

A New Castle City Board of Building Appeals took place on December 14, 2009 at 7 p.m. in the City of New Castle's Town Hall.

Members Present: Tim Johnson, Acting Chairperson
Lynn Sheridan
Angela Marconi
David Connell

Member Absent: Patrick Kirkley, Chairperson

City Staff: Jeffrey Bergstrom, Building Official

Acting Chairperson Tim Johnson called the meeting to order at 7:10 p.m. Roll call was taken. The City Ordinance pertaining to these matters requires this Board to meet.

Mr. Bergstrom confirmed that an application and copies of certified letters for all the properties on the agenda were introduced.

(All parties providing testimony were sworn in by Mr. Johnson.)

30 Juniper Street – Mr. Bergstrom stated that this property has been vacant since 11/19/1992. No one was present to dispute the vacancy. The property has been extensively restored with the exception of the railing on the front and is now on the market for sale. He recommended granting a one (1) year extension to allow the owners to waive paying the fee and sell the property.

Ms. Sheridan made a motion to grant the waiver on 30 Juniper Street based on Mr. Bergstrom's testimony. Mr. Johnson seconded the motion. The motion was adopted by unanimous vote.

123 Delaware Street – Mr. Bergstrom said the property became vacant when utility use dropped on 1/29/03. Mr. Mark A. Cronin, Esq. appeared on behalf on his mother, Anne Cronin, owner of the property. He has explored selling the house but is now leasing the property and is in the process of refurbishing the property. There was a water break in the house in 2003, but the plumbing has been repaired. The ordinance in question was unknown to the owner and Mr. Cronin until this year. Mr. Cronin said that the future tenants are living in the house on weekends and helping with fix ups to keep the rent at a low rate. The property should be ready to be lived in full time in January 2010. He produced a signed lease (dated 11/2/09) for the Board. Outstanding taxes on the property will be addressed before the end of 2009. Mr. Bergstrom noted the property is beautiful but is in need of attention. The owners have worked through the process and he recommends approving their request. In his opinion there are minor renovations left to be made.

Ms. Sheridan made a motion to approve a waiver on this property based on the testimony of Messrs. Bergstrom and Cronin. Mr. Johnson seconded the motion. The motion was adopted by unanimous vote.

200 West 9th Street – Sean Tucker, counsel for Walnut Hill LLC, appeared before the Board. His client purchased the property on 5/13/08. (A copy of the deed was given to each Board member.) Mr. Bergstrom noted the property became vacant on 12/26/1996 when utilities were disconnected. Several attempts at restoration were made up to that date. Mr. Tucker stated his client purchased the property to renovate, restore, and rehabilitate the property. Mr. Bergstrom notified his client about 2-1/2 months after his client obtained the property that by statute he was required to send notice that \$6,000 was due under the abandoned property statute. The ordinance provides for an opportunity to apply for a temporary waiver. Under Ordinance 451(E), a one-time waiver of a registration fee may be granted provided certain criterion is met.

Mr. Tucker informed the Board that about a month before the property was purchased his client contacted him that he was approached about what development options were available for the site, the engineering firm of McBride and Ziegler was contacted, and several concept drawings were created. One of the hurdles his client faced was the lack of a redevelopment option in the City's current zoning code. The City's Comprehensive Development Update does provide a redevelopment option and the City is waiting for certification from the State of Delaware so an ordinance can be introduced to permit redevelopment of the property. The approved City Comprehensive Plan specifically identifies this property as one of the properties earmarked for redevelopment. The owner cannot move forward with the redevelopment plan until the Comprehensive Plan is certified and the ordinance is adopted. No building permit can be obtained until the Comprehensive Plan is certified and the ordinance is adopted. The certification of the Comprehensive Plan is imminent.

Mr. Tucker requested they be given six (6) months from the date of the building permit to demolish and begin the reconstruction of the site as they planned. They cannot control the date that they can obtain the building permit because the redevelopment ordinance is tied to the Comprehensive Plan certification. It is believed this certification will be received in 2010. He further requested the waiver recognized in the ordinance to allow the owner time to get there without being penalized in the interim.

Mr. Bergstrom said he supports the Board granting whatever relief it decides to allow this to go through. He recommends granting of the waiver. The City does not want to see the property sold and start the process over again. We have someone who is capable of redeveloping the property.

(Discussion about the Comprehensive Plan and sub-division of the property or type of structure on the property followed.)

Mr. Tucker noted that when redevelopment ordinances are adopted then what is on the ground is typically 'grandfathered' and if something is demolished what is already

there you lose the right to reestablish some of the non-conformities. If they are not grandfathered in to some of the non-conformities the redevelopment won't work. As soon as he has a sense that the ordinance is going to pass, his client is ready to start moving forward on the project.

Mr. Connell asked if one (1) year is enough time. Mr. Tucker responded that everything depends on when the ordinance is approved. Once that happens his client will be ready to move. His client would be willing to reappear before this Board if problems arise.

(Mr. Bergstrom informed the Board of their options that includes making a recommendation to City Council.) (Additional discussion about non-conformities followed.)

Mr. Connell asked what happens if the Comprehensive Plan is not approved by the State. Mr. Tucker said that they have returned plans to a municipality for remedial action but ultimately the plan is certified. He is unaware of any plan that has not been certified. Mr. Bergstrom does not expect any problems with the plan being certified.

Ms. Sheridan asked Mr. Bergstrom if he had seen any proposed plans or if he has any problems with what is being proposed for the site. He has not seen any plans but agrees in concept with what they have planned; it matches the surrounding community. Her concern is with people who put plans before the City and are still working on them two (2) years later. Addressing Ms. Sheridan's concern, Mr. Tucker said his client will need to apply for a building permit within thirty (30) days of the ordinance being adopted.

Mr. Johnson made a motion to grant a one (1) year waiver with the condition that they will apply for a building permit within 30 days of the ordinance passing. If there is no progress at all on the property in one (1) year they will reappear before this Board. Mr. Connell seconded the motion. The motion was adopted by unanimous vote.

618 Clark Street – Mr. Bergstrom reported that this building has been vacant since 2/22/05; however, utilities are still functioning. Ms. Linda Crocket, property owner, informed that a new roof and heat pump (with air conditioning) have been installed. Electrical work and plumbing work remain to be done. All the windows are new. Ms. Sheridan asked for a timeframe to complete the work. Ms. Crocket said the work should be done in less than a year. In order to finish the work she is asking for a waiver. She is doing the work as funds become available. Mr. Bergstrom reminded that the intent of this ordinance is to improve these types of homes.

Mr. Johnson made a motion to grant a one (1) year waiver. Mr. Connell seconded the motion. The motion was approved by unanimous vote.

Mr. Connell lives in the area and is a licensed electrician and would be willing to answer questions Ms. Crocket may have concerning the electrical work to be done. Ms. Crocket asked when the one (1) year waiver begins. She was instructed to contact the City Solicitor for this information.

706 Clark Street – Mr. Elmer Walling appeared as representative for his mother who owns the property. She has dementia and he is in the process of obtaining guardianship of her estate. He intends to sell the house at that time. He said he has several potential buyers of the property in its current state who want to fix it up. He anticipates meeting the one (1) year timeframe if a waiver is granted. Mr. Bergstrom said the house does need work. The house has been vacant since 5/16/06 when utility usage stopped. Ms. Sheridan was concerned that a future buyer of the property can seek another waiver. Mr. Bergstrom noted that the property is eligible for a one-time waiver but not the owner. He added that this is the law and is not intended to be a revenue-making measure; rather, it is supposed to encourage redevelopment of these types of properties.

Mr. Connell made a motion to grant a one (1) year waiver. Mr. Johnson seconded the motion. The motion was approved by unanimous vote.

110 East 4th Street – Mr. Bergstrom informed that this property has been vacant since 2/27/1998. It was in someone else's ownership for most of this time until Mr. Joseph Selvaggi bought the property. Mr. Selvaggi lives at 125 East 4th Street. Since purchasing the property he has removed the overgrown vegetation around the house, removed trash, and has done cosmetic work to the exterior. He has an application submitted to the Historic Area Commission to rebuild the property. HAC has agreed in concept but additional plans/drawings must be submitted to them. He has invested in architect and surveyor fees. He requested a waiver to continue making the necessary renovations. It remains vacant until renovations are complete. He has paid all taxes on the property. Mr. Selvaggi said he has received concept approval for demolition from the HAC. He does plan on demolishing the entire building because part of the foundation is not deep enough. Mr. Bergstrom added that even if Mr. Selvaggi doesn't do immediate reconstruction he can demolish the structure and make the one (1) year timeframe. Ms. Sheridan said he meets the ordinance by moving forward.

Ms. Sheridan made a motion to grant a waiver for a one (1) year. Mr. Johnson seconded the motion which was approved by unanimous vote.

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There being no further business before this Board the meeting was adjourned.

Respectfully submitted,

Debbie Turner
Stenographer