

**Village of Pittsford
Architectural and Preservation Review Board
Wednesday August 31, 2016 at 7:00 PM**

PRESENT:

Chairperson: Maria Huot
Members: William McBride
Cristina Lanahan
Erin Daniele
Scott Latshaw (absent)

Village Attorney: Jeff Turner
Building Inspector: Floyd Kofahl
Recording Secretary: Linda Habeeb

Chairperson Huot called the meeting to order at 7:00 pm.

Dave & Tina Mattia, 44 Sutherland Street ~ Demolition

Present: Dave & Tina Mattia, Homeowner; John Schick, Architect; David Duford, Certified Industrial Hygienist, CanAm Environmental Safety; Paul Mahoney, Mary Ellen Holvey, Envoy Environmental Consultants; Steven Nardozi, Rochester Environmental LLC; Richard K Rote, LaBella Associates; Dan O'Brian; Betsy Brugg, Woods, Oviatt, Gilman LLP

Conflict of Interest Disclosure:

Chairperson Huot asked if anyone had a conflict of interest with any of the applications before them, and no one had a conflict of interest to report.

Application: Submitted, date-stamped, and Building Inspector reviewed on 9/22/15.

Discussion: Chairperson Huot stated that this is a Type II SEQR Action under SEQR § 617.5(c)(2). No further action required. She then requested that the applicants present their proposal and introduce the experts that will be joining the discussion.

Mr. O'Brian, attorney for the applicants, stated that the primary objective at this meeting is to address the question of demolition of the existing house located at 44 Sutherland Street.

Discussion: Mr. Schick stated that this is a continuation of an open application from October, 2015 for demolition of the house located at 44 Sutherland Street and construction of a new house on the lot. He reviewed with the Board the previous discussions about the house. He stated that the Mattias had initially planned to renovate the existing house, but discovered that the house has extensive amounts of toxic and nontoxic mold that cannot be fully remediated or resolved without demolition of the house.

He stated that the first issue has to do with the foundation. There is a concrete foundation in the basement that is very small. The first floor construction is a structural concrete slab. So there is a concrete foundation, and then the concrete floor of the crawl space, and then directly above that is the floor of the first floor, which is on a structural slab that is above the crawl space. Concrete will wick moisture and

water. He also presented a diagram of a section of the wall. The first floor wall is built directly on top of that slab, which is the first floor floor, and because there is a brick veneer on the house, there is a cavity between the brick and the exterior sheathing. That area is totally inaccessible unless the entire brick veneer of the house were to be removed. Some of the house has two vapor barriers, one on the inside of the wood framing and one on the exterior. A vapor barrier typically is on the warm side of the house, not the cold side, so it should be on the inside just directly under the wallboard. Even if the entire interior were gutted and all the juts and floor joists were exposed, there would still be areas of the wall directly behind every stud, every header, over every door and window, and the surfaces that are up against the exterior wall sheathing would not be accessible.

Member Lanahan asked Mr. Schick to indicate the location of the vapor barrier. She questioned whether the vapor barrier is on the inside or the outside of the sheathing. Mr. Schick stated that there are parts of the house where the vapor barrier is on both sides. He explained that the intent of a vapor barrier is to prevent moisture from getting into the wall cavity. Once it gets into the wall cavity, depending on the temperature and the humidity, there will be condensation in the wall cavity. He pointed out that even if all the interior wallboard and vapor barriers were removed, there would still be these sections where the vapor barrier would not be able to be removed. He concluded by stating that even if the applicants were to attempt to mitigate the mold in the house, it is so invasive throughout the house that it is next to impossible to successfully mitigate the mold.

Board members questioned Mr. Schick as to how many locations in the house there is a vapor barrier on both sides of the stud. He stated that he didn't know. They also asked whether this situation could be found in the original house or in the addition. He stated that it is in the new construction, in approximately one-third of the house. Chairperson Huot stated that at this point, we don't know which parts of the house have the exterior vapor barrier, and that it is probably on the addition, but not on the original house. Mr. Schick stated that even if the addition were removed, the house is not an architecturally significant home, so that trying to save some portion of the house, and not successfully mitigating the mold, is not a very practical approach. Mr. Turner asked what the total cost would be to demolish the house and then build something such as the applicants are proposing. Mr. Schick stated that he didn't know, but he suggested it would cost approximately \$30,000 or \$40,000 for demolition.

Mr. O'Brien stated that there are two people representing Envoy Environmental Consultants: Paul Mahoney and Mary Ellen Holvey, and they have submitted a number of reports. Mr. Mahoney explained that when he first visited the house in September, 2015, he took samples and found numerous mold spores in the house. He contacted Mary Ellen Holvey, and she took a couple of air samples and tape lifts, which showed high elevations. He stated that in December, 2015, he blew 25 holes in the house. He took 25 two-by-two holes of the plaster and lath and took tape lift samples of the plywood and the two-by-fours upstairs and downstairs. He said that there was only one sample in that entire household that did not come back elevated with mold, and that was the front of the house on the stairwell. Mr. Turner asked Mr. Mahoney whether Ms. Holvey was involved in the process prior to August, 2015. Mr. Mahoney stated that it was either August or September of 2015.

Member McBride stated that at an earlier APRB meeting, Mr. Mahoney and Ms. Holvey claimed that the severity of the mold in this house rates at the highest level that they have seen. He asked if they still would rate the house this way, and they replied in the affirmative. Mr. McBride also stated that in the last six months, this area has been through a severe drought. Mr. Mahoney stated that even during the drought, his business extremely busy dealing with clients with mold problems. Mr. Rote, from LaBella Associates, stated that there are various means by which water, or moisture in vapor form or in a non-liquid form, gets into a space, and that may be a basement or wall, but then there are mechanisms by which that moisture can be transported across or through a structure, and there are various ways that that can happen. The water can

evaporate and become vapor. Vapor can be transported very quickly and easily by air transport methods, by permeation across and through a structure, and then when the temperature drops again and the right conditions are present, that vapor will condense out into water, and that might not even be water at a level that can be seen, but water at a level sufficient for mold to grow. In this fashion, the moisture and mold growth can spread through a structure, even though that water entered at one location, and only periodically. Mold can grow in response to that re-introduction of the moisture in just a matter of a couple of days or even hours.

Mr. McBride asked Mr. Mahoney if his inspection showed an indication of pipe water leaks in the basement. Mr. Mahoney stated that there is no indication of a leak. Mr. McBride then asked whether the inspection showed very moldy damp walls, particularly in the basement, and Mr. Mahoney stated that it did. Mr. Nardozzi stated that currently, there is standing water in the main house, to the right of the garage.

Chairperson Huot stated that any building has moisture, and buildings should be designed to keep water out. She suggested that the building was not maintained properly to prevent this situation. She also noted that the house was occupied for many years, and she questioned the reason that the rate of decay seemed to increase rather suddenly. Mr. Rote stated that his opinion is that there appeared to be evidence of poor drainage around the house, and that may have deteriorated over the years. He also stated that there was evidence of rot at locations where the roof meets the structure, like the dormers, and that suggested potential for water to leak into the building – rainwater, snow melt - at those rotted locations. He pointed out that the house has been vacant for two years and there was no ventilation in the house. He also pointed out that in 1975, houses were constructed to be tighter and more energy efficient, and as a result, there is less ventilation than in homes constructed earlier. Chairperson Huot stated that a house or any structure can be maintained without excessive mold, if maintained correctly, with proper ventilation.

Member Lanahan left the meeting at this time.

Mary Ellen Holvey, Senior Industrial Hygienist, stated that Envoy reviewed the data collected from the sampling event. She stated that there were levels of 66,000 spores per meter cube. She explained that typically, total spore count within a residential property should be approximately 5,000 or less. She stated that there is some moisture source within the wall spaces of the structure that is allowing mold to overgrow. Member McBride asked Ms. Holvey whether in her inspection she found any significant plumbing leaks. She stated that the water is off, and Ms. Mattia stated that the water has been off since September of 2015. Mr. McBride asked if mold can continue to grow without a moisture source. Ms. Holvey explained that mold needs moisture to continue to grow, and if there is no moisture whatsoever, it will eventually stop its path. Member McBride noted that the last year has been extremely dry. He asked if the humidity can cause the mold to increase, and Ms. Holvey answered in the affirmative.

Mr. Turner questioned Ms. Holvey as to when she first was in the house, and she stated October, 2015. He then asked if she would agree that a visual inspection is considered the most important step in identifying a possible fungi contamination problem, and she answered in the affirmative.

Richard K. Rote, LaBella Associates, stated that he reviewed the reports and documentation that were prepared by Envoy and Dr. DuFord, and submitted a report in response to Mr. Duford's conclusions. He stated that there are multiple sources of water and moisture, not just simply water in liquid form, but also moisture infiltration into the house. With the condition of the structure's being closed up, with no ventilation, during those times when the temperatures oscillate, these are excellent conditions for moisture, primarily in vapor form, to spread throughout the structure.

Chairperson Huot questioned whether the spores and mold can return to a house that has been remediated, and Mr. Rote responded that the potential for it to return remains. He stated that in reviewing the documentation related to this house, his conclusion is that the contamination is so pervasive throughout the structure that one would literally have to take all the walls and ceilings off to expose all the interior framing and remove all the contaminated material and clean the framing, and yet leaving those inaccessible spaces that were discussed earlier. And there could be post-remediation transport of those moldy materials and spores.

Mr. Turner asked Mr. Rote if he would agree that the visual observation of mold growth is a conclusive method of providing evidence of mold contamination, and he answered in the affirmative, stating that it will clearly provide evidence of contamination.

The homeowners have received a price to mitigate the mold of \$94,695 from Steven Nardozi, of Rochester Environmental. The cost for restoring the house to "pre-loss condition" with "in-kind" materials, once the mitigation is complete, is \$250,500. He explained that the total cost to mitigate the mold, coupled with the poor design and construction of the 1975 addition, the limitations of the unusual construction details in the existing basement and crawl space, as well as the lack of general architectural detail on the house, make demolition and new construction a sensible solution to pursue. He said that the degree of mold in the house overwhelms any attempt to mitigate and renovate the house.

Member McBride questioned whether the applicants have insurance to cover the remediation expenses. Ms. Mattia explained that they have insurance, but it does not cover mold remediation.

Mr. Kofahl stated that he is the current Code Enforcement Officer for the Village of Pittsford. He stated that on February 26, 2016, he met with Mr. DuFord and Mr. Mahoney at 44 Sutherland Street, and at that time, did a visual inspection of the property. He further explained that prior to visiting the site, he was required by the applicants to sign a waiver because of what was considered the existing conditions, stating that he would agree to wear any apparatus that they provided for safety reasons. He stated that when he arrived at the house, the only thing he was given to use was the standard white mask, and all the participants entered the house and did not use any type of protective gear. He explained that they were in the house for approximately one hour, and he has some photographs and information from the file that he had reviewed.

Mr. Kofahl stated that at the time, his observation was that there were two areas where there was visual evidence of mold: one was in the addition behind the garage, the family room, as it's been labeled, and down in the basement, and at that time, the walls had penetrations already there. He checked those and the insulation again because of the concern of moisture, and he verified in his inspection that he saw the double vapor barrier and that was an obvious concern because that is not a design that is an allowed practice. There was evidence on the newer construction of the double vapor barrier. He stated that he did see evidence of mold in the family room on the back of the drywall. At that time, he did not notice any problem with the air quality in the house, and did not have any breathing problems. He stated that at this point, his opinion was that the house was still livable. He did not find any violations on the property. He then requested to revisit the site to try to check some more specific areas that were referred to in the Envoy report.

Mr. Kofahl stated that he returned to the house in April, 2016, and Ms. Holvey accompanied him to walk through the house. Both he and Ms. Holvey wore appropriate masks for most of the walkthrough at that time. He stated that he was specifically attempting to find the areas that were shown in the Envoy report that was submitted to the Village. At this time, he could not find any visual evidence of excessive mold. What he did witness both times was that there was moisture, particularly in the crawl space area, and then

a little bit of wicking evidence in the basement of the full scale basement. He explained that he did not witness any moisture or evidence of water damage on the drywall areas or the first and second floors of the house, with the exception of the garage. There were a couple areas in the garage, particularly immediately to the left of the man door, and the garage doors had some rot.

Mr. Kofahl reported that when he inspected the house in the last week of August, 2016, he was amazed that there was an extreme acceleration of visual mold at the property. He stated that he would use the word "extreme," in that what he saw put him in an awkward situation, because he will now have to issue a violation notice, and an order to not inhabit the facility based on the current condition. He said that the house has gotten to the point where his observation has shown that it is not habitable in the condition that it is in today. There was substantial water in the full basement area, standing water on the floors, as well as water in the crawl space area. He stated that he didn't determine the source of the water.

Member McBride asked if it is all new mold that he observed, versus the last visit to the house in April, 2016. Mr. Kofahl stated that it is new mold and that it is in multiple locations in the house. He further stated that there were several windows that were cracked open and a concern with that is that they were opened because the odors in the house had become so strong. He stated that the roof area dumps right next to the building structure, and there were many areas of the gutter that were full of needles, which obviously is another contributing factor to moisture getting into the house. There are no outlines or splash blocks or a connection to a storm system. There were some interior walls that had water damage, and it was impossible to visually understand how they were as wet as they were, but it definitely contributed to the accelerant of the mold condition. He said the damage is severe and there is a substantial white growth in the basement to the point where it was as thick as four inches. There were many areas that were visually water damaged. Chairperson Huot stated that there are walls that currently are wet that previously were not wet, and that it is difficult to figure out how the walls got wet. Mr. Kofahl stated that is correct, and noted that the gutters are not being properly maintained.

Mr. Kofahl also stated that wood construction in contact with the concrete is an extremely common design. One would be hard pressed to find any house that doesn't have the wood connected to the concrete. The construction of concrete above concrete is very unusual, but they do still build homes on slab, and then put wood floors on them. That still is an acceptable design by New York State Code. But the issue of the double vapor barrier is a very legitimate concern. That design should never have passed a building permit or a code review.

Mr. Kofahl also noted that the air quality in the house at the last inspection was such that he had breathing problems and he had to use an inhaler. Member McBride asked Mr. Kofahl if he was planning on condemning the property, and he replied that in his opinion, it is not condemnable, but it is not habitable. He further stated that because of his position and the codes, he will have to issue a violation notice in order to remedy, and the applicant or the owner of the property will respond accordingly. They will have to respond to that order within ten days because of the condition of the house now, not because of the conditions he saw in February and April. He stated that the things that were mentioned about the exterior grading, the gutters not being maintained, and the downspouts not being maintained are all contributing factors that will be part of the Notice of Violation issuance. Member McBride asked Mr. Kofahl his opinion as to whether the house can be remediated at a reasonable cost. Mr. Kofahl replied that he is not in a position to clarify "reasonable," but his opinion is that it can be remediated.

Mr. Turner asked Mr. Kofahl if, when he visited the house in April, 2015, the house was habitable, and Mr. Kofahl replied that in his determination, the house was habitable in April of 2016. He also asked Mr. Kofahl if he was able to review the August 5, 2015 Envoy report, which referred to visible fungi overgrowth throughout the basement and building materials, essentially the first floor, second floor, and garage. Mr.

Kofahl stated that he had reviewed the report. Mr. Turner asked Mr. Kofahl if he observed this when he visited the house in February and April of 2016, and he stated that he did not. Mr. Turner asked Mr. Kofahl who went into the house with him in February, and Mr. Kofahl responded that the consultant, Dr. Duford, and Envoy representative, Paul Mahoney, entered the house with him at that time. He further stated that no one wore any protective gear during the visit in February, 2016. Mr. Kofahl also stated that during the conversation, Mr. Mahoney had made the comment that "I'd move into this tomorrow."

Mr. Turner asked Mr. Kofahl what precautions he would take if he were concerned about mold blooms and spread in a house. Mr. Kofahl responded that he would use a proper cleaning product and wipe down the areas and then take proper maintenance steps, such as getting the water on the outside of the house to run away from the house so that there would not be a moisture issue with the topography of the house. Also, he stated that in this situation, he would have addressed the waterproofing on the exterior side of the foundation and cleaned up those two areas. He further noted that the power is not on in the house, so that dehumidifiers wouldn't work.

Mr. Mahoney stated that it is not a requirement to wear a respirator when dealing with mold. PPE is personal protective equipment. He further claimed that he wore a respirator in the house, but took it off to speak. He stated that he was in the house for only about five minutes. And he also stated that he never made the statement that he would live in the house.

Ms. Holvey stated that the mold has been there since she first visited the house, and she has the data to support it. Mr. Turner asked if it was her position that there was visible fungi overgrowth throughout the basement, the first floor building materials, the second floor building materials, and the garage building materials in August of 2015 and have existed since then. Ms. Holvey replied in the affirmative. Mr. Turner questioned Mr. Kofahl as to whether he had photographs from either February or April, 2016, and he replied that he did take photographs of the house at that time, and that he can provide copies to anyone who wishes to have them.

Dr. Duford stated that he is a certified industrial hygienist and certified hazardous materials manager. He stated that he is a certified mold risk assessor and that his company, CanAm Environmental Safety, is a licensed mold risk assessment agency. He stated that he visited the house in November 2015 and February of 2016. He presented slides of what he observed at those times. He stated that he reviewed the documentation, conducted a site inspection, collected air samples, and brought another contractor to put together a cost estimate to remediate, which he provided in his submitted report. He explained that air samples, tape lift samples are not a good way to make an evaluation. The evaluation should be based on what is visually seen, because tape lifts and air samples can confuse the issue and are not very accurate.

In summary, Mr. Duford's report concluded that based on industry standards and practices, his opinion is that the property is better suited for full remediation, based on the lack of evidence of structural deterioration requiring condemnation. He further concluded that the proposal for total demolition, predicated on unqualified assessment, incorrect sampling methodology, and improper analytical interpretation by the applicants' experts, as well as the presumption of extensive toxic growth, seems excessive and unfounded.

Chairperson Huot questioned how these two experts could have such opposing views. She asked the applicants whether they had had an inspection prior to purchasing the house. Ms. Mattia stated that they had an inspection contingency attached to the original contract and during negotiation, the contingency was removed because they assumed that the mold could be cleaned. Mr. O'Brien stated that a letter from Dennis Harnishfeger, a home inspection contractor, was submitted for the record, which letter indicates that a standard home inspection in a real estate transaction in this area would not include a mold

investigation. He also stated that even though Dr. Duford states that he didn't see any mold, that doesn't mean that it doesn't exist. Mr Rote added that maybe Mr. Duford was looking for black mold in the wall cavities, but there was white mold, possibly Cladosporium, in the wall cavities.

Mr. Turner asked Mr. Kofahl whether he knows what white mold looks like, and whether he generally looks for it. He stated that he uses a flashlight and angles it in multiple directions to see the mold. He said that when he visited the site in February and April, he did not find mold, but today, he saw mold. Mr. Duford also stated that the photographs he submitted showed white, fuzzy mold, which is quite common.

Mr. O'Brien asked Mr. Duford if analyzing air samples is a good way to make a determination as to whether or not there is mold contamination. Mr. Duford replied that air samples are one tool out of many to use when making a determination. Elevated air samples, alone, do not indicate pervasive mold in a house.

The homeowner, Mr. Mattia, thanked the Board and stated that he is frustrated because they have owned the house for over a year, and there has been no resolution to this situation. Ms. Mattia stated that the house has been maintained properly. She stated that she has observed the excessive moisture in the walls in the basement and throughout the house. She stated that this process has been a financial and emotional burden on them. She suggested that the Board has caused this process to be delayed. Chairperson Huot stated that there were no delays caused by the Board; they needed to consult with experts in the field of mold remediation prior to rendering a decision on this important matter of demolition in an historic district. She pointed out that this meeting is not the Board's regular meeting, it is a special meeting to discuss this issue. She also stated that the Board has been trying to schedule a meeting with the applicants for some time, and they were not always available to meet.

Mr. O'Brien stated that this is a unique situation that will not create a precedent for other cases of proposed demolition that may come before the Board.

ADJOURNMENT: There being no further business, Chairperson Huot adjourned the meeting at 10:30 pm.

Linda Habeeb, Recording Secretary