

File

REGULAR MEETING

**BOARD OF BUILDING
STANDARDS & APPEALS
STATE OF OHIO
COUNTY OF CUYAHOGA**

DATE: October 29, 2013

AGENDA

TIME: 6:00 P.M.

WORK SESSION – 5:30 P.M.

Elect 2013 Chairman

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **APPROVAL OF MINUTES**

- a. Approval of Minutes of Regular Session of November 9, 2011

4. **NEW BUSINESS**

- a. Motion to Elect 2013 Chairman
- b. James Deal, owner of 787 Archer Road, Bedford, Ohio 44146, is seeking relief from Section 511.12 of the Codified Ordinances requiring payment for costs associated with Police responding to 787 Archer Road, Bedford, Ohio for disturbance and animal calls. (9/2/13 - 9/16/13 – total \$250.13)

5. **MISCELLANEOUS**

6. **ADJOURNMENT**

Bedford, Ohio

October 29, 2013

The Board of Building Standards & Appeals met for a Work Session meeting at the Bedford City Hall on Tuesday, October 29, 2013 at 5:31 P.M. Present: Latos, Wilson, Dardy, Stemple, Lynch. Absent: None. Also in attendance were City Manager Hank Angelo, Building Commissioner Calvin Beverly, Patrolman John Pfaff and Secretary Lorree Villers.

The Board had no corrections to the November 9, 2011 minutes.

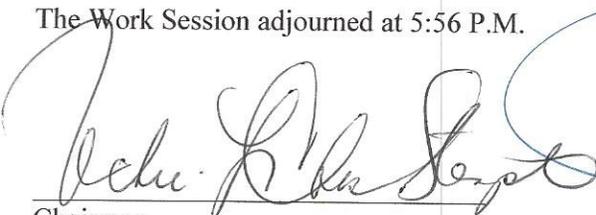
The Board's decision was to have Mrs. Stemple as the 2013 Chairman.

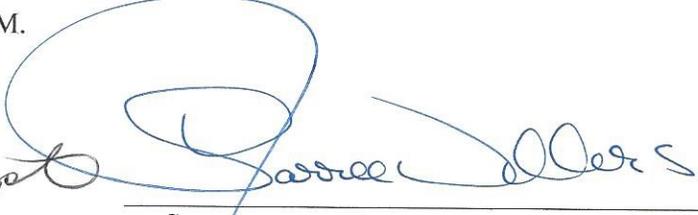
Mr. Angelo and Patrolman Pfaff explained the purpose of the meeting was to hear the appeal of James Deal, owner of the residence at 787 Archer Road. Mr. Deal was seeking relief from Section 511.12 of the Codified Ordinances requiring payment for costs associated with police responding to his property for disturbance and animal calls on September 2, 2013 and September 16, 2013 in the amount of \$250.13. Mr. Angelo explained Ordinance No. 7702-05, Codified Section 511.12 to the Board. If two or more nuisance activities occurred on or with relation to the same premises within a one year period, the resident received a letter from the Police Department that the future police response costs the homeowner would be responsible to pay. The City of Bedford declared a number of actions or conditions as nuisances, and the City would abate these nuisances and assess the costs to the property from which the nuisance originated. These criminal activity nuisances in this case were two at-large dogs and a disturbance call pertaining to fireworks. Patrolman Pfaff explained Mr. Deal's criminal activity has been an ongoing problem and since the September 16, 2013 incident, there were more incidents. He stated it was important to avoid deterioration of all the neighborhoods in Bedford. Mr. Deal was given an opportunity to either pay the fine or bring his concerns before the Board for their consideration. If the Board rejected Mr. Deal's appeal and the fine was not paid, the City would assess the cost of abatement by a lien on Mr. Deal's tax duplicate in order to collect the police response costs.

Mr. Beverly passed out additional information that spoke to Section 951.12 that Mr. Deal attached to his letter to the City Manager. He pointed out ORC 951.12 "Unavoidable Escapes" did not apply; he referred to ORC 951.02 "Animals running at large on public roads", which stated, "*No person, who is the owner or keeper of horses, mules, cattle, bison, sheep, goats, swine, llamas, alpacas, or geese, shall permit them to run at large in the public road, highway, street, lane, or alley, or upon unenclosed land, or cause the animals to be herded, kept, or detained for the purpose of grazing on premises other than those owned or lawfully occupied by the owner or keeper of the animals*". He noted none of the above listed animals were the problem; Mr. Deal owned two dogs which were running at-large.

Patrolman Pfaff reiterated there were more incidents since September, 2013, that Mr. Deal was going to have to deal with in Municipal Court that were not related to the two incidents this evening. He stated every time a Police Officer responded to a resident's home, it was considered a separate call as a nuisance call. Every Police Officer had to write a report and investigate regardless if it were for the same repeated reasons. Mr. Angelo reiterated after two or more nuisance activities had occurred at the same premises within a one year period; charges were filed by a Police Officer. The Board understood the severity of the problem.

The Work Session adjourned at 5:56 P.M.


Chairman


Secretary

The Board of Building Standards met for a Regular Meeting at the Bedford City Hall on Tuesday, October 29, 2013 at 6:00 P.M. The roll was called. Present: Latos, Dardy, Stemple, Lynch. Absent: None. Also in attendance were City Manager Hank Angelo, Building Commissioner Calvin Beverly, Patrolman John Pfaff and Secretary Lorree Villers.

Motion made by Latos seconded by Dardy to approve the minutes of the Regular Meeting of November 9, 2011. The roll was called. Vote – Yeas: Latos, Dardy, Stemple. Nays: None. Abstain: Lynch. Motion carried.

Motion made by Lynch seconded by Latos to elect Mrs. Stemple as the 2013 Chairman. The roll was called. Vote – Yeas: Latos, Dardy, Stemple, Lynch. Nays: None. Motion carried unanimously.

The purpose of the meeting was to hear the appeal of James Deal, owner of the residence at 787 Archer Road, Bedford, Ohio, seeking relief from Section 511.12 of the Codified Ordinances requiring payment for costs associated with police responding to 787 Archer Road, Bedford, Ohio for disturbance and animal calls on September 2, 2013 and September 16, 2013 in the amount of \$250.13 was read by Secretary Villers.

Mr. Deal, land owner of 787 Archer Road approached the lectern to represent himself. He asked if the members received the letter he submitted to Mr. Angelo. Secretary Villers replied, yes. He asked if everyone understood his position. Secretary Villers asked for clarification from Mr. Deal of his position. Mr. Dardy requested Mr. Deal state his position for the record. Mr. Deal stated he did not believe he should be responsible to pay for police calls since the officers were paid enough already for what they do. He said the police response to his house did not take the officers from any important matters they were pertaining to at the time. He believed he did not have to pay the officers extra for doing their jobs. Another issue he has was some of these calls were nuisance calls and they were not legitimate. He added he had not been to the Municipal Court for the dog issue. He felt the dog issue was not pertinent because he had not been found guilty yet. He felt he was going to be found not guilty because the dog issue was all unavoidable escapes [see attached ORC 951.12 Unavoidable Escapes]. He stated the [ORC 951.13] ordinance on Unavoidable Escapes said if your animals escape and you can't stop them and you couldn't control them then the owner was not responsible. He said the owner was responsible for catching the animals back and it was the owner's responsibility to try and avoid the situation from happening again. He said every time the animals got loose it was because they did something that he did not expect them to be able to do. He mentioned one of the dogs broke its collar and got loose and another time his wife did not latch the screen door.

Mr. Angelo requested Mr. Beverly speak to the matter Mr. Deal was proposing. He added Mr. Beverly could clarify for Mr. Deal and the record that ORC 951.12 "Unavoidable Escapes" did not apply. Mr. Beverly explained Mr. Deal's reference to ORC 951.12 "Unavoidable Escapes" also referenced ORC 951.02 "Animals running at large on public roads", which stated, "*No person, who is the owner or keeper of horses, mules, cattle, bison, sheep, goats, swine, llamas, alpacas, or geese, shall permit them to run at large in the public road, highway, street, lane, or alley, or upon unenclosed land, or cause the animals to be herded, kept, or detained for the purpose of grazing on premises other than those owned or lawfully occupied by the owner or keeper of the animals*". He noted none of the above listed animals were the problem; Mr. Deal owned dogs. [Amended by 129th General Assembly File No.26, HB 22, §1, eff. 9/23/2011 Effective Date: 11-03-1978] Mr. Deal disagreed with Mr. Beverly. Mr. Beverly clarified he was referencing the ORC 951.12 "Unavoidable Escapes" information Mr. Deal submitted with his letter to Mr. Angelo, which spoke to ORC 951.02 "Animals running at large on public roads". Mr. Deal said he would like to review the information Mr. Beverly was referring too. Mr. Beverly gave Mr. Deal a copy.

Mr. Angelo and Mrs. Stemple asked Mr. Deal if he had any other comments before the Board moved forward with their motion/vote. Mr. Deal reiterated he still needed to go to Municipal Court. Mrs. Stemple said the Municipal Court's situation was different than what was before the Board this evening. He was present this evening seeking relief from Section 511.12 of the Codified Ordinances requiring payment for costs associated with police responding to 787 Archer Road for September 2, 2013 and September 16, 2013. Mr. Deal replied he had filed a complaint against his neighbors because he felt they were harassing him by illegitimate calls for things that were not true. He stated last week one of his neighbors called the Police Department because they thought he was letting off fireworks. He said he was tapping on his muffler with a hammer.

Mr. Angelo requested Patrolman Pfaff verify the charges that were in front of the Board this evening. The items Mr. Deal was trying to address had nothing to do with why the Board was called for a meeting. Mrs. Stemple clarified the other complaints were of a different matter. Mr. Deal thought it was all the same because this was the type of neighbors he had that called the Police Department. Patrolman Pfaff clarified the facts, figures, and costs were correct. He explained the City of Bedford Police Department had responded to his address for a number of nuisance calls in the amount of \$250.13. The City had the right to assess the costs to do so on the property from which the nuisance originated. He explained the numerous responses to 787 Archer Road were a burden to the City. Mr. Deal stated he did not know the Police Department was so burdened, "ha-ha". Patrolman Pfaff reiterated the facts and figures were correct. Mr. Deal, again, stated he had not been found guilty and this matter was illegitimate. He felt the Police responding to his address and he not being found guilty made it not multiple calls or legitimate calls. Mrs. Stemple stated they were legitimate calls; the Police were repeatedly responding to Mr. Deal's home. The Chairperson clarified, again, the issues this evening were separate issues from those that Mr. Deal was referring to that he still had to address at the Municipal Court.

Patrolman Pfaff explained every time a Police officer responded to his home it was considered a separate call and another nuisance call. The Police officer had to write a report and investigate. Mr. Angelo explained, after two or more nuisance activities have occurred on or with relation to the same premises within a one year period the Codified Ordinances [Section 511.12] apply and that was what the charges were based on. He asked if there was anything else pertaining to this issue he wanted to bring before the Board. Mr. Deal stated he had a hearing disability and a mental disability which he believed made a lot of difference. Mr. Angelo replied that was not why he was here this evening; the focus was Mr. Deal's appeal. Mr. Deal, again, stated he had a hearing disability and a mental disability. He stated he had no other comments.

Mr. Deal did not understand the motion to accept his appeal. Mr. Latos clarified for Mr. Deal the Board was going to make a motion to either accept or reject his appeal.

Motion made by Lynch seconded by Latos to accept the appeal of James Deal, 787 Archer Road, Bedford, Ohio. The roll was called. Vote – Yeas: None. Nays: Latos, Dardy, Stemple, Lynch. Motion failed unanimously.

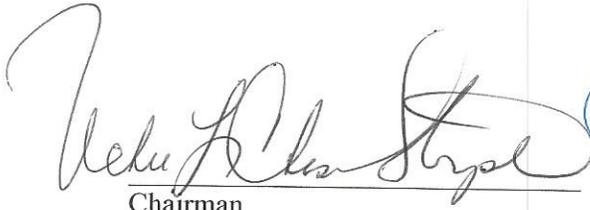
Secretary Villers told Mr. Deal his appeal was not approved. Mr. Deal replied he had the right to appeal this to a higher Court. Secretary Villers replied that was his right if he chose to. Mr. Deal said he was going to appeal the decision of the Board this evening. He asked how long he had to take action. Mr. Angelo did not believe there was time limit because it was a civil matter at this point. Mr. Angelo briefly explained Mr. Deal would have to hire his own attorney.

[Mr. Angelo confirmed with Secretary Villers a letter would be sent to Mr. Deal stating the appeal was denied and the charges were in the amount of \$250.13. An ordinance would be before Council at the November 4, 2013 Regular Council meeting.]

ADJOURNMENT

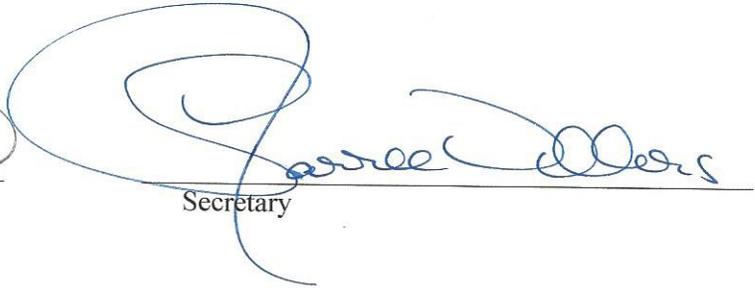
There being no further business to come before the Board, it was moved by Latos seconded by Lynch to adjourn. The roll was called. Vote – Yeas: Latos, Dardy, Stemple, Lynch. Nays: None. Motion carried unanimously.

Meeting adjourned at 6:14 P.M.



Velu R. Stemple

Chairman



James D. Latos

Secretary