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"The Capital City of the Palm Beaches"

CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

MINUTES

June 19, 2008

This regular meeting of the City of West Palm Beach Construction Board of Adjustment and Appeals was called to order at 2 p.m. in the City Hall Commission Chambers, 200 2nd Street, West Palm Beach, Florida.

PRESENT: Daniel Canavan, Chairman
Michael Davila
Everett Fennell
Timothy Hulihan
Thomas McCarthy
Larry Rowe
Keith Spina
Kimberly Rothenburg, Assistant City Attorney/Board Counsel
Pamela Yusko, Recording Secretary

APPROVAL OF MINUTES: Motion was made by Thomas McCarthy and seconded by Timothy Hulihan to approve the Minutes of the May 15, 2008 meeting. Motion carried.

CASE NUMBER 1351 301 Lamberton Drive
Courtney Lakes
DR Palm Beach, Inc.
Perry & Taylor, P.A.

Marty Perry presented this case to the Board. Representing the City was Neil Melick, Building Official.

Motion was made by Michael Davila and seconded by Timothy Hulihan that: **THE BOARD AGREES WITH AND ADOPTS THE CITY'S FINDINGS OF FACT AS PRESENTED. THE APPLICANT IS GRANTED 120 DAYS TO EXTEND THE TEMPORARY CERTIFICATE OF OCCUPANCY.** Motion carried.

"An Equal Opportunity Employer"

CASE NUMBER 1353 295 Lakeview Avenue
Block C
WPB
KPC Lakeview Development LLC
Bob Vail

Presenting this case to the Board was James Walmsley, with TLC Engineering. Also speaking were Rodolfo Robles, with Kast Construction, and Tom Bogacki, with ONM&J. Representing the City were Neil Melick, Building Official, Robert Brown, Licensing and Permitting Services Manager, and Ron Regueiro, City Mechanical Plans Examiner.

After lengthy discussion, a Motion was made by Michael Davila and seconded by Timothy Hulihan that: **THE BOARD IS NOT IN TOTAL AGREEMENT WITH THE CITY'S FINDINGS OF FACT AS PRESENTED BECAUSE THE BOARD DOES NOT AGREE WITH THE INTERPRETATION REGARDING STRUCTURES VERSUS EQUIPMENT. THIS VARIANCE IS REQUESTED BECAUSE THE CODE IS REQUIRING SOMETHING THAT DOES NOT EXIST AND CANNOT BE PROVIDED, THEREBY CAUSING A HARDSHIP. THE APPLICANT IS GRANTED THE REQUEST FOR VARIANCE TO USE ALTERNATE MEANS, WHICH SHALL BE ACCEPTABLE TO BOTH THE APPLICANT AND THE CITY. GRANTING THIS VARIANCE WILL NOT BE DETRIMENTAL TO THE PUBLIC'S HEALTH, SAFETY AND GENERAL WELFARE AND WILL NOT CONFLICT WITH THE GENERAL PURPOSE OF THE CODE.** Motion carried.

It shall be noted that the Building Official intends to request a Declaratory Statement from the Florida Building Commission regarding this issue.

There are two items that are of particular interest to the Board that should be addressed to the Commission. One is clarification of the specific requirements of the Mechanical Code, specifically referencing that structures (i.e. cooling towers) shall be designed to meet the wind loads, while not addressing/defining mechanical equipment as structures. The Declaratory Statement should directly address the issue of mechanical equipment such as condensing units and ventilation fans also being designed to withstand the design wind loads similar to that required for structures. No clarification/direction has been included in the upcoming 2007 Code.

The second issue is clarification of the different use of the terms "to resist" and "to withstand".

It was also noted that a Declaratory Statement, when issued, would supersede the order of this Board. At that point, the Building Official still has the option to approve an alternate means or method as allowed in the Code.

CASE NUMBER 1352 800 Handy Avenue
Lot 38
Block 12
Roosevelt Estates
Willie V. Willis
Arverne Mosely

Steven Mosely presented this case to the Board. Speaking on behalf of the City was Neil Melick, Building Official. A videotape of the property was shown.

Motion was made by Everett Fennell and seconded by Thomas McCarthy that: **THE BOARD AGREES WITH AND ACCEPTS THE CITY'S FINDINGS OF FACT AS PRESENTED. AN EXTENSION OF NINETY (90) DAYS IS GRANTED TO SUBMIT PLANS FOR PERMIT AND RESOLVE ANY EXISTING LEGAL ISSUES. ANY COMMENTS FROM THE BUILDNG DEPARTMENT ARE TO BE ADDRESSED AND PLANS RESUBMITTED WITHIN FIFTEEN (15) DAYS. ONCE THE PERMIT IS ISSUED, CONSTRUCTION IS TO BEGIN EXPEDITIOUSLY AND CONTINUE THROUGH COMPLETION, OR THE UNSAFE BUILDING ORDER SHALL BE REINSTATED.** Motion carried.

CASE NUMBER 1354 5800 Corporate Way
Lot 11
Palm Beach Business Park
Autism Project of PBC Inc.
Richard Busto

Richard Busto presented this Case to the Board. Representing the City was Neil Melick, Building Official.

Motion was made by Thomas McCarthy and seconded by Everett Fennell that: **THE BOARD AGREES WITH AND ADOPTS THE CITY'S FINDINGS OF FACT AS PRESENTED. BASED ON THE EVIDENCE PROVIDED, THIS VARIANCE IS GRANTED TO CONNECT THE WASTEWATER SYSTEM FOR THIS**

TEMPORARY FACILITY TO THE PRIMARY FACILITY ON THE PROPERTY. SPECIAL CONDITIONS IN SUPPORT OF THIS VARIANCE ARE THAT IT IS NOT FEASIBLE TO CLOSE DOWN THIS SPECIAL NEEDS SCHOOL, WHICH OPERATES YEAR-ROUND, IN ORDER TO COMPLY AS STATED IN THE CODE, SO COMMON SENSE SHALL PREVAIL. SHOULD THE PROPERTY CHANGE HANDS OR THE USE OF THIS PORTABLE CLASSROOM CHANGE, THIS ISSUE SHALL COME BEFORE THE BOARD AGAIN. Motion carried.

As there was no further business to come before the Board at this time, the meeting was adjourned at 4:10 p.m.

Daniel T. Canavan
Chairman