

# Construction Board of Appeals

## Regular Meeting Minutes

Wednesday, June 17, 2015  
3:30 PM, Conference Room A  
City Hall, 539 Phoenix Street



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

### 2. Roll Call

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

Also present: Ross Rogien, Building Official; Linda Anderson, Zoning Administrator

### 3. Approval of Agenda

Motion by Heinig, second by Stickland to approve the June 17, 2015 meeting agenda as revised.

All in favor. Motion carried.

### 4. Approval of Minutes – February 6, 2015 November 11, 2013

Motion by Dibble, second by Neiphaus to approve the February 6, 2015 and November 11, 2013 regular meeting 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) *321 Aylworth*

Anderson reviewed the background of the building, noting that the city wanted the owner to either get it fixed or taken down. The hearing officer upheld the recommendation of the building official that the building be demolished. The Construction Board of Appeals

(CBA) has convened to hear an appeal to the recommendation. Anderson noted that the board had today received the cost comparison done by John Brush with an estimate for the cost of repair versus the cost of demolition.

Mary Smith, 231 Chippewa Road, Benton Harbor, Michigan. Identified as the owner of record who is making the appeal. Ms. Smith stated that her son, also present, is taking care of this for her.

Anderson explained that the building official, hearing officer and cost estimator have all recommended that the building be demolished, so the board could recommend and order demolition within twenty-one (21) days. Anderson noted that the applicant has the option of demolishing it herself which would be cheaper than if the city has to do it, because the city will charge legal fees and administrative fees over the cost of the demolition. Anderson also pointed out that if the applicant is planning to restore the building, the city would have to see some plans and documentation of the plan to restore with an estimated time frame, noting, "This is your opportunity to explain your plans for the building."

Keith Smith, 291 Linden, Benton Harbor, Michigan, son of Mary Smith, Applicant. Stated him and his mother plan to restore the building. Noting the photos of the areas that are out of code, that the city says are out of code, Mr. Smith stated that he feels that they could be brought up to code "in a timely manner so it wouldn't be a blight on the city."

Morse asked whether the applicants have contacted any contractors to which K. Smith responded that he has, but has had difficulty getting anyone to return his calls, due to it being the busy season for contractors but expressed his confidence that within a week he should have an idea what it would take.

Dibble asked whether the applicants have any idea what the costs are going to be, to which Smith answered, "No, I'm not a professional, but just looking at it I would say about twenty thousand (20,000) dollars to bring it up to code," citing the replacement of windows, doors, and the repairs to the structural foundation,

Dibble pointed out that while he does not see cracks in the foundation, his observation is that the roof needs to be taken off and reframed and inquired as to the size of the structure. Stickland noted the building is about eight hundred (800) square feet to which Dibble commented that the structure is quite small.

Dibble inquired of the applicants' plans for the building and Smith responded that they want to turn it into a welcome center. Anderson asked what that entails. Smith noted that this is "a gateway to the city; people from out of town could come through South Haven and the welcome center would have brochures, roster of events in the summertime, directions; just a lot of possibilities of things that take place here in South Haven."

Anderson left to get her Zoning Ordinance to check if that is a permitted use in that zone, noting that she does not think that is a permitted use.

Stickland asked about the ownership of the property. After some discussion, it was noted that Silvena Ben, the grandmother of the applicant, Mary Smith, was the one who originally owned the property, which ultimately passed down to Mary Smith's mother,

and at Ms. Smith's mother's decease the property passed to Ms. Smith. Morse noted that the ownership of the property is outside the scope of the discussion, reminding that the board is tasked with determining whether the structure is to be repaired or demolished.

Upon Anderson's return she noted that the only uses permitted in this zoning district are single family homes, municipal buildings, churches and schools. "This is a very restrictive zone, probably the most restrictive single family zone because of the small size of the lots," Anderson stated.

Smith then commented that possibly he and the applicant would consider converting the structure into a single family home.

Heinig pointed out that the cost estimate questioned the electrical service; the cost estimator said the electrical had to be completely redone and wondered if that was included in Smith's estimate which Smith said the replacement of the electrical was included in his estimate.

Dibble asked the original use of the structure. Smith said it was a restaurant/conference center. Anderson noted that the structure is an old, old non-conforming building. Stickland asked about using it for storage. Anderson said that is not a principal use allowed in the ordinance, noting that the structure cannot be an accessory building without a main use structure on the property. Anderson also pointed out that future use is a tough call because it is a totally nonconforming building, built too close to the street and non-conforming on many fronts.

In response to discussion regarding how this commercial use was permitted in the residential neighborhood, Mary Smith said the residential built up around it, noting that the Bohn plant is still there. Anderson said it could have been a restaurant at one time, but once it stops being used as a restaurant for a year, that use is no longer permitted because restaurants are not allowed in that zoning district now. Anderson reminded that the structure has to be one of the allowed uses in the zoning ordinance. Ms. Smith asked that the uses be repeated again.

Anderson read from the Zoning Ordinance, "Single family homes, publicly owned buildings, schools and churches." According to Anderson there are not a lot of options for that building.

Stickland asked why the applicants want to save the building to which Ms. Smith responded, "It has been in the family for a long time; it was my mother's. There was a lot of things she wanted to do but never did."

Stickland asked if the applicants had considered that value of the property might be improved if the building was not there.

K. Smith asked what the cost of demolition would be. Rogien estimated that demolition would be six thousand (6,000) dollars, maybe less, to hire the demolition done. Rogien noted that the applicant's estimate of twenty thousand (20,000) dollars is low, and stated that the electric alone will burn up a lot.

Morris commented that the applicants might be money ahead by tearing it down and putting a single family home there.

Ms. Smith asked how much time they have to which Anderson said "Twenty-one (21) days; for demolition it is twenty-one (21) days." Anderson noted that the board could expand that, but cannot do less than that. If the board decides to allow a rebuild there would have to be a schedule for that.

Morris inquired of the applicants, "You tried to contact contractors and they haven't gotten back to you?" to which Smith responded, "Not at this point, no."

Morris asked if he and the contractors had much dialogue about what the applicant wants to do. Smith responded that he briefly gave a description of the city wanting to demolish it and that he was opposed and showed the photos but no one has gotten back with him to give an estimate.

Stickland asked how many rooms the building has. Smith stated that there are three; one big room in front; one on the side and a restroom. Stickland asked if they would continue that configuration or gut the building and start over. Smith said the configuration could probably be used. Stickland asked what the inside walls are, framed or block. Smith said they are drywall.

Dibble pointed out that his estimation would be that twenty thousand (20,000) dollars is a really low number, noting the exterior alone needs to be tuck pointed and painted; new trusses are needed for the roof; that the applicants are probably looking at more than forty thousand (40,000) dollars even if you bought vinyl windows at three (3) to four (4) hundred dollars apiece. Dibble noted that the applicants are easily looking at fifty thousand (50,000) dollars plus, pointing out that the applicants could save by doing some of the work themselves. Dibble noted that he understands the sentimental value, that the structure means something to the applicants, but also pointed out that the applicants have to make a decision about whether you have the resources to put into this building.

Anderson asked for the sense of members at this point. "Are you leaning toward holding up the demolition order or allowing time for renovation?"

Dibble asked whether Ms. Smith wants to put that kind of money into the building to which Mary Smith responded, "Fifty (50) to sixty (60) thousand dollars? No."

Stickland suggested the board look at the assessed value of property. Anderson said according to the assessor it is valued at twelve thousand (12,000) dollars for the building and property, noting that the property is worth more with the house off of it. Ms. Smith questioned what that means and Stickland responded, "You'd be better off financially to tear it down and sell it." Dibble commented, "Or put a single family home on it."

In response to a comment by Stickland, Dibble noted there is probably no insulation in the structure. It was noted that when the structure was built heat costs were very low.

Smith asked why the property is worth more without the building. Stickland explained the building, as it stands, is a detriment to the property and you would have to put that much

more money into it; there is probably more value with the building gone. Stickland pointed out that he lives in the area, drives by it frequently, and has not seen any change in twenty (20) years, noting "The building has not changed its appearance in twenty (20) years."

K. Smith asked if he and the applicant have to make a decision now as to whether to go ahead with demolition. Anderson responded that the board of appeals will go ahead with the demolition order but the question is, "Do you want to demolish that building in twenty-one (21) days or could you come up with the money to fix it in the next two (2) months. If you can't we can't let this go on."

K. Smith said the fifty (50) to sixty (60) thousand would not be possible to which Anderson responded, "Then you need to demolish it." Smith asked when the demolition needs to take place. After a comment regarding sixty (60) days, Morse suggested splitting the difference and asked about giving the applicants forty (40) days commenting, "That will allow you to see if you can find someone to take it down," and noted that if the city does the demolition it will cost more due to legal and administrative fees, which will be assessed to the property.

Motion by Stickland that within forty (40) days the actual demolition of the structure located at 321 Aylworth, including obtaining a demolition permit is in process. Second by Dibble.

All in favor. Motion carried.

*b) 1008 Kalamazoo*

Anderson noted that this property has been a real eyesore for years and years. The city has been trying to work with the property owners. The city has delayed moving forward on demolition due to other properties needing to be dealt with, but the time came to do this so the building official posted it for demolition and the hearing officer agreed. Anderson noted that the numbers that came in by the estimator obviously show that fixing it up is hardly a consideration given it would be over seventy-nine thousand (79,000) dollars and the structures are not worth anything near that. The good news, according to Anderson, is that the owners are moving forward with demolition; they have a demolition contractor lined up but have not pulled a permit yet. Anderson asked that the board be sure to include the garage in the motion, noting, "It is time to move forward, and the question is how much time to give them."

Rogien agreed that with no permit yet issued the board needs to give the applicants a time limit.

Neiphaus asked whether the footings also must be removed to which Rogien responded, "Yes, that's in the code; remove everything, backfill it and seed it." After a question by Dibble regarding discussion of the Sherman Hills structure, Ross noted that these things are considered on a case by case basis, but if the board really moves ahead on demolition of the structures on this property, all of the basement, including footings, will need to be removed. Stickland asked, "How deep?" Rogien responded that typically we want everything out of there.

Motion by Stickland to accept the recommendation of the hearing officer to demolish the house and garage at 1008 Kalamazoo Street within twenty-one (21) days. Second by Heinig.

All in favor. Motion carried.

**7. Election of Officers 2015-16**

Heinig nominated the current chair and vice chair be retained. Second by Stickland.

Morse called the vote.

All in favor. Motion carried.

**8. Adjourn**

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

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom  
Recording Secretary