

BOARD OF BUILDING CODE STANDARDS AND APPEALS MINUTES

May 1, 2023

Location: Ronald Reagan Building, 271 W. 3rd, 3rd Floor, Room 318

Members: Francisco Banuelos, Randy Coonrod, Brad Doeden, Randy Harder, Miles Millspaugh, Eric Purkey, Russ Redford, Shay White, Gregg Wilhite

Present: Coonrod, Doeden, Harder, Millspaugh, Purkey, Redford, White, Wilhite

Staff Members Present: Chris Labrum, Tim Wagner, KaLyn Nethercot, Richard Chamberlin, Penny Bohannon, Elaine Hammons (MABCD); Justin Waggoner (Sedgwick County Counselor's Office); Jeff Van Zandt (City of Wichita Law Department)

Chairman Redford called the regular meeting of the Board of Building Code Standards and Appeals to order at 1:00 p.m. on Monday, May 1, 2023, at the Ronald Reagan Building, Metropolitan Area Building and Construction Department, 271 W. 3rd, 3rd Floor, Room 318 – Training Room, Wichita, Kansas.

February 6, 2023, Minutes

Vice Chairman Doeden made a motion to approve the February 6, 2023, minutes. Board Member Millspaugh seconded the motion. The motion carried. (8 – 0),

Public Agenda.

There was no one present to speak on the public agenda.

Condemnations:

New Cases:

There were no new cases for May.

Review Cases:

1. 1633 N. Chautauqua Ave

No one was present on behalf of this property.

Approximately 35 x 38 feet in size, this one-story frame dwelling is vacant and open. This structure has a cracking concrete foundation; rotted and missing wood siding; badly worn composition roof, with holes; deteriorated front porch; deteriorated wood trim; and the 10 x 10 foot accessory structure is in fair condition.

Attempts to get the property transferred solely to Ms. Franklin were unsuccessful. Without clear ownership of the property, Ms. Franklin and Mr. Dye were unable to move forward with repairs to the property.

In agreement with MABCD staff recommendation Board Member Harder made a motion to refer the property to the City Council for condemnation, with ten days to begin demolition and ten days to complete the removal of the structure. Board Member Coonrod seconded the motion. The motion carried. (8 – 0)

Chairman Redford asked the Board Members and staff to introduce themselves for any public in attendance.

Dave Selcer of 7114 S 99th E - appeal of the MABCD requirements for the structures on his property.

Justin Waggoner explained to the Board that the appeal would fall under one of five grounds for appeal: 1) the application for a building permit was refused; 2) the application for use of an alternate material was refused; 3) an alternate type of construction was refused; 4) if the applicant considers the provisions of the code do not cover the point raised; or 5) if any particular provision causes manifest injury to be done.

Since Mr. Selcer's appeal had not been made in writing, Mr. Waggoner suggested that Mr. Selcer be asked to first state his appeal to the Board for clarity, and then allow MABCD staff to give their interpretation and application. Once MABCD staff explained their position, Mr. Waggoner recommended that Mr. Selcer be allowed to present any evidence he may have regarding his appeal. MABCD staff and Mr. Selcer would each be given a chance for rebuttal.

Mr. Selcer distributed a hand-out containing photos and documents to most of the Board Members and staff. He explained that the information contained in the document he provided was an overlay of the history for the treehouse. He said work began in 2015 and a year later a "stop work" order was issued. Mr. Selcer met with MABCD staff in January of 2016, at which time numerous requirements were listed by MABCD staff. One of the requirements was that Mr. Selcer obtain an engineering report and comply with the engineering. Once that was done, a permit was issued, and the plumbing rough, electrical rough, and framing were completed and inspected on the treehouse. The treehouse construction was completed, with the exception of the elevator. In the elevator package there was an engineering letter that said the elevator complied with all the engineering requirements. The only change was the elevator, which is actually a pre-engineered cable lift with its own engineering.

Additionally, Mr. Selcer told the Board that the engineering for the treehouse was the same engineering that was used on the garage and the awning. He didn't understand the need to obtain additional engineering specific to the garage and awning since it was the same engineering used as that on the engineering report provided for the treehouse. He said that he had been working with his Commissioner and the City of Derby, and the treehouse would be donated to the City of Derby upon his death. Mr. Selcer expressed that he saw no need (for him) to go to additional expense at this point, and he just wanted to live in the treehouse until his death. Since he will be giving the property to Derby, if there was something non-conforming about it, he requested that he be issued a non-conforming use and allowed to remain there. He assured the Board that he would allow MABCD staff to make inspections of the additional work that had been done, including the small amount of electrical work in the garage, but he wanted MABCD to issue something that will give him the ability to remain in the house.

Mr. Waggoner said he would do his best to summarize the appeal, and asked that Mr. Selcer or the Board to advise him if either had a different perception of what was stated. Mr. Selcer's appeal grounds were: 1) Any additional engineering required by MABCD is no longer needed; 2) any additional work on the trusses would not be needed per code.

Mr., Selcer interjected that the garage was only halfway done, and a 24 X 28 piece had yet to be constructed. If MABCD would look at the piece that was built, Mr. Selcer said he felt there would be no concerns with the trusses he built because they were much better than the other trusses. He added that he would probably ask for a permit to finish the garage.

Mr. Waggoner inquired if, in addition to the two items, there were any other grounds for the appeal. Mr. Selcer reiterated that he wanted to be allowed to continue living in the treehouse. Mr. Waggoner asked MABCD staff if that portion of Mr. Selcer's appeal would be related to a Certificate of Occupancy. Mr. Wagner, MABCD Interim Assistant Director, confirmed that Mr. Waggoner was correct. Mr. Waggoner determined that the most accurate way to state Mr. Selcer's appeal was that he was appealing the permit process for the structure, that he had already met the requirements of the permit process or should not have to meet the requirements of the permit process, and the provisions of the code should not apply to this property.

Board Member Harder asked what had been completed on the issued permit. Mr. Wagner responded that the rough plumbing, rough electrical, and framing had been signed off. No other inspections had been requested. Board Member Wilhite questioned the permit description that noted there was no mechanical, no bedrooms, and no bathroom. Mr. Wagner confirmed that the bedrooms and bathroom did exist even though the permit specified they were not included in the scope of work. Mr. Selcer told the Board that air conditioning was supplied by window units, and heat was supplied by a pellet stove. He said the plumbing fixtures were set and lighting fixtures installed. Mr. Selcer said the electrician that roughed in the electrical wiring would be willing to come back and look over the completed electrical work to make certain it is safe and properly installed.

Mr. Labrum asked Mr. Wagner to clarify for what work the permit was issued. Mr. Wagner said the permit was issued for an accessory structure treehouse, not a dwelling.

In response to Board Member Harder's question about continuing to add on to the treehouse, Mr. Selcer said during the time span of the COVID-19 pandemic, there wasn't much activity going on, and his people had to work. All they did, Mr. Selcer explained, was hang light fixtures, set toilets, set faucets, and finish the balance of the work. Board Member Wilhite asked Mr. Selcer if he obtained permits for any of the additional work. Mr. Selcer said he did not get permits, and since the property would eventually be turned over to the City of Derby, he asked to forego any other costs while he still owned the property.

After consideration of the appeal and after hearing from Mr. Selcer and MABCD staff, Board Member Harder made a motion to return the matter to MABCD building code enforcement. Board Member Coonrod seconded the motion. Vice Chairman Doeden amended the motion to include the Board's denial of Mr. Selcer's appeal. Board Member Harder seconded the amended motion. The motion passed. (8 - 0)

Request for a second license - Robert Noxon, Qualified Person for Solid Rock Energy Solutions, LLC, (Roofing Only).

Robert Noxon appeared before the Board requesting permission to be the Qualified Person for a second company, Solid Rock Companies, LLC, Class B. Mr. Noxon explained that for insurance purposes, he wanted to keep his roofing company separate from his construction company. He owns 50% of both the roofing company and 50% of the construction company,

Board Member Coonrod made a motion to grant Robert Noxon's request for permission to be the Qualified Person for a second contractor's license. Board Member Millspaugh seconded the motion. The motion was approved. (8 – 0)

MABCD Updates.

Mr. Labrum reminded those Members who were still eligible to be reappointed to submit their application for their Board position if they had not yet done that.

Adjournment

With no other business to discuss, Board Member Wilhite made a motion to adjourn the meeting. Board Member Harder seconded the motion. The motion passed. (8 – 0)

The meeting adjourned at 1:36 pm.