

Construction Board of Appeals

Regular Meeting Agenda

Wednesday, September 14, 2011
4:00 p.m., Conference Room A
City Hall, South Haven, MI



City of South Haven

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Minutes – October 27, 2010
5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

NEW BUSINESS

6. 229 Elkenburg Street
7. Adjourn

RESPECTFULLY SUBMITTED,

Linda Anderson
Planner / Zoning Administrator

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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 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 APPIL. 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



City of South Haven

Agenda Item #6

229 Elkenburg Street

Background Information: Enforcement efforts for the dilapidated accessory structure at 229 Elkenburg date back to June of 2009. Since that time, several attempts have been made to work with the owner with little success. Code enforcement staff went so far as to issue citations, which were subsequently ignored. Finally, on July 17, 2011, the city building inspector contacted the hearing officer to set a meeting.

Hearing Officer's Order:

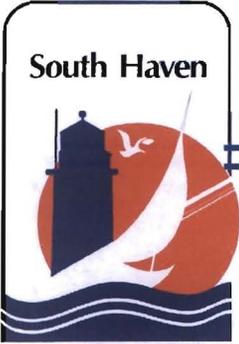
That the accessory structure on the subject property be demolished pursuant to the City's Demolition Specifications by September 9, 2011.

Support Material:

1. Hearing Officer's Order and support documents (Attachments A & B)
2. Repair Cost Comparison Sheet to State Equalized Value of Structure
3. Notice to property owner of appeal of Hearing Officer's Order to CBA
4. Photos

RESPECTFULLY SUBMITTED,

Linda Anderson
Planner / Zoning Administrator



City of South Haven

Building Services Department

City Hall • 539 Phoenix Street • South Haven, Michigan 49090-1573
Telephone (269) 637-0789 • Fax (269) 637-5319

DANGEROUS BUILDING ORDINANCE HEARING OFFICER DECISION & ORDER

Hearing Date: 8.10.11 Subject Property: 229 Elkenburg

Owner or Owner's Representative Present: NO SHOW

Owner / Representative Address: NA

Phone: NA E-mail: NA

Owner / Representative Received Notice of Hearing Dated: 7.27.11 Yes No

FINDINGS: YES NO

Owner / Representative states that he/she understands the purpose of this hearing

Owner / Representative agrees that the subject property is in violation of City Code.....

Owner / Representative agrees that subject property is not habitable

Owner / Representative agrees that said violations can not be corrected in 60 days

Owner / Representative agrees that dangerous conditions exist on the subject property ...

Decision and Order: See attached

By: Craig Niephaus

Above Order to be completed by: 9.9.2011

Craig Niephaus, City of South Haven Hearing Officer

Date



City of South Haven

City Hall • 539 Phoenix Street • South Haven, Michigan 49090-1499

Telephone (269) 637-0700 • FAX (269) 637-5319

CITY OF SOUTH HAVEN DANGEROUS BUILDING ORDINANCE HEARING OFFICER DECISION & ORDER

Meeting Date: August 10, 2011

Hearing Officer: Craig Niephaus

Subject Property: 229 Eikenburg PP# 80-53-260-006-00
(acc. shed only)

Owner's Representative Present: NO

Owner or Representative Received Notice of Hearing:

Findings of Fact:

See attachment "A" and "B"

Decision and Order:

Demolish or repair within 30 days.

Craig Niephaus

**Craig Niephaus
Hearing Officer**

8/10/11

Date

ATTACHMENT A

ENFORCEMENT HISTORY

Violation of City of South Haven Ordinance # 570, Article IX, Dangerous Buildings and Structures

229 Elkenburg
80-53-260-006-00

Owner: *Sitties LLC*
2955 Reeds Lake Blvd.
Grand Rapids, MI 49506

This is a dilapidated storage building on the west side of the above-cited property. There have been numerous neighbor complaints about the condition of the building and the noise generated by the loose metal roof. Several notices have been mailed to the owner in an attempt to correct the building condition violations but there has been no response from the owner.

The following is a brief chronology of the enforcement actions taken by the city:

- 06.04.09 Courtesy Notice sent to owner citing a violation of City of South Haven Ordinance #570, Property Maintenance Code
- 01.21.10 Second Courtesy Notice sent to owner citing a violation of City of South Haven Ordinance #570, Property Maintenance
- 05.05.10 Civil Infraction ticket (\$50.00) sent by certified mail to owner in attempt to compel compliance. Ticket not paid.
- 09.08.10 Second civil infraction ticket sent by certified mail
- 09.10.10 Second civil Infraction ticket returned to city building department marked "unclaimed"
- 07.27.11 Notice of hearing before City Hearing Officer relative to building condition mailed to property owner by certified mail. (Hearing Officer visits the site, inspects the building, reviews staff reports and determines if a building is dangerous. If he/she finds it to be dangerous, he/she gives the owner a time limit to demolish or repair the building.)
- 8.10.11 Hearing held at City Hall. Hearing Officer determined the building to be dangerous and ruled that the owner has 30 days from that date to either repair the building or remove it from the property. The property owner did not appear at the hearing.
- 8.11.11 Certified letter sent to owner stating the finding of the hearing officer and providing notice that the matter will go before the Construction Board of Appeals (CBA) on September 14, 2011.

If the CBA confirms the determination of the Hearing Officer, the owner will receive certified notification of that fact and staff will then turn the matter over to city legal counsel who will take the matter to a judicial review. The property owner will be kept apprised of this action as it progresses and may take steps to repair or demolish the building before the court action is completed. Once the action of the court is completed, the City will bid the project and demolish or repair the building. The costs for any remedy will be added to the property owner's property tax bill.

Regarding the large building on the property, it is the opinion of the city staff that the building is not dangerous at this time but is in need of maintenance. Staff continues to try to work with the owner to bring the building into compliance. If these efforts fail, the hearing officer will be notified and we will take efforts to compel compliance.

Compiled by Linda S. Anderson
Planner and Zoning Administrator
South Haven Building Services Department



City of South Haven

City Hall • 539 Phoenix Street • South Haven, Michigan 49090-1499

Telephone (269) 637-0700 • FAX (269) 637-5319

ATTACHMENT B

July 27, 2011

SITTIES LLC
2955 Reeds Lake Blvd
Grand Rapids, MI 49506

Re: Dangerous Building Notice

Property Address: 229 Elkenburg Tax ID No. 80-53-260-006-00

To Whom It May Concern:

The storage building along the West side of the property has been under observation for over 18 months and is in poor condition. Numerous complaints have been received regarding the deterioration of roofing metal and the sidewalls are showing signs of possible structural failure as well as they are leaning out of vertical alignment.

Several notices have been sent to your attention regarding this structure with no response from you to date. You are hereby noticed to attend a review of this structure by the city Hearing Officer relative to the condition of this structure. The hearing will allow you to show just cause as to why this structure can be reasonably repaired to sound condition or be demolished and all contents removed. Should you object to the findings of the meeting you may request an additional hearing with the Construction Board of appeals.

Hearing Officer will hold the review meeting on August 10, 2011 at 3:00pm. Should you or an authorized representative not be present this will most likely be forwarded to the city legal counsel to begin proceedings for the demolition order.

Your prompt response is appreciated.

Respectfully,


Ross Rogien-Building Inspector

CITY OF SOUTH HAVEN

229 Elkenburg (shed on west side of property)

**COMPARISON SHEET
OF
STATE EQUALIZED VALUE OF BUILDING OR STRUCTURE
TO ITS
ESTIMATED COST OF REPAIR
PURSUANT TO SECTION 10-227 OF THE DANGEROUS BUILDINGS AND STRUCTURES
ORDINANCE**

The following calculation is presented to accurately compare the values as called for by the above referenced ordinance. The State Equalized Value (SEV) includes both the building or structure value along with the land value, and it is published by the Assessor's Office. This same source also publishes the Land Value alone. However, the Land Value represents the anticipated value of the land if it were sold on the open market, while the SEV represents approximately half of what the property (with building or structure) would sell for on the open market. Therefore, the Land Value must be divided by two and subtracted from the SEV to accurately obtain the value that represents the SEV of the building or structure on the property. The ordinance then calls for the comparison of the estimated cost of repair to the SEV of the building or structure. If the repair estimate exceeds the SEV of the building or structure (which is approximately half the open market sales value), then the condition exists for "a rebuttable presumption that the building or structure requires immediate demolition".

PLEASE NOTE: This comparison does not prevent an order of demolition if the estimated cost of repair is less than the SEV, but rather allows the Construction Board of Appeals to order compliance with the order within 21 days instead of the 60 days prescribed by the ordinance.

A. State Equalized Value of subject property	<u>\$4,300</u>
B. Assessor's Land Value	<u>\$800</u>
C. Land Value divided by two	<u>\$440</u>
D. SEV of building or structure (Property SEV minus half of Land Value)	<u>\$3,860</u>
E. Estimated Cost of building or structure repair	<u>\$70,582</u>

If the value on line 'E' above exceeds the value on line 'D' above, then "a rebuttable presumption that the building or structure requires immediate demolition exists".

XX The Construction Board of Appeals may order the demolition with a 21 day time limit.

_____ The Construction Board of Appeals may not order the demolition with less than a 60 day time limit.

Prepared by: Linda S. Anderson Date: August 19, 2011



City of South Haven

City Hall • 539 Phoenix Street • South Haven, Michigan 49090-1499

Telephone (269) 637-0700 • FAX (269) 637-5319

SITTIES LLC
2955 REEDS LAKE BLVD.
GRAND RAPIDS, MI 49506

August 11, 2011

Regarding: DANGEROUS BUILDING HEARING DETERMINATION

To Whom it may concern;

The City of South Haven's Building Inspector has found that the accessory shed structure on the Subject Property identified below is dangerous and needs to be corrected as identified under "Infraction" below. You are hereby notified that the hearing date before South Haven's Hearing Officer was conducted on August 10, 2011 and the determination from said hearing is attached. You are hereby informed that should you not comply with said determination within the deadline provided therein, said determination shall be presented to the Construction Board of Appeals (CBA) within 30 days of said deadline, and in such event you are hereby instructed to present yourself to the CBA for your opportunity to show cause why the Hearing Officer's determination should not be complied with for the structure to be demolished, or otherwise made safe and maintained properly. **There shall be no further notifications from the City prior to the CBA meeting date.**

Subject Property: 229 ELKENBURG
Tax Parcel Number: 80-53-260-006-00

Infraction: BUILDING HAS BEEN COMPLETELY NEGLECTED AND IS IN TOTAL DISREPAIR.
BUILDING IS NOW CLASSIFIED AS DANGEROUS TO THE PUBLIC AND MUST BE DEMOLISHED OR REPAIRED WITHIN 30 DAYS OF THE DATE OF THE HEARING OFFICER'S DETERMINATION.

CBA Meeting Date: 09.14.2011 at 4pm City Hall 539 Phoenix Street

The City of South Haven asks that you please be aware of the condition of your property at all times, and that you make proper arrangements for the maintenance of it. Therefore, it is incumbent upon you to correct the infraction and contact the building official to avoid any fines. The quality of life within all of our neighborhoods depends on the cooperation of every property owner, whether residential or commercial. We thank you in advance for your cooperation in correcting this infraction.

Respectfully,

LINDA ANDERSON
Director, Building Services Department (269) 637-0760

