

BEFORE THE CITY OF GREENSBURG ZONING HEARING BOARD

In the matter of:
David Morrison
of Jet One, LLC

Appeal of the Decision
of the Zoning Officer

Property Location:
101-105 E. Pittsburgh St.

Hearing Date:
November 17th, 2010

PROCEDURAL BACKGROUND

The application dated October 11th, 2010 by David Morrison of 101-105 E. Pittsburgh Street, Greensburg is requesting an appeal of the decision of the City's Zoning Officer as it relates to the 3rd Notice of a Zoning Violation issued on September 29th, 2010 relative to lack of occupancy for the subject property's residential tenants. ***Subject property is zoned C-2 Business District.***

Members of the board present: Charlotte Kuhns Chairwoman, Patsy Iapalucci, Mark Dent, Mary Clymer and Gene James.

Also Present: Attorney Pete Cherellia, Acting Solicitor and Barbara J. Ciampini, Planning Director.

Absent: Lou DeRose, Solicitor.

There were no objections to advertising or procedure at the hearing. Patsy Iapalucci made a motion to continue the hearing until January 19th, 2011 in order for the property owner to complete all the code deficiencies. Mary Clymer seconded the motion.

DISCUSSION

The property is located at 101-105 E. Pittsburgh Street, City of Greensburg. David Morrison of Jet One, LLC, Greensburg is requesting an appeal of the decision of the City's Zoning Officer as it relates to the 3rd Zoning Violation issued on September 29th, 2010 relative to lack of occupancy for the subject property's residential tenants. Subject property is zoned ***C-2 Business District***.

David Tkacik: I am the attorney for Jet One LLC. To be clear, Jet One LLC is the owner of 101-105 E. Pittsburgh Street. To be clear I am not here to represent David Morrison I'm here to represent Jet One LLC. As a matter of clarification David Morrison has been repeatedly, as you can see, on the 3rd notice of the violation listed as an owner of the property and in fact he's not the owner of the property. He's merely a manager of Jet One, LLC and one owner of Jet One LLC. That is merely a clarification. This appeal is of a decision of Barb Ciampini, the Planning Director and in this notice attached to the appeal which I hope you have a copy of. It is essentially giving ten day (10) notice to evict tenants from the building and it's also giving a ten day (10) appeal period from that. I believe as a matter of law the ten day (10) appeal period is excessively short and not appropriate. When my client got this notice they had to hurry up. Their rights were affected harshly there. The basis of this of course; is the lack of issuing an occupancy permit and to meet that issue are the code violations that were listed in this report dated July 15th, 2008. I'd like to admit this into evidence. Before we get to the code violations of the matter I'd like to focus why we are here. This letter and this decision to evict tenants is my objection to this is and my client's objection that this is beyond the scope of what the Planning Director can do. This is an enforcement action. The Planning Department and the Planning Director their scope is limited by law and by your ordinances. The Pennsylvania Municipalities Planning Code clearly defines the powers of the planning agency and less there has been a specific ordinance acted to allow for evictions of tenants. The Planning Director does not have that ability. I would like to admit into evidence the sections of the relevant code dealing with the Planning Director and the Planning Department and the scope of their authority.

Barbara Ciampini: For a matter of housekeeping this first document will be *Exhibit A* and whatever you're handing me now will be *Exhibit B*.

David Tkacik: The decision to evict was made despite there being a permit being issued and I think even if we were to assume the powers were appropriately exercised I believe is unreasonable given that there is a permit issued to my clients and *Advanced Fire* has remedied what the Planning Department believes is the most serious violations, namely the suppression system and the fire alarm system. In conversation between me and Barb Ciampini it became apparent that

the City was not aware that permits had been issued to install fire suppression system and also alarm systems. I'd like to admit this permit into evidence as *Exhibit C*. Now my clients Jet One LLC, if you look at the list of violations that I admitted as *Exhibit A* there is not specific citation on there as to any relevant code. At various times I've been told that this is a BOCA Code violation. The BOCA Code requires there to be sprinklers at this building and keep in mind this building was constructed in 1915. And to say a building from 1915 is to have sprinklers is a serious financial undertaking by the current owner. One must better be sure that there is a specific code that says you have to have sprinklers in this building. This building was used previously as apartments and right now it's being used as apartments and two (2) commercial units on the ground floor. There is no citation on here, I was told by Les Harvey, Ordinance 1524 of February 1992 required that there be sprinklers in this building because that enacted the BOCA code, however your planning code clearly adopts the International Property Maintenance Code as the property maintenance code that would regulate all maintenance of the property buildings and structures. I'd like to admit that as my next *Exhibit D*. I realize that there are UCC implications for the property as well. But there was a property already using the apartments before and is currently being used as apartments I don't believe that you have to use commercial code to a new construction level and I think that is getting to the heart of the matter and getting to why my clients essentially did not believe when they saw no citation to the sprinkler system why they should spend a hundred thousand dollars (\$100,000.00) for something they weren't sure they had to do. Having said that, my clients as the permit indicates they have a contract through a separate LLC that has the contract with *Advance Fire*. They are seventy percent (70%) done with the alarm system being installed by *Advance Fire* currently and the Fire Marshall of the City of Greensburg currently has an application for a permit to be issued which would be the installation of the sprinkler system. They have spent at least twenty eight thousand so far (\$28,000.00) and approximately ninety three thousand (\$93,000.00) total contracts. That is a lot of money for something that you're not sure you have to do. I think my client; Jet One has demonstrated that seriousness that they take safety very seriously. If you look at the other violations the other things are GFCI protected outlets, deadbolts, those things are easily remedied. There is no reason to be evicting tenants from this building and that is unreasonable. I realize that student housing plays a part in this as well. My client takes that very seriously, too and to be in compliance with that and has in all of their leases a very large notice to anyone applying for an apartment through Jet One LLC must be aware of the City Code for taking six (6) credits or more at any college must disclose their enrollment as a student. I would like to submit their application into evidence as the next exhibit that is given to every perspective tenant.

Barbara Ciampini: That would be *Exhibit E*.

David Tkacik: Exhibit E or F? Yes, it's *Exhibit E*.

Barbara Ciampini: Okay.

David Tkacik: In addition to that I think there is a pattern of unreasonable decisions that are being made to be honest and another event that occurred is that the Planning Director has delivered a notice to all tenants in the building, hand delivered the 29th day of September that, I'll just read the one sentence: "To date your landlord has not followed through with the necessary activities (updates to the fire alarm system and the installation of a sprinkler system) to bring the building-you live in; into compliance. The City of Greensburg has been trying to work with your landlord to resolve life safety code violations". This type of policy going into someone's apartment building and delivering this notice is intrusive and unreasonable worries the tenants where there is already, as of this date been work done. I'm sure there has been communication with Les Harvey and his office new they were installing this fire system, so to worry the tenants that their somehow not protected and their landlord does not care about them, I think that is unreasonable and I would admit this next letter as *Exhibit F*. Mr. Morrison do you have any remarks? I think the decisions have been unreasonable in regards to the citation to the code. It's been nonexistent or inconsistent and there has been a willingness to ignore the steps that my clients have taken to comply with something they weren't even sure they had to comply with.

David Morrison: I am the officer of Jet One, LLC. We had the fire escape done over and above what you've asked for. We scraped and painted and there was loose metal. I'm referencing to Les Harvey, on the violation notice list that we got and we corrected most of those things on the list other than the expansion of the fire alarms and the sprinklers. On that code violation list, the fire escape just needed scraped and painted but we went beyond that and we actually repaired it. It was about a fifteen thousand dollar (\$ 15,000.00) repair job on that particular item and we replaced the hot water system so we don't have the state having to come in and do that inspection every two years like we use to have done. We put a lot of money into this building. It's a beautiful building and we're trying to do everything we can to get it up to code. We; re really sure that if we had to do certain things but on the other hand to the contractors not there the next day to get some of this stuff done. It's hard to get the contractors to do certain things when you want them to do it.

David Tkacik: I don't know who is familiar with the building; if it would help here is a photograph of the building and the ownership information. I hate to keep making her get up.

Barbara Ciampini: She's okay. This will be *Exhibit G*.

David Tkacik: In addition to the struggles that Jet One as faced, they've been trying to sell the building and in this climate financing is incredibly hard to come by. They've had multiple buyers and now one of the issues is the dealings with

the Planning Commission and how the uncertainty of that process is resolved. I think there has been unfairness as to the sale to Jet One in requiring the suppression system. I don't think in other buildings, similar buildings that the new construction commercial code was the standard. I don't think that you're taking the position that just because a building was sold and used as this similar same use that it requires new construction code suppression system especially in a building that is this old. The sale of the building is now one of the primary goals of my client and obviously the potential investors are not comfortable with the current climate of the regulations and the types of actions they are getting from the planning commission. That is one of the reasons we appealed this and I wanted to set things straight. That concludes our remarks.

Charlotte Kuhns: Does anybody have any questions? Les would you like to make any comments?

Les Harvey: I am the Building Code Official for the City of Greensburg. Just some back ground information for the Board. When the building was purchased by your clients going back to 2005 there was no surprise as you indicate. They were notified back then regarding the addressing of the sprinkler requirements as well as the upgrade of the fire alarm system. When we met back in those old days and which is now 5 years ago--the City has always had a policy through our department to try to work with the building owner to accomplish doing the upgrades to the fire safety protections as needed for the citizens that live there. The issue has been on the books since 2005. One of the things, and I can remember meeting with some of the group and saying that their intention was to comply with everything that was necessary to be done. Like I said we tried to work with those folks back in 2005-2009 and we had a hearing regarding to the same type of violation in regards to not getting these things done. The representative of the group at the time asked for sixty (60) days to complete the activity during a hearing at a magistrate level in 2009 and District Judge Albert concurred and granted an additional sixty (60) days to keep things moving and take care of that or there would be a three hundred a day fine (\$300.00) attached to the decision until things were completed. To date it's still not completed and I am looking at the fine that was imposed at that time in 2009 and we're probably somewhere in the neighborhood of \$28 or \$30 thousand dollars, maybe a little more in fines. However again I indicated to the Magistrate that I would prefer to see that rolled over into getting the project done. I'm not looking to collect money; I'm looking at getting the violations corrected. In August of 2009 I personally sent a letter out indicating that all the apartments be vacated because there is no certificate of occupancy for that structure at this point and time. There are two commercials (2) on the first floor and apartments on the second and third floor.

Barbara Ciampini: The two (2) commercials enterprises do have occupancy permits.

Les Harvey: Yes, and again the City is trying to keep the building viable which is the whole idea. We want people in the City and want people to live downtown. They were notified not to occupy above the second floor at that time. This never occurred and it just continued to be occupied beyond that point. In regards to the fire alarm. Yes, they are working on that, they did get a permit and the plans were reviewed and to be perfectly honest with you it was such a long time ago that I've even forgotten about where we were at that point. The strange thing of this is that up until all this has come to a head; now miraculously we have *Advance Fire* working diligently down there. They are now putting in the fire alarm system which started five (5) years ago. I have plans on my desk currently being reviewed for Code Sys for putting in the sprinkler system for the building which we received I think a couple days ago. Everybody is ready to move forward. I think the two issues have always come down to and I'm not trying to put words into anybody's mouth is the cost of these requirements. It's always been a money issue and I understand that but there comes a time when you have to move forward and get this taken care of. Like I said earlier this is all happening within the last probably fifteen (15) days or so everything is starting to come together to get these things taken care of. Which I am very pleased about. I think we have been more than fair with time and I know there were and are issues regarding financing and trying to get buyers. There was one individual who came to my office and was interested in purchasing the building and said that he requested information from the sellers and got no response from them. Again I can't verify that but that is the story I got. My concern is to see that: 1. The fire alarm system is completed and updated and 2. That the sprinkler system is completed and updated. One of the options originally was to provide floor to floor separation and that became an issue regarding once you would provide floor to floor separation you would not be able to move furniture upstairs or downstairs because yes, it is an old building. There is no question about it, but this goes back to the very beginning is when they purchased the building and they knew up front what was going to be required. There was nothing that jumped out at them. At the meetings "everything was no problem" and they said they want to have a beautiful building here. Then there was work being done there without a permit but we had issued a "stop work order". Actually there was a plumber that showed up and was about to put in a sprinkler system in and stated to cut floor joists. The City just happened to be down there for another inspection so our inspector put a stop work order on the project. They've known these things needed to be done, so that is all I have to say.

David Tkacik: Do I have an opportunity to respond?

Barbara Ciampini: I'd like to go next.

Pete Cherellia: Let them go ahead and then you can do a rebuttal after them. Let's let the City give their position and then we can come back and you can do a rebuttal.

Barbara Ciampini: I'd first like to add the history from the City's files of this project and it will be noted as *Exhibit I* and perhaps you can let David look at that while we're sitting here. The first thing is I am by City Code permitted as by Section 265-149 which follows right through the occupancy section, paragraph B, in acting to enforce this chapter, "the Planning and Zoning Director or authorized agent thereof shall act in the name of the City of Greensburg. The Planning and Zoning Director shall have all necessary authority on behalf of the City Council to administer and enforce the Zoning Ordinance, including the ordering, in writing, of the remedying of any condition found in violation of this chapter and the bringing of legal action to ensure compliance with this chapter, including injunction, abatement or other appropriate action or proceeding". To add to Mr. Harvey's comment, there was a time in the past five (5) years where Jet One did indeed have a potential buyer and we asked for a copy of the sales agreement and ultimately it was produced by the potential buyer and his attorney Greg Moore. The City then gave additional time to Jet One LLC to complete this project because apparently the buyer was going to step in and also do some of the required code deficiencies. I'd like to add to what Les said that the City of Greensburg has been more than amiable with this particular property owner and this property. I do think it's a great building in the City of Greensburg. We are encouraging people to live in our downtown but there comes a point that the City can't keep letting this go on when there are life safety issues on the table that the City could be liable for. The liability for enforcement sits solely on the City for not totally enforcing this and that's why we are here today. We are trying to make sure that the good tenants that Mr. Morrison and his associates from Jet One LLC having residing in their property, reside there safely.

David Tkacik: In regards to the statement of the authority to evict city residents from this building I think the key part to that is legal process and this was not legal process, there was no court ordered-- no injunction. There was a ten (10) day appeal period in a letter that went out and people were going to start to lose their homes. I wanted to point to Mr. Harvey's testimony that Mr. Harvey did not point out any Sections of the Code and did not point out any authority for the sprinkler system having been in place. Statements that they want landlords to comply with and live in the City, but in practice it's being executed differently. Regarding the meeting that took place between Mr. Harvey and the Planning Director before the property was purchased by Jet One LLC and communications that occurred seems that he was referring to verbal statements and I haven't seen anything that was written that says if you buy this property you need to have sprinkler systems or were going to evict tenants. Of course prospective buyers want to incorporate, the Planning and Zoning Department and, but how is that communicated? Was that in a verbal conversation or was that written down?

Mark Dent: Do you have an occupancy permit?

David Tkacik: There is no occupancy permit because we cannot get one because of the listed items, so I don't know if it was denied at the window or denied on application. In the City of Greensburg as I understand it, occupancy permits do not transfer from owner to owner.

Barbara Ciampini: That's correct.

David Tkacik: So saying there is no occupancy permit just means it wasn't issued to the current owner. Behind the fact that there is no occupancy permit is really what the real dispute is. The dispute is there is no occupancy permit it's that there is a list of items that my client is being forced to comply with and they decided they haven't met those requirements.

Barbara Ciampini: In regards to the ten (10) day notice if you read through the City's history, the original violation notice issued on August 10th 2007 indicated a thirty (30) day time frame; so Jet One had a thirty (30) day appeal period also to come before the zoning hearing board in 2007. They did nothing. Then I reissued the violation again in 2007 for a second time and that notice also included a thirty (30) day time frame. This current violation notice is the third notice of the same violation--- this time three (3) years later. I only gave them ten (10) days in the 3rd notice but they have had years to come and appeal or comply with the violation notice. Your clients were notified according to the Municipalities Planning Code and the City Ordinance in 2007.

David Tkacik: If the Planning Department has the power to evict tenants doesn't it have the power to enforce people to comply with the requirements they want? Essentially something extreme as eviction of someone who has really independent third party neutral as nothing to do with this should be specifically stated in the Ordinance. Again, I haven't heard about any citations as to why the suppression system is required.

Les Harvey: Let me clarify that information again. Under the City Code for 2005 we enforced the BOCA Code from back in the 1970's to the 1990 edition. The City had an additional specific section which was amended in those codes, specifically addressed the fact that if you purchased a building the building had to be brought up to current code. Back in 1990, this again was still under BOCA, R-2 which that building falls under; which is presidential apartments that type of thing again. it still would have been required. Under the new code which is the 2009 UCC Code any classification of R-2 is required to be totally sprinkled as well, and if you were following, I think we got into this discussion by phone, I said I'm still going by the violations list of the BOCA Code when that was in play back in 2005 because that had never been addressed yet and if you looked at the 2009 International Code today the R-2 specifications then there may be even more requirements today than back then. The bottom line is that since day one the owners at the time which I think there is your Jet One partnership of four (4), the bottom line was everybody was on board at that point and they kept telling me

they needed a little more time to get funding. Again, I understand, that the economy went downhill in 2008 and everybody had trouble with money but we are at a point after five (5) years of this—we are at the same level and again like I said within the last two (3) or three (3) weeks all of a sudden, all the activity is stirred up and progress is being made, which I think is wonderful but the fact is it's not that we dream these things up and just say well let's sprinkle this and let's do that. The codes if anything they keep getting more and more stringent. I didn't write them. We only enforce them.

David Tkacik: I know the 2006 International Property Maintenance code is not a requirement for the suppression system for this structure. I haven't seen the 2009 and was hoping you could provide that. Assuming it is required this type of expensive purchase and upgrade to a building can't occur overnight and you've seen the efforts my clients have gone through and the money that they've spent to bring it up to code and I think that should be enough. I think threatening eviction at this point is really unreasonable.

Les Harvey: Let me comment in regards to that. I hope to God this would never happen. Let's assume you had an incident at this building where you had a fire and legal counsels come forward and said to the City of Greensburg why after five (5) years is this still in the same scenario it was back in 2005? Why wasn't this done? Well, while your intentions where good but it didn't get done that will not fly and I think as an attorney you would be the first one clamoring to the other side if you were representing the client that died saying why didn't you push this forward? I keep going back to one thing. Since 2005 the ownership has known of the violations and has indicated they would take care of it and they have not accomplished the task. I have seen more activity in the last 2 ½ to 3 weeks than I have in five (5) years. Again I'm not knocking that, I think that is great. I think from day one everybody knew what was supposed to be happening. I think now we've come to a head where we need to move forward or as the old school cliques goes say "it's time to you know what or get off the pot". That is my stand on it.

Barbara Ciampini: I might also add if you review the file history from November 18th, 2009 after my communication with Mr. Constantine as one of the Jet One LLC partners, the City has not heard from any of them as far as updating the City on the status of their progress. Neither of our offices have been communicated to about what is going on at the building—not until I sent out the notice, the third violation notice in September of 2010. So there is no communication on the part of Jet One. The City is not kept up to date on anything that is going on down there. I think that is part of the problem, too. You all do not communicate. Back to your comment about the occupancy permit according to Chapter 265-147 Certificate of Occupancy, Section B "occupancy permits must to issued for any structure hereafter erected, enlarged or structurally altered, and occupancy must be issued for all commercial uses. No occupancy permit is transferable from tenant to tenant, owner to owner or from building to balding. Occupancy permits must be applied for on forms provided by the Planning and Zoning Director.

Occupancy will be issued and shall state that the proposed structure and use comply with the provisions of this chapter and all other pertinent ordinances” To date the City doesn’t have even an application for occupancy from the property owner.

David Tkacik: But there was an inspection of the property for occupancy purposes and that’s the same as an application. It passed all those requirements that would have been issued in an occupancy permit. Again, I go back to where is the nuts and bolts of this? How is it required, we haven’t heard why this is required in the first place. In Greensburg there are a lot of old buildings and there are a lot of buildings that are sold and not required to have suppression systems. We’ve heard Mr. Harvey say that the BOCA Code is what he is basing this off of and that isn’t the current code, if that isn’t the current code then how can he require my client to take directions off of it?

Barbara Ciampini: Mr. Harvey can I ask you a question? Is there a process for a property owner to appeal any type of code issues as it relates to a historic building or maybe something internal to the building? Is there an avenue for a property owner to take that on themselves to appeal the process? Say for the property owner to appeal what you have told them for five (5) years in regards to sprinkler systems, say ADA requirements, or any other Code requirement that the property owner may deem excessive or impossible considering the type of building in question? Could you please explain to the board what that process is and perhaps to the property owners and their attorney, since they obviously doesn’t know about that process?

Les Harvey: Again, if you wish to appeal that the appeal would be heard through the Central Westmoreland Council of Government (COG). The City contracts with a company called Code.sys to be the plan review agent for the City of Greensburg. The COG was set up through Westmoreland County with multiple municipalities. The City is a member of the COG so rather than have our own appeals board where you present your plans, your drawings and you take those before that board and say we don’t feel we should have to do this or whatever you wish to appeal. Instead in the City you appeal to the COG. At that point that board will review it and they can in turn either grant the variance or they can come back and say everything stands as is and or now that we are under the new UCC code they can come back and say not only do you have to correct what is pending there now you will also have to do the following, which could be everything from ADA requirements for access to the building. No matter what you go to do today they look at those things and there is a percentage of whatever your work is being done that has to go into handicapped accessibility. Again, the reason we look at the original violation, the code at that time is saying here’s what is required at that time. If they would so desire to appeal this or appeal what they have today they can submit structural drawings for everything that is there and appeal it to that board and with the understanding that they could possibly grant it and say okay you won’t have to sprinkle or they could say not only are you going

to sprinkle but you will also have to do A, B, C and D. I'm not saying that would be the case, but it's a good possibility because the codes have changed. The codes are getting stronger than they were even back then. It's an option.

Mary Clymer: During this appeal process is the property inhabitable?

Les Harvey: Under the conditions of an appeal everything stops until the appeal is heard. That means: no construction, no remodeling, no occupancy. Everything comes to a standstill. That is not my rule either.

David Tkacik: That is an alternate procedure but the planning commission is still making decisions based on those requirements and that is the purpose of the appeal today. Is the decision to evict tenants based on that? I think we've shown there is no basis for that and we would be successful in an appeal of this requirement.

Les Harvey: Jet One LLC was notified going back to August of 2009 of which I sent a letter stating that because of the fact that these issues have not been resolved at all, all apartments must be vacated by October 1st, of 2009. This is 2010 and the building is still totally occupied. So this leads me to believe that basically, the City has been ignored. There are no phone calls. No communication to say--look we need a little more time. As far as the City's position again I will say, I think we've been more than understanding about this, we've tried to, even the fact that the two (2) commercial properties on the first floor and the apartments makes it a two (2) story structure which eliminates a lot of the code requirements. We gave them the benefit of the doubt and said we will work with you. Comply with the first floor commercial and you can occupy the units on the second floor that was as far as you can go. Anything above that 2nd floor must be vacated and we got nothing. It's been like basically we've been blown off. I repeat I am very pleased for the last few weeks we're back on track and we're getting the alarm systems finished and we got our drawings and all these things are happening so somebody must know it's time to move forward. I'm trying to expedite getting them done as quickly as I can so your contractor can move forward. That's all I can really say about it right now.

Patsy Iapalucci: How much time would you need to get this all taken care of? If you all would really cooperate and we give you a deadline? To accomplish everything that Les is talking about?

David Morrison: My partner Mark Urbanic, he said a completion date was by the end of the year with *Advance Fire*. They're telling us by January 31st, 2011 it will be completely expanded and ready.

David Tkacik: I talked to someone from *Advance Fire* today and they did work today on this and seventy percent (70%) of the alarm system is done. I would have to ask them when other components would be completed but they have made

substantial headway and again this is for something, these requirements that are coming up to the standard of what is expected and required by law. The City expected these things to happen overnight it seems like.

Les Harvey: I tend to disagree with you on that.

Barbara Ciampini: You're really funny, David.

Patsy Iapalucci: The way I look at it that Les has bent over backwards pretty good here and the City has tried to cooperate with you. So if you're willing to comment to a reasonable time to get this finished maybe we can get something done here. If not then, you are going to have a problem.

Mark Dent: Does your current contract have a start date for the sprinkler system?

David Tkacik: I don't know.

Barbara Ciampini: It can start anytime after Les reviews it, then a permit is issued.

David Tkacik: We can continue this and have someone from *Advance Fire* come to the hearing.

Mark Dent: If the contractor is going to be there at a certain date to get started, they can say well it's going to take a month or however long it is going to take.

David Tkacik: They started on some sprinkler construction before.

Mark Dent: So the permits have been issued?

David Tkacik: No. Mr. Harvey has to issue the permits first.

Les Harvey: Correct. Where we are at this point is that the drawings were submitted by the contractor and to Code sys. for their code review and they have been stamped and approved by Code sys. Right now the City is the process of reviewing those drawings. I'm actually meeting *Advanced Fire* on Friday at 1:30 and hopefully by Monday morning; I would hope that we would have a permit to the company to begin the sprinkler work. So now it's a matter of them setting up the schedule and getting the work done.

Patsy Iapalucci: If we agree with this, this is not just for the sprinkler this is for every violation that you have there and they all have to be corrected in this amount of time.

Barbara Ciampini: On *Exhibit A*.

David Tkacik: On *Exhibit A*. Do you want to take a look at that Dave?

David Morrison: Yes.

Barbara Ciampini: That is the inspection report from July 15th, 2008.

David Tkacik: Everything has been completed except for the two (2) main expensive items.

Patsy Iapalucci: Was it inspected by Les or someone else?

Les Harvey: Just to bring you up to snuff, Jet One is correct in regards to the violations, most of the issues have been addressed and the only other issue that I can see and I have nothing marked that it's been corrected or updated is in regards to an electrical inspection for the structure. They were going to do upgrades on the electric system for the building and I've never heard anything in regards to where that stood but we did require that there be a current inspection done of the electrical system of the building. At one point in time they were looking at upgrading that to separate meters and that type of thing but we never heard any more on that. If that is done I'm not aware of it.

David Tkacik: A lot of it has already been done.

Patsy Iapalucci: How much time do you need?

David Tkacik: We need to talk to *Advance Fire*. It's out of our hands at some extent and the permit has to be approved it's with the Fire Marshall and Les Harvey's office and then *Advance Fire* has to actually to the installation.

Les Harvey: Looking at the size of the project, this is not something that can be done in one (1) or two (2) days. Assuming if they have the materials which they probably do and they put the man power to it I think you're looking at a month to a month and a half to complete it.

Patsy Iapalucci: Is that a reasonable amount of time?

David Tkacik: Yes.

Les Harvey: Again, I don't set their schedules. They come in and they go to work. I would say a month and a ½ they should be wrapped up.

Barbara Ciampini: That would be at the end of the year.

Pete Cherellia: Just a suggestion, do you think if we continued this hearing for a month until the board meets next month for an update?

David Tkacik: Sure, we can have someone from *Advance Fire* come.

Pete Cherellia: That would give the board an idea of what's happening between now and then. The board may not need to meet in December.

Barbara Ciampini: We don't have a hearing schedule yet for December. My suggestion would be if they're saying a month and a half that we just give them to the end of the year and we can reconvene the beginning of January and do what we have to.

Pete Cherellia: We can just continue the case to January?

Barbara Ciampini: Right. Yes, which once again gives Jet One, more time.

Gene James: I was going to say Mr. Tkacik said we could just bring in *Advance Fire* but I was going to say I don't want to see *Advance Fire*.

Barbara Ciampini: No, I don't want to see them either.

Pete Cherellia: If it was agreeable with you and agreeable with the board we can continue this hearing until January?

David Tkacik: That is agreeable.

Mary Clymer: Clarification, when we say we're going to continue this hearing are we not saying we expect work to be done now to be completed by the end of the year.

David Tkacik: Work was done today and we will continue over the next month and a half.

Mary Clymer: Okay then yes, to be completed.

David Tkacik: I'm not an engineer, they could run into a road block maybe they can run out of material.

Patsy Iapalucci: That can be understandable but providing you come back to Les and explain to him what's going on and what the delay is. Let him make the judgement call.

Barbara Ciampini: Communication by the property owner or their attorney is the key to this project.

David Tkacik: So someone will call Les, myself, someone from *Advance Fire* and we can work out the time frame.

Pete Cherellia: You also inform them of an update as it is moving forward so the board would then have an idea that the work is progressing on this matter.

Barbara Ciampini: That's a great idea. It's fine with me.

Les Harvey: That's fine with me, too. .

Barbara Ciampini: We will convene in January. Let me check a calendar.

Gene James: This is not a young issue that we are talking about giving these people a reasonable amount of time. But I certainly don't think there is any indication of a surprise. You've known about this building and the violations for a long time. Five (5) years you've known.

David Tkacik: Well, without applicable citations.

Gene James: You still don't have an applicable citation do you?

David Tkacik: No.

Gene James: Do we?

Barbara Ciampini: Yes, he does. It's all on record.

Gene James: What hasn't gone into the record of this hearing, you say it exists I don't have a copy of that.

Barbara Ciampini: They've been notified in writing.

Gene James: He's talking about citing chapter and verse of the code.

David Tkacik: They cited the entire chapter of the zoning code.

Barbara Ciampini: Mr. Tkacik can appeal that to the Court of Common Pleas or he can appeal to the Westmoreland COG. He can argue that there if that's what they want to do. They've been told and have been told verbally and in writing and in fact the property owners have had this same Attorney's office represent them for the full five (5) years and this is a third attorney from the firm that the City has dealt with. They know and if they haven't known then maybe the due diligence is on their part, not on the part of the City.

Gene James: My question is leading to this, we have not issued an occupancy permit so they are in violation and you've issued several citations, eviction notices several times?

Barbara Ciampini: I have threatened eviction. No one has been evicted. Not yet anyway.

Gene James: Okay. What's with the ten (10) day notice?

Barbara Ciampini: That period of time was noted on the third notice I gave them ten (10) days for them to do something or I would start to evict the tenants.

Gene James: I was just wondering are there any teeth in our ordinances or are these people just giving us lip service?

Barbara Ciampini: It's the later. I am not concerned with any of the City's actions, Gene. We are within our guidelines of enforcement. If anything the City should have taken a stronger stance.

Gene James: So we can fine them?

Barbara Ciampini: Yes. Absolutely! In fact, they are already under a fine in the Court of Common Pleas.

David Tkacik: Attorney Tim McCormick the Solicitor for the City of Greensburg on behalf of the City has instituted a parallel proceeding against my client and we've appealed that. It's essentially piece mill litigation. We are here and other places and it's unfair that we're dealing with the same issue in different places.

Barbara Ciampini: Well, anyway back to the matter at hand, the date for the next ZHB meeting is January 19th, 2011 at 4:00 PM That's what the motion would be to continue this case until January 19th, 2011.

David Tkacik: January 19th, 2011 at 4:00pm.

Charlotte Kuhns: Would someone like to make that motion?

Patsy Iapalucci: I make a motion to grant the continuous that they have until January 19th, 2011 so that all the work should be done and completed.

Mary Clymer: I second the motion.

David Tkacik: With relevant.....

Barbara Ciampini: A motion is on the table and you can't ask a question.

David Tkacik: But it includes as we talked about before relevant and.....

Patsy Iapalucci: I'm sure Les will work with you. If there is a problem-- for a couple of days-- if the contractor can't get completed? I think Les would work with you. Wouldn't you?

Les Harvey: Why stop now, I've been working with them for years.

VOTE

Patsy Iapalucci	Yes
Mark Dent	Yes
Gene James	Yes
Mary Clymer	Yes
Charlotte Kuhns	Yes.

All were in favor.

Patsy Iapalucci: I make a motion to adjourn.

Mary Clymer: I second the motion.

Meeting adjourned at 5:00 PM

