

**Town of Greenwood**  
**Town Council Meeting Minutes**  
**Attendance in Person and by Virtual Zoom Meeting**  
**Personal Meeting ID #: 917 086 0517**  
**Passcode: 9Ww9FF**  
**Wednesday, August 11, 2021**

**Call to Order**

Mayor Donovan called the meeting to order at 6:32 pm.

**Councilmen Present**

Donald Donovan, Willard Russell, Norman Reed, Donald Torbert and Mike Moran

**Officials Present**

Police Chief, Brent Raughley; Town Counsel, James Sharp; Town Manager, Janet Todd; Town Clerk, Lisa Calvert and Public Works Director & Code Enforcement Officer, Roger Breeding

**Approval of Minutes**

Motion by Councilman Reed, Seconded by Vice Mayor Russell to approve the Minutes of the July 14, 2021, Town Council Meeting. CARRIED by Unanimous Vote: Vice-Mayor Russell – Yes; Councilman Reed – Yes; Councilman Torbert – Yes; and Councilman Moran – Yes.

**Police**

Chief Raughley stated that he is still waiting on the other police department to get back to him regarding the Tahoe. They are looking into other means of selling it, as well as, state grants, etc. He is anticipating having an answer by next month. There were no questions or concerns by the Council.

**Town Manager Report**

None

**Old Business**

None

## New Business

At this time, Mayor Donovan turned over this portion of the meeting to the Town Counsel, Mr. Sharp, Esq.

Mr. Sharp advised the attendees that this meeting was to discuss the Order to Demolish in accordance with Greenwood's Ordinance A-20, Section 5(d) and Section 8 (3C) and Mr. Wells appeal and no other issues pertaining to the property. Mr. Gerald Wells, the appellant, is the owner of record for The Pit Stop, LLC, located at 11 W. Market Street, Greenwood, DE which was damaged in a fire on May 18, 2021. Mr. Sharp explained that Mr. Wells, would be sworn in when he provided testimony, as well as all witnesses. The Council is allowed to ask questions of Mr. Wells and any of his or the Town's witnesses. The Town can provide testimony and call witnesses. Also, witnesses can present exhibits as they pertain to the order and appeal to demolish. Additional rules were discussed regarding setting a reasonable time limit on testimonies and that everyone must conduct themselves in an orderly manner. He asked witnesses to avoid repeating testimony. Once all witnesses have testified, this portion of the meeting will be closed and the Council will either render a decision at this meeting or table for a future decision. Even if a decision is rendered at this meeting it will not be final until a written decision is approved by the Council at a future meeting. Mr. Sharp inquired if the Council had any further questions, and they did not at this time.

Mr. Wells was sworn in and thanked the Council for giving him this opportunity to state his case which he proceeded to present his appeal. He advised that the fire has been deemed arson by the Delaware Fire Marshall which is still considered an active investigation and he was the victim of a serious crime that has seriously impacted his livelihood. He advised that since the building located at 11 W. Market Street has been a bar since 1920, it has historical significance to the Town of Greenwood. He stated that the order to demolish goes against Greenwood ordinances which he cited stating that the ordinance reads any non-conforming building that is substantially damaged by fire and is not economically feasible to repair may be replaced or reconstructed in the same location. Mr. Wells stated he wants to add a full kitchen, and wants to work with the Police Dept. to ensure laws are followed. Mr. Wells stated in the certified letter he was sent it said once he demolishes the building he can longer have a bar there because of the proximity to a church, daycare or church. Mr. Wells expressed his willingness to work with the Town as this represents his life's savings and is his livelihood to support his family. Mr. Wells advised that he has a liquor license which he received in 2019 and that it will be revoked if the building is completely demolished. Mr. Wells stated the Town recently permitted another restaurant in town to proceed with acquiring a liquor license even though a daycare was next door in the same parking lot.

At this time Mr. Sharp reiterated that tonight's discussion must be limited to the demolition of the property. For this meeting it is a singular issue, as to whether the building needs to be demolished, not the use of the premises. Mr. Sharp stated the use is different from a dimension non-conformity which is if you violate a setback, and that is not the issue we are here for tonight.

Mr. Wells went on to say that he does not dispute that the building needs to be demolished, just not in its entirety and wants the Council to work with him. Mr. Wells wants to keep one (1) wall, located on the west side of the building so he can maintain his current liquor license He could then rebuild with no setback in the same spot.

Mr. Sharp again mentioned that tonight the only issue open for discussion is in regard to the demolition of the building at 11 W. Market Street.

Mr. Wells replied that he only brought it up because it was in the same letter regarding the demolition. Mr. Wells then requested his first witness, Mr. Anthony Massey.

Mr. Anthony Massey was then sworn in. He wanted to explain that a “complete” demo will result in the loss of the Tavern License that Mr. Wells holds. He noted that a Tavern License is very rare and no longer issued by the State of Delaware and that, by keeping one (1) solid wall, “if” it is structurally sound, would allow Mr. Wells to keep his Tavern License which are no longer issued and only 4 or 5 still exist in the State. He is willing to demolish the building and clean up the property but wants to keep the western most wall standing. A building inspector will have to advise if the one (1) wall is okay.

Mr. Wells then requested his next witness, Mr. Michael Phillips.

Mr. Michael Phillips was then sworn in. He wanted to clarify that Mr. Wells was not disputing that the property needs to be cleaned up, but the order needs to be changed to a partial demolition vs. a full demolition to keep the property safe.

Mr. Sharp then asked Mr. Wells if the testimony of Mr. Phillips was correct to just change the order from a complete demo to a partial demo. Mr. Wells concurred that was his intent. Mr. Sharp asked if Mr. Wells had any additional witnesses and Mr. Wells confirmed that he had no further witnesses. Mr. Sharp then asked the Council if they had any questions for Mr. Wells.

Councilman Reed asked Mr. Wells if he had a structural engineer look at the remaining wall. Mr. Wells responded that he had not had anyone look at it. Councilman Reed advised that something like that would be required and was surprised Mr. Wells hadn’t already done that in the months since the fire.

Mayor Donovan mentioned that he thought it would be difficult to demo the building and leave one (1) wall intact.

Mr. Phillips spoke up to clarify that he is a card-carrying ABC officer and that the license Mr. Wells has is attached to the property, not the business itself. Mr. Phillips stated that the Tavern License is grandfathered into the liquor law and there are only 4 or 5 Tavern Licenses remaining. Mr. Sharp then asked Mr. Phillips what his role with the ABC was. Mr. Phillips responded that he was an ABC Inspection Officer.

Mr. Massey also interjected that in his experience as an equipment operator a building can be stabilized using steel to brace walls to then work around the bracing to demolish the damaged portion of a building and rebuild. The Mayor inquired that if steel was installed as bracing, then wouldn’t the building be stable? Mr. Massey stated that a structural engineer would have to inspect the building first to determine if the building could be braced and if it would be worth the effort of supporting.

Mr. Sharp asked the Council again if they had any questions for Mr. Wells or his witnesses. He then asked Janet Todd, the Town Manager if she had any questions. Ms. Todd asked Mr. Wells to confirm which wall was the one (1) he wanted to save. Mr. Wells indicated it was the wall next to where Amity Coffee’s business was located – the

western side of the building.

Ms. Janet Todd was then sworn in. She stated that we were there to address the appeal from Mr. Wells pertaining to the building located at 11 W. Market Street doing business as The Pit Stop. The original Greenwood business license was issued on October 15, 2019. At approximately 3:00 a.m. on May 18, 2021 the building was engulfed in a fire which was reported as a total loss with damages totaling approximately \$500,000.

She noted that on May 19, 2021 a poster was posted on the front of the building stating that the building was condemned after Brad Taylor from Servicemaster boarded upon the windows and entrances.

She noted that on May 24, 2021 a letter was sent via certified mail to Mr. Wells stating the order to demolish. This letter was received via USPS verification on May 26, 2021.

She noted that on May 27, 2021, another certified letter was sent to Mr. Wells to explain the multiple violations for the property, as well as, once again addressing the order to demolish. This letter was signed for via USPS verification on June 8, 2021.

She noted that on June 14, 2021, Ms. Todd received a certified letter from Mr. Wells to appeal the order to demolish. At that time, the Town set up a meeting for the appeal on July 28, 2021.

She noted that on July 27, 2021 at 9:28 a.m., Ms. Todd received an email from Mr. Wells stating he had tested positive for COVID-19 and was requesting a delay to the meeting by a week or two. At that time, Ms. Todd rescheduled the meeting for August 11, 2021 at 6:30 p.m.

She noted that on June 29, 2021, Ms. Todd received an email from Mr. Wells attaching an asbestos report and requesting that we approve the report. He stated, "if it's acceptable so I can get the demo done and over with".

Ms. Todd concluded that this is the timeline that brings us to tonight's meeting. She has personally walked the site and noted the damage. Ms. Todd then referenced the exhibit as displayed on the easel in the room.

Ms. Todd indicated that there was no roof on the building, all the walls are buckling on the exterior and there are no windows or doors. There is no part of the structure that was not damaged by the fire and is therefore compromised. The entire building was severely damaged by the fire and is not structurally sound. There are no load bearing walls that are structurally sound and you can easily see they are compromised by the fire. There is loose debris which has caused us to close the sidewalk to avoid injuries by pedestrians. She also mentioned that in the three (3) months since the fire, she had never heard anything from Mr. Wells regarding keeping one (1) wall intact.

As stated in Ordinance A-20, addressing dangerous building and structures, this building falls under the definition of a dangerous building. Therefore, it is Ms. Todd's recommendation to the Council to proceed with the order to demolish as stated.

Mr. Sharp then confirmed with Ms. Todd that Council had all the correct documentation in their packet that was referenced in Ms. Todd's testimony, as well as, an asbestos report and documentation that Mr. Wells submitted to the Town, including some environmental tests. Ms. Todd confirmed all documents were provided and they have been submitted to

Council as part of the record.

Mr. Sharp asked Ms. Todd to describe the photos displayed on the board.

**EXHIBITS PRESENTED:** Photos #1-3 of The Pit Stop before the fire (procured from Mr. Wells Facebook page) and photos #4-9 during and after the fire (provided by the Greenwood Volunteer Fire Company).

Mr. Sharp asked Ms. Todd why the Town closed the sidewalk. She responded that she had received a phone call from a resident who walks her dog up and down in front of the building and she was concerned that the wind could blow down a piece of metal hanging down off the side of the building. The resident did not feel safe, so the Town closed the sidewalk about 3 wks. ago per Mr. Breeding.

Mr. Sharp then asked Ms. Todd several questions regarding the condition of the building. She advised that she has been on-site, and the doors are no longer functioning and are boarded up. To access the building you have to go to the rear of the building which is open. She stated that there is no roof on the building, and it would rain inside the building if raining. There is no plumbing or electrical in the building and a wire that has been cut on a pole in the front of the bar which is sticking out. She confirmed the building abuts the sidewalk with no set-back. Mr. Sharp wanted to know if the building posed a danger to the public, in which Ms. Todd responded "absolutely". She answered that there are children in the area, and she added that the Town had a company come and deliver jersey barriers to close the alley after getting permission from the owner of the alley. Ms. Todd also answered that she had been in contact with Mr. Wells insurance company once residents started complaining about not feeling safe. Mr. Sharp asked if the insurance company had declared the damage a total loss and Ms. Todd confirmed they did. Ms. Todd answered that no demolition permits had been submitted and that it was not safe to walk around the building premises. This concluded Ms. Todd's testimony, and she had no witnesses or further exhibits.

Mr. Sharp asked if Mr. Wells had any questions for Ms. Todd and he did not. Mr. Sharp then indicated that since we had heard from Mr. Wells and his witnesses, and the Town Manager the Mayor could now close the record to the appellant hearing which he did. The hearing was reopened when Mr. Wells asked the Council if he could go ahead and clean up debris around the premises. Councilman Moran advised that anything on the ground or loose was fine to remove, however, anything still attached to the building cannot be touched. Ms. Todd recommended that Mr. Wells communicate with the property owner of the alley if Mr. Wells will be on her property. Mayor Donovan then reclosed the record at 7:15 p.m.

Mr. Sharp then advised the Mayor that a motion was necessary to either accept the Town Manager's recommendation or not. Mayor Donovan then asked for a motion and Vice Mayor Russell then moved to affirm the decision of the Town Manager to issue a Demolition Order pursuant to Ordinance A-20 as it pertains to the building at 11 W. Market Street, Greenwood, Delaware, pending a final written decision based on the record made during the public hearing this day and for the following reasons:

1. This appeal pertains to property located at 11 W. Market Street, Greenwood, which was previously improved by a building. Said building caught fire on or about May 18, 2021 and suffered great damage.
2. On May 28, 2021, the Town Manager issued a Demolition Order requiring that

the aforementioned building be demolished in accordance with the Town Code.

3. On June 14, 2021, Gerald Wells, who is the record owner of the property, filed an appeal of the Demolition Order. The appeal request did not specify with particularity the basis for the appeal.
4. After review of the exhibits and testimony submitted at the hearing, I find that the Town Manager was correct in determining that the building on the property is a dangerous building or structure under Ordinance A-20 and I agree that the building located at 11 W. Market Street should be demolished. Furthermore, I accept the rationale set forth in the Town Manager's decision as sound basis for issuing the Demolition Order.
5. As part of this motion, he found that the building on the Property is dangerous for the following reasons:
  - a. There is a large piece of metal hanging loosely from the building near the public sidewalk and debris in the alley and behind the building.
  - b. The 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.
  - c. The building which, exclusive of the foundation, shows 33 percent or more of damage or deterioration of the supporting member or members, or 50 percent of damage or deterioration of the non-supporting enclosing or outside walls or covering.
  - d. The building has 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.
  - e. The building has been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morale, or the general health and welfare of the occupants or the people of the Town.
  - f. The building has become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morale, safety or general welfare of those living therein.
  - g. The building has parts thereof which are so attached that they may fall and injure members of the public or property.
  - h. The building, which because of its condition, is unsafe, unsanitary or dangerous to the health, morale, safety or general welfare of the people of the Town.
6. As part of this motion, he moved that the Town order Mr. Wells to demolish the building located at 11 W. Market Street and dispose of all demolition debris from the site and that Mr. Wells properly grade and seed the property following such demolition. The demolition work must be commenced within thirty (30) days of

the date the written findings of fact are approved, and demolition work must be completed within sixty (60) days of the date the demolition work was commenced.

7. The Town requires that any persons or entity undertaking demolition pursuant to this Order first:
  - a. Safely secure the building and the Property to protect the public and abutting owners for potential injury to persons or property; and
  - b. Obtain all required demolition permits. If outstanding balances are owed to the Town for back taxes, utilities, or fees, those balances must be paid in full prior to the issuance of the permits.

For these reasons, he moved that Council affirm the decision of the Town Manager to issue the Demolition Order and that Town Council issue a Final Demolition Order.

This motion, made by Vice Mayor Russell, was Seconded by Councilman Reed. Prior to a vote, Councilman Torbert inquired as to the start date of the demolition. He asked if the date starts when Mr. Wells first starts cleaning up or when Mr. Wells hires someone to demolish the building.

Mr. Sharp replied that if the Council approves this decision, the written findings would be prepared and then put on the agenda for approval at the next scheduled Town Council meeting or sooner if a Special Town Council meeting is called. From that day, Mr. Wells would have thirty (30) days to commence the demolition of the building and from that commencement date Mr. Wells would have sixty (60) days to complete the demolition.

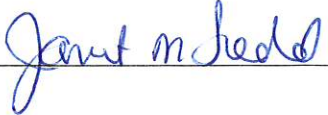
Mayor Donovan asked if there were any further questions or comments and as there were none. At that time the Council voted for the motion made by Vice Mayor Russell and Seconded by Councilman Reed. CARRIED by Unanimous Vote: Vice-Mayor Russell – Yes; Councilman Reed – Yes; Councilman Torbert – Yes and Councilman Moran – Yes.

#### **Adjournment to Executive Session**

N/A

#### **Adjournment**

Moved by Councilman Moran and Seconded by Councilman Reed to adjourn the meeting at 7:24 p.m. CARRIED by Unanimous Vote: Vice-Mayor Russell – Yes; Councilman Reed – Yes; Councilman Torbert – Yes and Councilman Moran – Yes.

Attested , Town Manager