



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