

Construction Board of Appeals

Regular Meeting Minutes

Wednesday, November 6, 2013
4:00 PM, Conference Room A
City Hall



1. Call to Order by Morse at 4:00 P.M.

2. Roll Call

Present: Dibble, DeVinney, Niephaus, Morse
Absent: None

Also present: Butch Kelly, Hearing Officer; Ross Rogien, Building Official; Linda Anderson, Zoning Administrator

3. Approval of Agenda

Motion by Dibble, second by DeVinney to approve the November 6, 2013 agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – May 31, 2013

Upon question, Anderson updated the board on the status of the dangerous building located at 335 Center Street, noting that the site has been approved by the State for a grant for removing blight in central business districts. According to her contact at the state, funding for the demolition will be released soon.

Motion by DeVinney, second by Niephaus to approve the May 31, 2013 meeting minutes as written.

All in favor. Motion carried.

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

There were none.

6. NEW BUSINESS

229 Elkenburg

James Karris, Owner, 229 Elkenburg. Noted that he has a plan in place which Benno Trenkle was supposed to present details about at the last meeting.

Hearing Officer's Report:

Butch Kelly: Pointed out that the owner's representative, Benno Trenkle, acknowledged all of the items checked on the "Hearing Officer Decision & Order" provided at the hearing. "There was no plan to move forward and it appeared there had been no attempt at all to contact the city regarding notices or to contact the Building Official." Kelly continues to support the condemnation order.

When asked, Anderson reviewed the two options that the Construction Board of Appeals has from the City Code;

- 1.) Uphold the recommendation to demolish or
- 2.) Modify the recommendation to allow repair within the time limits outlined within the City Code of Ordinances

If the Construction Board recommends repair and restoration, the work must be completed within sixty (60) days or the property automatically goes to demolition, according to Anderson.

Anderson reminded the board that if demolition is ordered, the owner has twenty-one (21) days to comply; if not city will proceed with demolition.

DeVinney noted that the notice from July 17, 2013 lists the hearing date as July 29, 2011 and inquired whether that was corrected. Anderson stated that was likely a typographical error and the owner's representative, Benno Trenkle, did respond and did appear at the hearing despite that error. Discussion ensued regarding the number and timing of notices sent out and those notices included in the agenda packet. Karris stated he had not received a copy of the agenda. While the agenda had been sent to Karris as well as a notice of today's meeting, a paper copy of the agenda was provided Karris for use at the meeting.

James Karris, owner 229 Elkenburg. "First off, my understanding was that some repairs were being done but they weren't?" Rogien said there were a couple of blue tarps hung over two of the windows after the notice to board up the broken windows was sent out. Discussion ensued regarding the partial demolition of a roof over a loading dock. Karris stated that his "potential tenant" removed the roof sometime in the last month. Rogien noted that it must have been done very recently and that the dock itself is falling apart.

Karris stated that he contacted Courtade Demolition out of Grand Rapids; Karris was supposed to meet with someone from Courtade last week but now will meet the first of next week, Karris noted that he is aware there is some asbestos and oil drum remediation that will be required and that he has spoken with Mark Finklestein of Edmark Development, a property management company from Grand Rapids. Karris

noted that Edmark is all up on hazardous waste remediation. Also mentioned Pitsch Demolition in regards to his plan to demolish all but the rear portion of the building, which Karrip believes is salvageable and a foundation in the back of the building. Karrip showed the board an aerial photograph from the agenda packet and indicated what he considers a usable portion of the building plus the foundation. Karrip indicated that he has plans to place a new building, a pole barn, on the existing foundation. Karrip asked if the board knew Arnie from Lovejoy, Inc., stated "Arnie" was formerly with Lovejoy but has split off and is now with a new company.

Karrip reiterated that he will take everything down except the foundation in the rear and one outbuilding. Karrip would like to turn the outbuilding, which is in very good condition, into a retail shop, as from the inside it seems like new. Rogien commented that he was unable to enter that building as it was locked; the main structure was open.

Karrip then indicated that he wants to get a Brann's restaurant and some retail stores on the site, noting that he has been talking with Paul VandenBosch (Project Manager and Assistant City Manager, City of South Haven) and working with him on the piece of property the city needed for the trail. Karrip stated that he owns the deed to that and he let the city take it for eminent domain. Says he talked to VandenBosch and Brian Dissette (City Manager, City of South Haven) and that he did not object to the eminent domain because it is a huge benefit to the city and to him. Karrip noted that if the board wants to get him bogged down in some kind of legalities regarding this property that he can commence legal action against the city regarding the property.

Anderson pointed out that restaurants and retail are not allowed in the zone in which the property in question is located. Karrip responded, "Then why did they tell me that they would like to see a Brann's on that site?" Anderson suggested that the owner could try to rezone the property once the existing structures are demolished. Karrip requested what zone the property is in, to which Anderson responded that it is zoned Industrial. There is time involved in rezoning, according to Anderson, and this process with the dangerous buildings could not be held this for that process. Anderson noted that a rezoning request has to go to Planning Commission for public hearing and to two (2) City Council meetings.

Karrip asked why the City Manager, VandenBosch and the Mayor led him down the wrong trail; stated that he has been in conversation with them and does not understand why the city officials said they would like to see a restaurant there. Anderson said they might like to see those things there but the present zoning will not permit such development.

Karrip asked if some sort of mixed use would be allowed. Anderson said you might be able to do a mixed use Planned Unit Development, but again explained that the process being addressed at this meeting cannot be held up while research into the possibility of mixed uses and rezoning is being done.

Dibble stated that according to the notices and paperwork at hand, the owner was informed that in twenty-one (21) days the building will have to be torn down. Karrip said he will have to meet with his counsel, in that case.

Karrip suggested that everyone start over and asked “What should I do next, rezoning or demolition? Partial demolition?” Anderson said this board has met to determine whether the buildings need to be demolished; “once you tear the building down you will have plenty of time to get it rezoned”.

Karrip said his “demo guy” thought it would take sixty (60) to ninety (90) days before he could even pull the permit because there will need to be environmental studies and asbestos testing and there are those oil barrels; need to find out what is in them. There was discussion of whether plating was done on the site; that gun stocks were manufactured there during World War II, and that later picture frames were manufactured on that site.

Anderson noted that the decision of demolition, partial demolition or a combination of repair and demolition is up to the members of the board and they will be interested in seeing a very tight schedule; a hard and fast schedule. Karrip said, “Maybe it would be cheaper to have the City pull it down.”

For the sake of discussion, Karrip said he has a lot invested in this property, noted that for him it all about the money. Karrip asked for sixty (60) days.

Dibble asked if the existing foundation is up to code. After discussion regarding getting a structural engineer’s report regarding the foundation, and whether pole barns can be built on existing foundations, Rogien noted that this discussion is a side issue to the bigger conversation.

Karrip asked if he could do the industrial and the restaurant. Anderson stated that she tried to look for a mixed use or Planned Unit Development (PUD) option but is not finding anything like that in the Industrial zone. Anderson said, “You might want to keep the industrial zoning and rezone the balance of the property to B-2. For B-2 public access to both sides of the property would be necessary.” She repeated that that discussion was not relevant to this meeting.

DeVinney asked Anderson to remind the board again of the two options. Anderson first pointed out that both Rogien (Building Official) and Kelly (Hearing Officer) determined the building needed to be demolished due to its condition. The board’s options are to uphold the Hearing Officer’s decision to demolish or to modify the judgment and order that repairs be made within sixty (60) days. Anderson again stated that the zoning issue is an “after the fact” discussion.

Karrip stated that he understands that and repeated that the board needs to decide whether he is to demolish the buildings or to give him sixty (60) days to make corrections.

Karrip said, “The city’s cost to demolish this will be lower than mine, so explain to me why I would do this?” Anderson explained that the cost to Karrip will not be lower than if he does it himself, and explained that hazardous material and environmental testing will have to be done, requests for bid prepared and sent out, and the city will put a surcharge on top of whatever the demolition cost will be, to cover all of the background work required in a demolition of this size. Anderson noted that this project has a different scope than the city demolishing a residential structure. She also added that Karrip would

incur additional legal fees if the city was required to petition circuit court for a demolition order.

Karrip said, "Let us agree that we are not going to repair anything, and I get a permit for a demolition." Rogien said they have been promised permits for repairs from Trenkle but we did not get any permit applications nor was any repair completed. Karrip said he is going to contract Courtade to do that.

Dibble asked Karrip whether he was told to provide architectural drawings at this meeting. Karrip stated that he has thirty thousand dollars (\$30,000) tied up in plans and drawings, "he's working on them," but Karrip does not have anything with him.

Dibble commented that it is probably better to let the owner do the demolition. Anderson noted that this project would potentially take longer to have the city demolish it since the city would have to go to circuit court to get the judge's order.

Niephaus asked Karrip if he had a quote on the demolition. Karrip stated that he does not but when he talked to one of his demo guys he was told that the brick has value, that it could be sold, or maybe the "demo guys" would salvage the brick for part of their cost. Dibble noted that likely only about ten percent (10%) of the bricks will be salvageable. Karrip again mentioned Courtade Demolition and Edmark Development out of Grand Rapids and stated he did not know which one, he thinks it was one of them, that he talked to about the bricks.

Niephaus said, "What I am hearing is 'nothing'. Right now, right here, what can you tell me? You do not know what it costs to demolish it; you think you want to save a couple of things, you do not have a plan." Karrip: "Maybe". Niephaus said, "Maybe is not sufficient for this board." Karrip said he wants to tear it all down except to leave the foundation for Arnie's business.

DeViney asked for clarification that if the board allows Karrip to tear this structure down he has twenty-one (21) days. Anderson said that is correct but that she realizes that is a very short deadline for something of this scope and expects that it will take longer. In that case, Anderson stated, the city would need a hard and fast timeline with set deadlines.

Karrip commented that he is very transparent.

Anderson explained to Karrip that if he does not do the project in the time the board determines, then the city will have to come in and do the demolition themselves. Karrip repeated his comments about getting someone, Courtade or maybe Pitsch Demolition, to tear it down.

Niephaus asked if he has a brochure about the demolition person. Karrip said he doesn't but stated that Courtade is pretty well known. Niephaus responded, "He's not that well known to me."

Dibble again asked about architectural drawings and asked Karrip whether he has already spent the \$30,000 to get architectural drawings started. Karrip said he had not at

which time Dibble pointed out that Karrip had said earlier that he already had \$30,000 into the project.

Anderson said, "All this group is concerned with is whether they are going to require demolition of the entire property or require repair."

Dibble stated he would make a motion that they would require demolition of everything but the foundation and require Karrip to determine if the foundation is reliable. Morse said there would need to be a report from a structural engineer submitted to the city. Devinney commented that the owner doing the demolition would be faster than the city doing it as well as less expensive and the board needs to have some specific dates to be met in the process. Then if the terms are not met the city would have to step in. Anderson agreed and noted that the board needs to set those dates.

Morse asked how the owner could demonstrate that he is meeting the goals within a timeline. Rogien said Karrip did not meet the last goal and today came without anything for the board. Rogien noted to Karrip that if his plan is to demolish the building he should have had his demolition guy set up to start the project.

Karrip asked what all is required. Rogien noted that the demolition application includes a checklist of all the requirements.

Dibble asked for clarification of how long it would take the city if they started this process. "We are required," per Anderson, "to give him twenty-one (21) days; if the demotion is not done, the city turns the issue over to their attorney; the attorney files the case in circuit court and at that time the city would probably start taking bids. As soon as the judge issues the order for demolition, the city would move to demolish the structure. Anderson noted that process would probably take about two (2) to three (3) months to start demolition. "Including environmental?" Dibble questioned. Anderson said that depends on what the environmental report shows. Karrip said he spoke with Courtade last week; stated that there was environmental work done and that building is clean; "there is maybe ten percent (10%) asbestos at most in the building." Karrip noted that he was told that and he has documents that say that.

Karrip asked how it would be if he filed an appeal in circuit court. Anderson said he can appeal to circuit court at any time but there were no guarantees with that option. "We would rather see you take it down."

DeVinney addressed Karrip and said, "The worst part would be if you get half of it down and then cannot finish it." Karrip said that would not happen, "Courtade is a well-known demo guy, that will not happen." Rogien declared that he has seen stranger things happen.

Dibble said the board needs to have a demolition permit filed. "We do not want to wait sixty (60) or ninety (90) days and find out nothing has been done." Karrip said that there was a clean environmental on the asbestos; said there is less than ten percent (10%) asbestos. Dibble noted that Karrip would need to provide that documentation to the demolition contractor and to the city.

Anderson reiterated that the city code says the building must be torn down completely in twenty-one (21) days, which is unreasonable in this case, but we do not want to be ninety (90) days from now with nothing done.” Rogien said he needs an end date. Morse said he would like to see it torn down completely and the property leveled and seeded in no longer than ninety (90) days.

DeVinney suggested the board set a permit date, a start demolition date and an end demolition date. Niephaus and Rogien say that is reasonable. The board consulted a calendar and decided that a demolition permit, obtained by the demolition company, must be acquired by November 20, 2013. Dibble said the city also needs a signed contract from the demolition company by November 20. DeVinney asked when the board wants physical demolition to begin. The board agreed that on or before December 4, 2013 with a demolition end date of February 6, 2014.

Motion by Dibble, second by DeVinney that by November 20, 2013 a signed contract and a signed demolition permit must be submitted by the contractor; that demolition must start on or before December 4, 2013 and by February 6, 2014 the demolition, including all land leveling and preparation for seeding must be complete according to the standards set forth in city code.

Ayes: Dibble, DeVinney, Morse, Niephaus. Nays: None. Motion carried.

7. Adjourn

Motion by Niephaus, second by Dibble to adjourn at 5:00 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary