

Ayes: Mr. Myers, Mr. Dean, Mr. Pilliod, Ms. Ryan, and Mr. Roberts

Noes: None

Abstain: None

Motion carried: 5 – 0 – 0

Wes Myers thanked Mr. Pilliod for his time as chair.

IV. MINUTES OF THE ZONING BOARD OF ADJUSTMENT AND APPEALS COMMISSION

A. Approve Minutes of the Regular Meeting Held on October 22, 2019.

Motion by Mr. Roberts to approve the minutes of the October 22nd meeting. Seconded by Mr. Pilliod. The presiding officer called the question.

Vote on the Motion:

Ayes: Mr. Myers, Mr. Dean, Mr. Pilliod, Ms. Ryan, and Mr. Roberts

Noes: None

Abstain: None

Motion carried: 5 – 0 – 0

V. REPORTS FROM CITY STAFF – ZONING BOARD OF ADJUSTMENT

No Items

VI. REPORTS BY CITY STAFF - APPEALS COMMISSION

1. AC-21-01 – Consideration of a City staff recommendation to demolish all structures and other improvements, including the removal/filling-in of the in ground pool, located at 10004 Stoneleigh Drive and legally described as Lot 7, Block 31, Westpark Estates Addition. On June 6, 2020, a structural fire rendered the dwelling unit located on said property inhabitable. As insufficient action has been taken to either repair or remove said dwelling unit, City staff finds the property to be in violation of Chapter 15.44 – Dangerous and Substandard Buildings, Title 15 of the Benbrook Municipal Code. The property is zoned “B” One-Family District. [PUBLIC HEARING]

Commissioner Myers opened Item No. AC-21-01 by reading the Agenda Item caption and then asked for the staff presentation. Jim Hinderaker, Assistant City Manager, clarified the item description date as June 6, 2020 not July 6, 2020 as presented by Commissioner Myers. Mr. Hinderaker then presented the staff report.

Following the staff presentation, Commissioner Myers asked if owner had made any effort to abate the property. Mr. Hinderaker stated the owner had repeatedly promised to abate the

property, but following several city notices, no abatement has occurred. Mr. Myers asked, as of today, have any permits been pulled? Mr. Hinderaker answered, no, not to my knowledge. Mr. Myers asked how many complaints have been received by the city? Mr. Hinderaker stated, due to the Building Official's recent resignation, staff did not know the exact number, but we are aware of several phone calls. Mr. Myers asked what is the city's abatement plan? Mr. Hinderaker referred to the proposed order of the appeals commission. Mr. Myers asked how long will it take? Mr. Hinderaker estimated it would be about 60 days.

Commissioner Roberts asked for clarification on the 60 day time frame. Mr. Hinderaker responded.

Commissioner Myers called the homeowner, Bruce Woodfin, to make a presentation. Mr. Woodfin presented to the commission.

Commissioner Pilliod asked Mr. Woodfin what the contractor was going to do for him. Mr. Woodfin stated the contractor was going to demo the home.

Commissioner Myers asked Mr. Woodfin, would he be able to demo the house in 60 days? Mr. Woodfin said, yes. Commissioner Myers asked, what his plans for the property were once the structure is demolished. Mr. Woodfin responded, to sell the property, but added that he wants to keep the home's existing concrete slab and pool. Mr. Myers asked if his proposal is to have the commission allow him to demo the home to the foundation and maintain the foundation until the property is sold? Mr. Woodfin said yes.

Commissioner Pilliod asked if there was any concern about leaving an empty pool as he's heard it's harmful to leave a pool structure empty. Mr. Woodfin said he's talked to pool people and was told he shouldn't have any issues with a "floating pool." Mr. Pilliod asked about rain filling the pool? Mr. Woodfin said he would pump it out after a rain.

The presiding officer opened the meeting to public comment at 8:05 p.m, which included potential participants providing comment via telephone.

Jerome Kimberling, 10005 Wandering Way, raised an issue about a dead tree in the yard and mentioned he may be interested in buying the lot. He did not support leaving the pool, due to mosquito issues, and did not want the foundation to stay either.

Travis Te Selle, 405 Kenshire, expressed concerns about dead trees in the backyard and mosquitoes from the pool and considers it a hazardous situation. Commissioner Myers asked Mr. Te Selle if he sought any professional assistance with respect to the mosquitos. Mr. Te Selle stated he did not. Mr. Myers asked if he has noticed an increase in mosquitos since the fire and if he knew how often the pool was cleaned. He stated mosquitos have increased and he has not noticed the pool cleaned since the fire.

Commissioner Myers verified with staff there were no telephone callers.

Jim Hinderaker, in response to the homeowner's request to leave the slab and pool, said an accessory use or structure is not permissible without a principle use. Staff is not supportive of leaving the pool and foundation without a new building permit submittal for a new home. Without a building permit, staff is not supportive of the homeowner's request to leave the pool and foundation.

Commissioner Ryan asked staff if leaving the slab was in violation. Mr. Hinderaker said yes, and we ask the entire structure be removed.

Commissioner Dean stated the slab should be removed because it is 30 year old slab and its better if the slab is removed. Mr. Hinderaker agreed.

Mr. Woodfin came to the podium and stated the reasons he felt why the slab and pool should not be demolished.

Commissioner Myers asked for clarification about the staff recommendation. Mr. Hinderaker affirmed Mr. Myers statements concerning the staff recommendation. Mr. Myers asked if staff would be amenable to a 60 day time frame to raze the property or comeback with a building permit and structural documentation in regards with the validity of the foundation. Mr. Hinderaker said yes, if a structural engineer signs off on the slab and a building permit for a new home is submitted, staff would support leaving the pool and foundation.

Commissioner Ryan asked if the trees were salvageable, can the vegetation stay? Mr. Hinderaker stated the city has no desire to tear out viable vegetation.

Commissioner Myers asked what type of proof is required proof the tree is viable. Mr. Hinderaker stated that the city would ask for an arborist or professional landscaper to make the determination. Mr. Myers asked if the tree provisions need to be placed in the order? Mr. Hinderaker stated that if the trees did not interfere with tearing down the structure, the city would not remove them.

Commissioner Roberts asked about the insurance assessment following the fire. Mr. Hinderaker said he was not aware assessment details and stated the question should be answered by the homeowner. Mr. Roberts provided information on his experience with fire restoration.

Commissioner Myers invited Mr. Woodfin to speak again. Mr. Woodfin reiterated his stance on his desire to keep the slab and pool as he feels that they are sound and in good condition. He stated he didn't feel he could be forced to remove it as it's his property.

Deborah Te Selle, 405 Kenshire Dr. provided more information about the issues with the trees on the property. She state she didn't feel giving Mr. Woodfin more time would help the situation. Commissioner Myers asked if she understood that the structure, not the trees, was the issue at hand and if she seen an increase in mosquitos. Ms. Te Selle stated she did see an increase.

Jerome Kimberling, 10005 Wandering Way, returned to the stand and stated he is also concerned about rodents coming from the property. He added that he was surprised to hear the homeowners request to keep the foundation. He doubted the homeowner would follow through if the slab was to remain. Mr. Myers asked if he had a similar experience to the Te Selles concerning the pool and mosquitos.

Mr. Myers stated that Mr. Woodfin expressed doubts about the jurisdiction and authority of the Board to compel him to remove the foundation. Mr. Myers asked Mr. Hinderaker what authority the Board has in the matter. Mr. Hinderaker clarified the process and stated that the Board has the authority to order the demolition of the entire structure.

Commissioner Pilliod wondered if it was wise to leave the slab in place. Mr. Myers asked if the slab was there with nothing else on the property, would it be a violation. Mr. Hinderaker said

yes, but that the city would not likely pursue the violation. Mr. Hinderaker added the city's preference is to demo the entire structure and leave a clean site. Mr. Hinderaker said the pool should not be allowed to remain, as it's an accessory structure.

Following discussion by the Commission, the Chair closed the public comment portion of the hearing at 8:46 p.m.

Commissioner Myers called for a discussion prior to hearing a motion. The commission discussed the comments and information provided during the public hearing. Mr. Hinderaker clarified the city's position about the slab and that it is a violation.

Commissioner Myers state that even though the public comment portion of the meeting was over, he would allow Mr. Kimberling to speak again. Mr. Kimberling expressed concerns allowing the slab to remain.

The commission resumed discussion concerning the comments and information provided throughout the meeting. Mr. Hinderaker notified the commission that the code allows for the commission to grant up to 90 days to abate the violation. The chair asked for a motion.

Commissioner Roberts motioned as staff recommends with but with 60 days.

Commissioner Myers read the order aloud, inserting the 60 day time frame, and asked if this was the motion on the table. Mr. Roberts confirmed it was his motion with the amended motion that the building must be razed to grade. Mr. Pilliod seconded the motion. The chair called the question.

Vote on the Motion:

Ayes: Mr. Myers, Mr. Dean, Mr. Pilliod, Ms. Ryan, and Mr. Roberts

Noes: None

Abstain: None

Motion carried: 5 – 0 – 0

Mr. Hinderaker explained the next steps for the abatement process.

VII. ADJOURNMENT

There being no further business on the agenda, the presiding officer adjourned the meeting at 9:05 p.m.

APPROVED: 9/28, 2021
Deborah Sowell
Chair/Presiding Officer