

Manheim Township Board of Appeals Meeting Minutes

September 20, 2004 7:30 PM at the Municipal Building Board Room

Members Present:

Dave Lobb
Lori Dropik
George Hauber
Steven Kelley
Edwin Short

Secretary to the Board

Donald C. Forry

Appellants

D. Holbrook Duer (Legal Counsel for Appellant)
Marilyn Berger (Real Estate Agent for Property)
James Akers (Caretaker)

Court Reporter

Brenda Hamilton

Board of Appeal Hearing No. 03-04

Notice of Violation of Unsafe Building at 3101 Oregon Pike

Appellant Name: Canaan Venture LLC

Chairperson Dave Lobb called the hearing to order at 7:35 PM. The appeal was due to a Notice of Violation issued by Donald C. Forry, Director of Code Compliance, on June 29, 2004 against Canaan Venture LLC c/o Triumph Baptist Church, 1536 West Wingohocking St. Philadelphia, PA 19140. The property was deemed unsafe under Section 403.84 at the Pennsylvania Uniform Construction Code adopted by Manheim Township Ordinance 2004-7. The violation read, "All buildings are deemed unsafe because they are structurally unsound, pose a fire hazard and are not continuously secured to prevent unauthorized entry." Violations can be corrected by reads as follows, "1) Make application and obtain the required demolition permit within 30 days of receipt of this notice. 2) Complete all demolition work within 60 days of receipt of this notice. 3) Comply with permit amendments and applicable Township ordinances."

An Application for Appeal was received on July 29, 2004 from Robert L. Archie of Duane Morris LLC (legal counsel for Canaan Venture LLC.) Mr. Archie indicated the true intent of the code or the rules legally adopted thereunder was incorrectly interpreted. The factual basis upon which the Director erred was "The property is listed for sale and the cost to demolish these buildings which were built around 1950 would be greater than the asking price. The property is continuously secured daily by James Akers, a resident of the area, and he boards it up every time he detects any opening in the property. Canaan Venture LLC has employed James Akers, from the day Canaan Venture LLC first purchased the property, for the sole purpose of protecting the property."

Mr. Forry presented the appeal on behalf of Manheim Township along with a summary of the history and incidents at the property. The following documentation was presented supporting the Notice of Violation: The notice of violation issued June 29, 2004 (Exhibit

1.), the letter to Canaan Venture advising them of the appeals hearing and a copy of the Application for Appeal (Exhibit 2), 16 photographs of the property (Exhibit 3) Pennsylvania Uniform Construction Code section 403. 84 (Exhibit 4) and Manheim Township Ordinance 2004-7 adopting the Uniform Construction Code. (Exhibit 5)

Mr. Duer presented the case for the Appellant in place of Mr. Archie who could not attend the hearing. Mr. Duer called Marilyn Berger of Berger Real State to testify. Ms. Berger is the current real state agent who has actively been contracted to sell the property since 1998. She stated that there has been interest in the property by several clients. Next, Mr. Duer called James Akers to testify. Mr. Akers has been the caretaker of the property since Canaan Venture purchased it in 1998. Mr. Akers stated his duties as a full-time employee of Canaan Venture. He is at the property on a daily basis, where he cuts the grass and secures the property by boarding up any openings in the buildings. Mr. Duer summarized his presentation and concluded that section 403.84 of the Uniform Construction Code did not apply and is not the correct ordinance remedy to require demolition of unoccupied buildings. Specifically, Subsection (b) of Section 403.84 reads, " When a building official determines the existence of an unsafe condition, the building official shall order the vacating of the building or structure." This section does not apply in view of the fact that the building was previously and remains vacated and secured.

The Board of Appeals presented its decision. Dave Lobb made a motion that the true intent of the code was incorrectly interpreted by the Director of Code Compliance. Steve Kelley seconded the motion. The Board voted unanimously 5-0. Therefore, the appeal of Canaan Venture LLC was accepted, i.e. the buildings are not required to be demolished.

Adjournment: 8:35 PM

Please inform me of any errors or omissions in these minutes as soon as possible.

Respectfully Submitted,

Donald C. Forry, Secretary to the Board of Appeals

Email Distribution: Board of Appeals Members (5)
Public Safety Commissioners, Harry Ritter & Carol Simpson
James M. Martin, Township Manager
Canaan Venture, Property Owner/Appellant
A. Holbrook Duer, Legal Counsel
Robert L. Archie, Legal Counsel
Board of Appeals file - paper copy