Construction Board of Appeals

Regular Meeting Agenda

Wednesday, November 18, 2015
3:00 p.m., Conference Room A

City of South Haven

1. **Call to Order.**
2. **Roll Call**
3. **Approval of Agenda**
4. **Approval of Minutes** – July 22, 2015
5. **Interested Citizens in the Audience Will be Heard on Items Not on the Agenda**
6. **Appeal:** 220 Superior Street
7. **Adjourn**

RESPECTFULLY SUBMITTED,

Linda Anderson
Planner / Zoning Administrator

South Haven City Hall is barrier free and the City of South Haven will provide the necessary reasonable auxiliary aids and services for persons with disabilities, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting to individuals with disabilities at the meeting upon seven (7) days notice to the South Haven City Hall.

Construction Board of Appeals

Regular Meeting Minutes

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

City of South Haven

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. **<u>NEW BUSINESS</u>**

   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 than 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

Agenda Item #6
220 Superior Street

City of South Haven

Background Information: On July 13, 2015, the owner of 220 Superior Street was notified that the structure at 220 Superior was being officially declared a dangerous building and that the hearing officer would be considering this matter on July 17, 2015. The applicant was in attendance at that hearing.

As you will read in the attachments, the hearing officer ordered demolition within 60 days of the date of the hearing. At the time, the owner seemed amenable to that order. Upon further thought, the owner has decided to repair the building and asked that we convene the construction board of appeals (CBA) to hear his argument.

He has met with a contractor and intends to bring plans and a schedule for compliance when he meets with the CBA.

Recommendation:

Staff asks that the CBA members review the attached files and be prepared to discuss in detail the work program we expect will be presented by the appellant.

Attachments:

Dangerous building notices
Hearing Officer report
Hearing Officer minutes
Photos of 220 Superior Street
Owner request for appeal

RESPECTFULLY SUBMITTED,

Linda Anderson
Zoning Administrator

LAUCIS TERRY L
8630 W 73RD ST
JUSTICEIL60458

July 13, 2015

Regarding: DANGEROUS BUILDING HEARING NOTIFICATION

To Whom it may concern;

The City of South Haven's Building Inspector has found that the structure on the Subject Property identified below is dangerous and needs to be corrected as identified under "Infraction" below. You are hereby notified of the hearing date before South Haven's Hearing Officer in the Building Services Department offices. You are instructed to present yourself at said hearing to be given your opportunity to show cause why the Hearing Officer should not order the structure demolished, or otherwise made safe and maintained properly. **There shall be no further notifications from the City prior to the hearing date.**

Subject Property: 220 SUPERIOR ST
Tax Parcel Number: 80-53-025-004-00

Infraction: STRUCTURE ON PROPERTY HAS NOT BEEN MAINTAINED PROPERLY AND MUST BE REPAIRED / BROUGHT BACK INTO COMPLIANCE WITH ALL CURRENT MICHIGAN BUILDING CODES. (ORD. 570)

Observation made on June 22, 2015, and again on July 1, 2015 shows loose plywood panel on South upper wall with rodents being seen entering/exiting the structure over several months (photo on file).

Window sash on upper North corner is rotted away and glass is ready to fall out (public hazard).
Foundation is showing signs of failure on North side.
Several holes in wood siding allowing rain & snow to enter and deteriorate the structural frame.
Majority of window assemblies are deteriorated and need to be repaired.

Overgrowth of tree's and plantings are creating rodent harborage.

This structure appears to be abandoned due to observed neglect.

HEARING DATE: __August 17, 2015-_ 3PM at Building Services Dept., City Hall Offices.

Respectfully,

RR F/o Cgm- Mailed on 7/31/15 certified and common carrier

Ross Rogien-Building Official

City of South Haven

City Hall • 539 Phoenix Street • South Haven, Michigan 49090-1499
Telephone (269) 637-0700 • FAX (269) 637-5319

09/11/2012

LAUCIS TERRY L
8630 W 73RD ST
JUSTICE, IL 60458

Regarding: Notification of Code Infraction

Dear Property Owner;

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. The quality of life within all of our neighborhoods depends on the cooperation of every property owner. Please be aware that a Code Infraction has been observed at your property identified below as the subject property. The specific Code Infraction is listed below and you, as the property owner of record, are the legally responsible party for correcting the infraction. **Said infraction needs to be corrected immediately.**

Subject Property: 220 SUPERIOR ST,SOUTH HAVEN
Tax Parcel Number: 80-53-025-004-00
Code Infraction: STRUCTURE ON PROPERTY HAS NOT BEEN MAINTAINED PROPERLY AND MUST BE REPAIRED / BROUGHT BACK INTO COMPLIANCE WITH ALL CURRENT MICHIGAN BUILDING CODES OR BE DEMOLISHED. (ORD. 570)
SIDEWALK OBSTRUCTED BY OVERHANGING TREES AND SHRUBS THAT MUST BE CUT BACK (SEC 74-9)

1. NEIGHBORHOOD COMPLAINT ABOUT THE CONDITION OF YOUR PROPERTY.
2. SHRUBS ON FRONT PORCH MUST BE CUT BACK TO SEE ADDRESS NUMBERS.
3. BOARDED BROKEN WINDOW MUST BE REPAIRED.
4. SEVEN (7) PHOTOS ENCLOSED

Subsequently, you are required to contact the code enforcement official at the number below no later than ten (10) calendar days from the date of this letter. Should there be no substantive response from you by that time, the City shall move forward with enforcement proceedings which may include the issuance of a "Civil Infraction Notice of Violation" involving a $50.00 per day fine, and all costs associated with the City having to hire appropriate services to correct said infraction as well as a $50.00 administrative fee.

There shall be no further notifications from the City prior to these corrective actions being taken.

Therefore, it is incumbent upon you to correct the infraction and contact the code enforcement official within the ten (10) calendar days to avoid any fines.

We thank you in advance for your cooperation in correcting this infraction.

Respectfully
DANIEL M. GOMEZ
Code Enforcement Officer, Building Services Department (269) 637-0763

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: August 20, 2015 **Subject Property:** 220 Superior

Owner or Owner's Representative Present: John Lauer is

Owner / Representative Address: 8630 W 73rd, Justice, IL 60458

Phone: 708-259-3829 **E-mail:**

FINDINGS - The Owner / Representative agrees (yes) or disagrees (no) to the following:	YES	NO
That he/she received notice of the hearing	X	
That he/she understands the purpose of this hearing	X	
That the subject property is in violation of one or more City Codes	X	
That the subject property does not have an operable kitchen		X
That the subject property does not have an operable bathroom		X
That the subject property does not have a fully functioning electrical system		X
That the subject property does not have a fully functioning mechanical system	X	
That dangerous conditions exist on the subject property	X	

Decision & Order: The below signed Hearing Officer does hereby order the owner of the subject property...

____ To repair the subject property so that it meets the 2009 Michigan Building Code.

X To demolish the subject property pursuant to the City's Demolition Specifications.

X To Demolish the Subject Property within 60 days (Oct. 19, 2015)

This order is to be completed by the date stated below or the City shall subsequently forward this case to the Construction Board of Appeals with an order for demolition of the subject property.

By: Butch Kelley
Butch Kelley , City of South Haven Hearing Officer

Above Order to be completed by: Oct. 19, 2015
Date

City of South Haven

City Hall • 539 Phoenix Street • South Haven, Michigan 49090-1499
Telephone (269) 637-0700 • Fax (269) 637-5319

Hearing Officer Minutes

City of South Haven
Thursday, August 20, 2015
3:00 PM, Conference Room A
City Hall, 539 Phoenix Street

Present: Butch Kelly, City of South Haven Hearing Officer; Ross Rogien, Building Official; Terry Laucis, Property Owner and Linda Anderson, Building Department.

Butch Kelly: You have been sent notices since 2012 and you have made not one serious attempt at correction of this property. Does this house have heat? Does it have a working kitchen or bathroom? What about electricity? What have you done to address the code violations in the last 3 years?

Laucis explained that there is no working mechanical system in the house but there is electricity and water. Kelley said the electricity cannot be in good shape based on the loose wires he noticed today on his site visit. The property owner replied that he is working to pour new footings on one side and board up the broken/missing windows.

Kelley asked about the overall plan for the property. The house needs more than plywood, paint and patching. The property owner asked if it was okay to just fix up the exterior. Kelley stated that with no heat, the interior would continue to deteriorate quickly. What about the crumbling foundation? Kelley estimated that the minimal repairs would exceed $75 to $80 thousand dollars. Laucis agreed with that estimate.

The property owner then asked “What do you want me to do?” Kelley responded that he wants the house demolished. The property owner then asked the process for demolition. Rogien and Kelley explained to process and told him it would be better and less expensive for him to demolish the house now than to wait and have the city do it. The property owner agreed.

The hearing officer’s final order is for demolition to occur within 60 days which will be October 19, 2015.

The meeting was adjourned at 3:27 p.m.

RESPECTFULLY SUBMITTED,
Linda Anderson
Building Department
City of South Haven, MI

030485

Terry Lynn Laucis
8630 West 73rd Street
Justice, IL 60458

October 13th, 2015

City of South Haven
Building Department
Attention: Ross Rogien and committee
539 Phoenix Street
South Haven, Michigan 49090

Regarding: 220 Superior Street - Appeal Request
Dangerous Building Hearing held on August 20th, 2015

To Whom it may concern:

I am writing to request a review of the hearing officers order to demolish my property located at 220 Superior St., South Haven, Michigan 49094. The date of October 19th, 2015 is stated in the
" Hearing Officer Minutes".

I have made contact with Mr. David Shannon, a structural engineer with the firm of Shannon and Shannon out of Galesburg, Michigan.

He will prepare an evaluation of the property which will be presented to your committee in response to the demolition order . A recommendation will be part of his evaluation. A contractor has been contacted to execute these repair recommendations if approved. This is the major concern. Once accepted and completed a schedule of further repairs will be prepared.

I appeal that the date be extended to allow for this additional information to be made part of the decision.

My intent is to repair and improve the property. Now that my mother has passed, I was her care giver for 8 years, I can focus on taking care of this building which has needed more attention over the past several years.

Terry Lynn Laucis

Terry Lynn Laucis
owner