



City of New Smyrna Beach

THE BUILDING TRADES BOARD
NOTICE OF MEETING
TO BE HELD AT 6:30 P.M.
OCTOBER 20, 2011
CITY COMMISSION CHAMBERS, 210 SAMS AVENUE
NEW SMYRNA BEACH, FLORIDA

BUILDING TRADES BOARD MEMBERS:

William M. Cowherd, Chairman
Paul Heer, Vice Chairman
Joseph Blanchette
Randy Beach
R. Grant Clark
Terry D. Harrison

Dear Board Members:

THIS SHALL SERVE AS YOUR OFFICIAL NOTIFICATION meeting for the Building Trades Board which has been scheduled for THURSDAY, OCTOBER 20, 2011, commencing at 6:30 P.M., in the City Commission Chambers, 210 Sams Avenue, New Smyrna Beach, to consider the enclosed agenda.

William M. Cowherd, Chairman
Building Trades Board

I. ROLL CALL:

II. DISCLOSURE OF EX PARTE COMMUNICATIONS:

Members of the Building Trades Board are asked to please disclose, for the record, the substance of any ex parte communications that have occurred prior to this public hearing for any cases on this Agenda.

III. APPROVAL OF MINUTES:

September 15, 2011

IV. SWEARING OF CITY STAFF

V. OLD BUSINESS:

VI. NEW BUSINESS:

C2011-0579: Tamara Lynn Flippin 601 Conrad Ave

Consideration from Building Department to demolish a residential structure at 601 Conrad Avenue due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

C2011-0580: Ray McCloud 337 N Myrtle Av

Consideration from Building Department to demolish a residential structure at 337 N Myrtle Avenue due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

C2011-0581: Naomi B. Williams TR Et Al 339 N Myrtle Ave

Consideration from Building Department to demolish a residential structure at 339 N Myrtle Avenue due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

C2011-0582: Carolyn Hunter Johnson 462 N Myrtle Ave

Consideration from Building Department to demolish a residential structure at 462 N Myrtle Avenue due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

C2011-0583:

**Ethel Lee Peoples Est
C/O Johnny L. Peoples**

512 N Myrtle Ave

Consideration from Building Department to demolish a residential structure at 512 N Myrtle Avenue due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

C2011-0617:

Bouchelle Island Development Corp

401 Bouchelle Dr

Consideration from the Building Department for interpretation to determine if APD Development LLC is in violation of the Florida Building Code for the Notice to Reinstate Permit and whether they are entitled to a permit extension.

C2011-0618:

Bouchelle Island Development Corp

403 Bouchelle Dr

Consideration from the Building Department for interpretation to determine if APD Development LLC is in violation of the Florida Building Code for the Notice to Reinstate Permit and whether they are entitled to a permit extension.

C2011-0619:

Bouchelle Island Development Corp

405 Bouchelle Dr

Consideration from the Building Department for interpretation to determine if APD Development LLC is in violation of the Florida Building Code for the Notice to Reinstate Permit and whether they are entitled to a permit extension.

VII. COMMENTS FROM BOARD MEMBERS AND STAFF

VIII. ADJOURNMENT

Pursuant to Florida Statutes 286.0160, if an individual decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. Such person must provide a method for recording the proceedings.

In accordance with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk's Office in person or by mail at 210 Sams Avenue, New Smyrna Beach, FL 32168, (386) 424-2112, prior to the meeting.

MINUTES OF THE BUILDING TRADES BOARD
HEARING
HELD AT 6:30 P.M. – September 15, 2011
CITY COMMISSION CHAMBERS, CITY HALL,
210 SAMS AVE, NEW SMYRNA BEACH, FLORIDA

- I. The Hearing of September 15, 2011, was called to order at 6:30 p.m. Answering to roll call were:

Paul Heer (Vice Chair)

Grant Clark

Terry Harrison

Randy Beach

Joseph Blanchette

Also present were Chief Building Official Michael Knotek, Asst. City Attorney Greg McDole and Permit & License Technician Dorlisa Pogany. Board Member William Cowherd was absent.

II. **DISCLOSURE OF EX PARTE COMMUNICATIONS:**

Members of the Building Trades Board were asked to please disclose, for the record, the substance of any ex parte communications that occurred prior to this public hearing.

Mr. Heer stated that there were none.

III. **APPROVAL OF MINUTES**

August 18, 2011

Mr. Clark made a motion to approve the minutes of the August 18, 2011 as written; seconded by Mr. Blanchette. Motion passed unanimously 5-0.

IV. **SWEARING OF CITY STAFF**

Michael Knotek, Chief Building Official, was sworn for testimony.

V. **OLD BUSINESS:**

C2011-0439:

P. Thomas Clark Est EtAl

559 Charlovis St

Consideration from Building Department to demolish a residential structure at 559 Charlovix Street due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

Mr. Heer asked for the record to reflect that no one was present to represent this case and asked staff for their recommendation.

Mr. Knotek testified that the case was continued from August 18, 2011 at the owner's request because the owner was trying to secure funding through Volusia County to repair the structure. Mr. Knotek further testified the house is in very bad condition and people were living in the structure without electricity and sewer. Mr. Knotek stated staff's recommendation is to demolish the structure and clean up the lot.

Discussion ensued among Staff and the Board regarding contact from the owner, if funding has been obtained, the lack of a sanitary sewer and property being a nuisance.

Mr. Clark made a motion to condemn the structure at 559 Charlovix Street, give the owner 30 days to submit a construction schedule for repair to the Building Department or demolish the structure and clear the land of demolition debris or authorize the City to demolish the structure and file a lien; seconded by Mr. Harrison. Motion passed unanimously 5-0.

C2011-0441:

Frederick Klein

500 Wayne Ave

Consideration from Building Department to demolish a residential structure at 500 Wayne Avenue due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

Frederick Klein was present and sworn in for testimony.

Mr. Klein stated for the record that he has applied for a permit to demolish the canopy and has contacted an individual to complete an inspection after the demolition to determine if any further structures will need to be demolished.

Mr. Knotek testified Mr. Klein has removed a small fire damaged apartment and cleaned up the property some as well. Mr. Knotek further testified that Staff does not have a problem with allowing Mr. Klein to proceed with the canopy and doing an evaluation to determine the stability of the remaining structure. Mr. Knotek testified if Mr. Klein wants to repair the remaining structure, a construction schedule must be submitted to the Building Department. Mr. Knotek stated staff's recommendation is to allow Mr. Klein continue with repairs provided a construction schedule is submitted with a start and completion date.

Discussion ensued among the Staff, the Board and Mr. Klein as to the length of time required to remove the structure and evaluate the remaining structure, continuing the case for 2-3 months, when originally presented to the Board, if an engineer will evaluate the structure and if structure has been condemned.

Mr. Blanchette made motion to continue case C2011-0441 until the November 17, 2011 meeting; seconded by Mr. Clark. Motion passed unanimously 5-0.

VI. NEW BUSINESS

C2011-0357: Gerald Martin & GBL Properties LLC 219 Washington St

Consideration from Building Department to demolish a residential structure at 219 Washington Street due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

Mr. Heer asked for the record to reflect that no one was present to represent this case and asked staff for their recommendation.

Mr. Knotek testified that this is 3 unit complex; 2 units in the main structure and 1 detached unit in the rear. Mr. Knotek further testified that the main structure had a fire on the front porch that went into the attic area so the Fire Department had the power disconnected by the Utilities Commission. Mr. Knotek testified the Utilities Commission contact the Building Department to do an inspection to reconnect the power for the tenants. Mr. Knotek further testified there is open sewer running from the house, open electrical boxes, open wires on the interior and plumbing fixtures not working. He further stated the tenants had children and the condition of the structure was not maintained or safe for the children so he denied access for the tenants to return.

Mr. Knotek testified that he notified the owners of the fire and that repairs would need to be completed before anyone can occupy the unit. Mr. Knotek further testified that the owners have not responded so the property went to the Code Enforcement Board as a public nuisance who referred it the Building Trades Board for further action. Mr. Knotek stated that staff's recommendation is to condemn the property and give the owners 30 days to submit a construction schedule or demolish the structure.

Discussion ensued among Staff and the Board regarding when the inspection was completed and any response from the property owners on the certified mail.

Mr. Blanchette made a motion to condemn the structure at 219 Washington Street, give the owner 30 days to submit a construction schedule for repair to the Building Department or demolish the structure; seconded by Mr. Harrison. Motion passed unanimously 5-0.

C2011-0487: Michael & Cindi Clemens 201 S Cooper St

Consideration from Building Department to demolish a residential structure at 201 S Cooper Street due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

Mr. Heer asked for the record to reflect that no one was present to represent this case and asked staff for their recommendation.

Mr. Knotek testified that the sewer line runs across another property on Downing Street and there is no easement from the owners of Downing Street. Mr. Knotek further testified there is sanitary sewer problem with the Utilities Commission as well and the house has been abandoned. Mr. Knotek stated staff recommends condemning the property, give the owner 30 days to demolish or submit a construction schedule for repairs to the Building Department.

Discussion ensued among Staff and the Board regarding if the owner has contacted the City and if certified mail has been received by the owner.

Mr. Blanchette made a motion to condemn the structure at 215 Citron Street, give the owner 30 days to submit a construction schedule for repair to the Building Department or demolish the structure or authorize the City to demolish the structure and file a lien; seconded by Mr. Clark. Motion passed unanimously 5-0.

C2011-0494:

PPTS 1 LLC

334 Sheldon St

Consideration from Building Department to demolish a residential structure at 334 Sheldon Street due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

Mr. Heer asked for the record to reflect that no one was present to represent this case and asked staff for their recommendation.

Mr. Knotek testified that staff's recommendation is to condemn the main structure and detached structure in the rear. Mr. Knotek further testified the property has become a nuisance due to lack of maintenance and has been broken into and vandalized. Mr. Knotek testified that he contacted the property owners but they were not aware of the structure's condition and it appears they do not maintain the property as well. Mr. Knotek stated that staff's recommendation is to give the owner 30 days to submit a construction schedule for repairs to the Building Department or demolish the structures.

Discussion ensued among Staff and the Board regarding contact with the property owners and any response for repairs or demolition.

Mr. Clark made a motion to condemn the structure at 334 Sheldon Street, give the owner 30 days to submit a construction schedule for repair to the Building Department or demolish the structure or authorize the City to demolish the structure and file a lien; seconded by Mr. Harrison. Motion passed unanimously 5-0.

C2011-0495:

Carol Maxine Baker

425 Palm St

Consideration from Building Department to demolish a residential structure at 425 Palm Street due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

Carol Maxine Baker was present and sworn in for testimony.

Mr. Knotek testified that the Ms. Baker had a contractor pull a permit to have roof work completed but it has expired and no action has been taken to make the necessary repairs.

Discussion ensued among Staff, the Board and Ms. Baker regarding the lack of work by the contractor, name of contractor, amount paid to contractor, if willing to repair a timetable must be submitted, may qualify for CDBG funds for demolition, demolition cost for structure and to remove sewer and extensive damage that would be costly to repair.

Mr. Blanchette made a motion to continue case C2011-0495 until the November 17, 2011 meeting; seconded by Mr. Clark. Motion passed unanimously 5-0.

VII. COMMENTS FROM BOARD MEMBERS AND STAFF

Mr. Heer asked Staff for an update to cases from previous meetings.

Mr. Knotek provided an update on the following cases:

C2010-1182: 2601 S Atlantic Ave – Mr. Knotek stated that Ocean Palms permit has been revoked, old locks cut and new locks installed, asbestos survey has been conducted, awaiting results of survey, possible demolition to start in October if there is asbestos or end of September if there is none. Mr. Knotek further stated the building on South Atlantic Avenue will be demolished first so it can be used as a staging area and then go eastward. The seawall must remain per State DEP or construct a dune system and submit plans to the State for approval.

C2011-0129: 531 N Dixie Freeway – Building was demolished today.

C2011-0126: 1010 Canal St – Mr. Knotek stated the Bank had started foreclosure and dismissed it due to environmental issues according to the local attorney, Edward Fitzgerald of Holland & Knight. Mr. Knotek further stated that he discussed with Mr. Fitzgerald who the current owner is and that a local citizen has a party who is interested in purchasing the property. Mr. Knotek stated that Mr. Fitzgerald is in contact with the party and they are trying to work out the purchasing details.

C2010-1176: 1401 Canal St - This property will be coming back to the Board on November 17, 2011 and the roof had to be constructed and complete by the November Board meeting.

C2010-0620: 551 Julia St – Mr. Knotek stated that earlier in the week there had been no action on the property; however, Mr. Wischmeier came into the office today stating that everything has been cleaned up. Mr. Knotek further stated he was not able to go by the property today before the meeting.

C2010-0621: 553 Julia St - Mr. Knotek stated that earlier in the week there had been no action on the property; however, Mr. Wischmeier came into the office today stating that everything has been cleaned up. Mr. Knotek further stated he was not able to go by the property today before the meeting.

Discussion on CDBG funds and how it works, if the City files a lien, who keeps money when it is returned to the City, would liens still have to be satisfied before selling, can permit been issued without lien satisfaction and could financing be obtained if lien on property. There was also discussion regarding the old Police Station demolition and when it will be completed.

VIII. ADJOURNMENT:

Mr. Blanchette made the motion to adjourn; seconded by Mr. Clark. All agreed and the hearing adjourned at 7:30 PM.



Building Department

210 Sams Avenue
New Smyrna Beach, Florida 32168
Phone: (386) 424-2141
Fax: (386) 424-2143
www.cityofnsb.com

Staff Recommendations

Builders Trade Board

TO: Building Trade Board
FROM: Michael W. Knotek, Chief Building Official
SUBJECT: Unsafe & Dilapidated Structure
601 Conrad Drive
New Smyrna Beach, Florida
CASE NO: C2011-0579
DATE: October 20, 2011

Since the structures have been vacant for a long period of time, the Code Enforcement Inspector referred the property to the Building Department. The property has not been maintained and is now a public health and safety issue. Due to the lack of response from the property owners to make any attempts of correcting the situation, the Building Department has recommended that the matter be referred to the Building Trades Board for further action.

Upon inspection of the property by the Building Department, the following items were noted:

- The structure's exterior or interior walls or other structural members list, lean, or buckle or the support for the structure has become damaged or deteriorated to such an extent that there is a reasonable likelihood that the walls or other structural members may fall or give way.
- The structure has improperly distributed loads upon the floor or roof or the floor or roof is overloaded or has insufficient strength to be reasonably safe for the purpose used.
- The structure has been damaged by fire, wind, or other causes and has become dangerous to life, safety, or the general health and welfare of people within or near the structure.
- The structure is so dilapidated, decayed, unsafe, insanitary, or so utterly fails to provide the amenities necessary for health, safety, or general welfare.
- The structure has parts which are so attached that there is a reasonable likelihood they may fall and injure members of the public or property in general.
- The structure is vacant and not sufficiently secured to prevent easy access to trespassers and vagrants or is otherwise untended or unkempt to the extent that it poses a general health or safety hazard for neighboring people or property

The property was subsequently posted with the violation letter and notice of hearing.

Photographs of the property that was taken showing the condition of the property is attached for your review.

ALTERNATIVES

1. Allow the owner additional time to repair or demolish the structures.

2. Proceed with the demolition; determine if the structures will be demolished by the City of New Smyrna Beach or a private contractor, and authorize an execution against the owner and property if the expenses are not paid within 30 days from the date of the invoice.

RECOMMENDATION

Alternative number 2 is recommended. Based on the inspections, there are parts of the structures that are in danger of collapsing and the condition of the property is a blight to the neighboring properties. Staff recommend that the structure be demolished within 30 days from the date of this hearing. If the structure is not demolished within 30 days then the city will proceed with the demolition and all costs incurred by the city in carrying out the demolition shall be assessed against the owner. The costs incurred by the city are declared to be a debt due the city. Such amounts, if not paid within 30 days of billing, shall be recoverable by the city in court and shall constitute a lien against the property.

If the Board chooses to allow the property owner to repair the structures and bring the structures up to code, Staff recommends that the Board condemn the property and under Section 26-799 (Repairs after condemnation) of the City of New Smyrna Beach Code of Ordinances allow the owner to repair only upon written agreement specifying the nature of the repairs, the date on which the repairs shall be complete, and an agreement that failure to complete the repairs within the time provided authorizes the city to take remedial action with attachment of a lien for all costs incurred by the city.





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Staff Recommendations

Builders Trade Board

TO: Building Trade Board
FROM: Michael W. Knotek, Chief Building Official
SUBJECT: Unsafe & Dilapidated Structure
337 N. Myrtle Avenue
New Smyrna Beach, Florida
CASE NO: C2011-0580
DATE: October 20, 2011

Since the structures have been vacant for a long period of time, the Code Enforcement Inspector referred the property to the Building Department. The property has not been maintained and is now a public health and safety issue. Due to the lack of response from the property owners to make any attempts of correcting the situation, the Building Department has recommended that the matter be referred to the Building Trades Board for further action.

Upon inspection of the property by the Building Department, the following items were noted:

- X The structure's exterior or interior walls or other structural members list, lean, or buckle or the support for the structure has become damaged or deteriorated to such an extent that there is a reasonable likelihood that the walls or other structural members may fall or give way.
- The structure has improperly distributed loads upon the floor or roof or the floor or roof is overloaded or has insufficient strength to be reasonably safe for the purpose used.
- The structure has been damaged by fire, wind, or other causes and has become dangerous to life, safety, or the general health and welfare of people within or near the structure.
- X The structure is so dilapidated, decayed, unsafe, insanitary, or so utterly fails to provide the amenities necessary for health, safety, or general welfare.
- X The structure has parts which are so attached that there is a reasonable likelihood they may fall and injure members of the public or property in general.
- X The structure is vacant and not sufficiently secured to prevent easy access to trespassers and vagrants or is otherwise untended or unkempt to the extent that it poses a general health or safety hazard for neighboring people or property

The property was subsequently posted with the violation letter and notice of hearing.

Photographs of the property that was taken showing the condition of the property is attached for your review.

ALTERNATIVES

1. Allow the owner additional time to repair or demolish the structures.

2. Proceed with the demolition; determine if the structures will be demolished by the City of New Smyrna Beach or a private contractor, and authorize an execution against the owner and property if the expenses are not paid within 30 days from the date of the invoice.

RECOMMENDATION

Alternative number 2 is recommended. Based on the inspections, there are parts of the structures that are in danger of collapsing and the condition of the property is a blight to the neighboring properties. Staff recommend that the structure be demolished within 30 days from the date of this hearing. If the structure is not demolished within 30 days then the city will proceed with the demolition and all costs incurred by the city in carrying out the demolition shall be assessed against the owner. The costs incurred by the city are declared to be a debt due the city. Such amounts, if not paid within 30 days of billing, shall be recoverable by the city in court and shall constitute a lien against the property.

If the Board chooses to allow the property owner to repair the structures and bring the structures up to code, Staff recommends that the Board condemn the property and under Section 26-799 (Repairs after condemnation) of the City of New Smyrna Beach Code of Ordinances allow the owner to repair only upon written agreement specifying the nature of the repairs, the date on which the repairs shall be complete, and an agreement that failure to complete the repairs within the time provided authorizes the city to take remedial action with attachment of a lien for all costs incurred by the city.





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Staff Recommendations

Builders Trade Board

TO: Building Trade Board
FROM: Michael W. Knotek, Chief Building Official
SUBJECT: Unsafe & Dilapidated Structure
339 N. Myrtle Avenue
New Smyrna Beach, Florida
CASE NO: C2011-0581
DATE: October 20, 2011

Since the structures have been vacant for a long period of time, the Code Enforcement Inspector referred the property to the Building Department. The property has not been maintained and is now a public health and safety issue. Due to the lack of response from the property owners to make any attempts of correcting the situation, the Building Department has recommended that the matter be referred to the Building Trades Board for further action.

Upon inspection of the property by the Building Department, the following items were noted:

- The structure's exterior or interior walls or other structural members list, lean, or buckle or the support for the structure has become damaged or deteriorated to such an extent that there is a reasonable likelihood that the walls or other structural members may fall or give way.
- The structure has improperly distributed loads upon the floor or roof or the floor or roof is overloaded or has insufficient strength to be reasonably safe for the purpose used.
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The property was subsequently posted with the violation letter and notice of hearing.

Photographs of the property that was taken showing the condition of the property is attached for your review.

ALTERNATIVES

1. Allow the owner additional time to repair or demolish the structures.

2. Proceed with the demolition; determine if the structures will be demolished by the City of New Smyrna Beach or a private contractor, and authorize an execution against the owner and property if the expenses are not paid within 30 days from the date of the invoice.

RECOMMENDATION

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If the Board chooses to allow the property owner to repair the structures and bring the structures up to code, Staff recommends that the Board condemn the property and under Section 26-799 (Repairs after condemnation) of the City of New Smyrna Beach Code of Ordinances allow the owner to repair only upon written agreement specifying the nature of the repairs, the date on which the repairs shall be complete, and an agreement that failure to complete the repairs within the time provided authorizes the city to take remedial action with attachment of a lien for all costs incurred by the city.





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Staff Recommendations

Builders Trade Board

TO: Building Trade Board
FROM: Michael W. Knotek, Chief Building Official
SUBJECT: Unsafe & Dilapidated Structure
462 N. Myrtle Avenue
New Smyrna Beach, Florida
CASE NO: C2011-0582
DATE: October 20, 2011

Since the structures have been vacant for a long period of time, the Code Enforcement Inspector referred the property to the Building Department. The property has not been maintained and is now a public health and safety issue. Due to the lack of response from the property owners to make any attempts of correcting the situation, the Building Department has recommended that the matter be referred to the Building Trades Board for further action.

Upon inspection of the property by the Building Department, the following items were noted:

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ALTERNATIVES

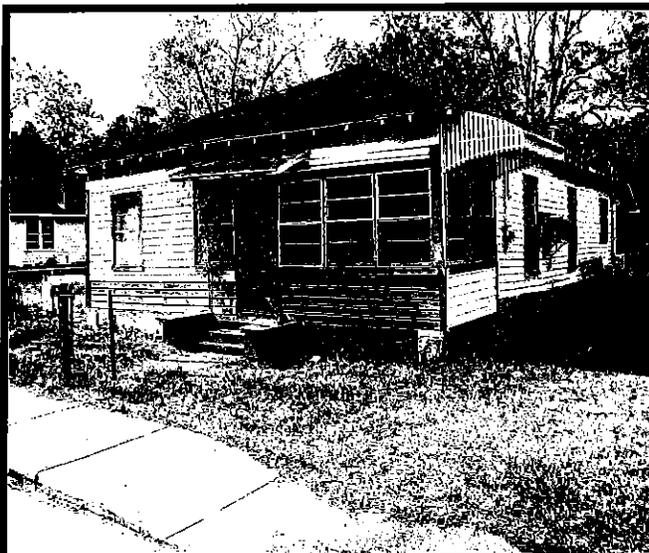
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2. Proceed with the demolition; determine if the structures will be demolished by the City of New Smyrna Beach or a private contractor, and authorize an execution against the owner and property if the expenses are not paid within 30 days from the date of the invoice.

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Staff Recommendations

Builders Trade Board

TO: Building Trade Board
FROM: Michael W. Knotek, Chief Building Official
SUBJECT: Unsafe & Dilapidated Structure
512 N. Myrtle Avenue
New Smyrna Beach, Florida
CASE NO: C2011-0583
DATE: October 20, 2011

Since the structures have been vacant for a long period of time, the Code Enforcement Inspector referred the property to the Building Department. The property has not been maintained and is now a public health and safety issue. Due to the lack of response from the property owners to make any attempts of correcting the situation, the Building Department has recommended that the matter be referred to the Building Trades Board for further action.

Upon inspection of the property by the Building Department, the following items were noted:

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ALTERNATIVES

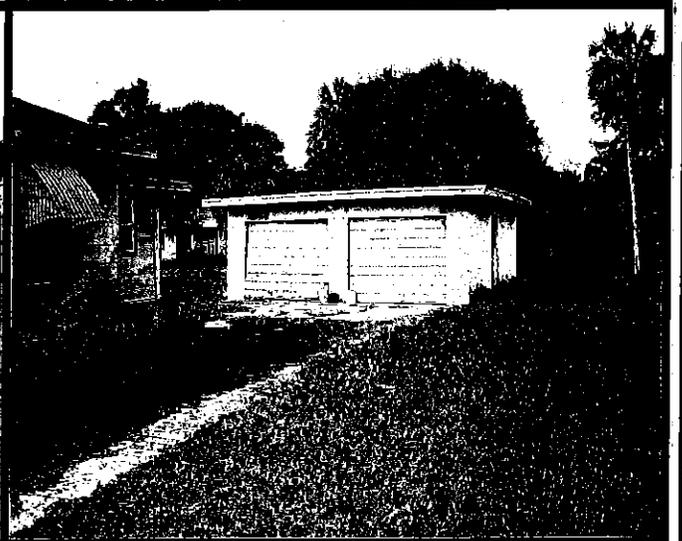
1. Allow the owner additional time to repair or demolish the structures.

2. Proceed with the demolition; determine if the structures will be demolished by the City of New Smyrna Beach or a private contractor, and authorize an execution against the owner and property if the expenses are not paid within 30 days from the date of the invoice.

RECOMMENDATION

Alternative number 2 is recommended. Based on the inspections, there are parts of the structures that are in danger of collapsing and the condition of the property is a blight to the neighboring properties. Staff recommend that the structure be demolished within 30 days from the date of this hearing. If the structure is not demolished within 30 days then the city will proceed with the demolition and all costs incurred by the city in carrying out the demolition shall be assessed against the owner. The costs incurred by the city are declared to be a debt due the city. Such amounts, if not paid within 30 days of billing, shall be recoverable by the city in court and shall constitute a lien against the property.

If the Board chooses to allow the property owner to repair the structures and bring the structures up to code, Staff recommends that the Board condemn the property and under Section 26-799 (Repairs after condemnation) of the City of New Smyrna Beach Code of Ordinances allow the owner to repair only upon written agreement specifying the nature of the repairs, the date on which the repairs shall be complete, and an agreement that failure to complete the repairs within the time provided authorizes the city to take remedial action with attachment of a lien for all costs incurred by the city.





Building Department

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Staff Recommendations

Builders Trade Board

TO: Building Trade Board
FROM: Michael W. Knotek, Chief Building Official
SUBJECT: Building Official's Interpretation
CASE NO: C2011-0617, C2011-0618, C2011-0619
DATE: October 20, 2011

If a proposed project does not comply with the municipality's Code of Ordinances and the Florida Building Code, the Building Official should deny approvals and provide a written summary of project deficiencies.

Good and Sufficient Cause

Because the Code of Ordinances and the Florida Building Code do not anticipate every imaginable situation, the interpretation process allows a developer, contractor or owner to seek permission to vary from the letter of the rules because of a special situation. An interpretation should not be granted for a problem that can be resolved through other means, even if the alternative is more expensive, more complicated, requires that the parcel be put to a different use, or requires the applicant to build elsewhere.

Minimum Variation Necessary

The interpretation must be the minimum necessary, considering all codes and regulations. An interpretation is a request to examine the Building Official's interpretation of codes and regulations, not to ignore them. Any interpretation should allow only minimum deviation from the local requirements.

Project:

401, 403, 405 Bouchelle Drive – Three, two story, 12 unit condominium buildings.

Codes and Ordinances

New Smyrna Beach Code of Ordinances

Chapter 26, Sec. 26-36 – Adoption of Technical Codes

(a) For the purpose of establishing uniform regulations in the maintenance of property, the following published codes are adopted by reference:

- (1) International Property Maintenance Code, 2006
- (2) **2007 Florida Building Code**
- (3) 1997 Standard Housing Code
- (4) 2008 National Electrical code

2007 Florida Building Code

Chapter 1

Section 105.4.1.3 Work shall be considered to be in active progress when the permit has received an approved inspection within 180 days

Staff Analysis

Pursuant to Senate Bill 1752 and Land Development Regulations, Article III, Section 304(F) Building Permits A2008-1019, A2008-1023, and A2008 -1031 were extended for a two years period starting December 30, 2010. During the period between December 30, 2010 and December 30, 2012, substantial performance associated with a Class II or Class III site plan review will be accomplished when the exterior envelope of the structure and site has been completed. However, this extension does not exempt the contractor/developer from meeting the intent and requirements of the Florida Building Code. Staff's interpretation is that there were no inspection within the last 180 days, therefore, the permit has expired.

If the Board chooses to allow the contractor/developer to continue with the construction of the three buildings, Staff recommends that the Board stipulates that all three buildings and site must be substantial completed as per the permit extensions granted December 30, 2010. That if this is not accomplished by December 30, 2012, all permits become voided and new approval will need to be obtained along with new permit fees.

