

# MINUTES OF THE REGULAR MEETING OF THE BUILDING BOARD OF APPEALS

AMES, IOWA

AUGUST 5, 2024

## CALL TO ORDER

Chairperson Andrew Tulp called to order the Regular Meeting of the Building Board of Appeals at 4:00 p.m. with the following Board members present: Andrew Tulp, Brent Bagley, Justin Dodge, and Duane Wolf. Chris Nelson absent. Staff members present were Sara Van Meeteren, Scott McCambridge, Sheryl Reynolds, Holly McDonald, Dan Thomas, Jane Chang.

## APPROVAL OF MINUTES

Moved by Dodge, seconded by Bagley, to approve the minutes from the August 5, 2023 meeting. Vote on Motion: 4-0. Motion passed.

## APPEAL OF SECTIONS R311.3 AND R311.7.8 OF THE 2015 INTERNATIONAL RESIDENTIAL CODE AT 611 HODGE AVENUE.

Building Official Sara Van Meeteren presented the staff report. A rental inspection was done at 611 Hodge, and it was noted that the concrete stairs were in disrepair and were required to be replaced by August 31, 2022. At the inspection on January 4, 2024, the inspector noted that the steps had recently been replaced and there was no permit on file for the replacement. They submitted a permit application with drawings for the completed stairs. The plans examiner responded with corrections that needed to be made and those corrections are the reason for the appeal. The requirement is for a landing to be outside of this door, it is an attached porch. The requirement is to have a 3' x 3' landing when you exit the porch, and a handrail is required if there are four risers or more. It could be constructed to where a handrail would not be required. In this case with the four risers there would need to be a handrail.

There were three criteria on the application:

- 1. The requirements of this Code are adequately satisfied by other means, and the specific proposed alternative action will not decrease the degree of general code compliance of the specific system of the building and premises*
- 2. There are specific fixed conditions that make strict compliance with this Code impracticable*
- 3. The true intent of this Code or the rules legally adopted hereunder have been incorrectly interpreted*

The appellant believes that staff's interpretation is incorrect because the exterior door is inside the porch and the storm door off the porch is not an exterior door and therefore would not require a landing. Additionally, they feel a handrail is not required because they interpret the set of steps to have only three risers. Staff counts the additional step into the door as a riser for a total of four risers.

Ms. Van Meeteren continued to say if the Board is going to uphold the Building Official's decision, they will have to find that all three criteria are met.

If the Board is going to overturn the Building Official's decision only one of the criteria needs to be met. They can modify the decision, but the Code cannot be waived.

Brent Bagley questioned if there were two or three Code issues. Ms. Van Meeteren stated that there are two. The requirement for a 3' by 3' landing and a handrail.

#### Appellant:

Dianna Jordan said that this was first flagged on a rental inspection before Covid but couldn't find anyone to work on it during Covid. The conversation at that time was that it could be replaced like for like. There could have been some miscommunication. She contacted the contractors at the end of last year, they said they would take care of the permits. They also replaced sidewalk as well since there were some trip hazards. That wasn't on their rental inspection but thought since the steps were being poured, they would do that at the same time. She stated that she trusted the contractors. She was told that the contractors called and were told no permits were needed. The work was completed and then at the rental inspection we found out there were permits needed. She clarified that their interpretation of the handrail would start beyond the top landing as the door would bridge that space.

#### Board Comments:

Mr. Tulp thanked the appellant for her presentation and the outline with the appeal.

Mr. Bagley stated that unfortunately it was on the contractor, and they should have had a permit pulled. He agrees that there are four risers, and the storm door is an exterior door to get into the dwelling. If the door wasn't there it would be different.

Justin Dodge stated that he understands the appellants position as it has happened to them on job sites also. He stated that it this could be an opportunity for the City to educate the concrete contractors when permits are required. He went on to explain the Scott McCambridge and he had a conversation about a screened in porch project on a new home regarding a landing. The porch on this project is much more enclosed than on the new home they are constructing. Mr. McCambridge's interpretation of the screened porch is that a landing would still need to be required as the door swings out. This has solid walls with windows, his view is that it is an exterior door.

Mr. Dodge asked when is a "like for like" replacement allowed. Mr. McCambridge explained that when you are tearing something out and starting over that is considered new work. Like for like would be replacing a few deck boards or a few joists. Ms. Van Meeteren went on to say that the side door along the alley had a landing that was replaced. That is flat concrete work and that could have been a like for like conversation. That flat landing could be replaced without a permit. She went on to concur with Mr. McCambridge that if a permit is required then like for like is not an option. Mr. Bagley asked who stated that like for like was an option. Ms. Jordan stated that it was Dan Thomas the rental inspector.

Mr. Tulp stated regardless Code would need to be followed. This part of the Code is about egress, and this would be an egress door. This would be an exterior door and a landing would be required as written by the City. A 3' by 3' landing is required then it would have only three risers and wouldn't need a handrail.

Tulp moved to uphold the Building Official, Alternative 1:

The Building Board of Appeals can uphold the Building Official's determination by finding all of the following:

- a. The proposed alternative does not meet the intent of the code; and
- b. Strict compliance is not impracticable; and
- c. The code has been correctly interpreted.

This alternative would require the stairs to comply with the landing and handrail requirements cited in this report.

Seconded by Bagley

Discussion:

Mr. Bagley asked if the contractor dismissed themselves from the case or if they suggested to appeal. Ms. Jordan asked for clarification on information on the slide that was projected. Ms. Van Meeteren stated it should have said the "code has been correctly interpreted". Ms. Jordan went on to say after reviewing the Code there is a secondary door to the dwelling. They did not interpret the porch as the dwelling. She answered Mr. Bagley's question stating they had spoken with the contractor about getting permits in place and was told that had happened. When the permit was applied for the city response was that the changes needed to be made. Their response was that the stairs are finished and functional and have put in the time, money and effort. Asked if there was any alternative to redoing the work. It is an unfortunate circumstance, and the contractor didn't offer anything, and she didn't ask for any allowances. She feels she tried to follow the rules and is looking for suggestions if the motion passes.

Mr. Bagley feels that as a business owner/contractor should make it right and feels the contractor should fix it. Ms. Jordan stated that he said he tried so maybe part of it is on the City for misinformation, but there is nothing written. Mr. Tulp said regardless of whether it needed a permit it must be built to the Code requirements by the contractor. Mr. Bagley stated that this is a danger.

Mr. Dodge questioned if there was room for a 3' by 3' landing from those stairs. Ms. Van Meeteren stated yes there is room as the sidewalk shown in the photo goes around the house to the alley. Mr. Bagley said that the landing would have to come out currently past the last stair. Ms. Van Meeteren stated that the sidewalk in the front going around the house is not required. Mr. Bagley asked if that was the city sidewalk. Ms. Van Meeteren confirmed where the step comes down that is the city sidewalk. Ms. Jordan questioned that if the extension of the stairs went into the sidewalk to the alley that could be removed. Ms. Van Meeteren confirmed that is not a requirement. Mr. Bagley stated it would have to be removed as there isn't room. Ms. Jordan asked

about the handrail and how should that be attached or is it needed. Ms. Van Meeteren said that these stairs would be pushed out three feet to accommodate the landing, then you would only have three risers and wouldn't need a handrail. Corey Montgomery stated that there would need to be a guardrail on the landing if it is over 30 inches. Ms. Van Meeteren said staff will work with the appellant on a drawing. Duane Wolf said it is unfortunate and was caught in a similar situation 15 year ago.

Vote 4-0 Passed unanimously.

Jane Chang stated that you would have 30 days from the filing of the decision and order to appeal the Board's decision.

Discussion followed about next steps for the appellant.

### **REQUEST TO DEMOLISH THE DANGEROUS BUILDING AT 3323 TRIPP STREET**

Building Official Ms. Van Meeteren presented the staff report. On May 17 the structure was deemed uninhabitable. Staff spoke with the residents on May 15, and they were given to the end of the week to have the structure returned to a habitable state or to vacate the structure. Owners stated they were going to City Hall and get the utilities turned back on and that did not happen. Inspections staff spoke with the Utility Department and were informed that there were broken pipes and Utilities could not set a new meter until there was proof there would be no issue. It was posted on May 17 that they could not inhabit the structure. The occupants were given 48 hours to vacate the premises. On July 1 it was declared dangerous, and it was boarded up because people were still coming and going. The owners are both deceased. The owner's sister that was living there moved out of state once she was informed that it was not habitable. The other two occupants that were there moved out. But there have been several squatters. When staff went to board up the property there was someone sleeping in the basement that had to be removed before it was boarded up. Staff received an email on July 8 that the rear of the garage had been removed and needed resecured. On July 11 staff went out to secure the rear of the garage. There continues to be people coming to scavenge for things and there are dead animals around the structure. The Right of Way has been cleared of any items. Staff didn't have permission to remove anything from the property. Staff is requesting demolition because of the ongoing nuisances posed to the neighborhood at this property, the lack of owners, and inadequate utilities. The goal is to remove everything and then to petition the court for the City to obtain the deed under the abandon property law. Then it would be sold to cover the costs. It is a great lot and there are neighbors here that would like to see it become a house for a new family for the neighborhood.

The Board's alternatives are to uphold the determination of the Building Official that it is dangerous and authorize abatement and assess the costs to the property. This process would still have to go to City Council for assessment. Or the Board can reverse the decision and deny the request for abatement. The Board could also uphold that it is dangerous and require some other type of enforcement.

Mr. Bagley asked if there had been contact with the sister. Ms. Van Meeteren stated that the dangerous building declaration was sent by certified mail, and it was filed with the County. The sister and a son and daughter all received the notice. Ms. Van Meeteren spoke with the daughter. A US Attorney contacted Ms. Van Meeteren about this property to turn it into a civil forfeiture case and he spoke with the daughter, and she referred him to speak to Ms. Van Meeteren. The attorney and Ms. Van Meeteren talked about each department's processes, and it was determined that the Inspections process would be more expeditious due to working through the federal government funding process. He is waiting to see how this process goes forward before starting anything. Since this time there has been no communication received from any of the family members, but they are aware of all this information.

Mr. Bagley asked about the last date of contact. Ms. Van Meeteren stated it was July 1 and the registered mail was returned promptly. Mr. Dodge asked if the daughter or sister were interested in fighting this process. Ms. Van Meeteren stated that there was a rumor of a Will somewhere in a storage container somewhere in Ames. Ms. Van Meeteren offered to retrieve the Will from the storage unit if they knew which storage company it was in, and she would mail it to them. Once they have the Will they could sell the property. Until they have the Will, they can't do anything until it goes through the State for non-payment and would eventually go up for a Sheriff sale. Without the Will their hands were tied and couldn't do anything to the property as they have no rights to the property. After talking to the city legal department, they could open an estate, but they all have moved out-of-state and now they would have to post a bond. It's expensive and may be difficult to retain an attorney that would be willing. That would give them the rights to the property, but they would have to clean up the property to make a sale. Currently there seems to be no interest in pursuing this option. Mr. Bagley asked if the inside looks like the outside of the property. Ms. Van Meeteren stated that it is worse. There haven't been any utilities for a period of time. There is debris everywhere from people getting items out of dumpsters, and there are pests. The police officers were present at the time the property was boarded up. They went to the basement. There is small basement window on the north side that people are using to get in and out. When she and Ms. Reynolds went to board up the garage it was opened again. They didn't board it up again as to not trap someone in the basement. The police department would have had to come back for us to take the boards down to enter and check the basement out, the decision was made to leave it open. The neighbors stated they hadn't seen activity since it was boarded up and people were going through the items outside, but now the structure needs to be removed.

#### Public Comments:

Laurie Pieper (305 S Wilmoth) has lived in the neighborhood since 2019. There are always people coming and going into that area. Always been cautious and realized the neighboring area is very dangerous. Drugs have been left in her yard. She tries to be very aware when she is outside and has contacted the police. Her property is not directly connected but is very close. Ms. Van Meeteren stated that the neighbor that backed up to the Tripp property allowed people to come and go from her place and had issues with people in her garage. She is now deceased. In the past, sheds on both properties have been set on fire and are no longer there. People cut through these properties frequently. Ms. Pieper is strongly in favor of the property being demolished and hopes the property can be redeemed for someone.

Carol Stuve (218 Hilltop) This neighborhood used to be farmland for years, which the Gambles owned. Diana Gamble, who recently passed away would allow people into her home to shower and get food. People would come from all over for her to help them. Ms. Stuve is upset because she has lived there for 20 years and would like to have something done and has notified the City multiple times. She feels that they don't get any attention because they are in the sketchy part of Ames. She met one of the people living in the garage and called the police about him and they never came out. She has issues with Ames addressing problems. People would park on Hilltop and then go down and get drugs at this house. Property taxes haven't been paid for at least a year. Ms. Stuve has contacted Council members regarding this property and has had people enter her home looking for this other home. For the last 10 years it has been horrible since the actual owner passed away. The problems got worse when the sister was living there.

Mr. Tulp stated that the City wants to condemn the property. Asked Ms. Stuve if she was in favor of the City condemning the property, yes, she agreed. Ms. Stuve said some things have changed recently. Mr. Tulp said the process takes some time. Ms. Van Meeteren said that in the past they have been cited for outdoor storage and the City has assessed the costs of removal to the property. Currently there is no one to cite so they can't enter the property. As part of the demolition process all of the items will be removed. Ms. Pieper asked what the length of time would be before demolition. Ms. Van Meeteren said it would happen as soon as a contractor is available. All the utilities would have to be disconnected. The process is that the Board would give approval to demolish. She stated that she must check with the Finance Department to determine whether a contractor can be hired to do it or if it must be through a bidding process. As soon as we can find a contractor to do it, it will be done. As part of the demolition, they must remove all the footings and fill the hole so it would be a vacant lot. Then the City will go through the legal process to take possession so that it doesn't become an overgrown lot.

Ms. Stuve asked about how to acquire land from a neighboring lot. Ms. Van Meeteren said you would have to contact the owner. Ms. Chang, City Attorney stated that these are all questions for the Planning Department. Ms. Van Meeteren said to schedule a meeting with the Planning Department as well as the owners.

Ms. Stuve asked if the debris is moved to the right of way will get hauled away. The neighbors have been neglected long enough. Ms. Chang said that these are questions for the staff. Please let the Board finish their process.

Mr. Tulp closed public comment.

Comments from the Board, Mr. Dodge agrees with staff that it is a dangerous structure and needs to be removed. Mr. Tulp stated that in the Staff Report there could be a stay of demolition. Ms. Van Meeteren stated that is only if the owner was present and requested a stay.

Moved by Dodge for Alternative 2: *The Building Board of Appeals can uphold the Building Official's decision that the structure is dangerous and authorize the Building Official to take abatement action as deemed appropriate and assess abatement costs to the property.*

Seconded by Wolf.

Vote on Motion: 4-0. Motion passed.

**BOARD COMMENTS**

**ADJOURNMENT**

Moved by Tulp to adjourn at 4:58 p.m. Second by Dodge.

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Andrew Tulp, Chairperson

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Natalie Rekemeyer, Recording Secretary