

May 23, 2014

MINUTES OF THE MEETING OF THE COLLIER COUNTY
BOARD OF ADJUSTMENT AND APPEALS

Naples, Florida, May 23, 2014

LET IT BE REMEMBERED, the Collier County Board of Adjustment and Appeals in and for the County of Collier, having conducted business herein, met on this date at 3:00 P.M. in REGULAR SESSION at the Collier County Growth Management Division Building, Conference Room #609/610, 2800 N. Horseshoe Drive, Naples, Florida, with the following members present:

Chairman: John Melton
Vice Chairman: Bradley Schiffer
Ronald E. Dixon
Eloy Ricardo
Randy Anderson (Excused)

ALSO PRESENT: Judy Puig, Operations Analyst, Staff Liaison
James French, Operations Director, GMD P&R
Heidi Ashton-Cicko, Assistant County Attorney
Jonathan Walsh, Building Official
Dick Noonan, Chief Plumbing/Mechanical Inspector
John Cosmo, Chief Electrical Inspector
Rich Long, Plan Review & Inspections Manager
Myron Jacobs, Chief Structural Inspector
Michael Ossorio, Contractors Licensing Supervisor

Any persons in need of the verbatim record of the meeting may request a copy of the audio from the Collier County Clerks' Minutes and Records Department.

I. Call to Order

The meeting was called to order at 3:05pm.
Roll call was taken and a quorum was established.

Appointment of Chairman and Vice Chairman

Mr. Schiffer nominated John Melton as Chairman of the Board of Adjustment and Appeals. Nominations were closed and Mr. Melton was declared Chairman.

Chairman Melton nominated Brad Schiffer as Vice Chairman of the Board of Adjustment and Appeals.

Nominations were closed and Mr. Schiffer was declared Vice Chairman.

II. Approval of Agenda

Mr. Schiffer moved to approve the Agenda. Second by Mr. Ricardo. Carried unanimously 4 – 0.

III. Public Speakers

None

IV. Agenda Item

A. Waiver of requirements for a building permit for a radon system – Contractor Wayne Dean and Owner – Charles W. McMahon

Mr. Dixon reported he has a conflict of interest with the item and is filing Form 8B –

“Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers.”

All those testifying were sworn in

Mr. Dean addressed the Board noting the following:

- He has been in business for 27 years and specializes in radon mitigation.
- He expressed concern the County is approving installation of radon mitigation systems without the proper qualifications necessary for approvals and inspections.
- The issuance of these permits and the related inspections provide property owners and/or occupants of buildings false assurance the systems function adequately and do not create any negative impacts on the building or occupants.
- Most of the systems currently installed in the County by other contractors do not function properly and are inadvertently causing health problems for residents and damage to buildings including the infusion of unconditioned air into internal spaces leading to mold infestation.
- In his opinion, given County Officials are not qualified to approve the design and installation of the systems, the current process may be creating an unintended liability for the County.

He is appealing the Building Official's decision that the County has the authority to issue a permit for installation of a radon mitigation system as there is nothing in the County Codes or Statutes requiring issuance of a radon mitigation system permit and nowhere on the fee schedule is "radon mitigation" listed.

Mr. Dean entered the following evidence into the record:

Exhibit A: Permit #PRHV2014041042801 and related Inspection Card and Inspection Report which provided a job description of "radon mitigation."

Dick Noonan, Chief Plumbing/Mechanical Inspector submitted a copy of Section 105 of the Florida Building Code. He noted:

- Section 105.1 states a permit is required to alter, repair, replace, convert, etc. any buildings electrical, gas, mechanical and plumbing systems.
- Section 105.2.2 states ordinary minor repairs may be made in a structure without a permit under certain conditions, but does not include "cutting away of any wall."
- The County does not regulate the "performance" of any systems installed, rather the installation of the components to ensure the work is in accordance with building code requirements for alterations to a buildings structure or components (i.e. perforations in exterior walls, mechanical, plumbing and/or electrical system alterations, etc.).
- In the opinion of the County, the alterations to the building's structure and/or systems required for the installation of the necessary mitigation system components requires the issuance of a permit and the related inspections.

John Cosmos, Chief Electrical Inspector reported there is a list of exemptions for permits, however radon mitigation systems are not identified. In addition, Florida Building Commission Case#: CA09-DEC-257 determined permits are required for installation of low voltage electrical systems.

Mike Ossorio, Contractors Licensing Supervisor provided an overview of the case reporting Mr. Dean was issued citations by the County for Commencing Work Without a Permit and Unlicensed Contracting. He entered the following evidence into the record:

Exhibit A : Citation 8744 issued to Wayne Pierce Dean dated April 9, 2014 for commencement of work without a permit, 2nd Offense; and Citation 8743 issued to Wayne Pierce Dean dated April 9, 2014, 2nd Offense for Unlicensed Mechanical Contracting.

Exhibit B: Citation 8747 issued to Wayne Pierce Dean dated April 18, 2014 for commencement of work without a permit - 2nd or more Offense; and Citation 8746 issued to Wayne Pierce Dean dated April 9, 2014, - 2nd or more Offense for Unlicensed Mechanical Contracting.

Mr. Ossorio reported:

- Mr. Dean was issued a citation in 2011 for a similar offense and was aware of the County's position requiring permits for the work.
- On April 9, 2014 Investigators responded to the scene and issued the citations for commencing work without a permit and unlicensed contracting.

- On April 18, 2014 Investigators responded to another call where a like citation was issued.

Chairman Melton reported the issue for the Board is to determine if the Building Officials decision requiring a permit for the work conducted by Mr. Dean on the above referenced dates be “upheld.”

Mr. Schiffer moved to support the decision of the Building Official that systems that rely on ventilation or pressurization of the air conditioned space for radon control require plans specifications and a permit, and the plans and specifications to be signed by a registered engineer. Second by Chairman Melton.

John Walsh, Building Official reported the decision did not cite the requirement of a registered engineer.

Mr. Schiffer amended the motion to support the decision of the Building Official that a mechanical pressurization system for radon requires the appropriate permits. Second by Chairman Melton.

Discussion occurred if the wording “for radon” should be included in the motion.

Mr. Schiffer amended the motion to support the decision of the Building Official that a mechanical pressurization system requires the appropriate permits. Second by Chairman Melton. Motion carried unanimously 3 – 0. Mr. Dixon abstained.

V. Committee Member Comments

Minutes Approval

Mr. Schiffer moved to authorize Mr. Melton to approve the minutes from this meeting on behalf of the Board. Second by Mr. Ricardo. Carried unanimously 4 – 0.

Permit Description for Radon Mitigation

Mr. French reported the County will be undertaking the necessary measures to revise the County system for permit categorization to clarify applications of this nature and their related inspections are not deemed “radon mitigation.”

There being no further business for the good of the County, the meeting was adjourned by the order of the Chair at 4:26PM.

**COLLIER COUNTY BOARD OF ADJUSTMENT
AND APPEALS**



Chairman, John Melton

May 23, 2014

These Minutes were approved by the Board/Chairman on 6/5/2014, as presented ✓
or as amended _____.

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, RONALD E. DIXON, hereby disclose that on 5-23-, 20 14:

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

5-23-2014
Date Filed

[Signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.