

MINUTES
CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS
June 13, 2013

1. CALL TO ORDER/CONVENE AS CBAA

The Chairman, Marc Weiner, called the meeting to order at 2:05 pm in the Vista Center 1st Floor Conference Room 1E-60, Palm Beach County Planning, Zoning & Building Department, 2300 North Jog Road, West Palm Beach, Florida.

1.A. ROLL CALL

MEMBERS PRESENT

Marc Weiner, Chair
Duane Drawdy
Bart Rasper
Margie Walden
Tom Donegan
Peter Dzenutis

MEMBERS ABSENT

Albert Godfrey
Michael Walker
Ron Dixon, Vice Chair

OTHERS PRESENT

Doug Wise, Building Official
Richard Gathright, Deputy Building Official
John Blake, Construction Services Coordinator
Mike Fox, Codes, Products & Training Supervisor
Shannon Fox, Asst. County Attorney

Anne Helfant, Asst. County Attorney
Vickie Day, Recording Secretary & Notary
Benjamin Carabello, 4087 Success Street
Deborah Neeley, 4396 Cocconut Road
Mitchel Neely, 4396 Cocconut Road

1.B. Approval of Minutes. *The motion was made to approve the minutes of the January 12 2012 and April 12, 2012 meetings. The motion was seænded and carried unanimously.*

2. ADDITIONS & DELETIONS – NONE

3. NEW BUSINESS Vickie Day swore in all those giving testimony.

3.A. Case #13-0001 - 4087 Success Street West Palm Beach, FL 33406; PBC Amendments Section 116

John Blake provided the history of the property and showed a presentation of photographs. *Photographs were put into evidence.*

8/7/1999 – House fire occurred

10/6/2006 – Applied for demolition permit

2/6/2007 – Demolition permit B07002991 was issued

2/7/2007 – Health Dept. passed the septic final inspection

7/8/2007 – Inactive notice was sent out

8/31/2007 – Permit was re-activated

2/1/2008 – Inactive notice was sent out

3/10/2008 – Permit was re-activated

8/7/2008 - Inactive notice was sent out

9/14/2012- *Notices of Intent to Demolish or Substantially Repair and Inspect*, were posted on the site and at the courthouse along with an Appeal application were sent certified mail and first class to the owners

9/16/2012 & 9/23/2012- *Notices of Intent to Demolish or Substantially Repair and Inspect, Inspect* was published in the Palm Beach Post.

10/12/2012 – Owner re-activated permit and No further demolition work was observed.

4/14/2013 – Permit status became inactive and at that time, the Building Official decided to proceed with the demolition by Palm Beach County

Doug Wise confirmed with Mr. Blake that this owner has partially demolished the structure. From the County's perspective, we are aware of the condition of the building and surrounding properties that is sat so long with no work being done. Subsequent to us moving forward with the demo process. The owners took it upon themselves to begin the demo on their own; as a result, we reactivated the permit because they were making progress. We still wanted to bring it to the Board to go on record that it is the County's position that if they do not complete the progress, we will complete it for them. If they fail to remove the debris and complete the process by a certain date, we will remove it and ask the Board to support us.

Shannon Fox reiterated that the Board is here because the property owner is appealing the Building Official's decision; the burden of proof is on the property owner to show the Board a reason as to why they should overturn the decision.

Mr. Carrabello advised the Board that the only reason the demo has not been completed is that a 40-yard dumpster was not available.

Mr. Weiner asked Mr. Carrabello how long he needed to finish the demo completely.

Mr. Carrabello before the end of this month I can remove the debris.

Ms. Walden asks once the debris is removed, what is the plan for the site.

Mr. Carrabello our plan is to build a single-family residence or a duplex.

Mr. Weiner asks Mr. Wise is there a requirement for bringing the site back to any condition after the debris is removed.

Mr. Wise states yes there is; the site must be graded back to pre-existing grade and should be seeded, seeded/hay or mulched. There needs to be appropriate ground cover on it; mowed and obviously maintained. He does not have to sod the entire lot – just seed and hay to start the grass growing.

Mr. Wiener asks Mr. Carrabello if he understands that he needs to bring the site into a more aesthetically pleasing condition why you are working on what you are doing.

Mr. Carrabello responds, yes we have been mowing the grass and keeping up on the property.

Mr. Donegan asks what condition the septic system is in and will there be any problem with leaving the septic system intact.

Mr. Carrabello mentions that it was broken open when we purchased the property; we got a permit and we pumped and filled it back up.

Mr. Wise - septic tanks can remain the lids are removed and holes in the lid. The Code will not allow us to leave a septic tank in operating condition.

Mr. Wise – the County does not have a problem granting him the 30 days. As long as it is clear that if he does not complete the work in 30 days, the County staff has done a lot of work; we have gone through procurement, asbestos survey. We are grateful that Mr. Carrabello is doing the work – but if he does not get the debris cleaned up and the lot scrapped back. We are going to go forward.

Mr. Weiner – Let us make one thing clear, If the County did have to come back to complete the demo process, Mr. Carrabello would be charged for the services?

Mr. Wise - the County's current process is to file a lien against the property and put it on the supplemental tax roll next year.

Mr. Weiner – asks for a motion

Mr. Drawdy – I make a motion that we grant the applicant 30 days to complete the demolition, closing of the septic tank and bringing the lot into code. At the end of the thirty (30) day extension, if this has not been done, the Board will uphold the decision of the Building Official and the county will take over and complete the demolition.

Ms. Walden – Seconds the motion

Mr. Weiner - The motion offered and seconded. All members in favor. None opposed. Motion passed

Ms. Fox – Make it clear for the record that the photographs submitted by the County are admitted into evidence.

Ms. Helfant – For the record, the staff report should also be admitted into evidence.

3.B. Case # 13-0002 – 4396 Coconut Road West Palm Beach, FL 33406; PBC Amendments Section 116

Mr. Wise – I have had several conversations with Ms. McNeely, she has approached me about the project, the case in question. This has been going on for a significant amount time. We had asked her to appeal the case to the Board for consideration to grant more time.

Ms. McNeely – I know this has been going on for a long time, my husband passed away shortly before this all began. This is my son, Mitchell and I would like him to explain what happened.

Mr. McNeely – The first thing that happened was the fire; the County investigation took almost 3 months & I could not even go to the property under the direction of the investigator. After that, we were settling with Citizens insurance company, which was a big headache. Between them, my contractor, engineers and the architect that I was going to hire to rebuild it. It took nearly a year to settle on the amount of damage so I could not start on the demolition or work on the property until that was settled. So there went the entire first year. As soon as it was settled, the demolition went through smoothly. The mortgage company was Washington Mutual they were brought out by Wachovia and they forced us to pay off the mortgage early so we were left with only about 20% of the insurance funds to rebuild. I went ahead, used that 20%, and began work. I got the demolition done, the underground utilities done, all the concrete work done and ordered the trusses. At that time, I started applying for loans on another house we own to try to get the funding to rebuild this property. I actually was audited by the IRS that year so I could not apply for the loan until the audit was completely through because they had my financial records tied up. I had to supply tax documentation to the bank in order to get the loan. That took about 9 months of my time, that took until about October of that year for my audit to go through. That is about the point where we are right now. We have a couple properties in Colorado fighting a fire risk there because of the forest fires. It is consuming all of my time and all of my money.

Since we got the notices from the County, I have gotten in contact with my Engineer, Dan Moss, my architects, and a couple of bankers about going ahead and getting a permit specialist, Peter Dzenutis. Trying to go forward with it and getting a loan to rebuild and that is the process is in right now. The Banker I am talking with from Palm Beach Community Bank is concerned about this hearing. He wants to make sure that it is not demolished before he approves me for a loan or even talks to me about it. That is where we are at with the financing part. I have my permit specialist, engineer and architect working together to try to figure out what we can do to bring this structure to the safest possible way. We fenced off the property and in conjunction with the Palm Beach Sherriff's Office and put, an ION number sign up at the property and completely fenced it off so no one can get in there. I have been doing my best to keep people out of the structure & keep it as safe as possible. The trusses are already up & hurricane strapped. Obviously, they have been out in the elements for a couple of years so I understand they will probably need to be removed and we will have to restart on that. I am more than willing to do that, I just need more time to get the money together and my people together to move forward. That is what we are asking for here, more time to do this. We have about \$40,000 invested and many man-hours into the project. As you can see, it is a solid concrete structure, it has poured solid concrete walls; after the fire that is what they recommended we do.

Mr. Wiener – so you have already gone from remedial work to the walls.

Mr. McNeely – Yes, we have already done everything the Engineer required for the fire damage to the structure on the concrete block. Passed all the concrete beam inspections; we already dug up all the plumbing and re-tied into the new septic tank. Everything has been approved and passed; we are going down the line until we ran out of money. We have actually already ordered doors and windows when our money ran out.

Mr. Wise – For the record, this is a difficult case. They suffered a catastrophic fire on their property and sunk a lot of money trying to rehabilitate it. Unfortunately, they have run out of money and there does not seem to be a plan at this point, on how this is ever going to end. That is why we are here, if it were something I could solve we would not be here. From our perspective, John can provide a history of how long ago the fire was and where we are with this. The trusses will have to be removed. We are going a little backwards here and if you were living next door, you would be upset if I was not diligently trying to deal with it. Theoretically, I am not sure how much will stay in a hurricane, we are not engineers.

Ms. Fox – Does either party want to submit any photographs or documents into evidence?

Mr. McNeely – Peter Dzenutis and Dan Moss were suppose to come with us today to help represent us, we didn't get the packet until Saturday so they could not get the evidence in time.

Mr. Drawdy – Do you have any timeline to get the funds and start the construction completion and the completion of it?

Mr. McNeely – I can start taking the trusses down immediately without funding. As soon as I am approved for a loan, a normal loan usually takes only a week to be financed.

Mr. Wiener – Obviously, the first objective is to get a loan. You need to establish a date that you think you could have your financing in place, so we can move on to the next step.

Mr. Donegan – It would be like 90 days for him to apply for a loan and put the paperwork together. If the County is willing to give 90 days. The other item is the neighborhood and safety is an issue and if you get the trusses off and new trusses back up, sheeted and dried in and as long as all other inspections were done. Clean it up and mow it. That would be like a good-faith effort on your part.

Mr. Wise – The Building division position is that this is an on-going case the fire was several years ago and is a problem. A vacant lot does contribute to the Tax Roll of the County or provide a productive use to the neighborhood. Therefore, from our perspective; having a home therewith a family living in it is our end goal. How we get there, I cannot say. All I can say is that it cannot stay as it is. If it were the will of the Board to grant those 90 days to get financing & come back to the Board, then I would respect that. I do agree there has to be an end game; going a little further all I would ask is that he has a permit and he keeps it active. As long as he keeps his permit active then we would let him go; as long as you pass an inspection once every 6 months – you can keep your permit active. I would recommend you give him the time if that is what the Board wants.

Mr. Donegan – Do you think you can get the loan within 90 days?

Mr. McNeely – I believe I can get the financing within 90 days. In speaking with my Engineer, there is a group of contractors; one of them is willing to finance part of the construction.

Mr. Donegan – I would like to know if they are going to get the financing they need to finish the rest of the project.

Mr. McNeely – The bank is waiting until after this hearing to discuss the loan. There is no sense in applying for a loan if the house will be demolished.

Ms. Walden – I am inclined, this is an unsafe situation; we are coming into hurricane season, the home is in a neighborhood with children and other people. This is dangerous and has gone on for a very long time; you have not really done what you have needed to do to ensure the safety and the home stability of the people around you – that is very important to consider others; even though you have had a rough time for a couple years. For me, you need to clean up this property now and if you cannot do it, then you need to let it go and you will be charged. If you cannot take responsibility then the County will have to take it for you. This cannot and should not go along any longer. The trusses need to be part of the motion.

Mr. Donegan – asks how long you think it will take to get the trusses down.

Mr. McNeely – I can have them down and removed in a week.

Mr. Drawdy – Trusses down in 30 days and proof of financing in 60 days, will that work for you?

Mr. McNeely – I feel that it is a step in the right direction; I will do everything I can.

Mr. Blake – there is a permit for this project, it has gone inactive. That is the reason we are here

Mr. Drawdy makes the motion to grant the Appellant thirty (30) days to take down the defective trusses and remove them. Within sixty (60) days procure the funding for this project, reinstate the building permit, and continue with the building permit requirements. At the end of this sixty (60) day extension, if this has not been done, the Board will uphold the decision of the Building Official and the county will take over and complete the demolition.

Mr. Weiner - The motion offered and seconded. All members in favor. None opposed. Motion passed

Ms. Fox – is staff seeking to admit the packet into evidence

Mr. Weiner – the additional back up information has been submitted and made part of the record.

Mr. McNeely – May I ask a few questions. Will I be able to reinstate the permit or will I have to start all over again on that process.

Mr. Wise – You will be able to reinstate the permit.

4. OLD BUSINESS – NONE

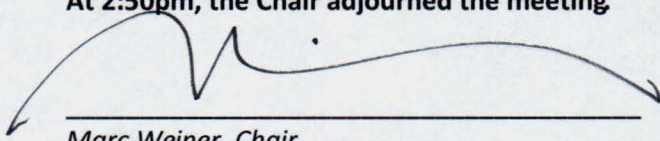
5. BOARD MEMBER COMMENTS – NONE

6. STAFF MEMBER COMMENTS –

Mr. Wise – I wanted to introduce myself, I am the new Building Official for Palm Beach County. Vickie Day is your new Board Secretary. We will be reaching out to you in the near future about training. We have just been through the Building Division's re-accreditation process through ISO. They evaluate building departments every five years. One of the items on their report that is important is the amount of training that Board members gets. We will be getting information to you on training opportunities on building codes and technical issues that you all make determinations on. We do some in-house training for CEU credits as well. Reach out to us if there is something you find you would like to take.

7. ADJOURNMENT

At 2:50pm, the Chair adjourned the meeting



Marc Weiner, Chair

Respectfully submitted,

Vickie Day
Recording Secretary