

SPECIAL MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, December 19, 2012 6:00 pm
Council Chambers, Bath City Hall

Present: Councilors Brackett, Merrill, Lockwood, Eosco, Sinclair, Mitchell, Winglass and Chairman Wyman
Late: Council Paulhus

Also in attendance were the City Manager William Giroux, City Solicitor Roger Therriault and City Clerk Mary White.

Chairman Wyman led the Pledge of Allegiance and City Clerk White called the Roll.

Chairman Wyman asked for a moment of silence in remembrance of those who died in the shooting incident at Sandy Hook Elementary School in Newtown, Connecticut.

I. Order: Dangerous Building

ORDER REGARDING DANGEROUS BUILDING

Pursuant to 17 M.R.S.A. Section 2851

Also Pursuant to Section 115 and Section 117 of the 2009 International Existing Building Code

TO: Yvonne Orchard (Owner)
45 Windjammer Way
Bath, Maine 04530
City of Bath (Lien Holder)
c/o William D. Giroux, City Manager
Bath City Hall
55 Front Street
Bath, Maine 04530

FROM: Municipal Officers (Bath City Council) of the City of Bath, Maine
55 Front Street
Bath, Maine 04530

RE: Building on Located at 45 Windjammer Way, Bath, Maine
More Particularly Identified as the Building on Lot #119 on
City of Bath Tax Map #25

Pursuant to Statutory requirements, notice was served on the owner and the party-in-interest, as that term is defined in 14 M.R.S.A. Section 6321, and pursuant to 17 M.R.S.A. Section 2851(1), of a Hearing before Council to be held on December 5, 2012, with regard to the condition of the structure on the above-captioned property.

RECORD

The Record from the Hearing in this matter consists of the following:

1. Report from Helen Watts Engineering, dated September 27, 2012.
2. Chronology and supporting documentation provided by the Codes Enforcement Office.
3. Various photographs of the site.
4. Testimony of Codes Enforcement Officer Scott Davis.
5. Testimony of Helen Watts, Professional Engineer.
6. Testimony of Alan and Yvonne Orchard.
7. Testimony, comments and questions of interested parties and the public.

FINDINGS

Based on the Record consisting of documents presented at the Hearing and testimony at the Hearing, the City Council finds the following specific facts:

1. Yvonne Orchard is the owner of the property at 45 Windjammer Way, Bath, Maine.
2. The property at 45 Windjammer Way, Bath, Maine, is the principal residence of Yvonne and Alan Orchard.
3. Notice of the Hearing before Council was served on the owner, by the Sagadahoc County Sheriff's Department on November 30, 2012. Notice on the lien holder, the City of Bath, was accepted by the City Manager, duly authorized to accept service.
4. Pursuant to the requirements of 17 M.R.S. Section 2857, the Notice of Hearing was filed in the Sagadahoc County Registry of Deeds on November 29, 2012 and recorded in Book 3451, Page 102.
5. Pursuant to an Administrative Inspection Warrant issued by the Sixth District Court, Division of Bath/Brunswick, Docket No. CV-2012-214, issued on September 26, 2012, the Codes Enforcement Officer for the City of Bath and Helen Watts, P.E., inspected the Orchard property at 45 Windjammer Way. A Return of the Warrant was filed with the District Court.
6. The Engineer issued a Report dated September 27, 2012 which is part of the Record of this matter. A copy of that Report was forwarded to the owner by the City's Codes Enforcement Officer by covering correspondence dated October 2, 2012.
7. Based primarily on the Engineer's Report, the building condition is found to be as follows:
 - Footings have settled toward the back, such that the back joists are resting on wet soil.
 - Variable settlement has left some parts of the floor sheathing unsupported towards the back of the kitchen.
 - The main beam supporting the joists in the middle of the house consists of a pair of stacked 6 by 6 timbers with possibly 3 bays. The back bay is not visible due to settlement of the house. The bottom of the stacked 6 by 6's has failed.
 - At the front of the house where the support condition is accessible, the top timber is pulled out of the framing by the lean of the house leaving the end of the failed 6 by 6 to provide a load path for the first floor loads.
 - The second floor framing and the room line slopes steeply toward the back.
 - The roofing that is visible consists of asphalt shingles in poor condition. Most of the roof is covered with a blue tarp that has been in place for a couple of years and has worn through. Daylight is visible through the roof materials.
 - The roof framing visible around the tarp has failed with missing sheathing, failed sheathing bowed between remaining rafters, and rotted rafters with parts of the rafters missing. Much of the framing is covered by the tarp but the sagging of the tarp shows more missing sheathing and damage to the rafters.
 - Snow and rain can enter the interior of the house over the stairs and likely in the back room upstairs and back room kitchen.
 - The roof condition is such that there could be a failure of the roof framing to support a heavy snow fall on the tarp especially at the back of the house.
8. The following repairs need to be affected before the winter season in order to protect the house from collapse and to protect its occupants:
 - The back of the building needs to be resupported such that the joists are 9" minimum above the soil and the crawl space.
 - The rotted joist framing should be sistered as needed and attached to the floor sheathing.
 - The broken 6 by 6 beams supporting the first floor joists should be repaired.
 - The roof framing needs to be repaired including sistering rafters as needed and applying new roof sheathing where the sheathing is damaged. New roofing is needed.
 - The ceiling over the stairs should be sheathed.

CONCLUSION

Based on the Record and the specific Findings, the City Council concludes that the building is structurally unsafe and unsound and constitutes a dangerous building based on its deteriorating condition due to the structural defects noted in the findings. We further find that the building represents a danger and is unsafe for habitation.

DISPOSITION

It is, therefore, ordered as follows:

1. The building will be secured and entry to the building prohibited except for the specific purpose of making repairs or for demolition.
2. At the option of the owner, the property may be rehabilitated and repaired. No occupancy shall be permitted, however, until inspection of the repairs and renovations and issuance of an occupancy permit by the Codes Enforcement Officer. Any permit for repairs and renovations to the Council will be submitted within _____ (___) days of the date of this Order. If no permit is applied for and issued, it will be assumed that there is no intent to renovate the structure and it will need to be removed.
3. If the owner elects to remove the dangerous building, it shall be removed within _____ (___) days from the date of this Order. The debris from such demolition shall be entirely removed from the property and properly disposed of at appropriate disposal sites no later than seven (7) days after the completion of the demolition. The property shall be remediated and returned to its natural state within twenty-one (21) days of the completion of the demolition.
4. The owner shall acquire, prior to any demolition, repair or renovation, all necessary and appropriate permits.

Should the owner fail to secure, repair and renovate the building or fail to demolish the building and reclaim the site, within the time frames noted above, then the City shall cause the nuisance represented by the dangerous building to be abated or removed in compliance with this Order pursuant to 17 M.R.S.A. Section 2857. All expenses for such demolition or removal shall be repaid to the municipality by the owner of the property within thirty (30) days after demand. If unpaid at the end of the thirty (30) day period, then a special tax may be assessed by the Assessor against the land on which the building was located, in the amount of the expenses, said assessment to be included in the next Annual Collection Warrant to the Tax Collector for the collection of City taxes. Collections shall be in the same manner as other municipal ad valorem property taxes.

Pursuant to 17 M.R.S.A. Section 2851(3) an attested copy of this Order will be recorded in the Sagadahoc County Registry of Deeds by the Clerk of the City of Bath.

The owner is advised of her right to appeal this decision of the Municipal Officials to the Superior Court in and for the County of Sagadahoc, pursuant to the provisions of the Maine Rules of Civil Procedure, Rule 80B, all in accordance with the provisions of 17 M.R.S.A. Section 2852.

City Solicitor Roger Therriault explained the procedure that needed to be followed for the passage of the Order.

Councilor Lockwood made a motion to put the Order on the floor for discussion. Councilor Mitchell seconded the motion.

The City Solicitor lead a review of the Order, section by section, to make sure that there were no amendments needing to be made before passage.

Councilor Sinclair made a motion to remove last item in #8 under the "Findings" section. There was no second to this motion.

Councilor Merrill made a motion under the section “Disposition” #1 add the wording “or for owner to remove personal property”. Councilor Sinclair seconded the motion.

VOTE on Motion:

YEAS: Brackett, Merrill, Lockwood, Eosco, Sinclair, Mitchell, Winglass

NAYS: None

Motion passed unanimously. 7-0

Councilor Winglass made a motion under section “Disposition” #2 fill in the blank for date with: May 1, 2013. Councilor Eosco seconded the motion.

VOTE on Motion:

YEAS: Brackett, Merrill, Lockwood, Eosco, Mitchell, Winglass

NAYS: Sinclair

Motion passed. 6-1

Jeanelle Merrill Pyy addressed Council stating she advocates for and is a personal assistant for the Orchards and runs a voluntary non-profit organization known as Labor for Neighbors. Ms. Pyy explained she would be happy to do anything she could to assist with the process and to make sure the Orchards are capable of understanding what was happening.

Councilor Merrill made a motion under section “Disposition” #3 fill in the blank for date with: November 1, 2013. Councilor Mitchell seconded the motion.

VOTE on Motion:

YEAS: Brackett, Merrill, Lockwood, Eosco, Mitchell, Winglass

NAYS: Sinclair

Motion passed. 6-1

There was a brief discussion regarding the Orchards level of understanding of what was happening to them and their home and how to precede appropriately.

Councilor Paulhus took his seat during this discussion.

VOTE on Amended Order:

YEAS: Brackett, Merrill, Paulhus, Lockwood, Eosco, Mitchell, Winglass

NAYS: Sinclair

Amended Order Passed. 7-1

The meeting adjourned at 7:00 PM to Workshop with a motion from Councilor Mitchell and a second from Councilor Winglass. All were in favor of the motion to adjourn.

Attest:

Mary J. White, City Clerk

Please note: These minutes are not recorded verbatim. A DVD recording of the meeting is available for review in the City Clerk's office during regular business hours by appointment.