

**CONSTRUCTION BOARD OF APPEALS  
AND PUBLIC HEARING MINUTES**

April 10, 2014  
Council Chambers

Meeting called to order at 5:00 p.m.

**1. Roll Call:**

Present: Commissioner George O'Dell  
Commissioner Dave Swartout  
Chairman Matt Notario

**2. Pledge of Allegiance:**

Guests: Joe Furwa, Wayne R. Jewell, Patricia Lyden, Thomas Schilling, Jacob Munchiando, Kristin Andrade, Jason Nolff, Vince DeLeonardis,

Staff: Following members of Building/Zoning Department were present:

Keith A. Woodcock, Building Official / Zoning Administrator  
Denise Palmer, Administrative Assistant  
Dan Swallow, Director of Economic & Community Development  
Randy Harris, Building Inspector

**3. New Business:**

**A. Minutes & Agenda:**

A motion was made by Commissioner O'Dell to approve tonight's agenda and the minutes of the April 04, 2013 CBA meeting. Second by commissioner Swartout.

Motion carried unanimously.

**B. Chairman Notario informed the applicant the Plumbing / Mechanical Contractor representative on the board is vacant due to a death. The alternate, Dave Swartout, is a licensed Residential Builder.**

**The applicant has the option to accept the alternate member or delay the hearing until the city of Monroe finds a permanent replacement to the board position.**

Joe Furwa with Harley Ellis Devereau representing MMHC wished to proceed.

**C. Appeal # CBA 14 -001 – 407 South Telegraph Road , Monroe, Michigan  
Mercy Memorial Hospital. Parcel # 19-00730-002.**

Mercy Memorial Hospital Corporation (“MMHC”) 407 South Telegraph Road, Monroe Michigan, Assessor’s Parcel Number 19-00730-002 is appealing the City of Monroe Building Department’s Code interpretation of the south exterior wall of the River Bend Commons building as a result of a property split. Pursuant to Section 113 of the 2009 Michigan Building Code and MCL 125. 1514 (1) as well as Monroe City Ordinance Chapter 22, Article X, § 22-35, this application for appeal is based on a claim that the true intent of the code has been incorrectly interpreted. The City of Monroe Building Department’s position is that this “ exterior wall” should be considered a “ party wall” ( while failing to meet the Building Code Definition) and therefore must be constructed or modified to become a “ fire wall” as outlined in Section 706.1.1 of the 2009 Michigan Building Code.

**Staff Report:**

The staff report was read into the record by Ms. Palmer.

**Applicant Comments:**

Joe Furwa gave his assessment on the differences between a party wall and a fire wall. Discussion was held on the property split. MMHC was not a party to the lot split. “The property MMHC owns is fully code compliant”.

Wayne Jewell, Code Consultant commented on existing conditions of the Farmer Jack Store and the other tenant spaces. “The former Farmer Jack building is code compliant as it stands today”.

With no one else wishing to speak Chairman Notario opened the public hearing.

**Public Hearing**

Keith Woodcock, City of Monroe Building Official spoke on the position the City is taking.  
Discussion was held.

Chairman Notario questioned multiple times revisions on the wall were turned in to the City.  
Discussion was held.

Joe Furwa stated the issues with the previous site survey revisions were scribing errors that were corrected; unfortunately the surveyor needed a few tries to get it right. That survey represents the agreement between both property owners as to what was actually being sold. The hospital bought the entire Farmer Jack which included four exterior walls. That revised survey has been signed and approved by both property owners. There is not a dispute over the property line. Between MMHC and DW28 Properties.

Keith Woodcock stated the City has not received a copy of the final survey in question.

Wayne Jewell spoke about what is part of the hearing and what is not.

Chairman Notario asked the DW 28 Properties representative to speak.

Patricia Lyden, Attorney for DW 28 Properties II. Disputes the notion that no meetings were held with the City of Monroe. Several building Officials were at the meeting, as well as MMHC representatives. No issues were raised at that time. The Hospital had the survey done and DW28 Properties submitted it for the split .They were never notified until January of 2014 that there were any issues.

Chairman Notario asked who DW28 Properties met with from the City.

Dan Swallow spoke on meeting with MMHC and Ms Lyden in regards to the land division. Mr. Swallow provided information relative to what the City looks at for land division and approval. No discussion at that time on what modifications to the building were going to be made, it was strictly a land sale. The original survey showed the property line going through the north side of the wall.

Mr. Swallow explained the Land Division Act which the City operates under. It is a State Act and under the Act it clearly states the Municipality has forty five days from the filing to make a decision of approval or disapproval of land division. The Act states, approval of the land division act is not a determination the resulting parcels comply with other ordinances or regulations.

Tom Schilling from Mercy Memorial Hospital explained all that was done by the Hospital prior to purchasing .The checklist that is followed when purchasing a property.

Patricia Lyden assured the Committee they had no ideal this was going to create this kind of issue, and her clients are doing everything they can to reach a practical solution.

Commissioner O'Dell discussed the two plan reviews the City has on file for the project. Both reviews resulted in the same conclusion. Commissioner O'Dell feels that he is not qualified to overstep the bounds of two state certified code reviews.

Joe Furwa explained the decision from Mike Hammond as well as Code Consultants.

Commissioner O'Dell asked DW28 representative if there were plans to come to a corrective action on their side of the property line.

Patricia Lyden stated there are plans to correct the issue.

Commissioner O'Dell proposed to table this for thirty days or sometime until a recommendation of how they are going to make their corrections but allow Mercy Memorial to occupy the building.

Keith Woodcock stated there is a temporary certificate of occupancy for 180 days. The City has been working with the hospital on the occupancy.

Patricia Lyden assured the Committee once a determination has been made they will come forward with a solution.

Commissioner Swartout asked the legal council for DW 28 properties if they have been in contact with any Architects to come up with any solutions to the direction they are going. Several options have been discussed.

With no others wishing to speak Chairman Notario closed the public hearing.

### **Board Discussion**

Discussion was held.

Chairman Notario made a motion, that it is clear that this is two structures, it is also clear that the compliance of the fire wall belongs to DW28 Properties. The City's code consultants demand the buildings be considered as two separate structures. Motion is to issue the Certificate of Occupancy to the hospital and leave the burden of complying on the owners of the southern property.

Motion second by Commissioner Swartout.

Motion carried unanimously.

A motion to adjourn was made by Chairman Notario and second by Chairman Swartout.

*Motion carried unanimously*

The meeting was adjourned at 6:30PM