

**MINUTES
OF THE MEETING OF THE BENBROOK
ZONING BOARD OF ADJUSTMENT AND APPEALS COMMISSION
REGULAR MEETING
TUESDAY, OCTOBER 22, 2019**

The regular meeting of the Zoning Board of Adjustment and Appeals Commission of the City of Benbrook was held on Tuesday, October 22, 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
Ryan Studdard	Chief Building Official
Caroline Stewart	Assistant City Planner, Recording Secretary

I. CALL TO ORDER

The presiding officer, Chair Pilliod, called the meeting to order at 7:30 p.m.

II. CITIZEN COMMENT ON ANY AGENDA ITEM

The presiding officer paused the meeting for any citizen comments on any agenda item via telephone conference. There were no calls and no one in attendance spoke.

III. MINUTES

A. Approve Minutes of the Regular Meeting Held on July 23, 2019.

Motion by Mr. Wood to amend the minutes of the July 23, 2019 Board/Commission meeting on page 2, "Mr. Myers asked the applicants if they were aware of the conditions of the City" to read "Mr. Myers asked the applicants if they were aware of the code amendments by the City". Seconded by Mr. Myers. The presiding officer 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

Motion by Mr. Wood to approve the minutes as amended. Seconded by Mr. Myers. The presiding officer 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

IV. REPORTS FROM 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]

Ryan Studdard, Chief Building Official, presented the staff report.

Following the staff presentation, Commissioner Wood asked staff whether the City was required to meet with the residents of the home before proceeding to the Appeals Commission. Mr. Studdard said the City always attempts to meet with and establish an action plan (Exhibit A, held in record) with homeowners before scheduling an item before the Appeals Commission.

Commissioner Myers asked Staff to outline the steps offered to the residents at the May 28, 2019 meeting. Mr. Studdard explained the elements of the action plan (Exhibit A). Commissioner Myers asked staff to outline why the structure is uninhabitable. Mr. Studdard explained due to the fire the home was structurally comprised and unsafe to occupy. Commissioner Myers asked staff to verify the City wants to raze the property and if the City had received complaints from surrounding neighbors or citizens. Mr. Studdard said the City had received calls and that neighbors were supportive of the City’s efforts to abate the property. Commissioner Myers then asked what type of complaints the City received. Mr. Studdard gave examples of the type of complaints received. Commissioner Myers then asked if this property had any HOA restrictions. Mr. Studdard stated he was not aware of an HOA.

The Chair opened the meeting to public comment at 7:37 p.m.

Mark Brown, 1030 Usher St, stated that he was here to speak on behalf of the residents of the home (Duffy family). Mr. Brown stated the family was working with a structural engineer to schedule an inspection but they need an extension of time and leniency to bring the home into conformance.

Commissioner Myers asked Mr. Brown how long of an extension did they need. Mr. Brown stated that another 6 months would be ideal. Commissioner Myers asked Mr. Brown for the name of the family's structural engineer. Mr. Brown provided a letter from a structural engineer (Exhibit B, held in record). Commissioner Myers asked Mr. Brown what happens if the structural engineer determines substantial repairs are needed. Mr. Brown responded the family will have to decide what makes the most sense based on what they can afford, but he believes the home is repairable. Commissioner Myers asked Mr. Brown if it would be reasonable for the Commission to set a timeframe for the structural engineer to come out and see what needs to be done, and then allow a period of time for the work to be completed. Mark Brown stated the engineer is coming out soon and they will see how long it would take, but he believes 6 months is a reasonable timeframe.

Commissioner Sowell asked Mr. Brown if the property was in probate as the owners are deceased. Mr. Brown provided a letter from a lawyer (Exhibit C, held in record), that family had contacted but they have not retained an official lawyer for the probate. Commissioner Sowell asked Mr. Brown why the family had not started this process in the five months since the fire and after the death of the property owner. Ms. Sowell stated she understands the circumstances, but does not think it is fair to others for the City to grant more leniency. Mr. Brown stated probate can take a long time and it is expensive, but it is his goal to help the family as they want to comply.

Commissioner Myers asked Mr. Brown if he was speaking on behalf of the entire family or just the residents (Duffy family) of the home. Mr. Myers asked if there was a dispute in the family regarding the property. Mark Brown stated he cannot speak to this matter and he is only speaking on behalf of the existing residents of the home. Mr. Myers again asked for clarification whether Mr. Brown was speaking on behalf of the Duffy family to gain a 6-month extension. Mr. Brown agreed.

Commissioner Wood asked Mr. Brown what has been done to bring the home into compliance. Mr. Brown stated they have cleaned up fallen sheet rock, but nothing else, as the family is no longer allowed in the house.

Sarah Axline, 1033 Usher St (staying at 1030 Usher St), spoke about how the house fire started and what happened. She stated they began cleaning the house after the fire. She stated she does not believe the house is inhabitable and they are willing to do what it takes to bring the house into compliance.

Commissioner Myers asked Ms. Axline if she had received the letter from staff from the May 28, 2019 meeting regarding the action plan. Sarah Axline stated they did receive this letter and she has a copy. Commissioner Myers asked why nothing had been done with the property in the timeframe provided by City. Ms. Axline stated since the property was boarded up they could not do anything and the time went by really quick. Commissioner Myers asked Ms. Axline how much time she believed was needed for the repairs. Ms. Axline said that 6 months is reasonable.

Commissioner Wood asked Ms. Axline if there was an understanding that the building was going to be secured by the City and that a lien would be filed for the cost to secure the home. Ms. Axline stated they were aware that the City gave them time to clear the premises and it would be secured. She also stated the lien by the City has been paid. Commissioner Wood asked why they were not able to secure the property themselves. Ms. Axline stated the family

partially boarded up the home, but were not able to complete the process before the City came to fully secure the property.

Christina Stuts, 3367 La Mesa Dr, Weatherford Tx, stated the family is working on the situation and that extension of time would be appreciated.

Mr. Myers asked Ms. Stuts if she was aware of the action plan and what she believed to be a fair timeframe extension. Ms. Stuts said she received the letter and that a 60-90 day extension was appropriate. Mr. Myers asked Ms. Stuts if the Board were to grant the extension would they use the time wisely. Ms. Stuts stated this would be because they would like to hear what needs to be done to repair the home and then the legal process needed for probate.

Mr. Wood asked Ms. Stuts why hadn't the family contact a structural engineer sooner. Ms. Stuts stated it boils down to a disagreement about who in the family was going to take care of everything that needed to be done, essentially probate.

Following discussion by the Commission, the Chair closed the public comment portion of the hearing at 7:56 p.m.

Commissioner Wood asked Staff if the lien placed by the City to secure the property had been paid. Mr. Studdard affirmed that it had been paid.

Commissioner Myers asked staff, based on their experience, if a 90 day extension would be an appropriate amount of time to allow the residents to get a structural engineer to determine the integrity of the property and allow them to decide a path forward or get applicable permits. Ryan Studdard said 90 days should be sufficient. Commissioner Myers asked staff, providing they move forward with repairs, would it be reasonable that the repairs could be made within 180 days. Mr. Studdard said yes this is reasonable and that it is also the timeframe given before expiration of a building permit.

Commissioner Wood asked staff what led the decision by the City to grant more time past the 90 days given to the residents. Mr. Studdard said the City always attempt to work with people if they are striving to come into compliance. Commissioner Wood asked staff if they had received any communication from the residents regarding their progress to bring the home into compliance. Mr. Studdard said he has spoken with multiple family members from the beginning, but they have been struggling with making a decision on what to do and how to fund what is needed to be done.

Ms. Sowell asked if the lien on the property from Tarrant County was for taxes and if it had been paid. Mr. Studdard said this was the reason for the lien and that he was not unsure if it had been paid since the date of title search that first denoted the lien.

Commissioner Myers asked Jim Hinderaker if the proposed order needed to be read into the record or if they could reference the proposed order. Jim Hinderaker stated a reference to the order is sufficient.

Commissioner Wood asked a question regarding the scope of what the Commission was capable of in regards to the motion. Chair Pilliod stated the Commission may grant an extension to the order. Mr. Studdard referenced the staff report stating they are allowed to grant an

extension to the residents. Chariman Pilliod stated that 180 days would be sufficient to make progress.

Commissioner Wood asked if work was not entirely complete by the 180 days would this item come back to the Commission to grant another extension. Ryan Studdard stated he does not believe this would come back to the Commission; however, if they were to go over a few days of the permit time line the city would work with the residents.

Commissioner Wood then asked in regards to the Municipal code referenced in the staff report what a detailed plan qualifies as or if we have an example. Chair Pilliod stated nothing has been presented tonight, so he does not believe they could follow this. Ryan Studdard stated it shows the residents have shown they have made some progress and the plan presented would be sufficient to move forward with permits. Commissioner Wood asked if the plan would be submitted to the Building Department in 90 days. Mr. Studdard explained they would have to submit the plan and gain approval within 90 days. Commissioner Wood asked for clarification if it would be 90 days to submit plans and 180 days to complete work. Ryan Studdard stated this was correct.

Commissioner Myers asked Mr. Hinderaker whether the proposed order in paragraph 2 should follow what the Commission has discussed granting the residents. Jim Hinderaker suggested a revision to the order. Commissioner Myers then sought to verify that if nothing happens after 90 days, the City can move forward with demolition. Mr. Hinderaker proposed a sentence to the order to address if nothing happens after 90 days the City can move forward with demolition. He also suggested updates to paragraph 2 and paragraph 4 to include language following the Commissions discussion. Commissioner Myers verified how the sentence in paragraph 4 would read. Mr. Hinderaker outlined the revised language of the proposed order to follow the Commission's discussion granting a time extension, but allowing the city to move forward with demolition if conditions are not met.

Motion by Commissioner Myers to accept the order provided, specifically the Order of the Appeals Commission of the City of Benbrook, Texas concerning the substandard building at 1033 Usher St, Benbrook, Texas including the modifications discussed. Seconded by Commissioner Dean. Discussion was held amongst the Commission and City Staff about next steps for the property owners and what they are allowed to require in the motion. Chair Pilliod repeated the proposed current motion. Commissioner Wood proposed to amend the motions to remove the City of Benbrook as a lien holder on the order. After clarification from City Staff that the City has other liens on the property, Commissioner Wood withdrew his amendment to the motion. Commission Myers asked the Chair Pilliod to call the question. Chair Pilliod called the question:

Vote on the Motion:

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

Noes: Mr. Wood

Abstain: None

Motion carried: 4 – 1 – 0

Commissioner Myers made a comment to the respondents stating there was leniency granted and action needs to be taken.

Commissioner Wood thanked City staff for their work and asked the respondents to start getting to work.

Mr. Pilliod thanked City staff and the Commission for the work and making a plan.

V. ADJOURNMENT

There being no further business on the agenda, the presiding officer adjourned the meeting at 9:20 p.m.

APPROVED: _____, 2021

Chair/Presiding Officer