

Construction Board of Appeals

Regular Meeting Minutes

Wednesday, October 27, 2010
4:00 p.m., Council Chambers



City of South Haven

1. The Meeting was Called to Order by Lundgren at 4:00 p.m.

2. Roll Call

Present: Lewis, Lundgren, Morse

Also present: Ross Rogien, Building Inspector; Bill Spaeth, Zoning Administrator; Marsha Ransom, Staff

3. Approval of Agenda

Motion by Lewis, second by Morse to approve the agenda. All in favor. Motion carried.

4. Approval of Minutes – April 28, 2010

Motion by Lewis, second by Morse to approve the April 28, 2010 Minutes. All in favor. Motion carried.

5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

There were none.

NEW BUSINESS

6. 759 Kalamazoo Street

Background Information: This property has had a history of neglect. It has previously been scheduled before the Construction Board of Appeals back in 2006 and 2009, and been subsequently notified of ongoing deficiencies in its maintenance. The owner failed to carry out the last Hearing Officer's Order "that the structure on the subject property be repaired so that it meets the 2006 Michigan Building Code, and bring the first floor apartment up to code by July 24, 2010". The owner submitted a letter dated July 10, 2010, requesting additional time. The request was again scheduled for a Hearing Officer's meeting which was held on Sept. 29th. No application for a demolition permit has been submitted to date.

Hearing Officer's Order: That the structure on the subject property be demolished pursuant to the City's Demolition Specifications by Oct. 29th, 2010.

Support Material:

- 1) Repair Cost Comparison Sheet to State Equalized Value of Structure

- 2) Notice of right to appeal Hearing Officer's Order with said order attached.
- 3) Previous correspondence
- 4) Photos

Lundgren noted that this building is in substantial disrepair and we have the hearing officer's order to demolish.

Veronica Martin, co-owner of 759 Kalamazoo Street stated she is just here to determine what the rest of the procedure is.

Lewis explained that this hearing provides the property owners the ability to appeal the hearing officer's decision if they choose to.

Martin said the only appeal she could ask would be time and money to repair the property. Martin stated she was trying to comply; reported each time she was notified and that is why she is here this time. Martin said she is between a rock and a hard place because she does not have the funds to repair the property; has tried to get funds but that has been to no avail.

Lundgren explained that the equalized value is said to be roughly \$28,000 and the cost to repair is said to be about \$45,000; it would cost twice as much to repair it as the value. As with many of the properties that come before this board, the owner would be better off economically to tear the structure down and build a whole new house. Unfortunately, Lundgren noted, the next step in this process is to appeal to the courts. The Construction Board of Appeals looks at whether the valuation of repair is correct. Lundgren said he has the estimate and did an inspection of the property and is in agreement with the hearing officer's determination.

Martin said she respects what the board is saying and wants to know when the property was inspected. She does not recall at any time having a contractor go with her through the house. Lundgren said the building contractor, John Brush, inspected the property on July 7, 2010.

Ross Rogien, Building Inspector, stated the contractor would not have gone into the property; the determination would be made from what he could observe by walking around the structure and looking through the windows and doors. Rogien explained that the city never goes into the property. Lundgren explained that this is a walk-around estimate and he would like to see the City include on these estimates that there is possible further expense in replacing electrical, the furnace and the plumbing. These are unknowns with a walk-around estimate.

Spaeth clarified the process: the first step is code enforcement; letters are sent to the property-owner of record to get the property repaired. The second step is a determination by the Building Inspector that it is in a general state of disrepair and dilapidation. Spaeth noted that Rogien, the Building Inspector, then sends additional notices to the property owner over a period of time; the City then hires a third party contractor to review the property to provide a cost estimate of repair; and then the inspector's determination and third party contractor's estimate are reviewed by the hearing officer at a hearing. Spaeth said the City does not just rely on the Building Inspector's judgment, but gets the third party independent contractor to

look at the property with the purpose of providing a repair cost estimate. The hearing officer reviewed that material and made the determination that this property should be demolished. That decision/order may be appealed by the property owner to this body. Spaeth explained to the owners this is where their property is in the process, and where the independent estimate came from.

Lundgren said when buildings are 50% gone; they don't get better, they just get worse with time. Lundgren noted that water damage, broken windows, animals entering, vandalism, etc all contribute to continued dilapidation. This is the kind of property the Construction Board of Appeals gets; the City gives a fair amount of time and warning to fix it but if it is not going to be fixed, then the Construction Board of Appeals upholds the hearing officer's determination, although there is still some appeal time built in. Lewis noted this house has been under scrutiny since 2006. Lundgren pointed out that is a lot of time to allow the property owners to get the house fixed.

Rod Morrison, co-owner of property, stated that as far as the estimate from the contractor, we have not gotten a copy of that. Lundgren explained that it is the list of things that are wrong. Has the City has informed you of what's wrong? Rogien said you would have received a copy at the hearing officer's determination. Morrison stated that they are already in debt, and asked how the demolition is going to be billed to the owners.

Spaeth said if the decision of the CBA is to affirm the hearing officer's Order of Demolition and the structure is not demolished by the deadline, the City takes the case and turns it over to the City's attorney, who files it with the court for a hearing. The whole process is then affirmed by the court. Spaeth explained to the owners that they will get notices from the court of that hearing. If the judge then affirms the demo order, the City is allowed to proceed with demolition of the property. The City advertises for bids from contractors for the demolition and then the city typically goes with the lowest bidder. Once the City enters into the contract, all those costs become a lien against the property. When the property is sold, the City is reimbursed. Morrison asked if there will be a lien against the property, and Spaeth affirmed that yes, ultimately there will be a lien on the property.

Lundgren asked whether the owners prefer sixty days or twenty-one days. Martin noted that we do still own the property so the longer time would allow us to remove anything we want to before the demo. Martin said it is what it is. If something falls out of the sky and we have a way to repair it, we can present that to the judge.

Motion by Lewis, second by *Morse Morris* to close the public input. All in favor. Motion carried.

Lewis stated he sees no reason to grant the sixty days; twenty-one should be plenty.

Spaeth noted after twenty-one days, if the demolition has not been done, then the City turns this over to the City's Legal Counsel, who then files appropriate papers with the courts. That process can take anywhere from two to six months. Once the City gets a court order to demolish, there is typically another two months before the City would actually be in a position to move forward with demolition.

Motion by Lewis, second by Morse, to affirm the hearing officer's order and move forward with the twenty-one day demolition order at 759 Kalamazoo Street. All in favor. Motion carried.

Motion by Lundgren, second by Lewis to amend the motion to state November 17 as the deadline date for demolition. All in favor. Motion carried.

7. 755 Kalamazoo Street

Background Information: This property has had a history of neglect. The property was foreclosed on by the Fifth/Third Bank during the notification process, and subsequently purchased by the current owner. The new owner was issued a Building Permit on 6/22/2009 to re-roof the building and install new windows as well as remodel the interior. Construction activity started shortly thereafter with partial demolition of portions of the interior of the structure. The Building Inspector entered this note on the Permit Log on 4/12/2010:

THIS PROJECT HAS HAD NO ACTIVITY SINCE APPLIC. LAST SEPTEMBER PROJECT WAS CHECKED, AS WELL AS IN MID JANUARY AND AGAIN IN LATE FEBRUARY WITH NO ADDITIONAL WORK DONE. STATUS IS THE SAME AS OF 04-12-10. IF NO ACTIVITY BEGINS BY 5-31-10 DANGEROUS BUILDING NOTICE SHOULD BE SENT OUT. FOUNDATION ON NORTH AND SOUTH SIDES IN NEED OF SUBSTANTIAL REPAIR. MAJORITY OF FLOOR SYSTEM HAS BEEN REMOVED IN NORTH SIDE ENTRY AND LIVING AREA. CONDITION OF SEVERAL WALLS IS QUESTIONABLE.

The property was scheduled for a hearing on Sept. 29th, 2010.

Hearing Officer's Order: That the structure on the subject property be demolished pursuant to the City's Demolition Specifications by Oct. 29, 2010

Support Material:

- 1) Repair Cost Comparison Sheet to State Equalized Value of Structure
- 2) Notice of right to appeal Hearing Officer's Order with said order attached.
- 3) Previous correspondence
- 4) Photos

Spaeth noted that no one is here to appeal the next two cases.

Motion by Lewis, second by Morse to affirm the hearing officer's determination that the property at 755 Kalamazoo Street be demolished by November 17, 2010.

Spaeth noted that this is the house with the exterior wall off the foundation.

All in favor. Motion carried.

Motion by Lundgren, second by Lewis to amend the motion to state November 17 as the deadline date for demolition. All in favor. Motion carried.

Spaeth noted that this is the house with the exterior wall off the foundation.

All in favor. Motion carried.

8. 721 St. Joseph Place

Background Information: This property has had a history of neglect. The structure is located on a non-conforming lot within the R-1B zoning district, and does not conform to that district's setback requirements. The structure has been vacant for a number of years and is currently in an estate being handled by a Trustee.

Hearing Officer's Order: That the structure on the subject property be demolished pursuant to the City's Demolition Specifications by Oct. 29, 2010

Support Material:

- 1) Repair Cost Comparison Sheet to State Equalized Value of Structure
- 2) Letter of response from Legal Rep.
- 3) Notice of right to appeal Hearing Officer's Order with said order attached.
- 4) Previous correspondence
- 5) Photos

Spaeth noted there is no one here to appeal this case.

Lundgren said that was a nice little cozy cottage at one time but is no longer. Lewis said if the owners had appealed it he might have questioned the State Equalized Value vs. repair costs.

Motion by Lewis, second by Morse to affirm the hearing officer's determination that the property at 721 St. Joseph Pl. be demolished by November 17, 2010.
All in favor. Motion carried.

9. Adjourn

Motion by Morse, second by Lewis to adjourn at 4:31 p.m. All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary