

**MINUTES**  
**PALM BEACH COUNTY**  
**CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS (CBAA)**  
**May 11, 2017**

**1. CALL TO ORDER / CONVENE AS CBAA**

Chairman Marc Wiener called the meeting to order at 2:00 p.m. The meeting was conducted in Room 1W-47, Palm Beach County Planning, Zoning and Building Department, 2300 North Jog Road, West Palm Beach, Florida.

**A. ROLL CALL**

**MEMBERS PRESENT:**

Marc Wiener, Architect, Chair  
Ron Dixon, Engineer, Vice Chair  
Rex Kirby, Division I Contractor

Bart Rasper, Plumbing Contractor  
Manny Oyola, Roofing Contractor  
Margie Walden, Public At-Large

Justin McIntosh, Alternate Public At-Large

**MEMBERS ABSENT:**

Duane Drawdy, Division I Contractor

Gary Sullivan, Electrical Contractor

**OTHERS PRESENT:**

Doug Wise, Building Official, Palm Beach County  
Brad Brown, Deputy Building Official, Palm Beach County  
Ramsay Bulkeley, Deputy Director, PZB, Palm Beach County  
John Blake, Assistant Deputy of Inspections, Palm Beach County  
Jamie Illicete, Contractor Certification Field Investigator  
Robert Nicholls, Codes Products & Training Coordinator  
Dean Wells, Construction Services Coordinator  
Shannon Fox, Assistant County Attorney  
Anne Helfant, Assistant County Attorney  
Jacquelyn Anderson, Recording Secretary  
Anand Poonai, Dcota Contracting, Inc.  
Alan Hess, Property Owner  
Lisa Glennon, Property Owner  
John Glennon, Property Owner  
Andre Parke, Attorney, The Forest Condominium  
Ronald Simmons, Property Owner  
Claudia Langieri, Property Owner  
Brenda Booze, Property Owner  
Ellen Rappaport, Property Owner  
Ira Rappaport, Property Owner

**OTHERS PRESENT:**

Rich Link, Aspen Homes  
Sarah Sooknanan, Property Owner  
John Kennelly, Aspen Homes and Estates of Boynton Waters  
Urania Lopez, Property Owner  
Hamilton Lopez, Property Owner  
Neil O'Neal, Contractor, The Forest Condominium  
Alan Meltzer, The Forest Condominium

**B. APPROVAL OF MINUTES**

Mr. Oyola made a motion to approve the minutes of April 13, 2017. Mr. Kirby seconded the motion. The motion carried unanimously.

**2. ADDITIONS & DELETIONS - NONE**

**3. OLD BUSINESS**

Ms. Anderson administered an oath to all witnesses who planned to testify.

**A. 16-03 – Multiple Properties - Estates of Boynton Waters**

Mr. Kennelly requested the Estates of Boynton Waters status report be submitted into evidence.

Mr. Wise stated all the permits are renewed, and pictures of each property were being displayed in a slideshow. Mr. Wise requested the County staff report be submitted into evidence.

Mr. Kennelly stated all eleven homes have current active permits and are in the process of construction or the bid process. There is active work being done on the project. There will be further work done over the next 12 months as the homes are completed.

Ms. Walden questioned Mr. Kennelly regarding the "Detailed Completion Schedule" listed on Appellant's exhibit.

Discussion ensued.

Mr. Oyola questioned Mr. Kennelly regarding the trash seen in the photos displayed in the slideshow.

Discussion ensued.

Mr. Hess stated the situation has gone from bad to worse. It does not appear the homes

will be completed by the deadline because workers work for three or four hours a day and sometimes do not return again for several days. He inquired about penalties if the homes are not completed in time to meet the deadline.

Mr. Hess requested to submit pictures to the Board for review.

Mr. Glennon stated he has been looking at the uncompleted homes for 11 years. He expressed dissatisfaction with the amount of trash in front of the homes being built and rodents around the construction sites. He inquired about the requirement to have a dumpster to collect the garbage.

Mr. Wise stated there is no regulation requiring a dumpster, but the regulations require the trash be contained in some way which may include wire fences, a dumpster or plywood boxes. Mr. Wise stated Building Division staff will inspect for trash. Code Enforcement can investigate the rodent situation.

Discussion ensued.

Ms. Rappaport stated she has similar concerns because it has been over a decade that the situation has been the way it is. Real Estate agents do not like to come in, and a gentleman in the community has been unable to sell his home. Work on the homes is sporadic. Ms. Rappaport inquired about the bond that was put up and whether it can be specific for the development to have two or three teams work on the homes to get them finished quicker.

Mr. Wise stated bonds are utilized by the County Engineer for infrastructure improvements such as roads, drainage, canals, drainage structures, water and sewage systems. They are not within the purview of the Building Division, and Building does not have jurisdiction over them. The bonds are used for paving, grading, drainage structures, water mains, sewer mains, fire hydrants. The bond is specific to the development.

Board members questioned Mr. Kennelly, and discussion ensued.

Ms. Walden made a motion that the trash be cleaned up and/or contained within two weeks; and within two weeks, new completion dates will be provided to the Board that the developer will be held accountable for; and the Board order stands that the homes must be completed with a CO as of May 12, 2018.

Mr. Oyola requested amending the motion to include removal of the trash on a weekly basis.

Ms. Walden amended the first part of the motion that the trash be cleaned up and/or contained within two weeks with weekly removal of the trash. The rest of the motion stands as originally stated.

Mr. Oyola seconded the motion.

Discussion ensued.

Ms. Glennon expressed concerns about the schedule of construction and the lack of crews being used to work on the properties.

Ms. Booze inquired whether the demolition order can be amended for severe financial penalties or sanctions.

Ms. Fox stated the Board does not have the authority to impose financial penalties. The Board can uphold demolition orders or allow the construction to continue.

Discussion ensued.

Mr. Wiener called the question. The motion passed unanimously.

**B. 17-03 – 4594 Hibiscus Ave – Hamilton Lopez**

Mr. Wise stated this case was previously heard before the Board, and the Board recommended the owner secure the building and come back within 30 days with a plan to demolish. Staff was at the property at lunchtime and the fence was not up. A permit for demolition and for the fence were issued the day before.

Mrs. Lopez requested Mr. Lopez be sworn in because he came in late.

Ms. Anderson administered an oath to Mr. Lopez.

Mrs. Lopez stated there were a couple of setbacks in obtaining fencing because most of the companies wanted to put up permanent fencing rather than temporary. Mr. Lopez applied for the permit, but a new survey was required to obtain the permits. The permits for fencing and demolition were obtained on May 10, 2017. Ms. Lopez requested 30 additional days.

Mrs. Lopez stated within a week they can secure the property with a fence, and secure doors and windows. She stated they still need to have the Health Department pass inspection on the septic tank. The demolition company will not give them a demolition date without approval from FPL, and they are waiting for FPL. Mrs. Lopez requested an additional 30 days.

Board members questioned the Appellant.

Discussion ensued.

Mr. Lopez stated the fencing was not yet done because when the permit was applied for, they were told a new survey was required. The new survey took a week, and the permit was not applied for until after the new survey was received. The permit was received on May 10, 2017.

Board members questioned the Appellant.

Discussion ensued.

Mr. Dixon asked for the Building Division's recommendation.

Mr. Wise stated the Appellant applied for the permits and paid over \$2000 for the building permit and completed the conditional permit. All that the Appellants have done is showing good faith if the Board wants to allow an additional 30 days. However, the property must be secured right away.

Ms. Walden made a motion to give the Appellant a 30-day extension, with the fence to secure the property being in place within one week; and at the end of the 30-day extension the Board receives a status report with the FPL update, Health Department update, and a signed contract with a demolition company; or within 30 days, have everything done and demolished.

Mr. Oyola seconded the motion.

Discussion ensued.

The motion carried unanimously.

Mr. Wise requested the staff report be submitted into evidence.

#### **4. NEW BUSINESS**

##### **A. 17-05 – 6169 Country Fair Circle – County Fair at Boynton Homeowners Association, Inc.**

Ms. Anderson administered an oath to Mr. Cortez.

Mr. Wise stated the case involves 6169 Country Fair Circle in Boynton Beach. Photographs of the property were displayed on the screen and were included in the agenda packets. Mr. Wells inspected the property.

Mr. Wells stated he did an onsite inspection. There are numerous holes in the roof that are allowing the house to be open to the elements. The ceiling is collapsed, and the trusses are rotted from the water damage. The mold is very heavy. Mr. Wells stated he

was only able to go into the house about 15 feet and was unable to go into the other rooms because of the heavy mold.

Mr. Wells stated the entire roof system would have to be removed because it has completely failed. He stated the extent of the damage may not be fully determined until after everything has been stripped down. The trusses in the center webs are rotted out.

Mr. Wise stated Staff does not believe the building is capable of being repaired, but if the Board wishes to consider the Applicant's the argument and grant them time to get it investigated structurally, it is the Board's choice. As hurricane season approaches, this building poses a significant hazard to the surrounding community.

Mr. Cortez stated the intent of the appeal is to request additional time. Country Fair of Boynton Homeowners Association took title of the property through a foreclosure on a lien based on nonpayment of assessments. A suit has been filed against the bank because they have refused to move forward and foreclose. The Association would like an extension of time to give the bank an opportunity to move forward because demolition impacts their collateral.

Mr. Cortez stated there is also a parallel Code Enforcement case with a consent order to replace the roof by July 11, 2017. He stated the Association is inclined to demolish the property rather than replace the roof. He requested two months to attempt to get the property demolished, or come back for a status check if unable to demolish.

Board members questioned Staff and the Appellant.

Discussion ensued.

Mr. Dixon made a motion to deny application number 17-05.

Ms. Walden seconded the motion. The motion carried unanimously.

Mr. Wise requested the staff report be submitted into evidence.

**B. 17-06 – 5250 Bosque Lane – The Forest Condominium, Inc. No. 1**

Mr. Wise stated the subject case is a request for a variance from the requirements of the Florida Building Code with regard to rooftop equipment. Mr. Wise requested the staff report be submitted into evidence.

Mr. Wise distributed a copy of section 113.4.2 of the Palm Beach County Amendments to the Florida Building Code which describes the five conditions that must be met to grant a variance request.

Mr. Wise stated there is a provision in the code that is very specific regarding elevation of mechanical equipment when a roof is replaced. He stated in this specific case, he believes the intent of the code is not to require the elevation of the mechanical equipment. These are very unique structures, and the Appellant took video that shows how the equipment is screened behind parapet walls. The flat decks and parapet walls exist solely for the purpose of screening the rooftop equipment.

Mr. Wise stated he would support the Appellant's variance request as it is a reasonable request.

Mr. Parke stated he represent The Forest Condominium and submitted a request for a variance from Florida Building Code 1509.6.5 requiring stands because the AC equipment and systems are placed directly on the roof. It is a very unique construction in that it shields all sides of the units from windstorm damage and any other damage that could happen to the AC units.

Mr. Parke stated the underlying reason for the code is to prevent windstorm damage and protect the AC system from incurring damage. Additionally, this particular provision is triggered because the Florida legislature wanted to ensure if the property is reroofed, the roof underneath the AC units could be modified without moving the AC system. In this particular case, whether there are stands or not, the AC systems have to be moved to reroof the building based upon the configuration of the roof. The request was brought before the Board because it is a unique situation that will not create a precedent.

A video of the Forest Condominium development and the buildings with AC parapet walls was shown to the Board.

Mr. Parke stated the roof designs are enhanced and designed specifically to hold the air conditioning unit in the place they are located now. If the development used the stands, it would leave the AC units vulnerable to windstorm damage.

Mr. Wiener asked if there were any public comments.

Mr. Meltzer introduced himself as a member of the Board of Directors for the condominium association. He stated the stands do not fit in the community. It leaves the units vulnerable. There is no reason that would apply to the development.

Board members questioned Staff and Mr. O'Neal, the roofing contractor for the Forest Condominium.

Discussion ensued.

Mr. Dixon made a motion to grant the variance based on the five stipulations in 113.4.2. Mr. Oyola seconded the motion.

Ms. Anderson administered an oath to Mr. Brown.

Mr. Brown suggested that they get an engineered detail that can be used for the whole project how the sleepers should be anchored down and how the unit should be anchored.

Discussion ensued.

Mr. Dixon revised the motion to grant the variance based on the five stipulations in 113.4.2 and the Building Division be furnished a detail as to the connection between the equipment and the structural system of the roof and such be detailed by a structural engineer.

Ms. Walden seconded the motion.

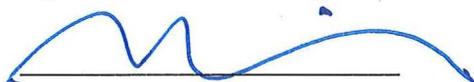
Discussion ensued.

The motion passed unanimously.

**5. ADJOURNMENT as the CBAA**

Chairman Marc Wiener adjourned the meeting as the Construction Board of Adjustments and Appeals at approximately 3:55 p.m.

Signed for the Board by,



Marc Wiener  
Chairman

Respectfully submitted,  
Jacquelyn Anderson  
Recording Secretary