

Minutes
Property Maintenance Board of Appeals
Commission Chambers
City Hall
Wednesday, October 3, 2012, 8 a.m.

Members Present

Paul Flogstad, Dawn Clausen, Wayne Kerslake, Ron Rensberger and Dennis Tilden

Guests Present

Don Collins, Shannon Collins, Mary Stormo, Eric Stormo, Dan Hein, Kelly Boysen, Paul Bengford, Kevin Smith and Mike Huether

Approval of Minutes of Last Meeting

A motion was made by Mr. Kerslake and a second was made by Ms. Clausen to approve the minutes of September 5, 2012. Yeses, 5. Noes, 0.

New Business

1. **Appeal No. 3-2012.** The Chairman noted that a neighborhood complaint was received by Property Maintenance concerning an accessory detached garage located at 132 N. West Avenue. An inspection determined that the garage is in disrepair based on a missing window, a damaged roof, cracked and missing block walls, and that the structure has deteriorated past the point of repair. A Notice and Order/Notice of Demolition dated September 12, 2012 was issued to the property owners, Don and Shannon Collins, who were present for the hearing. The notice required the demolition to be completed by October 30, 2012. Mr. Collins specified that due to the lack of funds to complete the project within the time limits of the Notice and Order, he requested a 12 month extension to remove the dilapidated garage. He said that he could not afford the cost of hiring a contractor to raze the structure and dispose of the materials by the end of October, but does intend to remove the structure when he has the financial ability to get the work done. Ms. Clausen voiced her concern that the open structure would create a nuisance for children, and designated her concern that the structure should be secured if the Board were to consider an extension of time to raze the structure. Mr. Collins said that the structure has been subject to vandalism in the past. A motion was made by Ms. Clausen and a second was made by Mr. Rensberger to require the structure to be secured from entry by the end of October, and to grant a 12 month extension for the razing of the structure. The motion passed unanimously. Yeses, 5. Noes, 0.

2. **Appeal No. 4-2012.** The Chairman noted that a complaint was received by Property Maintenance concerning a single family dwelling which is

located at 610 W. 43rd Street concerning the status of the exterior paint on the structure. A Notice and Order dated August 20, 2012 was issued to Eric Stormo, the property owner who was present, to repair a damaged light, which has since been repaired, and to remove the peeling and chipped paint from the structure. Mr. Stormo specified that the appeal agenda only mentions the scraping of the paint and that he interpreted that is the only issue for the Board's review. He said that the city's mandate is unconstitutional to place the burden of proof on the owner, that there is no probable cause and therefore no basis for discovery, and that the action by the City is retaliatory based on a current lawsuit that Mr. Stormo has filed against the City of Sioux Falls. Mr. Flogstad specified that the Board is concerned with the provisions of the Notice and Order and that the issues of legality are not for review by the board. Mr. Stormo noted that the city claimed that there is deteriorated siding but the city has no such evidence. The secretary indicated that the inspection occurred from the public right of way because there was no authority to enter the premises without the owner's consent. Mr. Hein, Property Maintenance Inspector, noted that if in fact there is not deteriorated siding, the issue is not applicable. Mr. Stormo indicated that the City claimed that the siding is required to be painted, when in fact paint is not required because the siding is a cedar shingle. The secretary noted that there is no requirement to paint a siding material which has a natural resistance to decay, such as a cedar shingle, but that the Notice and Order did call for those surfaces such as the door and window trim, soffits and fascia to be protected from decay by painting or other protective covering. Mr. Stormo noted that he has replaced some damaged or loose siding at the corners but intends to complete the scraping by November 15, 2012 depending on cooperation with the weather, and to complete the painting by Memorial Day next spring. He noted that there is presumption that the existing paint is lead based and the removal of the paint is subject to federal guidelines. Mr. Kerslake noted that if the scraping was completed by November 15, 2012, that it would show good faith to the neighbors that progress is being made, and furthermore the painting of the trim may need another consideration for an extension. Mary Stormo said that she had attended a class and obtained certification on September 19 to be able to remove the paint, and that the exterior paint has been verified to have a small amount of lead in accordance with federal guidelines. Ms. Clausen specified that she has obtained the same certification and by hearing that Ms. Stormo has obtained certification for lead paint removal that does show progress in addressing the issue. A motion was made by Ms. Clausen and a second was made by Mr. Tilden to require the removal of the flaking and peeling paint on the cedar shingles by November 15, 2012 and to complete the painting of those surfaces that are not decay resistant by May 30, 2013. The motion passed unanimously.

Adjournment

A motion was made by Mr. Rensberger and a second was made by Mr. Kerlake to adjourn the meeting. Yeses, 5. Noes, 0.

Secretary