

CITY OF ONEIDA FIRE DEPARTMENT

DEPARTMENT OF PUBLIC SAFETY
BUREAU OF FIRE

Fire Marshal's Office

Brian B. Burkle Jr., Fire Marshal
Andrew P. Bennett, Assistant Fire Marshal



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To: City of Oneida Common Council

From: Fire Marshal Brian B. Burkle Jr.

Date: February 28, 2024

Re: Unsafe Buildings

Please take notice that the building situated upon the real property located at 125 Oneida Street in the City of Oneida, Tax Map No. 30.71-2-45 (the “Property”) must be repaired or removed.

On September 16, 2023, an Order to Remedy notice was issued and sent via U.S. Certified Mail service, notifying Anthony Barnaba, the property’s owner, that the building was in violation of the Code of the City of Oneida, Section 73-7, titled “Growth and maintenance restrictions”. The building was also in violation of the 2020 Fire Code of New York State, Section 304.2, titled “Protective treatment” and Section 304.13, titled “Window, skylight and door frames”.

On September 28, 2023, the Fire Marshal’s Office received an email from Deputy Chief Cowles who advised he received a notification from a citizen about concerns of the building next door to the Owls Club. DC Cowles investigated and made recommendations to the building owner prior to taking any further action.

On October 3, 2023, an Unsafe Structure notice was issued, notifying Anthony Barnaba, the property’s owner, that the building was in violation of the 2020 Fire Code of New York State, Section 108.1.1, titled “Unsafe structures and equipment”.

On October 4, 2023, the Fire Marshal’s Office received an email from Code Enforcement Officer Jay Ackerman who advised he was investigating a verbal complaint about a pile of bricks between Auto Finishers and the Owls Nest. CEO Ackerman advised a portion of the wall had collapsed and that in his opinion, this building is an unsafe structure.

On October 5, 2023, Assistant Fire Marshal Andrew Bennett responded to CEO Ackerman’s email advising him that the property’s owner was issued an unsafe structure notice on October 3, 2023. At this time, the property’s owner was advised to contact the Codes Department for any permitting.

On October 13, 2023, an Order to Remedy notice was re-issued and sent via U.S. Certified Mail service, notifying Anthony Barnaba, the property's owner, that the building was still in violation of the 2020 Fire Code of New York State, Section 304.2, titled "Protective treatment" and Section 304.13, titled "Window, skylight and door frames".

On November 2, 2023, the Fire Marshal's Office received an email containing a copy of the "West wall brick replacement plan" prepared by Zangrilli Engineering on October 31, 2023.

On November 6, 2023, the Fire Marshal's Office forwarded the "West wall brick replacement plan" prepared by Zangrilli Engineering to the Department of Code Enforcement.

On November 7, 2023, the Department of Code Enforcement received a building permit application from Anthony Barnaba.

On November 29, 2023, the Fire Marshal's Office received an email from the Director of Code Enforcement Bob Burnett expressing concerns for 122 Vanderbilt and advised he does not have a completed building permit.

On December 1, 2023, the Oneida Fire Department responded to a building collapse at 125 Oneida Street. An Order to Vacate notice was issued notifying Anthony Barnaba, the property's owner, that the building was in violation of the 2020 Fire Code of New York State, Section 108, titled "Unsafe structures and equipment" and Section 109.1, titled "Imminent danger". At 1000 hours, the building was condemned by Fire Marshal Brian Burkle. A structural engineer was contacted by Anthony Barnaba, the property's owner. Zangrilli Engineering responded and a report was generated evaluating the collapsed wall and surrounding portions of the building. Mr. Zangrilli recommended that the southern portion of the building be razed as soon as possible. The building was ordered to be demolished by FM Burkle.

On December 2, 2023, an updated Unsafe Structure notice was issued, notifying Anthony Barnaba, the property's owner, that the building was in violation of the 2020 Fire Code of New York State, Section 108.1.1, titled "Unsafe structures and equipment". This notice explained the following additional requirements. "A structural engineering report shall be completed for the remaining 3 story tower as well as the west and south walls of the remaining structure. The southeast corner of the roof shall be secured to prevent further deterioration and to protect the building from the elements. The roof shall also be shored to prevent further collapse."

On December 5, 2023, Zangrilli Engineering provided a report on the roof damage from an inspection on December 4, 2023. This report also included the recommendation of removing the "tower" portion of the building. Fire Marshal Burkle also met with the property's owner and the insurance adjuster.

On January 5, 2024, an Emergency Demo letter was drafted and provided to the property's owner.

On February 10, 2024, the Fire Marshal's Office provided an update to the property's owner requesting a notice of intentions to repair and remove the building with an estimate timeline for completion.

Since the building collapse on December 1, 2023, the property's owner has provided several communications updating the Fire Marshal's Office on the status of his building. However, actions have not been taken at this time to repair or remove the building.

Based upon my inspection of the property and my knowledge of the Oneida City Code, the 2020 Fire Code of New York State, and the 2020 Property Maintenance Code of New York State, I have determined that the property is an unsafe condition and is dangerous to the health, safety, and general welfare of the public.

The preceding are violations of the following;

- **2020 NYS Fire Code Section 108.1.1 Unsafe structures.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or to 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, or structurally unsafe; or is of such faulty construction or unstable foundation that partial or complete collapse is possible. A vacant structure that is not secured against unauthorized entry as required by Section 311 of this code shall be deemed unsafe.
- **2020 Fire Code of NYS Section 109.1 Imminent danger.** The occupants shall vacate premises when any of the following exists:
 1. Imminent danger of failure or collapse of a building or structure which endangers life;
 2. A structure where the entire structure, or part of the structure, has fallen and life is endangered by the occupation of the structure;
 3. Actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials; or
 4. Operation of defective or dangerous equipment.
- **Code of the City of Oneida, Chapter 34, Article III "Unsafe Buildings and Collapsed Structures", Section 34-9. Repair or removal by owner required.** The owner or person having any interest in any wall, building, structure or foundation in the City, which for any reason shall have become unsafe, dangerous, unsightly or in any way endangers the health, safety, or welfare of the

public shall, upon being directed thereto by the Common Council, forthwith repair or remove the same.

- **Code of the City of Oneida, Chapter 34, Article III “Unsafe Buildings and Collapsed Structures”, Section 34-10. Determination of status; service of notice upon owner.**

A. Whenever any wall, building or other structure has in any manner become unfit for occupancy or shall be unsafe, detrimental or dangerous to the public health, safety or general welfare, upon inspection and report by the office of the Fire Marshal to the Common Council and hearing held thereon as hereinafter set forth, the Common Council may declare the premises a public nuisance and order the owner, or person or persons having an interest therein, to repair or remove the wall, building, structure or foundation and to clear away any and all debris caused thereby and to fill in the excavation to the lot level, requiring the same to be made safe and secure. After having received and placed on file the report from the Fire Marshal's office, the Common Council, if it appears that a nuisance exists, shall hold a hearing thereon and shall serve notice upon the owner, and all others having an interest therein, of the unsafe condition and the times and place of said hearing.

B. The service of said notice shall be either by personal service or by certified mail, addressed to the last known address as shown by the records of the City Assessor's office. Said notice shall contain a description of the premises and a clear and concise statement of the particulars in which the building or structure is unsafe or dangerous, shall set forth the date, time and place for a hearing thereon before the Common Council and shall be served at least 10 days prior to said hearing. If such service is by certified mail, a copy of said notice shall also be posted by firmly affixing a copy thereof on said premises.

2020 NYS Property Maintenance Code

- **Section 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 part, constitutes a clear and immediate 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.

- **Section 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 is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

- **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* that such *occupant* occupies or controls in a clean 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.
- **Section 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.
- **Section 304.1.1 Unsafe Conditions.** The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *Building Code of New York State* or the *Existing Building Code of New York State* as required for existing buildings:
 1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
 2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
 3. Structures or components thereof that have reached their limit strength.
 4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors, and skylights are not maintained, weather resistant or water tight.
 5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects.
 6. Foundation systems that not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and load effects.
 7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
 8. Roofing or roofing components that have defects that emit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects.
 9. Flooring and flooring components with defects that effect serviceability or flooring components that show signs of *deterioration* or fatigue, are not

properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects.

- **Section 304.4 Structural members.** Structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.
- **Section 304.6 Exterior walls.** Exterior walls should be free from holes, breaks, and loose or rotting materials; and maintained waterproof and properly surface coated where required to prevent *deterioration*.
- **Section 304.7 Roofs and drainage.** The roof and flashing shall be sound, tight and not have defects that emit 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.
- **304.11 Chimneys and towers.** Chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. Exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- **Section 308.1 Accumulation of rubbish and garbage.** *Exterior property* and *premises*, and the interior of every structure, shall be free from any accumulation of *rubbish* or garbage.

In light of the foregoing, I hereby request that the Common Council hold a hearing pursuant to Section 34-10 of the Oneida City Code to determine and declare that the Property is a public nuisance, and to order the repair to or removal of the remaining building as well as the removal of the debris from the demolition of the south part of the building.