

Housing Code Board of Appeals

Meeting Minutes

March 09, 2010

The meeting of the City of Milford Housing Code Board of Appeals was called to order at 7:07 p.m. by Chairman Charland.

The following Commission Members were present:

Commissioner Baldwin, Chairman Charland and Commissioner McMellon, Commissioner Casey

Others present:

City Attorney Winthrop Smith, Dr. Dennis McBride, Director of Milford Health Dept. Paul Scholz, Sanitarian and Laura Miller, Chief Environmental Health Division, from the Milford Health Department. Kevin Liddy, 55 Knobb Hill Rd; Peter Handujar, 66 Knobb Hill Rd; Steven F. Rogers, 60 Knobb Hill Rd.

Absent:

Commissioner Denhup

All stood for the Pledge of Allegiance.

Election of Officers

Chairman Charland asked for nominations from the floor. Commissioner McMellon nominated Noe Andy Charland for Chairman and it was seconded by Commissioner Baldwin and passed unanimously.

Chairman Charland asked for nominations from the floor for Vice Chairman.

Commissioner Baldwin requested that nominations for Vice Chairman be tabled until all members were present.

Bylaws

Chairman Charland stated that he received a request from the Milford City Clerk to create Bylaws for the Board. He passed out copies of the proposed BYLAWS for the Commissioners to review. Commissioner Baldwin asked if the City Attorney had reviewed the Bylaws. City Attorney Winthrop Smith stated that the Bylaws were reviewed and found to be acceptable and could always be modified in the future if needed.

Commissioner McMellon made a motion to adopt the by-laws as presented. It was seconded by Commissioner Baldwin and the motion carried.

Agenda Item 5 and 6. APPEAL OF Steven F. Rogers regarding a Notice of Violation issued by the City of Milford Health Department on January 6, 2010 for the premises at 60 Knobb Hill Road, Milford, Connecticut

Chairman Charland stated that Item number 5 on the agenda is the appeal of Steven F. Rogers regarding a Notice of Violation issued by the City of Milford Health Department on January 6, 2010 for the premises at 60 Knobb Hill Road, Milford, Connecticut regarding outside storage of

file cabinets. And Item number 6 on the agenda is the appeal of Steven F. Rogers regarding a Notice of Violation issued by the City of Milford Health Department on January 6, 2010 for the premises at 60 Knobb Hill Road, Milford, Connecticut regarding a boat in front yard in a state of disrepair. He asked for a motion to consolidate both agenda items.

Mr. Rogers stated that the person who was served was Georgia Rogers and she has been deceased for a couple of years. He faxed an objection to The State of CT Board of Health and spoke to someone there and they said that unless the person who was served signs the appeal then they will not process the paperwork. City Attorney Smith stated the only question right now is about a consolidation of the two agenda items. Mr. Rogers stated that this is not an appeal he's just an interested party and he is allowed to request a hearing as an interested party.

The appeals are for the same Appellant, same property. Chairman Charland asked Mr. Rogers if he had any objection to consolidating these appeals and hearing them together? Mr. Rogers had no objection. Chairman Charland stated, as Mr. Rogers has no objection, may I have a motion to consolidate these two appeals and hear them together? Commissioner McMellon made a motion to consolidate both appeals and Commissioner Baldwin seconded the motion and the motion passed unanimously.

Commissioner Casey entered the meeting at 7:16 p.m.

Chairman Charland stated that the Motion carried, both appeals of Mr. Steven F. Rogers in regard to the Notices of Violation issued on January 6, 2010 for the premises at 60 Knobb Hill Road will be heard together.

Chairman Charland declared the hearing open and then asked if the appellant Mr. Steven F. Rogers or his attorney would like to address the Board.

Commissioner Baldwin asked Mr. Rogers if he was responsible to preserve the property as Executor of the estate. Mr. Rogers stated that he was responsible for the property as Executor. Commissioner Baldwin asked if he could have been served as Executor and Mr. Rogers said that he did not know. Commissioner Baldwin asked if he was the owner of the boat and file cabinets. Mr. Rogers said he was.

Chairman Charland asked what the long range plan was for the lateral cabinets. Mr. Rogers stated that he covered the boat today and the file cabinets have been moved to the side yard. Chairman Charland asked if he planned to reuse the cabinets. Mr. Rogers said he plans to rearrange the garage and use them for storage.

Commissioner Baldwin asked Mr. Rogers to show him on the picture of his home, the current location of the filing cabinets. Mr. Rogers pointed and said they were behind the car. He said it would take a couple of weeks to put the cabinets into the garage as he has to organize the garage and he also needed to borrow a hand truck. Chairman Charland said that the cabinets were still visible from the street and Mr. Rogers replied that that wasn't the order. The order was to remove them from the front yard. He feels that he has satisfied the order. He gave the Chairman a sheet of paper which he stated was the legal definition for a front yard and it was marked Item 1.

Chairman Charland asked for the Health Department to respond. Dr. McBride introduced Paul Scholz and Laura Miller to the Board. He stated that the order was served Certified Letter, Return Receipt Requested and it was signed received by Steven F. Rogers.

Mr. Rogers asked to go over what was ordered to be done because it is his understanding that he had done what was requested.

City Attorney Smith told Mr. Rogers that the Board will hear the Health Department's presentation and then is going to hear public comments and then he will have the opportunity to bring other issues before the Board. Mr. Rogers said the whole thing is moot if what has been ordered to be done was done. City Attorney Smith stated that the Board will hear the Health Department's presentation and then Mr. Rogers would have the opportunity to present his argument.

Ms. Miller passed out copies of the file including pictures and copies of all correspondence and reports on both violations. The first violation is in regards to the old file cabinets stored on the front lawn and accumulation of garbage and junk on the premises. The secondary violation is in regards to the boat in the front, the boat is in a state of disrepair and the order was to properly cover it, winterize it or remove it from the premises.

Mr. Scholz stated that the first complaint was received on October 22 and he did his first investigation on October 26, 2009. The first complaint was for the 3 file cabinets on the front lawn, the second was a boat in disrepair and the third was for an unregistered vehicle. He did a second inspection on December 21, with his supervisor and the conditions still existed. On January 6th a notice of violation was sent and one month was given to correct the first two violations by February 5, the third violation of an unregistered vehicle was turned over to Planning and Zoning. The next two inspections were on February 12, and on March 3, and the conditions still existed.

After inspecting in December with Ms. Miller, she requested that he call Attorney Rogers and discuss what the complaints were and ask if they could be corrected. Yesterday morning, Attorney Rogers said that he wanted to rectify the situation and the Director said it would have to be cleaned up by the next day and would then be abated. Mr. Scholz notified Mr. Rogers and Mr. Rogers requested an extension of time. Mr. Scholz discussed this with the Director of Health and it was decided that he had had two months to correct this violation and nothing had been done. Mr. Scholz then notified Mr. Rogers that an extension of time would not be granted.

Dr. McBride stated that this violation can be easily remedied by covering the boat and moving the file cabinets and is not overly burdensome for Mr. Rogers. The Health Department has been lenient in giving Mr. Rogers plenty of time to comply.

Commissioner Baldwin asked if someone could verify the current location of the file cabinets and if the boat had been covered today. Dr. McBride stated that if the cabinets are in public view they are still cluttering the front yard. If Mr. Rogers puts them inside the garage then that would be different. Commissioner Baldwin asked Mr. Rogers if the file cabinets were locked and Mr. Rogers said no. Commissioner Baldwin said that the town had laws concerning refrigerators and doors. Chairman Charland said that there are latches on the drawers and could present a potential hazard to children. Mr. Rogers stated you could not suffocate in the cabinets as his neighbor's cat was locked in his garage for a week and it was fine. Dr. McBride said that it would not have to be a lack of air for there to be risks to human health.

Ms. Miller stated that they would need to look at the cover of the boat to make sure that it is tight and secure enough that water does not get in and they would also have to make a judgment on the location of the file cabinets.

Commissioner Baldwin asked Mr. Rogers if he has moved the boat recently. Mr. Rogers stated that he tips the boat back to let the water run out. Dr. McBride stated that even if he rocked the boat back and forth, in terms of drainage the boat still has accumulated a great deal of debris and soil and offers a harborage for vermin, rodents and mosquitoes and is a public health risk.

Chairman Charland stated that public could now comment. Mr. Rogers interrupted asking to clarify additional points. Chairman Charland told Mr. Rogers that he could speak after the public comments. Mr. Rogers wanted to ask the Health Department Personnel questions to clarify what they said. City Attorney Smith stated that there is no cross examination in this forum and to hold his questions until after the public comment section of the public hearing.

Kevin Liddy, 55 Knobb Hill Rd stated that he lived directly across from Mr. Rogers. Mr. Liddy presented the Chairman with a letter from Dorothy Van Hacht of 122 Knobb Hill Rd and the letter was marked Item 2. He stated that he has known Mr. Rogers for 15 years and during that time the boat has not been moved and the file cabinets have been there for at least 5 years. It's a nice neighborhood and he is concerned with property values. The filing cabinets that have been moved to the side of the house are still visible from the street.

Peter Handujar, 66 Knobb Hill Rd. stated that people in the neighborhood take pride in their homes. The cabinets are rusted and they are an eyesore. The neighbors have offered to help Mr. Rogers move the cabinets to the garage or his back yard but he has declined their help. Mr. Handujar said that the neighbors would still be happy to help Mr. Rogers if he needed help.

Chairman Charland told Mr. Rogers that he now had an opportunity to rebut. Mr. Rogers asked Ms. Miller why the complaint included the accumulation of garbage and junk and as there isn't any garbage, bottles and papers, etc. City Attorney Smith asked Mr. Rogers to direct his comments to the board and not to Ms. Miller. Mr. Rogers asked why he did not have a right to cross examine Ms. Miller. City Attorney Smith said that it was not appropriate in this forum but that he did have the opportunity to rebut whatever arguments he had to the board. Mr. Rogers said that he had a constitutional right to confront witnesses against him. Attorney Smith said that he did in a criminal proceeding but not in this forum. Mr. Rogers said that this is a criminal proceeding and that he is asking Ms. Miller to tell the board what she meant by the term "accumulation of garbage and junk." Attorney Smith asked Mr. Rogers to ask the board for Ms. Miller to clarify what she meant. Mr. Rogers asked the board who filed the complaints. Dr. McBride gave Mr. Rogers a copy of the record.

Mr. Rogers said that he feels that he has satisfied the order even though he was never served the order. He feels that the order is not a valid order and has no force of law but he, never the less, did comply with the order. He needs more time to obtain a heavier duty hand truck. He does not feel that there is a valid order and he is not taking an appeal and he is just here as an interested party. He also wanted the board to disregard Mr. Liddy's testimony as he feels that he is illegally parked this evening.

The Chairman read Mr. Rogers' definition of a front yard three times and his interpretation was different than Mr. Rogers and there was discussion.

Chairman Charland called this section of the public hearing closed at 8:03 p.m. He asked for a motion to accept or deny the order of the Health Department. Commissioner Casey made a motion to uphold the order of the Health Department and Commissioner Baldwin seconded it. The Chairman asked for discussion from the board. Commissioner Baldwin asked if it was

premature if Mr. Rogers has complied with half of the order until the Health Department re-inspects as to whether or not it meets their guidelines and approval. City Attorney Smith said that the Health Department has presented evidence that there were violations based on multiple inspections. He said that the Board could table it, uphold it or rescind it but whenever remediation occurs the Health Department could rescind the order at that time. Commissioner Casey stated that Mr. Rogers said that he is willing to comply so that the Board should uphold the order and it will be rescinded when the remediation is completed. He said that the file cabinets will pose a health problem wherever they are placed as long as they remain outside and the best solution is to have them moved inside.

Chairman Charland stated that there is a motion and a second to uphold the Health Department order and asked the Board to vote and the motion carried unanimously.

The Chairman asked for a motion to adjourn. Commissioner Baldwin made a motion to adjourn and a second was made by Commissioner McMellon and the motion carried. The meeting adjourned at 8:08 p.m.

Respectfully Submitted,

Kathleen Kuchta
Recording Secretary

These minutes have not been accepted or approved.