

ONEONTA, NEW YORK - JUNE 7, 2012 - 4:00 P.M.

REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 1

PRESENT: Chair Margery K. Merzig
Commissioner Peter Friedman
Commissioner Louis Tisenchek
Commissioner David Hayes
Commissioner Joseph Temming
Council Member Madolyn Palmer

ABSENT: None

Chair Merzig called the regular meeting to order and asked the Clerk to call the roll.

Chair Merzig stated that the Code Enforcement Office had requested that on the agenda item 6 under New Business, "Appeal of building permit requirements not met at 65-67 Maple Street: Peter Friedman and Marilyn Helterline" be changed to item 1.

Appeal of building permit requirements not met at 65-67 Maple Street: Peter Friedman and Marilyn Helterline

Chair Merzig asked that the letters received from Peter Friedman and Marilyn Helterline be entered into the record.

The following letter was received from Peter Friedman and Marilyn Helterline, 69 Maple Street, Oneonta, dated May 16, 2012:

"City of Oneonta Board of Public Service

In accordance with section 86-16 of the Oneonta Code we are appealing the following:

- 1. The failure of the code office to require a building permit application for the wall, door and keyed lockset recently constructed and installed in the front of the first floor apartment at 65 Maple Street.*
- 2. The failure of the code office to bill the property owner of 65 Maple for the Late Inspection Fee based on the failure to apply for the building permit prior to construction of the wall, door and keyed lockset.*

This is an important matter. The owner's intent in building this wall and door was to create an additional bedroom. By doing so he has allowed for the blocking of egress to the primary exit. Also, additional bedrooms are prohibited at this location because the property is a grandfathered use and the expansion of intensity of use at grandfathered properties is not allowed, and there is inadequate parking already.

Chapter 86 entitled Building Permits of the Code of the City of Oneonta

86-14 Any person, firm, corporation, association or partnership who fails to apply for a building permit, as required by and in accordance with this chapter, and who proceeds to commence the erection, construction, structural change, enlargement, alteration, removal, relocation, improvement, demolition, conversion or change in the nature or the intensity of the occupancy of any building or structure or any portion thereof, or installs a solid-fuel-burning heating apparatus, chimney or flue in any dwelling unit, or who causes the same to be done, shall be required to file the applications and plans and pay the fees as provided in this chapter and, in addition, shall be required to pay a late inspection fee, the amount of which is to be set by resolution from time to time by the Common Council of the City of Oneonta.

86-16 Any person allegedly aggrieved as a result of an action or failure to act by the City Engineer or the City Code Enforcement Officer in regard to a building permit shall have recourse to the Board of Public Service."

The following letter was received from Peter Friedman, 69 Maple Street, Oneonta, dated June 5, 2012:

*"Board of Public Service
City of Oneonta June 5th 2012*

Re: 65-67 Maple

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(New Business – Appeal by Peter Friedman and Marilyn Helterline) continued

A few months ago I became aware that the property owner had constructed a section of wall, and installed a door and lockset in the new wall section at 65-67 Maple Street with the intention of creating a bedroom from an existing parlor. When I contacted Mr. Chiappisi in the code office to register a complaint) was told that the wall construction, and door and lock installation did not require a building permit. On subsequent occasions I have spoken with Mr. Chiappisi to try to convince him that a building permit is required for such work but he has remained steadfast to his position. I am therefore appealing his determination that no building permit is required, and I am appealing 2 related points cited below.

The property at 65-67 Maple Street is a grandfathered nonconforming use in that it is a 3 family house in a one family zone, and further, it is a grandfathered nonconforming structure in that it lacks the off-street parking required for the 3 apartments.

The construction that was done violated the zoning code as well as fire safety requirements of the city's housing code and the state building code.

I believe that 1) the owner should be required to apply for a building permit for the work done, that 2) the owner should be required to pay a higher late inspection fee for the egress hazard created by the wall, and that 3) the code office's policy should be to require a permit for all such work in all rental property. I am asking the Board of Public Service to make each of those 3 determinations.

Any person aggrieved has a right to appeal. See footnote #1 for code section stating this right.¹

In the footnotes I have cited City code sections require building permits for the work at 65-57 Maple.²

Permits are required for purposes of building code enforcement as well as zoning enforcement.³

The issue before you is significant. The determination by the Code Office to not require a building permit for the construction of a wall section and the installation of a door and door lock, all for the purpose of converting a parlor into a bedroom, is a policy which, if it were to continue, will make unenforceable critical sections of the new zoning code. The new zoning code springs from the City's Comprehensive Plan in that it made statutory the goals of that plan. One of those goals was the preservation of city neighborhood as a place where families, seniors, young adults, and students could live together in a sustainable mix. That goal was transformed by the new zoning code into the rules and regulations of the R-2 zone and was made explicit in the purpose and intent statement of that zone. 65-67 Maple is located in an R-2 zone. The purpose and Intent of the R-2 zone is stated in the zoning code the section is found in footnote #4.⁴

Non-conforming uses cannot be changed in such a way as to increase the density, intensity, or occupancy. See Code sections governing non conforming uses and non conforming structures at footnote #5.⁵

As you can see from section 300-7 R2A (footnote #4), the intent of this zone is to reduce the number of unrelated individuals (students) and to increase the availability of apartments for seniors and families. This can't be done if no building permits are required to do construction intended to increase the number of students.

This proposal to make an additional bedroom flies in the face of the Comprehensive Plan, the zoning code, and the purpose and intent of the R-2 zone. But more significantly, the determination by the code office to not require a building permit for this wall and door, if unchanged would become a policy that will negate these parts of the Comprehensive Plan and will make these parts of the new zoning code unenforceable. In the R-2 zone there are many, many one and 2 bedroom units in 2 and multifamily houses with other living space like parlors, living rooms, and dining rooms, that could be made into bedrooms with the construction of just a wall and door.

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The code officer made the statement at the May zoning board meeting that he was not requiring a permit because the state code classified the work as a "type 1 alteration" and that no permits were required for type 1 alterations by state law. First of all, the state law does not prevent the city from enforcing its own laws. Second of all this is a not a type 1 but a type 2 alteration, and I believe the state requires permits for them. And third of all, one of the functions of building permits is to allow for the enforcement of local zoning laws (see footnote #3.) In order to do that, I believe that the city law even requires a bldg permit for a change of use where no construction is taking place. In other words, the state law on when bldg permits are required cannot be used to the exclusion of the city law as to when bldg permits are required without some very serious consequences to the city's ability to enforce its zoning code.

There is another very serious reason why a bldg permit should have been required in this case, and this reason also has much broader implications than this one situation. The wall, door, and lock that was constructed reduced the level of fire safety in the apartment.

In order to leave the apartment through the front entrance/exit a person has to pass through the room with the new wall, door and lock; there is no other way to get to the front door. Mr. Lunn's stated intent is to rent the room as a bedroom (on his zoning variance application). The door if locked, or blocked, would obstruct the access to the front exit and the very use as a bedroom would obstruct access to the front exit. Even if Mr. Lunn took off the locking knob, student occupants would likely put their own locks on, because in my experience, that's what they usually do.

Occupant(s) of the one other preexisting bedroom and any other guests have always had access to front and rear exits from the apartment. The occupant(s) of the new bedroom would still have access to the 2 exits. But the occupants of the preexisting bedroom would probably only have access to the rear exit. That in itself is a reduction in fire safety. The configuration of the rear exit — door swing clearance, stair steepness, stair width, stair railings, ceiling height, - are all things that should be looked at before allowing construction. If the policy is to not require building permits in this and similar cases, no such review is provided for.

The owner should be charged the fee for not applying for the building permit before doing the work (the late inspection fee). Imposing the late inspection fee will act as a deterrent to others. Intentional construction of zoning violations without permits happens frequently, especially when there is a lot of money to be gained; rental property owners secretly construct additional bedrooms to increase their income by renting to more students. It doesn't require a large shipment of building materials to build a wall and door, and the work all takes place on the interior of the building where it can't be seen from the outside. The fact that it is so difficult to discover it happening requires that the fine be as much of a deterrent threat to others as possible.⁶ The owner should be charged the late inspection fee at the rate set for work done that increases the fire risk because he reduced the quality of the means of egress.

Footnotes:

1. Any person aggrieved has a right to appeal.

Oneonta Code: Section 86-16 Appeals.

Any person allegedly aggrieved as a result of an action or failure to act by the City Engineer or the City Code Enforcement Officer in regard to a building permit shall have recourse to the Board of Public Service.

2. Building permits are required for the work at 65-57 Maple (I have underlined the pertinent parts).²

Chapter 86 Building Construction, Article III Building Permits

Section 86-10 Requirements: application: exceptions. A. Required. Except as hereinafter provided, no person, firm, corporation, association or partnership shall commence the erection, construction, structural change, enlargement, alteration, removal, relocation, improvement, demolition, conversion or change in the nature or the intensity

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of the occupancy of any building or structure or any portion thereof or install a solid-fuel-burning heating apparatus, chimney or flue in any dwelling unit, or cause the same to be done, without first having obtained a separate building permit from the Code Enforcement Officer for each such building or structure. (See Subsection G for exceptions.)

3. Permits are required for purposes of zoning enforcement.

OMC Chapter 86 Building Construction

Article III Building Permits

Section 86-10 Requirements: application: exceptions

Approval/issuance of building permit. The City Engineer, after determining that such proposed work, use and occupancy are in compliance with all provisions of the City of Oneonta Zoning Code, the New York State Uniform Fire Prevention and Building Code and other applicable provisions of this Municipal Code and New York State housing and building codes, may approve any such application and issue a building permit in connection therewith. An order from an appropriate appeals body excepting the application from any of the above provisions shall be acceptable in lieu of compliance with said provisions. The City Engineer shall refer any application requiring the review of the Common Council, the Zoning Board of Appeals or the Planning Commission to said agency and shall not issue a building permit until their review is completed. Upon approval of the application and receipt of the legal fees therefor, he shall issue a building permit to the applicant....

OMC Zoning Chapter 300: Section 300-4 Definitions

BUILDING PERMIT

A permit issued by the Code Enforcement Officer stating that the proposed use of a building, or of a lot, lots, or portions of a lot, conforms with the uses permitted and all other requirements under this chapter for the district in which it is located, and stating that all construction, relocation or extension of buildings are in compliance with the provisions of this chapter, § 1203.3(b) of the New York State Uniform Code, and with the New York State Fire and Building Code and other regulations.

OMC Chapter 300 Zoning.

Section 300-86 Building permits.

See Chapter 86. Building Construction, Article III, Building Permits, of the City Municipal Code.

4. The purpose and Intent of the R-2 zone is stated in the zoning code.

Section 300-7 R-2 Moderate Density Residential District

A. Purpose and intent. The general purpose of this residential zoning district is to ensure that future residential development respects the scale and character of the neighborhoods. In promoting the general purpose of this chapter, the specific intent of the Moderate-Density Residential District is to:

(1) Provide for a walkable, pedestrian-oriented environment built around the existing mix of single-family, two-family and multiple-family residential dwellings;

(2) Limit commercial or other uses that would substantially interfere with or be detrimental to the character of these residential neighborhoods;

(3) Prohibit additional conversions from single-family homes to two-family or multifamily homes;

(4) Encourage the reversion of previously converted existing multiple-family and two-family homes back to single-family; and

(5) Encourage the conversion of existing higher-density unrelated individual occupancies to senior citizen, family, or adult housing.

5. Code sections governing non conforming uses and non conforming structures.

Section 300-70 Nonconforming uses

A. Changes or modifications.

LL No nonconforming use shall be chanced in any way that would have the effect of increasing the density, intensity, or occupancy of the nonconforming use. Any such change shall only be permitted by the Zoning Board of Appeals using the same criteria used for use variances.

Section 300-71 Nonconforming structures

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Existing nonconforming buildings are buildings which, while they may or may not conform in use, do not conform in one or more area requirements such as: height, setback, yard, lot area, lot dimension, land coverage, off-street parking, loading or similar dimensional requirements of this chapter.

A. Changes or modifications.

(1) Such nonconformities shall not prevent normal maintenance and repair or structural repair as long as maintenance and repair do not increase said nonconformities. Any change or modification to a nonconforming structure, other than to full conformity, shall only be allowed subject to the following:

(a) Such a change or modification should seek to reduce the degree of nonconformity and shall not expand the degree of nonconformity.

(b) Such a change or modification shall not create any new nonconformity; and

(c) Such a change or modification shall be subject to review under Article VII. Site Plan Review and Approval.

300-61 Off-Street Parking and Loading:

F. Nonconforming parking and loading. No building or lot alterations nor change of use shall be allowed which would increase the degree of nonconformity with the off-street parking and loading regulations of this chapter.

6. The owner should be charged the fee for not applying for the building permit before doing the work (the late inspection fee). The owner should be charged the late inspection fee at the rate set for work done that increases the fire risk because he reduced the quality of the means of egress.

Section 86-14 Failure to apply for building permit.

Any person, firm, corporation, association or partnership who fails to apply for a building permit, as required by and in accordance with this chapter, and who proceeds to commence the erection, construction, structural change, enlargement, alteration, removal, relocation, improvement, demolition, conversion or change in the nature or the intensity of the occupancy of any building or structure or any portion thereof or installs a solid-fuel-burning heating apparatus, chimney or flue in any dwelling unit, or who causes the same to be done, shall be required to file the applications and plans and pay the fees as provided in this chapter and, in addition, shall be required to pay a late inspection fee the amount of which is to be set by resolution from time to time by the Common Council of the City of Oneonta.

Chapter 300 Zoning, Section 300-85 L.

Failure to apply for building permit or certificate of occupancy. See Chapter, Building Construction, Article III, Building Permits, and Article IV Certificates of Occupancy and Certificates of Compliance, of the City Municipal Code.”

Chair Merzig stated the board was addressing an appeal related to a building permit for 65-67 Maple Street. She said she had given each board member a copy of the section of the Zoning Code related to building permits, Article III, subsections A & G:

“ARTICLE III, Building Permits [Amended 7-21-1998 by Ord. No. 7-1998]

§ 86-10. Requirements; application; exceptions.

A. Required. Except as hereinafter provided, no person, firm, corporation, association or partnership shall commence the erection, construction, structural change, enlargement, alteration, removal, relocation, improvement, demolition, conversion or change in the nature or the intensity of the occupancy of any building or structure or any portion thereof, or install a solid-fuel-burning heating apparatus, chimney or flue in any dwelling unit, or cause the same to be done, without first having obtained a separate building permit from the Code Enforcement Officer for each such building or structure. (See Subsection G for exceptions.) [Amended 12-4-2001 by Ord. No. 12-2001]

G. Exceptions; building permits not required. Building permits shall not be required for the following:

(1) Replacement of roof surfacing materials with similar materials, replacement of minor segments of roof decking and roof repairs.

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- (2) *Exterior painting, residing of walls and resurfacing of exterior door, window and roof trim; except where such work includes the removal, decrease or increase in size or relocation of windows or doors, the removal of architectural features other than siding or the replacement or covering over of noncombustible material with combustible material.*
- (3) *Replacement windows not involving decrease in size, increase in size or relocation of windows, storm windows openable without tools from the inside and storm doors.*
- (4) *Within dwelling units; painting, wallpapering, finish flooring, ceramic wall and floor tile.*
- (5) *Within dwelling units occupied by a "family" as defined at § 158-7 of the City of Oneonta Housing Code; kitchen cabinet and appliance replacement and door replacement inside of dwelling units.*
- (6) *Insulation.*
- (7) *Porch repairs involving exclusively the replacement of deteriorated elements with similar new elements which are closely similar structurally and architecturally to the replaced elements.*
- (8) *Fences."*

She asked Mr. Friedman to summarize his appeal.

Mr. Peter Friedman stated in summarizing his appeal a lot of information would be lost but because the board had the letters he had submitted he would bring it to point. He said the City Code said that building permits were not needed for replacing or removing doors. He said this situation was not a replacement or a removal of the door but a construction of a segment of wall and putting a door where there never was one. He said the exception did not apply. He said he also listed a number of other issues regarding whether a building permit should be required for this kind of construction in his letter. He said primarily the issue was whether or not the city had any ability if it did not require building permits to control the construction of bedrooms in grandfathered residential buildings, buildings that were two or three family homes or more family homes in single family zones. He said that was why he thought building permits were needed for this kind of work.

Chair Merzig asked if Code Enforcement Officer Chiappisi would like to go over the timeline of his communications with the property owner at 65-67 Maple Street.

Code Enforcement Officer Chiappisi briefly summarized that on April 5th he was notified that work was being performed at 65-67 Maple Street. The contact information for the property owner had not been updated therefore it took a couple days for him to track down the property owner. On April 9th he contacted the property owner Mr. Lunn and asked him to tell him what he was doing. Mr. Lunn told him and he asked Mr. Lunn to stop work until he could look into it further, which Mr. Lunn did. He looked into it further and Mr. Lunn told him he was creating a bedroom and he told Mr. Lunn that was an expansion of use and he needed a variance and with the variance he needed to discuss the parking regulations and he referred him to the Zoning and Housing Board of Appeals. Mr. Lunn applied to the Zoning and Housing Board of Appeals to expand the use. The paperwork was all processed to the Zoning and Housing Board of Appeals, was put on that board's agenda and at the meeting Mr. Lunn asked the board to table his request. In the meantime he had spoken with Mr. Lunn and said if he wished to continue with this work he needed to contact an engineer and needed to have a code compliance review to determine if the work that had been done violated any building codes and if it did Mr. Lunn needed to address those issues in a full report from the engineer. That was pretty much where he left it. Mr. Lunn informed the city that he was withdrawing his application to the Zoning and Housing Board of Appeals. Mr. Lunn was not going to be asking for an expansion of a non-conforming use. Now there was only the building permit and this appeal issue going on.

Chair Merzig questioned if it was appropriate that a stop work order be issued. She said so far she did not see any basis for Mr. Lunn getting a building permit because it was a non-permitted use anyway.

Code Enforcement Officer Chiappisi responded he tried not to use stop work orders. He said he had gone through 125 hours of code training classes when he was initially hired for the position and one

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of the things stressed was voluntary compliance. He said it was much easier to speak to property owners, explain what the rules were and what they needed to do to comply without 'hammers' such as stop work orders, notices of violations and appearance tickets. He said Mr. Lunn never indicated that he was not going to follow his direction. He said in fact Mr. Lunn addressed every issue he had raised with him concerning that property. He said also for the record he would like to state that prior to this incident with Mr. Lunn he met him once 2 years ago when Mr. Lunn was performing as a mandolin player in a local band and he complemented him on his playing. He said Mr. Lunn was not a friend of his. He said the second contact he had with Mr. Lunn was when all of this came up. He said he wanted that on the record because there had been some implications that he was letting Mr. Lunn skirt the rules because he was a friend of his and that was simply not true. He said for the record also this was not only an appeal of a building permit he did not issue. He said he received a letter from Mr. Friedman hereby appealing the issuance of any interim building permits and he also asked him to please provide him with a copy of any building permits seen by the Code Enforcement Office as soon as possible to avoid unnecessary delays of work that we would agree were legitimate. He said he would like to state that it was not Mr. Friedman's purview as a private citizen or a member of this board to review building permits with him or decide what work was legitimate, when, where or how it could be accomplished.

Mr. Friedman asked if he could make a correction of information and said the work was done. He said the door and the wall have already been installed. He said whether or not that was done on April 4th when Mr. Lunn claimed it was not done he did not know but he could probably check his records and figure out when it was done. He said his appeal of building permits was specifically for this property, not for building permits anywhere else because he was concerned that if no building permit was required for this work that other work could be done to the property to do similar things. He said until this issue was resolved he wanted to have that appeal right. He said he also wanted to say that a very similar issue was brought to this board back in 2004 and the board said a building permit was needed and the late inspection fee should be charged. He said he had the minutes from that meeting if the board wanted more information about that.

Commissioner Hayes stated that the board heard testimony from Code Enforcement that Mr. Lunn's application for a variance to the Zoning and Housing Board of Appeals was withdrawn and he questioned what the board was doing here.

Mr. Friedman stated that the work was done. He said Mr. Lunn had withdrawn his application but he still created a wall and a doorway and he was appealing the fact that no building permit was yet required for that and that no late inspection fee was charged against the owner for failing to get a building permit for that work.

Chair Merzig stated the board could certainly direct the Finance Office to assess a late building permit fee. She said that was not a problem but thought the issue here was that according to the Code Enforcement Office they had directed Mr. Lunn to do what the Code directs him to do, which was before he did any work go to the Zoning and Housing Board of Appeals because it was a change of usage. She said that was exactly appropriate. She said there was no basis for Mr. Lunn to get a building permit for something that was not permitted. She said the fact that Mr. Lunn did the work without the permit was certainly a matter before the board but Mr. Lunn would not have gotten a building permit because the work was not permitted. She said Mr. Lunn would have had to get a variance first. She said it certainly was her position that the board could make a motion to direct a late fee and that whatever construction had been done in the house be removed. She said that would be appropriate but she did not think the Code Enforcement Office had erred in this matter because there was no appropriate building permit in this case because would could not get a building permit for something there were not allowed to do. She said that was her interpretation of what has happened here. She said the board appreciated Mr. Friedman bringing up work that should not have been done but she did not think the board had an issue with the building permit in this regard. She

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said Mr. Friedman's comments would be on the record. She said the new code does provide for building permits in this case if it was a permitted use but this was not.

Mr. Friedman stated the purpose of building permits was to determine whether the work was permitted at all as well as whether it was designed appropriately. He said his point here was that if the city did not require that someone apply for a building permit before they do the work whether it was permitted or not the city would not know whether it should deny the permits or not. He said he thought it was faulty reasoning to say no building permit was required because the work was not permitted anyway if they did work.

Chair Merzig stated maybe she misspoke and maybe she should have said no building permit would have been issued for work that was not permitted. She said whether or not he applied for it was Mr. Lunn's problem but Mr. Lunn was not before the board, Mr. Friedman was before the board, She said she felt like the board could take some action against Mr. Lunn for doing work that was not permitted but as far as the building permit Mr. Lunn should have put in an application for a building permit and then the Code Enforcement Office could have told him, which they did tell him without having to put an application in, that he had to go to the Zoning and Housing Board of Appeals. She said the Zoning and Housing Board of Appeals has not made a determination because Mr. Lunn has withdrawn that application and so far no one was hurt here except Mr. Lunn who did construction he should not have done.

Chair Merzig stated she was satisfied with the Code Enforcement Office and their stopping the work that was being done in the house. She said she thought that if Code Enforcement Officer Chiappisi directed Mr. Lunn and Mr. Lunn had complied with going to the Zoning and Housing Board of Appeals and if he had done work in error the board should take action about that.

Chair Merzig asked if any of the board members had questions or comments.

Commissioner Hayes stated he heard the term grandfathered and he asked the Code Enforcement Office to give some guidance on the specifics of the construction.

Code Enforcement Officer Chiappisi stated the specifics of the construction was that there was an opening between 2 rooms that was 50" wide. He said Mr. Lunn probably only framed in one side 8" and the other side at 12". He said the door has since been removed and there was no blocking because of fire safety issues. He said the wall was existing and the doorway was existing and Mr. Lunn just shrunk it down to a legal size. He said there was nothing really to review for a Code review because there was nothing to inspect. He said it was just a small 8" piece of wall and a 12" piece of wall and a 32" opening.

Commissioner Hayes stated he was satisfied with Code Enforcement's testimony.

MOTION, made by Commissioner Hayes and seconded by Commissioner Tisenchek, that the Board of Public Service was satisfied with the testimony heard at the June 7, 2012 meeting from the Code Enforcement Office and based on that testimony the board denies the appeal of building permit requirements at 65-67 Maple Street by Peter Friedman and Marilyn Helterline, 69 Maple Street, Oneonta.

Voting Ayes: Chair Merzig
Commissioner Tisenchek
Commissioner Hayes
Noes: None
Abstain: Commissioner Temming
Recused: Commissioner Friedman

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(Voting) continued

Absent: None

MOTION CARRIED

CORRESPONDENCE

The following Memorandum, dated May 29, 2012, was received from Code Inspector Hester:

“SUBJECT: June Board of Public Service

Unsafe Building Hearings:

1 Fair Street - (Cassandra Gergich: 5981 State Highway 7, Oneonta, NY) - The Code Enforcement Office declared this property unsafe on 4/24/2009 since that time a major fire has destroyed the structure and the Code Enforcement Office would like to request a demolition order from the Board at it's June meeting.

Request for Unsafe Building Hearing:

336-344 Chestnut Street - (Bang Hua Chen: 34 School House Lane, Oneonta, NY) - The Code Enforcement Office would like to hold an unsafe building hearing for this property at the Board's July meeting.

Additional Properties:

13 Baker Street - (Margo Heck: 15 Baker Street, Oneonta, NY) - The Code Enforcement office would like this property added to the Board's June agenda to discuss fire safety and possible remedies in order to gain code compliance.”

NEW BUSINESS

1. Code Enforcement requests a demolition order from the board: Cassandra Gergich – 1 Fair Street
2. Code Enforcement requests discussion of fire safety/possible remedies: Margo Heck – 13 Baker Street
3. Appeal of water/sewer bill: Rachel Lutz Jessup – 27 Luther Street
4. Appeal of water/sewer bill: The Ranaudos – 8 Elmwood Avenue
5. Appeal of water/sewer bill: William Dobbs – 14-20 Cliff Street
6. Code Enforcement requests the board to set an unsafe building hearing for the July 5th meeting for:
336-344 Chestnut Street – Bang Hua Chen

Chair Merzig addressed the remaining items of New Business as follows.

Code Enforcement requests a demolition order from the board: Cassandra Gergich – 1 Fair Street

Chair Merzig stated she would like a review by the Code Enforcement Office first.

Code Inspector Hester presented pictures of the 1 Fair Street property taken prior to the meeting and from the time there was a fire there. He said while at the property did not walk around too much but saw a lot of roofing nails on the ground and glass. He said Code Enforcement Office had sections of temporary fencing in place to secure it off. He said the property has been vacant for quite some time. He said the property had been declared unsafe by the board and there was a fire

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April 16th. He said the pictures indicated the remains of the building and the Code Enforcement Office was looking for a demolition order.

Ms. Gergich stated she was waiting on the insurance on what they wanted to do with it because technically they own it. She said the insurance company, Assurant Security Insurance Company, sent her a letter saying it was in final review and they would let her know in 30 days of what they would do with the house.

Chair Merzig stated the board was concerned generally about the danger to the public. She said the city has temporarily and very minimally secured the building. She asked if Ms. Gergich could do something related to cleaning up the outside.

Ms. Gergich responded she had no money to afford to do that.

Commissioner Hayes questioned how the insurance was involved.

Ms. Gergich responded it was in foreclosure.

Chair Merzig stated so then it was actually the bank who owned the property now.

Ms. Gergich stated the insurance company that sent the letter was part of the bank.

Chair Merzig asked for a copy of the letter.

The following is Ms. Gergich's letter from Jeff Mizgala, Assurant Specialty Property, fax #: 866-728-7098, dated May 18, 2012:

“CASSANDRA G GERGICH

5981 STATE HWY 7

ONEONTA, NY 13820

Insured: CASSANDRA G GERGICH
Additional Name: JP MORGAN CHASE BANK NA
Loan Number: 1024622347
Policy Number: ALR284847002
Claim Number: 00200528315
Date of Loss: April 14, 2012
Property Address: 1 FAIR ST ONEONTA, NY 13820
Cause of Loss: FIRE

This letter is to advise you of the present status of your claim.

At this time, your claim is under final review. We hope to conclude this matter within 30 days.

If you have any other information that you would like us to consider, please contact us. Be sure to include your claim or policy number on any correspondence sent to us. Our office hours are 8 a.m. to 5 p.m. Monday through Friday.

Sincerely,”

Chair Merzig stated the city could send in its own crew to clean up the property and bill it against the property and then the board could send a communication to the insurance company of an order directing them to demolish within that period of time.

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(New Business – 1 Fair Street)

Commissioner Hayes stated that since the fire damage one can see right through this house and he was not comfortable with letting it stay as is much longer because 30 days could turn into 60 or 90. He said if the board had a request from Code Enforcement and he felt the board should do something.

Code Enforcement Officer Chiappisi stated if the board issued an order to demolish he would still have to go to bid for the demolition and go to Finance for the money. He said the whole process was very time consuming and could take a long time. He said it seemed to him that the building should be razed. He said he had not received anything from the insurance company or an engineer saying the building could be salvaged. He said there was damage from the fire to every part of the house.

Commissioner Temming questioned if the city could have better fencing installed around the property to insure safety.

Chair Merzig responded yes and thought the board could do more in terms of security by boarding it up at least at the ground level.

Code Enforcement Officer Chiappisi stated he would like a directive to clean up the property as well. He said he was getting complaints from the neighbors about insulation from the house blowing all over.

Chair Merzig stated she agreed and thought if the main floor was boarded up and the contractor clean up the property the costs would go against the bank.

MOTION, made by Chair Merzig and seconded by Commissioner Friedman, that based on testimony heard and request by the Code Enforcement Office at the June 7, 2012 meeting of the Board of Public Service, the board orders the Code Enforcement Office to have the fire damaged structure demolished at 1 Fair Street, Oneonta, within 30 days. This order is to be sent to the insurance agent and the bank and the property owner, Cassandra Gergich. Furthermore, the board orders the immediate cleanup of the exterior of the property and securing of the exterior of the property.

Voting Ayes: Chair Merzig
Commissioner Temming
Commissioner Friedman
Commissioner Tisenchek
Commissioner Hayes

Noes: None

Absent: None

MOTION CARRIED

Code Enforcement requests discussion of fire safety/possible remedies: Margo Heck – 13 Baker Street

Chair Merzig stated unfortunately 13 Baker Street has been an ongoing problem. She asked Code Inspector Hester to give a brief report.

Code Inspector Hester stated that Code Enforcement goes to the 13 Baker Street property on a regular basis and does maintenance. He said according to the minutes of a 2007 Board of Public Service meeting the board ordered Code Enforcement to clear this property of hazardous materials and ensure that the barn associated with the house was clear of combustibles. Also a housing inspection was required and electrical report was required and he said none of that happened since

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(New Business – 13 Baker Street) continued

2007. He said since there was a fire at the property about 3 months ago he noticed there was a trailer on the property with about a 20'x 20' wide burn in the yard an remnants of the trailer. He expressed concern about a fire in the barn with the combustibles in it. He said he talked to the Assistant Fire Chief recently and he said yes indeed 3 months ago they did have a trailer fire, were called to the property for a structure fire and they were able to put it out. He said the property remains exactly the same as 2007. He said he went by the property prior to the meeting to get more pictures of it but did not because there was someone in the front yard in a lawn chair.

Chair Merzig stated this property was declared unsafe by the board in 2007 and ordered it vacated at that time and the repairs to be made. She said no repairs were made. She said she did not know what more the board could do about this property.

Code Inspector Hester stated the property was supposed to be vacant. He said he did not know who the man was in the front yard at the property.

Chair Merzig stated the property was not yet structurally so bad that it should be ordered demolished but probably the barn was.

Code Inspector Hester stated there was about a 25' section of the rear wall that was caved in.

Commissioner Friedman stated there were combustibles in the barn but as he recalled from years ago the barn was so full one could not really see what else was in there. He said a fire in that barn could result in things burning that could produce toxic fumes whichever way the wind was blowing.

Chair Merzig stated the board did have the barn disconnected from electricity and she asked Code Inspector Hester if that was still so.

Code Inspector Hester responded he would say probably that was true but could not confirm that.

Commissioner Hayes questioned if there had been any correspondence between Code Enforcement and the owner.

Code Enforcement Officer Chiappisi stated that day of all the fires that occurred recently in the city the Mayor had Code Enforcement check on all vacant properties. He said he did the 6th Ward and Margo Heck was at the Baker Street property. He said Margo said she lived in Norwich and told him the Baker Street houses were vacant and had no money to do anything with them.

The board discussed the situation and possible remedies for the safety of this property.

MOTION, made by Chair Merzig and seconded by Commissioner Hayes, that based on the testimony heard at the June 7, 2012 meeting of the Board of Public Service, the board orders Code Enforcement to immediately remove all combustibles from the barn on Margo Heck's property at 13 Baker Street under the board's 2007 motion declaring the barn unsafe and to secure the barn. Furthermore, the board requests a plan for the repair or demolition of the property at 13 Baker Street.

Voting Ayes: Chair Merzig
Commissioner Temming
Commissioner Friedman
Commissioner Tisenchek
Commissioner Hayes

Noes: None

Absent: None

MOTION CARRIED

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Chair Merzig stated this property was to be continued on the board's agenda to see if there was any response from the property owner.

Code Enforcement requests the board to set an unsafe building hearing for the July 5th meeting for: 336-344 Chestnut Street – Bang Hua Chen

Code Enforcement Officer Chiappisi stated this was regarding Motel 88 and the Iron Chef restaurant and bar associated with it on Chestnut Street. He said down in the basement was a big open space and according to a letter dated 2003 from former Code Enforcement Officer Friedman if they wished to use that as a public assembly space there needed to be a code compliant review done and any modifications needed to be done as per an engineer's specifications to bring it up to compliance to use as a public assembly space. He said about a year ago he heard from the police that there was a large party held there of several hundred people. He said he sent the owner a second letter reiterating what the first letter sent said about this was not a public assembly space. He said several weeks later he found posters advertising another party. He said apparently what the owner was doing was renting the space out to DJs and they spread the word to the area colleges and students get bussed in to a party in the basement. He said he brought the poster down 336-344 Chestnut Street and said if this party happens the police will be there. He said they swore to him they knew nothing about it and the party occurred. He said he believed on April 29th there was another party and the police were called apparently because of a fight and he asked Sergeant Pajerski to forward him the report. He said by the time the police arrived there were no charges made, no injured people but they did find blood on the floor and the people were leaving in droves. He said the police found alcoholic punch. He said he wrote the owner another letter and he would like him to address this matter in public. He said he did not want to see that space used again. He said he informed the State Liquor Authority that they were serving alcohol in a space not permitted under the State Liquor Authority permit they received and he asked them to do an investigation. He said quite frankly he thought there was enough police action at that property that should this continue again he would look to have it declared a nuisance property and shut the entire facility down. He said quite frankly the Police Department was tired of it and he feared for the Fire Department's safety should something bad occur there. He said he would like the property owner to come before the board and answer for his actions.

Council Member Palmer stated that property was in her ward and would speak up to that. She said that property has been nothing but problems. She said everything that Code Enforcement Officer Chiappisi said happened.

Chair Merzig stated that the board sets an Unsafe Building Hearing for its July 5, 2012 meeting on 336-344 Chestnut Street as requested by Code Enforcement.

OLD BUSINESS

Administrative Fee Appeal/Unsafe property matter: Edward Whaley - 9 Gardner Place

Code Inspector Hester stated he believed Mr. Whaley had turned in everything on this property that Code Enforcement had requested. He said the work was all done.

Chair Merzig stated that regarding the Administrative Fee appeal the board's position on this property was that Mr. Whaley was not the owner of the 9 Gardner Place property but he had agreed after the death of the owner that he would take responsibility for the property. She said the concern was that the administrative fees against the person who was the owner were no longer valid for the next owner of the property and therefore they could be vacated legitimately according to the City Code.

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(Old Business – 9 Gardner Place) continued

MOTION, made by Chair Merzig and seconded by Commissioner Temming, that in the review of the Administrative Fee Appeal/Unsafe property matter: Edward Whaley – 9 Gardner Place, the Board of Public Service eliminates the two administrative fees with the understanding that 1) the owner of the 9 Gardner Place property was no longer available, and 2) that all the work had been done to satisfy those administrative fees.

Voting Ayes: Chair Merzig
Commissioner Temming
Commissioner Friedman
Commissioner Tisenchek
Commissioner Hayes

Noes: None

Absent: None

MOTION CARRIED

Chair Merzig stated that this recommendation will be sent to the Finance/Administration Committee and the Common Council for their approval or disapproval.

Chair Merzig returned to the following items under New Business.

Appeal of water/sewer bill: Rachel Lutz Jessup – 27 Luther Street

The following was received from Rachel Lutz Jessup, 27 Luther Street, Oneonta, dated May 22, 2012:

“Jim.

Hoping you can help...

I had paid my water bill that last week in April. A couple of weeks went by and the check had not been cashed so I called to inquire as to why...not received....lost in the mail. However...while inquiring about the check I also inquired about the dollar amount of my bill and was told I should get a hold of you.

My bill this year was triple what it has been..almost \$1900. I do have kids...but the same three kids have lived here forever so that hasn't changed. I'm sure we have an occasional toilet runs or a drip at the faucet but I can't imagine that's enough to triple my bill.

When I called in the reading I had mentioned to the clerk that I had a really hard time getting the reading because the glass on the dial was covered with condensation.

SO...before I send a second check for my water bill, I am contacting the water department to see if maybe there is something wrong with the meter.

I was also hoping you could bring this to the attention of the committee that reviews the citizens concerns about the water bills and maybe give me some direction. I would guess that the water department will advise you if there is something wrong with the meter.

Please advise me as to what I should do next. Thanks for your time Jim.”

Chair Merzig stated that the board had received a copy of the Water Department's meter reading card, which she would interpret. She said the water meter was tested and it was within the margin of

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(New Business – 27 Luther Street) continued

error in the low usage and high usage. She said Ms. Jessup now has a new meter. She asked if the Water Department found any leaks when it visited the property.

Ms. Jessup stated that she had not been able to get an afternoon appointment but would continue to try to make that arrangement.

Chair Merzig stated based on the reading 3-20-12 and the new meter installed 5-22-12 that according to that reading at the time the meter was changed the reading was averaging 34,710 cubic feet per year. She said Ms. Jessup went from a usage in 2011 of 18,000 to 46,000 and was currently using 34,000. She said Ms. Jessup had something going on and the meter was functioning. She said with that in mind Ms. Jessup had an option. She said the board could hold this bill for one more month and see what the current usage was and have the Water Department check for leaks and get a report from them. She said Ms. Jessup could have the meter sent out to be privately tested and if it comes back that the meter was not functioning the city pays for the test and adjusts the bill or if it comes back normal Ms. Jessup pays for the testing and the bill stands. She said that was Ms. Jessup's option and she needed to tell the Water Department what she wanted to do. She said her suggestion was to wait one more month to see what Ms. Jessup decides and see what the current finding was by the Water Department in terms of their going in and checking for leaks at no charge.

MOTION, made by Chair Merzig and seconded by Commissioner Tisenchek, that in the review of the water/sewer bill appeal by Rachel Jessup for the property at 27 Luther Street, the board puts the penalties in abeyance until a decision is made at the board's July 5th meeting.

Voting Ayes: Chair Merzig
Commissioner Temming
Commissioner Friedman
Commissioner Tisenchek
Commissioner Hayes

Noes: None

Absent: None

MOTION CARRIED

Ms. Jessup stated she did not know she had this option and appreciated the board taking the time to help her. She said she would follow-up with this.

Chair Merzig stated that if she finds out information in the meantime she would let Ms. Jessup know. She said Ms. Jessup did not need to come back in July.

Appeal of water/sewer bill: William Dobbs – 14-20 Cliff Street

The following was received from William Dobbs, PO Box 7, Prince Station, New York, NY 10012, dated June 6, 2012:

“Board of Public Service

Dear Sir or Madam:

Please consider this letter a request to test the water meter at 14-20 Cliff Street for accuracy. The meter number is 17802608. I am the property owner and concerned about rising usage. I would appreciate a copy of the test results.

Sincerely yours,”

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(New Business – 14-20 Cliff Street) continued

Mr. Dobbs stated he had a copy of the meter card and report.

Chair Merzig stated Mr. Dobbs meter reading cards says that between 1-13-2010 and the end of 2010 the reading was 16,000 cubic feet. She said that was only 11 months. She said the 21,000 cubic feet was 15 months because the prior reading was 12-2-2010 to 2-21-2012. She said it was almost exactly 1.25, which was the 15 months. She said Mr. Dobbs was currently averaging 15,427 cubic feet a year based on when the meter was removed 5-24-2012. She said she thought Mr. Dobbs was back into the standard of what was being used. She said Mr. Dobbs reported to her that he had installed low-flow toilets and that was why before doing that his earlier usage in 2001 and 2004 were over 20,000 and was now down to 12,000 and 14,000 but was going back up again. She said it was her impression that Mr. Dobbs had a small leak plus there was a 15 month period. She said the city did conservation pricing which meant the more water used the more paid by volume plus there was a water rate increase. She said Mr. Dobbs' bill probably jumped based on both of those factors. She said she recommends that the board denies the appeal.

Mr. Dobbs stated he was not appealing anything. He said he was led to believe that he needed to write the board a letter so that he could get the results of the meter test but that was not actually true. He said he just needed someone to go over the meter card in detail with him.

Chair Merzig stated she was surprised because the Water Department was usually very good about that. She said whoever Mr. Dobbs talked to may have been misinformed. She said maybe Mr. Dobbs would want the same service that Ms. Jessup was getting and that if he was going to be in town he could call the Water Department and have them come over to check for leaks. She said that department could also better explain exactly the standard results of the meter test.

Mr. Dobbs stated this really began as just a query of the bill that went up a lot and he knew some of that was the raise in rates and then there was the consumption issue of which some of that was getting unraveled now. He said because the Water Department changed the meter very recently and the report just came in the Finance Department suggested he make an appeal now because the 90 days was almost up to do that. He said it was just a combination of things that brought him before the board. He asked about who to call at the Water Department to make an appointment with.

Chair Merzig suggested he call Debbie DeSilva at the Department of Public Service.

Mr. Dobbs questioned if he was waiving anything by not appealing because he did not know the test results and asked if he could come back.

Chair Merzig responded yes. She said she thought the board could put the penalties on this bill in abeyance until Mr. Dobbs had all the information.

Mr. Dobbs stated he was good for now then. He said he had paid his bill.

Chair Merzig stated that meters on residential properties were read once a year by the city and suggested that in the future Mr. Dobbs check consumption by having someone take a regular meter reading, monthly or every 2 months, etc and call it in to the Department of Public Service and they will give Mr. Dobbs an annual estimate.

Appeal of water/sewer bill: The Ranaudos – 8 Elmwood Avenue

The following was received May 24, 2012 from The Ranaudos, 8 Elmwood Avenue, Oneonta:

“Board of Public Service

We would like to protest our last years' water bill because it tripled and we are both handicapped

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(New Business – 8 Elmwood Avenue) continued

and disabled because of a serious car accident.

Please look into it for us as we cannot afford it to be so high. We had less people living here and it has tripled.

Thanks,"

Chair Merzig stated she had since talked to Debbie DeSilva at the Department of Public Service about this particular property and she said that a lot of people were there and that the Ranaudos had children and grandchildren who were routinely there. She said they estimated the water bill and sent out the bill at 15,000 cubic feet. She said last year it was actually higher at 22,000. She said this meter read regular. She said she did not think there was any basis for an adjustment.

MOTION, made by Chair Merzig and seconded by Commissioner Hayes, that in the review of the water/sewer bill appeal by the Ranaudos for 8 Elmwood Avenue, Oneonta the board denies the appeal based on the information provided and that the increased water rates may be attributable. Furthermore, any penalties to be held in abeyance to give the Ranaudos time to pay the bill and ask them to call in a meter reading within 60 days to check on their usage and request to have the house checked for water leaks.

Voting Ayes: Chair Merzig
Commissioner Temming
Commissioner Friedman
Commissioner Tisenchek
Commissioner Hayes

Noes: None

Absent: None

MOTION CARRIED

Mr. Peter Friedman stated he would like to clarify that he appealed two things. He said one was the failure to require a building permit and failure to fine the owner of 65-67 Maple Street for not getting a building permit. He said he did not appeal yet the allowing of the wall and door to remain. He asked if that was part of the decision to allow that to remain because the motion was kind of a general approval of what Code Enforcement Officer Chiappisi had said and one of the things he had said was that the owner had removed the door and he thought he said he was not requiring the wall to be removed. He said if that was not part of the decision he would appeal that at the next meeting.

Commissioner Tisenchek suggested that Mr. Friedman do what he had to do.

Chair Merzig stated she thought basically the board did decide that the wall could remain. She said that was new information to her at the very end of Code Enforcement Officer Chiappisi's comments. She said she thought generally the board did not want to harass the Code Enforcement Officer for decisions that apparently were not done outside of his purview. She said there were not incorrect decisions. She said in her estimation the only incorrect decision was that he did not tell Mr. Lunn to go to the Zoning and Housing Board of Appeals and find out whether he could do anything. She said Mr. Lunn had an engineer look at the renovations inside the house and apparently fire safety was okay. She said she did not know what else the board could decide. She said the board was not going to micromanage the Code Enforcement Office.

Mr. Friedman stated but the decision that was made was in effect that if you are going to do something that was not permitted by the Code don't apply for a building permit, just go ahead and do it.

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(Discussion on Mr. Friedman's appeal) continued

Chair Merzig stated no, she did not think that was what the board's decision was.

Mr. Friedman stated that was the way he thought it would be read.

Commissioner Tisenchek questioned if this work was inside.

Mr. Friedman responded yes, it was in an apartment in a three-family house. He said the Code was clear that building permit was needed for this and the decision of this board and the advice of the City Attorney back in 2004 was a building permit was needed for this.

Chair Merzig stated she thought the decision by the Code Enforcement Office was to go to the Zoning and Housing Board of Appeals before the building permit. She said meaning don't apply for a building permit until getting a variance from Zoning. She said she personally thought that the sequence of events was appropriate. She said if Mr. Lunn had not gone to Zoning and obviously he was doing work in the house he probably needed a building permit. She said if Mr. Friedman wanted to appeal the lack of a fine the board might agree with him because doing work probably required a building permit but she thought the Code Enforcement Office took the position Mr. Lunn was not doing the work and he should go to the Zoning and Housing Board of Appeals first.

Mr. Friedman stated that Mr. Lunn had already done the work.

Chair Merzig questioned how was that determined. She said he probably should have gotten a building permit but that was not the Code Enforcement Office fine problem, that was Mr. Lunn's problem. She said if Code Enforcement wants to fine Mr. Lunn maybe the board could do that but she did not think that not getting the building permit was a failure on the part of Mr. Lunn.

Mr. Friedman stated he did not see that at all. He said he did not understand how it cannot be a failure on the part of Mr. Lunn to not get a building permit if he needed one.

Chair Merzig stated if Mr. Lunn needed one he should have gotten one. She said Mr. Friedman was appealing the decision by the Code Enforcement Office and the board's position was that the Code Enforcement Office was making the right recommendations to the property owner. She said the fact that the property owner went ahead and did something he should not have done was property owner's problem, not the Code Enforcement Office's problem.

Mr. Friedman stated he sees and so the door was open for him to appeal Mr. Lunn's not getting a building permit.

Chair Merzig responded yes.

Mr. Friedman stated he did not think he could do that and could only appeal actions of the Code Enforcement Officer, not appeal actions of property owners.

Chair Merzig suggested instead of an appeal Mr. Friedman ask the Board of Public Service to direct the Code Enforcement Office to levy an administrative fee against Mr. Lunn for not getting a building permit. She said the administrative fee was under the purview of the Board of Public Service.

Chair Merzig stated her comment was that she did not want to not support the Code Enforcement Office anymore than she did not want to not support that office when Mr. Friedman was the Code Enforcement Officer. She said things happened then that Mr. Friedman did not know about and he took action and the board did not want to second guess the Code Enforcement Officer when he apparently was in communications with property owners and getting things done. She said she

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(Discussion on Mr. Friedman's appeal) continued

thought that was the position of the board and why the board did not rule in Mr. Friedman's favor because the board did not want there to be animosity between the Board of Public Service and the Code Enforcement Officer unless it was absolutely justified. She said in this case she thought the Code Enforcement Office took the proper steps and it was Mr. Lunn who did not do what he should have done. She said if a way could be figured out to do something with Mr. Lunn about this that was fine with her and the board because the board never wants work being done in rental properties that violates the Code but the board can't hold the Code Enforcement Office responsible for work that was being done outside of their knowledge. She said the board was glad Mr. Friedman brought this matter forward and obviously Mr. Lunn was not going to put in another bedroom where he was not allowed to. She said Mr. Lunn did not get Zoning and Housing Board of Appeals approval. She said Mr. Friedman was successful.

Mr. Friedman stated he did not think that was true and thought that he was not successful. He said he thought that Mr. Lunn could apply for that zoning variance at any time. He said he also thought that Mr. Lunn could put a door in that opening at any time and nobody would know about it. He said the way he knew this was if one looks at the records for a property on Dietz Street that was denied the right to have an additional bedroom back in 2004 the property was inspected on 3 different occasions since then and each time it was accepted as a 3-bedroom apartment. He said it got lost and that was the same thing that will happen here he believed. He said he thought that a stronger action on behalf of the owner-occupant residents that live around rental properties to control what happens in the expansion of non-conforming uses and of the numbers of unrelated individuals was very important. He said what he saw happening was that because of this decision by the board that will not happen.

Chair Merzig stated she disagreed with Mr. Friedman but she too saw the danger. She said she owned property across the street from a rental property where the use was expanded a number of times and now it was a non-conforming use. She said it was a horrible property and any day it was going to have more people living there unknowingly by bad landlords. She said that happened long before Code Enforcement Officer Chiappisi was in position. She said it was something the city had to be vigilant about and now with the new Code that did not allow that there were at least remedies. She said she thought there was the opportunity now to fix some things that were allowed before but she did not know that this was the way to do it. She said she thought the board could consider at its next meeting in July assessing some kind of fee against Mr. Lunn and discouraging him from taking the action he did without a building permit.

Mr. Friedman stated he did not think this board could levy a fee unless it was brought to them by the Code Enforcement Office.

Chair Merzig stated maybe they could get the Code Enforcement Office to bring it.

Mr. Friedman stated the issue of removing the wall that was constructed, he asked if that was decided on or not.

Chair Merzig responded she did not think it was generally decided on.

Commissioner Tisenchek stated someone had to find out what to do right. He suggested that Mr. Friedman do what he had to do.

Mr. Friedman questioned if he could appeal not requiring that the wall be removed.

Chair Merzig responded yes.

Commissioner Tisenchek stated as it was when Mr. Friedman was Code Enforcement Officer the

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(Discussion – Mr. Friedman’s appeal) continued

board would have to back up the Code Enforcement Office, which had always been right as far as the board was concerned.

Mr. Friedman stated he understands the board doing that but it was such a contentious position to be in all the time for the Code Enforcement Officer on the one hand but this was a matter of policy.

Chair Merzig stated it was but this board did not set policy.

Mr. Friedman stated but when the board supports the wrong policy, which he thought this decision had done it did affect policy.

There being no further business to come before the board, Chair Merzig adjourned the regular meeting at approximately 5:00 p.m.

JAMES R. KOURY, City Clerk

JRK/pab