

BEFORE THE LAKEWOOD BOARD OF ZONING APPEALS

In re: 1327 Bonnieview Avenue

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Complete transcript of audio CD of hearing held before  
the Lakewood Board of Zoning Appeals on October 15,  
2009.

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BOARD MEMBERS:

Mary Breiner

Jennifer Matousek

Thomas Monahan

James Nagy

Ryan Nowlin

ALSO PRESENT:

Kevin Spellacy, Esq.

Robert Apanasewicz, Asst. Bldg. Comm.

Kevin Kelley, Bldg. Department

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1 UNIDENTIFIED SPEAKER: Docket 09-25-09,  
2 1327 Bonnieview Avenue. (Unintelligible.)

3 MR. SPELLACY: Kevin Spellacy on behalf  
4 of Oak Tree Manor Apartments, LLC and (unintelligible).  
5 If I could, first of all, I'd like to thank -- say thank  
6 you for our opportunity to (unintelligible) from a prior  
7 meeting and give us a chance to sit down with the city  
8 and talk about this matter and see if there was any  
9 potential resolution. We did that on October 1st, where  
0 we sat down in the same room. We were able to discuss  
1 what we believe -- I guess our positions to these  
2 weren't successful, in my opinion, resolving the matter  
3 at all.

4 The negotiations -- not negotiations,  
5 the discussions continued up until probably 5:30 this  
6 evening in an attempt to resolve some of these issues.  
7 It's Oak Tree Manor Apartment, LLC's position that this  
8 is a continuation of a non-conforming use dating back  
9 prior to when Oak Tree Manor Apartments, LLC was the  
0 owner of this property. The city, per inspections,  
1 disagreed with that. We believe we had legal right to  
2 maintain two offices there, as there had been for some  
3 period of time predating the (unintelligible) and  
4 predating the non-conforming use (unintelligible) which  
5 was adopted in, I believe, 1995.

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5

1 There were a few factors I think that I  
2 just ask the board remember: One being that this isn't  
3 about who the tenants are. What became pretty clear in  
4 our meeting, in my opinion, was that this is -- this  
5 is -- the public sentiment was about who the tenants  
6 were, not the fact -- offices there. I did have a court  
7 reporter here at our last meeting, (unintelligible),  
8 but at that last meeting, 99 percent of the comments  
9 were based on who was living there and disregarded this  
0 entire issue as to really what was -- what we're  
1 supposed to be here talking about, and so that's -- if  
2 the board will remember that.

3 The other thing is this, is that this  
4 isn't exactly a new issue. The city was aware of this  
5 posi -- of this situation dating back to a notice that  
6 was issued at a community meeting held on this very  
7 issue on June 24th, 2009 at 6 p.m. at the  
8 (unintelligible) Center where Lakewood's own stationery,  
9 own public notice said the City of Lakewood recently  
0 learned that Mental Health Services, also known as MHS,  
1 we're relocating individuals and supportive services to  
2 the Oak Tree Manor.

3 Residents and supportive services. This  
4 wasn't anything new, it wasn't new to us in October, it  
5 wasn't new to us in September. This was discussed as

1 far back as June of 2009. So they knew that there is  
2 a -- this was taking place. In an effort to ensure a  
3 smooth transition for its newest residents, a  
4 (unintelligible) meeting had been scheduled. At this  
5 meeting, resident -- representatives from Mental Health  
6 Services will be available to answer questions and  
7 clarify concerns. Mayor Ed Fitzgerald and Councilman  
8 Kevin Butler will also be present.

9 So this whole issue was already  
10 discussed once, and the reason, in fact,  
11 (unintelligible), frankly, is because in my opinion the  
12 same reason, that being that the public sentiment  
13 doesn't like the type of people who live there, not the  
14 fact that there are two offices there. Those two  
15 offices have been there since that building was occupied  
16 by the previous owner. He operated a real estate  
17 business from that -- from those premises. This is a  
18 continuation of a non-conforming use. It's that simple.

19 THE CHAIRMAN: Mr. Spellacy, I'd like to  
20 stop you just for a minute here. I'm gonna read into  
21 the record why we're here. Some people may have the  
22 same opinion that you were talking about here.

23 In the violation notice, it's Point  
24 Number 35, it says businesses -- business uses are  
25 prohibited in an R-2 zoning district, (1123), use must

1 be discontinued or the property must be rezoned to  
2 accommodate this use.

3 In Point 36, no change of occupancy is  
4 permitted to take place until a certificate of occupancy  
5 has been issued, Section 1173 of the zoning code. A  
6 certificate of use and occupancy cannot be issued until  
7 conformance with all elements of the Ohio Building Code  
8 pertaining to the change of occupancy can be  
9 demonstrated. I just wanna get that out there. That's  
10 what we're here about.

11 MR. SPELLACY: Correct. I agree with  
12 you. But that's -- that wasn't what we talked about at  
13 our last -- by any stretch. I mean, the board did, but  
14 the public's comments were simply based on the type of  
15 person that was gonna reside in that apartment building  
16 and that's why I just wanna make sure. And there was  
17 also some idea that people snuck in in the middle of the  
18 night and this was a brand-new issue that we just  
19 learned about in September, which is completely untrue.  
20 And I just wanna make sure the board knew that.

21 The other thing is, as it relates to a  
22 non-conforming use, and that's governed by Section  
23 1149.01 of the Lakewood Codified Ordinances, and it  
24 applies to this. My client has had a lease from  
25 December of 2004 with the previous owner and two offices

1 in that building, to maintain those two offices. They  
2 can say there's not a certificate of occupancy, and I  
3 may tend to agree with them on that, but there's  
4 certainly knowledge, and to suggest that they didn't  
5 know this was happening and suggest that to you, I don't  
6 think is very accurate, frankly.

7 They knew that there were offices being  
8 operated in the structure from the previous owners as  
9 well, is my position, they -- and they actually took  
10 issue with at one point in time, and I think Mr. Kelley  
11 actually did some research on this issue where they  
12 said, hey, look, you can't (unintelligible) -- not  
13 operating a business out of here, you just gotta operate  
14 a real estate -- your own little real estate office for  
15 that building. Well, you can say that's true, but you  
16 gotta look at what they're really doing. If you have a  
17 suite that has, you know, 50 units in it, you need two  
18 suites to operate that building? I don't think so.

19 So they decided, and I'm not suggesting  
20 any of these folks here, but at some point somebody did  
21 decide that they didn't wanna deal with that issue and  
22 that those offices continued to exist. I'm saying that  
23 right now we continue to operate offices in that  
24 building. They did relocate from a fourth floor to a  
25 first floor in an effort to take traffic from going up

1 Those tenants have individual leases, they're going to  
2 stay. And I know the community, the people in the  
3 neighborhood, that's their concern. Frankly, you know,  
4 having worked for the city of a period of time, I think  
5 we're gonna cut off our nose to spite our face.

6 Those people stay, and if we were to  
7 move the services that are there, and they're not  
8 institutional services, I think you'd create a whole  
9 'nother situation that you don't want, but we've  
10 offered -- we've offered to move. We just asked a time,  
11 and the time they wanted, we didn't think was  
12 reasonable.

13 So as such, our next position is we're  
14 gonna go forward, we think we have a legal right to be  
15 there, and we'll take all the options we have including  
16 planning if we have to. Thank you for your time.

17 MR. NAGY: Question, Mr. Spellacy, I have  
18 a question. If I understand you, the use of the prior  
19 office of non-conforming was to solicit tenants for that  
20 building?

21 MR. SPELLACY: No, it wasn't. It was a  
22 real estate office to sell other property, other  
23 properties, and some in that building.

24 MR. NAGY: Right. So what's the use of  
25 your office, your client's office now?

1 and down those areas. But I think the -- not convinced,  
2 frankly, case law's in my favor, that that relocation  
3 does not extinguish the non-conforming use.

4 You know, there was some discussion  
5 about going to planning. Frankly, that option's still  
6 available to us. We've had discussions, frankly,  
7 ranging from, we'll move the two offices. okay, out of  
8 the building, but, frankly, that doesn't solve what the  
9 community wants, right? And my client, the MHS is aware  
10 of that. So somewhere discussions came along the lines  
11 of why don't you give us some time to move those out, we  
12 haven't been able to reach a reasonable period of time  
13 frame. We talked about planning. That deadline  
14 isn't -- I don't think is upon us yet. I think I have  
15 still a couple days.

16 UNIDENTIFIED SPEAKER: Wednesday.

17 MR. SPELLACY: Next week, yeah. So  
18 that's still an option. I mean, you can vote tonight.  
19 I don't know if there's enough information for you  
20 tonight. I can just tell you that I think we have a  
21 solid legal position on behalf of Oak Tree Manor to  
22 continue a non-conforming use, and our negotiations or  
23 discussions have been unfruitful at this point in time.

24 But, again, I'd remind you that the  
25 discussions aren't about moving the people out of there.

1 MR. SPELLACY: Well, that's an  
2 interesting thing. A non-conforming use, you can -- you  
3 don't have to have the identical use to (unintelligible)  
4 non-conforming use, right? So that's probably a better  
5 answer for you.

6 MR. NAGY: So both -- both instances  
7 would be described as a business?

8 MR. SPELLACY: That's a good question. I  
9 would say yes and -- in the strictest terms, yeah. I  
10 mean, one's a non-profit business, but it's still a --  
11 still a business.

12 MS. MATOUSEK: I'm just going to ask,  
13 Mr. Nagy, does that sufficiently answer your question as  
14 to what the offices do currently?

15 MR. SPELLACY: If I could, I could -- I  
16 can expand on that a little bit. The offices -- I mean,  
17 there is some misconception that these folks are  
18 counselors or psychologists or, you know, dispensing  
19 medications and things like that and that -- in this  
20 facility. I think with our meeting with the city, we  
21 were able to demonstrate that's not the case. These are  
22 people on-site who have the ability to answer questions  
23 for people who are moving into the facility who have  
24 either been homeless for a period of time, have  
25 relocated from an abusive relationship from somewhere

else, but there's on-site people (unintelligible) property. They don't dispense medication, they don't offer psychological treatment to them.

The best way to describe, from my understanding, is it'd be no more than like a counselor (unintelligible). They may have other credentials, but they've been -- they've had -- they've had this (unintelligible) in other areas where MHS has told us and they even told the city in our meeting October 1st that this does not qualify (unintelligible) facility, and that their plan is not an institutional-type setting and that their funding isn't based on that in any way, shape or form. I don't know if that answers your question.

MR. NAGY: It does, it expands it.

MR. SPELLACY: Okay.

MR. NAGY: The residents are out there, can knock on his door, get some questions and help with their -- with whatever they need?

MR. SPELLACY: Correct, whether it be from knowing where the bus is to get downtown to how to cook a turkey.

UNIDENTIFIED SPEAKER: Is there property management in all of these offices?

MR. SPELLACY: Not in those two offices.

There's another -- there's a property manager who's on-site in the audience (unintelligible) the property manager who is off-site was there every day as well.

The other misnomer, I should say, was that the property was in bad shape when Carlos Molina, the gentleman who was here with us last time, was sitting with (unintelligible), took over this property, and there was some (unintelligible) about, well, he's not funded well enough to keep up this property. Not that it matters, not that it's relevant or should be relevant to you, but that is completely untrue. He's spent about approximately, according to him anyways, re-invested over \$600,000 and I'd be willing -- I don't know if anybody's done this on the city's behalf yet, but I would have to -- and if this continues, probably will do a public records request to see if the crime polls went up or down. I'm gonna guess they went down since he's installed security cameras, revamped the whole lobby system and has these extra people on-site.

THE CHAIRMAN: Members of the city administration?

MR. APANASEWICZ: Thank you, Mr. Chairman. I guess I take issue with some of Mr. Spellacy's -- or Mr. Spellacy's account of the use of this space. He does actually point out that the

space was moved a couple floors down, the space was altered without permits, the -- he also makes the point that the city did confront the prior owners apparently with their operating an office out of this facility. In their own writing, which Kevin Kelley does have a copy of, they contend that the use is accessory to apartment use and that it was their intention never to run a real estate business out of this location.

I'd also like to point out that -- that this is a 24-hour operation. Clearly it's an expansion of anything that would be considered non-conforming, which, again, is prohibited under the zoning code, so we take no issue with the residents, we take no issue with the condition of the property. This is clearly a matter for the zoning code. The first issue is, is this is not a permitted use. It's -- we don't consider it an existing use. At best, a leasing office would be considered accessory to the primary use, which is an apartment, and even the apartment use in this zoning district is non-conforming. So any expansion of the use is prohibited under the zoning code.

UNIDENTIFIED SPEAKER: Yes.

MR. APANASEWICZ: Mr. Kelley can give a run-down of our inspection of the property.

MR. KELLEY: Kevin Kelley, building

department (unintelligible) division. On July 22nd I received an inspection request to investigate a complaint at 1327 Bonnieview Avenue concerning the common -- combining the two residential apartments, units for use as a business. I called Vanguard Properties and politely scheduled an inspection for the following day, and at 11:30 on Sept -- July 23rd we met at the property.

Before that I checked the file to see if there was any evidence of any permits for opening up the wall or any issuances of certificates of use of occupancy for that new office space and there was not. On 7/23 I met Mr. Shepard and Mr. Cook at the property and we proceeded into Suites 110 and 112. There I observed the door opening fed into the suites, basically in adjoining living rooms, and that both of the units had been combined to house an office for Mental Health Services.

I spoke with staff persons who were, again, very polite in the office. They indicated the office was gonna be operating 3 shifts on a 24-hour basis with a total not to exceed 14 people. I walked through both units and found offices set up in all four bedrooms with no beds. Desks and office equipment set up in the living room areas. I took photos of all the

1 areas and thanked Mr. Shepard and Mr. Cook and the MH  
2 staff for their cooperation.

3 On 8/3/09, I sent the correction notice  
4 that you have out there which specifically states, and  
5 I'm not gonna read through it again, the violations,  
6 first one dealing with business' uses are prohibited in  
7 R-2 zoning district, Section 1123 is the use must be  
8 discontinued or the property must be rezoned to  
9 accommodate the use.

10 Item 36, no change of occupancy is  
11 permitted to take place until a certificate of occupancy  
12 has been issued. That's Section 1173. A certificate of  
13 occupancy and use cannot be issued until conformance  
14 with all elements of the Ohio Zoning Code pertaining to  
15 the change of occupancy can be demonstrated, and has yet  
16 to be done at this point.

17 And researching the file a little bit,  
18 we found that -- if I can explain our inspection  
19 processes through annual as well as certificate of  
20 occupancy inspections, when the property transfers,  
21 we view 25 percent of the units randomly throughout,  
22 and the only time I found that Suite Number 110 came up  
23 was back in 1991, inspected by Sel Kulcsar, who's now a  
24 building commissioner in Fairview Park, on April 4th,  
25 '91. On that annual inspection, Suite 110 indicated it

1 I will reply as quickly as possible. On the matter of  
2 the fire separation between the units, Mr. Coleman has  
3 suggested we install a door which will meet the one-hour  
4 requirements. Please let me know if this idea is  
5 acceptable.

6 That's basically where it stood and it  
7 was neutralized at that particular point. But that was  
8 dealing with Suites 202 and 204.

9 UNIDENTIFIED SPEAKER: (Unintelligible.)  
10 MR. SPELLACY: Mr. Chairman, can I  
11 respond briefly?

12 THE CHAIRMAN: Sure.

13 MR. SPELLACY: That may all be true, and  
14 I guess it is, I'll take -- I'm taking your word for it.  
15 But what's interesting is that they're told something by  
16 somebody and they didn't do anything but take their word  
17 for it.

18 In 2004 when they no longer owned that  
19 building and leased a separate office, a separate  
20 (unintelligible) -- continued to conduct their real  
21 estate business from there. That's what happened there.  
22 That's the fact of the matter.

23 The truth is they operated a real estate  
24 business out of there, and if I could enter this in the  
25 record, this is the lease they entered into in 2004 for

1 was okay. In other words, it was not opened up, it  
2 wasn't used as a business use (unintelligible).

3 In relating to the previous 1993  
4 complaint for Suites 202 and 204, inspector at that time  
5 Tom (unintelligible), cited the property owner at that  
6 time, and Madison Development Company that worked for  
7 the owner at that time replied in a letter dated July  
8 12th, 1993. I think this gives a little perspective  
9 here.

10 It says, Dear Mr. (Unintelligible), I  
11 received your letter on July 9th, 1993 regarding our use  
12 of suites, Oak Tree Manor. I'm sorry I was not present  
13 to give you more information about the circumstance.  
14 Units 202 and 204 are used as office space for the  
15 direct management of Oak Tree Manor. Rents are  
16 collected, maintenance (unintelligible) and all other  
17 activities normal to managing a sizable building is  
18 handled in the office we visited.

19 Both the owner, George Coleman, and I  
20 are (unintelligible) aware of the problems that can  
21 arise because of (unintelligible) ownership and have an  
22 issue which I understand is a current problem in the  
23 City of Lakewood. That's July 12th, 1993.

24 Should you require additional data about  
25 our use of the space in connection with Oak Tree Manor,

1 Suite 416. So there's always been a business in this  
2 building. They can -- they can turn a blind eye to it  
3 and say it didn't exist or they take their word for it,  
4 but maybe they didn't -- maybe back in that year, 1994,  
5 they didn't do their due diligence, 'cause in 2004, they  
6 entered into a long-term lease and continued to operate  
7 that same business.

8 UNIDENTIFIED SPEAKER: Was that copy ever  
9 provided to the city?

10 MR. SPELLACY: I made them aware of it.

11 UNIDENTIFIED SPEAKER: No, I mean in  
12 2004.

13 MR. SPELLACY: I have no idea. And I've  
14 also -- Mr. Chairman, if I can put this into the record.  
15 This is the -- I've asked the city to respond somehow.  
16 This is their meeting notice going back -- what was  
17 going on in that building back in June of 2009.

18 MR. APANASEWICZ: Mr. Chairman, couple  
19 additional points. Citation 2 is lack of certificate of  
20 occupancy issued for this. I'd like to point out to the  
21 board that the purpose of a certificate of occupancy is  
22 to protect the holder from the actions of the city. If  
23 the city had issued a certificate of occupancy back in  
24 2004 for these -- this space, we wouldn't be here  
25 tonight. That certificate is intended to protect the

holder from the actions of the city.  
 If the holder or potential holder isn't exercising their responsibility as a citizen, I mean, I can't be responsible for that. As far as knowing about it in June of 2009, I'd like to say the building department has performed its due diligence concerning this matter. We've taken considerable time to research it, to inspect it and to appropriately cite it. So any indication that somehow back in June (unintelligible), we ignored it and that, therefore, entitles the owner to operate this business illegally, in my opinion, is not valid.

This business was, if it was operating in -- prior to June of 2009, was operating illegally and the zoning code is the only method to allow a legal non-conforming use to continue. Thank you.

THE CHAIRMAN: Is it safe to say that from 1993 to this year, nothing -- the building was not inspected at all?

UNIDENTIFIED SPEAKER: Kevin --

MR. APANASEWICZ: Kevin, do you have the --

UNIDENTIFIED SPEAKER: Inspection records.

MR. KELLEY: (Unintelligible) a complete

earlier question, there has been some inspections.

UNIDENTIFIED SPEAKER: Could we have your name and address for the minutes, please?

MR. SHEPARD: Dan Shepard, Vanguard Properties, 13540 Detroit, Lakewood, Ohio.

UNIDENTIFIED SPEAKER: Thank you.

MR. SHEPARD: You're welcome.

UNIDENTIFIED SPEAKER: Mr. Chairman, looks like we have several complaint inspections, some records of summonses and there are some permits for, looks like, some minor electrical work. The board is welcome to view the file, if you'd like. Maybe that would be the best way to get the information you need.

UNIDENTIFIED SPEAKER: Mr. Spellacy, this exhibit you submitted here, I have a question about it. Notice of June 24th from the city, can I infer from this that you're submitting this because the city then somehow acquiesced what was going on?

MR. SPELLACY: I think it's important for the other persons to review this matter that they know that this property, it was known what was happening, and I think the course -- the change of course, again, as I tried to allude to, is the fact that there's (unintelligible) a tenant issue.

UNIDENTIFIED SPEAKER: Specific with the

inspection concerning the exterior in May of 2008 which was resolved.

THE CHAIRMAN: I'm interested in this \$600,000 in improvements that Mr. Spellacy said they made in the building. They do that without a permit?

MR. APANASEWICZ: There's nothing in the file that would indicate any permits were obtained in that period of time unless there were -- of course they could be cosmetic, which wouldn't necessarily require a permit.

THE CHAIRMAN: Well, can you describe what they were, please?

UNIDENTIFIED SPEAKER: I was not there for the entire time, but I understand carpeting, painting, suite preparation, appliances. That's the best of my knowledge at this time. (Unintelligible) improvements, cameras and hardware, (unintelligible) doors. Parking -- parking lot was re-surfaced once, patching, striping with exterior work done, was also in violation (unintelligible).

MR. SHEPARD: Mr. Chairman, taking over building commissioner (unintelligible), it looks like there's an inspection every year for different purposes so far as into 2006, and I know that these files go to microfilm after a couple of years, so to answer your

words supportive services?

MR. SPELLACY: (Unintelligible.)

UNIDENTIFIED SPEAKER: But I'm struggling, how does that translate into offices?

MR. SPELLACY: I think they knew it back then.

UNIDENTIFIED SPEAKER: But supportive services could have been provided in each tenant's suite.

MR. SPELLACY: I agree, and you know what? Those offices can move out tomorrow, (unintelligible) supportive services could be there in a different fashion. The fact of the matter is, I'm just saying that the offices existed. They took off with -- they took over existing offices, existed in the building and moved them to the first floor making it more accessible for the tenants and less disturbing for the rest of the building, instead of having them on the fourth floor as the management company was, but wasn't in charge of leasing the space in that building, moved to the first floor. Supportive services are just (unintelligible).

UNIDENTIFIED SPEAKER: And they expanded it.

MR. SPELLACY: They expanded what, the

1 offices? No, there was two -- two build -- two  
2 apartments were dedicated to offices. We've had the  
3 same two -- they never expanded into a third office,  
4 it's always been two.

5 UNIDENTIFIED SPEAKER: But they've linked  
6 them.

7 MR. SPELLACY: And they were -- they were  
8 linked at one time or another as well on the other  
9 floor. You're correct, they did not (unintelligible) on  
10 the first floor.

11 THE CHAIRMAN: (Unintelligible.) City  
12 have anything else to say?

13 UNIDENTIFIED SPEAKER: No.

14 UNIDENTIFIED SPEAKER: Before I  
15 (unintelligible) on two violations, (unintelligible)  
16 tenants, occupancy or the use of building, just the use  
17 of the two offices, (unintelligible) a second motion,  
18 (unintelligible) submit it. Motion's denied or motion  
19 (unintelligible). Mr. Chair?

20 MS. MATOUSEK: I move to deny the appeal.  
21 We have to do two, correct, Mr. Chairman?

22 THE CHAIRMAN: Right. So the first one  
23 would be a motion to deny Item 35, business uses are  
24 prohibited in R-2 zoning district, Section 1123. Use  
25 must be discontinued, the property must be rezoned to

1 apartments have been converted to businesses  
2 (unintelligible) -- in fact, Mr. Spellacy admitted it  
3 (unintelligible).

4 UNIDENTIFIED SPEAKER: Also note back in  
5 Ordinance 7301, certificate of use and occupancy should  
6 be (unintelligible) commissioner according to the  
7 following including any change of use of a  
8 non-conforming use. I'd like to say that the use -- the  
9 prior use was not conforming in change of non-conforming  
10 use, is that correct for the record?

11 UNIDENTIFIED SPEAKER: Yes, sir.

12 THE CHAIRMAN: (Unintelligible.) Motion  
13 to deny, all in favor, aye?

14 MS. MATOUSEK: Aye.

15 UNIDENTIFIED SPEAKER: Aye.

16 UNIDENTIFIED SPEAKER: Aye.

17 THE CHAIRMAN: All opposed? It carries.  
18 Okay. On second -- motion for second item, is it 36,  
19 which is no change of occupancy is permitted to take  
20 place until a certificate of occupancy has been issued,  
21 Section 1173, a certificate of use and occupancy cannot  
22 be issued until conformance with all elements of the  
23 Ohio Building Code pertaining to the change of occupancy  
24 can be demonstrated.

25 MS. MATOUSEK: I move to deny the appeal

1 accommodate this use. (Unintelligible) motion. Any  
2 second?

3 UNIDENTIFIED SPEAKER: (Unintelligible.)

4 THE CHAIRMAN: (Unintelligible) second.  
5 There any discussion?

6 UNIDENTIFIED SPEAKER: We required to  
7 make findings as well?

8 UNIDENTIFIED SPEAKER: Yes, yes. Also  
9 just for clarification on the record, is the motion to  
10 deny the appeal in upholding the commissioner's decision  
11 as --

12 MS. MATOUSEK: That's correct.

13 UNIDENTIFIED SPEAKER: Okay.

14 MS. MATOUSEK: We're upholding  
15 (unintelligible) decision issue a correction notice.

16 UNIDENTIFIED SPEAKER: It -- yes, I think  
17 it would be appropriate then to state any facts  
18 supporting your decision and the vote.

19 THE CHAIRMAN: As part of the motion,  
20 part of discussion maybe?

21 UNIDENTIFIED SPEAKER: Part of the  
22 discussion.

23 UNIDENTIFIED SPEAKER: Okay.

24 UNIDENTIFIED SPEAKER: Mr. Chair, it's my  
25 opinion that it's almost (unintelligible) that these two

1 regarding Line Item 36 and uphold the commissioner's  
2 findings that the correction notice was properly issued.

3 MR. NAGY: I second.

4 THE CHAIRMAN: It's been moved and  
5 seconded. Discussion -- (unintelligible) discussions  
6 with this, we have -- their opinion is substantially why  
7 we (unintelligible).

8 UNIDENTIFIED SPEAKER: I note that my  
9 prior comment was probably more directed to this  
10 particular issue, so I reiterate (unintelligible)  
11 1173.01, Subsection B.

12 THE CHAIRMAN: I think it's been denied  
13 finally that the owner of the building did not see fit  
14 to (unintelligible) of occupancy, at least two suites  
15 (unintelligible). Okay. All in favor of denying Line  
16 or Item 36, all in favor, aye?

17 MS. MATOUSEK: Aye.

18 UNIDENTIFIED SPEAKER: Aye.

19 UNIDENTIFIED SPEAKER: Aye.

20 THE CHAIRMAN: All opposed? It's denied.  
21 At this point, we will take some public comment, if  
22 people wanna comment. Nobody wants to comment?

23 MR. BROOKS: I'd like to say, just one of  
24 the things off the Oak Tree Manor --

25 THE CHAIRMAN: (Unintelligible) and

1 address, please, sir?  
 2 MR. BROOKS: Harper Brooks, 1315  
 3 Bonnieview. And I'm concerned if offices would move in  
 4 there, you're gonna need more parking, and it's very  
 5 tight now, parking on all the street, so that's another  
 6 consideration (unintelligible).

7 UNIDENTIFIED SPEAKER: Can cross that  
 8 bridge when we get to it.

9 MR. BROOKS: Right.

10 THE CHAIRMAN: Okay. Thank you.

11 MR. BROOKS: Thank you.

12 THE CHAIRMAN: Sir?

13 MR. BUDGE: I'd just like to make a quick  
 14 comment. My name is David Budge. I live at 16935 Lake  
 15 Avenue. I spoke the last time (unintelligible), and my  
 16 comment is just simply that, you know, -- the residents  
 17 of the neighborhood's main focus has never been  
 18 (unintelligible), and it's hard to look at what's being  
 19 proposed or what's going in that apartment building not  
 20 saying (unintelligible) change of use, and, you know,  
 21 that, by its very nature, I think, makes this argument  
 22 that a non-conforming use shouldn't be allowed to  
 23 continue (unintelligible) I think because it's a  
 24 non-conforming use, and there's been a change in use, it  
 25 has to be stopped. So that's just my comment.

1 THE CHAIRMAN: Thank you, sir. Anybody  
 2 else?

3 MR. BUTLER: Mr. Chair?

4 THE CHAIRMAN: Three minutes.

5 MR. BUTLER: Kevin Butler -- many years I  
 6 (unintelligible). 175 (unintelligible). Mr. Spellacy  
 7 alluded to 90-some percent of the comments made at the  
 8 last meeting by those in the audience, (unintelligible)  
 9 city, not the members of the board here.

10 UNIDENTIFIED SPEAKER: You're guilty by  
 11 association.

12 MR. BUTLER: He alluded to the fact that  
 13 all those comments were about the residents, not the  
 14 actual (unintelligible). I wanted just to announce  
 15 (unintelligible), announce this to you that on October  
 16 27th, Tuesday at 7 p.m. at St. James Church in Andrews  
 17 Hall (unintelligible), I will be hosting a meeting  
 18 wherein residents can voice their concerns about  
 19 anything going on in the neighborhood and I'll try to  
 20 have Officer (unintelligible), our police officer here  
 21 (unintelligible). Thank you.

22 THE CHAIRMAN: Thank you.

23 MR. BUTLER: Thanks for your time.

24 THE CHAIRMAN: Anything else?  
 25

CERTIFICATE

1  
 2  
 3  
 4  
 5 The State of Ohio, )  
 6 County of Lorain. ) SS:

7  
 8  
 9 I, Jennifer E. Mounsey, do hereby certify that  
 10 this is a correct transcript of the audio CD of  
 11 proceedings on October 15, 2009.

12  
 13 IN WITNESS WHEREOF, I have subscribed my name  
 14 this 23rd day of March, 2010.

15  
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 17  
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 21  
 22  
 23 \_\_\_\_\_  
 24 Jennifer E. Mounsey, R.P.R.  
 25 Clark-Mounsey Court Reporters  
 589 W. Broad Street  
 Elyria, Ohio 44035  
 (440) 323-3381  
 My commission expires 7/1/13