



Agenda

Board of Appeals
20 Second Avenue SW, Oelwein
5:30 PM

February 11, 2020
Oelwein, Iowa

Mayor: Brett DeVore
Mayor Pro Tem: Warren Fisk

Roll Call - Kerns, Cockerham, Miller, Lumbus, Benter

Approve Minutes

- [1.](#) Consideration of a motion to approve the minutes of the October 1, 2019 meeting

Appeals

- [2.](#) Discussion on Warthan appeal request for 320 8th Street SW

Old Business

New Business

Adjournment

In compliance with the Americans with Disabilities Act, those requiring accommodation for Council meetings should notify the City Clerk's Office at least 24 hours prior to the meeting at 319-283-5440



City of Oelwein
International code council
Board of Appeals
October 1, 2019

The October 1, 2019 meeting of the City of Oelwein International Code Council Board of Appeals was called to order at 5:30 P.M.

PRESENT: Benter, Kerns, Lumbus, Cockerham, Miller

ALSO PRESENT: Jay Shekleton, Jill Dillon of Dillon Law

Approve Minutes A motion was made by Kerns, seconded by Miller to approve the minutes of the May 6, 2019 meeting. All voted aye.
Motion Carried

Future Meetings Following discussion a motion was made by Lumbus, seconded by Benter to schedule future meetings at 5:30 P.M. with a seven (7) day notice. All voted aye.
Motion Carried

Otter Creek Appeals Calvin Moss, owner of Otter Creek was present along with Property Manager Noel Coleman and Maintenance Staff Gary Lambert and several maintenance personnel.

Moss has filed an appeal asking that 'No Show' and 'Failed Inspection' fees be waived. He stated Otter Creek is a large apartment complex with 15 buildings and 56 rental units.

Shekleton stated inspection notices are mailed giving the owner and/or owners' agent 14 days notice. He stated he has shown up multiple times and has had to call the Property Manager but can't always make contact. Kerns questioned who is a duly authorized agent if the tenant is not there. Shekleton replied it is usually Gary or Dan. It must be someone over the age of 18.

Moss believes his maintenance staff is working as quickly as possible to bring the units into compliance. He stated he has four maintenance workers working 60 hours per week and has spent over \$50,000. They are not ignoring the work.

Cockerham confirmed owners have sixty days to correct a failed inspection. He felt the repairs were small and should be able to get them completed within that time frame.

Kerns feels the documentation is sufficient and annotated well. He questioned if the pictures were available to the owner. Shekleton said if the owner requests copies he will forward them.

Moss was questioned if he has tried to bring in more contractors. Coleman said she has called multiple contractors, but none have the time. Ideally, they would like to complete one building and then move to the next.

Since this appeal has been filed more fines have been assessed and Moss would like to have those include.

Kerns stated we need to deal what is before us. Options are to waive all the fees, say no to all and enforce the fees as is or an option somewhere in between that works. Cockerham felt if we start waiving penalties many more appeals will be filed.

A motion was made by Miller, seconded by Benter to deny the appeal.

Ayes: Benter, Kerns, Lumbus, Cockerham, Miller

Nays: None

Motion Carried

The Mealey Appeal

BBV, LLC by Travis Bushaw is appealing the late fees on the transfer of ownership. BBV, LLC purchased The Mealey at 102 South Frederick and failed to register the transfer of ownership within 30 days.

Shekleton reviewed the Rental Policy re: transfer of ownership. The policy does not provide for a penalty if the transfer is not made within 30 days of ownership.

A motion was made by Lumbus, seconded by Benter to enforce the \$910 rental registration and not impose the late fees of \$10,200. All voted aye.

Motion Carried

Adjourn

A motion was made and seconded to adjourn at 6:56 P.M.

Respectfully,

Jay Shekleton,
Building Official



ITEM #2.

NOTICE: UNSAFE STRUCTURE
***** ACTION REQUIRED*****

January 24, 2020

W&W MANAGEMENT GROUP, LLC
DAVID WARTHAN
12350 BARONY DRIVE
DUBUQUE, IA 52001
CC: OCCUPANTS

REGARDING:
320 8th St SW
Oelwein, IA 50662
Legal Description Attached

Dear David Warthan;

This letter is an official notice that the property at 320 8th St SW is in violation of the City of Oelwein Code, Chapter 25, Section 25-8. Therefore, you are being served with this notice of violation.

320 8th St SW

Placarded on: **January 24, 2020**

CITY CODE: Section 25-8 Unsafe Structures and Equipment

- B. Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.
- F5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.

Therefore:

Occupants may not inhabit or sleep at the property but are permitted to access the property to retrieve personal belongings. The property must be completely vacated in thirty (30) days from the date of this letter, no later than Monday, February 24, 2020.

Failure to comply with any component of this directive will result in referral to the City Attorney.

Right to Appeal: You have the right to appeal this notice and order by filing a written application for appeal with the Housing Board of Appeals for the City of Oelwein. Applications for appeal are available upon request at the Community Development Office located at 20 Second Ave SW in Oelwein.

Right to File a Lien: If you fail to correct these violations, any action taken by the City of Oelwein, the authority having jurisdiction, may be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

Jay Shekleton
Building Official/Zoning Administrator

City of Oelwein Community Development Department
20 2nd Ave SW Oelwein, Iowa 50662
319-4862

Attachment

Lot 146, Block 12, Stickney's Addition to Oelwein, Fayette County, Iowa.



HOUSING APPEALS BOARD APPEAL REQUEST

This appeal must be filed with the City within sixty (60) days of the initial inspection. The Housing Appeals Board shall then schedule a hearing within thirty (30) days of receiving the appeal. City staff shall compile information related to the inspection and identified violation. At the Housing Appeals Board hearing, City staff shall present evidence of the violation and the rental property owner will be provided an opportunity to state his/her perspective on the need to reconsider the inspector's decision. The Housing Appeals Board shall provide a ruling within ten (10) after the hearing. If the owner is not satisfied with the ruling, the owner may file a request with the city manager's office for a public hearing with the Oelwein City Council. This request must be filed within ten (10) days following the Housing Appeals Board ruling. At the next regularly scheduled meeting, the City Council shall schedule a public hearing and provide a ruling.

The appeal must include the following:

DATE: 01-30-2020

NAME: David G. Warthan & Victoria Warthan Owner Agent

OWNER/AGENT ADDRESS: 12350 Barony Drive - Dubuque, IA 52001

PHONE: 563-920-4070

BUILDING ADDRESS/LAND INVOLVED: 320 8th Street S.W. Oelwein, IA 50262

ORDER OR ACTION PROTESTED AND WHY: Condemnation - Sect. 23-8

RELIEF REQUESTED FROM THE BOARD (Please check) AND WHY:

I would like the board to give me time in the spring to do the repairs on the foundation. I do not believe it is a hazard of falling down. You have displaced a family with a new baby.

Variance Penalty Fee Review Extension of time - until (Date) _____

SIGNATURE: [Signature]

(Office Use Only)

CODE VIOLATION #: _____ INSPECTOR: _____

City of Oelwein Community Development Department
20 2nd Ave SW Oelwein, Iowa 50662
319-283-5862

SECTION 25-8 UNSAFE STRUCTURES AND EQUIPMENT:

[B] Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

[D] Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

[F] Dangerous structure or premises. For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

- 3.** Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
- 4.** Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
- 5.** The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
- 6.** The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
- 8.** Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

SECTION 25-34 EXTERIOR STRUCTURE:

[B] Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
5. Structural members that have evidence of deterioration or that are not capable of safely supporting all nominal loads and load effects;
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
7. Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;

[F] Foundation walls. Foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests;

SECTION 25-35 INTERIOR STRUCTURE:

[A] General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure that they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

[B] Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
4. Structural members are incapable of supporting nominal loads and load effects;

6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.

SECTION 25-36 COMPONENT SERVICEABILITY:

[A] General. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

[B] Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
 2. Damage to footing, foundation, concrete or other structural element due to soil expansion;
 3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
4. Masonry that has been subjected to any of the following conditions:
 1. Deterioration;
 2. Ultimate deformation;
 3. Fractures in masonry or mortar joints;
 4. Fissures in masonry or mortar joints;
 5. Spalling;
 6. Exposed reinforcement; or
 7. Detached, dislodged or failing connections.



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ITEM #2.

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ITEM #2.

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