

Minutes of Meeting
Belton Building and Fire Prevention Code
Board of Appeals Meeting
City Hall Annex, 520 Main Street
June 13, 2019

CALL TO ORDER

Chairman Lathrop called the meeting to order at 3:00 p.m.

ATTENDANCE

Board: Chairman Gary Lathrop, Melvin Anderson, Jason Stephens and Steven Peterson.

Staff: Padraic Corcoran, City Attorney representative; Dave Clements, Planning and Building Director; Alexa Barton, City Manager; Greg Clayton, Building Inspector; and Megan Wasek, Executive Secretary.

Reporter: Terri Huseth, Certified Court Reporter, Alaris Litigation Services, 1608 Locust Street, Kansas City, MO 64108.

Guests: James Baldwin, property owner of 608 Belton Avenue; and Steven MacLeod, property owner of 17219 Chula Vista Drive.

MEETING MINUTES

Mr. Anderson moved to approve the meeting minutes of July 18, 2018, of the Building and Fire Code Prevention Board of Appeals meeting. Mr. Peterson seconded the motion. All members present voted in favor and the motion passed.

EVIDENTIARY HEARING

Chairman Lathrop introduced the evidentiary hearing in accordance with UDC Sec. 10-97 for owner(s) and interested parties regarding a dangerous structure located at 608 Belton Avenue, Belton, Missouri. Terri Huseth, Certified Court Reporter with Alaris Litigation Services, sworn in the following witnesses:

1. Greg Clayton, City of Belton Building Inspector
2. James Baldwin, property owner of 608 Belton Avenue

Mr. Corcoran, City Attorney, proceeded with his first and only witness, Greg Clayton, Building Inspector. Mr. Clayton read his report regarding the alleged dangerous structure of 608 Belton Avenue.

There was no request to cross-examine the witness. Mr. Corcoran requested that the exhibits referenced in Mr. Clayton's report, exhibits 1 through 11, be admitted into as evidence. Chairman Lathrop acknowledged the admittance.

James Baldwin, property owner of 608 Belton Avenue, affirmed Greg Clayton's report. Mr. Baldwin claimed that the former property owner came to him about 6 months after the fire and asked if he'd be interested in taking ownership of the property, so he did. He presented to the Board certified-stamped plans and a scope of work he had previously prepared, indicating his willingness to remediate the property.

With no further witnesses or documents to be presented, the Building Commission reviewed everything submitted before them and made their selection.

By a vote of 3 to 1, the Board found that the structure located at 608 Belton Avenue **is a dangerous building and public nuisance** and hereby ordered in the Conclusions of Law below the property owner **to repair** the structure with conditions as stated.

The Finds of Fact and Conclusions of Law are attached as Exhibit 1.

EXHIBIT 1

BALDWIN PROPERTY AT 608 BELTON AVENUE, BELTON, MISSOURI

EVIDENTIARY HEARING JUNE 13, 2019

BEFORE THE BELTON BUILDING AND FIRE PREVENTION CODE BOARD OF APPEALS

ORDER OF ABATEMENT WITH FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Board finds that the structure located at 608 BELTON AVENUE is a **dangerous building and public nuisance** and hereby order the property owner to **repair** the structure.

Findings of Fact

1. This property is owned solely by James Baldwin as evidenced by a Missouri Warranty Deed dated October 11, 2018 and recorded with the Cass County Recorder of Deeds on November 13, 2018.
2. There was a fire at the house on April 20, 2018, as evidenced by the fire report and subsequent photos taken.
3. At the time of the fire, a Violation Notice with Order to Abate was mailed via first class and certified mail to the property owner at the time, Edward C. Bolling and Pace Walker Bolling.
4. In response to this change in ownership, a building inspector for the City reviewed the fire department's report and photos were taken of the property on November 30, 2018.
5. Following this review, the Building Official determined in his opinion that the house had become a dangerous building and public nuisance as defined by Chapter 10, Article III, Section 10-92 of the Belton Unified Development Code because of: 1) charred and damaged framing elements of the roof have allowed weather conditions to continue deteriorating the interior of the structure despite the roof remaining tarped from the time of the fire event; 2) continued water penetration, lack of air circulation, lack of light and no utilities to heat or cool the house since the fire and board up; 3) inadequate safe egress from the condition of the structure after the fire event; and 4) its present condition serving as an attractive nuisance to homeless and/or unauthorized personnel.
6. An Ownership and Encumbrance Report was received from Accurate Title Company on April 9, 2019, listing James Baldwin as the property's owner and sole interested party.
7. The property owner was properly notified of the above determinations and results of the building inspections including all violations of the dangerous building and public nuisance laws and was requested to repair or demolish the structure.
8. The property owner failed to comply with the orders of the building inspector to repair or demolish the structure.
9. The property owner was properly notified of a hearing to determine the facts and disposition of the structure at 608 BELTON AVENUE.
10. On the day of the hearing, Mr. Baldwin presented to the Board his intent to repair the property and provided certified stamp plans and scope of work.

Conclusions of Law

1. There is substantial and competent evidence, including but not limited to: 1) charred and damaged framing elements of the roof have allowed weather conditions to continue deteriorating the interior of the structure despite the roof remaining tarped from the time of the fire event; 2) continued water penetration, lack of air circulation, lack of light and no utilities to heat or cool the house since the fire and board up; 3) inadequate safe egress from the condition of the structure after the fire event; and 4) its present condition serving as an attractive nuisance to homeless and/or unauthorized personnel to find that the structure at 608 BELTON AVENUE is a dangerous building and public nuisance under Chapter 10, Article III of the Unified Development Code of the City of Belton, Missouri.
2. This evidence elicited and admitted into the record at the hearing, and partially referenced above, establishes that the structure at 608 BELTON AVENUE constitutes a dangerous building and public nuisance under Chapter 10, Article III of the Unified Development Code of the City of Belton, Missouri.
3. The house at 608 BELTON AVENUE is most likely repairable from a structural perspective, and the property owner, Mr. Baldwin, has expressed his intent on its rehabilitation.

Order

1. The property owner is hereby ordered to repair the structure located at 608 BELTON AVENUE, to include pulling the appropriate permit(s) and pass final inspection. If within 70 days of issuance of this order, the property owner or any other interested party, as said term is defined by the Unified Development Code of the City of Belton, Missouri or Missouri law, has not either complied with this order or has not substantially complied with this order, the City may take all actions necessary to bring the structure into compliance with this order and levy any costs incurred by the City to the property owner and place a lien upon the property for the same.

At 3:30pm, Chairman Lathrop called for a 30 minute recess until the next evidentiary hearing.

At 4:00pm, Chairman Lathrop called the meeting back to order and introduced the evidentiary hearing in accordance with UDC Sec. 10-97 for owner(s) and interested parties regarding a dangerous structure located at 17219 Chula Vista Drive, Belton, Missouri. Terri Huseth, Certified Court Reporter with Alaris Litigation Services, sworn in the following witnesses:

1. Greg Clayton, City of Belton Building Inspector
2. Steve MacLeod, property owner of 17219 Chula Vista Drive

Mr. Corcoran, City Attorney, proceeded with his first and only witness, Greg Clayton, Building Inspector. Mr. Clayton read his report regarding the alleged dangerous structure of 17219 Chula Vista Drive.

After his report, Mr. Corcoran requested that the exhibits referenced therein, exhibits 1-8, be admitted into evidence. Chairman Lathrop acknowledged the admittance.

Steve MacLeod, property owner of 17219 Chula Vista Drive, came before the Board, indicating that he believed that the structure is repairable, but he didn't have the funds to do so until now. He also indicated that he attempted to get a permit earlier this week but was denied shortly after he had received one.

Mr. Corcoran cross-examined the witness, asking if the permit he attempted to obtain was an access permit to mow his lawn. Mr. MacLeod affirmed, as he has recently received a violation notice from the City about tall grass. It was determined that an access permit was not needed to be on the exterior of the property to mow.

Mr. MacLeod further said that he believed that the structure was repairable as none of the structure beams had 100% fire damage. Mr. Corcoran cross-examined the witness, asking if he had a structural engineering background. Mr. MacLeod claimed that he has a construction background.

With no further witnesses or documents to be presented, the Building Commission reviewed everything submitted before them and made their selection.

By a vote of 4 to 0, the Board found that the structure located at 17219 Chula Vista is a **dangerous building and public nuisance** and hereby ordered in the Conclusions of Law below the property owner **to demolish** the structure with conditions as stated.

The Finds of Fact and Conclusions of Law are attached as Exhibit 2.

EXHIBIT 2

MACLEOD PROPERTY AT 17219 CHULA VISTA DRIVE, BELTON, MISSOURI

EVIDENTIARY HEARING JUNE 13, 2019

BEFORE THE BELTON BUILDING AND FIRE PREVENTION CODE BOARD OF APPEALS

ORDER OF ABATEMENT WITH FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Board finds that the structure located at 17219 Chula Vista Drive is a **dangerous building and public nuisance** and hereby order the property owner to **demolish** the structure.

Findings of Fact

1. This property is owned solely by Steven MacLeod as evidenced by a Missouri Special Warranty Deed dated October 13, 2005 and recorded with the Cass County Recorder of Deeds on October 14, 2005.
2. There was a fire at the house on February 25, 2019, as evidenced by the fire report and subsequent photos taken.
3. An Ownership and Encumbrance Report was received from Accurate Title Company on April 9, 2019, listing Steven MacLeod as the property owner. It also revealed that the property taxes are delinquent.
4. Following this review, the Building Official determined in his opinion that the house had become a dangerous building and public nuisance as defined by Chapter 10, Article III, Section 10-92 of the Belton Unified Development Code because of: 1) charred and damaged framing elements of the roof have allowed weather conditions to continue deteriorating the interior of the structure, and if not addressed, the damaged roof may fail causing injury or damage to the property; 2) continued water penetration, lack of air circulation, lack of light and no utilities to heat or cool the house since the fire and board up; 3) inadequate safe egress from the condition of the structure after the fire event; and 4) its present condition serving as an attractive nuisance to homeless and/or unauthorized personnel.
5. The property owner and all interested parties were properly notified of the above determinations and results of the building inspections including all violations of the dangerous building and public nuisance laws and was requested to repair or demolish the structure.
6. The property owner failed to comply with the orders of the building inspector to repair or demolish the structure.
7. The property owner and all interested parties was properly notified of a hearing to determine the facts and disposition of the structure at 17219 CHULA VISTA DRIVE.
8. On the day of the hearing, Mr. McLeod expressed his desire to repair the structure but failed to present any supporting evidence that the structure is salvageable.

Conclusions of Law

1. There is substantial and competent evidence, including, but not limited to: 1) charred and damaged framing elements of the roof have allowed weather conditions to continue deteriorating the interior of the structure, and if not addressed, the damaged roof may fail causing injury or damage to the property; 2) continued water penetration, lack of air circulation, lack of light and no utilities to heat or cool the house since the fire and board up; 3) inadequate safe egress from the condition of the structure after the fire event; and 4) its present condition serving as an attractive nuisance to homeless and/or unauthorized personnel, to find that the structure at 17219 CHULA VISTA DRIVE is a dangerous building and public under the Chapter 10, Article III of the Unified Development Code of the City of Belton, Missouri.
2. This evidence elicited and admitted into the record at the hearing, and partially referenced above, establishes that the structure at 17219 CHULA VISTA DRIVE constitutes a dangerous building and public nuisance under Chapter 10, Article III of the Unified Development Code of the City of Belton, Missouri.
3. The house at 17219 CHULA VISTA DRIVE is not in repairable condition.

Order

1. The property owner is hereby ordered to demolish the structure located at 17219 CHULA VISTA DRIVE. If within 30 days of the issuance of this order, the property owner or any other interested party, as said term is defined by the Unified Development Code of the City of Belton, Missouri or Missouri law, has not either complied with this order or has not substantially complied with this order, the City may take all actions necessary to bring the structure into compliance with this order and levy any costs incurred by the City to the property owner and place a lien upon the property for the same.

ADJOURNMENT

All members present voted in favor of adjourning the meeting and the meeting adjourned at 4:30 p.m.

Megan Wasek
Executive Secretary, City of Belton

EXHIBIT A

MCCUBBINS PROPERTY AT 105 N. PARK DRIVE, BELTON, MISSOURI

EVIDENTIARY HEARING JULY 18, 2018

**BEFORE THE BELTON BUILDING AND FIRE PREVENTION CODE
BOARD OF APPEALS**

**ORDER OF ABATEMENT WITH
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Board found that the structures located at 105 N. PARK DRIVE are **dangerous buildings and public nuisances** and hereby order the property owner **to repair** the structures.

Findings of Fact

1. This property is owned solely by Jackie McCubbins as evidenced by deed records of Cass County and dissolution of marriage to Wendy McCubbins on April 24, 2013. The mortgage has been released. The homeowners insurance in force at the time of the fire was provided through State Farm. The taxes for 2017 have not been paid.
2. There was a fire at the house on July 30, 2015 as evidenced by the fire report and damages from the fire, water suppression and fire department entry in subsequent photos taken by the Building Department. Following the fire, the windows of the house were boarded up and the doors were shut and locked.
3. On October 20, 2016, the City received an insurance proceeds check from State Farm Insurance in the amount of \$23,814.93 pursuant to the requirements of City Code Section 10-101.
4. On November 16, 2017, the Building Inspector conducted an inspection of the house due to non-action by the homeowner or insurance company to repair or restore the home and multiple complaints from neighbors of strangers in and around the property, debris, general untidiness of the property and diminution of the value of the neighborhood with this burned out house sitting vacant for over two years.
5. Following this inspection, the Building Official determined in his opinion that the house had become a dangerous building and public nuisance as defined by Chapter 10, Article III, Section C of the Belton Unified Development Code because of: 1) roof buckling below area of hole in the roof and separation of soffit and fascia from the support members above the front door to the point of creating a large opening for further water penetration and rodent access; 2) risk of collapse of the roof on this portion of the structure; 3) evidence of unauthorized entry and squatting by vagrants in the garage and living spaces due to unsecured doors and windows; 4) concern for the children in the neighborhood of the attractive nuisance; and 5) continued water penetration, lack of air circulation, lack of light and no utilities to heat or cool the house since the fire and board up. In addition, the Building Official determined that the outbuilding was a dangerous building and public nuisance due to the hole in the roof, deterioration of the supporting members, unsecured and risk

of collapse. A violation notice to abate the dangers and public nuisances was issued to make repairs or demolish within 30 days.

6. The property owner and mortgage company was properly notified of the above determinations and results of the building inspections including all violations of the dangerous building and public nuisance laws and was requested to repair or demolish the structures.
7. The property owner failed to comply with the orders of the building inspector to repair or demolish the structures.
8. The Building Official was subsequently notified by the mortgage company, Wells Fargo, and that the mortgage was released and Jackie McCubbins is, to their knowledge, the sole owner.
9. The property owner was properly notified of a hearing to determine the facts and disposition of the structure at 105 N. PARK DRIVE.
10. The Building Official has been contacted by an interested, local party to restore the house.
11. On the day of the hearing, Mr. McCubbins contacted the Building Official and stated that he had no interest in the property and had no intent of repairing or demolishing.

Conclusions of Law

1. There is substantial and competent evidence to conclude that the structures at 105 N. PARK DRIVE constitute a dangerous building and public nuisance under the Dangerous Buildings Codes of the City of Belton.
2. The house at 105 N. PARK DRIVE is most likely repairable from a structural perspective, however, from an affordability perspective, the cost of repairs are most likely too great to be feasible for most buyers to see a return on the investment.
3. If an interested party is successful in purchasing the property and submits a repair plan within 60 days of this hearing and has a reasonable improvement time line that abates the public nuisances and restores the house with continuous progress, the Building Official is hereby instructed to investigate the status and return to the Building Commission with a recommended course of action.
4. If no interested party comes forward with a repair plan in the next 60 days, the City of Belton Building Official is hereby instructed to take bids for the demolition of the structures and demolish the structures pursuant to the procedures and Dangerous Buildings Codes of the City of Belton.