

June 14, 2018



## Memorandum for the Board of Zoning Appeals

### City of Bellbrook

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### **Subject:** Meeting on June 19, 2018

This is to confirm that the Board of Zoning Appeals/Property Review Commission will conduct a meeting on **June 19, 2018** at **6:15 PM** to discuss the Property Review Commission's duties and enforcement options under the Property Maintenance Code. Please find enclosed an agenda for the meeting, the minutes to approve from May 22, 2018 and June 5, 2018 and supplemental material.

Please let us know if you have any questions on this material.

Sincerely,

Melissa Dodd  
City Manager

Don Buczek  
Assistant to the City Manager

Melissa Jones  
Code Enforcement Officer







Bellbrook Board of Zoning Appeals and Property Review  
Commission Public Hearing

June 19, 2018 6:15 PM

Agenda

1. Call to Order
2. Roll call
3. Approval of prior minutes May 22, 2018 and June 5, 2018
4. Old Business:
5. New Business:
  - Discussion on roles and responsibilities of staff and the Commission
6. Open Discussion
7. Adjournment

**BELLBROOK BOARD OF ZONING APPEALS**  
**PUBLIC HEARING MINUTES**  
**MAY 22, 2018**

**PRESENT:** Mr. Robert Guy  
Mr. Robert Middlestetter-arrived at 6:27  
Mr. Philip Ogrod  
Ms. Schroder-arrived at 6:19  
Chairman Brinegar

**GUESTS:** Mr. and Mrs. Baker  
Mr. and Mrs. Davis  
Mr. James Elias  
Ms. Tia Harnish  
Mr. and Mrs. Longo  
Mr. Alan O'Meara  
Mr. and Mrs. Porter  
Mr. Robert Ross, Attorney  
Ms. Sia Trahanatzis

**CALL TO ORDER:**

Chairman Brinegar called the meeting of the Board of Zoning Appeals to order at 6:17 PM and requested questions regarding the prior minutes; hearing none, Mr. Guy moved to approve the prior minutes of March 20, 2018. Mr. Ogrod seconded the motion. Roll was called. Mr. Guy, yes; Mr. Ogrod, yes; Chairman Brinegar, yes. The motion carried 3-0.

It is noted for the record that Ms. Melissa Dodd, City Manager and Ms. Kinion, City Board Secretary and Code Enforcement Officer, Ms. Jones were also present at this public hearing.

**OLD BUSINESS:**

Ms. Jones gave an update on the previous Property Maintenance Case.

**PRC Case #18-4: 4171 Woodedge Dr., (Harnish)**

Ms. Jones said there were a total of ten violations on this property, two violations have been resolved. The accessory structure has been removed and the storage of firewood has been resolved. Ms. Jones said the violations that still exist include:

Outside storage- There has been some improvement in the outside storage but violations still exist.

Brush piles- Ms. Harnish said the multiple brush piles will be combined into one, which is allowed.

Garbage/rubbish containers- Plastic bags still exist that are full of leaves, dirt and sticks. Ms. Harnish did state that these will be removed as soon as possible.

Protective Treatment- Cracks and holes still exist in the masonry joints. Also, Ms. Harnish said she might need to install a new door because the old door is not aligning correctly.

Roofs and drainage- A down spout is missing.

Overhang extensions Ms. Harnish said she will put up a soffit and metal fascia over the trim to repair the holes.

Back porch- Ms. Jones said Ms. Harnish is bringing in a contractor to repair or replace the back porch.

Window replacement- There exist a window with plywood on it. Ms. Harnish does have the window but there is an issue with the frame.

Chairman Brinegar said there is progress but there is still a lot of work to be done. She also stated that Ms. Harnish had a dead line of May 1, 2018. Chairman Brinegar asked Ms. Jones if she believed Ms. Harnish was solid about completing the other violations. Ms. Jones said that Ms. Harnish mentioned that money was an issue to complete these violations.

Mr. Guy said she did have a dead line of May 1, 2018 and Ms. Harnish did not comply. Chairman Brinegar agreed but said there has been some progress. Ms. Jones suggested since Ms. Harnish is working on the property to comply with some of the violations, maybe an extension should be given. If the work is not completed by then, fines could be assessed. Mr. Guy said she was already given an extension but she has not complied. He said we could just go on and on and continue to give extensions without results. Chairman Brinegar reiterated that there has been some progress. She also said that if an extension is given and the violations are not complete, we could assess fines at that time.

Ms. Dodd wanted to mention that the first complaint on this property was received on November 30, 2017. This was over the winter and we had a really wet spring. The weather is now just getting to the point that the home owner can get out and start doing the work.

Chairman Brinegar requested that those individuals who wished to speak at the hearing this evening to stand and be sworn in at this time. Once the witnesses were duly sworn, Chairman Brinegar opened the public hearing.

Tia Harnish, 4171 Woodedge Dr.-Ms. Harnish said she does have a contract for the porch; work will begin on June 25, 2018. The concrete porch might be replaced with a wood deck. Ms. Harnish asked if she would need a permit to complete that. Ms. Jones replied yes. Ms. Harnish also stated that the contractor will repair the window in between other odd jobs. Ms. Harnish also said the plastic trash bags will go out to the trash on Friday. A trailer full of brush will be hauled away too.

Mr. Ogrod asked about the gutters located on the ground. He asked when it will get put back on the house. Ms. Harnish said that the gutter will be hauled away. Ms. Harnish also said she does have the down spout to put up.

Chairman Brinegar said our goal is to get the property up to standard. She said we have seen some progress but not as much as we hoped to see. She also said assessing fines could possibly limit

financial resources to complete these violations. She said she would be inclined to set a date for completion and to not have further discussion. When Ms. Jones inspects the property at that time and there are still violations, fines would be assessed.

Ms. Schroder suggested that we have some interim milestone for some of the other violations that could be completed sooner.

Mr. Ogrod said he was thinking to get the violations completed 50% and then 20% and then get everything complied with.

Mr. Ogrod made a motion to extend the dead line until June 5, 2018 for PRC Case 18-04, 4171 Woodedge Drive for the following violations: brush piles, outside storage, garbage/rubbish containers and roofs/ drainage. If these violations are not completed, fines will be assessed for the first offense. The motion includes an additional deadline of July 15, 2018 for the remaining four violations. If they are not completed by that date, fines will be assessed for those items as well. Mr. Middlestetter seconded the motion. Roll was called. Mr. Ogrod, yes; Mr. Middlestetter, yes; Mr. Guy, no; Ms. Schroeder, yes; Chairman Brinegar, yes. The motion carried 4-1.

#### **NEW BUSINESS:**

##### **BZA CASE #18-02, 79 West Franklin Street (Highland RE Group LTD)**

Ms. Dodd said this case will not come before the Board this evening.

##### **BZA CASE #18-05: 2088 Dane Lane (Elias)**

Ms. Jones said this case involves multiple violations. The violations pertain to vegetation, accessory structure, rodent harborage, exterior walls, roofs and drainage, outside storage, brush piles, protective treatment, decks, porches and windows. The property has had numerous complaints and has been left vacant since 2012. Ms. Jones said that in 2012 Mr. Buczek arranged for a group of 20 volunteers to go to this property to assist and clean up the property. The volunteers used their own resources and gave of their time to assist the property owners. Ms. Jones said the property was not maintained after the volunteers cleaned up the property. Ms. Jones said that a new roof was put on the house which was not part of the violations. She also said there was some movement today on the property. Ms. Jones said that included in the packet are copies of letters that were sent to the property owner, Mr. James Elias and Sia Trahanatzis, Mr. Elias's sister and his power of attorney. Mr. Elias had a stroke so his sister is his care taker. The city has tried to work with them to bring this property into compliance. Mr. Elias and Ms. Trahanatzis live in Texas.

Ms. Dodd asked Ms. Jones for the total number of violations for this property. Ms. Jones said there are five violations pertaining to the exterior property areas and six violations pertaining to exterior structure.

Mr. Ogrod asked if all eleven violations still exist today. Ms. Jones replied yes, all eleven violations exist today.

Chairman Brinegar asked if there was anyone present at the meeting to speak regarding this property.

Mr. Robert Ross, Attorney for Mr. Elias, came before the board to speak. Mr. Ross said Mr. Elias is here tonight but his communication is limited due to his stroke. Mr. Elias's sister, Ms. Sia Trahanatzis is also present tonight. Mr. Ross said there are a number of violations that exist on this property. He said they are working on getting the violations taken care of. Mr. Ross said the violations are in various stages of completion. He said there was a new roof put on the house and vegetation and brush was cleaned up today. Mr. Ross said they do have various contracts to perform other work but some jobs have been delayed due to the weather and just simply trying to get parties out to complete the work. Mr. Ross said that A-1 Able Pest Doctors was out and reviewed the issue with rodents. Mr. Ross said they found no indication of rodents at that time. He said that issue was either taken care of or it was not a problem. The roofer is scheduled to come out to do gutter work. A shed on the property is scheduled to be torn down but the contractor has not made it out to the property. Also Mr. Ross said they have a gentleman who is under contract to cut and maintain the yard and vegetation. The brush piles are also scheduled to be removed.

Mr. Guy said these violations have existed since April 2017 which is more than a year. Mr. Ross said that is correct but there have been some serious health concerns. Mr. Ross said they are attempting to complete the work.

Mr. Ogrod asked if there are any concrete dates for completing the violations. Mr. Ross said he does not have hard dates. He did say he thinks they could get the work done in ninety days. Mr. Ross also said he would not be opposed to having a step plan similar to the previous case.

Ms. Schroder asked what the long term plan is for the property. Mr. Ross said the long term goal for this property is to sale the property without significant losses on the property.

Ms. Jones said she was out to the property with Mr. Buczek, Assistant to the City Manager, in November. It was stated by Ms. Trahanatzis that the property would be in compliance by April 30, 2018 which was the deadline given to them. Ms. Jones sent emails after that to Ms. Trahanatzis and there has been no communication from Ms. Trahanatzis.

Ms. Jones also asked about the rodent issue. She stated neighbors have seen rodents coming and going from the property. Mr. Ross provided a copy of the invoice from A 1 Able Pest Control Doctors to Ms. Jones. She asked how long the property was monitored for rodents. Mr. Ross said the property was monitored for two weeks. Mr. Ross stated that they were not charged for the rodent service because no rodents were found on the property.

Ms. Schroder asked Mr. Ross about the vegetation management. Mr. Ross said there is someone under contract to mow the lawn and take care of the vegetation. He stated that some of that has been taken care of over the last couple of days.

Chairman Brinegar said she does not know if they will go with a stepped process to resolve these violations but she asked Mr. Ross if some items could be done sooner rather than later. Mr. Ross said some of the issues have to do with debris piles and he thinks that could be taken care of quickly. The other items are largely dependent on when the contractors can come out to do the jobs. Those might require more time.

Ms. Sia Trahanatzis, 2088 Dane Lane- She is the sister of Mr. Elias and also his Power of Attorney. She stated that Mr. Brian Hinders is contracted to maintain the yard and vegetation. He is under contract to mow the lawn once every two weeks. She also stated that on May 3<sup>rd</sup> a contract was signed to take down the shed. The contents of the shed have been removed and will be discarded when the shed is torn down. New gutters will be replaced along with new down spouts. She also stated that new soffit vents have been purchased and will be installed. Ms. Trahanatzis also said that they are getting estimates on painting the house. They were told there is a two month wait period before the painters could complete the job. She also said new doors will be installed along with new windows. She said they basically are doing a complete remodel on the house so they are able to sale the property. Ms. Trahanatzis did state the weather has held up a lot of this work which is out of her control.

Ms. Trahanatzis said the brush pile on the driveway was to be picked up by the Bellbrook Service Department. Ms. Jones said she had a conversation with her regarding the city picking up the brush pile in the driveway back in March. The Service Department was not going to be able to pick up the brush pile this year.

Rick Davis, 2122 Dane Lane-Mr. Davis told Mr. Elias he was sorry about his stroke, he said it is a terrible thing to happen. Mr. Davis said this has been going on since 2012. The grass at times has been very high. Another neighbor, Mr. Porter has cut the grass before. Mr. Davis said it is bringing all of their property values down. He said the property looks like a dump. Mr. Davis said he does not live right next door so he has not seen any animals on the property but he has been told what other neighbors have seen. He said there are about a dozen trash bags in front of the property. He said if you don't pay for trash service, the bags will not be picked up. Mr. Davis said he understands that they have had hardships but he stated that every one of us has had hardships. He said there is really no good excuse for this to have gone on since 2012. He would like to see no more extensions given.

Matt Porter, 2076 Dane Lane-Mr. Porter lives next door to 2088 Dane Lane. Mr. Porter said Mr. Elias was a good neighbor. Mr. Porter said when Mr. Elias had his stroke; he had compassion for him so he took care of the lawn. Mr. Elias moved to Texas and Mr. Porter did not know anything. Mr. Porter said he had his Youth Group go out and clean up the property. The following year, another Youth Group went out and cleaned up the property. Mr. Porter wants to see this property cleaned up so they can put the house up for sale. He wants neighbors that will take care of the property. He



stated that a construction dumpster should be on the property to get rid of everything that needs to be discarded.

Gail Longo, 3930 Dane Court- Mrs. Longo stated she also has compassion for Mr. Elias but this started way before 2012. She has pictures of all the vegetation that is encroaching onto their property. She said the grass is being mowed but it is not being trimmed around the property. She also stated that the property at 2088 Dane Lane does not have gutters and down spouts. As a result of this, they have lost trees because of the run off coming from that property. They are frustrated and would like to see new neighbors that will take care of the property.

Chairman Brinegar stated that these violations have been going on for six years and asked if this was the first time this case has been brought before this board. Ms. Jones said yes, this is the first hearing. Ms. Jones stated that Mr. Buczek had compassion too and tried to find resources to help clean this property up. Mr. Buczek and Ms. Jones decided that they were going to give the property owners a dead line of April 30, 2018. Ms. Jones said she has been out to the property several times to see if anything has been done. She said the only thing she has seen that has been done is the roof. She said she does not have proof that the rodent problem has been resolved. Ms. Jones stated that while visiting the property, she heard something in the shed. Chairman Brinegar stated that she is concerned with the rodents also. There are holes that the rodents could access the house.

Gail Longo, 3930 Dane Court-Mrs. Longo said she has seen rodents on the property. She is a pet owner and is concerned that they might have rabies. She said every evening at dark they come out.

Mr. Middlestetter said he lives in the same neighborhood as Mrs. Longo. He knows there are raccoons in the area. He said this problem is all throughout Bellbrook.

Ms. Jones said she knows there are rodents throughout Bellbrook but she is still concerned with all of the holes in the property. There are many areas that the raccoons could enter the house.

Sia Trahanatzis, 2088 Dane Lane,-Ms. Trahanatzis said A 1 Able Pest Doctors put up a temporary barrier to see if there was any activity coming and going. She said since they have done that nothing has changed. They come out on Tuesday's and Thursday's to inspect the property for activity. Ms. Jones asked if they observed the shed too. Ms. Trahanatzis said they did find feces in the shed. She did say that she thinks the shed is the problem for the raccoons. She reiterated that the shed is going to be torn down but she has not heard back from the contractor.

Chairman Brinegar said we don't have to prove there are rodents in the home, there are holes in the home which is the violation. The rodents do have the potential to be in the home due to the holes.

Ms. Schroder asked Ms. Trahanatzis if they live in the home when they are up from Texas. She replied no because there is no electricity or water.

Mr. Middlestetter said he has been on this board for many years and he has also served as a Council member. He stated that this is a very complex issue. Mr. Middlestetter said he would like to see this resolved for the property owner and also the neighbors. Mr. Middlestetter said if extensions could get this issue resolved then he is all for extensions.

Chairman Brinegar said this case should have come before the board in a more official capacity sooner. She said there is an urgency that the board needs to act but it is regrettable that this case was not brought before the board sooner.

Ms. Dodd said the city does have a Code Enforcement Officer now; we do have things in place where we are trying to get situations such as this resolved with formal complaints that come in. We are able from this point on to take in complaints and to resolve them in a timely manner.

Ms. Schroder said we can all sympathize with the owner and also the neighbors who are dealing with this. The biggest concern she has is that no one is living at the property now. She said with all we have heard today that we have just heard a hap hazard plan to get the violations resolved. Ms. Schroder said she does not believe there is a clear structure around this.

Mr. Ogrod agreed with Ms. Schroder's assessment. He said there needs to be a plan made for all of this to be done. Mr. Ross said they do have contracts in place. He agreed that something could be formalized here.

Ms. Trahanatzis 2088 Dane Lane-said they want to get these violations resolved. She said because the contractors have not showed up to complete the work, can the city step in and help. The reply was no, the city is not in a position to do that.

Mr. Matt Porter, 2076 Dane Lane-Mr. Porter asked if the neighbors can get a copy of any deadlines that are set. The board replied yes, they would be able to get a copy of the deadlines.

Mr. Middlestetter asked if it would make sense for Ms. Jones to work with the owner of this property to come up with a detailed plan. Ms. Dodd suggested that a detailed plan come before the board during the next meeting. The board can approve or deny the plan, then put a final deadline on it. Mr. Middlestetter said there should be someone from the city engaged in that plan development. Ms. Dodd said it is not the city's job to work with them on a plan to repair their property. Ms. Dodd said an appropriate position of the city staff is to go out and monitor the progress until the next meeting.

Mr. Guy made a motion to have the following violations completed by June 5, 2018; removal of shed, removal of outside storage and pallets, maintain vegetation that includes the borders of the property. If those violations are not in compliance , fines will be assessed for the first offense. The motion also includes that a detailed plan with all other noted violations, including a timetable, be presented to the Board of Zoning appeals on June 5, 2018 for their review. Mr. Ogrod seconded the motion. Roll was called. Mr. Guy, yes; Mr. Ogrod, yes; Mr. Middlestetter, yes; Ms. Schroder, yes; Chairman Brinegar, yes. The motion carried 5-0.

**BZA CASE #18-06: 2135 Clear View Drive (Baker)**

Ms. Jones said this case involves a violation regarding an unfinished addition. The permit for this addition was pulled in 2007. This property has had several complaints regarding the unfinished addition. Ms. Jones gave a date of April 30, 2018 to complete the addition.

Mr. Baker said the weather has been a factor for him. He also said his wife has had health issues. Mr. Baker said he has been sealing and water proofing the bottom of the addition. He is going to apply a soap stone ledge around the bottom. Over the winter months, he painted the Hardie Board siding. Mr. Baker said it is ready to be put up and it would have been done but the weather has been bad. Mr. Baker said that the addition should be completed by the end of July.

Ms. Brinegar suggested that when the board convenes on June 5, 2018 the board will verify that progress has been made on the addition.

Mr. Guy made a motion to verify that progress has been made by June 5, 2018 on the addition, if no progress has been made by that time; fines will be assessed for the first offense. The motion also includes that the addition will be fully completed by July 31, 2018. Mr. Ogrod seconded the motion. Roll was called. Mr. Guy, yes; Mr. Ogrod, yes; Mr. Middlestetter, yes; Ms. Schroder, yes; Chairman Brinegar, yes. The motion carried 5-0.

**OPEN DISCUSSION:** Chairman Brinegar asked if the discussion of the storage of firewood could be moved to the next meeting. Ms. Jones suggested that the discussion be tabled for now. Ms. Jones said since we have a new City Manager, the Zoning Code will be reviewed and perhaps there will be other recommended changes to bring before the board. The board members agreed. The discussion for a change of language to the Exterior property areas, Section 1450.31 (k)-Storage of firewood, has been tabled.

Ms. Dodd suggested that we establish a process of the flow of the meeting that includes time limits.

The Board will meet next on June 5<sup>th</sup> to review **PRC Case #18-04, PRC Case # 18-05 and PRC Case #18-06.**

**ADJOURNMENT:**

There being no further business to discuss, Mr. Guy adjourned the meeting at 8:22 PM.

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Meredith Brinegar, Chairman

Date

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Jami Kinion, Secretary

Date



**BELLBROOK BOARD OF ZONING APPEALS**  
**PUBLIC HEARING MINUTES**  
**JUNE 5, 2018**

**PRESENT:** Mr. Robert Guy  
Mr. Robert Middlestetter  
Mr. Philip Ogrod  
Chairman Brinegar

**ABSENT:** Ms. Schroder

**GUESTS:** Mr. and Mrs. Baker  
Mr. and Mrs. Davis  
Mr. James Elias  
Mr. Robert Ross, Attorney  
Ms. Sia Trahanatzis

**CALL TO ORDER:**

Chairman Brinegar called the meeting of the Board of Zoning Appeals to order at 6:15 PM.

It is noted for the record that Ms. Melissa Dodd, City Manager, Mr. Don Buczek, Assistant to the City Manager, Ms. Jami Kinion, City Board Secretary and Code Enforcement Officer , Ms. Melissa Jones were also present at this public hearing.

**OLD BUSINESS:**

Ms. Jones gave an update on the previous Property Maintenance Case.

**PRC CASE #18-04, 4071 Woodedge Dr. (Harnish)**

Ms. Jones went out to inspect the property today. There were four violations that Ms. Jones was checking on before fines start tomorrow.

- Brush piles-Ms. Harnish still needs to condense the three brush piles into one.
- Outside storage was mostly cleaned up. The gutters were still on the ground.
- Garbage/Rubbish containers-Trash bags were still laying on the ground. Ms. Harnish was pulling them around in a wagon when Ms. Jones arrived.
- Roofs/Drainage-the downspout still needs to be put up.

Ms. Jones will go back out to inspect tomorrow, June 6 to inspect the property for the above four violations. If they are not in compliance, fines will be assessed at that point. There is another due date of July 15, 2018 for the remaining four violations.

Chairman Brinegar asked if anyone would be speaking tonight to stand and be sworn in at this time.

**BZA CASE #18-05: 2088 Dane Lane (Elias)**

Ms. Jones said this case involves eleven violations. Four violations were requested by the Board to be complied with by June 5, 2018. Those violations pertain to outside storage, accessory structures, vegetation and brush piles. The Board requested the owner provide a detailed timeline on the remaining seven violations pertaining to rodent harborage, protective treatment, exterior walls, roof and drainage, decks, windows and doors and insect screens. Ms. Jones said included in the timeline should be deadline dates including contingent dates in case of inclement weather. She also stated that the property has been vacant since 2012. The property has had numerous violations in the past several years. The violations have not been permanently corrected and or maintained causing them to re-occur.

Ms. Jones inspected the property today and found the following:

- Accessory structure has been removed. Violation resolved
- Outside storage-there are still garbage cans full of vegetation and containers filled with water.
- Vegetation-Ms. Jones said there is still some vegetation that needs to be trimmed.
- Brush piles were removed. Violation resolved.

Ms. Jones also inspected other violations that are due at a later date.

- Rodent harborage-The accessory structure was removed and the holes were covered to prevent access to structure -Violation resolved
- Protective treatment-House still needs scraped and painted.
- Exterior walls-Masonry work needs done on brick and joints.
- Drainage issue- Violation resolved
- Deck needs repaired and stained. The porch is not attached securely to the structure or ground.
- Windows All windows should be in good repair.
- Insect screens-Violation resolved.

Mr. Robert Ross, Attorney for Mr. Elias, came before the Board to speak. Mr. Ross said the owners have complied with all of the violations that were due today with the exception of the vegetation. Mr. Ross said the owner's did not understand the extent of the vegetation that needed cleaned up. Mr. Ross said they are working on getting the home sealed and should have that complete in thirty days. The other violations to complete are painting the house and repair to the deck. Therefore, Mr. Ross said he would request ninety days to complete the violations with milestone updates along the way.

Mr. Guy said ninety days is not acceptable to complete these violations.

Mr. Middlestetter said there are probably issues getting contractors right now. It is the busy season. Mr. Ross said they are having problems getting contractors to show up or even return calls.

Chairman Brinegar said she was disappointed in the detail maintenance report and timeline that was submitted to the Board. The Board requested a detailed plan with timelines to complete the remainder of the violations.

Mr. Ogrod agreed and said the Board did ask for a detailed plan. Mr. Ogrod said only two of the four violations due today were complied with and three of the seven violations that were due latter were complete. The Board requested a detailed plan with a timeline for those remaining four violations. Mr. Ross said they had every intention to compile a detailed plan with timeline but the contractors fell through. Mr. Ross said that is why they are requesting an additional ninety days to complete the remaining violations.

Mr. Middlestetter said he understands the problems they are having with getting contractors to respond. He said the Board still wishes to have a detailed plan that the owners can be held accountable to. Mr. Middlestetter said the Board can't continue to give an additional thirty or ninety days. He did say however, he is encouraged with the progress so far.

Mr. Ross said he does understand this has been an ongoing issue. He said he does think the owners are making a good faith effort to get the violations completed. He said it does take time for all of this to get done and that is why they are requesting additional time tonight. Mr. Ross said they are open to what the Board wishes to do.

Chairman Brinegar asked if there was anyone in attendance tonight that wishes to speak regarding this case. She ask them to come to the podium and state their name and address.

James Loeb 2089 Firebird- Mr. Loeb said he lives right behind 2089 Dane Lane. He said he pays high taxes to live in Bellbrook. Mr. Loeb said at certain times of the year, there is some effort to clean up the property. He likes his yard to look nice and he likes people around him. He has a game trail on his property were all of the rodents travel into his yard from the Dane Lane property. Mr. Loeb said he would like to see the property sold and have people live in the house. He likes the neighborhood and does not want to see nasty looking vacant properties behind him.

Vanessa Davis 2122 Dane Lane-Mrs. Davis said she has been watching this property for years. They have lived in their home since 1997. She said the same paint has been on the house for years. She said they need something done now and not in ninety days. Mrs. Davis said she normally does not speak up but she has had enough

Ms. Jones also shared with the Board that the garbage bags that were at the front of the property were removed by Rumpke in error. She said they still do not have trash service at the property. She also said that a contractor called into the city and said they will not perform any more work on the property. Ms. Jones also said the contractor stated that other debris was thrown into the dumpster that was intended for roofing materials only. Ms. Jones said that these comments do concern her as a Code Enforcement Officer.

Ms. Dodd also wanted to comment on the trash bags that were removed by Rumpke. Since the property does not have trash service, they were not charged for having the trash bags hauled away.

Ms. Sia Trahanatzis, 2088 Dane Lane- She requested clarification from Ms. Jones on the violation for vegetation. Ms. Jones shared pictures with her and discussed the vegetation. Ms. Jones also stated that she offered to come out to the property to go over the violations and never heard back from the Ms. Trahanatzis. Ms. Jones would be available sometime next week to meet with Ms. Trahanatzis regarding the violations.

Ms. Trahanatzis said she appreciates Mr. Guy's comments but until the siding is repaired, they are not able to paint. She reiterated, that is why they are requesting ninety days.

Mr. Middlestetter said he is not comfortable asking for ninety days to get this finished. He said he thinks you can find contractors to get this done in less than ninety days. He also said he understands this is a hardship for the family but it is also a hardship for the neighbors and community. He wants to see a motion that is going forward and not backwards. Mr. Middlestetter said if let's get it fixed does not say enough, then maybe pressure should be added with the fines.

Chairman Brinegar said this is challenging because some of these violations have been going on for years but the case was just brought before the Board at the last meeting in May. She said the owners were present at the last meeting and were making some good faith efforts so the Board was willing to work with them.

Chairman Brinegar said her disappointment is twofold. The four violations that the Board asked to have finished by today were not completed. Only two of the four were completed. She said the remaining violations seem to be quick fixes. Chairman Brinegar said since the four violations were not completed, fines could start being assessed. She also reiterated that she was disappointed in the detailed maintenance plan that was submitted by the owners. She said she is less willing to be as lenient going forward. Chairman Brinegar suggested that we start accessing fines for the remaining two violations that were not completed today.

Ms. Jones said she will go out and inspect the property tomorrow, June 6 and see if the remaining two violations are in compliance. If they are not in compliance, fines will start being assessed. She has requested that the owners call her when the other violations are complete.

Mr. Middlestetter said a big project is getting the house repaired. He said he would be willing to have evidence of a contract with a contractor. He said that is moving in the right direction.



Mr. Middlestetter made a motion to request evidence of a contract with a licensed contractor/contractors to complete all other violations within thirty days. The contract needs to include a timeline of completion for all remaining violations. If no evidence of a contract is submitted, fines will start being assessed. Mr. Guy seconded the motion. Roll was called. Mr. Middlestetter, yes; Mr. Guy, yes; Mr. Ogrod, yes; Chairman Brinegar, yes. The motion carried 4-0.

#### **BZA CASE #18-06: 2135 Clear View Drive (Baker)**

Ms. Jones said this case involves one violation pertaining to exterior walls. The permit for this addition was pulled in 2007. Mr. Baker was supposed to have all work finished within a year of obtaining the permit. This property has had several complaints regarding the unfinished addition.

Ms. Jones stated at the last PRC meeting, a motion was made that Mr. Baker needed to show progress that the addition was being worked on. She went to inspect the property and said little progress was made.

Mike Baker, 2135 Clearview Dr. - Mr. Baker said he has rewrapped the addition. He also has applied a soap stone to the bottom of the addition. The trim and Hardie Board has also been painted and is ready to be installed. Mr. Baker said he thinks he will have the addition done by July 10, 2018.

No further motion is required for this case. The original motion stated the addition needs to be completed by July 31, 2018. Mr. Baker the addition should be completed before the July 31 deadline.

#### **NEW BUSINESS:**

**OPEN DISCUSSION:** Chairman Brinegar said the next meeting is scheduled for June 19, 2018. She asked if there were cases on board for that meeting.

Ms. Dodd said she would like to have some discussion on the Property Maintenance Code. The Code states the Property Review Commission needs to hear any cases where there is prosecution. She said with the incorporation of fines and how the Code reads, it seems that the Board may not need to meet for every single violation. She would like to discuss the Property Maintenance Code and the ordinances associated with the fines so everyone is on the same page.

Mr. Buczek said in the past, the Property Review Commission was the only tool to come to a resolution. He said with the institution of the penalties, it changes the approach. He said it will be good to have some discussion on that.

Ms. Dodd said the staff can get information out to the Board so everyone can look it over prior to the next meeting.

**ADJOURNMENT:**

There being no further business to discuss, Mr. Guy adjourned the meeting at 7:24 PM.

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Meredith Brinegar, Chairman

Date

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Jami Kinion, Secretary

Date

# Property Review Commission Duties and Enforcement Options under the Property Maintenance Code

June 12, 2018 - See below for sections of the Property Maintenance Code that address the formation of the Property Review Commission, the Commission's authority, the powers of the Code Enforcement Officer and enforcement options. The code as provided has lettering that has been **colored** and **bolded** for emphasis.

## Sec. 1450.03. - Bellbrook Property Review Commission (BPRC).

- (a) *Establishment.* In order to execute the purposes declared in this Code, there is hereby created a commission to be called the Bellbrook Property Review Commission (BPRC). The duties and responsibilities of the BPRC are hereby assigned to the Bellbrook Zoning Appeals Board.
- (b) *Duties of the BPRC.*
  - (1) **Review suspected violations.** The BPRC may, **at the request of the Code Official**, review any suspected violations of this Code and submit a written recommendation to the Code Official.
  - (2) **Review violation orders.** When the Code Official **requests prosecution of a violation order**, the BPRC shall review that violation order. If the Code Official finds that an emergency exists under the provisions of this Code, he or she may request prosecution of that violation order without the review of that violation order by the BPRC. However, the Code Official shall notify the BPRC of the emergency action taken.
  - (3) **Hear appeals.** The BPRC shall serve as the Code Appeals Board.
  - (4) *Hiring of a consultant.* The BPRC, with the approval of the City Manager or Council, may, in special instances, temporarily retain the services of a consultant to assist the BPRC in performing its duties.
  - (5) *Additional powers.* The BPRC shall have all additional powers granted by Council.
  - (6) *Conflicts of interest.* No member of the BPRC shall vote or participate in the discussion of any question before the BPRC in which he or she has a personal or pecuniary interest.
  - (7) *Compensation.* Members of the BPRC shall serve without compensation.
- (c) *Appeal of BPRC action.* Any person, firm or corporation, or any officer, department, board or agency of the Municipality, or any interested elector of the Municipality, who has been aggrieved or affected by any decision of the BPRC, may appeal from such decision in the same manner as appeals are taken from actions of the Board of Zoning Appeals.

## **Sec. 1450.10. - Powers and duties of the Code Official.**

- (a) *In General.*
  - (1) The Code Official, to be assigned by the City Manager, shall enforce all the provisions of this Code, except as may otherwise be specifically provided for by other regulations.
  - (2) The Code Official is hereby authorized and directed to enforce the provisions of this Code. The Code Official shall have the authority to render interpretations of this Code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this Code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this Code.
- (b) *Access by owner or operator.* Every occupant of a structure or premises shall give the owner or operator thereof, or the agent or employee of the owner or operator, access to any part of such structure or its premises at reasonable times for the purpose of making such inspections, maintenance, repairs or alterations as are necessary to comply with the provisions of this Code.
- (c) *Coordination of enforcement.* Inspection of premises, the issuance of notices and orders and the enforcement thereof shall be the responsibility of the Code Official so charged by the jurisdiction. Whenever, in the opinion of a Code Official initiating an inspection under this Code, it is deemed necessary or desirable to have inspections by any other department, the Code Official shall make a reasonable effort to arrange for the coordination of such inspections so as to minimize the number of visits by inspectors, and to confer with the other departments for the purpose of eliminating conflicting orders before any are issued. A department shall not, however, delay the issuance of any emergency orders which it determines must be issued.
- (d) *Identification.* The Code Official or the Code Official's authorized representative shall disclose proper identification of his or her respective office for the purpose of inspecting any and all buildings and premises in the performance of duties under this Code.
- (e) *Nonconforming conditions.* If additional nonconforming conditions are encountered during the course of any approved alteration or repair which were not considered or known initially, the Code Official shall have the authority to require compliance with this Code of such additional conditions. The determination of what may be necessary to bring such conditions into compliance shall take into consideration the use of alternatives and equivalent approaches as provided for in this Code. The Code Official shall have the authority to approve construction changes in the field when conditions are encountered which make the originally approved work impractical, provided such changes in approved work can be readily determined to be in compliance with this Code and are requested by the owner or the owner's agent prior to such construction changes. Such changes shall be specifically documented by the owner or the owner's agent, describing the change in work and the reasons and jurisdiction for the change, and shall be filed with the permit for the project.

- (f) *Notices and orders.* The Code Official shall issue all necessary notices and orders to ensure compliance with the requirements of this Code for the safety, health and general welfare of the public.
- (g) *Official records.* An official record shall be kept of all business and activities of the department specified in the provisions of this Code, and all such records shall be open to public inspection at all appropriate times and under reasonable regulations established by the Code Official to maintain the integrity and security of such records.
- (h) *Right of entry.* Where it is necessary to make an inspection to enforce the provisions of this Code, or whenever the Code Official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this Code, the Code Official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this Code, provided that if such structure or premises is occupied, the Code Official shall present identification to the occupant and request entry. If such structure or premises is unoccupied, the Code Official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Code Official shall have recourse to the remedies provided by law to secure entry.

## **Sec. 1450.11. - Notices and orders.**

- (a) ***Informal resolution of violation.*** The Code Official may, at his or her discretion, attempt to informally resolve violations or suspected violations of this Code without issuing the notices and orders in the manner prescribed below. The Code Official shall be encouraged to utilize this procedure to the extent practical to achieve compliance with this Code.
- (b) ***Formal resolution of violations; notice.***
  - (1) When the Code Official is unsuccessful in achieving compliance with this Code using the informal procedure prescribed above, or, at his or her discretion, does not utilize the informal procedure described above, then the Code Official shall utilize the following formal procedure to resolve a violation or suspected violation of this Code.
  - (2) Whenever the Code Official determines that there has been a violation of this Code or has reasonable grounds to believe that a violation has occurred, or whenever the Code Official has condemned any structure or equipment under the provisions of this Code, notice shall be given to the owner or the person or persons responsible therefor in the manner prescribed below. If the Code Official has condemned the property or part thereof, the Code Official shall give notice to the owner and to the occupants of the intent to placard and to vacate the property or to order equipment out of service.
- (c) ***Form of notice.*** Such notice prescribed above shall:
  - (1) Be in writing;
  - (2) Include a description of the real estate sufficient for identification;
  - (3) Include a statement of the reason or reasons why it is being issued;

- (4) Include a correction order allowing a reasonable time for the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this Code; and
  - (5) Include a statement that civil and criminal penalties may be assessed if the repairs and improvements required are not completed by the stated date; \*
  - (6) Inform the property owner of the right to appeal to the Bellbrook Property Review Commission. If a property owner desires such an appeal, a notice of appeal must be filed with the Code Official within twenty (20) days from receipt of the notice.
  - (7) When applicable, include a statement of the right to file a lien.
- (d) *Method of service.* Such notice shall be deemed to be properly served if a copy thereof is:
- (1) Delivered personally;
  - (2) Sent by certified or first-class mail to the last known address; or
  - (3) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.
- (e) *Service on occupant.* When a condemnation order is served on an occupant other than the owner or person responsible for compliance, a reasonable time to vacate the property after noncompliance shall be stated. Owners or persons responsible for compliance must vacate at the time set for correction of defects if there is failure of compliance.
- (f) ***Penalties.*** Penalties for noncompliance with orders and notices shall be as set forth in this Code.
- (g) *Transfer of ownership.* No owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served, shall sell, transfer, mortgage, lease or otherwise dispose of the property to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Code Official and shall furnish to the Code Official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

## **Sec. 1450.99. - Violations: legal and equitable remedies.**

- (a) *Unlawful acts.* It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this Code.
- (b) Any person failing to comply with a notice of violation or order served in accordance with this Code shall be deemed guilty of a misdemeanor of the fourth degree and shall not be

fined more than two hundred fifty dollars (\$250.00) or imprisoned not more than 30 days, or both, and the violation shall be considered a strict liability offense.

- (c) If the notice of violation is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code or of the order or direction made pursuant thereto.
- (d) Any action taken by the City on such premises shall be charged against the real estate upon which the structure is located and shall be certified to the County Auditor for collection, the same as other taxes and assessments are collected.
- (e) A separate offense shall be deemed committed each day during or on which a violation occurs or continues.
- (f) **In addition to any other remedy or penalty** provided in the Property Maintenance Code or the Ohio Revised Code, **an owner who fails to comply with a notice of violation or order served in accordance with this Code may incur a civil penalty.** \*
- (g) The Code Official shall provide notice to the owner of a civil penalty in accordance with Section 1450.11 Notices and Orders. \*
- (h) **Any violation of the Property Maintenance Code that is a first offense shall be twenty-five dollars (\$25) per day, per offense, or two hundred fifty dollars (\$250) per offense total.** \*
- (i) **Any violation of the Property Maintenance Code that is a second offense shall be fifty dollars (\$50) per day, per offense, or five hundred dollars (\$500) per offense total.** \*
- (j) **Any violation of the Property Maintenance Code that is a third offense shall be seventy-five dollars (\$75) per day, per offense, or seven hundred fifty dollars (\$750) per offense total.** \*
- (k) Nothing herein contained shall prevent the City from taking such other lawful action as necessary to prevent or remedy any violation.

\* Language which became effective in October 2017