

BEFORE THE CITY OF GREENSBURG ZONING HEARING BOARD

In the matter of:  
Square One Property Solutions, LLC

Appeal:  
Decision of the Zoning Officer

Property Location:  
334 Harrison Ave

Hearing Date:  
August 17, 2016

PROCEDURAL BACKGROUND

The application dated June 27, 2016 by Square One Property Solutions, LLC of 334 Harrison Avenue is requesting an Appeal of a Decision of the Zoning Officer in regards to the *Notice of Code Violation and Order to Abate* issued on the subject property dated May 26, 2016 in regarding the denial of the nonconforming use as it relates to this property due to abandonment. Property owner wishes for the Zoning Certificate dated March 4, 2015 to be valid and is requesting that the Zoning Hearing Board allow the nonconforming use of four (4) units in the front dwelling and three (3) units in the rear dwelling be permitted to continue. Subject property is zoned *R-2 General Residence District*.

Members of the board present: Charlotte Kuhns Chairwoman  
Barry Gaetano  
Patsy Iapalucci  
Jon Hillwig  
Justin Calisti

Also Present: Pete Cherellia, Esq., Acting Solicitor

Absent : Lou DeRose, Solicitor  
Barbara J. Ciampini, Planning Director

Charlotte Kuhns introduced the Board Members present and advised all persons present who planned to participate in the scheduled hearing to stand and be sworn in.

There were no objections to advertising or procedure at the onset of the hearing. Barry Gaetano motioned to table the appeal until the September 21<sup>st</sup> meeting. Jon Hillwig seconded the motion. All were in favor.

## DISCUSSION

This hearing is a continuation from the July 20<sup>th</sup>, 2016 hearing. The property is located at 334 Harrison Avenue, Greensburg, PA 15601. The property owner Square One Property, are requesting an appeal of a decision of the zoning officer in regards to the *Notice of Code Violation and Order to Abate* issued on the subject property dated May 26, 2016 signed by Barbara J. Ciampini, Planning Director, in regarding the denial of the nonconforming use as it relates to this property due to abandonment. Property owner wishes for the Zoning Certificate dated March 4, 2015 to be valid and is requesting that the Zoning Hearing Board allow the nonconforming use of four (4) units in the front dwelling and three (3) units in the rear dwelling be permitted to continue. Their lot is 50 x 100 or 5,000 square footage. Subject property is zoned *R-2 General Residence District*.

Charlotte Kuhns: Is there anyone here on behalf of Square One Properties?

Jaimee Frohlich: Yes. Jaimee Frohlich.

Pete Cherellia: Would you stand please?

Charlotte Kuhns: And state your name please.

Jaimee Frohlich: My name is name Jaimee Frohlich. I'm a member of Square One Property Solutions, and we have several questions if you're available for that. From what I understand, on February 9, 2015, Dave, an inspector for the City of Greensburg noted the subject property to be residential seven (7) units total.

Pete Cherellia: Excuse me; would you give us your position with Square One?

Jaimee Frohlich: I'm managing member.

Barry Gaetano: Does that mean that you're an owner?

Jaimee Frohlich: Yes.

Pete Cherellia: And you have the authority to speak on behalf of Square One?

Jaimee Frohlich: Yes there are three (3) of us. Mmhmm.

Pete Cherellia: Okay, thank you.

Jaimee Frohlich: Um, where was I, 16 violations were described, none of which were zoning. A City of Greensburg residential tenant listing was provided as a notice, as was the notice of the application for occupancy permit for residential rentals. Okay, so that was in February. We were not made aware of any

violations. We were not made aware that it was not a seven (7) unit, in fact we were informed that it was a seven (7) unit.

Pete Cherellia: Well ma'am, wait a minute.

Jaimee Frohlich: We might as well go ahead since we are here.

Pete Cherellia: Well ma'am, it was my understanding in speaking to your council that you wished to have a continuation of this hearing. Is that what you want to do today?

Jaimee Frohlich: You know what? I'm here and everybody else is here, so you may as well listen.

Pete Cherellia: Well will this be the final hearing then, ma'am?

Jaimee Frohlich: I don't know, it depends on if a decision is made.

Pete Cherellia: I would advise you that the board does not have to make a decision today. They have up to 45 days after the final hearing to render their decision.

Jaimee Frohlich: Okay, well then let's just go with the continuance.

Charlotte Kuhns: Okay, so you're requesting a continuance until—okay, I recommend that we do grant a continuance.

Barry Gaetano: I have a couple of questions.

Charlotte Kuhns: Oh, okay.

Barry Gaetano: I have a couple of questions. The last conversation that we had here at the zoning meeting was that you folks were going to come back to us—you understood the position that we're holding on this property.

Jaimee Frohlich: No, not really.

Barry Gaetano: Well that was our understanding from our last meeting, and they were going to come back with some other options that they would want us to consider.

Jaimee Frohlich: Okay.

Barry Gaetano: So, is that something that you folks have evaluated?

Jaimee Frohlich: Yes, we were ready until we found out that the two (2) significant people were not going to be here today.

Barry Gaetano: Okay, I'm not sure what the significance of the significant people are, but I think the board is the board and whether Barb's not here and whether we have an acting solicitor, I don't know I'm sorry, but I'm not sure what that means. One (1) of the requests that I had was that between now, or between then and now, you folks would take care of any kind of rodent issues. My question is, has that happened, because I understand there's a violation that was filed August the tenth stating that there were some issues that needed to be addressed. My question is, has that been addressed?

Jaimee Frohlich: We had it inspected by Terminix, and there are no rodent problems from what they tell me.

Barry Gaetano: Okay.

Jaimee Frohlich: I don't know who feels that there is a rodent problem, and those people I don't understand why they wouldn't want us to repair this property so there isn't a rodent problem and make it livable instead of being a condemned property.

Barry Gaetano: So my question though to you is, the violations that were filed on August 10<sup>th</sup>, I mean to show us—no, but my question is, in good faith have you folks addressed those issues?

Jaimee Frohlich: I believe my partner has, he said he sent Terminix out there.

Barry Gaetano: Okay, well there was more than just—I guess what I'm trying to understand it—

Jaimee Frohlich: What violations? What violations? I'm sorry I'm not sure I know what violations you are talking about because there were 16 violations on the last notice, and we can't address any of them because we're not allowed to build on the property. So, no.

Pete Cherellia: Just so you're aware at the next hearing, which will be on September 21<sup>st</sup> at 4 o'clock, that these may be issues that you will asked to address.

Jaimee Frohlich: Okay, I don't have an August 10<sup>th</sup> Violation Notice of Order.

Charlotte Kuhns: Can we get her a copy of this?

Jaimee Frohlich: Thank you. Well as I said, our position is that—

Barry Gaetano: Are we asking for—You're asking for a continuance.

Pete Cherellia: A continuance. I think we should just go with that and present the testimony on the whole matter next month.

Jaimee Frohlich: Okay, are visitors allowed to speak?

Barry Gaetano: If we're going to continue the hearing, we're not going to have a hearing.

**\*\*Incomprehensible discussion between audience members and Jaimee Frohlich\*\***

Jaimee Frohlich: We were prepared, because two (2) people aren't here, the Solicitor and the Director, who know a lot more about it.

Barry Gaetano: I think we can hold the hearing.

Patsy Iapalucci: I agree with you, Barry. I agree to continue with the hearing. Make the decision of what we are going to do.

Charlotte Kuhns: Alright, alright. We'll hear your—

Barry Gaetano: Well, I don't know if you're requesting a continuance of not.

**\*\*Incomprehensible arguing between audience members and Jaimee Frohlich\*\***

Pete Cherellia: Whoa, whoa, whoa.

Jaimee Frohlich: I'll fix it as good as I can, just let me on the property. If you don't let me on the property I can't fix anything.

Barry Gaetano: Ma'am, I don't think you're restricted from being on the property.

Jaimee Frohlich: We can't do any building, we can't fill any holes, we can't put any windows in—

Patsy Iapalucci: Yes you can, the windows were agreed about at the last meeting.

Barry Gaetano: Absolutely.

Patsy Iapalucci: They can put the windows in, and you don't even need a permit because they're not changing anything. It's just putting new windows in. Am I right?

Charlotte Kuhns: Yes.

Jaimee Frohlich: Well let's put it this way, we're not going to spend the \$12,000 to put new windows in if the property is not going to be a seven (7) unit property. In February of 2015 when we started looking at this when we wanted to purchase it, I checked with the zoning board and got a zoning certificate stating it was a seven (7) unit legal non-conforming use. I got a second notification from the inspector saying it was a seven (7) unit legal non-conforming use, and he gave me the violations so I would know what I would have to do to fix that property up to make it profitable.

Pete Cherellia: Well ma'am, we're not going to argue—

Jaimee Frohlich: And then you tell me it's no longer zoned legal non-conforming, how can that happen? I bought the property based on fact that two (2) people from this town, this city's zoning department told me it was a seven (7) unit property.

Pete Cherellia: Ma'am, that's testimony that you can provide at the hearing with your counsel, okay? You requested a continuance that the board—

Jaimee Frohlich: Right.

Pete Cherellia: Is there a motion from the board?

Carrie Hamley: Wait.

Pete Cherellia: I don't think she was sworn in.

Barry Gaetano: I don't think they were here—

Charlotte Kuhns: Yes she was.

Carrie Hamley: I shared my piece at the last meeting, thank you for that.

Barry Gaetano: You have to say who you are.

Carrie Hamley: My name is Carrie Hamley, I live at 338 Harrison Avenue. Our properties touch, and when I say they touch like their wall is on our property line. What I would to address is the porch that was built without permits. I understand that they have until September 15<sup>th</sup> to bring it down, and I just wanted to address that public and see if that if that is indeed something they are working towards.

Pete Cherellia: Ma'am, that's not something that's before us at this time.

Carrie Hamley: Okay.

Pete Cherellia: We're only here on the matter of their appeal.

Carrie Hamley: Okay.

Pete Cherellia: And, that may be addressed in September.

Charlotte Kuhns: Does anyone have any questions, or I'll make a motion to continue it on September 24<sup>th</sup>.

Pete Cherellia: The 21<sup>st</sup>.

Charlotte Kuhns: Oh, I'm sorry the 21<sup>st</sup>, September 21<sup>st</sup> if that's agreeable with everyone.

Barry Gaetano: I guess I'm frustrated because I was under the understanding that they were going to bring us some options to consider. I take offense to the comment that the two (2) main people are not here. I think the board sits as a board and we make decisions for the City of Greensburg as the board, so I take offense to that comment.

Jaimee Frohlich: Well, I apologize. It was your acting solicitor that told me it would be better to postpone and ask for a continuance.

Pete Cherellia: Well whenever your attorney told me that she wanted Mr. DeRose and Ms. Ciampini here, the only thing I said was that you would have to come and request a continuance to the board, and it would be up to them to decide if they would agree or if they did not agree.

Charlotte Kuhns: Well, what do you want to do?

Patsy Iapalucci: I say don't give it to them.

Charlotte Kuhns: The continuance?

Barry Gaetano: Yeah, that way they can't come back and say—

Patsy Iapalucci: I say don't give it to her. Now that we're here, let's have it, let's go through with it.

Jon Hillwig: It's up to her if she wants to continue.

Barry Gaetano: We have a motion to continue.

Pete Cherellia: There's a motion to continue. Is there a second to that motion?

Barry Gaetano: I'll second it.

Charlotte Kuhns: Alright, we need a roll call if we're going to continue.

Amy Bayura: Patsy Iapalucci?

Patsy Iapalucci: No.

Amy Bayura: Jon Hillwig?

Jon Hillwig: No.

Amy Bayura: Barry Gaetano?

Barry Gaetano: Yes.

Amy Bayura: Justin Calisti?

Justin Calisti: No.

Amy Bayura: Charlotte Kuhns?

Charlotte Kuhns: Yes.

**\*\*Roll call led to Patsy Iapalucci, Jon Hillwig, and Justin Calisti saying NO to the request for a continuance, and Barry Gaetano and Charlotte Kuhns saying YES to the request for a continuance. Motion fails.\*\***

Charlotte Kuhns: So, that's three (3) out four (4)—

Barry Gaetano: We have to have the hearing.

Charlotte Kuhns: Three (3) of the five (5).

Pete Cherellia: Ma'am, your motion for continuance has been denied, and I guess we will proceed with the hearing.

Charlotte Kuhns: So, if you would like to get up and state to us the facts that you came with we would be happen to listen to them.

Jaimee Frohlich: Without legal representation—

Pete Cherellia: Ma'am I will tell you though, at the end of the hearing, if you have further testimony or you believe you have further testimony that you want to present, you could again ask for the hearing to be continued until next month to present any additional testimony.

Jaimee Frohlich: Okay.

Pete Cherellia: Again, state your name for the record.



Jaimee Frohlich: Jaimee Frohlich. I am a member of Square One Property Solutions, an LLC, and we purchased 334 Harrison Avenue back in May, I believe, from the owner at the time. Prior to purchasing the property, we did our due diligence and contacted Barb at the zoning board, and she indicated that it was a seven (7) unit, legal non-conforming use. She issued a certificate, and I have that certificate here. Then we had Dave Wodo—I'm not sure how to say his last name—Dave, the inspector go out and look at the property for us and he gave us a list of 16 different violations, you know that the property needed to be fixed up, and that was so that I understood the condition of the property and what we would need to do to have it occupied. On his report, he indicated that it was four (4) units in front, and three (3) units in back, legal non-conforming use. We bought the property based on those two (2), the certificate, the zoning certificate and the inspection indicating seven (7) units. We purchased the property and we got a mortgage on it, a \$200,000 mortgage to fix it up, and do all the renovations to completely gut it out and add everything brand new; siding, windows, roof, bathrooms, kitchens, everything, so we'd have a seven (7) unit. Then we were told we got an order to abate.

Charlotte Kuhns: Let me ask you, the person who was doing the work for you, did he not know that he would need permits to do that? I mean to me that's just—

Jaimee Frohlich: He didn't do anything yet. All he did was take out the refrigerators and the stoves and things.

Charlotte Kuhns: They built a deck on the back. They said that—

Jaimee Frohlich: They said what?

Charlotte Kuhns: That there was work done there.

Jaimee Frohlich: Oh, well what they did was they built it up, because they had to access the second and third floors to get the stuff out when we had the dumpsters. So yeah, they made it safe for the workers to go in and out, but that's it.

Charlotte Kuhns: Okay, okay, but they did not know that they needed permits to do any kind of work?

Jaimee Frohlich: He came here four (4) times.

Charlotte Kuhns: And he was not—

Jaimee Frohlich: They said we didn't need the permit until we started building.

Charlotte Kuhns: Okay.

Jaimee Frohlich: And they would have been here today, but we thought we were continuing. He was here on the last hearing date, and he indicated that he came down four (4) times to ask. He also came down to ask if he needed a permit to put a dumpster out, and he was told no just when you start to build.

Charlotte Kuhns: Okay.

Patsy Iapalucci: I have a question for the solicitor. Isn't there some kind of law that she keeps saying when they bought the house, if it was a seven (7) unit when they bought it—I think if that house was abandoned two (2) or three (3) years whatever it was, that went out the door.

Pete Cherellia: That is one (1) of the issues that the board has to decide, okay?

Jaimee Frohlich: But your zoning director didn't know that, and your inspector didn't know that.

Pete Cherellia: The board has to decide. One (1) of the issues is, is there a continuing non-conforming use or not, or has it been abated because of the time lapse.

Jaimee Frohlich: Okay.

Pete Cherellia: That's something the board will have to decide after all the testimonies, yes.

Jaimee Frohlich: I mean as a citizen, I got both an inspection and a certificate, a zoning certificate, saying it was seven (7) units. I bought it on good faith. The individual that sold it to me advertised that it had a good rental history, so I had no idea that it had been abandoned, okay? So I relied on your zoning director and your zoning inspector, and I bought the property.

Charlotte Kuhns: Did you go and look at it?

Jaimee Frohlich: No I didn't.

Charlotte Kuhns: I mean you said you relied on good faith.

Jaimee Frohlich: No I never did.

Charlotte Kuhns: You never went to look at it to see the property.

Jaimee Frohlich: No.

Charlotte Kuhns: You just bought it on what people told you?

Jaimee Frohlich: Mmmhmm. I saw pictures of the outside. That was advertised in the multi-list, the real estate listing.

Charlotte Kuhns: Okay.

Patsy Iapalucci: And if you're granted this seven (7) unit, where are you going to put all of these cars?

Jaimee Frohlich: Well, we're going to build three (3) inside spaces in the back unit below. There's just a big, big, big concrete basement down there, so we're going to put three (3) doors, you know electric doors, and put at least three (3) down there. When we were talking about buying, it's at the end of the block—in a City lot, \$65 a piece a month.

Patsy Iapalucci: Do you honestly believe that those people are going to walk from there down to that lot and park their cars there?

Jaimee Frohlich: Well the thing is I'm the property owner. I should be entitled to a spot just like everybody else.

Patsy Iapalucci: Are you entitled to 14 spaces?

Jaimee Frohlich: I didn't say that, I said a spot. I have five (5) taken care of so far, okay? These are only one (1) bedroom places, they are very small. They're not family apartments whatsoever. One (1) is on the third floor; it's hard to get to. We don't expect to have those cars, but whatever cars we have we will purchase permits, and they're going to have to live—when they look at the apartment they're going to have to know that to have a spot they're going to have to—the permit would only be good down at the lot.

Barry Gaetano: My question is this, the conversation last month was you folks were going to come back to us with some options. It doesn't sound to me like you're giving us any other options other than a seven (7) unit structure.

Jaimee Frohlich: I'm supposed to negotiate against myself? I mean the paperwork all says it's a seven (7) unit, and I haven't heard anything different. I'm willing to purchase parking spaces, what else do you want from us?

Barry Gaetano: Last month's conversation between our solicitor and your solicitor was that you were going to reevaluate and come back to us, that's why we agreed to continue the meeting last month, was because you were going to come back to us with options available other than a seven (7) unit structure. So, when we started the meeting I asked you, do you have other options available besides a seven (7) unit and you said yes.

Jaimee Frohlich: Oh, I'm sorry. I meant parking. I thought the issue was parking.

Barry Gaetano: Okay, so Square One does not have any other options that their willing to consider on that property other than a seven (7) unit?

Jaimee Frohlich: We've run the numbers several different ways. It's just not feasible, because they are small one (1) bedroom—we can't give up any or we'll be in the red. It's just not feasible.

Barry Gaetano: So what you're saying is you can't tear that structure down and rebuild another structure for a two (2) unit—

Jaimee Frohlich: But why would we want to spend \$200,000 to tear it down and build a two (2) unit when our income would be nothing?

Barry Gaetano: Okay, well so what you're saying then is you don't have any other—my understanding was we were going to hold this meeting today, because we were going to evaluate other suggestions that you folks had to us to consider other units other than just a seven (7) unit structure.

Jaimee Frohlich: Okay, I guess I'm missing something. Why—what is the problem with seven (7) units? Is it just the parking? Is it the parking that's the problem?

Patsy Iapalucci: You're overcrowding the neighborhood. That neighborhood is tight now, and where are you going to—The police are up there almost every day, and you're going to put more people in that area, like seven (7) more units, and all that is going to do is create more problems.

Jaimee Frohlich: Assuming my tenants are going to be problems.

Barry Gaetano: My understanding that the issue we need to make a decision on is, does that fit to a non-conforming structure other than what it's zoned for based upon being unoccupied for longer than three (3) years. That's what's before us, if I'm not mistaken.

Pete Cherellia: Right, that's my understanding.

Barry Gaetano: So we as a board need to make a decision are we going to stand by the decision of the City to say that is now a non-conforming structure, and at that point in time we cannot approve for seven (7) units to be used there because it sat unoccupied for longer than three (3) years.

Jaimee Frohlich: But you approved it in February of 2015.

Barry Gaetano: Whether that was an oversight or not, and that was discussed last month, that whether that was an oversight or not we still have the right to come back and rescind that to say that we are not going to issue that as a seven (7) unit

structure. So then we as a board need to make a decision, as I understand, whether or not we are going to approve or deny their request for a seven (7) unit structure. I'm disappointed because I understood that you folks were going to come back and offer us some other—

Jaimee Frohlich: Well—

Barry Gaetano: —options.

Jaimee Frohlich: I was informed to just come here and say we wanted to continue it, so my lawyer's not here to go over that with you.

Barry Gaetano: Okay.

**\*\*The Zoning Hearing Board went into an executive session to discuss options.\*\***

Pete Cherellia: After some discussion with the board, it is my recommendation to the board that so that Square One Properties is given every opportunity that they want and any testimony they want, and again if they want to cross examine Ms. Ciampini as the issuing officer, I believe that it's in the best interest of both the board and Square One that the case be continued next month, but be aware that the issue next month is going to be has there been a termination of the non-conforming use. Do you understand that? Okay and you can present—there's the other issue about the detrimental reliance upon the issuant, that I believe that next month you can present any testimony you wish on that. Any community members or property owners that wish to present any testimony will be able to do at that time, and then probably after that the board would have enough information and all witnessed would have presented any testimony they wished, if they wish to ask further questions of Ms. Ciampini, who is not available today, they can do that at that time, and then after that time the board could then make an informed decision after they've heard all the testimony. It would be my recommendation that a continuance be granted.

Jon Hillwig: I'll make that motion.

Marco Tabita: What kind of testimony are you looking for?

Pete Cherellia: Could you come up and give us your name please?

Marco Tabita: My name is Marco Tabita, and I live at 320 Harrison. What kind of testimony are you looking for?

Pete Cherellia: There are two (2) issues before the board at the present time. One (1), is there still the non-conforming use still in effect, or has it been terminated because it's been abandoned because no one—it's been more than three (3) years'

time since the property has been used, and the same use it was before the zoning ordinance came into effect, okay?

Marco Tabita: That's something that you guys have to—

Pete Cherellia: Yeah and there's also then the issue they're saying that they detrimentally relied upon Ms. Ciampini and that will be an issue of can she withdraw her—is that a valid basis. That's a decision that the board will have to make after any testimony is presented and any legal arguments are made. I personally would think that be beneficial to the board that Square One Properties' attorney, even next month, present findings of fact that you propose, that the board finds because the board has to make the findings, and secondly prepare a memorandum of law that outlines the basis for your position. I think that would be very helpful to the board to consider.

Marco Tabita: Thank you.

Pete Cherellia: Do you understand that?

Jaimee Frohlich: Yes.

Pete Cherellia: And if the board grants a continuation, I would make it contingent upon your attorney providing us, either at that hearing or soon after that hearing, findings of fact. The findings of fact are not as important, because the board can do theirs, but your legal argument, the legal argument you feel the board should act up—because what the board has to do, they have to match facts with the law. That's what this board does, they match the facts with the law and then they make the decision, yay or nay. So I think if you have any case law or any law your attorney wishes to present, she should present that next month.

Jaimee Frohlich: Overcrowding is an issue of law?

Pete Cherellia: I can't—

Jaimee Frohlich: Overcrowding is an issue of law?

Barry Gaetano: Overcrowding of—are you talking about parking or whatever?

Jaimee Frohlich: No, this gentleman here said—

Charlotte Kuhns: That's not the issue.

Pete Cherellia: That's not the issue before the board.

Barry Gaetano: No, no, no.

Jaimee Frohlich: The board obviously feels strongly about overcrowding.

Barry Gaetano: The board can evaluate issues such as parking issues, noise issues, things of that area, that to approve a seven (7) unit structure on a non-conforming piece of property.

Pete Cherellia: They can add stipulations.

Jaimee Frohlich: Do you have any idea—

Patsy Iapalucci: What kind of harm or cost to the rest of the neighbors?

Jaimee Frohlich: Well I'm a property owner too, don't I have any rights?

Patsy Iapalucci: Yes you do.

Jaimee Frohlich: And what right is that?

Pete Cherellia: I'm not going to get into any arguments today.

Jaimee Frohlich: As of 2015, it was a legal non-conforming use. When did it change?

Charlotte Kuhns: Well that's what we're going to debate. We need a written opinion from your attorney about that for the next—

Jaimee Frohlich: No, you have the written opinion from the zoning director that that was what it was. My question is, when did it change? If in February—

Barry Gaetano: When the zoning officer found out that it had been abandoned for 15 years or—

Jaimee Frohlich: Nobody knew for 15 years?

Barry Gaetano: We can't answer that. My understanding was that she did not know that it was abandoned.

Pete Cherellia: She's not here.

Barry Gaetano: Right, she's not here today.

Pete Cherellia: That's one (1) of the reasons why I believe we should have a continuance, so if you have an issue you can ask Ms. Ciampini.

Barry Gaetano: But that was addressed—Were you here last month?

Jaimee Frohlich: No.

Barry Gaetano: Okay. That was addressed last month with the solicitor to the point that why she revoked the certificate.

Jaimee Frohlich: Okay.

Barry Gaetano: Okay.

Jaimee Frohlich: Well I asked for transcripts or anything that pertained to the hearing, and I haven't received them. I sent an email to Amy or—

Charlotte Kuhns: Okay, we'll make sure—

Amy Bayura: Wrenna Watson got them.

Pete Cherellia: Your attorney got them.

Jaimee Frohlich: I—okay.

Barry Gaetano: So, I guess the decision—I would consider voting for a continuance, but as I'm going to state it again, I truly would want you to be able to show us, because this was a stipulation of last month, to show us that there is not a rodent issue. My understanding is, in speaking with the neighbors, there is a rodent issue.

Jaimee Frohlich: Okay.

Barry Gaetano: In people's homes, put into the dumpsters, so I would have hoped that you would have brought proof for us today.

Jaimee Frohlich: This order was issued August 10<sup>th</sup>. This is the 17<sup>th</sup>, and I haven't gotten my mail today so we have never received a copy of this notice.

Barry Gaetano: It was stated at last month's meeting, ma'am. You were not here.

Jaimee Frohlich: Okay.

Barry Gaetano: It was requested at last month's meeting.

Jaimee Frohlich: Right, I was out of the country and didn't know. When I spoke about Terminix coming, we had Terminix come out before August 10<sup>th</sup>. It wasn't a result of this. We had Terminix come out because we were concerned about the workers, we always do that; it's practice. You know find bugs first, find rodents, find whatever, we need to know what's in there before we send workers in.



Barry Gaetano: Okay. To alleviate any concerns or issues and that way everyone has the right, I make a motion that we continue until next month's meeting to resolve any problems.

Jon Hillwig: I'll second that.

Charlotte Kuhns: Can I have a roll call please?

**\*\*The roll call led to all board members saying YES to a continuance until next month's meeting date.\*\***

Charlotte Kuhns: Okay, motion passes.

Pete Cherellia: And to all the members, the hearing will now be continued until September the 21<sup>st</sup> at four (4) o'clock. And ma'am, I want to strongly advise that next month both you and your council appear at the hearing, okay, because in all likelihood that will be the final hearing in the matter unless there are other issues that come up, okay? So at that time I would believe, and I would other members who wish to testify, that at next month's meeting, I'm sure the board will want to complete the testimony next month, so any evidence that you wish to provide us on behalf of Square One or any testimony that any of the neighbors wish to provide to the board—

Jeremiah Glad: I simply have a question.

Charlotte Kuhns: Come up and state your name and address.

Jeremiah Glad: My name is Jeremiah Glad. I reside at 328 Harrison Avenue with my wife and my two (2) children. In accordance to the last meeting, it was stated that they needed proof that they had someone come out to inspect the property for vermin. My simple question is, when did someone come out? Because, I can tell you that the incident on the 10<sup>th</sup> was my wife making a phone call. I would just like to know when someone came out to address the issue of the vermin.

Charlotte Kuhns: Can you answer that?

Jaimee Frohlich: As I said earlier, we did it months ago, two (2) months ago. We did not have this order and I did not know of this, and I have until August 31<sup>st</sup> to do it from what I understand in the order.

Charlotte Kuhns: Okay.

Jaimee Frohlich: I have never received a copy of it.

Barry Gaetano: The people that represented you folks last month for Square One, there was an attorney, there was another gentleman I assume he's an owner?

Jaimee Frohlich: One (1) older gentleman, yes.

Barry Gaetano: Okay, of foreign descent?

Jaimee Frohlich: Yes.

Barry Gaetano: Okay and your builder, and it was stipulated at that meeting that from that meeting until now somebody needed to come out and supply for any kind of rodent issues.

Jaimee Frohlich: I requested the transcript immediately after the hearing within a couple of days and I never received it so I don't know what was talked about.

Barry Gaetano: So I guess my question is, are you saying those people are not representing Square One?

Jaimee Frohlich: No, I'm saying I wasn't aware of it. What do you want me to say?

Barry Gaetano: They were aware of it.

Jaimee Frohlich: Well I'm sorry they're not here to answer.

Barry Gaetano: In my mind, it's not good faith to the board showing the board that you folks are abiding by our requests.

Jaimee Frohlich: The order says I have until the 31<sup>st</sup> to comply, and I will comply by the 31<sup>st</sup>.

Barry Gaetano: Okay.

Charlotte Kuhns: Okay, thank you, Jeremiah.

Barry Gaetano: Thank you.

Charlotte Kuhns: I make a motion to adjourn.

Barry Gaetano: Second.

Charlotte Kuhns: Roll call please.

**\*\*Roll call led to all board members agreeing to adjourn the meeting.\*\***

Charlotte Kuhns: Motion passes. Within 30 days of the decision of this board, which we didn't make a decision because it's going to be continued, you can request an appeal in the Court of Common Pleas, which—

Pete Cherellia: Just so it's perfectly clear to you and to everyone in the audience, the board will have a meeting next month. If all the testimony is presented, and I think we are asking that it all be presented next month from anybody who wants to testify on this matter, after that time the board can make a decision or they have up to 45 days to make a decision, okay? That decision, whenever that decision is made, there is a 30 day appeal period that either Square One if they don't like the decision, or a concerned citizen if they wish to file an appeal, there is a 30 day appeal period. So that nothing would—the board would happen with their decision for that 30 day period, because we have to have the appeal period run before we can move forward. Does everyone understand that? Does anyone have any questions regarding that?

Marco Tabita: So pretty much what you intend to determine next time is if it's legal to be a seven (7) unit non-, or whatever, right, a or b?

Pete Cherellia: Yes.

Marco Tabita: Okay, so I don't have to take off work to be here for that?

Pete Cherellia: Not unless you wish to present testimony.

Marco Tabita: Anything I say has nothing to do with it being legal; I'm just a concerned neighbor. I don't want it to turn out like Jeannette.

Pete Cherellia: Yes sir. All that, and I've even asked, that your council provide their legal arguments at that time, okay, so then the board even has that to consider also, okay? The board can either make a decision next month, or they can table it for a period of time so they can consider it, but the only thing we are going to take test testimony next month on is it a conforming use or is it a non-conforming—is it a continuation of that.

Barry Gaetano: Just a recommendation to you, ma'am. I would suggest you to your council and talk to the gentleman that was here last month, because they know what you folks said about considering other options.

Jaimee Frohlich: Like I said, we ran the numbers every way we could. It is just not feasible with the money we have intended to put into it and the money that we would get out of it with all of the extra expenses. We just can't do it.

Barry Gaetano: Okay.

Pete Cherellia: Okay.

Jaimee Frohlich: So what's the alternative?

Barry Gaetano: I mean if the board would vote no to a seven (7) unit structure, you folks would have to come up with another option for the property.

Pete Cherellia: It's not just on the structure, but if the non-conforming use is permanent.

Barry Gaetano: It cannot have a seven (7) unit piece of property, right?

Pete Cherellia: The issue becomes it is an R-2 district and a seven (7) unit dwelling is not authorized in that area unless it was grandfathered in the non-conforming use, so everybody understands.

Jaimee Frohlich: So who decides if it was grandfathered in?

Pete Cherellia: It was grandfathered in when the ordinance was passed, but if the use terminates, okay, it doesn't resurrect, okay? When the use terminates then the property can only be used for a lawful use in that zoned area, okay, or a variance can be requested or some other options can be requested, but the non-conforming use in simple terms dies if it's not used, okay? If it had been a continuous use from the day that it started when the ordinance was passed and if it was still in the use now, there's no issue and it can continue.

Jaimee Frohlich: That's why I got the zoning certificate prior to buying the place to ensure that it was okay.

Pete Cherellia: Well that is the legal issue that you can present next month.

Jaimee Frohlich: Okay.

Pete Cherellia: Okay, and that's what I'm saying you and your attorneys can present testimony of why you believe it should continue. I'm not going to tell you what to present or not to present, but that's what you can present next month, so the board can consider should it grant the non-conforming use or shouldn't grant the non-conforming use.

Jaimee Frohlich: Okay.

Pete Cherellia: Okay? Yes.

Carrie Hamley: The neighbors are concerned about the structural viability of the property. Is there any way to request that some kind of inspection, engineering inspection, to take place to find out if it's even able to be remodeled?

Barry Gaetano: The issue being in front of the board has nothing to do with that part of it. The issue in front of the board is whether or not that property is grandfathered to be able to allow seven (7) units to be built there or not. The

permits being issued would have to do with whether or not it's structurally sound or whatever would need to be done. That would be on the permit side of it. All we as a board are making a decision on is yay or nay we are going to allow seven (7) units to be on that property under the grandfathering of that unit or not.

Carrie Hamley: So is it reasonable to believe that even if you do grant them the seven (7) units and if a structural engineer comes in and looks at it before permits are granted it—

Pete Cherellia: That's not before the board. That's not something this board would decide, because that would be the zoning department and the planning—I mean another case could come up saying that we believe that it can be and they are saying it can't, but that's not before the board right now. The only thing before the board right now is can this be used as a seven (7) unit dwelling.

Carrie Hamley: And then my other question is, that lot today what is it zoned for?

Pete Cherellia: R-2.

Carrie Hamley: That means two (2) dwellings. Is that two (2) units?

Barry Gaetano: You could have a duplex.

Carrie Hamley: Okay, on the entire lot not per building but on the lot?

Barry Gaetano: On the lot.

Carrie Hamley: Thank you.

Charlotte Kuhns: But it was requested and approved a seven (7) unit lot at one (1) time, so it was granted in the past that they had that.

Patsy Iapalucci: How long ago was that though?

Charlotte Kuhns: Pardon me?

Patsy Iapalucci: When was that granted?

Charlotte Kuhns: 1990.

Patsy Iapalucci: 1990? That's where the legal part comes in. That house was abandoned for all those years. That's where the law comes in there.

Pete Cherellia: That'll be the issue that will be before the board.

Patsy Iapalucci: Right.

Pete Cherellia: The issue that will be before the board is, has it been abandoned or has it not been abandoned?

Jaimee Frohlich: I talked to the electric company and they said they were billing this guy.

Pete Cherellia: I'm not going to—that's the testimony that you can present next month.

Jaimee Frohlich: Okay.

Pete Cherellia: The issue that is going to become is, was it or was it not abandoned, okay? If it was abandoned then the board has to say that you can't have a seven (7) unit dwelling there any longer, okay? It reverts back to what the law is now. It would be a two (2) unit. It reverts to anything that can be done in an R-2 unit district that property can do, unless you sought a variance, but that's a whole another issue that's not before us.

Jaimee Frohlich: So public records cannot be relied upon.

Pete Cherellia: Ma'am, I'm not—we're not saying—ma'am, that's the argument that you and your attorney are going to have to make to us, and the board will make a decision.

Jaimee Frohlich: Thank you.

Pete Cherellia: Thank you.

\*Meeting adjourned at 4:48pm.