

## **Building Code Board of Appeals**

**Meeting Minutes – October 31, 2012**

**City Hall Conference Room 224 – 11:30 a.m.**

**Call to Order:** John Hartle, City Attorney, called to Building Code Board of Appeals to order at 11:40 a.m.

**Roll Call:**

**Members Present:** Todd Kollar, Randy Walling, Brad Austin, Mike Story, Darrell Weatherall.

**Members Absent:** Jeff Wilson.

**Others Present:** John Hartle, City Attorney; Laurie Sica, Municipal Clerk; Charlie Ford, Building Official; Ron Schramm, Code Enforcement Officer.

**Board Organization:** Mr. Hartle said the Board's task was to organize itself, elect a chair, and consider adopting Rules of Procedure for the Board. At Noon, an appeal hearing was scheduled. Without having actual adopted rules, it may take some improvisation, but because the CBJ was ordering the demolition of a structure, due process was required, and an opportunity for the appellant to be fully heard was in order. He suggested that the Board provide the appellant with a written statement, allow Mr. Ford to respond to that, and then schedule a future meeting to review the written documents and take testimony from both. Following that, the Board would deliberate and make a decision, with findings showing how the code was applied. Mr. Hartle was available to assist with drafting a written decision for the Board's review and adoption.

The Board elected Mike Story as Chair, and Randy Walling as Vice Chair.

Mr. Story, Mr. Walling and Mr. Kollar volunteered to review the Rules of Procedure document. Ms. Sica said that she had found the Rules of Procedure in the file but as the Board had not met since 2000, she was unsure if the Board or the Assembly had adopted the Rules of Procedure. Mr. Hartle said the procedures should be simple, straightforward and offer a fairly quick process, as an appeal to the Assembly regarding the Board's decision was available to the appellant. The goal should be to provide the appellant due process, an opportunity to be heard, a review of the code, application of the code to the facts before the Board, and a fair and impartial decision, with a record of that for future review.

Mr. Story said that the draft Rules of Procedure called for a Pre-Hearing Conference, but today a hearing was scheduled. Mr. Hartle said that was correct and he recommended allowing Ms. Lee to offer any information in writing, then to allow Mr. Ford to respond to that information, followed by another hearing.

Mr. Story requested that a copy of the Rules of Procedure be distributed to the board in an editable document, and that the Board be provided with a list of board members and contacts. Mr. Hartle cautioned that email among board members should be limited to setting a meeting date, sending drafts of documents to board members, but any discussion regarding the merits of an issue needed to be done in an open meeting.

**Noon: Ann Lee Appeal of Building Official's Order to Demolish Structure at 9018 Long Run Drive.**

Ms. Sica contacted Ann Lee by teleconference. Ms. Lee was calling in from the Kenai Peninsula and said she was in an area that did not have reliable phone transmission.

Mr. Story said he would like to offer Ms. Lee an opportunity to ask questions or provide explanations, and then a further meeting in a reasonable amount of time might be scheduled.

Ms. Lee said she understood that the Building Official wanted to get the building demolished but she was still trying to find out what happened to the trailer through the fire and police department and she had not gotten that all put together. She was trying to find an opportunity to get to Juneau to deal with the situation, with the help of her mother and daughter. She said the city had taken so much stuff off of her property and she was still struggling with the bills from that.

Mr. Story said he noted that Ms. Lee requested more time in her written appeal. He asked her how much time. Ms. Lee said she did not want to leave the trailer there like that but she wanted to come down because there were things in the trailer that she needed to look for, including a substantial money order. She was trying to make arrangements but it was difficult as she was living in an area in which it was hard to find work. She needs to figure out the cost to get it out of there. She still wants to figure out how it caught on fire and what the vandalism was. She was not opposed to clearing the property off but she wanted to do it in a way she could afford it. She referred to the removal of vehicles from her property and being charged for that disposal. She was trying to get a lawyer to help her out with this so she could clear the property out without another big bill. It was obvious from the pictures that she got sent to her that it was not fixable and some of the information that came to her did not come to her in a timely manner. She lives in a rural area where delivery is delayed. She did not always come to town and she did not have reliable email or phone or email service where she lives.

Mr. Story asked her when she received information. Ms. Lee said she had someone else on her Post Office box and she had a restraining order but that would not stop someone else from picking up her mail. She said she did not get the notice of September 2011; otherwise, this would not have been going on for so long. She did not hear about the fire until 2012, through a friend of her daughter.

Ms. Lee asked for information about the Building Code Board of Appeals. Mr. Story said that the Board was established by CBJ to hear appeals of the determinations of the Building Official. Because Ms. Lee filed an appeal, stating that the code did not apply to her situation, that the requirements of the code could be adequately satisfied by other means. Mr. Story said that Ms. Lee seems to be asking for additional time. Ms. Lee said that after seeing pictures that she understood there was no way that the

trailer could be repaired. She had to file with her insurance. She did not have the original date of the fire, which would help in requesting and filing paperwork.

Mr. Story said there were three pieces of correspondence: September 9, 2011 – Notice and Order of Dangerous Building, a March 16, 2012 letter from Ron Schramm, Code Compliance Officer, and a June 20, 2012 – Demolition Order. Ms. Lee said she did not have the correspondence before her. She said she had not seen the letter from 2011. Mr. Story said that Ms. Lee has an understanding that CBJ says the house is unsafe and is going to be demolished. Ms. Lee said she understood that but she still did not have any information about what happened to the trailer. She said she understood that it needs to be demolished, she was not disputing that, she just wanted to figure out how to get it done. She needed to be there and go through it and get it out of there. She thought she could build on there because of that.

Mr. Story asked Ms. Lee how much time she was requesting. Ms. Lee said she could not say for sure. She was on unemployment; there were no jobs and no bus service there. She was talking with her mother and her daughter who lives in the area about arranging for help. She thought a couple months but did not know if that was feasible.

Mr. Weatherall asked if Ms. Lee had contacted the JPD or CCFR to request an investigation report for the incident. Ms. Lee said she did, but because she did not have a specific date, they were not able to provide it. Now that she knew the date, she could request the reports again.

Mr. Austin asked when the first time Ms. Lee received correspondence was. She thought in the summer of 2012. Mr. Austin asked if the return receipts were signed. Mr. Ford said only one receipt was signed, for the June 20, 2012 letter.

Mr. Austin asked if Ms. Lee's daughter resided in Juneau. Ms. Lee said she recently moved back. Mr. Austin asked if Ms. Lee's daughter could go in to the trailer and retrieve her personal items. Ms. Lee said she had to arrange for that with the JPD, because she was not sure if her daughter could just walk in.

Mr. Story asked when the last time the trailer was inhabited was. Ms. Lee said a couple of years ago, perhaps three.

Mr. Story asked if there had been public complaints about the property. Mr. Ford said yes, he was not aware of the problem until after the fire.

Mr. Story asked the date of the returned receipt for the letter. Mr. Schramm said it appeared that the March 16 letter was signed for on March 31. It was a reminder letter of the prior notice and that the structure had significant damage, was exposed to the elements and the shed had collapsed due to snow load. Ms. Lee said she needed to get a copy of the signature on the receipt, as there was someone else on her post office box that she had a restraining order on that was able to get mail out of there.

Mr. Story asked about her email source. Ms. Lee said she had an email and confirmed the address with the clerk, who stated that she had sent her the three letter packet from the building official to the email address. Ms. Lee said she did not have email access at her home and had to come in to town to receive it, at Job Service, where she could check her email and phone.

Ms. Lee provided a new address to the Board and Clerk.

Mr. Story said the original letter in June gave Ms. Lee one month to apply for a demolition permit from the City and one month after that to have the work completed. It seems that Ms. Lee and Mr. Ford are of the same mindset regarding the need for demolition. He recommended giving Ms. Lee a week to ten days to get the documentation, and follow up with the original timeline of a month to get a plan in place and another month to have the work done. Ms. Lee said OK, she could try.

Mr. Ford said his only concern with that plan was for the neighborhood. They had been fairly patient to this point, and they were losing their patience, and he received a lot of complaint calls.

Mr. Walling said that it would be another 60 days out. Mr. Ford said yes, and then it would be the dead of winter.

Mr. Story said that with only one signature on the letters, she is claiming that she did not have adequate information and he had no reason to doubt that. Mr. Ford said he did not have proof other than the one receipt, but he had spoken to her on the phone several times, but it was since the June 20 letter.

Mr. ? said that in the June 20 letter, Mr. Ford refers to a conversation he had with Ms. Lee, so that conversation had to take place prior to June 20. Mr. Ford said yes.

Mr. Austin asked if Ms. Lee had insurance on the property. Ms. Lee said yes.

Mr. Walling asked if Ms. Lee currently had insurance on the property. Ms. Lee said no.

Mr. Walling said he drove by the property prior to the meeting and it is a safety hazard to say the least. Ms. Lee said she understood that, but because of all the things the borough had already done to her in taking vehicles off her property, she had to take care of that. She wanted her daughter to go and look at it. She was not in disagreement about the safety of it. She wants it taken care of appropriately.

Mr. Walling asked Ms. Lee when she could do that. Ms. Lee said as soon as she got all the paperwork, she would start working on it. She would come to town if she had to get working on it. It took her three tanks of gas to get to town if her vehicle was working or 40 minutes to hitchhike. She would do the best she could. She was not trying to bow out of this.

Mr. Austin asked if the trailer had insurance when it was burnt. She said she thought it was still in effect. Mr. Austin asked if Ms. Lee had an insurance adjustor look at the property. Ms. Lee said the Board was trying to get something out of her that was not going to happen. She did not know how bad it was. She was sorry she didn't have an insurance inspector go to the property. She was told she needed a police and fire report. She did not have any of that.

Mr. Story asked Mr. Hartle if a motion was appropriate to recommend a timeframe on this. Mr. Hartle asked Mr. Ford if he had a police and/or fire report on the situation. Mr. Ford said he did not have the report, but had asked the Fire Department if she had inquired about a report and they had no record of that. Ms. Lee said she sent a letter to them and she did not know that it was not received.

Mr. Hartle recommended that Mr. Ford obtain the reports and provide them to Ms. Lee with the complete packet of letters, the photos, the code, and anything else she would need to understand the city's position on the matter. Ms. Lee said she understood the city's position and she wanted the city to understand her position.

Mr. Story said the Board was recommending getting her the information and extending this timeline. He recommended 7-10 days to get the information, 30 days to have a plan to the city regarding how this would be rectified, with timelines recognizing winter was arriving.

***MOTION***, by Austin, to give Ms. Lee 10 working days to get back with the Board, and then the Board would set a new hearing date, once she had time to review the material, then the Board could reconvene with the parties and make a decision. Seconded by Kollar.

***MOTION***, by Story, to amend, to give 10 days to receive the information, and then provide 30 days to Ms. Lee to develop a plan with the Building Official.

Mr. Story said he was not sure the Board needed to meet again. Mr. Austin agreed to the amendment, that if the plan was agreeable, that another meeting was not necessary.

Mr. Walling asked for clarification if this was providing another 40 days. Mr. Story said yes, the only way this board would reconvene would be if there was another appeal. Mr. Walling asked if the plan had to be agreeable to the building department. Mr. Story said yes. Mr. Walling said it was a total of forty days.

Hearing no further discussion, and hearing no opposition, the motion, as amended, passed.

Ms. Lee reiterated the problem with the mail service, and asked to have the material information emailed. Ms. Sica said that the three letters were sent to Ms. Lee and Ms. Sica reconfirmed Ms. Lee's email address. Ms. Lee said she could pull up her email at Job Service, but had to print it out at the library.

Ms. Lee thanked the Board for its patience in helping her get this together, and ended the call.

A neighbor (Tom) told the Board that Ms. Lee was lying and that no one had occupied the home since the 1990's. Mr. Hartle said that any evidence would need to be taken at another hearing. The Board had seen photographs of the property.

The neighbor asked how many appeals were possible. This was an ongoing issue and Ms. Lee would just drag this out. Mr. Story said that the Board would proceed as it had set out a plan.

ADJOURNMENT: 12:32 p.m.

Submitted by Laurie Sica, Municipal Clerk