

Minutes of the Clay Township Dangerous Building Commission meeting held on Wednesday, August 13 2008, at the Clay Township Meeting Hall, 4710 Pte. Tremble Rd., Algonac MI.

Chairman Uschwald called the meeting to order at 2:00 p.m.

Roll Call: Leonard Uschwald, Mary Kot, Jim Miller, David Salvador, Georgia Williams, & John McQuade Excused: Don Drake, Rick Edler, and Jon Manos.

Also Present: Michael J. Kras, Building Official and John McNamee, Clay Township Attorney

Motion by Miller, supported by Kot to approve the minutes of July 9, 2008.

AYES: ALL. NAYS: NONE. Excused: Don Drake, Rick Edler, and Jon Manos.

MOTION CARRIED.

SHOWCAUSE:

DB-2008-007 S & S INVESTMENTS 2153 NORTH CHANNEL

Chairman Uschwald called Mike Kras, Building Official as first witness to this case.

Kras: We have received a letter from the property owner, you all should have a copy before you, stating that he is basically waiting for the insurance company. He said he will either repair it or tear it down depending on the insurance company. The whole interior of that property has been basically gutted. I say that we should continue on with the process and do a Title Search and then order compliance after that, rather than just table it.

Miller: This S & S Investments, is that an investment company or a mortgage company?

Kras: I have no idea. Auto Owners is the insurance company. My recommendation is that we proceed. Otherwise we have a building hanging out there through the winter.

Kot: Do you feel that this could drag out?

Kras: If this is an insurance company, they are going to look at it like we do.

Motion by Kot, supported by McQuade to order a Title Search on case #DB2008-007 - 2153 North Channel Dr. and table for 30 days.

AYES: ALL. NAYS: NONE. Excused: Don Drake, Rick Edler, and Jon Manos.

MOTION CARRIED.

STATEMENT OF PARTICULARS:

DB-2008-013 KENNETH/JANICE DENYS 7316 JO CHAR

Chairman Uschwald called Mike Kras, Building Official as first witness to this case.

Kras: This is Mr. Denys place and I believe he is here and wants to speak before the board. This place could be repaired. The problem is that he has a ground that is sinking. I believe we have a

sink hole that is starting to form in that area. Apparently many, many years ago that used to be a canal and they filled it in and now it is attempting to turn back into a canal.

Uschwald: We can see the one corner on the picture. Do you believe that condition is only in that one area?

Kras: What is happening is that condition is moving down the road. It used to be right in the middle of that vacant property and it has spread across the second property to 7316. We have been out there several times monitoring it.

Williams: So can anything be done?

Kras: The times that I did talk to him I advised him he needed to get an engineer to find out what the problem is over there. The township wasn't going to pay for the engineer to find out why he was losing his property.

Uschwald: Mike, we have the property owners here, would they like to come up and speak to us?

Mr. Denys: I lifted the trailer one time in 19 ½ years. I live in the house right next to it and I don't understand what the problem is. I anchored it the same way it was before, why am I here. If it is sinking and I hoist it and anchor it, it is not going anywhere. It is level. What makes this building unsafe?

Uschwald: Raising the structure, the way it is shown on the picture here with pieces of lumber does not meet code.

Mr. Denys: I used bricks, the same bricks that were there before. It is treated wood.

Kras: There is a possibility, and you have seen this in many areas where progress is real slow and I don't want someone living in that house and it suddenly falls into a sink hole.

Uschwald: Mike what do you want him to do with the foundation?

Kras: I think what he needs to do, is get an engineer. If he wants to continue having someone live on that property. I don't have any problems with the house itself, but I have a problem with the foundation and the soil underneath it.

Mr. Denys: I still do not understand what the problem is?

Kras: The problem is the ground underneath the foundation that is eroding away.

Mr. Denys: I feel I am unjustly being picked on.

Williams: I don't think that is the reason. The thing of it is and I know you say that it isn't being rented now, but at one time you rented it, when you start renting property then that comes under a different category and the property should be up to code.

Kras: I wrote a letter this morning about what the problems were on this property. Those are just the code problems. I talked to Mr. McNamee about the issue of the zoning ordinance and basically I am going to add the part when they rezoned the property under Ordinance #123 from commercial to residential. Barb Schutt has been taxing and assessing that property as residential. It was all one parcel at the time, there was a main house, there was that house that he tried to build and there was a bait shop that was attached to the main house. Now he lived in the main house and he ran a bait shop out of the front of that main house. Not out of this particular house at 222. Apparently he carved some ducks over there, so that wasn't part of the commercial property. Then it was turned into residential property in 2001 that is when the new ordinance was adopted. The owner back then was still Mr. Cummings and he had not used it in quite a while, he was an elderly gentleman. In 2004 the property was purchased by Mr. Day. He knew it was residential property, but just before he purchased it, Mr. Cummings split the property out. He split that particular building away from the main structure and in doing so he told Barb Schutt that that was a residential structure. Barb looked through her records and said she has been assessing it as a residential structure. It was nonconforming at one time because it was commercial, but now it is residential, so all the zoning was brought into compliance except for the building itself. When they split the property, shortly after they sold it to Mr. Day and shortly after that he sold it to Mr. Stanczak. The property was rezoned in 2001, it was split in 2004 they sold it three years later as residential property and now he is claiming it is commercial - nonconforming use. Basically Mr. Stanczak needs to bring the building into compliance with today's code. He has no septic on that property, no bathroom, no kitchen, and no plumbing. The building itself has been weathered, no finish on exterior or interior. We have given Mr. Stanczak the opportunity to save that building and as you can see I wrote up all the code violations. He is claiming that we have no jurisdiction over that building. I think Mr. McNamee can explain it a little better than I can.

McNamee: From the historical use of the property there was a single parcel that was owned by Frank Cummings and at some point after Mr. Cummings wife passed away a Joan Schuster also became an owner of this property. When Mr. Cummings owned it he had a house on the property, he had a bait shop that was attached to the side of the house, he had a garage and another outbuilding and then he had this particular building that is in question here, which has been represented he used as a workshop and evidently carving ducks. It was zoned commercial and probably because the operation of the bait shop not so much because of the duck carving. In 2001 the property was rezoned with the advent of our new zoning ordinance #123 and it was zoned residential. Now at some point in time Mr. Cummings ceased his operations on the property in terms of a commercial operation. At another point in time it was determined that they were going to sell the property and they came in and requested a lot split and the property was zoned R1. Now if they had not requested a lot split basically you would have a residence with several out buildings. If you want to have a lot split you cannot create a nonconforming lot. So if they had come and said we want to create two lots – one has the house and the garage and the other lot has the workshop, not a residence, an accessory building – the township would have to deny that because you cannot create a lot with an accessory building in R1 by itself. We have talked to Barb Schutt and it was indicated at that time that this building was going to be construed as a residence and in fact looking through the file with the lot split application, it is clear that they had to have approvals from Semco, saying that they could have access to gas for both lots created, they would have easements for electrical, they would have access to a public road. Shortly after this was done and the lot split was approved, Mr. Day bought both lots. He then sold off that lot split with the workshop, if that's what

you want to call it, as it is inhabitable. The old parcel before it was split was taxed as residential. The new lot that was created that has this building on it has been taxed residential. It is our position that that was purchased as a residential building. It has to be maintained as a residential building and its current status as a residential building, it is obviously dangerous. Their argument is that it is commercial, not residential, so it is not dangerous.

Discussion continued between board members and Mr. McNamee regarding zoning issues, the inspection of the building by the majority of members, commercial building questions, different buildings on the two different lots, and pictures given to Mr. McNamee by Mr. Moeller.

McNamee: I would recommend you table this case and I will write a letter explaining our position and if they have a different position on the zoning issue, then we will have to do enforcement on it

Motion by Miller, supported by Willimams to table case #DB-2008-003 for 30 days.
AYES: ALL. NAYS: NONE. Excused: Don Drake, Rick Edler, and Jon Manos.
MOTION CARRIED.

DB-2008-005 S.HANSEN/K.GRENADIER 8507 SOUTH CHANNEL DR.

Chairman Uschwald called Mike Kras, Building Official as first witness to this case.

Kras: This building has been taken down, so you can dismiss this case.

Motion by Salvador, supported by Williams to dismiss case #DB-2008-005.
AYES: ALL. NAYS: NONE. Excused: Don Drake, Rick Edler, and Jon Manos.
MOTION CARRIED.

MEMBERS COMMENTS:

Members questioned Mike Kras regarding different trailers in the Stier Subdivision.

ADJOURNMENT:

Motion by Miller, supported by Salvador to adjourn the meeting @ 3:15 pm.
AYES: ALL. NAYS: NONE. Excused: Don Drake, Rick Edler, and Jon Manos.
MOTION CARRIED.

Respectfully Submitted,

Patty Watson
Recording Secretary