

ORANGE COUNTY BUILDING CODES BOARD OF ADJUSTMENTS AND APPEALS MINUTES

A meeting of the Building Codes Board of Adjustments and Appeals was held on July 25, 2018, at 2:08 p.m. in the Orange County Administration Center, Commission Chambers, at 201 S. Rosalind Avenue, Orlando, Florida 32801.

MEMBERS PRESENT

Eric Kleinsteuber, Chairperson
Jamie Rodriguez, Vice Chair
Donald Graham
Ray Kilmer
William E. Zetterlund
Michael R. Holloway

MEMBERS ABSENT

Victor Diaz
Mukesh Joshi
Gustavo Torres
Kafi D. Kennedy Swanson

ORANGE COUNTY STAFF PRESENT

Alan C. Plante, Manager
Roberta Alfonso County Attorney
Shane Gerwig – OC Building Official
Tom Hetherman – Deputy Building Inspector
Neil Swiger - Deputy Building Inspector

BOARD COUNSEL PRESENT

D. John Morgeson, Jr., Board Counsel

The meeting was called to Order by the Chair, Eric Kleinsteuber, at 2:01 p.m. The Board Recording Secretary, Shirley Wilson, called the roll. A quorum was met.

Chairman Eric Kleinsteuber indicated that there was a change to remove elections from the agenda as officers were elected at the April meeting.

Shane Gerwig, Building Official, stated that item #3 on the agenda: Election of Officers,” should instead read, “Public Comment.”

APPROVAL OF MINUTES:

The Chair, Eric Kleinsteuber, requested a motion approving the minutes of the April 25, 2018, Building Codes Board of Adjustments and Appeals meeting.

A motion was made by Jamie Rodriguez, seconded by Michael Holloway, and unanimously carried to **approve** the minutes of the April 25, 2018, Building Codes Board of Adjustment and Appeals meeting.

CASE(S)

#18-04-001 Complaint Against: Ralph C. Mervine

License #CGC060150

Complainant(s): Christine Schuster

Location of Structure of this Complaint:

2808 Amsden Road, Winter Park, FL 32792

The above matter was brought before the Building Codes Board of Adjustments and Appeals (BCBAA) for the second time on July 25, 2018 with an addendum which supersedes the original complaint.

Mr. Neil Swiger, Deputy Chief Building Inspector, presented the case for the county, including information regarding a site visit and a 'stop work' order.

D. John Morgeson, Jr., Board Counsel, reminded the board that the case involves a state- licensed contractor and reviewed the board's procedure.

Tom Jaeger Deputy, Plans Examiner, testified for the county, as did Mark Vincent Richter.

Christine Schuster, the complainant, also testified.

Mr. Grant Dostie, Attorney representing Mr. Ralph Mervine, then presented the Respondent's case, and the Respondent, Ralph Mervine, also testified.

Discussion were among the board counsel, board and Mr. Dostie. Mr. Dostie explained at length the work that was performed on the site.

Discussion ensued among the board, staff counsel, and Mr. Mervine

At the conclusion of the testimony, the board voted to take a ten minutes break. The meeting was call back to order at 4:24 pm.

break
[Signature] 11.28.18

The board then heard a closing statement from the county; the respondent did not choose to offer a closing statement. The board then addressed the six allegations in the complaint as follows:

1. Gross incompetent or negligence in conducting work in violation of any of the technical codes. Evidence was presently by OC that there was violation of technical codes, based on a failed inspection.

A motion was made by Vice Chair Jamie Rodriguez, seconded by Michael Holloway, to find that there was gross incompetent or negligence in conducting work in violation of the technical codes. The motion carried unanimously.

2. Willful misrepresentation of any type, including, but not limited to, false advertising, or representing oneself as authorized to do work beyond the scope of one's certificate of competency.

A motion was made by Donald Graham, seconded by Michael Holloway, to find that Mr. Mervine has not made a misrepresentation. The motion carried unanimously.

3. Financial irresponsibility and or diversion of property or funds received pursuant to the contracted work.

A motion was made by Ray Kilmer, seconded by Donald Graham, to find that Mr. Mervine has not been financially irresponsible. An amendment was made by Ray Kilmer to include that Mr. Mervine has not been proven to be found financially irresponsible and or diversion of the property or funds received pursuant to the contracted work, seconded by Michael Holloway. The motion, as amended, carried unanimously.

4. Departing from either: 1) Plans and specification of any contract for work or 2) the accompanying application for permit.

A motion was made by Michael Holloway, seconded by Jamie Rodriguez, to find that the respondent departed from the plans and specification of any contract for work and the accompanying application for permit. The motion carried unanimously.

5. Violation of any of the provisions of Chapter 9 Orange County Code.

A motion was made by Michael Holloway, seconded by Jamie Rodriguez, to find that Mr. Mervine did violate Chapter 9 County code. The motion carried, with and the Chair, Eric Kleinstein, and Donald Graham voting against.

6. Engaging in fraudulent conduct, and or willful violation of the Orange County Code. (Note: Under Florida Statute 489.113[4] [B], a violation of this subsection must be found before the County may deny permits to Contractor/holder of competency.)

After some discussion, a motion was made by Jamie Rodriguez, seconded by Michael Holloway, to find that Mr. Mervine engaged in a willful violation of Orange County Code. The motion carried, with William Zetterlund voting against.

The board counsel, Mr. Morgeson, inquired as to a penalty.

A motion was made by Michael Holloway, seconded by William Zetterlund, to suspend permit pulling privileges indefinitely in Orange County and refer for action to the Department of Business and Professional Regulation. The motion failed.

A motion was made by Michael Holloway, seconded by William Zetterlund, to suspend permit pulling privileges in Orange County, Florida for one (1) year and to send all information relevant to this case to the Department of Business and Professional Regulation for investigation for appropriate action. The motion carried unanimously.

OLD BUSINESS:


There was no Old Business.


Shane Gerwig, Orange County Building Official, addressed parking and also code books with the board.

ADJOURNMENT:

A motion was made by Michael Holloway and seconded by Donald Graham to adjourn the meeting at 4:55 p.m.

ATTEST:


11.28.2018
Eric Kleinsteuber
Chairman


11.28.18
Shirley Wilson
Board Recording Secretary