



MINUTES
PROPERTY STANDARDS BOARD
FEBRUARY 28, 2019

Council Chambers

6:30 p.m.

1945 E. Jackson Road

DINNER AND BRIEFING SESSION: 6:00 PM

No public testimony allowed at the briefing.

Board members present: Chair Rick Pfeil, Vice Chair Andy Folmer, Mike Whitley, Dave Hermon, Jack Fan, Les Folse, Jim Pipkin, Liz Fannin and Maggie Vera.

Staff members present: Asst. City Attorney Aliceson Foote and Rachael Carrico; Building Official Brett King; Community Services Manager Brian Passwaters; Inspection Services Coordinator Billy McMahon; Environmental Services Director Cory Heiple; Code Enforcement Officers Michael Foitek, Darwin Ortega, Jessica Armijo, and Travis Caperton; Interim Director of Competition and Strategic Planning Krystle Nelinson; and Administrative Support Specialist Lydia Tormos.

CALL MEETING TO ORDER: 6:30 PM

Chair Pfeil called the meeting to order at 6:32 p.m.

1. Approval of **minutes** of the January 24, 2019 meeting.

Hermon moved approval of the minutes; second by Whitley and the motion was approved with a unanimous 9-0 vote.

PUBLIC HEARING

2. **Case PSB 2019-04.** The Carrollton Development Services Department inspected the retaining wall structure and premises at: 1703 Station Place, Nob Hill PH 2, BLK 5 LOT 16, Denton County, GEO ID – SC0014A-000005-0000-0016-0000, PROPERTY ID – 48519, and found it to be a safety hazard and public nuisance. Staff has requested a hearing before the board to issue a Notice and Order to repair retaining wall structure within a specified period of time.

Chair Pfeil administered the Oath to those testifying on the case.

Inspection Services Coordinator Billy McMahon stated that the subject property is an occupied single-family home with a failing retaining wall that has become a dangerous structure. Property and title search records show the property to be owned by Terry and Marianne Scaife and the lien holder is Sunwest Mortgage Company, Inc. He advised that the retaining wall structure initially collapsed February 2018; a code enforcement case was created and a notice of violation was issued March 22, 27 and 30, 2018. He explained that a permit for reconstruction and/or repair was issued on April 2, 2018 and that as of July 19, 2018, the wall was only partially constructed and the alley was obstructed due to stockpiled soil. A complete failure of the wall occurred on

September 21, 2018. A site visit on September 27, 2018 confirmed that the wall was not constructed in accordance with the approved engineer's design. He stated that as of February 27, 2019, no further work has occurred on the wall. He advised that the packet before the Board was made with records in and under the control of the Development Services Department and copies were mailed by regular and certified mail to the property owner and lien holder on February 18, 2019. Written notices of the violations and of this hearing were mailed to the property owner and the lien holder by regular mail and certified mail on February 8, 2019. Notice of the hearing was posted in the *Carrollton Leader* on February 17, 2019. He advised that no certified or regular mail notices were returned. He added that he spoke with Mrs. Scaife about the hearing and asked her to provide all documents with regard to the retaining wall. City staff recommends that the Board determine the retaining wall structure is dangerous, substandard, dilapidated and a hazard to the public health, safety and welfare. Staff further seeks a Notice and Order for the property owner to repair the retaining wall structure to bring it into compliance with City Code within 30 days. He stated that reconstruction by the City is not an option.

Chair Pfeil invited Mrs. Scaife to make a presentation or ask questions.

Marianne Scaife, 1703 Station Place, Carrollton, property owner, stated that she hired Mike Riley to repair the wall upon a recommendation by her neighbor. She testified that Mr. Riley took her \$28,000 and left without doing any work. She stated she has not been able to get in touch with him. She explained that the Veterans Land Board has approved funding for the repair and she is scheduled to close on the loan on March 1, 2019. She stated the funds would be available on Thursday and that she has already retained another company to repair the wall and she expected it would be completed around the middle of March. She talked about the various things she has done, the funds she has lost and stated she is as frustrated as everyone else. She stated the current contractor is on the good contractors list and she has checked his references. She also said that the contractor is ready to go as soon as she has the funding.

Chair Pfeil opened the public hearing.

Bryan Graves, 1700 Big Canyon Trail, advised that his driveway is directly behind the 12 foot failed retaining wall. He talked about the burden for him and his family because they have had to park on the street and use the 18 steps to get to the inside of their home. He added that the City has installed concrete barriers because of the danger with the wall, which has also been a safety concern for the residents. He urged the Board to issue the Notice and Order to require the wall to be repaired.

In response, Mrs. Scaife stated that she understands the burden and frustration, and stated it has also been a burden for her because they have no more money and is why she had to seek a loan.

Fan asked the property owner about the time frame the contractor would need to build the wall and Mrs. Scaife replied 3-4 weeks because he would be building straight up. Fan asked staff if the City could do the work and McMahon replied that the City would not accept the liability for the retaining wall.

Mr. Graves had failed to be sworn in so Chair Pfeil asked if he would swear that everything he has said was the truth, the whole truth and nothing but the truth and Mr. Graves replied affirmatively.

Chair Pfeil asked staff about the shifting of the swimming pool and also about consequences if the wall is not constructed within the ordered timeframe. McMahon stated if the pool becomes a problem, it would be a separate case. Community Services Manager Brian Passwaters advised that the Environmental Services Department and the Building Inspection Department have been notified by the Legal Department that should the Order not be fulfilled, the City would file a civil suit in District Court to pursue action against the property owner.

Fan moved to close the public comments; second by Fannin and the motion was approved with a unanimous 9-0 vote.

Pipkin moved that the retaining wall located at 1703 Station Place, Carrollton, TX, Denton County be declared a dangerous, substandard and hazard to the public's health; that a Notice and Order be sent to the property owner to repair the retaining wall structure within 30 days; second by Folmer.

Chair Pfeil noted the burden on the property owner and the neighboring residents. He asked Mrs. Scaife to share the loan documents for the Board to see which she did. He felt that 30 days was adequate and would ensure that the contractor moves quickly with obtaining the permit and beginning the work. Chair Pfeil summarized for the record that the property owner provided confirmation of the loan closing and contract by the Veterans Land Board including payment restrictions.

Fan asked when the 30 days would begin and Building Official Brett King replied that the 30-day timeframe begins at the point that the property owner receives notice and a copy of the signed Order so probably middle of the next week. He also noted that staff would make a copy of the loan documents provided by the property that the Board is reviewing and would become a part of the record.

The motion was approved with a unanimous 9-0 vote.

3. Case PSB 2019-05. The Carrollton Environmental Services Department inspected the structure at 4213 Capstone Drive, Property ID # 134760, Oak Hills PH 5 SEC 1 BLK C LOT 21, and found it to be a safety hazard. Staff requested a hearing before the Board to issue a notice and order to repair the structure and premises within a specified period of time.

Chair Pfeil administered the Oath to all those testifying or commenting on the case.

Michael Foitek stated that the packet was prepared by staff with records in and under the control of the Environmental Services Department and includes the list of violations, photographs, appraisal district information, case history notes and copies of the notices letters that were sent. The title search and appraisal district records for the property indicate that the owners are Michelle and Nigel Deriggs with lien holders including Bank of America, NA and the Neighborhood Assistance Corporation of America. He explained that on September 3, 2018, law enforcement were called to the house to investigate a possible murder and made entry into the rear of the house using a drone to inspect the interior. Several fence sections were knocked down and an opening made at the rear of the house to allow access and the property appears to have been vacant since that time. Foitek advised that on December 11, 2018 a family member advised that they would allow the house to go into foreclosure. He provided a list of the remaining violations. Notice letters were sent on January 7, 2019 to the owners and lien holders by certified and regular mail and the Notice of hearing was sent on January 30, 2019 by certified and regular mail. The notice of the hearing was posted in the *Carrollton Leader* on February 3, 2019. Staff recommends the Board declare the structure at 4213 Capstone Drive as dangerous, substandard and a hazard to the safety and health of the public. Staff further seeks a Notice and Order to the owner to repair the structure and abate all Code violations within 30 days. If the owner fails to comply, staff recommends the order authorize the City of Carrollton to make the repairs, abate all Code violations and attach the costs as a lien against the property.

Lakia McLane, representing Bank of America, advised that they are in the process of making repairs and requested 90 days to complete the repairs. Chair Pfeil asked if Bank of America was responsible for the patio removal, fence repair and debris removal and McLane replied affirmatively. Foitek stated that it was his understanding that the Carrollton Police Department boarded up the house after they entered. He added that the property owners listed are both deceased. Chair Pfeil asked McLane if she had any type of schedule or

documentation that would justify the requested 90 days. McLine stated that she did not have it with her but she was able to provide a list of repairs that have been approved as well as costs.

Fan asked about the status of the ownership of the house. McLine explained that they had initiated foreclosure proceedings but had to halt all proceedings until the police investigation is completed and stated that to her knowledge, the investigation is not completed. She added that it was her understanding that some other family members were also trying making repairs. She provided copies of photographs regarding the repairs made by Safe Guard on behalf of Bank of America.

Fan asked the City if they would have any objections to allowing 90 days for completion of repairs as requested by Bank of America. Foitek replied that since the fence and patio violations have been addressed, staff would not object. Fan asked about placing a lock on the fence to secure the property and McLine stated they could put a lock on the gate if required.

Fan moved to close the public comments; second by Folmer and the motion was approved with a unanimous 9-0 vote.

Folmer questioned the need for 90 days to make the repairs and discussion was held regarding the appropriate time required to make repairs.

Folmer moved that upon the review of the evidence and testimony given, the structure at 4213 Capstone Drive, Carrollton, Denton County, TX 75010 be declared dangerous, substandard and a hazard to the safety and health of the public; and that a Notice and Order be issued to the owner of 4213 Capstone Drive to repair the structure and abate all Code violations within 30 days. If the owner fails to comply, the City of Carrollton is authorized to make the repairs, abate all Code violations and attach the costs as a lien against the property; second by Pipkin.

Passwaters requested that a requirement to place a lock on the fence gate be added to the motion and discussion took place regarding the request.

Fan suggested a friendly amendment that the lien holder, Bank of America, be ordered to secure the exterior perimeter of the property including but not limited to adding a lock or lock box to the interior fence within 5 business days. Folmer accepted the amendment and Pipkin seconded the accepted amendment. The motion was approved with a unanimous 9-0 vote.

4. Case BOA 2019-01. John Royer on behalf of 3 Nations Brewing is requesting a meritorious exception from provisions of the Carrollton Sign Code, Section 151.93 (C)(3)(b). The granting of the meritorious exception would allow signs in excess of the size limitations to be located at 1010 5th Street; Original Town Carrollton Block D Lots 1-7, Pt Lot 8 & Abandoned Street.

Chair Pfeil explained that under the rules of order for the Board of Adjustment, it would take a concurring vote of seven members to decide in favor and any other vote constitutes a denial of the applicant's request.

Chair Pfeil administered the Oath to all people testifying or commenting on the request.

John Royer, 2405 Squire Place, Farmers Branch, stated he was present on behalf of 3 Nations Brewery and explained the request for a meritorious exception to the Sign Code. He provided the following three reasons for the request; 1) largest building in Downtown Carrollton making the sign allowed under the current Code too small compared to the scale of the building; 2) trying to appeal to those traveling on IH-35E; and 3) to attract people to Downtown Carrollton.

Brett King advised the Board that all of the pertinent information was included in the packet and he was available to answer any questions.

Chair Pfeil asked if the sign would be painted on the building and Mr. Royer replied that at this point, the plan is to paint the sign on the building. Chair Pfeil asked staff if the meritorious exception was for the square footage of the sign or also the method and technology. King replied that the current Sign Code allows painted wall signs in Downtown and the current request is to exceed the square footage requirement.

Chair Pfeil opened the public hearing and invited speakers to address the Board.

Andrew Guiette, 1213 Sycamore Drive, Old Downtown Carrollton Association President, spoke in favor of the request because their desire is to get more people to the Downtown area. He added that the ODCA voted unanimously earlier in the day to support the request.

Chair Pfeil read an email received from Dick Calvert, property and business owner in Downtown Carrollton, expressing support of the request.

Folse asked Mr. Royer what his relationship is with 3 Nations Brewery and Mr. Royer replied that he is an owner/operator responsible for operations. He explained that there are several owners and that Gavin is the Founder of the Brewery, the master brewer and a minority owner.

Whitley asked how many other structures have rooftop signage. King replied that there are none that have this type of signage; there have been two other cases that requested exceptions – Switchyard Apartments and the Sloane Street Apartments. He added that language has been added to the proposed Sign Code to allow those types of signs by right under very specific circumstances. Whitley voiced concern about the longevity of paint. Mr. Royer understood his concern, advised that they have researched the question and were confident that for the tenure of their lease, it would not be an issue. He explained that they chose paint rather than a sign because they are trying to fit within the framework of the historic area.

Chair Pfeil noted various unique things in Downtown Carrollton and felt that the request was keeping with tradition and also making an investment in the community. He stated he did not see a problem with the proposed sign and stated he was glad to see it rather than another neon sign. He felt it would be a good accent for the property.

Folmer moved to close the public hearing; second by Fan and the motion was approved with a unanimous 9-0 vote.

Folse voiced concern about setting a precedent although the proposed sign fits with Downtown Carrollton. Chair Pfeil noted the concern and stated that each request signs stands on its own merit. Folmer stated he would support the meritorious exception, felt it was great for Downtown Carrollton, noted the support of the ODCA and felt it was something everyone should support. In terms of square footage, Fan asked what the largest sign in Carrollton is and King stated he did not know if there were any this large but there aren't a lot of big sloped shed style roofs in Carrollton either. He stated this is the third request for a meritorious exception; the first two were the two rooftop signs.

Folmer moved that the meritorious exception in the matter of BOA 2019-01 for 1010 5th Street, Carrollton, TX be granted as submitted; second by Hermon and the motion was approved with a 7-2 vote, (Folse and Whitley opposed).

STAFF REPORTS – King advised that the proposed Sign Code amendments are scheduled to be heard by the City Council at the March 19, 2019 meeting. A copy of the revised Code will be provided to the Board. He advised there would be one sign case for the March meeting and Passwaters advised that there would be at least two cases. Lastly he introduced Cory Heiple, the new Director of Environmental Services.

ADJOURNMENT

Fan moved to adjourn; second by Folmer and the motion was approved with a unanimous 9-0 vote,

The meeting was adjourned at 7:41 p.m.

Chairperson

Secretary