

**CHARTER TOWNSHIP OF VAN BUREN
CONSTRUCTION BOARD OF APPEALS AGENDA
Wednesday, May 24, 2023 – 3:00 PM
Van Buren Township Hall
46425 Tyler Road**

Per guidance provided by the Wayne County Local Public Health Department for meetings of governmental bodies held under public act 228 of 2020, effective January 1, 2022, the following Zoom link is provided to enable remote participation in a meeting of the public body by the general public:

Topic: 5/24/23 CBA Meeting
Time: May 24, 2023 03:00 PM Eastern Time (US and Canada)

Join Zoom Meeting
<https://us06web.zoom.us/j/84140777271>

Meeting ID: 841 4077 7271
One tap mobile
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Dial by your location
+1 312 626 6799 US (Chicago)
Meeting ID: 841 4077 7271
Find your local number: <https://us06web.zoom.us/j/84140777271>

See the Van Buren Charter Township website for additional information regarding how to participate in a Zoom public meeting.

CALL TO ORDER:

ROLL CALL:

APPROVAL OF AGENDA:

MINUTES: Approval of minutes from the meeting of October 26th, 2022.

CORRESPONDENCE:

PUBLIC HEARING:

OLD BUSINESS:

ITEM # 1 **50947-50955 SOUTH INTERSTATE 94 SERVICE DRIVE (PARCEL ID 83 074 01 0028 006 and 008).**

TITLE: The Construction Board of Appeals will hear appeals regarding condemnation notice posted for structures at 50947-55 South Interstate 94 Service Drive (parcel ID number 83 074 01 0028 006 and 008) by the Building Official and for relief from the Township proceeding as allowed under sections 18-121 to 18-125 of the Van

Buren Township Property Maintenance Code to have the structures removed from the property. The hearing is based upon the provisions set forth in Sections 18-4 to 18-30 of the Charter Township of Van Buren Code of Ordinances.

APPLICANT: Pear, Sperling, Egan, and Daniels P.C. (representing property owner Wain Bales)

APPEAL: Relief from orders of demolition issued for principal dwelling and accessory garage at 50947-55 South Interstate 94 Service Drive (parcel ID number 83-074-01-0028-008)

CODE REFERENCE: Section 18-125 of the Van Buren Township Code of Ordinances (Property Maintenance Code – Demolition)

ACTION ITEMS:

- A. Presentation from Staff
- B. Presentation from applicant
- C. Public Comment
- D. Construction Board of Appeals vote

NEW BUSINESS:

ANNOUNCEMENTS, COMMENTS, AND OPEN DISCUSSION:

ADJOURNMENT:

**CHARTER TOWNSHIP OF VAN BUREN
CONSTRUCTION BOARD OF APPEALS
WEDNESDAY, OCTOBER 26, 2022
MEETING MINUTES**

Meeting was called to order at 3:10 PM in the Denton Room by Director Power.

ROLL CALL:

Board members: William Osier, Michael McGovern, and Harlan Davenport

Staff: Dan Power (Director of Planning & Economic Development), Angela Mannarino (Township Attorney), Gerald Harder (Acting Building Official), Charles Bazzy (Police Lieutenant), Bob Queener (Code Enforcement Officer), and Deanna Murphy (Recording Secretary)

Applicant in Attendance: Attorney Jeremy Kennedy (Pear Sperling Eggen & Daniels) and Wain Bales (Owner – 50955 South Interstate 94 Service Drive) (Mr. Bales arrived at 3:30 PM)

APPROVAL OF AGENDA:

Moved and seconded by Board members Osier and Davenport to approve the October 26, 2022 Construction Board of Appeals Meeting Agenda as presented.

Motion Carried.

APPROVAL OF SEPTEMBER 21, 2022 MEETING MINUTES:

Moved and seconded by Board members Osier and Davenport to approve the Construction Board of Appeals Meeting Minutes of September 21, 2022 as presented.

Motion Carried.

CORRESPONDENCE:

None.

PUBLIC HEARING:

None.

OLD BUSINESS:

None.

ITEM #1:

50947-55 SOUTH INTERSTATE 94 SERVICE DRIVE (PARCEL ID 83 074 01 0028 006 AND 008).
Action adjourned to October 26, 2022 at the regular meeting on September 21, 2022.

The Construction Board of Appeals will hear appeals regarding condemnation notice posted for structures at 50947-55 South Interstate 94 Service Drive (parcel ID number 83 074 01 0028 006 and 008) by the Building Official and for relief from the Township proceeding as allowed under sections 18-121 to 18-125 of the Van Buren Township Property Maintenance Code to have the

structures removed from the property. The hearing is based upon the provisions set forth in Sections 18-4 to 18-30 of the Charter Township of Van Buren Code of Ordinances.

APPLICANT: Jeremy Kennedy – Pear, Sperling, Egan, and Daniels P.C. (representing property owner Wain Bales)

APPEAL: Relief from orders of demolition issued for principal dwelling and accessory garage at 50947-55 South Interstate 94 Service Drive (parcel ID number 83-074-01-0028-008)

CODE REFERENCE: SECTION 18-125 OF THE VAN BUREN TOWNSHIP CODE OF ORDINANCES (PROPERTY MAINTENANCE CODE – DEMOLITION)

Mr. Bales requested an appeal be granted based on hardship. After his wife passed away April 28, 2022, the insurance company placed his wife's life insurance policy under investigation/evaluation resulting in a delay in pay-out. He also lost his job and his son-in-law, who resides in Washington, Seattle, has taken steps to take his wife's estate (\$365,000 IRA) to probate. All the monies are tied up until the life insurance evaluation is completed. He is also dealing with medical bills and pursuing civil suits against the last two contractors, who stole a combined total of \$165,000. Since then, he financed a trailer to be used as a closet, place to shower and board a couple of dogs since his temporary living arrangement will not allow his pets. It is his goal to use \$100,000 of wife's life insurance, which should be released within next 15 business days, towards rebuilding his house. Also, he recently found out his biological mother was diagnosed with brain cancer and his father was in a severe car accident three weeks ago. Up until now, he has been living off his trust fund and has not had access to it because of father's accident and his step-mother cannot help. Once he gets back-on-his-feet again, his previous employer said he can have his job back. He offered to move his trailer so it resides next to the garage (out-of-the-way).

Mr. Kennedy added that he knows of a contractor willing to do the work for Mr. Bales.

The Boardmembers accepts Mr. Bales is experiencing hardship. They also believe the money has been mismanaged and that he probably has other debts that need to be settled (attorney bills, etc.) as well. In order to save the house, Mr. Bales should seek guidance. There is doubt the \$100,000 is going to get the house in livable condition, but can certainly get it "in-the-dry" (boarded up, windows, house wrap, roof, etc.). It was further recommended to demolition the back end off house where fire broke out and board everything that has the roof over it. Take the insurance money and have a construction manager manage the money. The house, which is down to the studs needs to be rewired, replumbed, HVAC, insulated, drywalled, reroofed and sided. Mr. Bales will have to show he is making an attempt to finish his home. There has been no progress for a couple of years. His attorney even had trouble making contact with Mr. Bales. It was further explained that 50% of home insurance (\$200,000) is tied up in the bank because the bank has to approve the construction to a certain point before insurance company will release any more money. Per Township, Mr. Bales will have to hire an architect to provide new

drawings, go out for bid since he may or may not hire his attorney's contractor because of the current high labor and materials costs.

Mr. Powers mentioned that the Township is holding approx. \$10,000-\$12,000 since 2020 from the insurance company after the fire, which may be used for the partial demolition. Typically, the money is used for full demolition in the event no repair activities.

It is Building Official Harder's recommendation to give Mr. Bales 90 days to tear-down the back addition, clean-up the property, board-up the primary house and address the trailer.

On behalf of his client, Mr. Kennedy said that Mr. Bales plans on moving travel trailer off-site and into storage, winterized the home within 30 days, find a builder/obtain construction bids, secure insurance money from Mrs. Bales' life insurance, and submit revised plans into the Building Dept. He will use the majority of \$100,000 toward initial phase of construction which will trigger additional home insurance draws from the bank.

Motion and seconded by Boardmembers Osiers and Davenport to give Mr. Bales 30-days to address the following items as specified:

1. **Within 30 days, by November 26th, 2022**, Mr. Bales ordered to remove the travel trailer's skirting, install the tires, move onto the concrete driveway in front of the garage. Complete demolition of back of house addition, clean-up debris on property, and weather/critter-proof house (e.g., Visqueen plastic sheeting, plywood and house wrap (e.g., Tyvek)). Obtain architect, solicit construction bids, and secure demolition permit. Must reside offsite for safety purposes.
2. **Within 60 days, by December 26th, 2022**, Mr. Bales must provide sealed set of drawings approved by Township Building Department and have a signed contract with a contractor to include a detailed construction timeline.
3. **On Wednesday, November 30th, 2022, at 3:00 PM** if the conditions of tabling have been addressed and the Building Official's report verifies the adequacy of the proposed scope of work and the building permit drawings, the Construction Board of Appeals will consider re-authorizing the Township to issue the building permit and authorizing the applicant to obtain a building permit and to initiate work within 60 days.

Motion Carried.

ANNOUNCEMENTS/COMMENTS/OPEN DISCUSSION:

14108 Haggerty Road: Building remains in a condemned, uninhabitable status and is the subject of continuing efforts to solicit voluntary demolition and redevelopment, with prospective buyers looking at the property as a potential redevelopment site as recently as June 2022. This buyer withdrew interest in the property due to site constraints including easement. The Township is

exploring next steps for potential demolition. If there is a buyer interested, the Township will require a buyer to post a bond with conditions that need to be met or the bond will be used towards demolition.

750-758 West Huron River Drive: Following Board's meeting in July 2019, a site visit was performed by the Van Buren Township Building Official and Van Buren Township Engineer, David Potter, PE, of Fishbeck ("Fishbeck") on November 12, 2019, and a subsequent report was written by Fishbeck on November 15, 2019. The letter documented steps that should be taken to install safety fence at the edge of the driveway, create a plan of action for the overall global stability of the two properties and their structures with the support of a geotechnical engineer, to monitor groundwater in the event of a global stability issue, to monitor crack and settlement on both structures over the course of two years, and to alert renters / tenants immediately if they hear popping sounds from the structures. The owner re-evaluated the property periodically over the course of the following roughly 1.5 years. McDowell & Associates provided a letter dated October 30, 2019 and revised on February 4, 2022 that indicated there were no evident global stability issues on the site. On August 25, 2022, Fishbeck and the Planning and Economic Development Director visited the site to evaluate the conditions. Per Fishbeck's letter dated August 25, 2022, all issues at 758 West Huron River Drive had been addressed, apart from the recommendation that safety fence should be installed at the edge of the site's driveway and the recommendation that the owner should continue to verify positive drainage away from the rear alcove area behind the structure. Additionally, the Building Department required the removal of a detached accessory garage, deck, and attached accessory structure between the two properties. These structures were demolished with final inspections completed in June 2022.

The next Construction Board of Appeals is scheduled Wednesday, November 30, 2022 at 3:00 PM.

ADJOURNMENT:

Motion and seconded Boardmembers McGovern and Davenport to adjourn at 4:15 PM

Motion Carried.

Respectfully submitted,
Deanna Murphy
Recording Secretary



MEMO

TO:	Van Buren Township Construction Board of Appeals
FROM:	Dan Power– Director of Planning and Economic Development
RE:	Condemnation of 50955 South Interstate 94 Service Drive
DATE:	May 23, 2023

To the Members of the Construction Board of Appeals (CBA):

Applicant Wain Bales seeks relief from the Township proceeding as allowed under sections 18-121 to 18-125 of the Van Buren Township Property Maintenance Code to have a principal dwelling and detached accessory garage removed from the property. The property has been given orders of demolition both for the principal dwelling and for an accessory detached garage. Wain Bales currently owns the property, which was previously jointly owned with Kimberly Bales who passed away in May of 2022. The property was fire damaged on December 24, 2019. The events following this fire, which are provided in a **timeline summary** at the end of this report, provide background for the purpose of the Township's actions and the owner's requested appeal. Throughout this time, staff coordinated extensively with and discuss expectations with the property owners.

At this time, the applicant is found to be in violation of two conditions of the postponement of consideration of the appeal by the CBA on October 26th, 2022:

- **Failure to submit a sealed set of drawings approved by Township Building Department and have a signed contract with a contractor, including a detailed construction timeline.**
- **Failure to reside offsite.**

As had been previously indicated, if any of the above conditions of the October 26, 2022 have not been addressed within the required timeframe, the condemnation processes on the principal dwelling and accessory garage will be reinstated. The applicant was ordered to attend the CBA meeting scheduled for **May 24th, 2023 at 3:00 p.m.**

Based on non-compliance with the above-stated conditions, the CBA may proceed with directing Staff to enforce the condemnation and demolition process. They may require the Township to proceed with soliciting bids for demolition of the dwelling and of the detached accessory building at 50955 South Interstate 94 Service Drive. The Township would then proceed as allowed under sections 18-121 to 18-125 of the Van Buren Township Property Maintenance Code to have the dwelling and detached accessory building and related appurtenances removed from the property. The Township will seek restitution for all costs it incurs related to this matter.

If the CBA alternatively seeks to give additional relief to the applicant, I recommend the following **conditions** to be placed on such an extension or approval, **which will be enforced by the implementation of violation penalties to the extent possible** under the Van Buren Township Zoning Ordinance and Van Buren Township Code of Ordinances, Section 18-121, including but not limited to daily fines of not less than \$100.00 nor more than \$500.00, at the discretion of Court:

- **By the time of the 5/24/2023 CBA meeting**, the applicant is recommended to provide documentation of steps taken to secure a contract and submit application for building permit. The applicant is recommended to bring his contractor to this meeting. The applicant is also recommended to document / explain any demolition work that has been completed under permit PB21-0736.
- **Within seven (7) days** of the date of this meeting, by COB 5/31/23, the owner has made application for BP with new contractor. Staff will review, provide comment on, and issue the permit or request revisions to the permit application within seven (7) days after that date. If revisions are requested, they must be provided to staff within seven (7) days, and staff will again have seven (7) days to respond. An **issue date** will be set.
- **Within 30 days**, the owner is recommended to remove the trailer from the site until construction is complete.
- **Within 60 days after the above 'issue date'**, rough inspection must be complete
- **Within 120 days of the above 'issue date'**, final inspection must be complete.
- **The applicant is not to reside on the site during construction. Any connections of electrical service or water** from the adjacent property at 50947 South I 94 Service Drive to the site at 50955 South I 94 Service Drive must be removed.

I have attached a model motion sheet for the CBA's consideration.

Please do not hesitate to contact me at dpower@vanburen-mi.org or 734-699-8900, extension 9392 with any questions.

Sincerely,



Dan Power

Director of Planning and Economic Development, Van Buren Charter Township

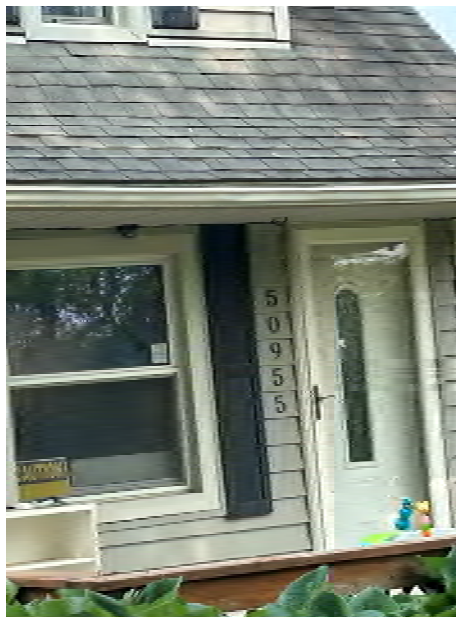
CC: Angela Mannarino, Gasiorek, Morgan, Greco, McCauley and Kotzian, Attorneys at Law
Jeremy Kennedy, Pear, Sperling, Egan and Daniels, P.C.
Gerald Harder, Van Buren Charter Township Building Inspector (Contractual)
Christopher Salazar, Van Buren Charter Township Chief Building Official
Lt. Charles Bazzy, Van Buren Charter Township Police Department / Ordinance Enforcement

Timeline Summary

- **January 2020:** Standard post-fire processes occurred, including the submittal of a standard fire withholding check from the owner's insurance company and completion of a routine fire damage walk-through inspection by the Township Building Official and electrical inspector.
- **January 27, 2020:** Township staff mailed a field inspection notice advising the homeowner of limits on use of trailer as temporary housing.
- **June 17, 2020:** A demolition permit (PB20-0204) was issued to Vision Restoration for partial demolition of the fire damaged portion of the dwelling and on July 27, 2020 a building permit (PB20-0143) was issued to Vision Restoration for the completion of restoration to the principal dwelling.
- **February 4, 2021:** Vision Restoration formally requested cancellation of both the building permit and the demolition permit.
- **May 25, 2021:** The first notice of condemnation for the site's principal dwelling was sent and the property was condemned.
- **August 30, 2021:** The condition of the principal dwelling was re-evaluated and again deemed uninhabitable.
- **September 30, 2021:** The Township sent a second notice of demolition.
- **November 22, 2021:** A new building permit application (PB 21-0736) was submitted by the owner, and the building permit was issued on December 13, 2021. The permit had an expiration date of 90 days, with a condition that all work and all final inspections were to be completed by March 11, 2022.
- **March 24, 2022:** The Township's Building Inspector sent a third notice of demolition for the dwelling.
- **May 9, 2022:** A fourth and final notice of demolition was sent for the dwelling.
- **May 19, 2022:** A first notice of demolition for the garage was sent, as the garage is not permitted under the Zoning Ordinance to remain on the site without a principal dwelling existing on the site.
- **June 30, 2022:** The owner, with the assistance of Attorney Jeremy Kennedy of Pear Sperling Eggan & Daniels, applied for relief from the CBA. This application provided a justification for their appeal in the application packet. This explanation contained a timeline which included various delays and contractor disputes in the construction process and the medical issues and unfortunate death of the previous co-owner of the property, Kimberly Bales.
- **September 21, 2022:** The CBA met to discuss the request and adjourned the meeting to allow additional time for a report to be provided by the Township's Building Inspector and for the applicant to attend a meeting in person.
- **October 26th, 2022:** The CBA held a second meeting to review the applicant's request for relief from the requirement to demolish the principal dwelling and detached accessory building located at 50955 South Interstate 94 Service Drive (parcel ID 83-074-01-0028-008), following an initial meeting on September 21st. At this meeting, the CBA voted to adjourn their decision and to give you additional time and to address certain items. Within 30 days of this meeting, by November 26th, 2022, you were ordered to do the following:

- Remove the travel trailer's skirting, install the tires, and move the trailer onto the concrete driveway in front of the garage.
- Obtain an architect, solicit construction bids, and secure demolition permit from the Van Buren Township Building Department.
- Complete demolition of back of house addition, clean-up debris on property, and weather/critter-proof house, including plastic sheeting, plywood and house wrap.
- During this timeframe, you are required to reside offsite for safety purposes.
- **November 16, 2022:** A letter was sent to the applicant which explained these conditions and explained that failure to meet them within the required timeframe would result in the reinstatement of the condemnation processes on the principal dwelling and accessory garage.
- **December 2, 2022:** An inspection by the Township Building Official that revealed that at that time you had relocated the trailer, placed the wheels back on the trailer, and obtained a demolition permit from the Building Department for the demolition of the rear addition to the principal dwelling. At that time, plastic wrap had also been installed along the rear of the dwelling. You were advised that the seal will need to be improved to weatherproof the remaining dwelling adequately.
- **December 13, 2022:** The Township's Building Inspector observed that the trailer appeared to be connected to the principal dwelling and that demolition work had not adequately commenced.
- **December 26, 2022:** The applicant was required to provide sealed set of drawings approved by Township Building Department and have a signed contract with a contractor to include a detailed construction timeline. **These items were not completed by that time.**
- **February 9, 2023:** Staff began communicating directly with the contractor your Attorney had indicated would be working on your project, David Geidner of Top Flight Contracting, Inc. Staff again attempted to reach you. Staff discussed your pending construction directly with Mr. Geidner on February 13th and on March 2nd.
- **April 10, 2023:** Mr. Geidner indicated that a contract had been signed on March 20th, however, no contract and no plans have been provided to the Township as of today's date.
- **April 25, 2023:** A letter was sent informing the applicant that the property is in violation of two conditions of the postponement of consideration of the appeal by the CBA on October 26th, 2022:
 - Failure to submit a sealed set of drawings approved by Township Building Department and have a signed contract with a contractor, including a detailed construction timeline.
 - Failure to reside offsite.
- **May 8, 2023:** The Building Official placed a new condemnation sticker on the detached garage.
- **May 23, 2023:** The applicant contacted the Planning and Economic Development Director via phone to discuss his grounds for delays. The Planning and Economic Development Director advised the applicant to document all of his efforts in writing for presentation to the CBA and to have his contractor ready to begin work at this meeting. The Building Official and Code Enforcement Officer visited the site.

Photographs from 5/23/2023 Site Visit















modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

- (b) *Alternative materials, methods, and equipment.* The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.
- (c) *Required testing.* Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction.
 - (1) *Test methods.* Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall approve the testing procedures.
 - (2) *Testing agency.* All tests shall be performed by an approved agency.
 - (3) *Test reports.* Reports of tests shall be retained by the code official for the period required for retention of public records.
- (d) *Material and equipment reuse.* Materials, equipment, and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved.

(Ord. No. 5-16-00, eff. 6-15-00)

Sec. 18-121. Violations.

- (a) *Unlawful acts.* It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.
- (b) *Notice of violation.* The code official shall serve a notice of violation or order in accordance with section 18-122.
- (c) *Prosecution of violation.* Any person failing to comply with a notice of violation or order served in accordance with section 18-122 shall be deemed guilty of a misdemeanor, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto.
- (d) *Violation penalties.* Any person who shall violate a provision of this code, shall, upon conviction thereof, be subject to a fine of not less than \$100.00 nor more than \$500.00 or imprisonment for a term not to exceed 90 days or both at the discretion of the court. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
- (e) *Abatement of violation.* The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent

illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

(Ord. No. 5-16-00, eff. 6-15-00)

Sec. 18-122. Notices and orders.

- (a) *Notice to owner or to person or persons responsible.* Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given to the owner or the person or persons responsible therefore in the manner prescribed in subsections (b) and (c) of this section. Notices for condemnation procedures shall also comply with subsection (c) of this section.
- (b) *Form.* Such notice prescribed in subsection (a) above shall:
 - (1) Be in writing;
 - (2) Include a description of the real estate sufficient for identification;
 - (3) Include a statement of the violation or violations and why the notice is being issued;
 - (4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code;
 - (5) Inform the property owner of the right to appeal.
- (c) *Method of service.* Such notice shall be deemed to be properly served if a copy thereof is:
 - (1) Delivered personally;
 - (2) Sent by certified or first-class mail addressed to the last known address; or
 - (3) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.
- (d) *Penalties.* Penalties for noncompliance with orders and notices shall be as set forth in subsection 18-121(d).
- (e) *Transfer of ownership.* It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

(Ord. No. 5-16-00, eff. 6-15-00)

Sec. 18-123. Unsafe structures and equipment.

- (a) *General.* When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.
 - (1) *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

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- is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.
- (2) *Unsafe equipment.* Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.
 - (3) *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.
 - (4) *Unlawful structure.* An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.
- (b) *Closing of vacant structures.* If the structure is vacant and unfit for human habitation and occupancy and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.
 - (c) *Notice.* Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with subsection 18-122(c). If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in subsection 18-122(b).
 - (d) *Placarding.* Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.
 - (e) *Prohibited occupancy.* Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.
 - (f) *Removal of placard.* The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

(Ord. No. 5-16-00, eff. 6-15-00)

Sec. 18-124. Emergency measures.

- (a) *Imminent danger.* When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the

presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

- (b) *Temporary safeguards.* Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding-up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.
- (c) *Closing streets.* When necessary for the public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.
- (d) *Emergency repairs.* For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.
- (e) *Costs of emergency repairs.* Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.
- (f) *Hearing.* Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

(Ord. No. 5-16-00, eff. 6-15-00)

Sec. 18-125. Demolition.

- (a) *General.* The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.
- (b) *Failure to comply.* If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.
- (c) *Salvage materials.* When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

(Ord. No. 5-16-00, eff. 6-15-00)

Sec. 18-126. Means of appeal.

- (a) *Application for appeal.* Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the township construction board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means, or that the strict application of any requirement of this code would cause an undue hardship.
- (b) *Board of appeals.* Appeals to actions taken by the township shall be heard by the township board of construction appeals.
- (c) *Postponed hearing.* When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.
- (d) *Board decision.* The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.
 - (1) *Records and copies.* The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.
 - (2) *Administration.* The code official shall take immediate action in accordance with the decision of the board.
- (e) *Court review.* Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.
- (f) *Stays of enforcement.* Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

(Ord. No. 5-16-00, eff. 6-15-00)

DIVISION 2. DEFINITIONS

Sec. 18-127. General.

- (a) *Scope.* Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.
- (b) *Interchangeability.* Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.
- (c) *Terms defined in other Codes.* Where terms are not defined in this code and are defined in the International Building Code, International Fire Code, International Zoning Code, International Plumbing Code, International Mechanical Code, ASME A17.1 or the *ICC Electrical Code*, such terms shall have the meanings ascribed to them as in those codes.
- (d) *Terms not defined.* Where terms are not defined, through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

(Supp. No. 14)

Created: 2021-11-12 08:20:13 [EST]



NOTICE OF SPECIAL MEETING

OF THE

CHARTER TOWNSHIP OF VAN BUREN

Construction Board of Appeals

The meeting previously scheduled for Wednesday, May 10, 2023 has been canceled and rescheduled as stated below:

RESCHEDULED SPECIAL MEETING TO BE HELD AT 3:00 P.M.

ON WEDNESDAY, MAY 24, 2023

For the purpose of:

Hearing appeals regarding condemnation notice posted for structures at 50947-50955 South Interstate 94 Service Drive by the Building Official and for relief from the Township proceeding as allowed under sections 18-121 to 18-125 of the Van Buren Township Property Maintenance Code to have the structures removed from the property. The hearing is based upon the provisions set forth in Sections 18-4 to 18-30 of the Charter Township of Van Buren Code of Ordinances.

**VAN BUREN TOWNSHIP HALL
46425 TYLER ROAD
VAN BUREN TOWNSHIP, MICHIGAN 48111**

**Leon Wright, Clerk
Charter Township of Van Buren**

In accordance with the Americans with Disabilities Act, reasonable accommodations can be made with advance notice by calling the Clerk's Office 734.699.8909

5-4-2023



Motion: Request to CBA regarding 50947-55 South Interstate 94 Service Drive

I make a motion to (approve / *deny*) the request by Wain Bales for an extension and stay of enforcement to allow additional time for a permit application to be made and work to be completed as necessary to make the single-family dwelling at the referenced property habitable in accordance with the 2015 Michigan Residential Code and applicable codes and ordinances.

If the request is *denied*, the CBA directs Staff to enforce the condemnation and demolition process. They will require the Township to proceed with soliciting bids for demolition of the dwelling and of the detached accessory buildings at 50947-55 South Interstate 94 Service Drive. The Township would then proceed as allowed under sections 18-121 to 18-125 of the Van Buren Township Property Maintenance Code to have the dwelling and detached accessory building and related appurtenances removed from the property. The Township will seek restitution for all costs it incurs related to this matter.

This motion is based on the findings of fact listed below:

Conditions: Recommended Condition (if appeal is granted):

Condition: All conditions in the Planning and Economic Development Director's report dated May 23, 2023 will apply (yes / *no*)

Condition: _____

Condition: _____

Motion made by: _____

Support from: _____

Ayes: _____ Nays: _____

Motion carries / **fails**



VAN BUREN CHARTER TOWNSHIP

Kevin McNamara | Supervisor • Sharry A. Budd | Treasurer • Leon Wright | Clerk
Bryon Kelley | Trustee • Kevin Martin | Trustee • Sherry Frazier | Trustee • Donald Boynton Jr. | Trustee

RESCHEDULED MEETING **ORDER TO APPEAR - CONSTRUCTION CODE BOARD OF APPEALS**

May 4, 2023

Bales, Wain Lee
50955 South Interstate 94 Service Drive
Van Buren Township, MI 48111

Re: 50947-50955 South Interstate 94 Service Drive / Tax parcel ID#: 83-074-01-0028-008

Mr. Bales:

You are required to appear before Van Buren Township's Construction Code Board of Appeals (CCBA) on **May 24th, 2023 at 3:00 p.m. where the CCBA will revisit your request for appeal from the order to demolish the dwelling and accessory garage at the referenced address. This meeting date is rescheduled from the original meeting date of May 10th.** The following synopsis explains this request in greater detail.

On October 26th, 2022, the CCBA held a meeting to review your request for relief from the requirement to demolish the principal dwelling and detached accessory building located at 50955 South Interstate 94 Service Drive (parcel ID 83-074-01-0028-008), following an initial meeting on September 21st. At this meeting, the CCBA voted to adjourn their decision and to give you additional time and to address certain items. Within 30 days of this meeting, by November 26th, 2022, you were ordered to do the following:

- Remove the travel trailer's skirting, install the tires, and move the trailer onto the concrete driveway in front of the garage.
- Obtain an architect, solicit construction bids, and secure demolition permit from the Van Buren Township Building Department.
- Complete demolition of back of house addition, clean-up debris on property, and weather/critter-proof house, including plastic sheeting, plywood and house wrap.
- During this timeframe, you are required to reside offsite for safety purposes.

As noted in an email sent on December 2nd, 2022, an inspection by the Township Building Official that revealed that at that time you had relocated the trailer, placed the wheels back on the trailer, and obtained a demolition permit from the Building Department for the demolition of the rear addition to the principal dwelling. At that time, plastic wrap had also been installed along the rear of the dwelling. You were advised that the seal will need to be improved to weatherproof the remaining dwelling adequately.



VAN BUREN CHARTER TOWNSHIP

Kevin McNamara | Supervisor • Sharry A. Budd | Treasurer • Leon Wright | Clerk
Bryon Kelley | Trustee • Kevin Martin | Trustee • Sherry Frazier | Trustee • Donald Boynton Jr. | Trustee

Breach of CCBA conditions. Within 60 days of the October 26th CCBA meeting, by December 26th, 2022, you were required to provide sealed set of drawings approved by Township Building Department and have a signed contract with a contractor to include a detailed construction timeline. On December 13th, 2022, the Township's Building Inspector observed that the trailer appeared to be connected to the principal dwelling and that demolition work had not adequately commenced. The Township's Building Official and Planning and Economic Development Director ("Staff") attempted to communicate with you numerous times in December 2022 and January 2023. On February 9th, Staff began communicating directly with the contractor your Attorney had indicated would be working on your project, David Geidner of Top Flight Contracting, Inc. Staff again attempted to reach you. Staff discussed your pending construction directly with Mr. Geidner on February 13th and on March 2nd. On April 10th, Mr. Geidner indicated that a contract had been signed on March 20th, however, no contract and no plans have been provided to the Township as of today's date. You also appear to continue to occupy the property as a primary residence.

As of today's date, your property is in violation of two conditions of the postponement of consideration of your appeal by the CCBA on October 26th, 2022:

- **Failure to submit a sealed set of drawings approved by Township Building Department and have a signed contract with a contractor, including a detailed construction timeline.** Staff provided leniency and attempted to coordinate with you extensively regarding this requirement between the deadline of December 26th, 2022 and the present date.
- **Failure to reside offsite.**

As indicated in the letter dated November 16, 2022, if any of the above conditions of the October 26, 2022 have not been addressed within the required timeframe, the condemnation processes on the principal dwelling and accessory garage will be reinstated. The Township will proceed as allowed under sections 18-121 to 18-125 of the Van Buren Township Property Maintenance Code to have the dwelling and detached accessory building and related appurtenances removed from the property. The Township will seek restitution for all costs it incurs related to this matter.

Township Staff will again request the Construction Code Board of Appeals (CCBA) to consider enforcing the condemnation and demolition process. You are hereby ordered to attend the CCBA meeting scheduled for May 24th, 2023 at 3:00 p.m.

Please do not hesitate to contact me at dpower@vanburen-mi.org or 734-699-8900, extension 9392 with any questions.



VAN BUREN

CHARTER TOWNSHIP

Kevin McNamara | Supervisor • **Sharry A. Budd** | Treasurer • **Leon Wright** | Clerk
Bryon Kelley | Trustee • **Kevin Martin** | Trustee • **Sherry Frazier** | Trustee • **Donald Boynton Jr.** | Trustee

Sincerely,

Dan Power

Director of Planning and Economic Development, Van Buren Charter Township

CC: Angela Mannarino, Gasiorrek, Morgan, Greco, McCauley and Kotzian, Attorneys at Law
Jeremy Kennedy, Pear, Sperling, Egan and Daniels, P.C.
Gerald Harder, Van Buren Charter Township Building Inspector (Contractual)
Christopher Salazar, Van Buren Charter Township Chief Building Official
Lt. Charles Bazy, Van Buren Charter Township Police Department / Ordinance Enforcement