ZONING BOARD OF APPEALS MINUTES OF JUNE 14, 2005

Meeting called to order by Chairman Zimmermann at 4:47 p.m. in the Council Chambers, City Hall Plaza. **PRESENT:** Harry Blackwood, Dean Markwardt, Don Wink, Karl Zimmermann (left at 5:30 p.m.), 1st

Alternate Marvin Duerr and 2nd Alternate Jim Asplin

EXCUSED: Wallace Reek

Also Present: Planner/Zoning Administrator Curtiss, Building Services Supervisor Donath, Deputy Clerk Panzer, Beverly Guensburg, Steve Wojcik, John Erickson, Norman Vanderhoof, Eileen Vanderhoof, Dave Egger, Raymond Christian Egger, Ronald Parks, Andy Weigel, Tim Brass, Kelly Friesen, Christine Maghrak and William Reinolt

Chairman Zimmermann stated that he has to leave at 5:30 p.m. and he appointed Marvin Duerr to take over the meeting as temporary chairman when he leaves.

Deputy Clerk read the variance request from Joseph Sullivan to construct a 22' x 10' deck attached to the house at 800 E. 7th Street, zoned 'R-4' Low Density Single and Two-Family Residential. Section 18-62(5)(f) requires a 25' minimum front yard setback and a 25' rear yard setback for all dwelling units. The applicant's proposed deck would be 20.5' from the front lot line and 8.5' from the rear lot line. The applicant requests a 4.5' front yard setback variance from 7th Street and a 16.5' rear setback variance.

Planner/Zoning Administrator Curtiss listed the 6 criteria conditions for variance findings, which are exceptional circumstances, natural causes, preservation of property rights, absence of detriment, general nature and minimum variance required. She explained that this is presented as a finding of fact in every request. Not any of these requests meet all 6 criteria.

Planner/Zoning Administrator Curtiss read a statement of facts regarding the variance request.

<u>ZB05-11</u> Motion by Duerr, second by Asplin to grant a 4.5' front yard setback variance from 7th Street and a 16.5' rear setback variance.

Duerr stated that his motion is based on the fact that he has gone out and looked at the property and according to the plans, the deck wouldn't intrude any further then the existing garage already does. The variance won't be any different than what they already have at the present time. It will make it look quite nice.

Kelly Friesen of 703 South Apple Avenue spoke in support of the variance request.

Vote on motion **ZB05-11**; All Ayes.

Motion carried

The Zoning Board of Appeals considered the following issues in granting the variance.

- 1. There is questionable compliance with all six conditions necessary to obtain a variance as specified in Section 18-35(2) of the Municipal Code.
- 2. The property is located on a corner lot.
- 3. Corner lots are required to maintain front yard setbacks on all public streets, in addition to maintaining a rear yard setback. The minimum front and rear setback in the R-4 district is 25 feet.
- 4. The 51-ft wide lot is a pre-existing, non-conforming lot, because the minimum lot width in the R-4 zoning district is 60 feet to date.

- 5. Non-conforming corner lots are difficult to develop without application of averaging provisions or granting of variances. The Subdivision & Platting Ordinance, Section 19 of the Municipal Code, acknowledges this difficulty and requires new corner lots to be extra wide to provide adequate building setbacks from side streets as well as front yards and to the right of rear yard.
- 6. The averaging provisions of Section 18-04(5)(g) are not applicable to this particular request. There is only one other lot in the block front. Averaging requires two lots, nearest to the lot in question, on the same side of the street, in the same block front.
- 7. The home was built in 1953.
- 8. The corner lot was developed with East 7th Street as the front yard. The existing front yard setback of the home is 14.5'. The existing rear setback is 8.5'. The house sets closer to the front lot line than the attached garage and proposed deck.
- 9. The attached garage is located 20.5' from East 7th Street and 8.5' from the rear lot line. The deck is proposed to be attached to the garage end of the home and would not extend any further into the yard areas than the garage.
- 10. The proposed deck would exceed the minimum 7.5' side setback requirement. The proposed deck addition would be approximately 50' from the east lot line.

Deputy Clerk read the variance request from Frederick and Beverly Guensburg to receive a building permit for a pergola that has been attached to the back of the home at 1621 South Apple Avenue, zoned 'R-4' Low Density Single and Two-Family Residential. Section 18-62(5)(f) requires a 25' minimum rear yard setback for all dwelling units. The applicant requests a 7' rear yard setback variance to receive a building permit for the recently constructed pergola.

Planner/Zoning Administrator Curtiss read a statement of facts regarding the variance request.

Beverly Guensburg stated that they did not realize that they needed a permit until someone stopped by and asked if they had a permit.

Markwardt asked if they built the pergola or if a builder was involved.

Beverly Guensburg responded that they built it themselves.

Asplin stated that he looked at it earlier today and the way that they went about it as a homeowner, was the best way of doing it. By attaching it like they did, they avoided having problems with the electrical things that went into the home. He recommended granting the variance since the neighbors all agree that it does enhance their home.

ZB05-12 Motion by Asplin, second by Wink to grant a 7' rear yard setback variance to receive a building permit for the recently constructed pergola.

Markwardt expressed his concerns with variance requests coming before the board after the fact. It makes it very difficult for us as a board to deny the variance and it also sets a precedent and may encourage inadvertently others to build first and ask questions later. In this situation, I looked at the site, the appearance and the impact in the neighborhood and so I'm making my decision based on how I would have voted had it not been built already. There would have been no reason to deny it under those circumstances. Particularly, with the approval of the neighbors.

Vote on motion **ZB05-12**; All Ayes.

Motion carried

The Zoning Board of Appeals considered the following issues in granting the variance.

- 1. There is questionable compliance with all six conditions necessary to obtain a variance as specified in Section 18-35(2) of the Municipal Code.
- 2. The pergola was constructed without a building permit.
- 3. Structural attachments onto dwelling units must meet the same setback standards as the primary structure. The R-4 district requires a minimum 25' rear setback. The pergola is located 18' from the rear lot line.
- 4. Pergolas are most typically designed as freestanding arbors or passageways with a roof of trelliswork. Pergola structures are often integrated into landscaping or garden areas. Permit requirements do not typically apply to pergolas in their traditional landscaping use. This pergola, however, was attached to the home and structural attachments must meet setback requirements of the dwelling.
- 5. A portion of the pergola was built over an existing patio and up to an existing patio wall. The remaining portion of the structure (approximately 50' in length) extends 7' into the required rear yard area.
- 6. Issuance of a building permit would require a 7' rear setback variance to Section 18-62(5)(f).
- 7. Neighbors have been notified of the request. Three neighbors have submitted letters in support of the request.

Deputy Clerk read the variance request from Steve and Terri Wojcik to construct a 24' x 30' detached garage on the lot at 411 West 7th Street, zoned 'R-5' Medium Low Density Single and Two-Family Residential. Section 18-04(2)(e) requires a minimum 17' side street setback for accessory structures on 44'-wide corner lots. Section 18-04(10)(d) requires a minimum 18' driveway length. Section 18-04(2)(a) limits the square footage of total accessory buildings to equal or less than the ground floor square footage of the primary dwelling structure. The applicant requests a 4' side street setback variance from South Pine Avenue, a 5' variance to driveway length, and a variance to exceed total accessory structure size allowance by 208 square feet.

Planner/Zoning Administrator Curtiss read a statement of facts regarding the variance request.

Steve Wojcik read a letter from his neighbor to the east, Chad Viergutz of 409 West 7th Street, which states that he has no objections to the Wojciks constructing a garage on their property. Mr. Wojcik stated that the garden shed that was on their property has been removed already.

Zimmermann asked Mr. Wojcik to leave a copy of that letter with the Deputy Clerk.

Duerr stated that he made that request when he went out to view the property today. There wasn't any verification of whether a neighbor would allow him to build that close or not and I thought that it would be in the best interest of this committee to have that letter on file stating that the neighbor doesn't have a problem. Right now there is a fence that is built on the line there and they have an agreement between themselves and the neighbor. They maintain one side and the neighbor maintains the other side. The structure of this property is quite unique. If you look at where the road right of way is to be proposed and where the sidewalk would be, that sidewalk probably would be approximately 4.5' from their front door of their house. It is so narrow. The lot line from the road right of way to the existing if the sidewalk was to be put in. The sidewalk on both sides of the street coming to that property before you get to that between 6th and 7th are already there. In fact, 4 squares of the sidewalk on the existing corner are already in and they stopped right there. I can plainly see the reason why they stopped right there, because if they continue to pour the sidewalk all the way through, there is going to be no property left on this property what so ever. There is a giant oak tree right there that will have to come down and the guy on the corner next to these people will have no driveway what so ever. His car wouldn't even fit, because he would be sitting on the sidewalk, as these people would

also be sitting on the sidewalk if it was constructed the way it is designed. From the look at the property and from the map and the request that he has, I'd like to grant the variance.

ZB05-13 Motion by Duerr, second by Asplin to grant a 4' side street setback variance from South Pine Avenue, a 5' variance to driveway length, and a variance to exceed total accessory structure size allowance by 208 square feet.

Planner/Zoning Administrator questioned if the stakes on the property were accurate.

Steve Wojcik replied no. I was in the process of doing this last year and I got orders to deploy to Iraq, so I did a hasty basic outline of where I wanted it to be. I knew that I would have to alter that once I got a contractor to come in to pour the slab.

Zimmermann questioned if there was a city code stipulating that you can't park on block sidewalk.

Building Services Supervisor Donath responded yes. It is under obstructions and encroachments.

Zimmermann cautioned the applicant that if the variance is granted he should be aware of that.

Vote on **motion ZB05-13**; All Ayes.

Motion carried

The Zoning Board of Appeals considered the following issues in granting the variance.

- 1. There is questionable compliance with all six conditions necessary to obtain a variance as specified in Section 18-35(2) of the Municipal Code.
- 2. The property is a 40-ft-wide corner lot.
- 3. The property is zoned R-5 residential. Minimum lot width in the R-5 district is 40-ft.
- 4. Corner lots, even designed at a minimum lot width, are difficult to develop sometimes impossible without application of averaging provisions or granting of variances. The Subdivision & Platting Ordinance, Section 19 of the Municipal Code, requires new corner lots be designed with extra width to provide adequate building setbacks from side streets.
- 5. Corner lots are required to maintain a side yard setback on all public streets, which is the same as the required front yard setback, unless otherwise required by the code.
- 6. The averaging provisions of Section 18-04(2)(e) may be applied to corner lots to allow less restrictive setbacks for accessory structures from the side streets. Through the averaging provisions, the setback may be reduced to a 17' minimum on 44-ft-wide corner lots.
- 7. The proposed garage will be setback 13' from South Pine Avenue.
- 8. The garage bays and the driveway are designed with direct access from South Pine Avenue.
- 9. A 13-ft-long driveway is proposed extending from the garage to the lot line.
- 10. Section 18-04(10)(d) requires that driveways shall be 18 feet in length.
- 11. A shorter driveway length may result in parking encroachments into the street right-of-way.
- 12. Section 18-04(2)(a) limits the square footage of total accessory buildings to equal or less than the ground floor square footage of the primary dwelling structure.
- 13. The ground floor square footage of the home is 752-square feet.
- 14. There is an existing 240-square foot garage attached to the home.
- 15. With addition of the detached garage, the accessories would total 960-square feet.
- 16. The applicant indicates that the existing garage will be remodeled at some point in the future and used for living space.
- 17. There is a shed on the property which, according to the applicant, will be removed prior to starting

construction of the garage.

Deputy Clerk read the variance request from John Erickson to widen the driveway from 8.5' to 10.5' on the lot at 1007 South Cherry Avenue, zoned 'R-5' Medium Low Density Single and Two-Family Residential. Section 18-04(10)(a) requires a 3' maintenance setback from all sides of the property. The applicant requests a 1.5' setback variance along the north property line.

Planner/Zoning Administrator Curtiss read a statement of facts regarding the variance request.

Mr. Erickson stated that his house is on the east side of the street and is in the middle of the block, so everybody turns around in his driveway. There are no driveways on the west side. Once in awhile people get in his driveway and get stuck.

Markwardt felt that the variance request is a common sense solution.

ZB05-14 Motion by Markwardt, second by Blackwood to grant a 1.5' setback variance along the north property line. All Ayes.

Motion carried

The Zoning Board of Appeals considered the following issues in granting the variance.

- 1. There is questionable compliance with all six conditions necessary to obtain a variance as specified in Section 18-35(2) of the Municipal Code.
- 2. The existing driveway is 8.5-ft wide.
- 3. The minimum driveway width requirement is 8-ft.
- 4. The driveway approach is wider than the existing driveway. The driveway, if widened to match the approach, could provide for safer and more consistent turning movements to and from the driveway.
- 5. The minimum 3-foot setback required for driveways is designated for "maintenance purposes" and is a general provision that applies to all zoning districts.
- 6. The 1.5' variance is the minimal variance required in order to harden the portion of lawn that has been affected by automobiles.
- 7. The driveway is currently made up of concrete and contains some gravel-patched sections.
- 8. The neighbor, to the north, who would be affected by the widened driveway, has stated that he does not object to the proposal.

Deputy Clerk read the variance request from Norman Vanderhoof to construct a 24' x 12' lean-to over an existing concrete patio on the lot at 117 North Elm Avenue, zoned 'R-5' Medium Low Density Single and Two-Family Residential. Section 18-04(2)(a) limits the square footage of total accessory buildings to equal or less than the ground square footage of the primary dwelling structure. The applicant requests a variance to exceed total accessory structure size allowance by 288 square feet.

Planner/Zoning Administrator Curtiss read a statement of facts regarding the variance request.

ZB05-15 Motion by Wink, second by Asplin to grant a variance to exceed total accessory structure size allowance by 288 square feet. All Ayes.

Motion carried

The Zoning Board of Appeals considered the following issues in granting the variance.

1. There is questionable compliance with all six conditions necessary to obtain a variance as specified in Section 18-35(2) of the Municipal Code.

- 2. The applicant built an 864-square foot detached garage in 1994, which is currently equal in size to the 864-square foot ground-floor level of the home.
- 3. The lean-to structure counts towards total allowable square footage of accessory structures on residential lots.
- 4. The size of the lean-to structure is 288-square feet.
- 5. This is a 44-foot wide, corner lot.
- 6. In 1994, when the garage was built 17-ft. from Arnold Street, the code required a minimum 20' side street setback. At that time there were no special provisions for 44-ft-wide corner lots. A variance was granted to allow construction of the garage at its 17' setback from Arnold Street.
- 7. The current averaging provisions of Section 18-04(2)(e) may be applied to corner lots to allow less restrictive setbacks for accessory structures from the side streets. Through the averaging provisions, the setback may be reduced to a 17' minimum on 44-ft-wide corner lots.
- 8. The setback provisions of 18-04(2)(e) apply to the lean-to addition and allow the proposed 17' setback without a variance.
- 9. Two 8.5-foot walls are adjacent to the concrete patio that, according to the applicant, will be removed prior to construction of the lean-to.
- 10. A 12' x 24' concrete patio is located directly under the proposed lean-to; therefore the proposed lean-to is the minimum size practical in this situation.

Zimmermann explained the three choices that the Zoning Board members have in the matter of appeals of condemnation orders.

Zimmermann turned the chairman position over to temporary chairman Duerr at 5:19 p.m.

Deputy Clerk read the appeal of Raymond Christian Egger. Appealing a condemnation order issued by the City of Marshfield on property located at 906 North Galvin Avenue, Marshfield, WI 54449. The condemnation order declares the buildings a public nuisance and requires that the buildings be razed pursuant to Section 15-53(7)(a) of the Municipal Code of the City of Marshfield.

Building Services Supervisor Donath went through his memo regarding the property located at 906 North Galvin Avenue.

Background:

The old farm has not been operated by Mr. Egger for many years. The farm land has been rented to one of the area farmers for purpose of planting crops.

State of property at the time of inspections:

Several dilapidated farm buildings. These buildings appear to have been in this condition for quite some time. Miscellaneous old farm machinery, cars, junk and various other debris has accumulated on this property over the years. There are also two old silos on the property without roofs.

Estimate of repair cost for these buildings:

In excess of \$50,000.00.

The total assessment for all these buildings is only \$1,500.00.

Ronald Parks stated that he was appointed guardian of the elderly Mr. Ray Egger in December 2004. At the present time there is a dispute as to who owns what property. Mr. Egger's income is very limited and by the time he pays his daughter \$100.00 a week to take care of him and by the time he pays his hospital insurance

there is not much left for groceries or anything else. It would be a burden to have to raze these buildings with no funds. If we can get this land thing straightened around, I think we could probably borrow the money to raze the buildings that have to be razed, but we aren't going to be able to do this in 30, 60 or 90 days. He contacted a couple of people in regard to the debris and machinery around there. There may be some value in the tractors and farm machinery and if that is the case he would have them removed. He asked the board to grant 6-8 months or even a year of additional time. He said that he is in favor of razing the buildings, but you can't raze a building without hiring someone to do it and he doesn't have the funds available to do that.

Zimmerman asked what the process was to determine who has ownership.

Ronald Parks said that it has been in and out of court. With 10 children there is a lot of dispute and there are a number of attorney's that have had their hands in this thing. At this point, it hasn't been turned over to the trust. This property should have been transferred into this trust a year or year and a half ago, but it just hasn't happened yet.

Zimmermann questioned if Mr. Parks had contacted the Amish or Mennonites yet. They often will tear buildings down for the lumber.

Mr. Parks stated no, because he doesn't know if he owns the buildings yet and he sure doesn't want to get into trouble tearing buildings down that he doesn't own. There is a disagreement in the family. The court has approved, but the papers have not been signed, the attorneys have not agreed to all the fine print yet.

Duerr requested that once ownership is determined that the Zoning Board of Appeals gets a copy of those papers within a 5-day period.

Zimmermann left meeting at 5:30 p.m.

Asplin said that he talked to one of Mr. Egger's daughters and she agreed that the buildings should come down. One of his main concerns is to get the place cleaned up around the buildings first. That would improve the looks of the property 100%.

Raymond Christian Egger stated that he is the owner of the property at the present and doesn't feel that the buildings should be razed at this time. He visited Marathon Builders and to build two pole buildings today respectively, it would cost \$37,000 and \$46,000. One building is in perfect shape. Structurally it's in good enough shape that it is being used to store things presently. The other building needs approximately \$2,500 to \$4,000 repairs. The party that rents the farm, Larry Scheuer would rent this building if it were fixed up. He stated that he is an artist and the milk house is his ceramic studio. One of the buildings is the old machine shop and it is full of machine tools yet. You are never going to bring the barn back. It's like thousands of barns around the state. They are old and they are falling down, but that barn is worth a lot of money, because the wood is worth a lot of money. He has estimates from Bob Nikolay to raze everything and to raze separate buildings. He has contacted the Amish and they will always take stuff down for the wood. We would not only loose the buildings, but we would loose the rent that would be coming in. As far as my dad not having enough money to live on, there is no problem with that and I told Ron Parks that we could do a reverse mortgage on the house now if he needs the money. The cost of dismantling all these buildings would be somewhere between \$25,000 and \$50,000 and some of the buildings wouldn't have to be taken down at all. He feels that the buildings are not public nuisances at all. Nobody has ever complained.

Raymond Christian Egger said that he is an artist and has been taking photographs of the farm for 20 years and he is in the process of doing a book on his dad. He has exhibited at the Art and Agriculture Show at the New Visions Gallery for 20 years with art from the farm.

Duerr said that whether you are writing a book about your father or not, is not relevant to the matter at hand. It has nothing to do with the buildings.

Raymond Christian Egger responded that it is relevant. I can't do a book if the buildings are gone and the book is in process.

He read a letter from Ann Waisbrot, the Director of the New Visions Gallery, which supported leaving the farm the way it is for a period of time, so that Chris, a highly respected accomplished artist can continue to complete the series of meaningful work.

This is an important historic and artistic thing. I'm not through with my work yet and it is not bothering anybody. My dad is 90 years old and is still living on that farm. As soon as his wife died, he went way down hill, now you are going to go out there and destroy his farm. You are going to completely destroy the guy. What's the purpose of it? What are you trying to prove? You are instigating a huge cost here that is not necessary at this time. This land is up for sale. There are people interested in buying it. If somebody buys it, they will take care of the clean up themselves. You've got the cart before the horse.

Markwardt stated that his concern is to assure reasonable safety. One of the buildings at the very least, the barn in particular, is an attractive nuisance. It could appeal to children or others who want to explore or look at it and because it is in very dangerous shape someone could easily be injured in it. He felt that there should be some selective condemnation. Not with an eye of destroying our history or visual artifacts of our rural past, but to assure the safety of the children in the area.

Raymond Christian Egger agreed, but said that he has a structural engineering degree and he knows how well those barns were built. It was built in 1908 and it hasn't blown down yet.

Markwardt responded that there are a fair number of holes in the roof and litter on the floor that would indicate that parts of it have come down.

Asplin commented on pictured building #2. The main support beam is broken and lying down.

Raymond Christian Egger agreed again. That building is in tough shape. It is part of my studio and I'm in the process of moving out of there.

Raymond Christian Egger felt that there are only two buildings that aren't very safe and they are the barn and the grainery. The rest of the buildings are just fine. The silos aren't going to hurt anybody. Bob Nikolay couldn't even find anyone to take them down. The silos aren't included in Bob Nikolay's costs of \$25,000, \$30,000 or \$50,000 depending on how you interpret it. He feels that he can work with Mr. Donath without having a condemnation order hanging over his head. He also stated that he has an estimate of \$3,000-\$4,000 to repair pictured building #6 and that Larry Scheuer would rent it.

Building Services Supervisor Donath didn't share the same opinion. He explained that one of the reasons that building may appear to be structurally sound is that when all the siding disappears, you don't have any problems anymore, because the wind blows right through it. You don't have wind pressure acting on the

backside. The problem that we always run into as we do on all other condemnations is when people are faced with condemnation orders, that is when all of a sudden everything gets fixed or they want to fix them. For years and years nothing has been done on these properties and that is what is leading to the condemnation at this point. We have got to have something done.

Andy Weigel of 301 East 2nd Street commented on the long machine shed. He stated that Chris asked him to give him an estimate to put tin on the west side of the building. His estimate is roughly \$2,500 to put tin on the west side. He feels that the building looks fine, but needs to be cleaned up on the inside.

Duerr stated that Mr. Scheuer could probably put machinery in there but first of all, you are going to have to clean it up, because you have a lot of machinery of your own at the present plus there are 3 tons of books that are all dilapidated and wet.

Raymond Christian Egger agreed that it has to be cleaned out. There has to be some fill put in and ditching done and for approximately another \$1,000, you have got a building that today would cost approximately \$47,000 otherwise you got zero and you have to pay to get rid of it.

Duerr stated that on many occasions you have been asked to clean it up and you have done nothing. The process of condemnation doesn't come easy. These papers don't just fall into the lap of this committee.

Raymond Christian Egger said that there are 5,000 farms around the state that look just like this one.

Building Services Supervisor Donath responded by saying that there is a big difference between a farm that is in the outlying area where it doesn't bother anybody and one in town. You aren't going to find any farms that are in this shape in any municipal city, because you have Inspectors that are doing the same thing that I'm doing.

Raymond Christian Egger said that he got an estimate from Tom Detwiler to buy all the machinery and he has another guy who is an antique dealer and he'll give us an estimate. My brother Joe fixes old tractors professionally and he'll take a look at both estimates and see if it is a deal.

Asplin asked how long it would take Mr. Egger to clean up the grounds around the building, so you can see exactly what is there.

Building Services Supervisor Donath stated that the junk is a separate issue.

Markwardt said that he was still confused about the ownership of the responsibility here. Can we act with the uncertainty of ownership that is facing us?

Building Services Supervisor Donath explained that the Zoning Board of Appeals can act on it. First of all, if he is not going to take it down we are going to end up in condemnation court anyway and by that time we have got to figure out whom owns what and what is going on.

Raymond Christian Egger said that he doesn't think that he owns the farm, but he is not sure if he does or not. There might have been an error in the land contract. He can't even get an answer out of his own attorney John Hutchinson, who is the City Attorney.

Building Services Supervisor Donath recommended postponing the condemnation order for awhile, perhaps 6 or 8 months, but he is reluctant on the issue of fixing the two buildings. He is not too sure that it is

worthwhile of doing it. Mr. Egger has indicated that very soon that property could be sold, so why would anybody in his or her right mind stick any money in there.

Asplin said that Mr. Egger himself admits that he is not sure that he owns the property, why would he be willing to start sticking money into all these buildings if he doesn't own it. If we go ahead with this condemnation, it would have to go to court and the courts would have to figure out who owns the property.

ZB05-16 Motion by Asplin, second by Duerr to uphold the Building Services Supervisor's decision and raze the buildings located at 906 North Galvin Avenue.

Markwardt stated that he would be in favor of a compromise and a recommendation to proceed with the demolition of certain items on the property that constitute a clear physical danger, attractive nuisance kind of concept. I feel that there are a number of buildings there that do not fall under that. They may not be very functional and may not be attractive to some but they do not constitute a particular hazard to the community or residents. He suggested defeating this particular motion and consider a compromise position.

Building Services Supervisor Donath said that the problem that he has with this is that he is not an Engineer. In order to be able to issue building permits for any repairs, he is going to require a structural analysis of whatever buildings that they want to save and that is going to cost them some money to.

Building Services Supervisor Donath said that he would feel safer to have the Circuit Court make a decision on whether or not a building or whatever buildings are saveable. If the property is sold, it is not going to be used for a farm. The land is too valuable, so fixing these buildings doesn't make sense.

Duerr felt that pictured #6 building and possibly the milk house are the only two sound buildings.

Dave Egger stated that he has been in the duplex business for 30 years and he repairs old buildings, old shops and old houses and those buildings could be saved for a minimal amount of money. Why condemn them? What is the problem?

Duerr called for the question.

Vote on motion **ZB05-16**; Markwardt voted nay, rest aye.

Motion carried

Deputy Clerk read the appeal of William J. Reinolt. Appealing a condemnation order issued by the City of Marshfield on property located at 3021 Mann 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) of the Municipal Code of the City of Marshfield.

William Reinolt said that his land was valued at 80,000 in 2003 by Appraisal Group One and there wasn't much value on the house at that time because of the condition. I never stuck a lot of money into it. The garage is the worst. Part of the roof is missing in the back. He had some renters that left him with quite a mess. He doesn't know if the building is worth saving. He doesn't know how long it takes to raze a building or how much it costs to raze a building. He felt that the building would be too close to the highway and that the DOT would have to buy it, but apparently that is not the case. The DOT gave him an area of 5 feet wide where the hedge of the road was and the wall of his house is 5 feet away from the highway. He thought that it wouldn't be safe and that they would have to buy the house from him.

Building Services Supervisor Donath went through his memo regarding the property located at 3021 West Mann Street.

Background:

An inspection was conducted on this property on February 14, 2005 and again more recently on May 27, 2005. The February inspection revealed numerous problems with this property. This property has been vacant for approximately 6 to 8 months. The City was unable to inspect the basement on May 27, 2005, as it was full of water. An electrical failure caused sump pump to fail. Past orders issued in 1999 and 2003 met with limited success. Past orders relating to junk, debris and vehicles were complied with, but other items dealing with repairs on the home were not. The last building permit on this property was issued in 1983 to replace some windows. There are various problems with this property such as roofing, stucco repairs or siding replacement, partially collapsed 2nd floor systems at the rear of the home, structural problems with the garage roof and various window, door and electrical code violations.

Estimate of repair cost for this building: \$12,000-\$15,000.

The total assessment of this building is \$17,400.00.

William Reinolt felt that if he tore the garage part of it off and left the house standing that there wouldn't be much electrical work that would have to be done. There is a new electrical service and most of the wiring in the house is the white with the ground and the two other wires. The electrical box was brought up to code and was inspected at that time. There is probably wiring upstairs that would have to be brought up to code.

Building Services Supervisor Donath stated that the Electrical Inspector feels that it would cost several thousand dollars for an electrician to get involved with the wiring.

Duerr asked Mr. Reinolt what his intentions are for the building.

Mr. Reinolt responded that his intentions were to sell it to the DOT, but now he could fix the house.

Duerr indicated that the property would probably be worth a lot more being on a corner location on a state highway if the house wasn't there.

Mr. Reinolt responded possibly if it could be zoned commercial.

Christine Maghrak of 3207 West Veterans Parkway said that for 13 years that property has been subject to many efforts to try to build on, and improve. You get started, and you stop. Most recently, I've been seeing feral cats over there. There are vermin running back and forth, because that garage is serving as a wonderful habitat for them. I've been afraid to let my dog run loose because he wants to go over there and nose around with all the other critters. When they appraised our properties for this highway project, they gave us the true value today. I believe that your appraisal people in Appleton gave a price of what it might be when the highway is done and that is not how the DOT negotiates these packages. When I checked the books, your market value for your land and your house was 4,650. That is what your tax is based on. You can't be asking for some price for what it might be after that highway goes in. I think you have been defeating yourself by trying to go down that pathway. I agree with the statement that has been made by Mr. Duerr. I think that your property might be better served for sale if you raze the house. It has not been well kept and it does affect my property value as well. I think that you need to go along with the plan. Get the buildings razed and that would improve your ability to sell that land.

Mr. Reinolt stated that this is the first that he has heard of any vermin or feral cats over by the property. This appraisal report was done by a place in Oshkosh and the guy said that he has been doing appraisals for 20 some years. There are different ways they can figure out the appraisal if the house is worth something or if it is going to be more of the land. It was done in 2003 and this is what he believed what the price was at the time. It didn't match the DOT's. Theirs was quite a bit lower for the value of the land. The house seems sound. The garage is in bad shape and it needs a good cleaning out, but if the garage was torn down, he believes the house could be saved. He doesn't know if it is worth it, because he doesn't have any estimates. He doesn't think that it would take \$17,000 to bring it into shape.

ZB05-17 Motion by Markwardt, second by Wink to uphold the Building Services Supervisor's decision and raze the buildings located at 3021 Mann Street. All Ayes.

Motion carried

Motion by Asplin, second by Duerr to adjourn at 6:25 p.m. **Motion carried**

Lori A. Panzer Deputy City Clerk

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