

CITY OF ST. AUGUSTINE, FLORIDA

Regular Code Enforcement, Adjustments and Appeals Board  
December 14, 2004

The Code Enforcement, Adjustments and Appeals Board met in formal session at 3:00 P.M., Tuesday, December 14, 2004, in the Alcazar Room at City Hall. The meeting was called to order by Gary G. McMahon, Chairman, and the following were present:

**1. ROLL CALL**

Gary G. McMahon, Chairman  
John O. Valdes, Vice-Chairman  
William J. Coughlin  
Vernon A. Davis  
Douglas Ferrell  
Enid Hurst  
Irene Arriola

James Wilson, Esq., City Attorney\*  
James Whitehouse, Esq., Staff Attorney/City Prosecutor  
Nick Andrade, Building Official  
Kim Del Rance, Historic Preservation Planner  
Duane Galambos, Code Enforcement Inspector  
Curtis Boles, Code Enforcement Inspector  
Noel Mahr, Code Enforcement Inspector  
Nancy Brilliant, Recording Secretary

Mr. McMahon welcomed Irene Arriola to the Code Enforcement, Adjustments and Appeals Board.

The City staff was sworn in.

**2. APPROVAL OF MINUTES  
(November 9, 2004)**

**MOTION**

**Ms. Hurst moved to approve the minutes. The motion was seconded by Mr. Davis and approved by a unanimous voice vote.**

**3. DISCLOSURE OF EX-PARTE  
COMMUNICATIONS**

There were no ex-parte items reported.

**4. VARIANCES**

**Item 4(a) 2004-1205**  
**Diane M. Patchell**  
**91 Cerro Street**  
**City Code, Chapter 8, Section 8-401**  
**Flood control variance.**

Mr. Andrade reported that the applicant was requesting a variance from flood control requirements to allow the construction of an aluminum screened enclosure on the existing 12' x 20' deck. He noted that the property was located in flood zone AE which required a base flood elevation of 9 feet above Mean Sea Level (MSL) and that the existing elevation was 8.71 feet. He mentioned that the address was not included on the list of properties that had experienced





Violation directed the respondent to obtain a building permit within 180 days, to rehab the structure or demolish the structure within 30 days from the date of receipt of the Notice of Violation.

- On September 14, 2004 the Planning and Building Department staff posted the property with an affidavit of a Notice of CEAAB for October 12, 2004. During that CEAAB hearing of October 12, the respondent was directed by the board to demolish the structure and dock, excluding the slab and pilings and to fence the property within 45 days, or be subject to a fine of \$250.00 for each day the violation remained outstanding. Additionally, the Building Official was directed to make a determination whether the remaining slab and pilings presented a danger to public safety within 90 days.
- On November 15, 2004 the respondent obtained a demolition permit to demolish the structure, but unfortunately did not commence construction within the mandated 45 day timetable as ordered by the board. As of this date, the structure has been removed and the fence was installed on December 13, 2004.
- On December 6, 2004 the Building Official made a site inspection of the property and determined that the slab and pilings are in a highly deteriorated condition. The slab is broken into numerous pieces that are unstable and poised to fall into the river presenting a danger to watercraft and navigation. The wooden underpinning below the broken slab shows clear evidence of decay and damage by marine organisms. With the

many crevices and hidden pockets created by the broken concrete slab and underpinning, the site has become a harbor for disease carrying rodents and other vermin. To date, large pieces of concrete and other debris has already fallen into the river creating a potential for navigational hazards. While the respondent has installed a debris containment boom, it alone is not sufficient to mitigate or curtail the damage that has been done, and will continue to be done to the waterway by this unsightly and dangerous site.

- Staff recommends that the Code Enforcement, Adjustments and Appeals Board find that the existing broken slab and damaged wood piling and underpinning presents a hazard to public safety and must be removed from the site.
- Staff also recommends that the Code Enforcement, Adjustments and Appeals Board find that the respondent did not comply with the direction of the board as directed and that a fine of \$250.00 a day be imposed for each day the order remains in non-compliance.”

Mr. Davis asked whether the respondent had been in contact with the Planning and Building Department to explain the delay.

Mr. Boles stated that the respondent contacted the Planning and Building Department and explained that the original contractor, hired to demolish the structures, had been replaced. He estimated that the change in contractors delayed the demolition by 3 to 5 days.

Attorney Larry T. Griggs of 200 Malaga Street, Suite 8, St. Augustine, Florida stated the following:

- Described himself as the Attorney representing the property owner.
- His client submitted a demolition permit application and fulfilled the requirements regarding environmental protection and the disconnection of electricity.
- The City of St. Augustine had to obtain a certificate verifying that the sewer was either properly capped or not present. The City did not receive the certificate until November 12, 2004 which delayed the issuance of the demolition permit by 30 days.
- His client had been in verbal contact with the City staff throughout the process.
- Lakeview Dirt was hired and instructed to remove all unstable materials from the property; therefore, he stressed that the slab and pilings were stable.
- The City erected a fence around a concrete slab on their property across the river from the property in question.
- Hardwick Fence installed a six foot fence around the property to ensure the property was inaccessible; therefore, no safety issue existed.
- A boom had been installed, as extra insurance, to retain any floating debris.
- His client had made a good faith effort to respond to the violations.

Mr. Andrade submitted photographs of the slab and pilings for the board to review.

Mr. McMahon questioned the date on which the respondent applied for the demolition

permit and the date that the City received the certificate regarding the sewer.

Mr. Andrade noted that the requested information was not readily available. He stated that the demolition permit was issued on November 15, 2004.

Mr. Davis stated that the date the respondent applied for the demolition permit was pertinent. He asked whether City staff instructed the respondent on the procedure and necessary documentation that must be submitted prior to the issuance of a demolition permit.

Mr. Andrade responded that City staff provided guidelines to the respondent.

Douglas Randall of 5 Willard Drive, St. Augustine, Florida was sworn in and stated the following based on questions directed from his Attorney:

- Submitted for the demolition permit application within a day or two of the October 12, 2004 meeting.
- City of St. Augustine Utility Department contacted the State of Florida Sunshine Department who performed an inspection on the sewer and issued a certificate.
- Spoke to Steve Rose and Nick Andrade a number of times during the process.
- Submitted contractor licensing information to the Planning and Building Department.
- On November 10, 2004 he questioned City staff to see if there was anything he could do to expedite the process at which time he was told that the certificate issued by the Sunshine Department had not been received.

- Late in the afternoon on Friday, November 12, 2004 he was notified that the demolition permit was ready to be issued.
- On the morning of Monday, November 15, 2004 he picked-up the demolition permit.
- The demolition permit was issued approximately 32 days after the demolition permit application was submitted. The structure was removed two weeks after the demolition permit was issued. The six foot fence was professionally installed a few days later.
- The demolition contractor was instructed to remove any unstable material from the site including walkways and pilings.

Mr. McMahon stated that the respondent had made a good faith effort to correct the violations and that he would not support the imposition of a fine.

Mr. Davis expressed his confusion that the State of Florida would be inspecting a sewer line. He stated that the contractor responsible for the digging contacts Sunshine who flags electrical, water, and telephone lines.

Mr. Valdes also expressed his confusion that Sunshine would inspect a sewer line. He outlined the steps involved in obtaining a demolition permit:

- Submit a demolition permit application.
- The contractor would cap the water/sewer and coordinate the disconnection of the electricity, cable, and telephone lines.
- Contractor would notify the Planning and Building Department that the utilities had been disconnected.

- A Building Inspector would inspect the property and verify the disconnection of the utilities and the demolition permit would be issued.

Mr. Andrade reiterated that City staff provided procedural guidelines to the respondent.

Mr. Randall stated that he might have misunderstood the procedure; however, he insisted that the Planning and Building staff told him that the Utility Department would contact Sunshine and he was not aware that it was his responsibility.

A brief discussion ensued regarding the before mentioned testimony.

City staff realized that information previously requested was available.

Mr. Andrade stated that the respondent submitted the demolition permit application on October 11, 2004 and the permit was issued on November 15, 2004.

Mr. Valdes asked when the City was notified that the utilities had been disconnected.

Mr. Andrade stated that the City inspected the site to ensure that the utilities were disconnected; however, the City did not track the disconnection dates.

## MOTION

**Mr. Davis moved to find the case in non-compliance and issue an "Order Imposing a Fine" in the amount of \$250 for 17 days.**

**MOTION WAS WITHDRAWN.**

A brief discussion ensued regarding the number of days the violation was in non-compliance.

Mr. Andrade stated that the respondent had not contacted the Planning and Building Department to perform a final inspection and the City was not certain when each of the violations were corrected.

Mr. Randall stated that he contacted Mr. Boles on December 1, 2004 and notified him that the structure was removed. He noted that the fence was installed a couple of days later.

Mr. Boles noted that the building and dock were removed. He stated that installation of the fence was completed on December 13, 2004.

Mr. Randall responded that, other than one post, the fence was completed on December 10, 2004.

Mr. Valdes suggested that the condition of the slab and piling be discussed prior to a decision regarding the implementation of a fine.

Mr. Randall submitted the following photographs:

- Building and dock taken on September 22, 2004.
- Slab and pilings after the building and dock were demolished.
- Fence and concrete debris on the City owned property across the river.

Mr. Davis asked whether the City had photographs of the slab on the City owned property across the river.

Mr. Andrade stated that the staff did not have photographs of the City property.

Mr. Coughlin stated that the slab on the City owned property was intact.

Mr. McMahon stated that, after viewing the photographs submitted by the Building Official, he was in agreement with Mr. Andrade that the slab and pilings presented a danger to health and safety.

Mr. Valdes asked Mr. Randall to explain his unwillingness to remove the slab and pilings.

Mr. Randall stated that the cost to remove the slab and pilings was considerable. He explained that he planned to develop the site in the future and wished to maintain the footprint of the current structure and pier.

Mr. Davis stated that the location of the structure could be surveyed and as long as the structure was reconstructed within a year the existing footprint could be utilized.

Mr. Andrade agreed with the statement made by Mr. Davis.

Mr. Valdes expressed his concern that marine owners and restaurants would be complaining about rodent infestation if the slab was not removed.

Mr. Randall stated that the building was constructed in 1948 and the problem had existed for a number of years.

Mr. Valdes reiterated that Mr. Randall could remove the slab and pilings and reconstruct in the same footprint within one year.

Mr. Randall explained that he had spent \$18,000 to demolish the structures and \$2,000 for the fence installation. He noted that a fence had been installed around the property and emphasized that the existing slab and pilings did not present a danger. He reiterated that he notified Mr. Boles following the removal of the structures and the installation of the fence.

Mr. Boles verified that Mr. Randall notified him.

Mr. Andrade explained that Mr. Randall reached compliance; however, the compliance was not reached within the allotted time ordered by the board. He reiterated that the slab and pilings presented a danger to the public.

Mr. Coughlin emphasized that the ultimate purpose of the Code Enforcement, Adjustments and Appeals Board was to gain compliance and not to fine respondents.

#### **MOTION**

**Mr. Coughlin moved that, although the respondent exceeded the board ordered compliance date outlined in the “Order Finding Violation” issued on October 12, 2004, compliance was ultimately obtained when the fence was installed and the building and dock (excluding the slab and pilings) were demolished. The motion was seconded by Mr. Ferrell.**

#### **In Favor**

Mr. Coughlin  
Mr. Ferrell  
Mr. Valdes  
Ms. Hurst  
Ms. Arriola

#### **Opposed**

Mr. Davis  
Mr. McMahon

#### **MOTION PASSED.**

#### **MOTION**

**Mr. Coughlin moved to issue an “Order Finding Violation” which allowed the respondent thirty (30) days to remove the slab and pilings, or a fine of \$250 per day would be imposed for each day the violation continued. The motion was seconded by Mr. Ferrell.**

Mr. Coughlin questioned whether the footprint would be lost if the pilings were completely removed.

Mr. Valdes asked whether the permitting process with the Department of Environmental Protection would be affected if the board required the respondent to completely remove the pilings.

Mr. Randall stated that the Department of Environment Protection permitting process to install a new dock was much lengthier than the renovation of an existing dock.

#### **AMENDED MOTION**

**Mr. Coughlin moved to issue an “Order Finding Violation” which allowed the respondent thirty (30) days to remove the slab and the broken/damaged pilings, or a fine of \$250 per day would be imposed for each day the violation continued. The**

**motion was seconded by Mr. Ferrell and approved by a unanimous voice vote.**

Mr. Wilson arrived.

Mr. Randall noted that, if a survey was completed of the property, he had one year to reconstruct the structure in the same footprint. He asked whether he could appear before the board in the future if that information was incorrect.

Mr. Valdes noted that the respondent was allowed one year to reconstruct a structure on the existing footprint. He asked Mr. Wilson when the one year time frame would commence and what measures the respondent could take to protect his rights.

Mr. Wilson stated that the one year time frame began when the structure was demolished. He suggested that a survey be created illustrating the location of the structure.

Mr. Randall noted that he would be hiring a survey company and suggested that the 30 days, ordered by the board, begin once the survey was completed.

Mr. Wilson suggested that the board table the case for 30 days to allow the respondent time to obtain a survey. He noted that the board had to decide what level or degree of danger existed on the property.

Mr. Valdes asked Mr. Randall how long it would take for a survey to be completed.

Mr. Randall estimated that 30 to 40 days would be necessary to obtain a survey. He stated that a fence surrounded the property

and only criminal trespassers could be harmed. He noted that he purchased and installed a permanent boom in the water to retain any debris.

Mr. Wilson reiterated his opinion that the board should table the case for 30 days.

A brief discussion ensued and the board decided not to amend the previous motion.

**Item 5(b) 2004-2209**

**Mary Lee Turner, et al**

**63 Smith Street**

**City Code, Chapter 19, Sections 19-3 and 19-4. Standard Housing Code, Sections 302.1, 302.6, 302.9, 303.4, 305.11, 305.16, and 307.5.**

**Inoperable/unlicensed vehicle. Property is overgrown and littered with debris. Kitchen sink and tub/shower are not in working condition nor properly connected to an approved water and sewer system. No hot water is present at the kitchen sink or bath. Smoke detectors are either not present or not in working condition. Electrical lights and outlets are exposed to the elements. Screen door is broken and all doors are not properly secured. Exposure to the elements due to a hole in the floor. Wood eating organisms are present.**

Mr. Boles summarized the case as follows:

- On July 26, 2004 the following occurred:
  - ◆ The Planning and Building Department received a public complaint regarding the violation.
  - ◆ The previously mentioned violations were identified during a code enforcement inspection.

- ◆ An unsuccessful attempt was made to contact the respondent.
- On July 29, 2004 the Planning and Building Department sent an “Official Notice of Violation” to the respondent, via certified mail, which was returned and stamped “unclaimed.”
- On September 13, 2004 the property was posted with an affidavit of an “Official Notice of CEAAB Hearing” for October 12, 2004.
- On October 12, 2004 the board tabled the case until November 9, 2004 to allow the respondent additional time to correct the violations.
- On November 8, 2004 a code enforcement inspection verified that the following violations had been corrected:
  - ◆ The property was cleared of overgrowth and debris.
  - ◆ Smoke detectors were in working condition.
  - ◆ Electrical lights and outlets were not exposed to the elements.
  - ◆ The hole in the floor had been sealed.
- On November 9, 2004 the board found the case in violation and issued an “Order Finding Violation” which allowed the respondent thirty (30) days from the date of the Order to correct the outstanding violations, or the board stipulated that a fine \$250 per day would be imposed for each day the violation continued.
- Staff recommended the board find the case in compliance and issue an “Order Closing Case for Compliance.”

There was no public comment.

## MOTION

**Mr. Coughlin moved to find the case in compliance and issue an “Order Closing Case for Compliance.” The motion was seconded by Mr. Ferrell and approved by a unanimous voice vote.**

Mr. Craig Emerson of 63 Smith Street, St. Augustine, Florida thanked Mr. Boles and the board members for allowing him additional time to reach compliance.

### Item 5(c) 2004-2219

#### Lyndale Investment Corporation

#### 318 Arricola Avenue

**City Code, Chapter 19, Section 19-4 and  
City Code, Chapter 28, Section 28-337**

**Property is overgrown.**

**Boat and boat trailer stored in the front yard.**

Mr. Boles summarized the case as follows:

- On July 26, 2004 the following occurred:
  - ◆ The Planning and Building Department received a public complaint regarding the violation.
  - ◆ The following violations were identified during a code enforcement inspection:
    - Property is overgrown.
    - Boat and boat trailer stored in the front yard.
  - ◆ An unsuccessful attempt was made to contact the respondent.
- On July 28, 2004 the Planning and Building Department sent an “Official Notice of Violation” to the respondent, via certified mail, which was returned with a forwarding address noted.

- On August 3, 2004 the Planning and Building Department sent an “Official Notice of Violation” to the respondent at the new address, via certified mail, which was returned and stamped “unclaimed.”
- On September 27, 2004 the property was posted with an affidavit of an “Official Notice of CEAAB Hearing” for November 9, 2004.
- On November 8, 2004 a code enforcement inspection verified that the boat and boat trailer had been removed from the property; however, the violation regarding the overgrown property had not been corrected.
- On November 9, 2004 the board found the case in violation and issued an “Order Finding Violation” which allowed the respondent fifteen (15) days from the date of the Order to clear the property of overgrowth, or the board stipulated that a fine of \$250 per day would be imposed for each day the violation continued.
- On December 1, 2004 the Planning and Building Department realized that the incorrect property owner had been cited. The staff recommended the board issue an “Order Closing Case against Lyndale Investment Corporation.”

There was no public comment.

#### **MOTION**

**Mr. Valdes moved to issue an “Order Closing Case against Lyndale Investment Corporation.” The motion was seconded by Ms. Hurst and approved by a unanimous voice vote.**

#### **Item 5(d) 2004-2239**

#### **Elmira Tennant Estate**

#### **127 DeHaven Street**

**City Code, Chapter 8, Section 8-301. Standard Housing Code, Sections 305.3.2, 305.5, 305.6, 305.7, 305.15.**

**Unsafe structure. Holes are present in the soffit at the rear of the structure. Outside stairs are not capable of supporting the load of normal use. Protective railings are not present at the rear portion of the top deck. Windows are not weather tight or rodent proof. Storage building is not in good repair and sound structural condition.**

Mr. Boles summarized the case as follows:

- On August 4, 2004 the following occurred:
  - ◆ The Planning and Building Department received a public complaint regarding the violation.
  - ◆ The previously mentioned violations were identified during a code enforcement inspection.
  - ◆ An unsuccessful attempt was made to contact the respondent.
- On October 14, 2004 the Planning and Building Department sent an “Official Notice of Violation” to the respondent, via certified mail, which was returned and stamped “not deliverable as addressed, unable to forward.”
- On October 22, 2004 the property was posted with an affidavit of an “Official Notice of CEAAB Hearing” for November 9, 2004.
- On November 9, 2004 the board found the case in violation and issued an “Order Finding Violation” which allowed the respondent thirty (30) days from the date of the Order to correct the



## MOTION

Ms. Arriola moved to find the case in non-compliance and issue an “Order Imposing a Fine” of \$250 per day beginning on November 24, 2004 and for each day thereafter of continued violation. The motion was seconded by Ms. Hurst and approved by a unanimous voice vote.

## 6. REVIEW OF NEW CASES

Item 6(a) 2004-2244

Jacob B. Swick, II

117 Kings Ferry Way

City Code, Chapter 8, Section 8-301

Unsafe structure.

Mr. Boles summarized the case as follows:

- “On September 22, 2004 the Planning and Building Department received a complaint regarding unsafe conditions at subject structure. An inspection performed by the Building Official and the Code Enforcement Inspector revealed that the structure is unsafe due to the following conditions:
  - ◆ Inspections revealed that the main structure has rotated approximately 5-10 degrees from vertical.
  - ◆ Because of the lateral rotation of the main building, stresses placed upon the existing structural element may be reaching their failure point.
  - ◆ The stress of the wall and floor support system is causing separation of the floor system from the wall.
  - ◆ Rotation of the main structure is causing rotation and twisting of the interior stairs evidenced by joint separation.
- ◆ The foundation on the east side of the structure has settled approximately 6-8 inches from its original elevation.
- ◆ Door and windows are difficult to open due to rotation and settlement of the structure.
- On October 21, 2004 the Planning and Building Department sent an Official Notice of Violation to the respondent via certified mail, advising the respondent of the violations. The Notice of Violation was returned by the Postal Service as unclaimed and undeliverable as addressed.
- On October 25, 2004 the Planning and Building Department sent the respondent a Notice of CEAAB Hearing advising him of a public hearing scheduled on December 14, 2004, for disposition of the matter.
- On November 29, 2004 an application requesting authorization to demolish the structure was submitted for review by the Historic Architectural Review Board with a public hearing to review the matter scheduled for December 16, 2004.
- In light of the historical significance of subject building, and the evident need to protect public safety from unsafe structures, it is recommended that the CEAAB:
  - ◆ Find that this structure is unsafe and direct the owner to either repair the structure to render it safe for occupancy, or
  - ◆ Order the building secured by boarding-up all entry points to prevent entry.”

Mr. McMahon reiterated that an application had been submitted to the Historic Architectural Review Board requesting demolition.

Mr. Boles stated that the applicant had recently withdrawn the application.

Jacob B. Swick, II of 117 Kings Ferry Way, St. Augustine, Florida was sworn in and stated the following:

- The letter had been sent to an address where he resided three years earlier.
- A contractor, who was considering the purchase of the property, submitted an application to the Historic Architectural Review Board and then decided not to purchase the property and withdrew the application.

Mr. Coughlin asked whether the property was occupied.

Mr. Swick stated that the property was occupied until the City notified him that the structure was unsafe.

John Vonasek of 5903 Rio Royale Road, St. Augustine, Florida was sworn in and stated the following:

- He was currently under contract with the property owner to purchase the property. The contract had a contingency that demolition approval must be obtained.
- Submitted the following:
  - ◆ Letter from State Certified General Contractor Howard C. Kennerly, Jr. which stated “the property was inspected by this contractor on December 6, 2004 and was found to be unsafe and beyond the point of repairing and bringing to today’s

codes. This contractor recommends demolition of existing building immediately.”

- ◆ An estimate of \$5,500 from Fitzgerald Excavating for the demolition and removal of the two-story structure.
- Planned to submit an application to the Historic Architectural Review Board requesting permission to demolish the structure.
- The current structure was utilized as a duplex. Planned to construct a new single family structure on the property; however, to create off-site parking, he planned to move the structure further away from the street.
- Ask the board to recommend that the structure be demolished.
- The property owner was willing to secure the building by boarding-up the access to the structure.

Mr. Valdes asked the date of the next Historic Architectural Review Board meeting.

Ms. Del Rance stated that the deadline for the January 20, 2005 Historic Architectural Review Board meeting was December 30, 2004.

A brief discussion ensued regarding the options available to the board and the amount of time that should be allowed.

Janice Brown of 5903 Rio Royale Road, St. Augustine, Florida was sworn in and stated that it would be difficult to hire someone to board-up the structure during the holiday season and she requested additional time.

Mr. Valdes mentioned that the unoccupied structure was unsafe and he was concerned that homeless people, in search of shelter from the cold, might gain access. He expressed his certainty that someone would be available to board-up the structure.

Mr. Vonasek questioned whether it was acceptable to board-up the first floor only.

Mr. Valdes stated that boarding-up the first floor would be adequate.

Mr. Andrade stated that in the spirit of Christmas the boarding-up of the first floor would be acceptable.

#### **MOTION**

**Mr. Valdes moved to find the case in violation and issue an “Order Finding Violation” which allowed the respondent fifteen (15) days to secure the structure by boarding-up access to the first floor, or a fine of \$250 per day would be imposed for each day the violation continued. The motion was seconded by Ms. Hurst and approved by a unanimous voice vote.**

**Item 6(b) 2004-2265  
Julia Trotman Estate  
c/o Sammy Washington  
7 Blanche Lane  
City Code, Chapter 19, Sections 19-3 and 19-4  
Request for Order Imposing Penalties and Lien to recover the costs associated with the continuous abatement of an overgrown lot.**

Mr. Mahr summarized the case as follows:

- On September 9, 2003 the board found case number 2003-2165 in violation and imposed an “Order Approving Continuous Abatement” of the property.
- On November 3, 2004 the Planning and Building Department sent an “Official Notice of CEAAB Hearing” for December 14, 2004 to the respondent via certified mail which was returned “not deliverable as addressed and unable to forward.”
- On November 22, 2004 the property was posted with an affidavit of an “Official Notice of CEAAB Hearing” for December 14, 2004.
- Recommended the board issue an “Order Imposing Penalties and Lien” in the amount of \$270.00 (\$45 per month) to recover the costs associated with the continuous abatement of the overgrown lot from June 2004 to November 2004.

There was no public comment.

#### **MOTION**

**Ms. Hurst moved to issue an “Order Imposing Penalties and Lien” in the amount of \$270 to recover the costs associated with the continuous abatement of the overgrown lot. The motion was seconded by Mr. Valdes and approved by a unanimous voice vote.**

**Item 6(c) 2004-2279  
Ronald L. Hossler, et al  
15 Travis Lane  
City Code, Chapter 8, Section 8-608  
Construction performed without a building permit.**

Mr. Mahr summarized the case as follows:

- Submitted photographs depicting the construction performed without a building permit.
- On August 9, 2004 Building Inspector Dennis King issued a “Stop Work Order” which allowed the respondent ten (10) working days to obtain a building permit.
- On October 7, 2004 a code enforcement inspection verified that wall studs, window frames, and plywood flooring was installed without a building permit.
- On October 11, 2004 the Planning and Building Department sent an “Official Notice of Violation” to formally advise the respondent of the violation, via certified mail. The notice gave the respondent ten (10) days from the receipt of the letter to correct the violation, or stipulated that the board may impose a maximum fine of \$250 for each day the violation continued.
- On November 24, 2004 the Planning and Building Department sent the respondent, via certified mail, an “Official Notice of CEAAB Hearing” for December 14, 2004.

Mr. McMahon asked whether Mr. Mahr was recommending that an “Order Finding Violation” be imposed.

Mr. Mahr stated that was correct.

Mr. Valdes asked whether Mr. Mahr had been in contact with the property owner.

Mr. Mahr stated that he had numerous conversations with the property owner who resided in Pennsylvania.

Mr. Valdes asked whether the property owner was renovating the structure himself.

Mr. Mahr noted that the property owner stated that he hired a licensed contractor to obtain a building permit and renovate the structure; however, the contractor did not obtain a building permit, started the renovations, and then pulled off the job. He stressed that the property owner was notified that a building permit must be obtained. He noted that the structure was not secure.

Mr. McMahon suggested that the board order the respondent to secure the structure by boarding-up access.

Mr. Wilson asked whether construction had ceased after the stop work order was issued.

Mr. Mahr noted that construction had ceased.

Mr. Wilson stated that the respondent obeyed the stop work order. He asked whether the respondent was cited for an unsecured or unsafe structure.

Mr. Mahr stated that the respondent was not cited for an unsecured or unsafe structure.

Mr. McMahon suggested that the case be tabled to allow the Planning and Building Department to cite the respondent for an unsecured or unsafe structure.

Mr. Wilson reiterated that the respondent obeyed the stop work order when he ceased construction. He noted that the respondent did not need to obtain a building permit unless they planned to resume construction. He asked whether the respondent could be

fined for not obtaining a building permit when they had ceased construction.

Mr. Andrade noted that the respondent ceased construction when the stop work order was issued; however, he explained that the respondent was in violation of City Code when alterations were made to the structure without a building permit. He suggested that additional information could be supplied at the following meeting and he suggested the case be tabled.

Mr. Valdes commented that the property owner, in good faith, hired a licensed contractor to obtain a building permit and renovate the structure. He suggested that the contractor should be cited and not the property owner.

Mr. Wilson agreed that the contractor should be cited.

Mr. Valdes suggested that the property owner produce documentation proving that he hired the contractor and the board could consider citing the contractor rather than the property owner.

There was no public comment.

#### **MOTION**

**Mr. Davis moved to table the case until January 11, 2005. The motion was seconded by Ms. Hurst and approved by a unanimous voice vote.**

#### **7. CITY ATTORNEY ITEMS**

Mr. Wilson mentioned that he had attended a meeting regarding the parking garage and apologized for his late arrival.

#### **8. OTHER BUSINESS**

Mr. Andrade stated that a lien directive had been paid and the Chairman's signature was required on the "Order Releasing Lien." He summarized the case as follows:

- 2004-2164  
New Augustine Construction, Inc.  
69 Nesmith Avenue (Also known as 67 Nesmith Avenue)  
\$1,000.00 fine was paid; however, the respondent was required to plant two 10' replacement shade trees on the property prior to the issuance of a Certificate of Occupancy.

Mr. McMahon announced that Mr. Coughlin and Mr. Davis were attending their final board meeting. He stated that it was a pleasure working with both members and that they would be greatly missed.

Mr. Coughlin and Mr. Davis thanked Mr. McMahon for his statement.

#### **9. REVIEW OF CONFLICT STATEMENTS FROM PREVIOUS MEETING**

(None)

#### **10. ADJOURNMENT**

#### **MOTION**

**Mr. Coughlin moved to adjourn the meeting.**

Meeting was adjourned at 5:15 P.M.

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Gary G. McMahon, Chairman

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Nancy E. Brilliant, Recording Secretary

\*Mr. Wilson arrived at 4:15 p.m.