

**BOARD OF APPEALS
HEARING NOTICE AND AGENDA
January 15, 2020
CITY HALL
10 N. DIVISION STREET
COMMISSION CHAMBERS
3RD FLOOR – ROOM 301
BATTLE CREEK MI 49014**

Call to Order: 1:01pm

Roll Call for Board Members: Eric Blair, John Sims, Robert Whitfield, Peter Pontoni

Staff Members Present: Jason Francisco, Code Compliance Manager; Todd Nowicki, Code Compliance Officer; Don Wilkinson, Building Official; Angie Hubbard, Secretary

Additions/Deletions to the Agenda: Remove 26 32nd St N and 315 Moorland Dr N

Approval of Minutes: Mr. Sims made a motion to approve the November 20, 2019 minutes, seconded by Mr. Whitfield. Approved.

Dangerous Buildings Show Cause Hearings:

- a) 222 Cherry St (House)
Issue #EN19-09115
Building Inspector: Don Wilkinson
Property owner not present. Don Wilkinson, Building Official, stated the property was heavily damaged by fire and was affirmed as a Dangerous Building by the Dangerous Building Official. Mr. Wilkinson recommended it be affirmed as a Dangerous Building. Jason Francisco, Code Compliance Manager, stated a search warrant was executed to do a hazardous materials assessment. At the same time, the new property owner was there so the assessment was not completed. The new owner stated that he would be in within the week to start pulling permits, however, as of today, no permits have been pulled. Mr. Sims motioned for the property to be affirmed as written. Mr. Whitfield seconded.
Affirmed
- b) 17 Wabash (House)
Issue #EN19-09112
Building Inspector: Don Wilkinson

Homeowner not present. Don Wilkinson, Building Official, stated property was heavily damaged by fire and was affirmed a Dangerous Building by the Dangerous Building Official. Mr. Wilkinson recommended it be affirmed as a Dangerous Building. Mr. Sims motioned for the property to be affirmed as written. Mr. Whitfield seconded. Affirmed

c) 91 Fountain St (House)

Issue #EN19-09127

Building Inspector: Don Wilkinson

Property owner not present. Don Wilkinson, Building Official, stated property was heavily damaged by fire and was affirmed as a Dangerous Building by the Dangerous Building Official. Mr. Wilkinson recommended it be affirmed as a Dangerous Building. Mr. Francisco stated the property was a foreclosure that went back to a credit union in Kalamazoo. He issued them a letter of imminent danger and they have a signed contract with SE Environmental for demolition. Mr. Sims motioned for the property to be affirmed as written. Mr. Whitfield seconded. Affirmed

d) 447 Hubbard (House)

Issue #EN19-09496

Building Inspector: Don Wilkinson

Property owner not present. Don Wilkinson, Building Official, stated property was damaged by fire and was affirmed as a Dangerous Building by the Dangerous Building Official. Mr. Wilkinson recommended it be affirmed as a Dangerous Building. Mr. Wilkinson stated that he did contact the owner to schedule an on-site inspection to verify the full extent of the damage. The owner, however, failed to show up on the date requested. Mr. Sims motioned for the property to be affirmed as written. Mr. Whitfield seconded. Affirmed

New Business:

1) 113 Maple Terrace

Issue #EN19-10080

Code Compliance Officer: Todd Nowicki

Property owner, Johnny Vick, present. Mr. Nowicki stated the property has what appears to be a diseased tree and has been working on having tree removed. A large branch had cracked from the tree and is hanging in the neighbor's yard. He recommended giving 30 days to comply. Mr. Vick stated that his son lives at property. He stated the tree is $\frac{3}{4}$ on his property and $\frac{1}{4}$ on the property in which a large branch fell. He has been in contact with a tree trimmer. Mr. Blair asked if the portion of the tree that has fallen, is leaning on which property? Mr. Vick stated that the tree trimmer put a note on November 21, 2019 in the mailbox of the lady that lives next door. As of this date, no one has contacted him. Permission is needed by the property owner to have the tree removed. Another letter was delivered yesterday, but we still have not gotten permission to go onto their property. Mr. Vick stated that from his perspective, it is both of their responsibilities to get the tree cleaned up. Mr. Blair asked Mr. Francisco if it should really be the other person's responsibility to clean up the fallen branch that is on their property? Mr. Francisco stated he spoke with Mr. Vick and told him he needed to get in contact with the neighbor, as the complaint came from the neighbor, and should be a collaboration between the two to get the tree removed. Being that the branch is still connected to Mr. Vick's tree, he is still responsible. If it had completely broke and fallen into the neighbor's yard, it would absolutely be the neighbor's responsibility. Mr. Vick stated that the whole trunk of the tree is broken. Mr. Nowicki stated the whole tree looks bad and that the neighbors concern is what's next? Mr. Whitfield is also concerned about the safety. He recommends tabling the issue for 60 days so that both neighbors can discuss the issue. Mr. Sims asked if Mr. Vick should have even been written up? Mr. Sims motioned to dismiss, seconded by Mr. Pontoni. Mr. Blair stated that 1: He's not comfortable moving forward as written because Mr. Vick cannot correct the violation on his neighbor's property. 2: I'm not comfortable asking a citizen to take down the tree if it's not dead. I would like to move the motion on the floor forward to dismiss. Mr. Whitfield reiterated his motion to table until the March 18, 2020 meeting

to give opportunity for all involved to gather more information. Mr. Sims believes the violation was incorrectly written to the wrong person. Mr. Blair stated that there is a motion on the floor that has been properly seconded, and after much discussion calls for a vote to dismiss. Mr. Blair, Mr. Sims, and Mr. Pontoni voted YES, with Mr. Whitfield voting NO. Dismissed

Public Comments: None

Board and Staff Members Comments: Mr. Whitfield stated that we are not the court, and is trying to understand the motives for the decision. We need to follow what our book has told us to do. Mr. Sims stated that information is missing. Mr. Blair agreed with Mr. Whitfield that yes, they have to go by the book, as he will always go by the book, but he will also always do everything he possibly can to help his fellow citizens. Mr. Blair believes that Mr. Whitfield's recommendation to table would have been helpful, but that dismissing was more helpful. It relieved Mr. Vick of his duties, as we feel it wasn't written up properly, which is one of our options in our book. As a board, if we feel that an order has been written up and it wasn't done properly, we can dismiss it. That is well within our authority as a board.

Adjournment: 1:31pm

The City of Battle Creek will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered in the meeting upon reasonable notice to the City of Battle Creek. Individuals with disabilities requiring auxiliary aids or services should contact the City of Battle Creek by writing or calling the following:

Vicki Houser, City Clerk
10 N. Division Street
Battle Creek, Michigan 49014
(269) 966-3348/Voice/TDD
/adh