

## ZONING BOARD OF APPEALS MINUTES OF JANUARY 12, 2016

Meeting called to order by Chairperson Gerl at 5:02 p.m. in the 1<sup>st</sup> Floor Conference Room, Suite 108, City Hall Plaza.

### ROLL CALL:

**PRESENT:** Ken Bargender, Ed Gerl, Robert Lewerenz, Dean Markwardt and 2<sup>nd</sup> Alternate Adam Wegner

**ALSO PRESENT:** Building Inspector Pokorny, Christine Eisner, David Hoffman, Heidi Hoffman and Deputy Clerk Panzer

**ZB16-01** Motion by Lewerenz, second by Markwardt to approve the minutes of October 6, 2015 as submitted. All Ayes.

**Motion carried.**

Deputy Clerk read the appeal of Christine Eisner appealing a condemnation order issued by the City of Marshfield on property located at 315 West 5<sup>th</sup> Street, Marshfield, WI 54449. The condemnation order declares the building a public nuisance and requires that the building be razed pursuant to Section 15-53(7)(a).

### Building Inspector's Background

The city has had many complaints about the rooming house and the yard at this property. These have originated from tenants, alderpersons, and neighbors. Many orders have been written over the years starting in 2004. Each order took a year or more to get compliance – if compliance ever was reached. There have been 47 citations issued since 2007 that cost over \$360.00 each. The total amount for these citations is \$23,792.00. Money is still owed on some of these; however, the last block of 20 citations for \$691.00 each are on hold per the municipal court.

An extensive amount of work is needed at this property to meet the City of Marshfield's Building and Premises Maintenance and Occupancy Code that is found in 15-53 of our municipal code. The exterior work consists of new windows and doors, removal and replacement of the roof, removal and replacement of the northeast corner (or alternately its removal), removal and replacement of the front porch, replacement of all distressed exterior wood, power washing, sanding, priming and painting; plus the rebuilding of crumbling portions of the stone foundation. I had pricing for exterior work estimated by licensed contractors. The estimated cost for the exterior work is nearly \$94,000.00. Staff developed the interior costs with the help of other contractors. The interior work to make this rooming house habitable is approximately \$34,500.00. This includes \$3,000.00 for electrical work, \$10,500.00 for plumbing work, and \$21,000.00 for carpentry and other miscellaneous items such as cleaning, painting, plus replacement of flooring and suspended ceilings. \$128,350.00 is the total estimated cost to bring the building up to the minimal standards as set forth by Chapter 15, Section 53 - Building and Premises Maintenance and Occupancy code.

### Building Inspector's Analysis

Section 15-53(7)(a) of the City of Marshfield's Municipal Code states that when the cost of repairs for a structure exceeds 50% of the current assessed value, it shall be deemed a public nuisance and shall be razed. This language follows Section 66.0413 of the State of Wisconsin Statutes, which uses this formula for determining when a building becomes a nuisance and therefor may be razed. The Statute also sets forth posting a notice stating: "This Building May Not Be Used For Human Habitation, Occupancy or Use" for a building that is not habitable. The building was properly posted on November 20, 2015. The Statute goes further on to state that the site shall be restored to a dust-free and erosion-free condition after the demolition and removal of the building. The estimated cost of repairs exceeds the previous published value of \$73,400.00 for the improvements (building).

Christine Eisner has indicated that she is willing to get the work done that is needed to meet the city's minimum housing standards. However, with the above estimated costs and knowing that thousands of dollars are already owed to the city of Marshfield for citations, I do not believe that the owner has the means to pay for this work. I also believe that it would take well more than a year to complete the exterior work that was required to be completed in May of 2014. I am also not convinced that all the work will be completed properly. The condition of the property has become worse in the last half of 2015 due to the family's efforts of making repairs. Plus there does not seem to be much of an effort to obey city orders. A stop work order was issued on March 16, 2014, based upon an inspection that noted safety issues with the Eisners' attempt at rebuilding the northeast 2 story portion. In fact work has continued nearly to this day. The exterior open studded wall seen in the attachment's November 2, 2015 picture was still without exterior sheathing on November 20, 2015, when I properly posted the building. I took pictures of the posting on each exterior exit. The November 20, 2015 raze order and posting indicated that the building is not habitable and all occupants needed to vacate it immediately. There are still people living in it as of December 30, 2015 when I noted the wood on the studs plus the legally posted signs are no longer on site.

Building Inspector Pokorny passed around a copy of the posting notice that was properly posted on the home on November 20, 2015. Harold Eisner told Mr. Pokorny himself that he has been doing a lot of the work after the stop work order was issued on March 16, 2014. Mr. Eisner knows he is not supposed to be doing work because of safety issues and because the work is not getting done right but he has continued to do work.

Building Inspector Pokorny also mentioned that he has orders on two other properties that are owned by Christine Eisner; 314 West 5<sup>th</sup> Street and 109 West Arnold Street and those orders were not obeyed either. Those orders were issued in October of 2014.

His recommendation is to deny this appeal because the amount of work that has to done in just this one place much less all the other ones and he doesn't think there is the ability or the money or the where or how to get it all done in a timely manner. City Attorney Wolfram mentioned that when you go and allow people to repair things and you string it out it is awful hard to get a raze going because you put a little money in it, maybe nothing gets done for a while and then you put a little more money in there and then the value goes up then we are looking at a value weighted State Statute.

### **Zoning Board of Appeals Options**

The Zoning Board can make one of the following determinations and must include the grounds of the determination:

1. Deny the appeal.
2. Uphold the appeal as stated in the application.
3. Modify the decision, with certain stipulations.

Building Inspector Pokorny stated that if the Zoning Board of Appeals modifies the decision, the City Attorney recommends keeping it on a short tether.

Building Inspector Pokorny said that he didn't take interior pictures. He distributed his inspection analysis of the property that was completed on November 10, 2015 with Christine Eisner and Harold Eisner present.

The Zoning Board of Appeals reviewed Building Inspector Pokorny's inspection analysis.

Christine Eisner mentioned that Harold Eisner has been on the property without permission and she has given David Hoffman permission to call the cops if he sees Harold on the property.

Heidi Hoffman explained that her and her husband, David Hoffman just started working for Christine Eisner a month ago. David is a carpenter. They feel the estimate from the contractors is fairly inflated. Harold was incapable of fixing any of these problems. She said she is not arguing that the house is in horrible shape. David

tried to tell Harold the right way to fix the roof on Arnold Street, but he refused to listen, so David refused to help him with it. Harold did it so improperly. You are completely correct that roof is going to collapse within 3-4 years. Harold doesn't know what he is doing and he doesn't know how to do it.

David Hoffman told Harold Eisner all the shingles had to be taken down on the house on Arnold Street, because in one point there is over three inches of shingles.

Building Inspector Pokorny pointed out that on this particular property instead of putting underlayment on the roof Harold put the plywood that goes in mobile homes (LUAN) up there and he put shingles over that. There is no water type integrity. There was no felt paper put on in the second go around and it is breaking through. And then he put a metal roof on top. The State says the most you can have on of any kind is two layers.

Bargender asked Heidi and David Hoffman if they had a plan to fix this.

Heidi Hoffman asked the Zoning Board of Appeals to modify the decision to give them six months to make the repairs. Her and her husband would do most of the interior things. They know they need a licensed contractor to do the electrical and a licensed plumber to do the plumbing. They will need equipment and a crew to come in to do the back area. They plan on tearing the porch off by themselves and putting on a deck. The front porch is not savable. It is sagging and there is no foundation under it. It has to be removed from the building. Their estimate to bring it up to code is in the \$20,000-\$30,000 range, top end of \$40,000.

Bargender mentioned the Building Inspector's concerns about being able to come up with the money to fix the property.

Heidi Hoffman said they have about \$15,000 in cash already and Christine is applying for a block grant. Christine got a job and she is no longer using any of the rent money. All the rent money is being put back into the building. By spring as soon as the frost is out of the ground, we can start on the back area, because that can't be done right now. She agreed with the Building Inspector's assessment. Harold Eisner devastated it. He would have been better off to never go anywhere near it, because he made more work. She has a roofing crew that she usually works with. She believes that they can have the work done by July or August. They can get the interior stuff done over the next two months while it is still cold. She is confident that they can have the outside done in eight months and get it up to code as long as Harold Eisner is not allowed on the property in any way shape or form. She explained that Harold Eisner used interior materials on the exterior of the buildings to save money.

Bargender asked if there were tenants in the building now.

Christine Eisner confirmed that there are seven tenants occupying the building.

Discussion was held on the amount of tenants allowed in this type of home.

Building Inspector Pokorny pointed out that only four non-related people can live in the home per City Ordinance.

Concerns were raised about how the interior work would get done if there are tenants living there, especially electrical work.

Lewerenz said it doesn't pay to do anything with an electrician or a plumber, or any interior work if the foundation and the roof are not made right. There are a lot of windows that have to be replaced. The exterior work should be done first.

Heidi Hoffman said they can't start on the exterior until the spring.

Lewerenz said he has been involved with construction for more than 40 years and construction workers in Wisconsin now a days work all winter other than in really cold weather. The foundation needs to be done pretty soon and the roof has to be fixed before you start fooling around with anything inside or you are wasting your time. He can't see this making any sense after all of the stuff that is on paper here and what he saw when he viewed the property and in talking with the neighbors in the neighborhood. If it hasn't happened by now, he would be surprised if it would be half way done in six months.

Heidi Hoffman said she is from Granton and usually works with a group of Amish people to do the exterior things. They are cheaper and they do good work. Harold Eisner is a slumlord. He has no respect for authority. He has no respect for the City. Christine and Harold are divorced. Christine ended up with the properties and all she is asking for is a chance to prove that now that Harold is not having anything to do with the properties that she can do it.

Bargender expressed concerns for the seven tenants while the extensive work is being done.

Heidi Hoffman stated that they are not allowed to do anything there right now, because of the stop work order. As long as there is a stop work order how can we prove that we can do anything? That is what we are up against. We can't even clean up the mess that Harold made with old lumber and old junk. Our hands are tied too.

Markwardt asked about the block grant process.

Heidi Hoffman explained that the block grant is to fix houses in this condition to benefit low income. They provide the money to bring a building up to code.

Markwardt asked if Harold Eisner was still an owner of this property.

Heidi Hoffman said no. He was removed from the deeds as of December 22, 2015. We are asking that Christine not be punished for Harold's idiocy. She got a job so she doesn't need the rent money to live on anymore and that includes all the houses. Every bit of income coming from these houses is going back into the houses for the next 5-7 years, because there are more houses that need work. The only house that they are kind of leery of fixing or having anything to do with is the one on Arnold Street. That one is beyond saving in their opinion. After what they did with that roof, there is no way to feasibly save that particular property. Christine had no idea that the properties were in this condition, because Harold always did it all.

Lewerenz believes there is no way that this house is repairable. \$30,000 is just a drop in the bucket. That is just the beginning. He knows the contractors that did the estimates and they are not likely to be cheap estimates, but they are good contractors. \$30,000 would probably only buy the materials to fix that house and concrete, electrical and plumbing is more than material. That house is too far gone.

Christine's fines were discussed.

Building Inspector Pokorny believes the fines are about \$18,000 on this particular house.

Christine Eisner said she plans to put her heart and soul into these properties. These people need affordable places to live that are safe.

Bargender said that word safe is what is on all of our minds here. This is a disaster. Is it worth sticking \$35,000-\$40,000 into it?

Heidi Hoffman said that the paperwork is ready for the block grant, but we can't send it in as long as there is a stop work order. It usually takes about a month for approval.

Wegner asked how the block grant works.

Heidi Hoffman explained that the owner has to guarantee that they aren't going to raise the rents and keep it low income. Right now, most of the tenants are people on probation and parole. There is nowhere for these people to go when they get out of jail. The owner has to account for what is bought in materials kind of like a home improvement loan. Every dime has to be accounted for and has to go into the building that it was allotted for and repairs have to be done to code.

Building Inspector Pokorny pointed out that on the property of 1208 South Maple Avenue, the judge basically said that thou shall get a licensed contractor to do the work. That was his judgement or don't do it.

The foundation problems were discussed.

Building Inspector Porkorny mentioned that the foundation has dry rot and also wet rot.

Chairperson Gerl said that once you start tearing apart things in old homes you usually always find more problems.

Building Inspector Pokorny said he usually brings one of the Assessors along when he does an inspection like this, but he didn't have one with him this time due to time constraints.

Building Inspector Pokorny read a section from the housing code relating to the number of people allowed in a single family home. According to the city ordinance, Christine Eisner's tenants exceed the number of allowed people that can live in a single family home.

Markwardt asked David Hoffman if he was a certified contractor.

David Hoffman said no, not anymore, but he has worked with licensed contractors over the years.

Heidi Hoffman mentioned that they have a friend from Neillsville that could get licensed and help them.

Chairperson Gerl declared the public hearing closed.

Deliberations were held.

**ZB15-02** Motion by Markwardt, second by Lewerenz to deny the appeal of Christine Eisner, based on the following findings of fact:

1. The amount of monies owed to the Court for fines and the amount of monies that they are going to need to spend to repair this house to bring it up to code.
2. The repair of the structure would exceed 50% of the current assessed value.
3. There is a great deal of uncertainty about whether the people who wish to do the repair work are properly qualified and licensed.
4. There is a great deal of uncertainty about whether the financial plan is sound for the work that must be done.
5. There has been no real progress in improving the property despite previous actions of the Building Inspector and despite the fines that have been levied. We understand that the ownership situation has changed, but that has been the history of that property so far.
6. There are several opinions that the property has deteriorated too far to be repaired up to code, because there are so many extensive problems.

7. Neighbors will be happy to see the home gone.
8. Safety concerns for tenants.

All Ayes.

**Motion carried**

Motion by Bargender, second by Lewerenz to adjourn at 6:24 p.m.

**Motion carried**

Lori A. Panzer  
Deputy City Clerk