MINUTES
BUILDING BOARD OF REVIEW
1:00 P.M., APRIL 8, 2013
Third Floor, Jesse Lowe Conference Room
Omaha Civic Center - 1819 Farnam Street

MEMBERS PRESENT: Jack Ryan, Chairman
Martin Wiedenman, Vice-Chair
Cheryl Kiel
Mark Santo
Brad Schaefer

MEMBERS NOT PRESENT: Ron Feuerbach
Cynthia Makinster

OTHERS PRESENT: Greg Hauptman, Plans Examiner
Kevin Denker, Chief Housing Inspector
Jay Davis, Assistant Director
Tom Phipps, Chief Mechanical Inspector
Capt. Steve Thornburg, Omaha Fire Department
Mike Johnson, Housing Inspector
Roger Carroll, Housing Inspector
RoseMarie Horvath, City Law Department
Clinette Warren, Board Secretary

Mr. Ryan, Chairman, called the meeting to order at 1:00 p.m., introduced the board members, as well as the staff, and explained the procedures for hearing the cases. Mr. Ryan informed the public that a copy of the Open Meetings Law is available in this board room on the north wall for anyone to review. He noted that only those items on today's agenda could be discussed at today's public hearing.

Mr. Ryan requested that speakers limit their presentation to 10 minutes.

Mr. Ryan explained that this Board does not have the authority to waive any requirements of the Americans with Disabilities Act, Federal Fair Housing Act, or NFPA Life Safety Code. This Board does have the authority to hear appeals of the International Fire Code, Nebraska Accessibility Guidelines and the Nebraska Fair Housing Act. Life Safety Regulations are administered by the State Fire Marshal.

Roll call was taken and five members were present.

The minutes for the March 11, 2013 and April 8, 2013 will be approved at the May 13, 2013 meeting.
CASExES:

Case No. 13-006  LOCATION:  5603 Oak Hills Drive
Postponed from 2/11/13 & Laid Over from 3/11/13  REQUEST:  Waiver to eliminate the requirement for an egress window from a basement.
Larry Bakker & Steve Nass
5603 Oak Hills Drive
Omaha, NE 68137

At the Building Board of Review meeting held on April 8, 2013, no one appeared before the Board in support of the request.

Mr. Wiedenman moved to LAYOVER until the May 13, 2013 meeting. Ms. Kiel seconded the motion.

AYES: Wiedenman, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 5-0
At the Building Board of Review meeting held on April 8, 2013, Kylon Block and Shelly Stokes appeared before the Board in support of the request.

Mr. Block stated that the existing building consists of four bays. He explained that the Old Market Tavern, which was formerly a Subway restaurant, required a second exit when the occupancy changed. The exit was constructed in a sidewalk since there was no egress out of the rear of the building; however, the exit goes through the space of an adjoining business. He stated that the bathrooms are not handicap accessible since you have to step up into them. There are also several ramped spaces. Mr. Block stated that they are proposing to modify the second exit that serves the Old Market Tavern, create a new set of code-compliant restrooms, and reconstruct the back hallway area so that it is fire-rated. The applicant would also like to create a fire-separation wall from the stairway leading to the apartments above and create two paths of egress from each business. In order to install a ramp and address the fire and plumbing issues, the requested waivers are needed.

In response to Ms. Kiel, Mr. Block stated that the ramp would be equipped with handrails.

Referring to the case analysis, Mr. Ryan noted that although the proposal is not totally code compliant, Permits and Inspections feels that the applicant is making a huge effort to improve the means of egress, the restroom fixture counts, and the accessibility to the restrooms. For those reasons, Permits and Inspections does not object to the request.

Captain Steve Thornburg, Omaha Fire Department, stated that the Fire Department also does not object to the request.

Greg Hauptman, Plans Examiner, noted that the 1 in 12 ramp does not meet code for an accessible ramp; however, a 1 in 8 ramp or better does qualify for a typical pedestrian ramp that is not accessible.

Ms. Kiel moved to APPROVE the waiver as requested. Mr. Wiedenman seconded the motion.

AYES: Wiedenman, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 5-0
At the Building Board of Review meeting held on April 8, 2013, Patrick McNally appeared before the Board in support of the request.

In response to Mr. Ryan, Mr. McNally agreed to have case 13-017 and 13-018 heard together.

Roger Carroll, Housing Inspector, submitted photographs (Exhibit #2) of the duplex. He stated that the County Assessor’s site lists the property as a duplex. He explained that if the applicant wants the property converted to a four-plex, then a Certificate of Occupancy and some upgrading would be required. He noted that there was no fires separation between the units. In addition, there were two electrical panels in the basement of 152 North 31st Street and only one visible furnace.

In response to Mr. Ryan, Mr. McNally stated that he would like additional time for repairs and that he would like the property to remain a four-plex. Kevin Denker, Chief Housing Inspector, explained that after applying for the Certificate of Occupancy, the various inspectors would appear and inspect the property.

Mr. McNally requested an additional 60 – 90 days to complete the necessary repairs. Mr. Denker did not object to that request. He explained that the additional 90 days would be added to the April 30, 2013 deadline.

Mr. McNally stated that the two basement units have electrical baseboards, which is why there is just one furnace. He added that the two units do have their own independent heating systems and do not share air.

Mr. Wiedenman APPROVED an extension of 90 days. Mr. Schaefer seconded the motion.

AYES: Wiedenman, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 5-0
At the Building Board of Review meeting held on April 8, 2013, John Ehlinger appeared before the Board in support of the request.

Roger Carroll, Housing Inspector, stated that a Notice of Violation had been mailed on March 1, 2013 and that the work was to be completed by April 30, 2013. He explained that the County Assessor’s website had the property listed as a three-plex, although the owner lists it as a duplex. The owner stated that the information changed with the County. Mr. Carroll did not object to granting the applicant additional time to complete any necessary repairs. He informed Mr. Ehlinger that the driveway would need to be paved since crushed rock is not allowed.

Mr. Ehlinger explained that the driveway had been paved with crushed rock before he purchased the home; he suggested that perhaps the gravel driveway could be grandfathered. Kevin Denker, Chief Housing Inspector, referred to Chapter 55 of the zoning code, which states that all parking must be on a hard surface. He noted that in order for the driveway to have grandfather rights, the gravel parking would need to have been in place before 1977, which is when the code allowed parking on gravel. He stated that this could be determined by looking at aerial photos of the property before 1977. He informed Mr. Ehlinger, that if the gravel parking was not in place before that time, he could appeal to the Zoning Board of Appeals.

Mr. Wiedenman APPROVED an extension of 120 days. Ms. Kiel seconded the motion.

AYES: Wiedenman, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 5-0
At the Building Board of Review meeting held on April 8, 2013, John Chatelain and Jill Archer appeared before the Board in support of the request.

Mike Johnson, Housing Inspector, submitted photos of the property (Exhibit #2). He made a re-inspection of the property because it appeared as if it was occupied. He stated that when he knocked on the door, it was answered by someone who told him that he had lived at the property for a month or two. Mr. Johnson informed the occupant that living at the property was prohibited. He was invited in to see the repairs that the individual told him were being made. On February 16, 2013, Mr. Johnson obtained a search warrant which enabled him to inspect the interior of the property, which had been vacated. He submitted photos that were taken during that inspection (Exhibit #3). He stated that no permits had been obtained for the interior work that had been performed, which included electrical, plumbing and mechanical. He also found that the new plumbing had been covered with drywall, so many of the changes were not visible. Mr. Johnson stated that the notices were valid and that the property should remain vacant until the proper repairs were made.

Mr. Chatelain submitted a structural report of the property (Exhibit #4). He stated that there was not enough evidence to support all of the violations that were noted by the City. Mr. Chatelain submitted pictures that his client, Jill Archer, had taken of the property (Exhibit #5). In response to Mr. Johnson, Ms. Archer stated that an electrical permit had been obtained and that the property had been inspected by a City of Omaha electrical inspector.

In response to Mr. Ryan, Ms. Archer confirmed that the plumbing work had not been completed; she was awaiting an inspection report from the heating contractor; and that the electrical contractor had pulled permits and the electrical work had already passed inspection. At Mr. Chatelain’s request, Mr. Denker stated that he would make copies of the City’s pictures of the property (Exhibit #2) available after the meeting. Mr. Denker also explained that the dated and time-stamped pictures taken by a City inspector is considered as being evidence for Code Enforcement cases.

In response to Mr. Wiedenman, Mr. Chatelain suggested that the Board dismiss the code violations list for lack of evidence.

Mr. Wiedenman moved to DENY the request. Ms. Kiel seconded the motion.

AYES: Wiedenman, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 5-0

Mr. Chatelain stated that his client was concerned that the yellow tag put on the building would attract copper thieves to the property. He also questioned the policy that states that no one can be on the property past 5 p.m. He requested that the Board allow the yellow tag to be removed. Mr. Wiedenman suggested that a letter of understanding be put in place between the property owner and the City that states that the property is vacated even though the yellow tag is not visible. Mr. Chatelain agreed that he would submit a letter to Code Enforcement stating that the property will remain vacant until the house is released or disposed of by the court; also, it would stipulate that Ms. Archer can perform repairs on the property until 10 p.m. RoseMarie Horvath, City Law Department, stated that that would be acceptable and that the letter should be addressed to Mr. Johnson.
(Case 13-022 and 13-023 were heard together)

Case No. 13-022
John C. Chatelain
14707 California Street
Suite 1
Omaha, NE 68154

LOCATION: 3023 Leavenworth Street – Multi-Family Exterior

Case No. 13-023
John C. Chatelain
14707 California Street
Suite 1
Omaha, NE 68154

LOCATION: 3025 Leavenworth Street, Apt. 3025 – Apartment Interior

At the Building Board of Review meeting held on April 8, 2013, John Chatelain and Tim Sheehy appeared before the Board in support of the request.

In response to Mr. Ryan, Mr. Chatelain agreed that it would be practical to have both cases heard together.

Mike Johnson, Housing Inspector, stated that he responded to a tenant complaint for the 2nd floor apartment. Upon arrival to the property, he deemed it to be unsafe/unfit and sent a Notice of Violation to the owner. Mr. Johnson stated that there is no Certificate of Occupancy for the 1st floor space that is being used for a telemarketing business. Photos of both levels were submitted (Exhibit #2 and #3).

Mr. Chatelain responded that the tenant who has resided in the upper unit has some health issues which have caused her to complain to the Department of Housing and Urban Development and also to Code Enforcement. He explained that, for safety purposes, the property owner has proposed having the tenants on the first floor vacate the apartment so that the tenant on the second floor could live there. Mr. Chatelain submitted a list of items that the property owner is willing to repair (Exhibit #4). He added that the property owner is willing to shut down the second floor unit, which would include dismantling the kitchen and bathroom facilities. He explained that the first floor has been used as a commercial space for several years and had originally been built for that purpose. He stated that the applicant has agreed to repair all of the exterior issues that were noted by the City. He also stated that each unit has a door that is 36” in width. He added that the property owner is proposing to install a UV light and filtering system on the furnace that would provide clean air to both units. Mr. Chatelain requested a six month layover to allow his client time to complete all work before appearing again before the Board.

Mike Zimmerman, Comfort Products, explained how the air purification system works. He stated that in the past, the Board has requested that maintenance records be on available upon request and that the filters are replaced every six months; the UV light would be replaced yearly.

Tom Phipps, Chief Mechanical Inspector, stated that the mechanical code does not permit shared air between units. He noted that the property is in violation of the code since one space is residential and the other is commercial.

The Board discussed other instances when the air purification system was allowed and the stipulations that went along with the request.

In response to Mr. Ryan, Mr. Chatelain stated that his client is requesting an additional six months to complete the necessary repairs.
Mr. Wiedenman moved to LAYOVER until the October 7, 2013 meeting of the Board. Ms. Kiel seconded the motion.

AYES: Wiedenman, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 5-0

With regards to the shared air issue, Mr. Schaefer read the Board’s decision on a similar case (Case No. 12-022, August 13, 2012). That case was approved with the following stipulations: installation of UV lighting in the furnace; the filter was to be replaced on the furnace every 6 months; and, maintenance reports were to be submitted to the City upon request for up to 3 years.

Mr. Phipps advised the Board that, if the request was approved, the waiver should specify that if the heating system at the address was replaced, the proposed air filtration system must remain on any furnace that is installed on the property unless the unit is replaced with two separate furnaces.

Ms. Kiel moved to APPROVE the air purification system subject to the system remaining on any heating unit installed on the property unless the existing furnace is replaced with two separate furnaces for the two units. Also, the filter must be changed by a certified installer every 6 months and the UV light must be changed by a certified installer once every 12 months; in addition, documentation must be submitted to the City every 6 months for a period of 3 years. Mr. Wiedenman seconded the motion.

AYES: Wiedenman, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 5-0
ADJOURNMENT:

Motion to adjourn made by Mr. Wiedenman. Ms. Kiel seconded the motion.

AYES: Wiedenman, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 5-0

The meeting was adjourned at 2:45 p.m.