



Cashin Spinelli & Ferretti, LLC

SURETY CONSULTING • MUNICIPAL PLANNING • CONSTRUCTION MANAGEMENT

New York • Connecticut • Pennsylvania • Illinois

September 11, 2020

Mr. Robert N. Incagliato
Senior Building & Zoning Inspector
Town of Brookhaven
Legal Department
One Independence Hill
Farmingville, NY 11738

Re: 48 Green Avenue, Patchogue, NY 11772
Parcel ID: 0200-952.00-04.00-042.000
CSF No.: 106:2001.017

Dear Mr. Incagliato:

On behalf of Cashin Spinelli & Ferretti, LLC (“CSF”), Bruce Strum, AIA conducted a visual inspection on September 4, 2020 of the exterior and interior of the vacant commercial building located in the Town of Brookhaven (“Town”) at 48 Green Avenue, Patchogue New York. During CSF’s inspection, numerous building code violations and dangerous conditions were observed. This report is intended to address CSF’s observations and recommendations with regard to the subject premises.

The subject building is a 38’ x 80’ single story commercial structure consisting of a concrete block structure with wood frame roof on a concrete slab foundation. The exterior is clad with vinyl siding and an asphalt shingle roof. This building is in poor condition. The roof is damaged in the southwest corner where the siding is broken away and the fascia and roof rafter are exposed. The exposed roof rafter shows signs of termite damage. The vinyl siding has graffiti in areas. The gutters are broken and missing in locations. The asphalt paved parking lot is deteriorating and cracking throughout with vegetation growing out of the cracks. The rear of the property is densely overgrown with vegetation and access is limited.

The interior of the main building is in poor condition. It is unsanitary with trash and suspect mold in areas. There is extensive graffiti on the walls which provides evidence of trespassers. There are water stained ceiling tiles in some locations. At the southwest corner, the ceiling is open and a hole to the exterior is evident. The heating unit on the ground floor and the HVAC system in the attic appear to be in serviceable condition.

This building is boarded up but the site is not secured constituting a public safety hazard, especially due to the deteriorating state of the building.

Numerous Violations of the 2020 Property Maintenance Code of New York State, 2020 Fire Code of New York State, 2020 Building Code of New York State, and the Town Code of the Town of Brookhaven (“Town Code”) were observed. Violations were specifically pertaining to the following:

2020 PROPERTY MAINTENANCE CODE OF NEW YORK STATE

CHAPTER 1 SCOPE AND ADMINISTRATION

SECTION 101 TITLE, SCOPE AND PURPOSE

101.1 Title.

This publication shall be known as the 2020 edition of the Property Maintenance Code of New York State (PMCNYS) hereinafter referred to as “this code.”

101.2 Scope.

The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance; the responsibility of owners, an owner’s authorized agent, operators and occupants; the occupancy of existing structures and premises and for administration, enforcement and penalties.

101.3 Purpose.

This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

* * *

SECTION 107 UNSAFE STRUCTURE AND EQUIPMENT

107.1 General.

If the authority having jurisdiction determines, during the inspection or otherwise, that a premises, building or structure, or any building system or equipment, in whole or in part, constitutes a clear and imminent threat to human life, safety or health, the authority having jurisdiction shall exercise its powers in due and proper manner so as to extend to the public protection from the hazards of threat to human life, safety, or health.

107.1.1 Unsafe structures.

An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

107.1.3 Structure unfit for human occupancy.

A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks

ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

Based on the conditions observed on September 4, 2020, this structure is unsafe and unfit for human occupancy. This structure is in a state of disrepair and lacks any signs of maintenance.

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2020 PROPERTY MAINTENANCE CODE OF NEW YORK STATE

CHAPTER 3 GENERAL REQUIREMENTS

SECTION 301 GENERAL

301.1 Scope.

The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

301.2 Responsibility.

The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

301.3 Vacant structures and land.

Vacant premises, structures and portions thereof, or vacant land shall be maintained by the owner in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

The structure does not comply and is in poor condition, causing a blighting problem to the surrounding area and posing a threat to the public health, safety, and welfare.

* * *

SECTION 302

EXTERIOR PROPERTY AREAS

302.1 Sanitation

Exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

This property does not comply and is not maintained in a clean, safe and sanitary condition.

* * *

302.3 Sidewalks and driveways

Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

The parking lot has an old, cracked asphalt surface which has vegetation growing out of the cracks. The parking lot is not being maintained.

* * *

302.4 Weeds.

Except as provided for in statute, local law, ordinance, or other regulations, all developed areas of a premises that are intended to be used by building occupants or the public shall be maintained free from weeds in excess of 10 inches (254 mm). Noxious weeds shall be prohibited.

This property does not comply and is densely overgrown with grass, weeds, vines and shrubs well in excess of 10 inches.

* * *

SECTION 304 EXTERIOR STRUCTURE

304.1 General.

The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

This structure is not maintained in good repair and the premises are not sanitary. These conditions pose a threat to the public health, safety and welfare.

304.2 Protective treatment.

Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

The exterior surfaces of this structure are not maintained in good condition and are not protected from the elements and decay. The structure must be weather resistant and watertight to prevent any further deterioration.

* * *

304.6 Exterior walls.

Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

This structure does not comply. The southwest corner of the exterior walls is rotting and deteriorating and open to the interior. This structure is deteriorating at a rapid rate.

304.7 Roofs and drainage.

The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

The roof is old and worn and based on conditions observed at the interior, the roof is not watertight. The gutters are broken and missing in areas.

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2020 FIRE CODE OF NEW YORK STATE

CHAPTER 3 GENERAL REQUIREMENTS

SECTION 301 GENERAL

301.1 Scope.

The provisions of this chapter shall govern the occupancy and maintenance of all structures and premises for precautions against fire and the spread of fire and general requirements of fire safety.

* * *

SECTION 311 VACANT PREMISES

311.1 General.

Temporarily unoccupied buildings, structures, premises or portions thereof, including tenant spaces, shall be safeguarded and maintained in accordance with Sections 311.1.1 through 311.6.

311.2 Safeguarding vacant premises.

Temporarily unoccupied buildings, structures, premises or portions thereof shall be secured and protected in accordance with Sections 311.2.1 through 311.2.3.

311.2.1 Security.

Exterior and interior openings open to other tenants or unauthorized persons shall be boarded, locked, blocked or otherwise protected to prevent entry by unauthorized individuals. The fire code official is authorized to placard, post signs, erect barrier tape or take similar measures as necessary to secure public safety.

This building is boarded up but the site is not secured and protected. These premises are not secure and not in compliance with the safeguarding of vacant premises.

CODE OF THE TOWN OF BROOKHAVEN

Chapter 49: Property Maintenance

§49-1 Conformance Required

It is hereby declared by the Town Board of the Town of Brookhaven that all properties shall be maintained in conformity with the provisions of this chapter so as to assure the desirable character of the property, to prevent blight and the spread thereof and to prevent hazards to the public health, safety and welfare.

It is evident that the owner has not taken any of the required steps to perform maintenance as is required to ensure the entire site is safe and secure and does not present a hazard to the adjoining property owners and to the general public. This building is clearly in violation of the Town of Brookhaven Property Maintenance Code.

CODE OF THE TOWN OF BROOKHAVEN

Chapter 73: Unsafe Buildings and Excavated Lands

§73-1 Intent and purpose

The purpose of this article is to provide administration and enforcement of that part of the Fire Prevention and Building Code of the State of New York, as such code relates to unsafe structures and equipment, and to establish procedures to address threats to public safety and general welfare posed by the existence of unsafe buildings and structures within the Town of Brookhaven.

* * *

§73-3 Unsafe structure and equipment

General. When a structure or equipment is found to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

- A. *Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is possible. Structures which may be unsafe include but are not limited to the following:*

1. *Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.*
2. *Those which, exclusive of the foundation, show 33% or more of damage or deterioration of the supporting member or members or 50% of damage or deterioration of the non-supporting enclosing or outside walls or covering.*
3. *Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.*
4. *Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants or the people of this Town.*
5. *Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein. [Emphasis Added]*
6. *Those having inadequate facilities for egress in cases of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.*
7. *Those which have parts thereof which are so attached that they may fall and injure members of the public or property. [Emphasis Added]*
8. *Those which, because of their condition, are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this Town. [Emphasis Added]*

* * *

- C. **Structure unfit for human occupancy.** *A structure is unfit for human occupancy whenever such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public. [Emphasis Added]*

Pursuant to the above definitions, this building is considered to be unsafe, lacks maintenance, is in a state of disrepair, is unsanitary, and is unfit for human occupancy. Due to its poor condition and rapid deterioration, CSF believes this site poses a threat to the health, safety and general welfare of the public.

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Based on our inspection of September 4, 2020, the owner has not corrected the existing defects nor made required repairs to the structure. It is CSF's recommendation that this structure is unsafe and if it cannot be reasonably repaired to meet New York State and Town of Brookhaven Building Codes in a timely manner, it should be demolished.

Per Industrial Code Rule 56 Asbestos, Department of Labor, subpart 56-5, paragraph 56-5.1 Asbestos Survey Requirements, if a building/structure is certified to be unsound or slated for contracted demolition, the building/structure shall be assumed to contain asbestos unless the building/structure is adequately certified to be free of asbestos containing material (ACM). If the building/structure is not certified to be ACM-free, demolition should be performed assuming asbestos containing materials are present and in accordance with such procedures as published by the United States Environmental Protection Agency.

Very truly yours,

CASHIN SPINELLI & FERRETTI, LLC



Bruce Strum, AIA

Enc: Photographic documentation
cc: Stephen P. Ferretti, Principal, CSF

Photo Log
48 Green Avenue
Patchogue, NY 11772

Photographic Documentation taken on September 4, 2020



Front (west) view – Siding and gutters are deteriorating.



South side – Graffiti on wall. Property is overgrown.



Rear (east) view – No gutter/missing leader.



Property is densely overgrown at rear.



North side – Siding and fascia are damaged at rear corner.



NE corner – Damaged siding, fascia and roof rafter. Termite damage on rafter.



Trash strewn about. Graffiti is evidence of trespassers.



Trash throughout. Graffiti is evidence of trespassers.



Ceiling tile is water stained. Suspect mold is present.



Heating unit appears to be in serviceable condition.



Kitchen ceiling is damaged and open.



Trash and broken ceiling tile.



Water stained ceiling tile.



Ceiling broken up and falling.



Hole to exterior at top of wall.



Trash and moisture beneath open ceiling.



Attic appears dry. HVAC equipment appears to be serviceable.



Miscellaneous household items in attic.