



MINUTES
PROPERTY STANDARDS BOARD
JULY 26, 2018

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 Roy Atwood, Rick Pfeil, Subal Sarkar, Andy Folmer, Mike Whitley, Dave Hermon and Jack Fan. Commissioners Les Folse and Jim Pipkin were absent.

Staff members present: Asst. City Attorney Aliceson Foote; Building Official Brett King; Community Services Manager Brian Passwaters; Inspection Services Coordinator Billy McMahon; Code Enforcement Officers Tim Roush, Juan Aguilar, and Carolos Ordonez; City Arborist Lorri Dennis; Bldg Insp Permit Tech/Spanish Interpreter Liliana Perez; Fire Dept. Battalion Chief Herb Cavanaugh; and Administrative Support Specialist Lydia Tormos.

CALL MEETING TO ORDER: 6:30 PM

Chair Atwood called the meeting to order at 6:35 p.m.

1. Approval of minutes of the June 28, 2018 meeting.

Andy Folmer moved approval of the minutes as written; second by Dave Hermon and the motion was approved with a unanimous 7-0 vote, Folse and Pipkin absent.

PUBLIC HEARING

1. Case PSB 2018-09. The Carrollton Environmental Services Department inspected the swimming pool structure at 2214 Colonial Place, Rollingwood Estates No 8, Block 1, Lot 7 and found it to be a safety hazard. Staff has requested a hearing before the Board to issue a notice and order to repair or demolish the structure within a specified period of time.

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

Code Enforcement Officer Juan Aguilar presented the case regarding the unoccupied single-family home located at 2214 Colonial Place owned by Alecu Bencovschi and Robert Balcu. Carrollton Environmental Services staff inspected the swimming pool at 2214 Colonial Place on April 5, 2018. At the time of the initial inspection, staff observed an unmaintained swimming pool with nonfunctioning circulation and filtration equipment, water levels below the opening of the skimmers and stagnant green swimming pool water. It was later determined that the owner, Alecu Bencovschi, passed away January 22, 2018. Aguilar

NOTE: Board minutes are informational only and are not official until approved by Board.

testified that on April 25, 2018, the pool water was still not circulating and that he met and spoke with Todd Ford who stated he was taking care of the property. Mr. Ford was made aware of the violations and the need to bring the property up to Code. Aguilar advised that further inspections showed no results or improvements and was advised by Mr. Ford that the cost to repair the pool was too much. Aguilar testified to the dates of notices of violation and provided a list of violations; all interested parties were given notice of the Hearing before the PSB. Staff recommended the Board determine the swimming pool at 2214 Colonial Place as dangerous, substandard and a hazard to the public health, safety and welfare. Staff further seeks a Notice and Order for the property owner to repair or demolish the swimming pool within 30 days. If the owner fails to comply in the specified time, staff requests that the Board authorize the City of Carrollton to demolish the swimming pool and attach the costs as a lien against the property.

Evan Horner, 2150 N. Josey Lane, attorney for Robert Balcu, partial owner, advised that Mr. Balcu's mother, who passed away in 2011, was married to the majority owner of the property and provided background. He advised that Mr. Balcu was out of the Country from June 23 – July 18, 2018 and was able to gain access to the home on July 24. He advised that two estimates were obtained to demolish the pool and requested time to respond to the financial responsibility. He also noted that Mr. Balcu did not own 100% of the home and a background search revealed no living heirs in the United States.

Assistant City Attorney Aliceson Foote verified that based on staff's testimony, the staff had made all of the required notices and advised that the Board could issue an Order.

Mr. Horner asked if something occurs that prohibits his client from being able to fulfill his obligation, is there recourse for an extension. Mr. Atwood replied that the Board's primary concern is to take care of the immediate hazard of the mosquitoes and second it is to eliminate a recurring problem. Mr. Horner presented an official request for 30 days for his client to begin remedying the issue and completing the remedy in 60 days. Chair Atwood explained that the standard Order is 30 days from the time the Order is signed to remediate the problem and that if work was occurring as require, staff could consider allowing additional time to comply.

Andy Folmer moved to close the public hearing; second by Mike Whitley and the motion was approved with a unanimous 7-0 vote, Folse and Pipkin absent.

Rick Pfeil moved finding that the swimming pool at 2214 Colonial Place is dangerous, substandard and a hazard to the public health, safety and welfare; and an Order be issued for the property owner to repair or demolish the swimming pool within 30 days, and if the owner fails to comply within the specified time, the Board authorizes the City of Carrollton to demolish the pool and attach the costs as a lien against the property. Second by Andy Folmer and the motion was approved with a unanimous 7-0 vote; Folse and Pipkin absent.

2. **Case PSB 2018-10.** The Carrollton Environmental Services Department inspected the structure at 2237 Jackson Circle, Jackson Arms Sec 2 Ph 2, PT LT 10, West 1/2 Duplex and found it to be a safety hazard. Staff has requested a hearing before the Board to issue a notice and order to repair or demolish the structure within a specified period of time.

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

Code Enforcement Officer Tim Roush presented the case recommending the Board issue a Notice and Order to address violations at 2237 Jackson Circle, a single-story, single-family attached structure. He

noted that the structure is attached to 2239 Jackson Circle and there is an accessory structure on the lot. The property owner of 2237 Jackson Circle is Mark Allen with lien holders being Bank of America and Capital One Bank. He testified that all required notices were met. Roush testified that a fire occurred on June 1, 2018 that also caused damage to 2239 Jackson Circle and he testified that Mr. Allen had advised that home insurance had lapsed on his property prior to the fire. Roush listed the violations and noted that the structure had been cleaned of all debris associated with the fire and the damaged windows have been secured. Staff recommended that the Board determine that the structure located at 2237 Jackson Circle is substandard and a hazard to the health and safety of the public; seeks a Notice and Order for the owner to abate the violations within 30 days, and if the violations are not abated, Staff seeks authorization for the City to repair or demolish the structures and abate all listed violations and attach the costs as a lien against the property.

Discussion was held regarding the time needed to abate the violations and the risk of the structure deteriorating or collapsing. It was noted that while the accessory structure was not damaged by the fire, it could not continue to exist without a permanent structure on the property.

Mark Allen, 2237 Jackson Circle, owner, provided documents on contractors that would be conducting the work on the structure and talked about the cleanup work he conducted since the June 1 fire. He advised that he has contracted with a structural engineer and explained the engineer's recommendation. He further noted that the contractor felt the decking could be completed in seven or eight days, and stated he was familiar with the work needing to be done and was ready to get started. He also stated that the property was secure and advised that he and the owner of 2239 Jackson Circle would be working together regarding the common wall structure repairs. Mr. Allen stated he would be the General Contractor and asked for four months to complete the work.

Aliceson Foote asked for clarification and consideration with regard to issuing an Order on the question of whether 2237 and 2239 Jackson Circle (Case PSB 2018-11) is considered one structure or separate structures. Discussion was held regarding the common wall and location of the fire and damage as well as timeframe for conducting the work.

Jack Fan moved to close the public hearing; second by Subal Sukar and the motion was approved with a unanimous 7-0 vote, Folse and Pipkin absent.

Rick Pfeil moved that the Board determine that the structures at 2237 Jackson Circle to be dangerous, substandard and a hazard to public health, safety and welfare; and that an Order be issued to the owner of 2237 Jackson Circle, Carrollton, TX 75006 to repair and abate all violations or demolish the primary and accessory structures within 30 days. If the primary structure is neither repaired and all violations abated or the structure is not demolished, Staff is authorized to repair and abate all violations and demolish the structures and attach the costs as a lien against the property; second by Andy Folmer. Further discussion was held regarding adequate time for completing the work to make the structure safe and the City would also consider the structure located at 2239 Jackson Circle. **The motion was approved with a unanimous 7-0 vote, Folse and Pipkin absent.**

3. Case PSB 2018-11. The Carrollton Environmental Services Department inspected the structure at 2239 Jackson Circle, Jackson Arms Sec 2 Ph 2, E Pt Lt 10 and found it to be a safety hazard. Staff has requested a hearing before the Board to issue a notice and order to repair or demolish the structure within a specified period of time.

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

Code Enforcement Officer Tim Roush presented the case regarding 2239 Jackson Circle consisting of a single-story, single-family attached structure and that is attached to 2237 Jackson Circle. He explained that the subject property is a registered rental property and that the tenant vacated the property. The property owner is EJK USA Enterprise with Enrique and Elvira Bernal as Directors, and lien holders are Quality Mortgage USA Inc., Capital One Bank, N.A., Plenitud Enterprise LLC and Plains Capital Bank. He testified that all notice requirements were met. He explained that a fire that occurred on June 1, 2018 started at 2237 Jackson Circle affected the subject structure at 2239 Jackson Circle. He testified that prior to the fire, he was involved with other outstanding code violations on the property and provided a list of the violations. He stated he issued citations and an Attorney Offer docket was scheduled for August 8, 2018. He listed the damages observed on June 7, 2018 associated with the June 1 fire and advised that as of July 26, all violations remain as previously described. Staff recommended the Board determine the structure located at 2239 Jackson Circle is substandard and a hazard to the health, safety and welfare of the public; requested a Notice and Order for the property owner to abate the list of violations within 30 days and if the owner fails to do comply, authorizes the City to repair or demolish the structure and abate all violations and attach the costs as a lien against the property.

Building Inspection Department employee Liliana Perez served as language interpreter.

Enrique Bernal, owner of 2239 Jackson Circle, currently residing at 1239 Whispering Oaks, DeSoto, explained why he had not cleaned the property and stated a dumpster would be available on the following Tuesday to begin removing the debris. He distributed contract documents advising it would take 7-10 days to complete and stated he had other estimates for work on the inside to address the other violations. He confirmed his desire to work with the property owner of 2237 Jackson Circle and requested 60 days to make the repairs.

Andy Folmer moved to close the public hearing; second by Dave Hermon and the motion was approved with a unanimous 7-0 vote, Folse and Pipkin absent.

Andy Folmer moved the structure at 2239 Jackson Circle be deemed dangerous, substandard and a hazard to the public's health; that a Notice and Order be issued to the owner of 2239 Jackson Circle, Carrollton, TX 75006 to repair and abate all violations or demolish the structure within 30 days; and if the structure is neither repaired and all violations abated or the structure is not demolished, Board issues a Notice and Order authorizing the City to repair and abate all violations or demolish the structure and attach the costs as a lien against the property; second by Mike Whitley and the motion was approved with a unanimous 7-0 vote, Folse and Pipkin absent.

4. Case PSB 2018-12. The Carrollton Environmental Services Department inspected the structures at 1602 Baxley Street, Joshua B Lee Abst 798 Pg 518, Blk 5 Tr 17.2 Acs 0.1603 and found it to be a safety hazard. Staff has requested a hearing before the Board to issue a notice and order to repair or demolish the structures within a specified period of time.

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

Code Enforcement Officer Carlos Ordonez presented the case describing the property as an occupied one story, single-family home with a rear yard accessory structure. The property owners are Alfonso Torres Perea and Gloria Esther Mendoza. He testified that a fire occurred on April 29, 2018 damaging the rear

yard accessory structure and listed documented violations found after execution of a search warrant on May 17. He advised that all legal requirements for notices were met. He testified that as of July 25, the rear yard structure had been demolished leaving the concrete slab and about half of the original violations remain. Staff recommended the Board determine the structure and concrete slab in the rear yard located at 1602 Baxley Street, Carrollton, TX 75006 are dangerous, substandard and a hazard to the public health, safety and welfare; that a Notice and Order be issued for the property owner to repair the single-family dwelling and demolish the concrete slab in the rear yard within 30 days. If the property owner fails to comply, staff requests the Board authorize the City to make repairs to the dwelling and demolish the slab and attach the costs as a lien against the property.

Chair Atwood administered the Oath to Gloria Mendoza.

Building Inspection Department employee Liliana Perez served as a language interpreter.

Gloria Mendoza, 1602 Baxley Street, stated she is the owner of the property and explained that she did not have insurance on the two-story storage structure that burned.

Community Services Manager Brian Passwaters explained that the property owner removed the rear two-story structure but that violations remained with the single-family dwelling. He explained that Ms. Mendoza applied for a grant for funding through Metrocrest Services but it is still lacking some information before a decision can be rendered on the request. He also explained other City programs available but not applied for.

Ms. Mendoza stated that she expected a call this week from Metrocrest.

Dave Hermon moved to close the public hearing; second by Mike Whitley and the motion was approved with a unanimous 7-0 vote, Folse and Pipkin absent.

Jack Fan moved that the property located at 1602 Baxley Street, Carrollton, TX, Dallas County, is determined to be dangerous, substandard and a hazard to the public health, safety and welfare; that a Notice and Order be issued that the owner has 30 days from the receipt of a certified copy of this Order to repair the single-family dwelling and demolish the slab of the accessory structure in the rear yard within 30 days; if the owner fails to comply within the specified time, the City is authorized to make the repairs to the single-family dwelling and to demolish the slab from the accessory structure in the rear yard, and attach the costs as a lien against the property; second by Andy Folmer and the motion was approved with a unanimous 7-0 vote, Folse and Pipkin absent.

5. **Case PSB 2018-13.** JMTY Group, L.P. is requesting an appeal from provisions of City Of Carrollton Ordinance Number 3388 Section 155.07 Tree Removal Permit (E). The Granting of an appeal will reverse city staff's decision to deny removal of protected trees without mitigation located at 2121 Midway Road Block B Lot 1 Of Belt Wood North Midway Addition.

Chair Atwood explained it would take a vote of all seven members to decide in favor of the applicant's request; any other vote would be a denial of the request.

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

Tom Juhn, JTMY Group, stated he was President of JTMY and owner of the building located at 2121 Midway Rd. He explained that the subject trees were originally planted too close to the building and now years later have become a hazard to the building, sidewalks and parked vehicles. Due to the previous methods of trimming, he felt the trees no longer had any aesthetic value. He stated he did not think it was fair for a building owner to be required to mitigate trees if they had become hazardous to the building or to the general public. He stated his intention was to make the building look as it should because it is a very attractive building. He stated he intends to install more landscaping when possible, but there were significant repairs needed on the inside in order to get tenants moved in September. He reiterated that he did not think it was fair for a property owner to be burdened with mitigation on trees that are hazardous to the building, to the parking lot and vehicles.

City Arborist Lorri Dennis explained that the ordinance as written does not give her the authority to allow removal of protected trees without mitigation. She agreed that the trees were neglected and assuming the trees were planted in 1984, the Sweet Gum trees have met or exceeded its life expectancy. She did not believe that any type of fertilization, deeper watering or root barriers would bring the trees back to glory. She stated the site is heavily forested and the applicant's proposal leaves a lot of very high caliber trees that are planted in the right places. She explained that "mitigation" is basically returning what is taken away and provided an example. She stated another option for mitigation is to pay into the tree restoration fund or planting trees offsite on public property. She noted that the area is heavily forested and there aren't any parks or public property in the area for offsite planting. From an arborist's standpoint, removal of the trees would improve the aesthetics.

With regard to the question about a partial mitigation, Building Official Brett King replied that the ordinance gives the Board the ability to uphold the decision to deny the permit, to overturn that decision or to modify that decision. Asst. City Attorney Aliceson Foote confirmed the statement made by the Building Official that the Board has a broad range of options at their disposal. City Arborist Dennis addressed what protected and unprotected trees are and gave examples. She also advised that a permit was required for removal of any tree on commercial property. With regard to the live oak tree that is leaning over the sidewalk, Dennis replied that it has a branching structure that is causing it to be unstable and shoring it up with removal of one or more limbs may not be viable. She further explained that the aesthetic of the tree decreases exponentially with the amount of character removed. In response to the question about supporting the request, Dennis replied that in keeping with the idea that a harvested forest is a healthy forest, the applicant has an urban forest and he needs to harvest some of it for it to remain healthy so with that school of thought; yes. With regard to the option of mitigation by paying into the Restoration fund, the amount would be \$17,760.00. Once the unprotected trees are removed, there would be areas that could allow for mitigation. Staff would have to figure out the square footage to address what could be considered.

Mr. Juhn proposed to plant three or four trees, whichever is the correct number, in the open space where the Bradford pears are located within six months after the others are cleared out. He noted the ordinance requires the trees to be 25 feet apart and he noted the location of power lines. He reiterated his feeling that he should not be required to mitigate a tree that is at the end of its life, is damaging the building and is a hazard. He felt the Board should take into account the recommendation and position of staff.

City Arborist Dennis stated she would work with the applicant to pick species to plant in the location of the existing Bradford pear trees that would work with the existing power lines. Chair Atwood asked if the applicant would be required to replace any of the Sweet Gum trees in question if it fell over or died and Dennis replied that if a protected tree is destroyed by nature, he would not and she confirmed that

those were pretty much at the end of their life. She further responded that if the right trees are picked for replacement on site, she would be comfortable that the four trees would be acceptable mitigation.

Jack Fan moved to close the public hearing; second by Mike Whitley and the motion was approved with a unanimous 7-0 vote.

Andy Folmer moved that in the matter of Case 2018-13 that the Building Official’s mitigation requirement be modified and that the applicant be allowed to remove the trees he’s requested and agrees to plant four or more minimum 3” caliper sized trees with the Arborist’s recommendation within six months; second by Mike Whitley. Discussion was held regarding the sufficiency of the proposed mitigation. Jack Fan asked Mr. Folmer to consider accepting an amendment to the motion to allow replacement or payment into the Restoration Fund.

Jack Fan moved to amend the original motion to add additional language that mitigation by planting the four trees as described or paying into the Tree Preservation Fund for the removal of the leaning Oak Tree No. 1550; second by Mike Whitley and the motion failed with a 1-6 vote, Fan in favor.

The original motion failed with a 6-1 vote, Sarkar opposed.

CHAIR/BOARD/STAFF REPORTS

Brett King reported that as of July 26, there are no Property Board cases so there may not be a need for an August meeting.

ADJOURNMENT

Dave Hermon moved to adjourn; second by Jack Fan and the motion was approved with a 7-0 vote. The meeting was adjourned at 9:24 p.m.

Chairperson

Secretary