

**BUILDING BOARD  
MEETING  
JULY 26, 2011**

**MEMBERS PRESENT:** Mary Fleenor, Chairman  
John Burrage, Peter Coccaro,  
Erik Howard, Sean Howard, Keith Towles

**MEMBERS ABSENT:** Thomas Cavanaugh

**OTHERS PRESENT:** Suzy Russell, Permit Supervisor  
Randy Cole, Chief Building Official  
John Smith, Plans Examiner  
Teri Tubbs, Zoning Official  
Elizabeth McNeely, Information Technology Manager  
Cody Vaughan-Birch, Board Attorney  
Bruce Vilardi, Joseph O'Connell

**CALL TO ORDER/ANNOUNCEMENTS**

- A. Roll Call
- B. Next Scheduled Meeting
  - Ms. Fleenor confirmed the next scheduled meeting would be held on August 23, 2011.

**APPROVAL OF MINUTES**

- A. June 28, 2011 Meeting
  - Mr. Burrage noted a correction on page 6.
  - Mr. Burrage MOVED, Mr. Coccaro SECONDED approval of the June 28, 2011 minutes as amended. MOTION CARRIED UNANIMOUSLY.

**NEW BUSINESS**

- Recording Secretary Kelly swore in all participants.
- A. Bruce Richard Vilardi – Hiring of Unlicensed Contractor
  - Ms. Suzy Russell, Permit Supervisor, announced on July 13, 2011, Mr. Randy Cole, Chief Building Official, visited 210 McGregor Street for a requested inspection and observed Mr. Joseph O'Connell performing carpentry work. She stated after questioning Mr. O'Connell, Mr. Cole determined Mr. O'Connell was not a licensed contractor in the City nor was he on Mr. Bruce Vilardi's, general contractor's, payroll; however, Mr. O'Connell had acknowledged Mr. Vilardi was paying him by check. She confirmed Mr. O'Connell had since obtained a Certificate of Competency (COC) and paid the \$300 violation fee.
  - Ms. Fleenor clarified Mr. Vilardi had since come into full compliance.
  - Mr. Sean Howard asked if a new sub-contractor list had been submitted.
  - Ms. Russell replied affirmatively.

- Ms. Fleenor questioned the job status at this time.
- Mr. Cole suggested Mr. Vilardi address same.
- Mr. Vilardi acknowledged the accuracy of staff's testimony, stating Mr. O'Connell was a member of the church at which the job was located. He explained the church wished to have Mr. O'Connell oversee the project; however, he was unable to do so with his residential license. He explained he became involved as he was licensed to work on commercial properties. He clarified the permit was pulled under his license. He concluded Mr. O'Connell was a licensed contractor but had not been registered with the City at the time.
- Ms. Fleenor questioned Mr. Vilardi's actions upon being notified of the violation.
- Mr. Vilardi replied he spoke with Mr. Cole, stating Mr. O'Connell immediately obtained his COC, an amended subcontractor list was submitted and the penalty was paid.
- Ms. Russell confirmed Mr. Vilardi addressed the situation the following day.
- Mr. Cole commended Mr. Vilardi on his quick response, recommending he be placed on probation.
- Mr. Burrage MOVED, Mr. Towles SECONDED to place Mr. Vilardi on one year's probation.
- Mr. Sean Howard asked if Mr. O'Connell had been paid for his work.
- Mr. Vilardi replied in the negative.
- MOTION CARRIED UNANIMOUSLY.
- B. Joseph O'Connell – Working without a Certificate of Competency
- Mr. Cole reiterated the testimony as stated under Item A.
- Mr. O'Connell announced he did not contest the charge.
- Ms. Fleenor asked if Mr. O'Connell had been aware of the City's requirement for a COC.
- Mr. O'Connell replied he had previously been registered in the City but had failed to renew his COC.
- Ms. Russell reiterated Mr. O'Connell had paid the \$300 penalty required by City Code.
- Ms. Fleenor requested staff's recommendation.
- Mr. Cole recommended probation.
- Mr. Coccaro MOVED, Mr. Burrage SECONDED to place Mr. O'Connell on probation for one year. MOTION CARRIED UNANIMOUSLY.

### UNFINISHED BUSINESS

- A. Latasha T. Murray, Noah & Tee Construction and Development LLC – Violation of Section 7-11(b), Hiring a subcontractor that does not have a City of Punta Gorda Certificate of Competency
- Mr. John Smith, Plans Examiner, announced Ms. Latasha Murray, Noah & Tee Construction and Development LLC (Noah & Tee), had requested a continuance to the Board’s next meeting due to a personal, family situation.
  - Mr. Burrage MOVED, Mr. Sean Howard SECONDED to continue this case to the Board’s next meeting. MOTION CARRIED UNANIMOUSLY.
  - Mr. Cole then announced Ms. Teri Tubbs, Zoning Official, wished to address the Board on the case involving Tropical Pools & Spas of Southwest Florida (Tropical Pools).
  - Ms. Tubbs stated she understood members had questions with regard to the process and procedures from a zoning aspect as to setbacks and building processes. She explained in 2008 a requirement was added to City Code as follows: “No building or structure shall be constructed beyond the stem wall stage or foundation stage until such time as the foundation location has been inspected and approved by the Zoning Official or his/her designee. Any construction done prior to receiving approval as to location and setback from the Zoning Official is at the contractor’s risk.” She explained this requirement was in place to protect the contractor and the homeowner against a job being completed which was out of compliance. She noted City Code did not allow administrative variances for anything constructed within less than three years.
  - Ms. Fleenor recalled the Board had observed inspection of a staked out area could have prevented all subsequent actions in the subject case.
  - Ms. Tubbs responded the January 2010 inspection of the pool shell had resulted in a rejection based on same being located only 17 feet from the seawall; thus, the builder was put on notice of the problem at that time.
  - Ms. Fleenor questioned the length of time the pool had existed as of January 2010.
  - Ms. Tubbs replied she did not believe the stem wall was constructed at that time; thus, there was no point to which a measurement could have been taken. She clarified the permit for construction of the pool was issued at the end of 2009.
  - Mr. Sean Howard expressed confusion as to how the contractor proceeded at that point in that the inspection failed.
  - Ms. Tubbs expressed uncertainty regarding same, acknowledging the contractor’s subsequent actions were obviously ill advised.
  - Mr. Sean Howard questioned the basis for the City’s granting of a variance.

- Ms. Tubbs replied the Board of Zoning Appeals (BZA) and City Council did not feel the homeowner, who did not reside locally, should be punished for the contractor's actions. She clarified staff had been directed to bring the contractor before this Board as construction had continued after being placed on notice. She acknowledged the Zoning Division had not caught the problem until after receipt of the pool enclosure permit application which showed a much larger slab. She clarified the contractor had actually submitted an application for an enclosure based on the originally approved permit, adding a plans change was submitted when it was apparent the slab was larger.
- Ms. Fleenor commented the pool cage had to have extended beyond the limits of the pool which was already in violation.
- Ms. Tubbs agreed, stating the Zoning Division rejected the enclosure permit application on May 25, 2010. She pointed out "roadblocks" were in place to catch these types of situations; however, it was impossible to "babysit" each and every job due to very limited staffing. She continued staff sometimes encountered an applicant who was simply willing to move forward when the situation deemed otherwise.
- Mr. Sean Howard interjected the Zoning Division had recognized the plans change for the pool cage, asking if the contractor had proceeded with construction of the pool cage without a permit regardless of the City's notice of same.
- Ms. Tubbs confirmed the application was rejected.
- Mr. Sean Howard asked if construction of the pool cage was delayed until after the variance was granted.
- Ms. Tubbs expressed uncertainty regarding same.
- Mr. Towles responded he believe construction had been completed.
- Ms. Fleenor summarized Tropical Pools constructed the pool shell which was found to be non-compliant, reiterating City Councilmembers indicated they did not feel it was fair to penalize the homeowner for same; however, Tropical Pools was still responsible. She maintained Tropical Pools should have been required to take whatever actions were necessary to ensure the property was in compliance without a variance at no additional cost to the homeowner due to the fact that construction was not yet complete at that point in time.
- Ms. Tubbs responded that had been staff's original recommendation. She stated Mr. Ralph DiCarlo, Tropical Pools license holder, had not attended the BZA meeting while the homeowner, Mr. James McCarty, had been present and was successful in his plea to have the pool remain in place. She noted the edge of the pool was extremely close to the concrete.

- Mr. Sean Howard contended this did not appear to be an act of negligence but rather a blatant disregard of City Code.
- Ms. Fleenor agreed, opining the City's final actions were insufficient.
- Mr. Cole interjected Tropical Pools had two legal ways to correct the situation, one being to remove the structure and the other to obtain a variance. He pointed out staff could not prohibit anyone from submitting a variance application, adding the granting of same overrode staff's actions or desires.
- Mr. Sean Howard clarified Mr. DiCarlo had proceeded with construction of the pool cage without a permit at his own risk.
- Mr. Cole responded he would need to review the timeline to determine if construction was completed prior to approval of the variance.
- Ms. Fleenor commented the pool's location appeared to have been intended to have a setback of 19'6" but had ended up with an actual setback of 17', asking if that was indeed the case.
- Ms. Tubbs explained a measurement taken by an inspector in the field was not a survey measurement, adding the inspector may have measured to the inside of the seawall cap. She pointed out the inspector in this case had made a notation regarding same. She noted the right hand side of the slab was at 18'6" due to the position of the home on the lot.
- Ms. Fleenor questioned the point from which the measurement should have been taken.
- Ms. Tubbs replied from the property line, which typically was the center of the seawall cap.
- Mr. Sean Howard commented Mr. DiCarlo had received a relatively light "slap on the wrist."
- Mr. Coccaro stated Mr. DiCarlo had not followed the measurements depicted in his plans.
- Mr. Erik Howard asked if the variance was specific to the concrete slab.
- Ms. Tubbs replied it covered the entire pool and slab structure, adding the variance also covered the pool enclosure as same was sitting on the slab.
- Mr. Coccaro asked if a Stop Work Order had ever been issued after the plans were rejected.
- Mr. Cole replied staff could not issue a Stop Work Order on unpermitted work; however, a correction must be made in order to move forward once plans were rejected.

- Mr. Coccaro stated he did not see the homeowner as having responsibility but rather the contractor should have been made to bring the situation into compliance.
- Ms. Tubbs reiterated anyone could apply for a variance.
- Mr. Sean Howard asked if other inspections were conducted prior to submittal of the variance application.
- Mr. Cole replied he would need to research the timeline. He stated perhaps the Board may wish to outline their objections to granting a variance under these types of conditions in a written memo to City Council.
- Mr. Coccaro reiterated he would like to know if the pool cage was constructed without a permit.
- Mr. Cole replied he would research same and provide a complete timeline of the entire project to the Board. He then introduced Ms. Elizabeth Meneely, Information Technology (IT) Manager, stating at the previous meeting, the Board had discussed the ability of the public to research contractor licensing and competency through the City's web site.
- Ms. Meneely provided a demonstration of services available through the City's web site, stating the public would first need to access "Online Services" on the front page of the web site. She mentioned instructions were also easily available to the public.
- Ms. Fleenor opined the meaning of Online Services was not obvious.
- Ms. Meneely explained Online Services represented anything residents wished to access interactively.
- Ms. Fleenor suggested it be renamed so as to be more intuitive as to its purpose.
- Ms. Meneely cautioned same represented a very costly change. She then continued her demonstration, recalling a suggestion was made to have all information on the first page; however, she advised same was impossible.
- Mr. Sean Howard explained contractor licensing was important as construction of a home usually represented residents' largest investment. He suggested adding an access point on the front page such as "Check Contractor Licensing."
- Ms. McNeely noted the City's home page had originally been very full, adding she had received numerous complaints regarding same. She stated she could determine whether or not the City Manager was able to invest funds so as to make the changes recommended by the Board.
- Mr. Erik Howard commented he did not believe the Board wished to expend staff time and financial resources unnecessarily; thus, he suggested considering same when the City's web site was updated in the future.

- Mr. Sean Howard suggested adding a link for checking contractor licensing under “Need to Know.”
- Ms. McNeely responded items listed under “Need to Know” changed frequently, adding permanent links were not intended to be placed there or under “What’s New.” She reiterated City Council had allotted a relatively small amount of funding to update the web site.
- Ms. Fleenor countered she believed the changes being recommended by the Board could be easily accomplished without involving significant cost. She suggested placing “Frequently Asked Questions” under “Need to Know.” She recommended all of the Board’s suggestions be submitted to City Council in writing. She then questioned the reason behind utilizing contractor “competency” as opposed to contractor “licensing.”
- Mr. Cole explained the City did not license contractors but rather simply registered licensed contractors for working in the City.
- Ms. Fleenor suggested a link for contractor “information.”
- Ms. McNeely confirmed she would meet with Mr. Cole to determine the most accurate language.
- Mr. Cole asked members to provide him with their individual suggestions.
- Ms. Fleenor requested same be placed on the Board’s next agenda.
- Mr. Cole then reminded members of their recommendations to adopt an ordinance which granted the Building Official the authority, in times of emergency, to require COC numbers to be placed on all contractor’s vehicles along with a penalty for non-compliance. He advised the proposed ordinance was tentatively scheduled to be presented to City Council on August 10, 2011.

**ADJOURNMENT**

- Meeting Adjourned: 10:06 a.m.

---

Mary Fleenor, Chairman

---

Mary Kelly, Recording Secretary