

**Teller County Board of Review
June 6, 2018
Meeting Minutes**

I. **Convene.** Chairman Mr. West called the meeting to order at 2:05 p.m.

A. **Roll Call.** Those answering roll call were:

Jeff Smith
Carl Anderson*
Dave Dernbach*
Bert West, Chairman*

*Voting members for today's meeting

Staff: Terry Brunette, Building Official
Lynda Morgan, Director
Roger Campbell, Acting Board Secretary
Paul Hurcomb, County Attorney

B. **Review and Approve Minutes from the May 2, 2018 Meeting**

Dave Dernbach moved to approve the May 2, 2018 meeting minutes. Mr. West seconded.

Roll call vote:
Carl Anderson*- abstain
Dave Dernbach*- yes
Mr. West, Chairman*- yes

The motion carried.

Mr. West stated that the Board of Review meetings are public and anyone wishing to speak must first address the Chairman.

II. **Variance Request**

A. Request from Gary Graef at 4815 County Road 42, Divide, Permit #A50709 for a variance to the 2009 IRC – Energy Code N1002.4.3 – Fireplaces

Mr. Graef requested a variance to the 2009 IRC requirement **N1102.4.3 Fireplaces**, for a residence at 4815 County Road 42, Divide CO., Permit #A50709.

Building Official, Terry Brunette, presented the staff report and stated that based on the updated 2015 IRC, the fireplace in question met the new requirement of having a

damper installed in lieu of tight-fitting doors and made recommendation that the variance be granted.

Mr. West requested comment from Gary Graef with regards to the particular installation. Mr. Graef stated he was unaware of the 2009 requirement of tight fitting doors and based upon the revised 2015 code, that it would be beneficial to his customer for the variance to be granted.

Mr. West opened this matter up for public comment. No public comment. Close public comment.

There was further discussion between the Board, Terry Brunette and Paul Hurcomb.

Mr. Dernbach moved to grant the variance for deletion of the fireplace doors in lieu of the damper that was installed for 4815 County Road 42, Divide CO., Permit # A50709. Carl Anderson seconded.

Roll call vote:

Carl Anderson*- yes

Dave Dernbach*- yes

Mr. West, Chairman*- yes

The motion carried.

III. Contractor Complaint

A. Complaint against Dennis Christmas LTD / Dennis Christmas / License #2461 by the Building Official, pursuant to Section 107.a of the Teller County Building Code.

Mr. West announced this agenda item and explained the order in which the items will be presented and heard by the Board of Review.

Mr. Christmas was present and represented by attorney David Conley.

Mr. Terry Brunette, Teller County Building Official, stated that the Teller County Building Department had received three complaints about Mr. Christmas and felt that they were code violations that warranted bringing Mr. Christmas before the Board.

The first complaint Mr. Brunette brought forth was from Michael Anselmo. Mr. Brunette stated that a driveway permit had been pulled however, excavation had commenced without a porta-potty or site address and a site plan had not been submitted. Mr. Brunette stated that excavating without an approved site plan was risky and in violation of the Teller County Building Code, section R109.5.

The second complaint brought forth by Mr. Brunette was from John & Betty Bonaccorso. Mr. Brunette stated that there was a permit issued for this project. The violation was for not building in accordance per approved plans Article II, section 107.b, VI (2).

The third complaint brought forth by Mr. Brunette was from Robert and Paula Luce. Mr. Brunette stated that there was a permit issued for this project. The violation was also for not building in accordance per approved plans Article II, section 107.b, VI (2).

Complainant Mr. Michael Anselmo identified himself and gave his presentation to explain his complaints against Mr. Christmas as his contractor, including the slow progress of the driveway and foundation excavation project.

The Board asked questions of the Building Official and Mr. Anselmo regarding the lack of a site plan or building permit.

Complainant Mrs. Betty Bonaccorso was called upon by Mr. West. Prior to Mrs. Bonaccorso's statement, Terry Brunette discussed the progression and inspections of the Bonaccorso project.

Complainant Mrs. Betty Bonaccorso identified herself and gave her presentation to explain her complaints against Mr. Christmas as her contractor, including the windows, driveway, porch, stair locations, exterior door locations, location of the house, and changes to the site plan without her approval.

The Board asked questions of the Building Official and Mrs. Bonaccorso regarding the site plans and the Board reviewed the building plans.

Complainant Mrs. Paula Luce was called upon by Mr. West and identified herself. Prior to Mrs. Luce's statement, Terry Brunette discussed the progression and inspections of this project.

Complainant Mrs. Paula Luce gave her presentation to explain the Luces' complaints against Mr. Christmas as their contractor, including the foundation, the garage, and the work on the log frame.

The Board asked questions of the Building Official and Mrs. Luce regarding this project and the type of logs used.

The Building Official's presentation and testimony of the three complainants concluded.

Exhibits introduced and accepted:

Exhibit 1: Building Official Staff Report with attachments (the 3 complaints and the May 15, 2018 Notice of Hearing to Mr. Christmas.

Exhibit 2: Building Plans for Bonaccorso project

Mr. West called a recess at 2:55 and reconvened the meeting at 3:01.

Attorney David Conley identified himself and gave an opening statement on behalf of his client, Mr. Christmas.

Mr. Conley introduced a document labeled “Luce” with documents related to the Luce project.

Mr. Conley cross-examined Mrs. Luce.

Mr. Conley asked Mr. Christmas to explain his work on the Luce project and respond to the complaints. During his presentation, Mr. Christmas referred to his response document with 9 numbered attachments.

Mr. West asked questions of Mr. Christmas and Mrs. Luce.

The “Luce” document with numbered attachments 1, 2, 3, 4 and 8 was accepted, marked as Exhibit A, and made part of the record.

Mr. Christmas’ document with numbered attachments 1-9 was marked as accepted, marked as Exhibit B and made part of the record.

Mr. Conley introduced a document labeled “Anselmo” with 4 attachments and 2 photographs.

Mr. Conley asked Mr. Christmas to explain his work on the Anslemo project and respond to the complaints. Mr. Christmas presented his response.

The Board asked questions of Mr. Christmas and Mr. Brunette.

The “Anselmo” document with numbered attachments 1-4 and 2 photographs was accepted, marked as Exhibit C, and made part of the record.

Mr. Conley clarified with the Board and the County Attorney the scope of the inquiry into Mrs. Bonaccorso’s complaint.

Mr. Conley introduced a document labeled “Bonaccorso” with documents related to the Bonaccorso project.

Mr. Conley cross-examined Mrs. Bonaccorso.

Mr. Conley asked Mr. Christmas to explain his work on the Bonaccorso project and respond to the complaints. Mr. Christmas presented his response.

The “Bonaccorso” document with numbered attachments 1-14, except 3 and 6, and with a letter from Alpine and a letter from Black Hills was accepted, marked as Exhibit D, and made part of the record.

The Building Department's Inspection Log for the Bonaccorso project was marked as Exhibit E and made part of the record.

Mr. West called a recess at 4:45 and reconvened the meeting at 4:51.

Mr. West allowed each of the 3 complainants to provide a brief rebuttal to Mr. Christmas' presentation.

Mr. West allowed Mr. Conley, Mr. Christmas and the Building Official to each give a brief summation.

Mr. Conley gave a brief summation that included but was not limited to Mr. Christmas's previous work history and the fact that Mr. Christmas had never been brought in front of the Board for prior complaints and that he has operated successfully in Teller County for 21 years. Mr. Conley argued that revocation was not warranted and that Mr. Christmas needed some changes in his organization to properly handle customers and documentation of his projects in the future.

Mr. Christmas gave a brief summation that included but was not limited to his previous work history and contribution to the community. Mr. Christmas acknowledged his deficiencies in his business practices and his need for improvement.

Mr. Brunette gave a brief summation that included his careful consideration of this matter and that based upon the past 3 ½ years as the Building Official and his knowledge of Mr. Christmas's business practices, he stood behind his recommendation to revoke Mr. Christmas' license.

Mr. West opened this matter up for public comment. No public comment. Close public comment.

The Board asked additional questions to Mr. Brunette, Mr. Christmas, Mr. Anselmo, Mrs. Bonaccorso regarding the projects at issue.

Mr. West concluded the Board question portion of the hearing.

The Board engaged in discussion about the information presented and proposed license action.

Mr. West asked Mr. Hurcomb to verbally review the options of discipline to the Board. Mr. Hurcomb reviewed and explained all 5 of the options.

Mr. West moved to suspend the contractor's license of Dennis Christmas, LTD, with Dennis Christmas as examinee, license number 2461 for 12 months and to suspend the contractor's right to act as an examinee for any other licensed contractor, for the period

of 12 months under Section 107.b of the Teller County Building Code, based on a finding of the commission of the following acts or omissions listed in Section 107.b VI: 2. Departure from the approved plans or specifications without the authority from the owner, or owner's authorized representative and the Building Department. Mr. West amended his motion to further add, and with the finding that the commission of such violations was willful, reckless or repeated commission of the above, departure from the approved plans or specifications.

Mr. Dernbach seconded the motion.

Roll call vote:

Carl Anderson*- yes

Dave Dernbach*- yes

Mr. West, Chairman*- yes

Motion carried

Mr. West stated that Mr. Christmas's contractor's license was suspended and the he had the right to appeal.

Mr. Hurcomb explained the appeal process.

IV. Board Discussion

A. Consider and make recommendation to the Board of Commissioners, to amend Article IX of the Teller County Building Code, concerning adoption of the 2017 edition of the "National Electric Code" (NEC) and relating to 400-amp service requirements.

Mr. Terry Brunette stated that the State of Colorado updates the Electrical Code every three years and the State adopted the 2017 NEC, July 1, 2017 and that local jurisdictions are required to adopt the new code within a twelve-month period.

Mr. Brunette stated that the Teller County Building Department wanted to add to Section A. Application to existing wiring: a paragraph (e) Before a permit will be issued to install a new 400-amp service or upgrade an existing service to 400 amps to residential property, written justification for the need to have 400 amps will be required.

Board members inquired as to why the need for this change and Mr. Brunette stated that it was because of the marijuana grows.

Mr. Brunette stated that the Building Department had begun instituting this for on-line electrical applications requiring the applicant to file in person.

Mr. Carl Anderson expressed his concern that this was over-stepping the bounds of the Building Department.

The Board members stated that they would like to have the input of Board member Steve McCann prior to supporting the addition to the Electrical Code regarding a 400-amp service request.

The Board requested that other jurisdictions be contacted in order to see how they are handling this situation.

Mr. West opened this matter up for public comment. No public comment. Close public comment.

Mr. Dernbach moved to recommend to the Board of Commissioners, to amend Article IX of the Teller County Building Code, concerning adoption of the 2017 edition of the "National Electric Code" (NEC).

Mr. Anderson seconded the motion.

Roll call vote:

Carl Anderson*- yes

Dave Dernbach*- yes

Mr. West, Chairman*- yes

There being no further business, Mr. West adjourned the meeting at 6:14 p.m.