

**City of Ellsworth  
Board of Appeals Minutes  
October 22, 2018**

The regular meeting of the Ellsworth Board of Appeals was attended by Members Jeffrey Toothaker, Steve Salsbury, Jeff Clark, Bruce Sawyer and Jarad Wilbur. Also in attendance were Code Enforcement Officer Dwight Tilton and City Attorney Edmund Bearor.

Call to Order  
[6:35PM]

1. **ADOPTION OF MINUTES:** from the March 26, 2018 and July 9, 2018 meetings. Mr. Salsbury motioned to adopt the minutes as written. Bruce Sawyer seconded the motion. The motion passed with all Members in favor.

Adoption of Minutes

2. **OLD BUSINESS:** None

Old Business

3. **PUBLIC HEARING AND CONSIDERATION:** Request of Judith H. Blood who is appealing the issuance of a permit to Webber Oil/Webber Development Corporation to demolish the old Ticonic/Ellsworth Community Center building located at 10 Bangor Road, (Tax Map 143 lot 4) in the U (Urban) zone.

Administrative appeal from Judith H. Blood regarding the demolition of the Ticonic / Ellsworth Community Building

**EXHIBITS:**

1. Judith H. Blood – Appeal Application/packet
  - Two Tax Map’s 143 (Highlighting lot 4)
  - MMA Action Plan (Pages 1 and 2 of 4)
  - City of Ellsworth RFP dated 1-28-2005 (Pages 1-18)
  - Webber Energy RFP dated 4-1-2005 (Pages 1 and 2)
  - Historic Preservation Commission RFP/Historic Properties dated 11-8-2004
  - City Council Minutes from 9-18-1989 Sheet II and December 15, 1986 Sheet III and IV
  - Email stating a signed petition exists
2. Ellsworth Historical Society letter dated 9-13-2018
  - Three black and white early 1900 photos
3. Building permit issued for the demolition of both buildings on Tax Map 143 Lots 2 & 4
  - CES letter dated March 5, 2018 regarding Hazardous Assessment – Ellsworth Falls Grange Hall and Garage (5 pages with backup)
4. City Council Special Meeting minutes of June 6, 2005
5. Quitclaim Deed from the City of Ellsworth to Webber Energy Gasoline

Chairman Toothaker went over the appellant’s submissions. His concern is whether this Board has jurisdiction to hear the appeal and to decide if the City had jurisdiction to issue the demolition permit. Mr. Toothaker acknowledged the Board was aware of Webber Oil’s bidding process, what Webber told the city during the process, what the city proposed for the Ticonic building, and also recognized the deed, which does not outline any restrictions to the grantee.

**APPELLANT PRESENTATION:**

Judith Blood questioned if the Code Enforcement Officer, Dwight Tilton, had the authority to issue a demolition permit for the Old Ticonic building, located at 10 Bangor Road Tax Map 143 Lot 4. During her presentation, Ms. Blood argued that the issuance of the demolition permit was in direct violation of the City of Ellsworth’s RFP and must go before the City Council.

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**CITY'S RESPONSE:**

Chairman Toothaker suggested remanding this back to the City Council. Mr. Bearor agreed with Chairman Toothaker that the Appeals Board is not the proper Board to handle this matter. Mr. Bearor advised Ms. Blood that she could seek redress with the City Council, but the Appeals Board does not have the authority to remand this back to the Council.

**MOTIONS:**

**Chairman Toothaker motioned to stay the proceedings for 6 months, while Ms. Blood takes her petition to the City Council. Mr. Sawyer seconded the motion. The motion passed with four Members in favor and one opposed.**

After the motion, Chairman Toothaker requested Mr. Bearor to draft a document for the either himself or the secretary to sign, indicating the board met and motioned that the City Council review her requests.

**Chairman Toothaker motioned to stay demolition of the building and requires Webber to take no action.** After discussion about whether the Appeals Board has the authority to hear this appeal. **Mr. Salsbury seconded the motion. The motion passed with all Members in favor.**

**ADDITIONAL COMMENTS/ISSUES:**

Glenida Thompson questioned if the appeals board does not have the legal authority to act on this appeal, can the appellant leave the meeting assured that Webber will not demolish the building. Chairman Toothaker said no, if the Board does not have authority to hear this appeal.

Rebecca Maddocks-Wilbur questioned Mr. Bearor that if an asset was entrusted, through a written agreement, and is not being used per the agreement, why wouldn't the City approach Webber. Mr. Bearor quoted from MMA action plan review indicating the property is a fire hazard. He suggested a more definitive process, would be if the Board denies the appeal tonight it would allow the appellant to take the case to Superior Court.

Judith Blood returned to the podium to express her concerns with Webber Oil's verbal agreement to suspend demolition until tonights meeting and without a decision by the Board, the building could be torn down tomorrow and she would not be able to do anything about it.

Chairman Toothaker stated Ms. Blood could amend her petition to allege a violation of the demolition section of the ordinance. Chairman Toothaker asked Mr. Bearor to contact Webber Oil and request them to hold off tearing the building down.

**5. NEW BUSINESS: None**

**None**

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<p><b><u>ADJOURNMENT:</u></b> [at 7:25PM] Mr. Toothaker motioned to adjourn. Mr. Salsbury seconded the motion. The motion passed with all Members in favor.</p>	<p style="text-align: center;"><b>Adjournment</b></p>
<p><b>Date</b> _____</p> <p style="text-align: center;"><b>Steve Salsbury, Secretary Ellsworth Board of Appeals</b></p>	
<p>Board of Appeals Meeting (10-22-2018) streaming on City of Ellsworth Website: <a href="http://www.ellsworthmaine.gov/government/boards-commissions/board-of-appeals">http://www.ellsworthmaine.gov/government/boards-commissions/board-of-appeals</a> Youtube: <a href="https://www.youtube.com/watch?v=N0g6j1HhD4&amp;t=1621s">https://www.youtube.com/watch?v=N0g6j1HhD4&amp;t=1621s</a></p>	

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