



BUILDING CODE BOARD OF APPEALS MINUTES
May 15, 2017, 4:00 p.m.
City Hall Council Chambers

MEMBERS PRESENT:

Board Member David Johnson; Board Member Nick Mancini; Board Member Tim Montgomery; Board Member Charles Van Over; Board Member Bob Woodward; Board Member Seth Bingham, Alternate

MEMBERS ABSENT:

Board Member Joel Smith, Alternate

ALSO PRESENT:

Phillip Stanton, Appeal Applicant; Greg Shelton, Property Owner; Chris Shelton, Resident; Robert Ross, Property Owner; Helen Golightly, Property Owner; Peggy Schamber, Resident; Michael Steadman, Property Owner; Mike Brown, Planning and Zoning Commission Chair; David Allred, Senior Building Inspector; Laura Leigh, Director of Community Development; Yvonne Castillo, Recording Secretary

CALL TO ORDER

Ms. Leigh called the meeting to order at 4:00 p.m.

Ms. Leigh said this is the first meeting of our newly established board. Before we get into the agenda since we don't have a Chair or Vice-Chair I am going to explain the purpose of this board. The purpose of this board is to consider appeals of the building inspector's decision. There is a difference between this board and the Board of Adjustment which is served by the Planning and Zoning Commission. The Board of Adjustment grants setback variances as was outlined in your report packet. This board makes the determination whether or not the building inspector made a correct or incorrect decision. This board does not grant setback variances.

ROLL CALL

After roll call it was determined there was a quorum present to proceed.

AGENDA

- 1) Review and acceptance of the May 15, 2017 meeting agenda.

Board Member Van Over moved to approve the agenda for May 15, 2017. Board Member Montgomery seconded the motion. Motion carried. (6-0)

MINUTES

- 1) None

APPOINTMENTS

- 1) Nomination and election of the 2017 Chair

Board Member Van Over nominated Board Member Montgomery as the 2017 Chair. Board Member Woodward seconded the nomination. Motion passed to elect Board Member Montgomery as the 2017 Chair. (6-0)

- 2) Nomination and election of the 2017 Vice-Chair

Board Member Johnson nominated Board Member Van Over as the 2017 Vice-Chair. Chair Montgomery seconded the nomination. Motion passed to elect Board Member Van Over as the 2017 Vice-Chair. (6-0)

ADOPTION OF BYLAWS

- 1) Review and adoption of the Building Code Board of Appeals Bylaws and Rules of Procedure

Ms. Leigh said I put these together based on other board of appeals from throughout the state and I also used our Planning and Zoning Commission bylaws as a template. Basically they outline the procedures that are to be followed. One thing I would recommend for future meetings is establishing a set time and date. I would recommend the 2nd and 4th Mondays of the month at 4:00 p.m. if that works for everybody that way when someone has an appeal application we can judge when we need to get out property owner notices and when we need to advertise it helps with the scheduling of appeal applications. It is up to the board's discretion and you can leave it, "meet as needed" but it is a scramble for staff to get a hold of everybody to find out when everybody is available. I would recommend some set meeting times.

Vice-Chair Van Over moved to approve the Building Code Board of Appeals Bylaws as written with the amendment to make the 2nd and 4th Tuesdays of each month at 4:00 p.m. as the established meeting times. Board Member Woodward seconded the motion. Motion carried. (6-0)

BOARD OF APPEALS PUBLIC HEARINGS

- 1) Phillip Stanton, 720 Knotty Pine Street, Green River, Wyoming 82935. The petitioner is requesting an appeal from the Building Official's decision to bring the new structure located at 720 Knotty Pine Street into compliance with the setbacks approved by the Board of Adjustment on July 13, 2016 and Appendix B, Section 2.4.C which allows an eave to encroach into the approved setback by only 24 inches.

Chair Montgomery said this proceeding is being recorded. The Board will keep a record of the proceedings in its office and copies will be made available to any party at cost. A vote IN FAVOR of a majority of the quorum of the Board is required for approval of an appeal. If you want to table your request until more members are present, you may elect to do so. Anyone

wishing to address the Board throughout this proceeding shall go to the podium and speak your name clearly into the microphone.

Chair Montgomery swore in all members of the audience.

Chair Montgomery requested that each board member who has personally inspected the property identify themselves on the record and generally describe when and how they viewed the property. Each board member should also disclose the details of any conversations with the applicant or any adjoining property owners.

Board Member Mancini said I have recently done some work for Mr. Stanton. I have installed some heating, ventilation and air conditioning (HVAC) equipment.

Board Member Johnson said I drive past the property every day.

Vice-Chair Van Over said I have not visited the site.

Board Member Woodward said I have not visited the site and I did have a conversation with Mr. Stanton and he questioned how the board worked and I informed him I had no idea because this was my first appointment to this or any other board.

Board Member Bingham said I have not visited the property.

Chair Montgomery said I am a little more involved than everybody else. I talked to Mr. Stanton back before he even started his project. He came to me about possibly helping him with his project that is as far as my contact with him goes. I have been by the site a couple of times. I have spoken with the Shelton's that live right across the street. We had a brief conversation concerning this piece of property as well. At this time I am going to turn this over to the building official and he can read the application and the petition.

Mr. Allred said I issued a correction notice on April 24, 2017 to reduce eave overhangs to not extend more than 24" into setbacks as approved by the Board of Adjustment on July 13, 2016, Code-Appendix B., Section 2.4.C.1 permitted yard encroachments. It was a zoning violation for the setbacks. A building permit was issued on May 8, 2016 for a Single-Family Residence valued at \$200,000.00 with the following plan review comments I put on the building permit, "Onsite inspections may require the owner and/or installer to correct or add to the system any components necessary to insure a safe installation in compliance with the 2011 National Electrical Code (NEC) & 2006 International Residential Code (IRC)." I first noticed the overhang while on an inspection for the retaining walls. I questioned Mr. Stanton then and several other times afterwards while out there on nuisance complaints from damaging a mail box and dust also concerning his eaves encroaching into his setbacks. He did not have his setback markers in place at the time as they appeared moved or covered up. While on a nailing inspection on his walls on November 29, 2016, I mentioned his overhang on the southwest garage corner. I told him then it appears to extend into the setback. He assured me he was compliant. I told him he will be addressing items not compliant when I do a rough framing inspection which was not ready. I did a dry-in inspection on December 7, 2016. I did not get up

on the roof because of the winter conditions. No nailing inspection could be done. At that time I asked him about his large overhang eaves on the garage southwest side again. Because of the weather conditions and the large equipment you could not see the property lines however when I asked him he said that his setbacks were good. At this time I told him he may have to remove the eaves back on the southwest corner of the garage. On December 16, 2016, I inspected three (3) peer posts for the deck and he assured me it was all surveyed pegged by the engineer and within the setback lines. I approved the peers and told him I needed the corner pegs for all the property corners pegged at the time of the inspection. It looked like the southwest eaves and deck are running into his setbacks. He said he could not do anything until the snow melted and when he cleaned it up with the equipment moved, he would place the survey pegs in place again to show me but it would not be until spring. As winter moved in with a lot of snow I started to get a lot of complaints with his runoff and the mud, snow and water runoff into his neighbor's garage. On several attempts I asked Mr. Stanton to show me the property corners which he couldn't because of the snow build up. Several times I asked him to divert the water runoff with a trench to divert the water from the neighbor's property. It was creating a nuisance in his neighbor's garage and he was very upset. I asked him to build a retaining wall but could not get any action from him. I issued a correction order for the trench and a correction order to make the eaves compliant. On May 4, 2017, Mr. Stanton applied for a permit to install a retaining wall to help divert the water away from his neighbor. After seeing the updated site plan it is clear that the overhangs clearly extended into the setback lines and also entered into the street as I had assumed and mentioned to Mr. Stanton. There was no mention of the extended eaves into the setback requirements shown on neither the plat nor the plans. I later found out that it was one of his friends who helped him with the plot plan which was missing a lot of pertinent information. Mr. Stanton filled out the appeals application to not cut off the eave overhangs and modify the engineered trusses. On the application he stated, "The eaves have been on the approved drawings since they were approved. Numerous inspections have been done and the roofing is completed. This will cost me a considerable amount of time and money to fix at this point."

Mr. Allred said I would like to read the following code, "Code R105.4 R105.4 Validity of permit. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data." It was because of that section that I referred to the zoning setbacks to require the correction of the plans which was submitted later which outlines the overhangs around the house and includes the deck which wasn't mentioned and because of that oversight that is what made me write the correction notice to correct the overhang of the eaves.

Mr. Stanton said I want to address the correction notice by Mr. Allred. We started building this house and that property used to get utilized by the City of Green River as a deterrent for of all the water coming off of the water tank directly above that house. There were some berms that were established on that property that did their job correctly and kicked out all of the water onto the street. I had this discussion after we started getting complaints about the water running into my neighbor's property. I talked to Mr. Westenskow, the Public Works Director and he met with me at the property and we had a long discussion about how the City used to utilize my property as basically a deterrent for all of the water getting into the neighboring properties. Mr. Allred called me about this water issue and I had a contractor mobilize a mini excavator up to the property within three (3) to four (4) days after Mr. Allred's call. I was out of town so he used his

judgment and established a trench on the property to try to divert the water which didn't satisfy the issue. We left the piece of equipment there and Mr. Allred, the neighboring property owner and the contractor met up there and he gave the neighboring property owner his card. I told him if we have to fix it to do what needs to be done. We brought in loads of material and it became apparently clear to us that we would have to do a retaining wall which is going in now.

Board Member Bingham said may I stop you because the water is not the issue. Mr. Stanton said I understand. The original drawings we submitted for the permit has the eaves as constructed. We had the corner markers staked all four (4) of them. We had them professionally staked by Mr. Kent Felderman of Rocky Mountain Survey, Inc. I had him come back and reestablish the corner markers for the foundation before we started digging and he did 6' setbacks off of those so that when we were digging into the hill up there we wouldn't lose them so everything was properly established for surveying. When the issue arose with the eaves he was my first call to establish that they were still in their correct spots and we had correctly staked the foundation of the house. There was some confusion there because at first when Mr. Allred brought it to my attention I assumed that he meant the house had been moved into the setbacks and it was actually the eaves the whole time. Once we established that the eaves were the issue we started to work towards a fix for it. That is where we are now. The drawings had the eaves on them the whole time. The drawings Mr. Allred is referencing on the plot plan with the eaves on it, the City called and asked me for that and I think it was within two (2) days the guy who did the original drawings redrew them with the actual eaves where they are now as opposed to where they were originally supposed to be set. We provided that to the City at their request.

Board Member Johnson said I have looked at these drawings and they are kind of deceptive on the shading of the perimeter of your building. People could construe that that may be an overhang. I do these so I can understand where people get that so the original drawing didn't have those on after that was requested that is when this drawing came into play. On the timeframe Mr. Allred did you ask about that overhang this was before this latest drawing with the overhangs? Chair Montgomery said I need to interrupt you Mr. Allred because I would like to take everybody's testimony and then have questioning afterwards.

Chair Montgomery requested testimony from anybody supporting Mr. Stanton. There was no testimony.

Chair Montgomery requested testimony from anybody opposing Mr. Stanton.

Ms. Leigh said I am the Director of Community Development. As presented in your report packet the item went to the Planning and Zoning Commission in July of 2016. There was actually an error in the building inspector's report as far as when the permit issuance I believe the numbers were backwards the permit was actually issued August 5th not May 8th. At the meeting which was a very lengthy meeting about an hour and seventeen minutes long there was a lot of opportunity for discussion. I have my Chair here from the Planning and Zoning Commission he wasn't the Chair at the time but was present at the board meeting. We discussed the property and there is a 10' utility easement that runs along the back property line. It was clearly stated during the meeting that nothing can extend past that utility easement or into the utility easement. The Board of Adjustment cannot even grant a variance into a utility

easement because the utility companies have the first rights to being within that easement. The Planning and Zoning Commission after much discussion requested the petitioner to cut back the corner of the building an additional 2' so that is where you see the little jog on the property. In Exhibit E of your report packet the colored outlined map that we were referring to was submitted in March of 2017. It shows the yellow is the setbacks required by our ordinance the pink shows what the Board of Adjustment approved for the setback variance so the rear property line was at 10' to not extend into the easement. The pink is showing what they approved and the green shows what was constructed. The drawings were submitted at the Planning and Zoning Commission meeting and I am interchanging names because the Planning and Zoning Commission serves as the Board of Adjustment. They are one in the same. The Planning and Zoning Commission looks at the site plan they do not look at construction drawings. They are not approving the construction drawings. They approve only setbacks. Although the drawings of the house were included within that packet for them it was mostly for a visual representation it is optional information it is not required to be submitted just to show this is the structure and this is how it will or will not fit into the neighborhood that was the sole purpose of including those drawings in the report. The site plan is the key piece of documentation that the Board of Adjustment looks at and they look at the setbacks. In your report packet I define what a setback is. "Setback lines" are defined in the Green River Zoning Ordinance (Appendix B, Section 1.7(B)(118)) as "the lines defining the buildable area of the zone lot." "Building Area" is defined as "the maximum horizontal area within the outer perimeter of the building walls, dividers or columns at ground level or above, whichever is the greater area, including inner courts where any horizontal dimension is less than twenty (20) feet." Setbacks are measured from the property lines to foundation basically. If you have an attached covered porch that is supported by a foundation you are going to measure the setback from the property line to the foundation of that covered porch it is considered part of the principal structure at that point. It was not discussed during the Planning and Zoning Commission meeting that the intent was to have a wraparound covered porch on this structure. Also to state in the record I received a phone call from Mr. Robbie Schamber of 710 Knotty Pine Street. He is the owner of the property directly adjacent to the north of the property in question at 12:20 p.m. today, May 15, 2017. He is in Savannah Georgia and therefore could not attend the meeting today but he requested that it be documented in the record that he is objecting to the granting of the appeal.

Mr. Greg Shelton said I live at 715 Knotty Pine Street directly across the street from 720 Knotty Pine Street. When this came before the Planning and Zoning Commission my neighbor, Mr. Rob Ross and I wrote letters objecting to building a structure within the 20' setback for an R-1 property. The Planning and Zoning Commission went ahead and approved Mr. Stanton's variance for a setback but in the construction of his house as we have heard today he has gone ahead and put portions of his house within the setback. That house is very close to the street now. No other houses in the Hutton Heights addition sit that close to the street. It is at this point now where his eaves are going to overhang onto the sidewalk and nowhere else in the City of Green River does a residential house come that close to the sidewalk. I would like to go on record as being opposed to granting him an appeal and that he has to bring his house into compliance with the setbacks that he received at the Planning and Zoning Commission hearing.

Mr. Chris Shelton said Mr. Greg Shelton is my father and I am currently residing at 715 Knotty Pine Street and I am here in opposition to the appeal that Mr. Stanton has filed. The codes of the

City are there for a reason and they need to be followed and it appears that Mr. Stanton has decided that he shouldn't have to follow them. The building inspector has been very compliant in showing up to inspect the building for us and as such Mr. Stanton needs to comply with the law. I am stating on the record that I am opposition to this appeal because Mr. Stanton needs to follow the rules and he needs to follow the terms of the variance that he was already given.

Mr. Bob Ross said I live at 725 Knotty Pine Street. I wish you had an opportunity to look at this house before you make a decision because if you saw it, it does not look like any other house in Green River. If the roof were flat we could probably land three (3) helicopters on the roof so it does certainly create a watershed. I object and I know it is going to create a cost for Mr. Stanton. I have nothing against Mr. Stanton if I have any beef it is with the Planning and Zoning Commission that approved this. I think that overhang creates a very extensive watershed and so when you talk about its affect it not only effects encroachment but it also significantly has quite the watershed effect by itself. The overhang encroachment has impacted me because when the equipment is left on his property and it cannot get close to the house it is then left in the street. With that equipment left in the street the contractors have had problems accessing and therefore one time they damaged my mailbox. I just replaced it about two (2) weeks ago and somebody else hit it again. Of course nobody took credit for it although Mr. Stanton did on the first time offer to make me whole on that particular mailbox. It is definitely creating an issue already on a road that doesn't have a cul-de-sac on the end. At this point the only opportunity to turn around is in my driveway or at Mr. Stanton's driveway. I would be surprised based on how much dirt was thrown around when they dug the hole whether the foundation is on his property. I also wrote a letter in December to the City because that is when they put the porch on this property. The porch goes all the way to his neighbor's yard. When you see this property you would be so surprised that this is in Green River. In the statement from Mr. Stanton to the Planning and Zoning Commission he said he took "great care on selecting a design that would fit in our neighborhood." Nobody in our neighborhood has 4' eaves so if it had 2' eaves it would look like a normal house instead of like a Holiday Inn. I think that change if it were made would definitely make it look like a house. Also just to mention the utility easement I was surprised that they didn't make a call to One Call of Wyoming so they dug up a huge power conduit that went up for the electrical for the water tank that is above my house not the one that is at the end of the street but the other one. The contractor dug into that and then that was rerouted around so actually there wasn't a requirement for him to change the foundation because it was rerouted. I would have considered that as something that should have been an issue that should have put people on alert that this might be an area where this property in its construction would be cutting toward lines being somewhat very careful to make sure that they get everything that is theirs. The utility easement made it so they could build a house and not have any changes according to that. I think our city inspector is acting in good faith. I think he made his best effort to make sure things were done. My issue has been that it has been reckless in the sense for example the retaining wall and how much damage it did to people's property. They dug a hole last night. There is a lack of concern for the neighbors. It is about I got the Planning and Zoning Commission approval so I can take every advantage of this and I really don't care about anybody in the neighborhood. I am going to do it my way and do these things. When I talk about character I think the City is trying to do their job. I would like to go on record to say I also disagree.

Mrs. Helen Golightly said I live at 730 Easy Street and I want to go on record that I object to this

appeal. When the runoff came and this was in March it went into our yard. I don't know if there is any drainage system with this house because of the setbacks. The water came into our yard and it came into our basement. It flooded two (2) bedrooms, a storage area, the hallway, our bathroom and where the water heater and the furnace are located. We called Mr. Allred and he came to our house and looked at it but then we didn't hear anything else. My husband and I went to the City again and left our name and address for them to call us but we never received a call back. Our insurance is not covering this because its surface water and our home owner's insurance will not cover surface water. I want to know what is being done as far as the drainage system.

Chair Montgomery said I would like to make a couple comments before we open it up for questioning from the Board. I sympathize with everybody's problems that they have with this piece of property at this point all the water problems and the inconvenience in my opinion those are separate issues from what we are trying to decide here as the Board of Appeals. It is our job to determine whether the decision that the building inspector has made is based on the current code we have adopted for the City. What we are trying to determine here is his interpretation of the code correct and true in relation to this issue. In a nutshell that is the gist of what we are going to do here and what happens after we make our decision is not our concern. At his point I would like to open it up for questions for the Board.

Board Member Johnson said when you had Mr. Felderman survey the property and put you some off set points. I was just verifying that it was the case and it would match the plot plan you have exactly and I wanted to try to clarify the timeline. The first timeline in the plot plan I saw it was just the shaded area of the building which could be construed as an overhang after the Planning and Zoning Commission requested the eaves be shown on the house which I am assuming I am trying to get the timeline from when you asked that those meet within those requirements that you asked for from the time of the latest plot plan.

Ms. Leigh said the site plan that you see that is included as part of the Planning and Zoning Commission packet that has the hatched areas that is what was submitted for the Planning and Zoning Commission you are correct that is what they based their decision off of. The one you have here is the revised one that shows the offset for the garage. What you have here is exactly what the Board of Adjustment approved. As Mr. Ross indicated he submitted a letter to the City with some concerns in December that is when it came to my attention to take a look at the eaves. It was in March when we received the site plan because I asked for before we make any decisions on what we are going to recommend that we need to see exactly what you are building so we can compare that to the approved site plan and that is how that came about in March so that was submitted after.

Board Member Woodward asked has this colored drawing been confirmed that it is correct by a surveyor by measurements. Mr. Stanton replied yes.

Board Member Bingham asked did a certified company do your setbacks. Mr. Stanton said I had Mr. Felderman come back and verify that the corner markers were still in the correct spots and we pulled a string line down the property and measured the eaves and then added it all in there. Nothing has changed as far as what you see in pink that is still the original foundation all the way

around the house and the green shows the added eave to it.

Board Member Bingham asked just to verify was this drawing done by you. Mr. Stanton replied no it was done by a friend of mine in Rock Springs; Mr. Ryan Slagowski drew it up for me on AutoCAD.

Board Member Woodward asked did you believe through the construction of all this at all times you were within your setbacks. Mr. Stanton said construction happened very fast on this project we were in limbo there with the Planning and Zoning Commission so I had everything lined out to be ordered immediately as soon as we got a variance or didn't we were prepared to go last summer because it was getting closer and closer to wintertime and we got our variance and we got the building permit in August. There is a copy of an email that I sent because there was a concern because the eaves weren't on the plot plan but they are on the drawings. I provided a copy of an email I sent to Ms. Leigh. I can read it for you; it specifically asks about the eaves and overhangs. It says, "What are the rules for the eaves or roof overhangs on the house? Do they count into the setback footage?" Ms. Leigh responded to me the next day and said, "Hi Phillip, sorry I didn't reply to you yesterday. I'm home with the stomach flu. Anyway I did look at your revised drawings and they look great! Go ahead and submit these with your building permit application for Dave's review as soon as possible. He's a bit back logged right now so the sooner the better. There is an exception for eaves to encroach into the setbacks so you are good there." With this letter and my approved building permit I ordered the trusses from Truss Craft in Cheyenne. Those engineered trusses are what were installed and then the drawing shows what it looks like now. The construction of the foundation is extremely close within a quarter or half an inch of these drawings the original drawings. As soon as the City asked for those eaves to be put on the plot plan we provided it and so now we are here today. I have dealt with the City on this property since a month before we purchased it. I wanted some input from Ms. Leigh so I came into the office and we discussed this property in length and she was extremely helpful. We laid it out and we redrew the garage because we knew it wouldn't get through with the garage on the front of the house so we went to that expense of the putting the garage on the side and digging out the mountain and putting that giant retaining wall in up there to keep the cars off the street. The lot is a very odd design. I've worked with the City. We have worked together hand in hand throughout this whole project. I have tried to rectify this with Mr. Allred and Ms. Leigh.

Board Member Woodward asked am I right in saying that you are saying the whole issue that has put you over the setbacks are the eaves and you ordered the eaves based on this communication with Ms. Leigh but you didn't go any further to find out exactly what the encroachment of eaves amounted to whether it was 2' or 10'. Mr. Stanton replied no I didn't research it any further.

Board Member Bingham asked is it correct that Ms. Leigh isn't with the Building Department. Mr. Allred said she is with zoning and she wouldn't know the building codes that would be my department. Mr. Stanton should have contacted me about it however even when I looked at the plans to begin with showing the plot plan the way it was laid out with the faded out overhangs there was no measurement on the interior. I would have no idea that it was going to extend out to the property line. Board Member Johnson said I will add to that on that particular first submitted plot plan you know the shaded area that is one thing but there wasn't any dimension included on the boundary of the house to say okay we know we got 12" of extra overhang. I

could see where that would be very easy to overlook because it is not very clear there is no legend on the drawing of what that is. I can see where that could be very confusing. Ms. Leigh said if I may clarify I am the department head I am overseeing the building department and the planning and zoning department I also serve in the role of the city planner currently so I have multiple hats. As far as the email I sent from my house we do have as Mr. Allred mentioned a 24" encroachment for eaves which is your typical eave anything outside of that as far as zoning and I don't know what the building code defines but for zoning purposes this to me is not an eave this is a covered porch with an awning or something else but it is not your standard eave what I would consider an eave that is my defense just a natural reflex yes we have an encroachment for eaves which would be in my opinion a 24" roof where it projects out from the house.

Board Member Bingham asked do you typically see if the eaves are longer than 24" drawn on into the setbacks on a plot plan. Mr. Allred said they will usually state it on the plot plan if it is extended longer and the deck overhangs are usually drawn on the site plan so we can get a visual of everything that is going on the plot plan.

Chair Montgomery said I would like to make a couple more observations having served on the Planning and Zoning Commission as well as the Board of Appeals I try not to muddle things together. One of my observations is the variance that was granted to Mr. Stanton I feel having been on the Planning and Zoning Commission I feel like what they granted him is extremely liberal and having said that I can understand everybody's ire with the whole situation not wanting to second guess what the Planning and Zoning Commission did. My second observation is pertaining to the building code and the highlighted areas that Mr. Allred's presented. I am going to read those again it is in Section R105.4 with the heading of "Validity of Permit." The highlighted area says specifically, "The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data." Personally I think we are past that and I think there is another section in the code that pertains to violations of the code period and that is where we are at with this we are at a violation of the building code period and the zoning ordinance as well. I would like to read on after this the next sentence states, "The building official is authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction." I think he should have highlighted that area as well. The other section highlighted here Section R105.6 Suspension or revocation. It states, "The building official is authorized to suspend or revoke a permit issued under the revisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code." There again having read that I feel we are past that as well. I am sure there is another section in the code that addresses this issue better than where we are at as far as the validity of the permit itself. As far as Mr. Stanton is concerned I would sympathize with him if it does come down to him having to cut the eaves back. As far as a covered porch area I feel definitely those are eaves albeit they are 12" wide they are still in my opinion as a builder an eave as well. Another thing I would like to ask is the deck itself is that also encroaching into the easement. I don't think we have brought that up. A deck is allowed to encroach into an easement up to 3.5'. It is a little more liberal than the soffit. Is the deck encroaching in the easement? Mr. Allred replied yes it does the front deck does on part of it.

Chair Montgomery asked was the purpose of giving us the information from the Planning and Zoning Commission meeting for background information. Ms. Leigh replied yes it is so you understand what the Board approved because the setbacks that were approved are different than what traditionally would be allowed. Based on the drawing this was not included this is what I calculated as far as showing where the 24" allowable encroachment would be which would be 24" past the approved setback and also a 3.5' allowable encroachment. He is correct in that the porch only goes to the garage. I would have to look at that a little further but what concerns me however is the back in the utility easement.

Board Member Woodward asked so according to this colored up drawing you are actually within 7/8th of an inch to being within the property line. Mr. Stanton replied yes.

Board Member Woodward asked is the City going to require you to put in a sidewalk along that street. Mr. Stanton said per Mr. Westenskow that street will be demolished next year and a new drainage system will be installed at that time. If you look on that drawing that street actually ended just shy of where the street tapered off towards the Ross's property somewhere between where the wood porch starts and ends. There was no pavement there when we started this project. It was basically the dead end of the street. Mr. Ross asked isn't that hearsay because we haven't heard testimony from the streets department. Chair Montgomery replied yes we have not.

Chair Montgomery asked is the solution to this whole problem if we don't grant his appeal would be to cut the eaves off. Mr. Allred replied correct. Chair Montgomery asked would he have to cut it off to a 2' eave. Mr. Allred replied yes to a 2' eave.

Chair Montgomery asked is this more of an issue of a code violation or a zoning violation. Ms. Leigh replied the code comes in with the decision to bring it into compliance with the approved site plan that is the code violation. This board cannot grant setback variances the setback variances were already granted by the Planning and Zoning Commission. It is also a zoning violation because as that section you read the building inspector can require them to bring it into compliance with the building code and any other adopted codes by the City. It is in violation of the zoning ordinance because he is extending more than 24" past the approved setback. I would like to also advise the Board that he was not approved a 9' setback the entire length of the house. It varies the 9' is only at that corner it wasn't a flat out 9' setback all the way along the front structure in fact the reason that there was a lot of discussion and this is reflected in the minutes is that they felt more comfortable in granting a 9' setback on this corner because he is actually exceeding the setback requirements on this side. It wasn't 9' is allowable the entire length of the structure so when we discuss as far as the porch he is allowed 3.5' projection from what the Board approved based on the site plan. It is not 9' minus 3.5' all the way down this property line that is not the way the Board approved it. What you have is what the Board approved. The house is skewed on that property. I am going to pass this around this is not an official document but I used it more for my reference the pink shows what is in violation and the green shows the 3.5' allowable encroachment based on the building that was approved at that location.

Chair Montgomery said I am going to ask this for clarification the yellow is what the current zoning ordinance requires for setback the pink is the setback that was granted by the Board of Adjustment and the green is where the eaves are currently located. Ms. Leigh replied correct by

ordinance looking at the pink line he would be able to extend 24" past that pink line for an eave and 3.5' past that pink line for a porch however I would like to reiterate that nothing can extend into the utility easement unless it becomes vacated which is a whole different process.

Board Member Woodward said it appears to me with all of that being said there are certainly violations in the setback rules and Mr. Allred acted on those violations.

Ms. Peggy Schamber said my son, Robbie, owns the house next door when you were talking about from the foundation out my question is between this and his house there were three (3) or four (4) cement pillars that were put in as supports for the post for the deck and that was only for the deck that does not include like Mr. Ross said if you drive up that street and look at the part between the two (2) houses that overhang is right next up to Robbie's fence. Are those pillars that are set in the cement the pillars that are attached to that are they included? Ms. Leigh said they are not in the pink they would be under this green area. The pillars that are being discussed were not included in the original plan that the Planning and Zoning Commission approved however I believe and Mr. Allred can correct me if I am wrong they are within the required 10' setback for a structure as far as zoning. Mr. Allred said yes they extend into the 3.5' allowed for the deck. The roof above it does not however the deck does. Ms. Leigh said as far as zoning goes what I was looking at on zoning on this my issues on this side were minimal the issues for zoning are mostly along the front and the back of this property because he had more than the minimum setback when he presented it to the Planning and Zoning Commission then was required only a 10' setback is what is required along that side so he had room to extend into that however it should still appear on the site plan but that is not where the violation is.

Mr. Michael Steadman said I live at 740 Easy Street and I have a question. You are calling this a roof porch out the front to me it is a walkway it is not very wide and it goes up the side. Is he going to add more to that or is that what is going to be left there? To me it is not a porch it is a walkway but I am not an engineer. It looks like we are comparing oranges and apples to describe that part of it. Chair Montgomery said for all intents and purposes we will probably consider it a porch.

Chair Montgomery said we have reached the point where we need to take a vote. So as far as the motion goes it is straight forward you either grant the appeal or you deny it. How would you like the motion worded positively or negatively? Ms. Leigh replied based on Robert's Rules of Order it is supposed to be in the positive, motions should always be in the positive and then if you do not agree with it then you would vote against that motion it sounds backwards but you do what makes you comfortable.

Chair Montgomery moved to approve the appeal by Mr. Phillip Stanton as requested. Vice-Chair Van Over seconded the motion. Motion failed. (0-6)

OLD BUSINESS

- 1) None

May 15, 2017

(Note: The foregoing is intended as a general summary of the proceedings before the Board. It is not a verbatim transcript of the taped proceedings. Digital recordings are maintained in the Community Development Department).

ADJOURNMENT

Vice-Chair Van Over moved to adjourn the meeting at 5:26 p.m. Board Member Woodward seconded the motion. Motion carried. (6-0)

Chair

Date

Secretary

Date