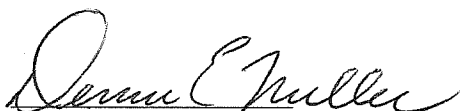
A. Ordinary repair and maintenance.

1. *Ordinary repair and maintenance may be performed on a structure or site, the use of which is nonconforming; and*
2. *Ordinary repair and maintenance of a nonconforming structure shall be allowed.*

The question that has been raised is, does demolition of a portion of a nonconforming fence constitute “ordinary repair and maintenance”?

Recently, staff dealt with a homeowner who replaced the entire side yard fence. This side yard fence had been nonconforming in terms of height and location. The owner had argued that this constituted “ordinary repair and maintenance.” My interpretation is that “ordinary repair and maintenance” typically is the replacement of broken boards or concrete blocks that may have come loose and fallen out. It is not the replacement of an entire segment of a fence or wall.

When reviewing such requests for permits, the amount of fence or wall being repaired shall be considered. On a case by case basis, the amount of fence or wall being repaired will determine if the proposed work is ‘repair’ or ‘replacement’. If numerous posts, or supporting members, are being replaced, the entire project shall be considered to be a replacement.



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