

CITY OF AURORA
OHIO
BUILDING CODE BOARD OF APPEALS
Meeting Minutes
January 9, 2017

The Aurora Building Code Board of Appeals met in a scheduled meeting Monday, January 9, 2017 in the Council Chambers at City Hall. The meeting was called to order at 11:01 a.m. by Chairman John Drsek.

ROLL CALL: Present: John Drsek, Chairman
Jason Coleman
David Palchesko
Absent: Patricia Hovey, Vice Chairman
Norman Perttula
Also Present: Dean DePiero, Law Director
Angie Pereces, Paralegal
Denise Januska, Director Planning, Zoning, Building Division
Andrew Lumpkins, Lieutenant, Aurora Police Department
Jeffrey Bugara, Officer, Aurora Police Department
John Schmader, Asst. Chief, Aurora Fire Department
John Trew, Director of Public Service
Lionel Finch, RBO, Aurora Building Department
Marie Lawrie, Secretary

DECLARATION OF OATH:

Dean DePiero swore in those that planned to speak.

NEW BUSINESS

NANCY HOCKING, 475 COBBLESTONE RD (1612001) – DECLARATION OF PUBLIC NUISANCE

Ms. Hocking was not present at the start of the appeal. Mr. DePiero presented documents into evidence. Ms. Januska identified and described each document in detail. The documents were part of records kept within the Planning, Zoning, and Building Division. Included in this documentation were the following items:

1. Map of the property in question
2. Portage County property record
3. Application for appeal to the Building Code Board of Appeals from Nancy Hocking
4. Certified letter copy addressed to Joyce Jacob declaring the property a public nuisance

5. Certified letter copy addressed to Third Federal Savings and Loan declaring the property a public nuisance
6. Certified letter copy addressed to Mirko F. Vombergar DDS Inc. declaring the property a public nuisance
7. Certified letter copy addressed to Robert Jacob declaring the property a public nuisance.
8. Signed copies of the return receipt from each of the certified letters
9. Report from RBO Lionel Finch of the property
10. Report from Assistant Fire Chief John Schmader of the property
11. Copy of the search warrant issued for the property showing a history of the property beginning with 2005, signed by Judge Kevin T. Poland with a copy of the return after the warrant was served
12. Copy of Section 1325.04 of the Aurora Codified Ordinances, Unsafe Structures; Violation and Remedial Notices; Cost Recovery
13. Photos of the property starting in 2011 to present
14. Photo of posted notice of the appeal meeting

Ms. Januska stated that although Nancy Hocking is not the owner of the home, she has been residing at the house for approximately 15 – 20 years based on the inspections and citations that have been issued during that period.

MOTION: To admit the documents into evidence for consideration by the Building Code Board of Appeals

Mr. Drsek moved; Mr. Coleman seconded, and the motion carried, on a 3-0 roll call vote.

Yeas: Mr. Drsek, Mr. Coleman, Mr. Palchesko

Nays: None

MOTION: To enter into Executive Session pursuant to the Ohio Revised Code 121.22(G)(3) to discuss imminent court action regarding the property at 475 Cobblestone Road, Aurora, Ohio and to receive legal advice with regard to the same

Mr. Drsek moved; Mr. Palchesko seconded, and the motion carried, on a 3-0 roll call vote.

Yeas: Mr. Drsek, Mr. Palchesko, Mr. Coleman

Nays: None

The Executive Session began at 11:11 a.m.

MOTION: To return to open session after the Executive Session

Mr. Drsek moved; Mr. Palchesko seconded, and the motion carried, on a 3-0 roll call vote.

Yeas: Mr. Drsek, Mr. Palchesko, Mr. Coleman

Nays: None

The meeting returned to open session at 11:23 a.m.

Ms. Nancy Hocking arrived and knocked on the door at 11:15 a.m. during the Executive Session. When the meeting reconvened, she was permitted to enter and was sworn in by Mr. DePiero.

Mr. Drsek stated to the applicant that the duty of the Board is to review whether the property at 475 Cobblestone is a public nuisance, as declared by the Director of the Planning, Zoning, and Building Division. He invited her to come to the podium and state her case as to why she believes that the property should not be declared a public nuisance.

Ms. Hocking, of 475 Cobblestone Road stated that she was uncertain as to why the property was being declared a public nuisance. She further stated that she was aware of some structural issues that need to be repaired. When asked the applicant verified that she has resided at the property on and off for 16 years. She is currently residing in the home. Her two children reside there with her. She was the significant other to the deceased property owner and mother of his two children that reside there. Robert Jacob passed away in October 2011. She verified that she received notification of the meeting by the notice posted on the home.

Lionel Finch, Residential Building Official for the City of Aurora answered questions. The RBO has the authorization to do all residential inspections through the Board of Building Standards with the State of Ohio. He has been the Aurora RBO for the last 10 or more years. He has worked for the Aurora Building Department for 20 years. He has 32 years of experience in the field.

Through the State of Ohio he also has the following certifications:

Class III Building Certification
ESI – Electrical Inspector
Mechanical – HVAC Inspector
Plumbing Inspector

Mr. Finch stated that he was asked to inspect and report on the condition of the property known as 475 Cobblestone Road on December 15, 2016. This inspection took place with a search warrant. He wrote a report on the findings of that inspection.

He summarized the findings of that report. He stated that the front door was not able to open completely due to debris on the floor. The steps to the second floor were covered in debris. He did not inspect the second floor as he could not access it. From the front door it was necessary to step over debris to travel to the kitchen. The kitchen was full of canned goods, dirty dishes, and rotting food. The stove and sink had not been cleaned for an indefinite amount of time. Debris and trash covered the floor including in front of the appliances. The dishwasher was hanging open with dirty dishes. The basement was not accessible without moving debris. The steps to the basement were covered in debris. The basement was completely full of debris with no open areas. A small rat or large mouse was observed running across canned goods in the laundry and furnace area. Also observed was a dog cage with fecal material inside. No dog was observed

in the home. He read aloud the last paragraph of his report which stated that this was the most extreme situation he has experienced in 32 years and in his opinion was unsafe to live in and a public nuisance.

Assistant Fire Chief John Schmader answered questions. He has worked for the Aurora Fire Department for 13 years. He is also the Chief Fire Safety Inspector. He has this certification through the Commerce Department of the State Fire Marshal's Office. He was asked to inspect 475 Cobblestone Road on December 15, 2016. He wrote a report on the findings of that inspection.

He summarized that report. The front door opened approximately 120 degrees. 180 degrees is optimal for operating the front door. That opening was compromised by combustible materials. All other exits of the house were inaccessible. There were no hallways or staircases free of combustibles. The kitchen was completely filled with combustibles. The natural gas cook top had one burner exposed. All other burners were littered with combustible material. If there were an accidental operation of one of the covered burners, the area would immediately erupt into fire. The person cooking would have little to no chance of escape. The house was observed to be completely overfilled with combustible materials. Every inhabitable space within the home was impassible without turning sideways, moving items, or walking over items up to 4 feet high or more. An interior rescue of occupants in the event of an emergency would be nearly impossible. Fire department personnel would be placed in an untenable position to enter the dwelling. He read aloud the last portion of his report which stated that the house was a distinct hazard to life and occupancy should be immediately denied until corrections are made.

Jeffery Bugara, Officer for the Aurora Police Department answered questions. His job is to enforce local and state ordinances. He has been with the department for 20 years. He has worked closely with the Building Department to enforce local building and housing codes, issuing citations as needed. He has issued approximately four tickets to Ms. Hocking.

He has been to 475 Cobblestone Road and has interacted with Ms. Hocking. Some of his calls to the property were vehicle related. There were unlicensed or improperly plated vehicles filled with debris. If the vehicle could run, possibly the driver's compartment was accessible. The remainder of the car was packed with junk. He stated that on one occasion, Ms. Hocking took a vehicle in locally for service. The garage employees refused to get in the car because the car was loaded with debris and fleas. He then had the vehicle towed from the shop back to 475 Cobblestone Road.

Other calls were for the smell of the property. He found rotting food in the driveway area and near the front door with pungent odor. One visit found rotting food near the front sidewalk with a tarp covering it.

John Trew, Director of Public Service answered questions. He has worked for the City of Aurora for 15 years. He has 35 years' experience with public service. He stated that the Service Department has been called out to 475 Cobblestone Road by Denise

Januska to clean up the exterior of the property. This would involve 2-5 Service Department employees. They have removed combustible and non-combustible refuse, food waste, and a dead dog. This has happened multiple times in the last 24 months.

Andrew Lumpkins, Police Lieutenant for the Aurora Police Department answered questions. He has been a Lieutenant for the department for 2 years. He has been part of the police force in Aurora for 12 years. He has been to 475 Cobblestone on multiple occasions for building code violations.

He stated that the smell of the property in the warm months is unbearable. On several occasions he has had non-registered vehicles towed away from the property. He went past the property today and the situation has not been abated.

Chairman Drsek read Aurora Codified Ordinance section 1325.04(b) Declaration of Nuisance aloud and asked Board Members if they had any questions about that section. This section states in part that any structure(s) which are injurious to or a menace to the public health, safety, or welfare of the public without adequate egress or which constitute a fire hazard, etc. are to be declared a public nuisance. The public nuisance is to be abated or demolished. There were no questions.

Ms. Hocking was invited to comment on her own behalf. She stated that she would need reasonable time to make corrections. She further stated she could start immediately to clear fire exits and create pathways through the home. She commented that she was on the Doctor Phil television show in the past and is in treatment for a condition she called OCD.

There were no questions from the Board for Ms. Hocking. The Chairman opened the floor for public comment.

Eric Deighton, Litigation Attorney/Supervisor of the Litigation Department, Carlisle, McNellie, Rini, Kramer and Ulrich Co., L.P.A. was present to comment for Third Federal Savings and Loan. He stated that the bank received the certified letter pertaining to the Declaration of Public Nuisance on November 16, 2016, listing a number of offenses for the property at 475 Cobblestone Road. He stated that Third Federal Savings and Loan holds the mortgage for this property and has the right to enter and abate the violations to protect their interest in the property. He further stated that the bank engaged the services of some professional cleaners and repairman to begin the process. All of the service providers were chased off the property before corrections could be made.

Finally, he stated that Third Federal Savings of Cleveland is very interested in working with the City of Aurora to abate the nuisances. The bank is in the process of foreclosure on the property. He stated that a reasonable time frame for the judicial process would be five to six months. They are currently naming and serving all known heirs of the deceased property owner. Once all the known heirs are served, they will have 28 days to answer. At that point, the bank can move for summary judgement. It would then be up to the Portage County court on how quickly they would rule on that, and award Third Federal judgement. At that point, the bank could order a sheriff sale. They would

advertise, appraise, and sell the property at sheriff sale. The sale would then be confirmed within 30 days.

Mr. DePiero asked Mr. Deighton if the bank has the right to evict someone who is not on the title, as part of the foreclosure action. Mr. Deighton explained that when the sheriff sale is confirmed, the bank would be awarded a writ of possession. They would file that with Portage County Court of Common Pleas to have a sheriff go to the property and make it vacant. This cannot happen before the bank receives judgement.

MOTION: To deny the appeal of the applicant Nancy Hocking at 475 Cobblestone Road in Aurora

Mr. Coleman moved; Mr. Palchesko seconded, and the motion carried, on a 3-0 roll call vote.

Yeas: Mr. Coleman, Mr. Palchesko, Mr. Drsek

Nays: None

ADJOURNMENT:

Seeing no further business, Mr. Drsek adjourned the meeting at 11:52 a.m.

John Drsek - Chairman

Marie Lawrie - Secretary