

Construction Board of Appeals (CBA)

Regular Meeting Minutes

Friday, February 6, 2015
3:30 PM, Conference Room A
City Hall, 539 Phoenix Street



1. Call to Order by Morse at 3:30 p.m.

2. Roll Call

Present: Dibble, Neiphaus, Morse
Absent: DeVinney

Also present: Ross Rogien, Building Official

3. Approval of Agenda

Motion by Dibble, second by Neiphaus to approve the February 6, 2015 regular meeting agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – May 5, 2014

5. Motion by Neiphaus, second by Dibble to approve the May 5, 2014 regular meeting minutes as written.

All in favor. Motion carried.

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

There were none.

7. NEW BUSINESS

a) Sherman Hills Extension Request

Anderson reviewed the Sherman Hills property extension request, reminding that there were three (3) things the applicants were required to do at the last meeting. The Tyvek, they did; the permit application, they did, but the siding, fascia and windows deadline was yesterday, February 5. On Monday, February 2 Anderson met with Doug Gritter of

Pine Creek Construction and a partner, who updated her that liens have been placed on the property and they provided documentation. Anderson explained that the request is for an extension as they are due in court the 23rd of February to try to get the lien removed. Anderson noted that Gritter's attorney believes this will wrap things up. At that point, the applicants will be able to move on with finishing the house, selling it or whatever they decide to do.

Anderson suggested the board put a reasonable deadline on the extension to give Pine Creek Construction time to finish up the things they need to do. Anderson also suggested that the board authorize the building department to add another month beyond the deadline if necessary, so if things are moving well, the board and applicant would not have to meet again.

Dibble reminded that one of the issues was the weeds around the building, and wondered if that had been taken care of. Gritter stated, "We did run a tractor and brush hog around the house and by the road." Gritter added that there is one window open because "We are exploring the option of moving the house; cutting in half and do two separate structures after the moving." Dibble asked about the foundation and in response Gritter asked if the foundation had to be removed as well, noting that his first choice is to continue on the path they are on, apologizing for the situation.

Gritter elaborated that he does not want to open up any possibility of Augie Zolezzi coming back and initiating a lawsuit with him or the city. The other two partners in Lienholders LLC were removed by the judge. "They sued me personally and sued Pine Creek Construction," Gritter explained, adding that in the course of that lawsuit Gritter learned that Augie Zolezzi had loaned the two former partners money to file the lawsuit against him. Once that was discovered the judge removed them from the partnership and now we have an interpleader lawsuit, according to Gritter. As soon as funds were available, Augie Zolezzi and Lion Financial who represents the company that leased the excavation equipment came after the proceeds. Gritter stated that he was not involved in that but his two former partners were, and Augie Zolezzi was awarded the proceeds. When Gritter filed for the title search, he discovered the illegal lien by Augie Zolezzi. Gritter informed that anyone can do that to anyone and then the owner has to defend oneself against the illegal lien.

Dibble asked who Augie Zolezzi is to which Gritter responded that Zolezzi was the original developer.

Morse asked about the lawsuit/court date. Gritter said the court hearing will be February 23 and pointed out that the Ottawa court is known to take such circumstances "under advisement" and then let their judgment be known at a later date. Gritter also pointed out that if Zolezzi does not agree with the judgment that he can appeal it.

Gritter requested a six (6) month extension, noting that this is probably longer than the board is willing grant him, but stated, "I don't want to keep coming back and revisiting this." Morse commented that the board understands the situation Gritter is in, but noted that there needs to be more dialogue. "There wasn't any, except for you coming in last Monday."

Gritter encouraged the board to look at his request as “We need to have the litigation out of the way before we can do anything; if you give me a rock-solid deadline we have to keep meeting, which takes your time and my time.”

Dibble asked what the hearing on February 23 is for and asked who would have title if the lien is removed. Gritter said he has clear title except for the illegal lien; Macatawa Bank has the first mortgage; Gritter has the second mortgage and Augie Zolezzi has the third mortgage. Gritter explained that does not entitle Zolezzi to the property, but he and his partner need the lien removed.

Dibble asked the benefit to Gritter of moving the building off the site. Gritter explained that if he could get the structure moved at a reasonable rate, he would have the benefit of the structure that has been built; his investment in the structure and roof. With the market changing there has been some activity on the property. “We met with Cindi Compton last week; we have five (5) or six (6) people initiating conversation. There has been no paperwork filed but there is interest. I spoke with two of the interested parties; the duplex has value to them. They have plans for that building.”

Dibble expressed his concern with the open foundation being left there if the structure is removed. Gritter said his first, second and third choice would be not to move it; he has also received an offer from another party who would tear it down for the materials. Gritter said he would not have a problem with the basement being removed. After a question from Anderson, Rogien said the city requires the basement to be removed as part of the demolition. Gritter asked if the walls could be pushed in and the hole filled and seeded. Rogien said he will leave it up to the board and Dibble added, “Typically that isn’t what we see.” Anderson interjected that the foundation would have to be removed and the hole filled and seeded. Gritter stated that he gets that the key is that the foundation not be a danger to the public. Dibble suggested crossing that bridge if we get to the point of removing the structure.

Morse said, “In the short term, the board needs to look at what sort of extension we want to do, and definitely, you don’t know what is going to happen at the hearing.” Morse suggested if the board granted ninety days, with Anderson having the ability to extend another month, with Gritter letting us know if there are any other delays. Gritter said he needs some time after the judge orders whatever he orders, noting that ninety days is pretty fast for the wheels of judgment. Dibble pointed out that building has been sitting there since 2008.

Gritter asked if there have been additional complaints. Anderson said she doesn’t get those complaints but she is not aware of any complaints received since the Tyvek was replaced. Gritter said he is on his own sixty-three (63) acres, not in the middle of a subdivision to which Dibble responded that people do ask what is going on, noting, “What Augie Zolezzi did wasn’t right; it ruined that property. Riverwoods has the same kind of mess although no structures.”

Gritter said Pine Creek’s goal is the riverfront access; he and his partner have had ongoing conversation with the Department of Environmental Quality (DEQ) which has agreed in writing that they would allow a canoe and kayak launch with parking on the high side, to try to have a solution to the problem that was created by Augie Zolezzi. Dibble asked if that would be open to public or just the owners in the development. Gritter said they are looking at a conservation easement on the lower part of the river

down; we have not come to terms with what all that means. Gritter noted that there is ongoing discussion; letters going back and forth; no citations; water stayed on property, all the \$40,000 in conservation easements has been taken care of so no more siltation can occur.

Motion by Dibble to give Pine Creek Construction an extension of three (3) months from yesterday (February 5, 2015) with Anderson authorized to grant a one (1) month additional extension, if needed, so a meeting would not have to be called.

Anderson clarified that anything beyond four (4) months would require another meeting. Morse asked that the board get periodic updates from the attorney.

Gritter asked about the building permit we pulled with good intention, noting, "I'd like to ask that the building permit be extended." Rogien said that is no big deal and there is no fee to do that. Anderson pointed out that the building permit expires automatically in one (1) year and noted that Gritter would need to give Rogien a call and ask him to extend it. Gritter would like the understanding that if in ninety (90) days we get that word it would take another month.

Neiphaus asked Gritter if he is financing this all by himself to which Gritter responded no. Neiphaus asked, "Where are your partners?" Gritter responded, "My original partners, Jay Millbocker and Jeff Voss (C&E) were terminated from the partnership because they put no money in for six (6) years. The judge terminated the partnership. That brought on Augie Zolezzi loaning them the \$25,000 with the understanding that Zolezzi would get \$50,000 when the partners settled. Gritter stated that one of his other partners, Ron Brower, was here on Monday, but today is on his way to Mexico to open a school he has been building for six (6) years and "Gord" has been on vacation but is on the way back. Gritter is the main partner of a 4-way partnership in Pine Creek Construction.

Neiphaus seconded Dibble's motion.

Anderson said at the end of that time, if necessary, we will meet with the owner again and reminded that nothing can happen beyond four (4) months without CBA approval.

Morse called the vote:

All in favor. Motion carried.

8. Adjourn

Motion by Neiphaus, second by Dibble to adjourn at 4:08 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary