

The Gates Mills **Architectural Board** met in a *special* session on **Tuesday, October 08, 2024** at **8:00 A.M.** in the Council Chambers of the Town Hall.

Members present: John Spirk; Chair, Janet AuWerter, Judi Embrescia, Jann Holzman, Sandra Turner, and Sara Welsh.

Members absent: None.

Also present: Todd Hunt, Law Director.

The purpose for the meeting was a hearing before the Architectural Board of Review to review and discuss the current Building Code violations on the **DICILLO** property located at **640 Chagrin River Road**. Notice had been provided to the property owners via regular mail, certified mail, and email. Madeline Ziolkowski (DiCillo). Nick DiCillo were present, although they arrived late due to their involvement in a motor vehicle accident.

Board members had been provided relevant documents related to this hearing at the regular ABR meeting on October 3, 2024.

Mr. Hunt reviewed with the Board the purpose of the hearing and the legal requirements of holding this type of meeting. He stated the hearing is a quasi-judicial proceeding in that there will be testimony given, under oath, and other evidence presented to the Board for consideration.

Mr. Hunt administered the oath of truthfulness to David Biggert, the Village's Chief Building Official.

Mr. Biggert read aloud Sections 1315.08, 1367.02(c), and 1367.07 of the Village's Building and Housing Code. He stated, based on 1367.02, he has declared the existing structure on the property to be "unsafe" and is recommending the structure to be demolished and the site restored either by the current property owners or, if the owners do not do so, by the Village.

Mr. Hunt opened with a number of questions of Mr. Biggert regarding events and actions previous taken in relation to this property and the project to restore it, including a timeline of the events related to the project (refer to audio record for additional detail).

Mr. Hunt asked Mr. Biggert if he had a recommendation of how best to proceed regarding the property and current violations.

Mr. Biggert stated he recommends the current owners or the Village demolish the current structure and restore the site.

Mr. Hunt asked if the owners had received notice of this hearing and if so, how did they receive notice.

Mr. Biggert stated the owners did receive notice via regular and certified mail and email. He also stated he received an email from Nick DiCillo indicating he had received the notice. Also, Mr. Biggert stated he had sent the attorney for the owners a copy of the violation notice and the notice of this hearing.

Mr. Spirk asked if the Village is aware of why the owners are in such a position that they cannot finish the project.

Mr. Biggert stated he had talked with Nick DiCillo (the contractor and husband of owner Madeline DiCillo) who stated the owners had been trying to complete the project "out of pocket" and not with a construction loan or conventional mortgage. Mr. Biggert was left with the impression from Nick DiCillo that there was no money available to complete the project. He also stated Nick had called a few weeks earlier to say they had a different plan, would be placing the vacant lot behind the subject property for sale, and were working on getting a conventional loan to hire a contractor to finish the project. They were trying to use the proceeds of the sale to finance the project.

Mr. Spirk asked Mr. Biggert if he felt the Village has given the owners enough time to resolve this issue.

Mr. Biggert stated he did feel the village has done everything they could to assist the owners with the project.

Madeline and Nick DiCillo arrived at this hearing at approximately 8:15am.

Mr. Hunt explained the legal proceeding of the hearing to the DiCillo's. He also explained to them that they have the right to request an appeal of the ABR decision to the Village Council.

Mr. Hunt placed Nick DiCillo under oath.

Mr. Hunt summarized what had been discussed at the hearing prior to Mr. and Mrs. DiCillo appearing.

Mr. DiCillo confirmed that he is the contractor on the project.

Mr. DiCillo stated there have been multiple inquiries regarding the purchase of the property. He also stated their attorney had contacted the Village in order to discuss a resolution that would benefit both the owners and the Village. He stated he was not aware of any returned response from the Village.

Mr. Biggert stated he had returned the call to the attorney and left a message that he is welcome to return the call if he had any questions.

Mr. Hunt stated he was aware of emails from the attorney but he does not recall there being any request to extend the current building permit. He also stated he recalls that any discussion among Village officials related only to whether there are any building construction challenges on the adjoining vacant lot.

Mr. DiCillo stated, for various reasons, they were unable to meet the deadline requirements under the last permit. He stated they are attending the hearing in hopes of working with the Village to come to a solution that works for both parties. They would like to complete the project and live in the Village. He also stated he understood the Village has been placed in a very difficult position with the project.

Mr. Spirk stated, in his opinion, the Village has done everything it could to assist the owners with completing this project and accommodate the challenges the owners have experienced.

Mr. DiCillo stated they have "engaged" with a contractor, and the contractor has indicated it would take approximately 30 working days to complete the exterior of the structure. He stated that he himself is unable to continue the project as the contractor.

Mr. Spirk asked Mr. DiCillo if he was prepared to pay a contractor to finish the project.

Mr. DiCillo stated, "Yes".

Mr. Spirk asked if that had been put in writing.

Mr. DiCillo stated, "No", because they wanted to speak with the Village first on how to proceed.

Mrs. Turner suggested the DiCillo's should have been more prepared for the hearing. Has not presented any evidence supporting what has been said.

Mr. DiCillo stated he was not aware of the purpose of the hearing. He is attending the hearing in hopes of seeking a resolution with the Village.

Mrs. Embrescia stated she could not see how the house along with the property could be completed in 30 days. She also stated residents in the area are concerned about any negative impact the property, in its current state, will have on the resale of their properties.

Mr. DiCillo stated he meant 30 "working days" which is why he is proposing finishing the project by the end of this calendar year. He also stated contractors have stated this is a reasonable time frame. He also apologized for any consequences the property caused to the neighbor's properties. He also stated he felt that by punishing them by demolishing the structure, it does not help the neighboring properties or the Village.

Mr. Hunt asked Mr. DiCillo to state what his relationship is to the property owners.

Mr. DiCillo stated Madeline Ziolkowski (DiCillo) is the property owner who is his wife. And that his father-in-law, Richard Ziolkowski, is also an owner.

Mrs. Welsh asked if a building permit is transferable.

Mr. Biggert stated it is transferable, and that has happened in the past.

Mr. DiCillo asked what type of commitment would be needed from a contractor that would allow them to proceed with the construction.

Mr. Spirk stated the ABR would need assistance to determine what that might be.

Mr. Hunt suggested something in writing by a contractor that would bind them to what needed to be completed and a timeframe along with documentation showing funds are available for the project.

Mrs. Turner stated the purpose of the hearing is to consider the recommendation of demolition by the Building Official.

Mr. Hunt stated the ordinance reads "by repair or demolition" but that the Building Official is recommending demolition.

Mrs. Turner stated as a member of the Village Council, she has heard the DiCillos' make promises of completion of the project but she has now reached a limit on her generosity with the project. She also stated over 600 vehicles travel through the area and see the property in its current state. She feels she has a responsibility to the residents to uphold the ordinances of the Village.

Mr. DiCillo stated he understands and asked if any work can be done on the home at this time.

Mr. Biggert stated, "Not without a permit". Only routine maintenance of the home and property can be done (without a permit).

Mrs. Holzman asked if the Dicillos' still have the desire to finish the construction and move into this home.

Mr. DiCillo stated they have the desire to do whatever is best for the Village. He stated, that somehow they would still like to complete the project and move into the Village.

Mrs. AuWerter reviewed the previous approvals of the ABR. She indicated the last approval was for a portion of the side walls to remain, the front wall and porch were to remain and the masonry chimney was to remain. None of what was approved by the Board and agreed to by the owner remains.

Mr. Spirk stated it might be beneficial to demolish the existing structure and sell both lots as one.

Mr. DiCillo stated, financially, they are too far in to demolish the structure.

Mrs. Turner stated her concern on allowing the project to restart without any solid financial proof or documentation they have the ability to complete the project in a fixed timeline.

Mrs. AuWerter stated she is willing to consider, from a contractor, a very specific plan of what will be completed along with a deadline for what will and can be completed. The current situation cannot continue.

Mrs. Welsh stated she agrees with Mrs. AuWerter but would prefer a limited 1 week timeframe to come up with a written plan that guarantees completion.

Mrs. Embrescia proposed the Board should act on Mr. Biggert's recommendation of demolition and not determine some other action. Even if the recommendation is approved, the owners can ask for an appeal and also prepare some documentation and proof of a plan on how they propose to move forward.

Mr. Hunt stated a motion will need to include the reasons for the decision. He will prepare a set of conclusions of findings of fact for the Board based on the testimony given at this hearing. He advised the Board the findings/conclusions of fact will need to be approved by the Board at a subsequent meeting.

After further discussion, a motion was made to follow Chief Building Official Biggert's recommendation of the demolition of the existing unsafe structure and completely restore the site. The work should be completed by the current owner, and if they do not do so, by the Village.

Motion by: J. Spirk 2nd: J. AuWerter

Roll Call: Ayes: All others.
 Nays: Holzman.

Motion approved

Refer to audio recording for additional detail.

There being no further business the meeting was adjourned at **9:02 AM**.

John Spirk, Chair

Dave Biggert, Secretary