

**AGENDA
BENBROOK ZONING BOARD OF ADJUSTMENT
AND APPEALS COMMISSION
TUESDAY, OCTOBER 22, 2019
911 WINSCOTT ROAD
PRE-MEETING WORKSESSION, 7:00 P.M.
CENTRAL CONFERENCE ROOM**

1. Oath of Office for New Member
2. Review and Discuss Items for the Regular Meeting

**REGULAR MEETING, 7:30 P.M.
COUNCIL CHAMBERS
ALL AGENDA ITEMS ARE SUBJECT TO FINAL ACTION**

- I. CALL TO ORDER
- II. CITIZEN COMMENTS ON ANY AGENDA ITEM
- III. MINUTES

1. Approve Minutes Of The Regular Meeting Held July 23, 2019

Documents:

[ZBA_AC MINUTES_07.23.19.PDF](#)

- IV. REPORTS BY CITY STAFF

A. ZONING BOARD OF ADJUSTMENT

No Items

B. APPEALS COMMISSION

1. AC-19-02

Consideration of staff's recommendation to demolish all structures located at 1033 Usher Street and is legally described as Lot 13, 1-A, Block 33, Benbrook Lakeside Addition. The property is zoned "B" One-Family District. [PUBLIC HEARING]

Documents:

[AC-19-02 STAFF REPORT.PDF](#)
[AC-19-02 ATTACHMENTS.PDF](#)

- V. ADJOURNMENT

**MINUTES
OF THE MEETING OF THE BENBROOK
ZONING BOARD OF ADJUSTMENT AND APPEALS COMMISSION
TUESDAY, JULY 23, 2019**

The Regular Meeting of the Zoning Board of Adjustment and Appeals Commission, of the City of Benbrook, was held on Tuesday, July 23, 2019 at 7:30 p.m. in the Council Chambers at 911 Winscott Road with the following members present:

Donald Pilliod, Chair
Wes Myers, Vice Chair
Ghias Dean
Robert Wood
Lizbeth Sowell

Also Present:	Jim Hinderaker	Assistant City Manager
	Doug Howard	City Planner
	Caroline Stewart	Assistant City Planner, Recording Secretary

I. CALL TO ORDER

The Chair called the meeting to order at 7:30 p.m.

II. MINUTES

Motion by Ms. Sowell to approve the minutes of the June 25, 2019 Board/Commission meeting as presented. Seconded by Mr. Dean. The Chair called the question.

Vote on the Motion:

Ayes: Mr. Pilliod, Mr. Myers, Mr. Dean, Mr. Wood, and Ms. Sowell

Noes: None

Abstain: None

Motion carried: 5 – 0 – 0

III. REPORTS FROM CITY STAFF

A. ZONING BOARD OF ADJUSTMENT

- 1) **ZBA-19-02** – A request for the alteration of a non-conforming sign for the shopping center located at 7909 Camp Bowie West Boulevard, being a portion of Tract C, Boston Heights Addition. The property is zoned “F” Commercial District. [PUBLIC HEARING]

Doug Steward (7909 Camp Bowie W Blvd), Jeff Whitfield (201 Main St, Fort Worth), and Kirk Stateson (7923 E. McKinney St, Denton) presented the request and answered questions from the Board.

Mr. Wood asked questions about why they chose not to protect the historical aspect of the sign, as stated in the Variance Request. The applicant responded.

Mr. Myers asked the applicants if they were aware of the conditions of the City. The applicant confirmed.

Doug Howard, City Planner, presented the staff report and answered questions from the Board.

Mr. Wood asked questions about if the ownership of the property was the same in the 2007 Variance case, when the original ordinance concerning non-conforming signs was put in place. Mr. Howard stated the ownership was the same and Ordinance 808 was adopted in 1988.

Mr. Myers asked if the City has made similar recommendations for previous cases presented to the City. Mr. Howard stated previous requests had similar recommendations.

Mr. Wood asked staff for clarification of recommended conditions.

Motion by Ms. Sowell to authorize the alteration of the subject pylon sign, as presented in Exhibit A, with the following conditions:

1. Sign permit applications must be approved and issued prior to any sign alteration, including business sign face changes; and
2. For each cabinet, after the initial sign face installation, no sign alterations may occur unless the entire sign conforms to the zoning ordinance.

Seconded by Mr. Dean.

Following the motion, Mr. Myers stated his support for the motion. Mr. Wood stated his opposition towards the motion.

Vote on the Motion:

Ayes: Mr. Pilliod, Mr. Myers, Mr. Dean and, Ms. Sowell

Noes: Mr. Wood

Abstain: None

Motion carried: 4 – 1 – 0

IV. ADJOURNMENT

There being no further business on the agenda, the Chair adjourned the meeting at 8:04 p.m.

APPROVED: _____, 2019

Chair



City of Benbrook

Appeals Commission

DATE: 10/22/2019	REFERENCE NUMBER: AC-19-02	SUBJECT: Consideration of staff's recommendation to demolish all structures located at 1033 Usher Street and is legally described as Lot 13, 1-A, Block 33, Benbrook Lakeside Addition. The property is zoned "B" One-Family District. [PUBLIC HEARING]	PAGE: 1 of 3
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Project Name: Demolition of structures 1033 Usher

Request Type: Recommendation by staff to demolish all structures

Site Description: 0.39 acres or 16,875sqft
Lot 13-1A, Block 33, Benbrook Lakeside Addition

Location: 1033 Usher Street

Zoning District: "B" One-Family District

Property Owner: Bonnita Stutts & Jarrard Armelia
1033 Usher Street

Applicant Ryan Studdard, Chief Building Official
City of Benbrook, TX

Background

On May 18, 2019, a fire damaged the home located at 1033 Usher Street, Benbrook. The home sustained significant structural damage and, after an inspection by City staff, the home was deemed not habitable. The City then ensured the home was secured.

In the days following the fire, City staff became aware the record property owners are deceased, prior to the fire, and that the home had been occupied by the Duffy family, whom are family members of the deceased property owners. On May 28, 2019, City staff met with the Duffy family and provided them with a formal Notice of Violation for the substandard building and further discussed options and necessary steps to correct the stated violation. The Notice of Violation was also sent via certified mail to the record property owners. Subsequently, other family members informed City staff that the ownership of the subject property was being contested in probate court.

To date, no action has been taken to correct the violation and neighboring residents have raised legitimate concerns about the unsightly condition of the property. In accordance with Section 15.44 of the Benbrook Municipal Code, City staff is now seeking authorization to raze the damaged structure as the home is not habitable and a public blight.

Notice of a public hearing was published in the newspaper of record on October 4, 2019. On October 7, 2019, a sign was posted in the front yard at 1033 Usher notifying all of the public hearing. On October 10, 2019, notice of the public hearing was mailed to the Duffy family, the listed record property owners, and all lien holders.

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Staff Analysis

Per Sec. 15.44.060 E. Burden of Proof. At the public hearing, the owner, lienholder or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with this chapter and the time it will take to reasonably perform the work.

Per Sec. 15.44.060 F Conduct of Public Hearing. At the public hearing, the owner of the building, and all other interested persons may make their appearance and be heard. Any evidence may be received and considered by the commission. The chairman of the commission, or in his or her absence, any officer designated by rules adopted by the commission to preside at meetings, shall preside and shall determine all questions of order. The hearing may be adjourned from day to day or continued upon a majority vote of the commission.

15.44.070 - Order of appeals commission.

A. Findings of the Commission. If the commission, by a majority vote, finds upon evidence presented at the public hearing that the building is in violation of standards set out in Section 15.44.040, the commission may order that the building be repaired, vacated, removed or demolished, secured, or the occupants relocated, by the owner, mortgagee or lienholder within a reasonable time as provided in this chapter.

B. Time Allowed to Complete Work.

1. The order must require the owner, lienholder or mortgagee of the building to within thirty days;
 - a. Secure the building from unauthorized entry; and/or
 - b. Repair, remove or demolish the building unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within thirty days.
2. If the commission allows the owner, lienholder or mortgagee more than thirty days to repair, remove or demolish the building, the commission shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the commission.
3. The commission may not allow the owner, lienholder or mortgagee more than ninety days to repair, remove or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder or mortgagee:
 - a. Submits a detailed plan and time schedule for the work at the hearing; and
 - b. Establishes at the hearing that the work cannot be reasonably completed within ninety days because of the scope and complexity of the work.
4. If the commission allows the owner, lienholder or mortgagee more than ninety days to complete any part of the work required to repair, remove or demolish the building, the commission shall require the owner, lienholder or mortgagee to regularly submit progress reports to the building official to demonstrate that the owner, lienholder or mortgagee has complied with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder or mortgagee appear before the commission or the building official to demonstrate compliance with the time schedules.

C. Contents of Order. The order of the commission must contain at minimum:

1. An identification, which is not required to be a legal description, of the building and the property on which it is located; and

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2. A brief description of the violation of minimum standards present in the building; and
3. A description of the ordered actions, including a statement that the owner may repair, if feasible, or demolish or remove at his option; and
4. A statement that the city will vacate, secure, remove or demolish the building or relocate the occupants of the building if the ordered action is not taken within the time allowed, and charge the cost to the property; and
5. If the commission has determined that the building will endanger persons or property, or if the building is a dwelling with ten or fewer dwelling units, a statement that the city may repair the building and charge the costs to the property if the ordered action is not taken within the time allowed.

Due to the fire on May 18, 2019 at 1033 Usher St., the property is in violation of City Ordinance Chapter 15.44 for a Substandard Structure. Its current condition has caused complaints from surrounding residents concerning the look and condition. Structures in this condition not only are unsightly and unsafe, but they also tend to be a target for vagrant and criminal activity.

Staff Recommendation

Move to order that the attached Order of the Appeals Commission be implemented.

Attachments:

1. Pictures
2. Title Search
3. Order of the Appeals Commission







Abstract Report

Issued to: City of Benbrook
Your Ref No.
Our File No **19-09-18766**

Start Date: 5/1973
Certification Date: **9/11/2019**

We have searched the real property records which impart constructive notice of **Tarrant** County, Texas with respect to the following land:

Lot 13 Tract 1A, in Block 33, of Revision of the Benbrook Lakeside Addition, an addition to the Village of Benbrook, Tarrant County, Texas, according to the Map or Plat thereof recorded in Volume 388-P, Page 48, Plat Records, Tarrant County, Texas.

The following is the chain of deeds;

Warranty Deed Amelia Ruth Jarrard, to Edgar R. Miller and Bonita M. Miller, Filed 10/31/1974, recorded in Volume 5733, Page 97.

Warranty Deed Edgar R. Miller and wife, Bonita M. Miller, to Clara Warren, filed 7/11/1978, recorded in Volume 6524, Page 431.

Trustee's Deed, to K & M Leasing Company, filed 8/11/1982, filed 7338, Page 2142.

Quitclaim Deed from K & M Leasing Company, to Aramela Ruth Jarrard, filed 4/27/1983, recorded in Volume 7496, Page 723.

Warranty Deed from Aramela Ruth Jarrard aka Ruth A. Cook, to Robert C. Roe, Jr., filed 4/27/1983, recorded in Volume 7496, Page 725.

Affidavit of Heirship for Clara Warren, filed 8/12/1999, recorded in Volume 13958, Doc. No. 270.

Special Warranty Deed from Olen Lee Berry to Bonnita Stutts, filed 8/12/1999, recorded in Volume 13958, Doc. No. 271.

Special Warranty Deed from Armelia Ruth Jarrard to Bonnita Stutts, filed 8/12/1999, recorded in Volume 13958, Doc. No. 272.

Warranty Deed 50% from Bonnita Jarrard Stutts, to Armelia Ruth Jarrard, with terms, filed 1/28/2005, recorded under Clerk's File No. D205028473.

The outstanding mortgages or outstanding statutory monetary liens purporting to affect said land are as follow: NO COURT CASES ARE REVIEWED ONLY INFORMATION IS SHOWN

Paving Lien, payable to the City of Benbrook, filed 4/12/1990, recorded in Volume 9896, Page 1023, no amount specified

Paving Lien, payable to the City Benbrook, filed 5/3/1991, recorded in Volume 10245, Page 1038, no amount specified

Tax Suit filed 12/5/2000 Cause No. 17887

Civil Suit filed 2/20/2001, Cause No. 186576, Bonnita Stutts, Vs. HouseHold Financial. Corp

Tax Suit filed 9/29/2004, Cause No. 480

Tax Suit filed 12/9/2004, Cause No. 22089

Privileged Lien by the City of Benbrook, for labor performed to secure structure in the amount of \$234.00, filed 7/16/2019 recorded in Clerk's File No. D219153703.

Liability hereunder is limited to the amount paid for same. This report is furnished solely as an accommodation to the party requesting same and should not be relied upon, as a warranty or representation as to the title to the property described herein and may not be given to or used by any third party. **McKnight Title**, (hereinafter called "Title Company") assumes no liability whatsoever for the accuracy of this report, nor for any omission or error with respect hereto. YOU AGREE TO RELEASE, INDEMNIFY AND HOLD HARMLESS TITLE COMPANY BECAUSE OF ANY NEGLIGENCE BY TITLE COMPANY (WHETHER SOLE, JOINT OR OTHERWISE) FOR ANY CLAIM, LOSS, LIABILITY OR DAMAGES ARISING OUT OF THIS REPORT. This report is not title insurance. If a policy of title insurance is purchased, any liability there under shall be determined solely by the terms of such policy.

STATE OF TEXAS)
COUNTY OF TARRANT)(

**ORDER OF THE APPEALS COMMISSION OF THE CITY OF BENBROOK, TEXAS,
CONCERNING A SUBSTANDARD BUILDING AT 1033 USHER STREET, BENBROOK, TEXAS**

ORDER

WHEREAS, Chapter 15.44 of the Municipal Code of the City of Benbrook provides a just, equitable and practical method, to be cumulative with and in addition to any other remedy provided by the Building Code, Chapter 214 of the Local Government Code, or otherwise available at law, whereby buildings and other improvements, that from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants, may be required by the City to be repaired, vacated, demolished, removed or secured; and

WHEREAS, the Building Official of the City of Benbrook, after inspection, has determined the dwelling located at 1033 Usher Street, Benbrook, Texas is a dangerous and substandard building, and has further commenced proceedings pursuant to Chapter 15.44 to cause the repair, removal, demolition of all structures at 1033 Usher Street, Benbrook, Texas; and

WHEREAS, on October 22, 2019 at 7:30 p.m., the Appeals Commission held a public hearing at the Benbrook City Hall, 911 Winscott Road, Benbrook, Texas, concerning whether such improvements are dangerous and/or substandard and should be repaired or demolished; and

WHEREAS, the City has used its best efforts to determine the identities and addresses of the owner(s), mortgagees and lien holders of the improvements through public records and other sources reasonably available to the City; and

WHEREAS, evidence introduced at the hearing shows that the record owner(s) of the improvements is/are: Bonnita Stutts and Jarrard Armelia; the mortgagees are: HouseHold Financial Corp; the lien holders are: the City of Benbrook, and the Tarrant Appraisal District; and

WHEREAS, notice of the hearing was mailed by the Building Official to the record owner(s) of the improvements and to all mortgagees and lien holders.

NOW, THEREFORE, the Appeals Commission hereby enters the following Order:

1. The recitals contained in the preamble of this Order are hereby approved and are found to be true and correct. Based on the evidence presented at the public hearing, the Commission finds that the property located at 1033 Usher Street, Benbrook, Texas, and legally described as Lot 13, 1-A, Block 33, Benbrook Lakeside Addition, is in violation of Section 15.44.040 Subsection (A), Any building that is dilapidated, substandard or unfit for human habitation and a hazard to the health, safety and welfare; Subsection (B), Any building that, regardless of its structural condition, is unoccupied by its owners, lessees or invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; Subsection (G), Whenever any portion of the building is damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location, it shall be deemed substandard.

2. The above-named owner(s), mortgagee and/or lien holders of the improvements shall, within thirty (30) days from the date of this Order obtain the proper permits and complete the repair, remove, or demolition

of all structures at 1033 Usher Street.

3. In accordance with Section 15.44.080 of the Municipal Code of the City of Benbrook, the Building Official shall, within 10 days from the date of this order:

- (a) mail copies of this Order, by certified mail, return receipt requested, to the record owner(s) of the improvements, and each identified lien holder and mortgagees of the improvements; and
- (b) file a copy of this Order with the City Secretary; and
- (c) publish a notice concerning this Order in a newspaper of general circulation.

4. If the improvements are not repaired, removed, or demolished within the time specified in 30 days of this Order, the City of Benbrook will remove or demolish the improvements at the City's expense.

5. The cost of any repair or demolition work, or securing of the improvements, that are performed by the City of Benbrook, or is paid for by the City, shall be recovered by the City in the manner provided for in Chapter 15.44 of the Municipal Code of the City of Benbrook.

Signed and entered this _____ day of _____, 2019.

APPEALS COMMISSION OF THE CITY OF BENBROOK, TEXAS.

Chairperson

City Secretary