

Board of Zoning Appeals

MEETING DATE: September 20, 2022

TIME: 7:00 p.m.

LOCATION: Pendleton Town Hall

100 W. State Street Pendleton, Indiana

ORDER OF BUSINESS

I. CALL TO ORDER

Meeting was called to order by President Kyle Eichhorn at 7:00 p.m.

II. ROLL CALL AND DETERMINATION OF QUORUM

Board members attending in person were Kyle Eichhorn, Jerry Burmeister, Jenny Sisson and Jamila Zafar; attending via Zoom was James King. A quorum was established. Individuals representing the Town in person were Planning and Zoning Administrator Denise Mckee, Planning Director Hannahrose Urbanski and via Zoom Town Attorney Jeff Graham. Also attending in person was Steve Bucci.

III. APPROVAL OF MINUTES OF PREVIOUS MEETING

Kyle Eichhorn entertained a Motion to Approve the August 16, 2022 Meeting Minutes. Motion made by Jerry Burmeister; seconded by Jenny Sisson. Roll call vote was taken and all members present voted to approve the August Meeting Minutes; motion so carried.

V. OLD BUSINESS

A. Condemnation hearing for 116-120 W State St – Steve Bucci

- Hannahrose Urbanski provided updated site renderings of Bucci's exterior sealing progress. She reported that the building inspector confirmed the building is sealed. She noted that the back of the building is currently being worked on, and Bucci has done what the Board has asked regarding sealing the building from outdoor elements. At this time, we can move forward on remediations from the Arsee Structural Engineering Report that was received by the Town on August 3. We can continue monthly check-in's for progress updates. Urbanski stated that there has been steady progress made.
- Kyle Eichhorn confirmed that the main building is sealed, with minimal work to be finished on the back of the building. Eichhorn invited Bucci to the podium for any comments and questions. Bucci reported that he has done no work in the main building, and thereby making it secure the entire time. He stated that he does work

almost daily on the building, and feels he is making steady progress. He expressed difficulty in continuing to make repairs due to no income from the tenants that were ordered to leave the building, as he thinks there is nothing wrong with the front of the building. He indicated that he will be completing the work himself, he plans on doing it correctly and that it will look nice when he is finished. Bucci stated that he would be doing the items that he agrees with on the Engineering Report. Bucci asked who he should contact when he has questions regarding the Report. Urbanski instructed him to contact the Engineer or a general contractor with structural questions.

- Kyle Eichhorn reviewed the recommendation for a 30-day extension to complete the rear building seal. Bucci indicated it would be done by then, and asked if he should contact the Engineer at that time. Eichhorn answered that the Engineer is only involved with the structural aspects, not the sealing. When sealing is complete Bucci should contact the Town for an inspection prior to the next meeting so that the completion of repairs can be confirmed at the October 18 meeting. Then structural repairs can be started based on the Engineer's Report.
- Bucci stated he would like to point out that neither Brett Mabrey nor Scott Reske has been present at the last three meetings in order for him to ask questions on the record. He expressed frustration over not being able to get answers to his questions and receiving contradictory information. Bucci was concerned that he possibly did not receive all the information from the Report, as he referenced several notations of "See Notes" on the Report. Urbanski confirmed that Bucci received the complete report and the notes are additional correlating details on the Report. Denise McKee added the notes are associated to the illustrations. Bucci asked if the Engineer rendered an opinion on whether the building is safe for occupancy. McKee reiterated the repairs outlined in the Report are what is needed to make the building safe. Bucci disputed that all the indicated repairs needed to be done. Jenny Sisson referred to a previous meeting where it was determined that in order to make the building safe, a Structural Engineer had to inspect it, prepare a report of necessary repairs, and repairs would need to be completed. An inspection would then be done by the Engineer to declare the building structurally sound. Bucci asked the Board if it is their position that all the repairs in the Report need to be done to open the building back up to the public. Eichhorn said that all repairs have to be made and the Engineer has to inspect it to ensure they have been completed correctly.
- Bucci had more comments regarding the "Notes" on the Report. It was confirmed that these notes provide more detail on how to make the repair. Eichhorn stated if Bucci had more questions about that information, he should contact the Engineer for clarification. Bucci maintains that he does not have any notes, and that he did not receive everything from the Engineer. Jamila Zafar pointed out exact information from the Report and the Notes reference, and that all the detailed

- information is present on the Report. Hardcopies of the five-page Report were printed and distributed for review. It was confirmed that the Notes reference information on the Report, providing more detail. Bucci confirmed he received the Report. Bucci continued to dispute whether or not all the repairs are necessary. Eichhorn reiterated that it has been established at previous meetings that the repairs have to be made to the satisfaction of the Structural Engineer, the building needs to be sealed to the satisfaction of the Building Inspector, and then approval from the Fire Marshal. Once this is established, that the building is safe, then the Board will consider a Certificate of Occupancy.
- Bucci reminded the Board that they are Zoning Appeals, not a building demolitions board. Bucci asked if they made the Condemnation Order based on the Building Inspector's decision to condemn the building. Eichhorn reaffirmed that this Board issued the Condemnation based on testimony from the Engineer, the Town, and the Fire Department. When those parties are satisfied, the Board will make a decision. Bucci stated again that he does not understand how a Board of Zoning Appeals has jurisdiction over something that is not zoning. Town Attorney Jeff Graham verified that by Ordinance the Town of Pendleton has designated the Board of Zoning Appeals to be the Hearing Authority for all unsafe building law and findings by the Commissioner. Graham stated that it is in compliance with State Law. Bucci thanked him for that clarification and said he was unaware that the Board had the authority for other things besides just zoning.
 - Eichhorn asked Bucci to confirm that he had the recently printed hard copy of the Engineer's Report. Bucci confirmed he did. He continued to point out the areas that indicate "See Notes", and that he did not get any notes. It was previously established that all notations are on the Report, providing additional detail. Questions about these should be directed to the Engineer. Bucci stated that he has called the Engineer to ask questions. He was told by the assistant that the Engineer was on vacation and that he could ignore the notation in question. Sisson inquired as to when Bucci contacted the Engineer's office. Bucci estimated it to be about a week after receiving the Report in August. Bucci never followed up with the Engineer to validate. Eichhorn refuted that nothing on the Report should be ignored, unless it is in writing from the Engineer. Bucci said he could not wait for the Engineer to get back from vacation because he needed to get walls built. Eichhorn cautioned that if repairs are not done according to the Report, it will come to light during the inspection.
 - Eichhorn instructed Bucci to finish sealing the building within the next 30 days and continue structural repairs. When sealing is complete, Bucci needs to contact the Town for an inspection by the Building Inspector. This should be done prior to the October 18 meeting. Once structural repairs are finished, Bucci needs to contact the Town for an inspection by the Structural Engineer. Bucci asked if he should contact the Engineer for everything. Urbanski answered that he can contact the Building

Inspector for questions that are not structurally-related. Anything regarding structure repair or the Engineer's Report should be directed to the Engineer.

Kyle Eichhorn requested a motion to extend the building seal for the back of the building for 30 days, to be confirmed at the October 18 meeting. Motion made by Jenny Sisson; seconded by Jerry Burmeister. Roll call vote was taken and all members present voted to approve said motion. Motion carried.

Kyle Eichhorn requested a motion to reconvene at the October 18 meeting with an update on the structural repair progress. Motion made by Jenny Sisson; seconded by Jamila Zafar. Roll call vote was taken and all members present voted to approve said motion. Motion carried.

VI. NEW BUSINESS

No new business to report.

VI. ADJOURNMENT

Meeting was adjourned by Kyle Eichhorn at 7:26 p.m.

Next meeting October 18, 2022 at 7 pm.