

**TOWN OF ELKTON  
BOARD OF ZONING APPEALS  
SEPTEMBER 20, 2012  
MINUTES**

**Present:** Jared Roudybush; Shirley Hicks; Dawn Schwartz; Charles E. Cramer, Jr.,  
J. Craig Trostle, Jr., Director, Building & Zoning; Jason L. Allison, Esquire, Attorney

**Absent:** Robert Olewine

Mr. Roudybush called the meeting to order at 7:00 p.m.

**ACTION:** Motion was made by Ms. Schwartz to approve the minutes of the August 16, 2012 meeting. Motion was seconded by Ms. Hicks and unanimously approved.

**CASE # 1439 – REQUEST OF WILLIAM F. HICKEY, ESQUIRE FOR AN APPEAL OF THE ZONING ADMINISTRATOR’S ISSUANCE OF A STOP WORK FOR A BODY SHOP/AUTO REPAIR LOCATED IN THE R-3 RESIDENTIAL ZONE. THIS ACTION CONCERNS PROPERTY LOCATED AT 320 W. MAIN STREET, ELKTON, MARYLAND, TAX MAP 314, PARCEL 275, ZONED R-3**

Mr. Craig Trostle, Director of Building & Zoning was sworn in and gave testimony regarding this case. This appeal is regarding 320 W. Main Street and particularly the garage area at the rear of that property, adjacent to Curtis Alley. He noted that his department has been addressing this property since 2005, twice it was cited for untagged vehicles, there has been illegal plumbing done without permits and there have been rodent infestation issues.

For this reason, more attention has been given to this property than normal over the years due to numerous complaints from neighbors and elected officials. These complaints have been lodged due to noise from auto work being done during both the am and pm. There have been damaged car parts along the side of the garage and vehicles that were both damaged and in disrepair.

He noted that a letter was sent in 2010 with no action or results. Since that time additional complaints were received regarding fumes and noise and the general condition of the property. There have been automobile parts in the alley as well on three or four different visits. There have been numerous letters sent to try to resolve the issue.

The property has been zoned R-3 since 1975 and have not been rezoned. After an elected official and a resident came in to complain a stop work order was placed on the property. The owner elected to appeal the stop work order. The R-3 zoning does not permit auto repair/body shop use.

Ms. Schwartz requested a description of the R-3 Zone. Mr. Trostle stated that it is high density residential with smaller lots and more lots per acre and townhouses are allowed. Ms. Schwartz asked if the property in question consisted on one house or if there were apartments in the building. Mr. Trostle stated that it is apartments. There was discussion regarding the garages on the property and it was determined they have been on the property for more than 30 years.

Ms. Schwartz asked how long complaints have been received with regard to this property. Mr. Trostle stated that in 2005 they began to address this property for untagged vehicles. There was discussion regarding whether untagged vehicles are allowed in Town limits. Mr. Trostle confirmed that they are not. She noted that during her inspection of the property she noticed two different trucks. She stated some of the vehicles had no front tags and that there were vehicles with Pennsylvania tags on them. There was discussion of Maryland law with regard to registering vehicles and the amount of time required to change the registration from another state to Maryland registration.

Mr. Trostle gave a rundown of the different letters that have been sent since 2010 and the violations involved up to the 'cease and desist' letter dated 5/23/12. He introduced seven pages of photographs into evidence. He noted that the person who made the complaints against the property was invited to attend the meeting but did not appear to voice any complaints. Mr. Jason Allison, attorney for the Town, marked the pages into evidence.

Mr. William Hickey, attorney for the owner and tenants, brought an objection to the introduction of all of the photographs except for those on Page 1. He stated that all the photographs, with the exception of Page 1, were taken prior to the tenant residing at this property. He informed the Board that there are four apartments in the residential structure and his client was not the owner until April of 2009. He therefore believes the photographs are not relevant to the case. Mr. Trostle clarified that he does not have access to the identity of the tenant at any given time simply that the violations have been apparent since 2005.

Mr. Allison called for a decision regarding which pictures would be allowed into evidence. Mr. Roudybush allowed all pictures into evidence.

Mr. Scott Brinley, owner of the property and tenants, Michael Snyder and Robert Bennett were sworn in and introduced to the Board.

Mr. Hickey stated he would give a summary of his presentation and then allow for comments and questions. Mr. Scott Brinley purchased the property in April of 2009. Since that time and at the time of purchase the property was managed for him by Ideal Management, LLC. The resident agent received correspondence but Mr. Brinley did not receive any of the correspondence. Mr. Brinley's intention is for himself and his tenants to be in compliance with all Town regulations now that these issues have been brought to his attention.

The lease between Scott Brinley and Michael Snyder for the use of the garage was presented into evidence. The lease prohibits the use of the garage for any commercial use without the owner's permission. Mr. Brinley testified that he has never given permission for a commercial use at this location. When he finally found out about the violation letter(s) he contacted his tenant and was assured that no commercial use was being run at the property. Mr. Snyder presented his tax records for the last three (3) years to confirm that this was accurate. Mr. Hickey introduced the tax records into evidence. (Exhibit #2) Mr. Brinley also presented a petition from surrounding property owners and neighbors. (Exhibit #3)

Mr. Hickey asked Mr. Snyder if he was conducting an auto repair business at 320 W. Main Street. Mr. Snyder answered that he only works on vehicles as a hobby. Mr. Snyder was asked to identify some of the vehicles in the pictures placed into evidence by Mr. Trostle. He identified the vehicles as those of other tenants, his father's vehicle or his personal vehicles. It was pointed out that one of the garages in the photograph was actually owned by another property which is a commercial property.

The four-door garage was identified as belonging to Mr. Scott Brinley and is located on his property at 320 W. Main Street. Ownership of the boat and Jet Ski on the property was identified as Mr. Snyder and Mr. Bennett, respectively.

Mr. Hickey asked Mr. Bennett how long he has lived at 320 W. Main Street and if he was aware of a business being run out of the garage. Mr. Bennett stated he has lived at this address for two years and is not aware of any business being run out of the garage. He added that he and Mr. Snyder are car enthusiasts and enjoy working on their vehicles in their spare time.

Mr. Hickey entertained any questions of clarification from the Board.

Ms. Hicks inquired as to the number of apartments at 320 W. Main Street. Mr. Brinley stated there are four (4) apartments. Mr. Snyder lives in Apartment 2 and Mr. Bennett lives in Apartment 1.

Discussion ensued regarding the stop work order and the number of people who lived at this location. Ms. Schwartz inquired as to Mr. Snyder profession. Mr. Snyder stated that he paints cars for a living but that the work is not done at that location. Discussion ensued regarding clarification of Mr. Snyder's salary and what he pays in rent on a yearly basis. There was also discussion regarding how to notify Mr. Brinley should there be other issues in the future as well as the ownership of the garage in the photographs placed in evidence. There was discussion regarding the possible inspection of the 4-bay garage.

Mr. Roudybush asked Mr. Trostle if the code enforcement office has inspected the property in the past 30 days. Mr. Trostle stated that the property has been inspected and has been cleaned up according to Town requirements. Upon discussion of this issue Mr. Hickey stated that he will provide his contact information so that the Town can let him know if there are any additional issues at this property. Mr. Brinley assured the Board that he would take care of any issues with the property in a timely manner now that he is aware of the Town's concerns and he had spoken to his agent concerning notifying him of any paperwork received regarding this property.

Mr. Trostle provided some clarification regarding the garage in the photograph he provided. He noted that the garage does belong to Mr. Mark Allen of Precise Plumbing. He also added that there has been an ongoing issue with vehicle parts in the alley behind this property.

Mr. Cramer asked how many complaints have been lodged regarding this property. Mr. Trostle stated that he has received complaints from two people in the area and also from the Code Enforcement Officer for the Town.

The legal notice posted on the property was read and presented into evidence (Exhibit #4). Mr. Hickey also presented for evidence a return notice which provided the reason why Mr. Brinley did not receive past notices.

Ms. Schwartz voiced concern that Mr. Snyder's tax information be returned to him. It was determined that it would be retained until such time as the appeal timeframe has passed.

Mr. Hickey again assured the Board that no commercial business is being or will be operated at this location in the future.

Ms. Hicks asked for clarification regarding whether other tenants had access to the garage in question. It was confirmed that only Mr. Snyder has a rental agreement on the garage and that no other tenants are able to use it.

Mr. Brinley said he is very serious about taking care of his property. Mr. Cramer asked how he would be doing that from New Jersey. Mr. Brinley stated that he would be done at least once a month to check on the property until such time as he decides to sell the property.

Mr. Roudybush entertained any additional questions from the Board or the audience. There were none.

**MOTION: Motion was made by Ms. Schwartz to keep the stop work order in place for commercial properties and allow work on vehicles for personal use only. There was no second to the motion. Ms. Hicks asked for an amendment to the motion to change the wording from 'commercial properties' to 'commercial use'. Ms. Schwartz agreed to the amendment. The motion was then seconded by Ms. Hicks and unanimously approved.**

**OLD BUSINESS:** None

**NEW BUSINESS:** None

There being no further items for discussion Mr. Roudybush adjourned the meeting at 8:27 p.m.

Respectfully submitted,

Brenda Humphreys