

**MINUTES  
BUILDING BOARD OF APPEALS  
March 17, 2016 2:00 p.m.  
City Commission Chambers**

**CALL TO ORDER**

Chair Emig called the meeting to order at 2:00 p.m.

**ROLL CALL OF BOARD MEMBERS**

**Members Present:** Richard Emig, Chair, Gary Wark, Linda Servis, Emily Parfet,

**Members Absent:** Charles Kiplinger, Vice Chair, David Hyde

**City Staff:** Robert McNutt, Building Official; Carmela Hostiguin, Recording Secretary

**NEW BUSINESS**

**APPROVAL OF PREVIOUS MINUTES**

Ms. Servis, seconded by Ms. Parfet moved to approve the minutes of February 18, 2016 as submitted, approved by voice call vote.

**APPROVAL OF AGENDA**

**INITIAL HEARINGS**

**1950 Portage St.** – This property is located in a CN-1 District (Commercial) in the Edison neighborhood. The 0.21 acre property contains a 5211 sq. ft. 1 story commercial building built in 1920. Nearby uses are residential dwellings. There are no historic considerations for this property. Rafael Vargas is shown as Owner and has a Fee Simple and title as of 2006. There are delinquent taxes and unpaid tax liens. The 2015 SEV is \$22,300. According to Assessor records, the Estimated True Cash value of the land alone is approximately \$37,205 and that of the entire property \$44,853.

Aaron Bir, Associate Counsel at Sielatycki Law Firm, 516 Whites Rd, Kalamazoo MI, representing Mr. Vargas stated there were issues with the third party adjuster and Mr. Vargas' insurance company, Auto Owners. He requested an extension of 30-60 days to complete the permit and construction process.

Mr. McNutt stated he is highly skeptical of this extension request; nothing has been done in the past two years. No drawings or plans have been presented to the building department. He mentioned the City has received complaint phone calls from city residents, including the Edison Neighborhood Association. The property is close by to an elementary school, it is open to casual entry, and has advised Mr. Vargas about this. Mr. McNutt stated that he would not feel

comfortable giving more time; stating he needs a guarantee that something will be done. Mr. McNutt also stated if the City granted an extension, that it shouldn't go too much longer.

Mr. Wark asked about the insurance proceeds, he asked for clarification on the hold up through Auto Owners Insurance and the third party adjuster. Mr. Bir replied that he talked to supervisors and there is no basis for withholding payment. He specified that he did not want to discuss any specifications for on-going negotiations.

Ms. Parfet asked if Mr. Vargas had received any payments. Mr. Bir replied he received a partial payment of approximately \$70,000.00 that was used for clean-up of debris.

**Staff recommends adoption of the following motion:**

The Building Board of Appeals finds that the structure and grounds at 1950 Portage Rd. constitutes a "Dangerous Building" and a blight due to the conditions and violations detailed in the 03/02/2016 Building Board of Appeals Notice of Determination and Hearing. **The owner is ordered to obtain new permits and commence either demolition or exterior and structural repairs by April 24, 2016 and complete all exterior and structural repairs or demolition by June 25, 2016**, based on conditions ordered by City Commission. Conditions include: property must be boarded up and secured, and all delinquent taxes must be paid up to date.

Chair Emig closed the public hearing.

**FINDING OF FACT**

**Mr. Wark moved the Finding of Fact as follows:**

1. The Finding of Fact for 1950 Portage Rd. shall include all information included in the notice of public hearing dated March 2, 2016 and the summary information. This property became condemned due to a fire in 2012 that caused interior/exterior structural damage that made the building unsafe. Mr. Bir, legal counsel representing Mr. Vargas presented case, advised the commission the problem for the delay is the 3<sup>rd</sup> party adjusters obtaining additional proceeds for the properties re-construction. Mr. Wark stated the Mr. Vargas presently has Construction Company lined up and is ready for construction. All back taxes must be paid before granting 45-60 day extension.

**Ms. Servis seconded the Finding of Fact.**

Motion approved for the Finding of Fact by voice vote unanimously.

**Mr. Wark moved to approve the application, to accept the Staff Recommendations as stated, seconded by Ms. Servis.**

Motion approved by roll vote unanimously.

**1031 W Paterson** – This property is located in a CC District (Commercial Community) in the Northside neighborhood. The 0.40 acre property contains a 7,182 sq. ft. 1 story commercial building built in 1931. Nearby uses are residential dwellings and commercial. There are no historic considerations for this property. AREA MANUFACTURING CO. A MICHIGAN CORPORATION is shown as owner has a Fee Simple and title as of 1996.

Mr. McNutt stated the roof and second building were added to the violations, the structure has a big hole and is open to casual entry. There are people staying in the building. Mr. McNutt stated that the Northside Association is trying to keep the neighborhood enlightened and cleaned.

**Staff recommends adoption of the following motion.**

The Building Board of Appeals finds that the structure and grounds at 1031 W Paterson Street constitutes a “Dangerous Building” and a blight due to the conditions and violations detailed in the 03/2/16 Building Board of Appeals Notice of Determination and Hearing. **The owner is ordered to obtain new permits and commence either demolition or exterior and structural repairs by March 24, 2016 and complete all exterior and structural repairs or demolition by April 25, 2016.**

**If further action is not completed by the deadline, the City is authorized by the Building Board of Appeals to take any non- legal action necessary to cause full compliance and eliminate said danger and blight, this includes performing of the demolition and repair by city personnel or by contracting with a third party.**

There were no comments from the public.

Chair Emig closed the public hearing.

## **FINDING OF FACT**

**Ms. Parfet moved the Finding of Fact as follows:**

1. The Finding of Fact for 1031 W. Paterson shall include all information included in the notice of public hearing dated March 2, 2016 and the summary information. This property became condemned February 4, 2016; the building was deemed unsafe and in disrepair since 2012. The roof is unsafe and has a hole. There are back taxes due on this property. It is ordered to obtain new permits by March 24, 2016 and or complete all exterior and structural repairs or demolition by April 25, 2016.

**Ms. Servis seconded the Finding of Fact.**

Motion approved for the Finding of Fact by voice vote unanimously.

**Mr. Wark moved to approve the application, to accept the Staff Recommendations as stated, seconded by Ms. Servis.**

Motion approved by roll vote unanimously.

**429 Reed Street** – This property is located in a RM-15 District (Residential, Multi-Dwelling) in the Edison neighborhood. The (0.15 acre) property contains a 1225 sq. ft. 2 story residential building and garage built in 1902. Nearby uses are residential dwellings. There are no historic considerations for this property. Rudolph & Carol Gant are shown as Owners. A 2001 Quit Claim Deed (Less than \$100.00) is on record with the State of Michigan, County of Kalamazoo. No mortgage on file.

Mr. McNutt stated property has been condemned and constitutes a nuisance. Building Official made full determination that the building is deemed unsafe; violation includes load anchoring deterioration, failing foundation defects and roof is caving in.

**Staff recommends adoption of the following motion.**

The Building Board of Appeals finds that the structure and grounds at 429 Reed Street constitutes a “Dangerous Building” and a blight due to the conditions and violations detailed in the 03/2/16 Building Board of Appeals Notice of Determination and Hearing. **The owner is ordered to obtain new permits and commence either demolition or exterior and structural repairs by March 24, 2016 and complete all exterior and structural repairs or demolition by April 25, 2016.**

**If further action is not completed by the deadline, the City is authorized by the Building Board of Appeals to take any non- legal action necessary to cause full compliance and eliminate said danger and blight, this includes performing of the demolition and repair by city personnel or by contracting with a third party.**

There were no comments from the public.

Chair Emig closed the public hearing.

## **FINDING OF FACT**

**Ms. Servis moved the Finding of Fact as follows:**

1. The Finding of Fact for 429 Reed Street shall include all information included in the notice of public hearing dated March 2, 2016 and the summary information. Considerable back taxes due on this property. There has been a minimum of three communication letters sent to the owner regarding the condition of the house in attempt to resolve this matter.

**Ms. Parfet seconded the Finding of Fact.**

Motion approved for the Finding of Fact by voice vote unanimously.

**Mr. Wark moved to approve the application, to accept the Staff Recommendations as stated, seconded by Ms. Parfet.**

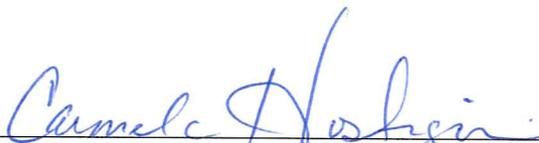
Motion approved by roll vote unanimously.

ANNOUNCEMENTS

ADJOURNMENT

Ms. Servis moved to adjourn the meeting and was seconded by Mr. Emig.

With a unanimous vote the meeting was adjourned at 2:42 p.m.

Submitted by:  Date 4/21/16  
BBA Recording Secretary  
Carmela Hostiguin

Reviewed by:  Date 4/21/16  
Building Official  
Robert McNutt

Approved by:  Date 4/21/16  
BBA Chair  
Richard Emig