

## BOARD OF ZONING APPEALS

January 28, 2010

The Board of Zoning Appeals convened at 66 Mentor Avenue, in the Second Floor Conference Room, for a special meeting. Chairperson Bacho called the meeting to order at 3:00 P.M. and asked the Secretary to call the roll. Members in attendance were Ms. Waytes, Mr. McElroy, Mr. Behrens, and Chairperson Bacho. Absent was Mr. Horacek. Also in attendance were the Assistant Law Director, James Lyons; the Assistant City Manager, Doug Lewis; the City Planner, Russ Schaedlich; City Engineer, Richard Lesiecki; Building Official, Ed Cox; Housing Inspector, Noell Sivertsen; and the Acting Secretary, Lynn White.

Chairperson Bacho proceeded with the swearing-in of the individuals interested in testifying for the hearing.

Chairperson Bacho asked the secretary to read the notice for Appeal No. 1.

### **NEW BUSINESS: ADMINISTRATIVE APPEAL**

**APPLICANT/OWNER:** Timothy Herron

**LOCATION:** 348 Mentor Avenue

#### **Appeal No. 1.**

In accordance with the Building Code of the City of Painesville, Ohio Section 1339.06, a petition has been submitted by Mr. Timothy Herron regarding the Emergency Demolition Order dated January 15, 2010. The demolition order is for the unsupported chimneys located at 348 Mentor Avenue. The order states the chimneys have been determined to be unsafe based on the criteria of Sections 1339.02 and 1339.06 of the Codified Ordinances of the City of Painesville, Ohio and must be demolished within 7-days. Section 1339.06 states the applicant shall be afforded a hearing by the Board within ten days. After such hearing, depending upon its finding as to whether the provisions of this chapter have been complied with, the Board shall continue such order in effect or modify it or revoke it.

Chairperson Bacho asked if both Appeal No. 1 and No. 2 could be heard at the same time. Mr. Lyons indicated the issues are distinct enough that they should be handled separately. He commented that he was unsure if Mr. Herron was appealing the demolition order that was issued for the chimneys. Based on what was submitted by the applicant, the appeal seems to be for the demolition of the entire structure only. Mr. Lyons stated that his understanding was that in order to be safe, a hearing was scheduled to handle both issues. Mr. Herron has the opportunity to indicate if that is not the case. Mr. Herron responded that he is formally objecting to the demolition order for the chimneys. Mr. Lyons indicated the City must hold an evidentiary hearing in terms of why this is an emergency and what Mr. Herron's objections are to that emergency.

Chairperson Bacho asked if anyone was present that would like to speak on behalf of the Appeal. She stated that anyone wishing to speak must state their name and address for the record.

Mr. Timothy Herron indicated he is the owner of Steele Mansion at 348 Mentor Avenue. He commented that when he purchased the mansion he had specific plans in place to renovate the structure based on information he was given.

Mr. Lyons interrupted stating that the hearing on this issue is set for one-hour. The only issue for Appeal No. 1 is for the chimneys not for the history of the mansion. Chairperson Bacho explained to Mr. Herron that the Members of the BZA have a copy of the Emergency Demolition Order that pertains to Appeal No. 1 and a copy of Mr. Herron's response. She asked if there was additional information that Mr. Herron wished to inform the Board about.

Mr. Herron replied that a structural engineers report dated April 24, 2009 was given to several individuals with the City and a copy was faxed to the Building Department today. The report indicates the structure is in good shape, it needs renovation however, it is structurally sound. The only thing that has happened is the temporary roof that was placed on the structure seven years ago has finally fallen. Mr. Herron indicated the roof only caused marginal damage. There is debris lying around that needs to be removed. The roof did not withhold water, snow, any of the elements in seven to eight years. The roof was only supposed to be on for six-months. He stated the fire that happened was in 2001 and he was not the owner.

Mr. Lyons interrupted since Mr. Herron was trying to determine the date of the fire from a guest that accompanied him to the meeting. Mr. Lyons stated that Mr. Herron could not have the young lady comment since she was not sworn-in at the beginning of the meeting.

Mr. Herron continued by stating when that roof was placed on the structure it was to only be there temporarily. He stated that when he acquired the property with his wife he had a window of opportunity before his divorce happened. It has only been in his name for about a year and a half. Mr. Herron indicated that he did get a structural engineer to look at the structure and he stated the building is safe. It is not recommended that people run around in it, however, it is safe, including the chimneys. He stated he would like to go into the house, take out the debris that is inside since this he can do without a lot of cost. He commented that he has people who have offered to volunteer in cleaning up the building. Over the last two years many people have asked to help him out and now more than ever since they are afraid the building will be demolished. Mr. Herron added that seven different churches have contacted him offering man power to aid in the effort of saving the house.

Mr. Herron continued by commenting on the chimneys and the fact that they have not changed at all in seven years. He has pictures from three and a half years ago when he purchased the house. It looks unsafe then and it looks unsafe now and the chimneys have not changed one bit. He stated that he would like to have a licensed contractor build whatever it would take to make the chimneys safe and then in the next few months he will be receiving money from people who want to save the Steele Mansion to install a roof. Mr. Herron stated once the roof is placed on the structure the interior renovations will begin.

Mr. Herron explained the reasons behind him not moving forward with the renovations before this point was due to a divorce that he has been going through. He stated that his money is gone due to that reason. Now that it is over, slowly money is coming back. It needs money, and people are interested in getting involved, he stated that all he needs is time. He reiterated that in regards to the emergency order on the chimneys, they (chimneys) are the same as they were seven years ago.

Chairperson Bacho asked if the Board Members would like to ask any questions from the Applicant or for legal clarification. Mr. Jim Behrens stated that it seems the objection is to the term emergency and not so much the demolition. Mr. Herron responded that because of the way when he wanted to fix up the mansion and the way it has been handled from City Hall to now it does not seem that people are on the same page. There has been a lot of animosity and negative things that have happened which have caused him to be distracted from the Steele Mansion. This house has affected him personally. Part of him would like to see the house just blow up to make it go away. Fortunately he has investors that want to see the place rebuilt. He indicated he would like three to four months to get the renovations started, if he cannot get it moving by then, demolish it then. Mr. Herron stated he has not been given time to resolve the situation since he had too many other things in front of him.

Mr. Behrens commented to Mr. Herron that with that line of logic, you have had the time given to you; you just have not taken advantage of the time. He asked Mr. Herron if the City Officials had been cooperative in this process. Mr. Herron stated that it has not been a good relationship.

Ms. Waytes asked if this has been ongoing for seven years. Mr. Herron replied that it has not been that long for him. The previous owners never had anything filed against them. The house has been in this condition for seven to nine years. No one has had to go to court except for him. Ms. Bacho asked what the condition of the home was when Mr. Herron purchased it. Mr. Herron replied the same as it is now with the exception the roof was still in place. Ms. Bacho stated that he purchased the home knowing the condition of the home. Mr. Herron stated it is not as simple. He stated three and a half years ago when he purchased the home; there were certain criteria they were told could be done. Six to seven weeks after that, they were told a different story. Chairperson Bacho asked by whom. Mr. Herron replied, Mr. Cox, and he has the letters that he had written. He stated that he would not have gotten financing or the investors if he had not generated the letters. He explained that after the property was acquired they put in 50 to 60 thousand dollars into the structure and then were told they could not do what they initially thought. Since then he went through a divorce and had the house put in his name since he feared his wife would just walk away from the house and nothing would be done. Mr. Herron stated he did not want the Steele Mansion to be an eyesore for as long as it has, however, due to the economy he has not been able to get to it.

Mr. Lyons interrupted to clarify for the Board what the issues are that need to be addressed. He stated that Mr. Herron wants more than 7-days plus three to four months in regards to repairs to the chimneys. Mr. Herron indicated that would be for the entire structure including the chimneys. Mr. Lyons stated additionally Mr. Herron has stated the temporary roof, even though it has collapsed, does not increase the danger of the chimneys being knocked down in terms of being unsupported. Mr. Herron agreed. Mr. Lyons stated it is those two items that you want the Board to consider in terms of your appeal on your emergency order for the seven days. Mr. Herron stated yes that is correct. Mr. Lyons stated those are the two issues the City should respond to. Mr. Herron commented he would like to have the contractor who indicated he could stabilize the chimneys do the work.

Chairperson Bacho asked if there were any other comments to be made before receiving comments from the City. Ms. Waytes asked about the stability of the chimneys. It was stated that the chimneys are unsupported and nothing has changed so it is okay since they have always been unsupported. She asked if that was sufficient since Mr. Herron is not a contractor. Mr. Herron stated that there is a structural engineer report dated April 24. The report states the structure is solid and in good shape other than the fact a lot of money is required to fix it up. The chimneys are not an issue unless there are hurricane force winds. Mr. Herron cited an incident from last February where there were high winds and one of the chimneys did fall into the house. Mr. Herron reiterated the engineer's comments stating the structure is not a danger. He stated that the engineer has not seen the structure since the temporary roof fell in; however, he did speak with him about the situation and he does not feel it changes the situation.

Mr. Lyons stated for the record, the Ackerman report is what Mr. Herron is referring to as the engineer's report. The report will be labeled as Exhibit 1.

Ms. Waytes asked if Mr. Herron had received any cost estimates on the repair or if he had even moved in that direction. Mr. Herron replied that he had, and the gentleman he had spoke to said he would do it for free. Looking at what it would cost for all the items, just for the chimneys would cost about one-hundred dollars. Ms. Waytes inquired if there was a scope of work that was given in regards to the repairs to the chimneys. Mr. Herron said yes, he would box in the chimneys assuring they would become stable even in hurricane winds.

Chairperson Bacho asked if there were additional comments. Mr. Lyons indicated that he would like to have Mr. Cox comment on the structure.

Mr. Lyons began by assuring that Mr. Cox was sworn-in at the beginning of the meeting. He also asked Mr. Cox to verify his name and position. Mr. Cox replied favorably that he is Ed Cox, Building Official for the City of Painesville, certified with the State of Ohio, having the necessary training and experience, and in charge of enforcing the Building Code for the State of Ohio and the City of Painesville. Mr. Lyons asked if Mr. Cox had the opportunity to inspect the Steele Mansion. Mr. Cox responded yes. Mr. Lyons asked Mr. Cox to explain to the Board what he inspected and why it was determined to be an emergency order.

Mr. Cox stated the order for the chimneys also covers other areas of the building that are in danger of collapse. Those areas already are missing mortar joints and they are out of plumb. He indicated he has photographs showing some of the other areas for the Board to look at.

Mr. Herron objected to the photos being distributed. He indicated his objection is there are no photos from previous years to use as comparison. Mr. Cox indicated he has photos that were taken last year. Mr. Herron stated that would be helpful since there has been no change in the chimneys from seven years ago. He indicated they were unsightly before and they are unsightly now. Mr. Cox continued to give the Board photographs and explained some of them are from the structural engineer. The photographs were taken after the collapse of the roof which also caused additional damage to the structure. He explained the City contracted with an independent engineering firm to do an assessment of the structure. They determined the damage is significant and seriously affects the integrity of the entire structure already weakened interior structural members as a result of prolonged water and temperature exposure along with exterior walls losing their load capabilities are creating significant life safety concern. Mr. Cox asked if he should continue reading the engineers report for the Board. A copy of the report was distributed to the Board Members. Mr. Cox commented that the engineer who wrote the report is also the individual who designed the temporary roof for the structure. Mr. Behrens asked if this issue was brought about because of the collapse of the temporary roof. Mr. Cox indicated the City has given Mr. Herron plenty of

opportunity to move forward with his alleged plans for the structure. The Building Department has never received any plans or specifications from Mr. Herron for this structure. This building was a multifamily structure; as such it is regulated by the Ohio Building Code. This requires that plans or specifications including the shoring up of the chimneys be designed and sealed by a design professional, architect or engineer.

Mr. Lyons indicated the report from ThenDesign Architecture will be marked as City's Exhibit A. The company was hired by the City of Painesville to inspect the structural integrity of the building. The second paragraph on the report indicates "...of critical and immediate importance are the three remaining unsupported brick chimneys. Without the roof structure the chimneys have no lateral support and may collapse as the masonry further deteriorates with additional freeze-thaw cycles or with extreme weather/wind conditions." Mr. Lyons asked if that was the reason the emergency order was issued to have the chimneys removed in seven days. Mr. Cox responded the order was issued before the report; however, the report supports the order. Mr. Lyons continued that the report indicates the opinion of ThenDesign Architecture that the three remaining brick chimneys be removed immediately to prevent their collapse. Mr. Lyons asked if that was also the opinion of Mr. Cox as the Building Official. Mr. Cox replied, yes.

Mr. Lyons stated in regards to the other parts that may collapse, what specifically about the structure needs to be taken care of since they were not detailed in the order. Mr. Cox explained that any areas that have loose or missing bricks, extreme state of deterioration, there is no roof assembly and there never was a roof assembly holding it in place. Mr. Lyons stated in terms of the order, so the Board and Mr. Herron are not guessing, where you have written "...those remaining portions of the building in danger of collapse..." What other specific portions of the building would apply to this? Mr. Cox stated all the portion of the 3<sup>rd</sup> floor where the bricks have shifted out of position; loose or missing mortar joints. Mr. Lyons asked why this is an emergency that needs to be taken care of in the seven days. Mr. Cox replied those can also fail and fall causing injury to persons or adjoining property.

Mr. Herron asked to question Mr. Cox. He asked about how long the loose mortar has been there. Mr. Cox indicated he did not know. Mr. Herron asked if the property was inspected a year ago and if the loose mortar was there then. Mr. Cox responded yes. Mr. Herron questioned why it is an issue now and not a year ago. Mr. Cox replied a year ago there was discussion regarding Mr. Herron's renovation plans. Mr. Herron stated he has spoken to the person who prepared the report several times and indicated that he has never physically been to the Steele Mansion. Mr. Herron stated that Mr. Cox was in the Steele Mansion last February but has not been in the structure since the roof has collapsed. Mr. Herron questions the fact that the City can declare the structure unsafe just by inspecting the outside and not the inside.

Mr. Lyons interjected that the report indicates that the site was visited. Mr. Herron stated he did not see the person visit the site and at best he walked around the property. Ms. Waytes commented that Mr. Herron is stating it was okay a year ago; it should still be okay now, what justifies this to continue to exist. Mr. Herron responded that he never said he wants to continue this way. Ms. Waytes stated Mr. Herron keeps alluding to that fact. He stated it is the emergency order that he has a problem with. He believes that something needs to be done, he just needs more time. Ms. Waytes added he knew this a year ago.

Chairperson Bacho asked Mr. Herron when Mr. Cox was there a year ago, what were your intentions. Mr. Herron indicated he spoke to the City Manager a year ago regarding the fact that he could bring in millions of dollars in independent films. Chairperson Bacho interrupted and asked when Mr. Cox was there a year ago what did you state your intentions were. Mr. Herron responded he intended to do films there. He stated he was in contact with members of Ted Strickland's office who were waiting for information from him regarding the Steele Mansion. They were going to give him 1.3 million in order to film there, but that went to another film company. He was going to put \$800 thousand into the mansion but they did not want films being done in Painesville Ohio. Ms. Waytes asked at what point were the expected costs to do the necessary repairs on the deterioration of the Steele Mansion pulled together. Mr. Herron replied that he did this before he even purchased it. Ms. Waytes asked in the last year have those costs or scope of work been reassessed. Mr. Herron indicated it is exactly the same since what had to be replaced then has to be replaced now. Ms. Waytes commented that Mr. Herron still has not taken any steps to move toward that goal. Mr. Herron reiterated his predicament with lack of funds and his personal issues. Ms. Waytes asked Mr. Herron if he is currently employed. Mr. Herron replied that he owns a coffee shop and a film

company. Ms. Waytes asked about Mr. Herron's plans to obtain the funds needed for the repairs for the property. Mr. Herron responded that he has a program in place, looking at getting 5 million dollars in the next three months for a different project; however, he has included the Steele Mansion into the project. Mr. Lyons stated that this event happened on January 14 and the City issued the notice on January 15. Between January 15 and today have you entered into any contract with a contractor to fix the chimneys? Mr. Herron indicated yes, verbally. Mr. Lyons continued however, there is no written contract; have you presented any documents or contracts to the City in terms of fixing the chimneys or when they can be fixed. Mr. Herron responded no.

Chairperson Bacho asked the City about the incident on January 14 and whether or not any damage was caused to neighboring properties. Mr. Cox responded that he is not aware of any. Ms. Waytes asked if there had been any response from the neighbors. Mr. Cox stated he has spoken to one of the neighbors who indicated they would like the mansion either repaired or torn down. Mr. Herron replied there is a lot of interest from the community to get the mansion restored. He then commented on the fact that he has not gone through the trouble of getting quotes to fix the structure not knowing if the City was going to have it demolished.

Mr. Behrens stated a comment was made earlier that the engineer who prepared the report for the City had not entered the structure. He noted that Mr. Herron's submitted report is similar that the report of the property being it was a visual observation. Mr. Lyons asked if Mr. Herron had a report for an engineer or architect that indicates the three remaining chimneys do not need to be removed immediately to prevent their collapse. Mr. Herron indicated that he does not have a report but can get one. Mr. Lyons stated as the owner of this property after getting this notice on January 15 was any action taken to have a trained professional come out and take a look at the chimney and determine what action you should take, correct. Mr. Herron replied other than the individuals that come on site and indicated they were not an issue, but nothing in a report.

Mr. Behrens commented on Mr. Herron's appeal which does not object to items e, f, and g on the emergency demolition order but objecting to c, d, h, i, and j, is that correct. Mr. Herron stated that he did not feel those items were applicable because it speaks of human inhabitants and there are no persons living in the structure. Mr. Herron responded to each of the items listed indicating that most of the items have been ongoing issues since the fire happened nine to ten years ago. It was not an issue then, why is it an issue now. Mr. Behrens indicated Mr. Herron's logic is that this situation has been allowed to exist and should be allowed to continue. Mr. Herron stated his point is the structure does not need to come down immediately; he would like some additional time to make the repairs, four to five months.

Chairperson Bacho asked if there was additional testimony on Appeal No. 1. Mr. Cox directed the Board's attention to the photographs that were taken of the chimneys. Mr. Lyons indicated the photographs will be marked as Exhibits B-1 through B-16. All of the photographs were taken on January 14 and explained to the Board Members in detail. It was explained that the temporary roof did protect the chimneys as it was a wind barrier.

Mr. Herron commented on the photographs that were given as Exhibits. Photograph B-7 shows bricks that were dislodged due to the temporary roof falling down. He stated there are only 12 bricks that were disturbed, which is not that many considering. The structure is extremely well built to withstand such an incident. Photograph B-16 shows bricks that are ugly. He explained that this was done from the time the structure was built since it was not to be seen brick, it was placed under wood trim and once the trim was removed this is what you see. Mr. Herron explained that he has put close to 120 thousand dollars into this structure. When he moved in the old roof was still in the driveway, there were many other things that were unsightly and in worse condition. He stated the previous owners were allowed to do this and not cited.

Ms. Waytes stated that Mr. Herron knew what he was getting into when he purchased the home. She believes that the City and the community hold dear the aspect of Steele Mansion; no one wants to see it torn down. The City still has a job to do. She commented that she is irritated by the fact that Mr. Herron feels it is okay to have it in this state of disrepair; someone could get hurt. Mr. Herron replied that he does not think this is okay; he has been trying to repair the structure. Ms. Waytes replied that the City has been more than generous whether it has been one year.

Mr. Lyons stated on behalf of the City he would like to offer Exhibit A and Exhibit B-1 through B-16. Mr. Herron added B-11 has been exactly like that for three years.

Ms. Waytes stated Mr. Herron stated he could have a number of people volunteer their time to help fix up the mansion. She asked Mr. Cox if it would be safe to have that many people on the property. Mr. Cox stated one chimney has already collapsed last year; nothing has been done to prevent the others from falling. He is concerned that someone will get hurt in and around the building.

Chairperson Bacho stated that Mr. Herron indicated the City did not want him to repair the temporary roof. She asked for an explanation of this statement. Mr. Cox indicated he is not sure. Mr. Herron has been told that in order to make repairs to the structure he needs to submit plans from a licensed engineer or architect to go forward. Mr. Behrens stated the City's intention was to not fix the temporary roof but to replace it with a permanent roof. Mr. Cox responded that is correct.

Mr. Lyons clarified that since this is a multifamily structure, in order to go forward with structural repairs plans are needed from an architect or engineer per the Ohio Building Code.

Mr. Herron commented on the statements made about the unsafe condition of the property. He indicated he has informed the City that he does not want to use the house as a multifamily structure; he would like to restore it as a single family structure with one or two rental units. Chairperson Bacho asked if he had anything in writing to that fact. Mr. Herron indicated that everything was done verbally, unfortunately. He stated that his current plans are within the next two weeks have the chimneys secured then he will work on getting funds together to put on a permanent roof.

Mr. Herron claims that he has given the City information and it does not seem to be getting to the appropriate people. He stated he needs one person to work with to handle his situation rather than the multiple persons that he has been dealing with over the years. Mr. Lyons clarified that any construction that will be done to secure the chimneys will still need to be submitted by an engineer or architect. Mr. Cox replied that is correct. Mr. Lyons added that this incident happened exactly fourteen days ago and nothing has been submitted. Mr. Herron commented that he was not going to spend his money on something that was going to be knocked down. He wanted a guarantee that it was not going to happen before going the next step.

Mr. Behrens asked when the last time work was done on the house. Mr. Herron stated about three weeks ago. Mr. Behrens asked if this was permitted work. Mr. Herron stated no, it was just cleanup work not construction work. Mr. Behrens asked when was the last time a permit was issued to do work in the house. Mr. Herron stated it was around August 2009. He knows that he was issued a stop work order and he was arrested for owning the Steele Mansion.

Mr. Lyons stated that Mr. Herron was not arrested for owning the mansion; it was for exterior maintenance violations. He stated that the issue went to Court and there was a trial. Ms. Sivertsen stated it was failing to comply with the orders issued by the Judge. Ms. Waytes asked if Mr. Herron has made any attempts to sell the property. Mr. Herron replied yes; no one wants that mess.

Mr. Lyons indicated that he has nothing else to add on the City's behalf. He asked Mr. Herron if he had additional information to offer to the Board regarding the issue of Appeal No. 1. Mr. Herron stated he would like to be given two weeks to secure the chimneys and if that is not done then remove them.

Motion by Ms. Waytes, seconded by Mr. Behrens to deny the Administrative Appeal No. 1 dated January 28, 2010 and approve the Emergency Demolition Order dated January 15, 2010 as issued by the City for the unsupported chimneys and remaining portions of the building in danger of collapse for the building located at 348 Mentor Avenue. On roll call, Mr. McElroy, Ms. Waytes, Mr. Behrens, and Chairperson Bacho responded "yes". Motion carried; 4-0.

Chairperson Bacho asked the secretary to read the notice for Appeal No. 2.

**NEW BUSINESS: ADMINISTRATIVE APPEAL**

**APPLICANT/OWNER:** Timothy Herron

**LOCATION:** 348 Mentor Avenue

**Appeal No. 2.**

In accordance with the Building Code of the City of Painesville, Ohio Section 1339.06, a petition has been submitted by Mr. Timothy Herron regarding the Emergency Demolition Order dated January 15, 2010. The demolition order is for the entire structure located at 348 Mentor Avenue. The order

states the entire structure has been determined to be unsafe based on the criteria of Sections 1339.02 and 1339.06 of the Codified Ordinances of the City of Painesville, Ohio and must be demolished within 30-days. Section 1339.06 states the applicant shall be afforded a hearing by the Board within ten days. After such hearing, depending upon its finding as to whether the provisions of this chapter have been complied with, the Board shall continue such order in effect or modify it or revoke it.

Chairperson Bacho asked if there was anyone present to speak on behalf of the appeal.

Mr. Lyons indicated as a procedural matter, it is obvious that the Board just had a hearing on Appeal No. 1 and Mr. Herron had a number of things to say during that appeal. He stated that he believes the Board can allow him to incorporate all that he said during the first appeal into his testimony for this appeal so there is no duplication. Mr. Herron would then be given the opportunity to add anything else in regards to the 30-day demolition order on the entire structure. Mr. Herron agreed to the procedure discussed.

Chairperson Bacho asked if Mr. Herron had anything further to discuss. Mr. Herron stated he had a structural engineer come in and look at the entire structure. He stated he goes in there all the time and he has people looking at the house all the time.

Chairperson Bacho asked if someone could move in tomorrow. Mr. Herron responded in the back half of the house; yes. He stated the utilities would have to be turned back on and there is some minor cleanup that needs to be done. Within two weeks he could have the back portion of the house looking better than most people's homes. He stated the front half is not ready. The temporary roof has not kept the elements out of the house. He has taken most of the walls down to the studs; he had a new electric service put into the house; his plan is to use geothermal heat; in addition a new water line was put in place.

Chairperson Bacho asked if the City had additional information to add in regards to Appeal No. 2. Mr. Ed Cox submitted to the Board for their review a number of additional photographs of the interior of the structure taken one-year ago after the first chimney collapsed. Mr. Lyons stated the photographs will be the City's Exhibit C-1 through C-10. The photographs were explained by Mr. Cox so the Board had an understanding of what they were showing. Mr. Cox stated the photographs mostly show the interior deterioration of the structure.

Mr. Lyons stated that Mr. Cox is the individual who issued the Emergency Demolition Order for the entire structure for 30-days. The order was issued on January 15. Mr. Lyons indicated that Exhibit A and Exhibits B-1 through B-16 would also be used for this appeal. He continued by stating that after the order was issued, Robert Fialla, a licensed architect, indicated the remaining structure should be demolished as soon as possible, but within the next 30-days to prevent damage to adjacent properties. Mr. Lyons asked if Mr. Cox agreed with this conclusion. Mr. Cox replied yes. Mr. Lyons asked if that was Mr. Cox's conclusion when the emergency demolition order was issued on January 15. Mr. Cox replied yes. Mr. Lyons asked why was 30-days picked since Mr. Herron indicated he would like three to four months to make the repairs. Mr. Cox stated due to the lack of maintenance on the structure, when the chimneys are taken down they will fall into the center of the structure and destroy the supports that keep the walls in place. Once that is done, there will be no lateral support and the fear is a whole wall could come down. The 30-days give Mr. Herron adequate time to find a demolition contractor to complete the job. Mr. Lyons asked Mr. Cox if he felt the structure could be saved. Mr. Cox indicated it will take a lot of money to fix it.

It was explained that the Steele Mansion caught fire in 2001. Over the last eight to nine years nothing has been done substantially to repair the structure. Mr. Cox is of the opinion that the structure has been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the City. In addition, the structure over the past eight years has become or are so dilapidated, decayed, unsafe, insanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation. Mr. Lyons asked if there has been any substantive attempt by anyone in regards to fixing the property up. Mr. Cox responded that the owners at the time of the fire were in the hopes of restoration and brought in dehumidifiers to dry the interior and had the temporary roof put in place. Mr. Lyons clarified that roof is the same as the one that just recently collapsed. Mr. Cox stated there was litigation among the owners and the individuals who were involved in the start of the fire. This was tied up in court for quite awhile. The only permits that have been issued on the structure were for the new electrical service and the plumbing.

Mr. Cox asked to clarify for the Board that Mr. Herron indicated he could move into the back of the house in a few days. That is not correct since he will need to provide fire separation from the front of the house to the back. This would require construction of a temporary fire wall or prove there is fire separation. Those plans for that work would have to be stamped by a licensed architect or engineer and would need to go through the plan review process.

Mr. Cox indicated Mr. Lesiecki would like to comment about the engineers report submitted by Mr. Herron. Mr. Lesiecki stated that Mr. Herron refers to the structural engineers report, or the Ackerman Engineers Report of April 24, 2009. He asked the Board to look at the resume of Mr. Ackerman; he is a degreed Electrical Engineer. Being an Electrical Engineer, Mr. Lesiecki stated that he would be hard pressed to say that he is a structural expert. He is a Nationally Certified Building Inspector and a Member of the National Academy of Building Inspection Engineers. Mr. Lesiecki stated by degree he is an Electrical Engineer which is far from a Structural Engineer. This is important in the Engineer Field that you present yourself in the field that you are trained in.

Mr. Lyons asked Mr. Cox in regards to his report, is it his opinion that because of the condition of this building it is dangerous to the health, safety, morals or the general health and welfare of the occupants or the people of the City. Mr. Cox responded yes. Mr. Lyons asked if the photos that are marked Exhibit C-1 through C-10 fairly depict the interior of the property and the condition. Mr. Cox replied yes, at the time they were taken, February 2009.

Mr. McElroy asked Mr. Cox if the emergency order to demolish the chimneys goes through, is it still your opinion that the property continues to be an eminent danger to surrounding structures. Mr. Cox replied that he believes that once the chimneys go through the structure, they will cause additional damage to the structure and the potential is there that could cause a catastrophic failure of one or more sections of the walls. He added in the event of a fire or other emergency, it would be dangerous for fire personnel to enter the building and would be a hazardous situation. Mr. McElroy stated that it seems the only approach to demolishing the chimneys is to push them into the structure. He asked if that is a building trade approach or could they be demolished by pushing them outward. Mr. Cox indicated that would be up to the discretion of the contractor; if they fall outward it could cause damage to the surrounding properties. Mr. McElroy stated that if that occurs would the property still be a danger to the surrounding property. Mr. Cox stated that in the condition it is in now, he still believes it is a dangerous situation for anyone entering that building.

Mr. McElroy stated that Mr. Lesiecki mentioned the expertise of the person listed on the structural report; he asked if there was a resume of the City's engineer. Mr. Lesiecki indicated he does not, however he is an architect, not an engineer. Mr. McElroy asked if it would be available since this is an important point. Mr. Lesiecki indicated that he will get the information from him. It was stated that this is the Architect that was involved in designing the temporary roof plans in 2002. This was one of the reasons he was used since he was familiar with the structure and what the conditions were then compared to now. Chairperson Bacho asked who hired the architect. The architect worked pro-bono for the owners of the structure at that time.

Mr. Lyons asked Mr. Cox if there is a plan in place in terms of the demolition of the chimneys. Mr. Cox indicated the City has received estimates for the demolition of the chimneys. Mr. Lyons stated that the City, in anticipation of the emergency order, receive the estimates in case the chimneys were not knocked down in seven-days. He continued by explaining the proposals are for the chimneys to be knocked into the building. Mr. Lyons asked Mr. Cox that when you made the emergency demolition order on January 15 did you know that the chimneys would be pushed into the building. Mr. Cox replied no, he did not realize that when the order was given. The thirty-day determination for the remainder of the structure was done separately from the chimneys. The City may go forward with that proposal, causing the chimneys to be demolished in to the building causing further damage to the structure. Mr. Lyons asked if Mr. Cox knew the difference in cost in taking the chimneys down brick by brick rather than the proposed knocking them in. Mr. Cox indicated that he does not know what the difference would be. The cost to knock the chimneys in is approximately \$2,500. Ms. Sivertsen stated that four different contractors were asked to give proposals on the demolition. They were not given options, only to demolish the chimneys in a safe manner. None of the contractors wanted to push the chimneys outward; they were all quoted to be pushed inwards.

Mr. Herron pointed out that the cost to remove the chimneys is \$2500 and the cost to have them secured is only \$1000. Mr. Behrens commented the City has quotes in writing and Mr. Herron does not have anything in writing. Mr. Lyons clarified for the record that Ms. Sivertsen was sworn-in at the beginning of the meeting.

Mr. Herron responded to the photographs that were distributed by the City in regards to the interior conditions of the house. He stated the photos are of one room located in the front portion of the house where the chimney had collapsed. The back half of the house is clean and is in move-in condition. He stated that he has photos of the rest of the house which he did not bring with him.

Ms. Waytes asked Mr. Herron if he realized that he was coming to a hearing today. Mr. Herron responded yes, but he did not realize what was necessary for his testimony. He stated that he feels that the City is showing only the stuff they want in order to get what they want. He stated this is a skill, like a salesman does when they want you to buy something.

Ms. Waytes asked if the elements are coming into the house. Mr. Herron responded no, not into all of it, only in the very front part. He indicated that he could produce photos that are a better representation and he offered to take the Board Members to the house to look for themselves. Mr. Behrens asked if the electrical work was done within the past year. Mr. Herron replied, yes, and then no, the work was done over a year ago. Mr. Behrens commented that Mr. Herron is blaming the City for not bringing photos showing the better side of the structure however Mr. Herron had the opportunity and opted not to do it. Mr. Herron stated that he was not aware of what was needed.

Chairperson Bacho asked Mr. Cox if he would move into the back part of the house. Mr. Cox responded, no. Mr. Herron stated he would; with his five children.

Mr. McElroy stated that one of the things he is struggling with is that clearly Mr. Herron is aware of the City's position regarding the status of the property through the certified notices that were given to Mr. Herron. He indicated that he struggles with the fact that you came to today's hearing without anything, obviously you have a lot of things based on verbal statements and contracts, you haven't brought pictures, cost estimates to at least demonstrate to the Board that you are in a position to move quickly to secure the property and protect the public from damage. We keep hearing that you can get the info and bring it later. Convince us without something on paper or something solid that you are ready to go with these plans that you have outlined. We don't need to hear about you speaking with another investor at a different point in time, you may or may not, that there is a bridge loan in the process which they could have come and testified on your behalf. We need to hear what is concrete about when, where, and how you plan to rectify the situation.

Mr. Herron responded that he was not aware of this meeting until yesterday or the day before, he cannot remember. He stated that he did attempt to contact the people he wanted to testify on his behalf. Up until 2:44 PM he believed that the person who would be shoring up the fireplaces would be attending. He is not sure why he is not present. Mr. Herron indicated that he did not think about bringing interior photographs as evidence since he thought there would be a better representation of what is actually there. Mr. McElroy asked Mr. Herron if he had any pictures or testimony to offer that would demonstrate there are other areas of the structure that are safe and secure; that are not presenting a danger to the community as presented by the City. Mr. Herron asked his guest if she had been in the back half of the house. She responded no. He then stated that he could bring people in or have people go and take pictures and show up in the next 15 minutes. Mr. Herron stated that he does not have the pictures with him, however, they do exist.

Ms. Tanda Macupson, 1424 Richmond Road, Lyndhurst, Ohio, was sworn-in by Ms. Bacho. She asked if the mansion was not demolished in 30-days, how long would it take for significant damage to happen to cause harm to the community. Mr. Cox indicated he did not know how to answer the question since the mansion is in that condition now. He indicated he has additional photographs of the building showing the deterioration if the Board chooses to see them.

Mr. Lyons asked if the back half of the house is in better shape than the front. Mr. Cox responded yes. Mr. Lyons inquired if it is theoretically possible to demolish just the front portion of the house and not touch the back half. Mr. Cox indicated yes, it is. Mr. Lyons stated that means it would be possible to for Mr. Herron to present a plan to the City to have only the front half of the structure demolished. He asked if Mr. Herron had done this. Mr. Cox replied no. Mr. Lyons then stated the 30-days runs out about February 15<sup>th</sup> and Mr. Herron would have until that time to submit a plan to

the City which would require an engineer or architect to prepare. Mr. Lyons continued to explain that if the plans were acceptable then it is possible to save the back half and have a contractor demolish just the front portion and not the back. Mr. Cox agreed. Mr. Cox added that if Mr. Herron were to bring in plans to restore the entire structure we would be more than happy to look at them. That has not happened. Mr. Lyons added from anybody within the last nine years. Mr. Herron commented that is not true. Mr. Herron was asked if he has presented plans to the City. He responded yes. He was asked if the plans were from an architect or an engineer. Mr. Herron responded yes, Robert Beck submitted plans. He was asked when. Mr. Herron stated that he does not know the date but he has copies of the plans. Mr. Cox pointed out that there have never been any plans submitted for the Steele Mansion. Ms. Waytes asked if Mr. Herron brought them with him. Mr. Herron responded he did not, he assumed the plans would be here. Mr. Lyons indicated Ms. Sivertsen has a comment.

Ms. Sivertsen stated that Mr. Herron indicated earlier that this matter was in court. During the court proceedings he eluded to these plans as well. He was asked at the court hearings to produce the plans and nothing has ever been brought forth since that time. In the past, the letter that was submitted today was partially submitted without the electrical engineers signature or stamp on it. His office was contacted to verify the partial letter and they refused and Mr. Herron was notified of that fact during his court proceedings. He has never produced a signed document nor did he have the engineer, Mr. Ackerman, send anything until today.

Mr. Herron stated there is a gentleman, a police detective in the City of Painesville, who would refute at least two-thirds of what Ms. Sivertsen said. He said that the City has received these plans and he came back to talk to him about it and unfortunately he is off today. Mr. Herron gave the name of John Klavicki but he was not sure. He stated the plans have been submitted; they were done by Robert Beck over a year ago; he did not do the full plans but did do the front half. Mr. Herron stated that he submitted plans from Robert Pialla who the City paid to do the report. He stated that the City continues to indicate that he has not submitted anything yet he has. He claims people have handed the plans to various members of the City of Painesville. He stated he does not know what to say other than he has copies of all the plans, he added plans for architects do not show up overnight.

Ms. Waytes asked Mr. Herron if he has paid for plans. Mr. Herron replied yes, he has paid for plans. He stated that he has submitted those plans. The plans are not for the entire structure, he just wanted to get the roof on the house. Once the roof is on, he can deal with the rest. He said somewhere somebody is dropping the ball and he will take some responsibility for that however, there have been statements made that are not accurate. This has been a problem of his.

Ms. Waytes stated that at this point the City has been up front with this Board because they have come prepared with the necessary documents and have answered any and all questions from the Board and supporting what they are proposing. She stated that she does not feel that it is they are out to get Mr. Herron or take down the Steele Mansion; it is a matter of safety which is causing this process.

Mr. Herron asked if he could step away and try to contact someone to bring in the plans that he has at the mansion. Chairperson Bacho indicated that she would prefer this not be done.

Mr. Cox stated that Mr. Herron stated plans were done by a Mr. Beck the architect. Mr. Cox indicated that he knows Richard Beck and he knows the procedure for submission of plans and the process to obtain permits. He added that nothing has been submitted through the Building Department; who these unknown people are that he claims that he has given the information to are, he has no clue. Mr. Cox reiterated that nothing has been submitted to the Building Department for the purpose of obtaining permits.

Mr. McElroy asked for an explanation of the normal process for an architect or engineer to submit plans to the Department and under what procedure do they receive notification that the document has been received or filed. Mr. Cox explained there is no receipt that is given since there is no money transaction at the time of plan submission. Plans are submitted; they are logged in; given a plan review number; sent out to a number of plan review examiners by State Law the City is required to have two plan examiners who are available to the City, a primary and a backup. Mr. McElroy asked if the plan review number is recorded by the City. Mr. Cox responded yes. Ms. Waytes asked if the plans are marked. She stated through her job the plans she receives through developers and contractors are marked, filed and sealed. Mr. Cox stated yes, once the plans are

received they are sent out; they undergo an Ohio Basic Building Code review, if there are any contingencies a contingency letter is written up and provided to the applicant. The applicant must respond to the contingency letter; the initial review has to be done within 30-days of the initial submission of the plans. Ms. Waytes asked if they are stamped. Mr. Cox replied they are recorded when they come in, yes. He continued by saying once the plans are approved they are stamped as approved and a letter is generated indicating as such. At that point a permit can be issued.

Mr. Behrens asked how many different people the plans from the architect or engineer can be handed off to; who is the point of contact. Mr. Cox stated that typically they are dropped off at the front counter; they are then given to Mr. Cox who then gives them to the plans examiner. When the examiner has completed the examination they are returned to Mr. Cox. Mr. Herron stated the plans were originally dropped off at City Hall. He stated he had a meeting with everybody here to indicate what his plans were for the structure. He commented that he called the meeting and asked for it. Mr. Herron stated that Rita McMahon, Doug Lewis, Ms. Sivertsen, Mr. Cox and Mr. Schaedlich were all at the meeting. At that time he laid out his issues that he was going through a divorce but he had plans to fix up the structure. Mr. Behrens asked if Mr. Herron actually handed off plans to them. Mr. Herron replied no, he had someone else bring in the plans to City Hall because he dealt with City Hall he felt that is where they belonged.

Mr. Herron stated that it is interesting going back to the transcripts that were done for the trial that some of the people in this room discuss the handling of those plans and now they are saying they never received them.

Mr. Herron reiterated that he could get Mr. Beck's plans; he indicated that the firewall plans were submitted; it was just handed to them; they didn't do anything with it; and he has not heard anything about it. He stated he does have copies of that. Mr. Herron stated that he does have copies of Mr. Pialla's temporary roof repair. That was submitted three years ago and they said they have never received it. He stated he can make pictures of that back room that would look a lot different than those shown. The photos are from a year ago and they are not from the back half of the house. He stated the house needs a lot of repair. Unfortunately he is the one stuck with the repair and he is doing everything he can; he has limited resources and has done the best he could up to now. The house in its present condition is not a hazard to anybody unless you go in there and start making a mess.

Mr. Lyons stated since there is a record being made; he went through the photos that Mr. Cox submitted and marked them Exhibit D-1 through D-17. He asked Mr. Cox to verify the pictures were taken of the Steele Mansion in February in 2009. Mr. Cox verified the pictures marked as Exhibit D-1 through D-17. Mr. Lyons asked if they fairly and accurately depict the Steele Mansion in the areas that are taken and they are more than just the front room of the house, they are photos taken throughout the entire structure. Mr. Cox responded yes. Mr. Lyons asked if there are any photos taken of the back half of the house. Mr. Cox indicated no, there are not.

Mr. Lyons questioned the back half of the house and whether or not it was considered one-half of the structure. Mr. Cox indicated that the back portion of the house is approximately one-third of the entire structure. Chairperson Bacho asked why pictures of the back half were not taken. It was indicated that there were photos taken. Mr. Lyons stated he also has the resume of Mr. Pialla which is now known as City Exhibit E.

Mr. Herron questioned if Mr. Pialla was an architectural engineer. Mr. Lesiecki stated that he is a license architect. Mr. Herron asked if Mr. Pialla had examined the structure from the inside. Mr. Lesiecki indicated that last week when the report was done, Mr. Pialla did not go inside the structure. It was stated that it was believed that Mr. Pialla had been inside the structure at one point.

Mr. Lyons indicated for the record Mr. Lesiecki, City Engineer, was sworn-in at the beginning of the meeting.

Mr. Cox asked that the Board waive the five-day waiting period for the commencement of the action of their decision. Ms. Waytes asked why. It was explained that applies to variances, it would not apply to this circumstance.

Mr. Herron commented on the photos that were submitted and which rooms they represented. Mr. Cox could not indicate which rooms were which on the photos Mr. Herron referred to; however, the photos show the condition of the house at the time the photos were taken. Mr. Herron pointed

out that every picture with the exception of three is of one room. He explained one of the photos shows a staircase that was fire damaged and looks worse than it is; the other is debris which was removed eight months ago; the other damage was his doing by taking the walls down to the studs. He stated that he was doing this in preparation of restoration.

Chairperson Bacho stated that was from over a year ago. Mr. Herron indicated yes, he did not put anything into it subsequently because he was busy fighting the City just to be involved with his children's lives. He stated that all of the pictures are of one room and they have pictures of the back room yet none of them are here. The back looks good and is in good shape.

Mr. Herron stated if the City gives him time he can finally do something with it. He asked that the Board consider adjourning to a later date so he can prepare for the hearing. He commented in the interest of justice and making the right decision the meeting be finished at a later date. He asked that he be told what is necessary to bring and he will supply it. Right now, you are about to vote on a structure that the Painesville Residents are interested in and they do not want to see it bulldozed. He admitted that he failed in bringing documentation and he would feel remiss and the Board would suffer too when people ask why did the Steele Mansion get destroyed. He stated it is important the Board have all the information they can to make their decision.

Chairperson Bacho asked if there were any further questions from the Board. There being none she asked if there was a motion.

There was discussion regarding Mr. Herron's request to continue the hearing. Since Mr. Herron asked the question, the Board needs to address the question. Mr. Lyons indicated the Board should inquire about the City's position to allow Mr. Herron additional time to bring in additional evidence to support his position on Appeal No. 2 which is for the demolition of the entire structure. Mr. Lewis indicated for purpose of the record, if conditions were placed on the request, the City would not have an objection to providing additional time. Mr. Lyons indicated it is a big burden on the Board; they took time for today for this hearing.

Mr. Lesiecki stated that Mr. Herron has approximately 15-days in the 30-day window, and, the City cannot act until that 15-day period has lapsed. So by default Mr. Herron has time to provide information to the City. Mr. Lyons responded that is correct. Mr. Lesiecki asked if 15-days is a sufficient amount of time for Mr. Herron to provide the information to the City and the Board could act accordingly. Mr. Lyons explained that providing the information to the City is not the same as providing it to the Board. Mr. Herron is asking for the order to be modified or repealed by the Board.

Mr. Lewis added that at this point in time our position remains the same. We have worked with Mr. Herron for a year and a half to basically renovate this structure. Nothing has been done. Mr. Lewis explained to the Board the court hearing that was held for the property maintenance violations that Mr. Herron was cited for. The City's position is to uphold the Emergency Order for the structure.

The Board discussed Chapter 1339.06 of the Codified Ordinances and the portion dealing with hearings and allowing additional time. They also discussed the proper wording on the motion for this issue.

The Board took a short recess.

Chairperson Bacho asked if there was a motion. Mr. Lyons stated that first the Board needs to address Mr. Herron's request to adjourn the hearing.

Chairperson Bacho indicated the Board is declining Mr. Herron's request to continue. Mr. Lyons asked for the reason why the request was declined. Chairperson Bacho stated the Board feels that Mr. Herron has been provided sufficient time to come prepared and feel the information that Mr. Herron would provide will not be that influential on their decision.

Motion by Mr. McElroy to deny the appeal and to continue the Emergency Demolition Order dated January 15, 2010 in effect. Ms. Waytes seconded the motion.

Chairperson Bacho asked the secretary to call the roll. On roll call, Mr. Behrens, Mr. McElroy, Ms. Waytes, and Chairperson Bacho answered yes; motion carried.

Mr. Lyons indicated an issue was brought up regarding the five day waiting period, which does not apply to this appeal since there is additional time before the demolition has to occur. In regards to

Appeal No. 1, in order for it to go into effect immediately, a motion is necessary to waive the five day waiting period.

Mr. Lyons cited Section 1141.04 (c) A decision of the Board shall not become final until the expiration of five (5) days from the date of such decision, unless the Board finds the immediate taking of effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record. If the Board wants to put the first decision on Appeal No. 1 effective immediately, then the Board would need to pass a motion based on that standard.

Chairperson Bacho asked if there was a motion to that effect. There was question regarding why this needed to be waived. Mr. Lyons stated the denial of the appeal and the approval of the first demolition order would not take effect for five days so the city would not be able to hire a contractor if they thought that was necessary to demolish the chimneys until Wednesday of next week.

Mr. Behrens motioned to waive the five day waiting period on the Emergency Demolition Order for Appeal No. 1 as discussed earlier. Ms. Waytes seconded the motion. The secretary was asked to call the roll. On roll call, Mr. McElroy, Ms. Waytes, and Chairperson Bacho answered no; Mr. Behrens answered yes; motion denied.

Mr. Herron asked if he can submit the information that he has to the Board. Mr. Cox indicated that Mr. Herron is free to submit whatever documentation he feels necessary. It was explained that if Mr. Herron were to begin the permitting process he would be able to keep the structure from being demolished.

Mr. Lyons explained that this is not a Board issue. The meeting should be closed. He also stated that the City will be happy to discuss the issue with Mr. Herron.

#### ADJOURNMENT

Motion by Ms. Waytes, seconded by Mr. Behrens to adjourn the meeting. All members present answered yes; motion carried. There being no further discussion, the meeting was adjourned at 6:00 PM.

Julie Bacho, Chairperson		Lynn M. White, Acting Secretary
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