# CONSTRUCTION CODE APPEALS COMMITTEE

The Construction Code Appeals Committee meeting was held on April 2, 2014 at 3:32 p.m. with Chairman Perza presiding. Mr. Koenig was present. Mr. Lynn was absent. Staff members present were Mrs. Townshend, Mrs. McDowell, and Ms. Devine.

**AGENDA ADDITIONS/DELETIONS**

**Mr. Koenig moved for approval of the agenda, seconded by Mr. Perza and unanimously carried**.

**Residential Code Violation Appeal - 908 Forest Street - Chapter 22 - Buildings and Building Regulations, Article III - Building Code, Section 22-61(b) International Residential Code Adopted, 2009 - Section R105 - Permits *(Jesse Williamson)***

Mr. Perza advised members that an appeal had been received for a violation of the International Residential Code for property located at 908 Forest Street owned by Mr. Jesse Williamson.

Mrs. Betsy Williamson, Mr. Williamson's wife, stated that she was angry that she was here today. She explained that her daughter had met Mr. Lee Voelcker, of All About Remodeling, and believed he was a Christian and an honest man. Mrs. Williamson indicated that she had asked for his proposal for her project, business license, and insurance, and Mr. Voelcker insisted that she pay him $2,850. She noted that she does not usually pay the entire amount but pays a third down, a third later, and another third later, and she advised him that she had not done this before. Mrs. Williamson noted that she was ill at the time, having had surgeries on September 17th and November 7th. She advised that she had trusted Mr. Voelcker, but she received a notice that the City did not have the permit. Mrs. Williamson stated that she called Mr. Voelcker, who came to her house and was angry, stating that she had gotten him in trouble. She advised him that she had been in Dover for 56 years and had never gotten a contractor permit for any of the work that she had done.

Mrs. Williamson stated that she assumed Mr. Voelcker was trustworthy and had gotten the permit, since she had seen his license and referrals from people he had worked with, and he had been in business for 40 years. She indicated that she asked for receipts, which she needed for taxes since it is a rental property; however, he did not itemize what was done and included just the amount. Mrs. Williamson advised that she had called Mr. Voelcker but had not heard from him. She stated she was upset about becoming involved with a contractor like this, expressing her belief that many other elderly persons were being taken by people like Mr. Voelcker. She had believed he was reputable since he had done work for Mr. Mike Harrington, Harrington ERA Realty, Inc., and others who had provided references.

Mr. Perza questioned if Mrs. Williamson planned to have Mr. Voelcker finish the project. Responding, Mrs. Williamson stated that Mr. Voelcker was to come back and had not finished the banisters on the deck.

In response to Mrs. Williamson, Mr. Matthew Brown, Inspector I, advised that he had talked to Mrs. Williamson on the phone and had come to the property.

Mrs. Williamson indicated that her daughter was concerned because another builder had told that there were errors with the back deck. Mrs. Williamson explained that Mr. Voelcker was making the

steps too short, she told him that she could not walk down them, and that he had not brought the banisters all the way down. She advised that he was to come back to finish this but had not done so.

Mr. Perza questioned if it would help if the City provided a list of items to be fixed to the contractor. Responding, Mrs. Williamson questioned if Mr. Perza believed the contractor would do this. Mr. Perza pointed out that the contractor works for her and she can tell him to do whatever she wants.

Mr. Robert Williamson, Mrs. Williamson's son, stated that if the work was done wrong, she could take the contractor to court.

Mrs. Williamson stated that this matter came about because Mr. Voelcker had become angry because the steps were too short. Mr. Voelcker indicated that they were built to the Code, and Mrs. Williamson stated that they were not and they were not like other steps and decks. She stated that he claimed he had to charge her more because he had to put in more posts to redo them. Mrs. Williamson stated that the banisters were not completed at the bottom and Mr. Voelcker was supposed to do more enforcing.

Mr. Perza stated that any work done must comply with City code, noting that the contractor cannot make this call, and the work must be approved by the City. He indicated that it would benefit Mrs. Williamson to have the City tell contractors to do this work.

Mrs. Williamson stated that Mr. Voelcker had been very rude, came to the house, and wanted his balance. She advised him that he had not finished her banisters and she would not pay him $650, and he became very angry. Mrs. Williamson stated that she had advised him that he was not acting like a Christian and that she expected him to finish her banisters, and he stormed out.

Mr. Perza questioned if the contract between Mrs. Williamson and Mr. Voelcker was given to the City. Referring to the proposal from All About Remodeling, Mr. Brown explained that this was the contract.

Mrs. Williamson indicated that she was upset when Mr. Voelcker asked her for $2,850, reiterating that she had always written contracts up with a third of the amount being paid in stages. She noted that her husband had been a practicing dentist for 50 years and now has dementia. Mrs. Williamson stated that she would not recommend Mr. Voelcker to anyone, noting that he can be very irate and was disrespectful to her.

Mr. Perza stated that, at this point, the project must be completed. He stated the goal to help Mrs. Williamson get from Point A to Point B and for the contractor to meet with the City so that he knows what he must do. Mr. Perza noted that if it would require writing a letter to Mr. Voelcker, the City could do this, or meet with Mr. Voelcker so that he would know how to proceed. Mr. Perza expressed the need for Mrs. Williamson to get the work done, noting that everyone else also wanted this. He indicated that it would protect Mrs. Williamson to have the City make sure that the work

is done right, stating that allowing the contractor to do the work without meeting the Code would not serve Mrs. Williamson.

Mrs. Williamson indicated that she had to have the work done because the deck was not fastened and was coming loose from the house. She informed members that she does not operate rentals that are not up to par and noted that a handicapped lady is living there.

In response to Mr. Perza regarding what was needed from the City's perspective to finish the project, Mr. Brown stated that staff believed a permit was needed because structural members were removed, the handrail does not come all the way down, and the spacing of the steps is not correct. He explained that, once a permit is obtained, the building inspector can inspect the project and advise what is needed, noting that staff was unsure what was underneath.

Mr. Perza expressed his understanding that the first step would be to get a permit and the second step to have an inspector advised which items were needed, which would have been done in the first place had they done the project in the right way.

Mr. Brown explained that everything the Williamsons had received from the City was in reference to obtaining the permit, noting that there were no specifics yet on what was done wrong in the construction of the deck. He stated that after the permit is issued, staff could start moving in that direction.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised that the Chief Building Inspector met with the contractor in January and told him exactly what he needed; however, the contractor did not follow up.

Responding to Mr. Perza, Mrs. Townshend indicated that a letter articulating what needs to happen could be sent, for the benefit of the Williamsons, so there would be no question about what Mr. Voelcker must do to complete the contract.

Referring to the initial letter to Mr. Williamson from the City dated December 19, 2013, Mr. Koenig, City Manager, questioned if staff went to the property initially due to a regular inspection. Responding, Mr. Brown stated that a complaint came in that work was done improperly. Mrs. Williamson stated that her daughter had called.

Mr. Brown advised that Mrs. Williamson's daughter made the initial complaint. He then went to the property and took pictures, and he consulted with the building inspectors to verify that the work that was done would have required a permit, which resulted in the December 19, 2013 letter.

In reference to the letter dated December 27, 2013 from Mr. Brown, Mr. Koenig expressed his understanding that this letter was sent because no action was taken. In response, Mr. Brown advised that staff had heard nothing on December 27th and no permit had been obtained, so a second notice was sent out. There was no fine at that point, and this was another friendly reminder that a permit must be obtained.

Mr. Koenig stated his understanding that, after the second notice, staff had talked to Mr. Voelcker. Responding, Mr. Brown indicated that Mr. Voelcker came in and met with Mr. Gregory Akers, Chief Building Inspector, in the beginning of January.

In response to Mr. Koenig, Mr. Brown stated that he had confirmed that Mr. Voelcker had a City business license on December 19th, which should still be valid.

Responding to Mr. Koenig, Mrs. Townshend indicated that no action had been taken on Mr. Voelcker's business license; however, this could be done.

Mrs. Williamson stated that she had provided Mr. Voelcker with the December letter that was sent to her. He then came to her house very outraged and stated that Mrs. Williamson had gotten him into a mess.

Mr. Brown explained that the December 27, 2013 letter had a deadline of January 15, 2014, noting that every notice sent out has a deadline. He advised that Mr. Voelcker came in before that and found out exactly what he needed to submit a permit and, at that point, Mr. Brown extended the deadline until January 31, 2014, so that Mr. Voelcker would have time to get measurements together and make the proper application for the permit. He indicated that nothing had been heard from anyone by February 3, 2014, and third notice was sent out with a citation and a February 17, 2014 deadline.

Mrs. Williamson stated that Mr. Voelcker had advised her that he needed drawings of the property, noting that she had found a plot plan, and that the house was built by Reverend Johnson.

Mr. Perza felt it would be to Ms. Williamson's benefit to have a permit, noting that this would enable her to have the improvements built to the Code. He indicated that without a permit, there would be no way to force the contractor to do what the City wanted to be done. Mr. Perza stated that he was unsure if filing an appeal for a waiver of the permit was in the Williamsons' best interest.

In response, Mrs. Williamson indicated that she had not stated that she did not need a permit but that the contractor should have gotten a permit. She stated that he was running his business in this way and questioned if he had obtained permits for the people who had provided him references. She felt he did not do this for Mr. Mike Harrington.

Mr. Perza stated that, at this point, someone must get a permit and that Mrs. Williamson and the contractor must coordinate to have that done, noting that it would benefit her to have the permit issued. He stated that the City could not make either of them do it, and this must be done on their own. Responding, Mrs. Williamson stated that she would probably have to do this. She reiterated that Mr. Voelcker had not given her receipts.

In response to Mr. Perza, Mrs. Townshend estimated the cost of the permit at approximately $25. Mr. Koenig stated that it would be less than $50.

Mrs. Williamson indicated that she would pay the costs, stating that she had been in the City for over 56 years, having come from Tennessee, and had been a law-abiding citizen from the time when Mayor Crawford Carroll had been serving. She stated that she is a retired school librarian from the Capital School District who abides by rules and regulations and was upset that the contractor had done this. She explained that these are the things that are happening to the elderly, stating her belief that some people were not reporting or acting on them. Mrs. Williamson stated that she was tired of being bamboozled but would pay the money. She indicated that she would appreciate it if the City would get Mr. Voelcker to come back and do the work.

Mr. Perza noted that Mr. Voelcker had already met with staff and was Mrs. Williamson's representative of record with the City and that there was the ability to contact him to complete the job that she had already contracted him to do. Mr. Perza recommended, since she was appealing on the grounds that the contractor should have done the work, that Mrs. Williamson withdraw the appeal, file for the permit, and have City staff contact the contractor to tell him what must be done. He stated that having the Committee reject the appeal would not benefit Mrs. Williamson in any manner.

Mr. Robert Williamson stated that Mrs. Williamson was present because she felt that she should not have been placed in a position where she was liable for the $200 fine. He thought her goal was to be relinquished from having to pay the $200 fine.

Mrs. Townshend advised that the fine could be administratively dismissed.

Mr. Perza stated that the bigger concern was getting the work done right. He expressed the desire to ensure that they know exactly what they must do to get the job done.

Mr. Koenig stated that, from experience, a lot of smaller contractors, especially fence contractors, put the responsibility for the permit on the property owner because they want to charge the owner for filling out the permit and everything that goes with the permit.

Responding to Mrs. Williamson, Mr. Koenig stated that he read through the documentation and it did not indicate that Mr. Voelcker was going to obtain permits; however, it did state that "Any alteration or deviation from the above specifications involving extra costs will be executed only upon written order." Mr. Koenig indicated that the City's Code is very specific that the permit is the responsibility of the property owner or their agent. He noted that the City always pursues the property owner because it is easier to compel the property owner to do something then to try and find the contractor.

Mr. Perza expressed the desire, from the City's perspective, to make sure the job is done right so no one is hurt on the property, which is also what the Williamsons want. He stated that the City's concern was not the fine.

Mr. Koenig stated that another reason to obtain a permit is that it would provide legal rights. He indicated that the City would have to come out and inspect the project and advise whether or not it

meets Code. Mr. Koenig advised that, although staff thought it did not meet code, they did not know this absolutely and the question was how far out of Code the project is. He advised that the permit would also offer protection in the future, noting that if the property was sold, it would be documented that the work had been done and was inspected.

Mrs. Williamson stated that she had asked for Mr. Voelcker's business license and insurance because she was concerned about being responsible if someone working on her property was hurt.

Mr. Perza advised that Mrs. Williamson had a contract with Mr. Voelcker, who had met with her and with the City and had represented that he was her agent. He stated that, to the extent that Mr. Voelcker has a business license to do business in Dover, he would have to complete the project according to the terms in the contract. Mr. Perza stated that, at this point, the City would have some leverage with the contractor if he wanted to continue doing business. He expressed his belief that the most appropriate thing to do would be to withdraw the appeal and allow the City to contact the contractor with the list of things to be done. He asked Mrs. Williamson if this was agreeable, and she indicated that it was, noting that she is not a slumlord.

Mr. Perza stated that the appeal had been withdrawn. He indicated that the City would follow up by contacting the contractor with the necessities of getting a permit and completing the building construction process.

Mrs. Townshend stated that the fines would be dismissed.

**Mr. Perza moved to accept the withdrawal of the appeal on the condition that staff contacts the contractor to ensure the permit is filed and the inspections occur, and that the fines be dismissed by the City. The motion was seconded by Mr. Koenig and unanimously carried.**

**Mr. Perza moved for adjournment, seconded by Mr. Koenig and unanimously carried.**

Meeting adjourned at 3:58 p.m.

Adam M. Perza
Chairman

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