

# Construction Board of Appeals

## Regular Meeting Minutes

Wednesday, July 22, 2015  
3:00 PM, Conference Room A  
City Hall, 539 Phoenix Street



### 1. Call to Order by Chair Morse at 3:00 p.m.

### 2. Roll Call

Present: Dibble, Heinig, Morse, Stickland  
Absent: None

### 3. Approval of Agenda

Motion by Heinig, second by Dibble to approve the agenda as presented.

All in favor. Motion carried.

### 4. Approval of Minutes – June 17, 2015

Motion by Stickland, second by Heinig to approve the June 17, 2015 minutes as written.

All in favor. Motion carried.

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

None at this time.

### 6. NEW BUSINESS

#### a) Sherman Hills Demolition Order

Anderson reminded that the deadlines have passed for work that needed to be done. After the June 6 deadline, Anderson was contacted by the city attorney and he asked for all the documents, which were sent to him. The attorney told Anderson that a final demolition order would be necessary to move forward and suggested reconvening the board for that purpose. The owner was notified and is present.

Gritter stated he and his partners are in a dilemma of legal action which is almost done but not one hundred (100) percent resolved. He further stated that the city says it is an

eyesore and Gritter agrees it is an eyesore; “we need to side it, put in windows, and install fascia and soffit. But that is a forty thousand dollar (\$40,000) bill; for us to do that but not have complete ownership is risky. All of this is due to the Mard Enterprises (Augie Zolezzi) dilemma”.

Gritter stated that he had “requested a nine (9) month extension but you gave me six (6) months with an additional possible thirty (30) day extension”. Gritter stated that at the time he knew it would be nip and tuck to get the lien removed in that time frame. “Part of the issue was not just with us but as well with the city; to demolish a structure on a lot that Mard (Zolezzi) is claiming an illegal lien will just agitate the situation until we can get that lien off.” Gritter stated, “You are putting us in a precarious position. If that duplex disappears and he is listed on that lien, he (Zolezzi) will bring a lawsuit. We’ve been right from the beginning and we still have had to spend thousands in legal fees.”

Dibble asked whether city staff knows anything about the lien or not. Anderson stated, “No, and our attorney said it does not matter whether there is a lien on it or not. If demolition in sixty (60) days is the order given today, the process toward demolition will proceed sixty (60) days from today.”

Gritter stated he hears what the lawyer is saying but does not agree. Stated that he asked Cunningham to send Anderson all the paperwork. Has had two (2) meetings with the judge in Grand Haven; the judge agrees with Gritter and his partners and they are working on the wording of the lien dismissal. Gritter thinks they will prevail but does not have it in written form. Gritter stated, “If you pull the trigger on this demolition too soon, you will bear the burden of the litigation. Look at the long scope of this thing. I don’t want to give Augie the ability to recapture us in another round of litigation. If we wait until this is settled, we can all move forward together.”

Stickland asked who Gritter thinks Zolezzi will sue. Gritter said, “Zolezzi has a lien and if you tear this down, he will sue you and he will sue us. I don’t want to see this happen to you or to us.”

Dibble asked how confident Gritter is that this will be resolved. Gritter stated he is very confident. Dibble then asked, “Then why haven’t you put the siding on if you are sure this is about to be settled? We have to do what is right for the people in the area.”

After questions about ownership Gritter stated that he and his partners have ownership of the whole development but there is a lien on this portion.

Stickland pointed out that the city determines that this property is in violation to city ordinances. “It is irrelevant to the city who owns it. That fight is between you and the other party.”

After mention of Gritter owning the property for eight (8) years, Gritter stated, “We haven’t owned it for eight (8) years. Pine Creek has been on things for a very short time, as far as the entire piece of property is concerned. Augie has a lien on the lot; he has already been removed from the development.”

Dibble asked who is paying the taxes on that parcel. Anderson stated that Pine Creek is paying the taxes and the appeal board notices have been being sent to Pine Creek.

Gritter asked if the city is still receiving complaints and Anderson responded yes. After questions from Gritter it was noted that complaints come in the form of phone calls to the building department, complaints relayed to council members and others. Gritter said, "We aren't in the middle of the city. What is bringing all the heat?" Anderson explained that there is nothing in the code that says if a property is not in the middle of the city, there is a different provision. The city only enforces the ordinance as it is written.

Gritter asked what part of the code is not being met to which Rogien responded that since nothing has been done for one hundred twenty (120) days it is considered an abandoned structure. Gritter asked if that is because no one is living there to which Rogien stated, "It is unfinished with no submitted plan or timeframe for completion; that is why it is a problem."

Gritter would like to clarify time frame and what you want done. Part of the discussion in the past was about installing windows and doors. Dibble, referring to previous minutes, stated that Gritter and his partners need to put the windows in three sides, complete the siding and finish the outside.

Gritter said that once the court clearance is completed then Pine Creek has to make the decision at that point, "Are we siding it or taking it down?" Anderson responded, "The city gave you lots of opportunity to have that happen and it did not happen. If you finished it up by the end of the sixty (60) days it would be allowed to remain. At the end of sixty (60) days the city would have to start the demolition process."

Gritter reiterated, "At the end of sixty (60) days from today." Gritter then said that when the judge does sign it, if that happens two weeks before the deadline, Pine Creek cannot have the whole thing done at the end of two weeks. Gritter says he needs some time if the judge says he has been awarded the property.

Dibble asked if Gritter had a (building) permit. Gritter said we applied for a permit but then the illegal lien showed up. Dibble asked, "If it's illegal, why are you worried about it?" Gritter stated that to him and his partners it is illegal but it still has to be taken through the courts. Stickland asked, "What are you going to do when you get that decision?" Morse reminded that Gritter had already said that when he gets the judge's decision in writing, then he and his partners needs to make the decision to finish or demolish.

Gritter said Cindy Compton is marketing the property and he does not want to be evasive but we have three (3) different groups of people looking at the property. "We are aware of some engineering studies; can't say who. Two (2) of the three (3) people have said they want the duplex structure to stay, however the residential use would be changed. One party is saying they would use it for the community/recreation center. If that's the case, that's why I'm coming back to you; I can't say but what the siding would all come off later." Dibble noted that is not the boards' problem. Gritter said Dibble, as a builder, should be able to appreciate the dilemma. Dibble stated that while he can appreciate the dilemma, the board and the city have been waiting for a long time. Dibble said there is city code regulations requiring mowing and "I think that's been done only once."

Dibble said they have been pretty accommodating. Morse agreed saying, "We have given them more consideration than anyone else who has come in here. While we appreciate their situation, it's not a situation we put them in. We have to enforce the code."

Morse stated he is looking for a motion to demolish.

Gritter asked what happens at the end of sixty (60) days to which Anderson responded, "We then begin the court process. Our attorney has everything to date and at the end of sixty (60) days our attorney starts drawing up the papers and filing the documents." Gritter asked how long that takes to which Anderson responded that it varies. "Some have gone quickly; some have been taking a long time, such as the Overton Building. Anywhere from a month and a half to three (3) months."

Gritter said, "What you said is a factor to us; information we need to know. If there is work being done at the end of sixty (60) days, we wouldn't have to face demolition?" Anderson said that would have to be included in the motion. Gritter said according to the past you were looking at getting the exterior finished. Morse responded that the board is looking for a new motion.

Gritter asked how long a permit is good for to which Rogien responded, "Technically, with no communication, in one hundred twenty (120) days the permit is null and void." After it was noted that the house was rewrapped with Tyvek, Rogien pointed out that the building permit was issued for siding and windows, noting that the Tyvek was just an interim measure. The siding and windows were never completed as required.

Motion by Heinig to move forward with demolition. If any time before demolition the building official determines work has started on exterior envelope, the official can void the demolition order.

Dibble stated that he would like to add to the motion that the owners have the yard seeded. Morse commented that he thinks if the owners get an extension they will go to the very end and we will end up with one window and they will say they have started.

Amendment to the motion by Dibble to have the building be fifty (50) percent complete at the end of sixty (60) days. Rogien expressed concern with different interpretations of fifty (50) percent complete and said if you want it done this way give them a completion date.

Morse stated that the house should have siding, soffit and fascia, windows and doors; it should be one hundred (100) percent done before ninety (90) days and we (the city) begin the demolition process in sixty (60) days.

Motion by Heinig to initiate demolition in sixty (60) days unless one hundred (100) percent of the exterior, including the yard, is completed within ninety (90) days from today's date.

Anderson noted, "If nothing has happened in sixty (60) days, the demolition order will go to the attorney. If we see there is serious work being undertaken and they stay in touch with us and let us know the status, that may be taken into consideration."

Dibble asked can we order the demo in sixty (60) days, and we can reconvene to determine if we want to proceed further. Rogien noted that it can take sixty (60) to ninety (90) days for a judge to order the demolition. Nothing prevents the owners of the house from finishing it.

After discussion regarding the original motion and various amendments suggested, a new motion was put forth.

Motion by Dibble to order the demolition of the property in sixty (60) days; if there is any progress at that point we will reconvene to determine where to go at that time. Progress would be physical work, not paperwork or a bag of nails or talking about the judge. Second by Heinig.

Gritter questioned about the yard, stating, " I thought we were talking about windows and siding." Dibble noted that the ordinance requires the lawn to be mowed and maintained; have somebody rototill it and seed it; have somebody mow it. Gritter said there are only ten (10) foot side yards and then you are into the next lot. Dibble asked what the back and front setbacks are. Gritter was not sure but said he thinks the back yard setback is twenty-five (25) feet and whatever the Planned Unit Development (PUD) states is the front setback. After discussion Dibble commented that the whole thing is a bad deal and he does not see it getting better.

Anderson clarified that the motion as Dibble made it allows the owners to complete the exterior of the building and do the work on the yard as an alternative to demolition if completed in the ordered timeframe. All agreed.

Morse called the question.

All in favor. Motion carried.

Anderson informed the board that a demolition permit for the house on Kalamazoo Street has been pulled by the owner's demolition contractor and will be underway very soon.

Gritter thanked the board for their consideration, noting, "You're just doing your job." Dibble said, 'It's doable; you need to give it a push. Show us some earnest; we would rather see the structure completed than torn down.'

## **7. Adjourn**

Motion by Heinig, second by Stickland to adjourn at 3:45 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom  
Recording Secretary