

**TOWN OF WEDDINGTON
SPECIAL BOARD OF ADJUSTMENT MEETING
MONDAY, JANUARY 26, 2009
MINUTES**

The Board of Adjustment of the Town of Weddington, North Carolina, met in a Special Session in the Town Hall Council Chambers, 1924 Weddington Road, Weddington, NC 28104 on Monday, January 26, 2009, with Chairman Rob Dow presiding.

Present: Chairman Rob Dow, Vice-Chairman Jack Steele, Dorine Sharp, Sarah Lowe and Beth Masurat, Board of Adjustment Attorney Bill Brown, Town Attorneys Susan Matthews and Bobby Sullivan and Town Administrator/Clerk Amy S. McCollum.

Absent: None

Visitors: Bill McKee, Mickey Key, Jose Suarez, Judy Suarez, Richard Sahlie, Mr. and Mrs. L.E. Burch, Mr. and Mrs. Bill Scott, Merritt and Gail Card, Dave Ruths, Daniel Barry and Rick Hunt.

Item No. 1. Open the Meeting. Chairman Rob Dow called the January 26, 2009 Special Board of Adjustment Meeting to order at 7:11 p.m.

Item No. 2. Determination of Quorum. There was a quorum.

Item No. 3. New Business.

A. Appeal of Building Inspector's Findings of Fact and Order Dated December 18, 2008 Relative to Parcel Number #06-096-023B Located on Beulah Church Road Owned by Rick and Irene Hunt.

Chairman Dow opened the hearing to consider an appeal filed by Mr. Rick Hunt. Attorney Bill Brown swore in the following individuals wishing to give testimony: Richard Sahlie, William Scott, Sam Leggett, Richard Hunt and Robert Vaughn.

The following exhibits were entered into the record:

- A. Complaint and Notice of Hearing Before Building Inspector Relating to Demolition and Removal of Building dated November 21, 2008
- B. Findings of Fact and Order dated December 18, 2008
- C. Certified Mail Receipt
- D. Courtesy Letter dated March 25, 2008
- E. Appeal Application dated December 29, 2009
- F. Plat of Property
- G. Boundary Survey of Property
- H. Letter from Reginald L. Sutton – Board of Directors President for the Lake Providence Home Owners Association dated January 24, 2009

Mr. Rick Hunt – I am asking for an appeal for more time to repair the building. It has been like this for a long time. Since you have given me an ultimatum and due to the holiday season, it is too quick and I am asking for more time to repair.

Ms. Sarah Lowe – How much time do you need?

Mr. Hunt – Six months at least.

Chairman Dow - It might help if you could go through and give us a timeline on this and what the situation is.

Mr. Hunt – I have to get a new survey for the Town of Weddington and then take it to Union County.

Chairman Dow - When did you receive notice from Weddington?

Mr. Hunt - I came here on December 5 and talked about it. I asked for an appeal then.

Ms. Beth Masurat – Just to clarify, you have to have a new survey done and then you would take that survey to Union County to get the permit?

Chairman Dow - Why do we need a new survey if it has already been surveyed?

Mr. Hunt - They want to see the actual building on the plat.

Chairman Dow - Was a foundation survey ever done?

Mr. Hunt - I do not think there was one with the house on the land. I had a survey of the land.

Chairman Dow - This was a house that was moved to the parcel?

Mr. Hunt - It was stripped down to bare bones so everything is back to the framing section and it is on the foundation now. A new roof has been put on it in the meantime.

Ms. Lowe - Is it boarded up?

Mr. Hunt - No. I can do that if you grant the appeal.

Vice-Chairman Jack Steele - Has the new survey been completed?

Mr. Hunt – No.

Vice-Chairman Steele - How long will it take to do the survey and then the next step is to make an application to Union County?

Mr. Hunt – Yes.

Vice-Chairman Steele - And that application to Union County is typically acted on how quickly?

Mr. Hunt - If I can get the survey within two weeks, then bring it here. I am not sure how long it takes with the County.

Chairman Dow - They are requesting a foundation survey. The plat survey has been done.

Mr. Hunt – They want to see the house on the plans.

Ms. Dorine Sharp - In order to issue any permits, the Zoning Administrator has to verify that all the setback requirements have been met. The parcel was vacant and it was in Union County, not in Weddington and it is new to the parcel.

Chairman Dow - This is part of our large annexation. You have done all you needed to do at the beginning. The annexation has in effect caused this problem.

Mr. Hunt – The Town of Weddington took it over and the people want the house done and it is not done and so it is getting me moving.

Ms. Lowe - If you get the survey done in two weeks and you have another two weeks to get Union County approval – it is going to be another month before you can actually start at the earliest on the work.

Mr. Hunt - I think earlier than that.

Ms. Lowe - You feel like you can finish it in six months?

Mr. Hunt – I am asking for that. I would like more. I am trying to fix this up myself.

Ms. Sharp - Why have you only done the roof to this point and time?

Mr. Hunt – I have been busy and trying to tend to my family and business.

Ms. Sharp - Do you intend to live in this home?

Mr. Hunt – Yes.

Attorney Brown - What is your understanding of what happens if the board was to grant an extension and you do not meet that deadline? What is your expectation of what Weddington should do?

Mr. Hunt - You said you would demo it.

Attorney Brown - Would you consent to that if you do not meet the deadline?

Mr. Hunt - If I have to, yes. I do not think it is fair.

Chairman Dow - What would be proof of Weddington's satisfaction of the completion of his requirements – a Certificate of Occupancy?

It was answered yes.

Attorney Susan Matthews – I represent the Town Staff. Mr. Hunt, you said that you are asking for six months. Is that six months from the date of order - six months from today – six months from February 13?

Mr. Hunt - What order?

Attorney Matthews - The order that was issued and received in December?

Mr. Hunt – Six months from the Town of Weddington decision tonight.

Attorney Matthews - You are expecting that it will take a couple of weeks to get the survey?

Mr. Hunt – Yes.

Attorney Matthews - And a couple of weeks to get approval from Union County? Is that correct? Is it true that you have known that your house was in violation since March of last year?

Mr. Hunt - Not really violation of demo. Cut the weeds down which I did. I did not put the boards up but the weeds were cut down.

Attorney Matthews - You were notified that your house was in violation of the Minimum Housing Code?

Mr. Hunt – Not in March I was not. It was just cut weeds down and board it up.

Attorney Matthews - Did Mr. Leggett advise you during the May meeting that you needed a building permit to bring the house up to code?

Mr. Hunt – In the last one, on December 5.

Attorney Matthews - Isn't it true that in your appeal today that you asked until January 13 to obtain the permits?

Mr. Hunt – Yes. They said that I could wait until I got my appeal.

Attorney Matthews - Didn't you state in your appeal that you could obtain a permit by January 13?

Mr. Hunt - I did then.

Attorney Matthews - Didn't you say that you could have the property bush hogged by January 13?

Mr. Hunt – Yes, I did.

Attorney Matthews - And isn't it true that you have done none of those things?

Mr. Hunt - Not until I found out about this.

Vice-Chairman Steele - Do I understand correctly that the grass and other things have not been cut and are still all grown up?

Mr. Hunt - It was cut once.

Vice-Chairman Steele - When was it last cut?

Mr. Hunt - Probably March, April or May.

Chairman Dow - Can we have for the record who Mr. Leggett is?

Attorney Matthews – Town Building Inspector.

Vice-Chairman Steele - Nothing has been done to clean up the property or cut the grass for over six months?

Mr. Hunt - Not since December 5. It was done before that when I was supposed to do that.

Vice-Chairman Steele - Does it need it again?

Mr. Hunt – Yes.

Citizen - How long has the property been occupied by this structure? When did it get moved to the parcel?

Mr. Hunt - Five years at least probably.

Ms. Lowe - There was some work done to stabilize the foundation?

Mr. Hunt – Yes.

Ms. Lowe - And that was done how long after you moved there?

Mr. Hunt - Immediately after.

Chairman Dow - Is that a permanent foundation?

Mr. Hunt – Yes.

Attorney Brown - Are you a licensed contractor?

Mr. Hunt – No.

Attorney Brown - Are you a licensed plumber or electrician?

Mr. Hunt – No.

Attorney Brown - You are intending to do this work yourself?

Mr. Hunt - No – I will sub out.

Attorney Matthews – Please submit your name to the Board.

Mr. Sam Leggett – I am Sam Leggett. I am employed by the Town of Weddington. I enforce the local codes for the Town – housing code and some other local codes they have adopted.

Attorney Matthews - How long have you been doing this?

Mr. Leggett - I have been contracted with Centralina for at least 3 years.

Attorney Matthews - How long have you been enforcing the code?

Mr. Leggett - I have been working in this line of work for 35 years. I retired from Mecklenburg County with 30 years experience doing this.

Attorney Matthews – What does your responsibility entail?

Mr. Leggett - I respond to requests for service from the Town if they get a complaint about a housing code violation or other issues such as zoning violations. I respond and help them enforce these local codes and taking action as necessary in accordance with the code.

Attorney Matthews - Were you contacted by the Town to inspect Mr. Hunt's property?

Mr. Leggett - I was.

Attorney Matthews - This is the property located on Beulah Church Road?

Mr. Leggett - That is correct.

Attorney Matthews - When were you first contacted by the Town?

Mr. Leggett - Back on March 3, 2008, I received a request to inspect that property.

Attorney Matthews - Was it your understanding that this property was part of the November 2007 annexation?

Mr. Leggett - I found that out after I made that first inspection.

Attorney Matthews - When was your first inspection?

Mr. Leggett - I made my first site inspection on March 7, 2008.

Attorney Matthews - What did you find?

Mr. Leggett - There is a house there on the property. Obviously moved on a raised foundation system but the house had open windows and doorways. Along the entry, the second level, the wood has been sheathed with plywood and is not protected from moisture. There was quite a bit of deterioration that I could note from the ground level although I could not get up close enough to touch it and see how bad it is.

Attorney Matthews - Based on this inspection did you feel it was appropriate to contact the property owner?

Mr. Leggett - I did. I felt like I needed to notify the owner that we had some concerns and possible violations of the housing code.

Attorney Matthews - Is this a fair and accurate copy of the letter you sent to the property owner in March 2008.

Mr. Leggett - Yes – that is a copy of what I sent.

Attorney Matthews - Would you please read the last sentence of the first main paragraph?

Mr. Leggett - It is unsightly and in violation of state and local building codes and the Town's housing code. The date of the letter is March 25, 2008.

Attorney Matthews - Did you meet with the property owner concerning this letter?

Mr. Leggett - I did. I met him on site.

Attorney Matthews - Do you know about the time you met him?

Mr. Leggett - May 3, 2008 – I met Mr. Hunt on site.

Attorney Matthews - What did you discuss?

Mr. Leggett - We talked about the building and the condition it was in. After talking about it, Mr. Hunt agreed that he would immediately bush hog the property. He also agreed to obtain a building permit, one from the Town and one from Union County to complete the construction.

Attorney Matthews - Do you know if Mr. Hunt applied for or obtained a building permit to improve the property?

Mr. Leggett - After that onsite meeting, I tried to monitor what was going on through phone contact and anytime I was down here working on other cases, I would go by to see if I could see any indication of anything underway. He did eventually mow the property. I did not make a specific note but it was sometime between June and July.

Attorney Matthews - Did you find that he had made any other progress other than mowing?

Mr. Leggett - No change.

Attorney Matthews - When did you decide that it was time to issue a notice of hearing?

Mr. Leggett - November 2008, I met with staff and the Town Attorney and talked about the conditions and then issued a notice of hearing to Mr. Hunt on November 21, 2008.

Attorney Matthews – Is this a copy of the complaint in your notice of hearing that you issued to Mr. Hunt?

Mr. Leggett – Yes, it is.

Attorney Matthews - We are currently looking at a copy of the complaint and notice of hearing. What is the date on that?

Mr. Leggett - This notice of hearing is dated November 21, 2008.

Attorney Matthews - Why did you feel it necessary to issue this notice?

Mr. Leggett - We had inspected the property back in March. I found that there were some issues and violations of the housing code. I notified the owner with a courtesy letter to get things going to correct those violations and really he has not made any progress at all in more than six months. I felt like I needed to go ahead and go follow the code and do what the code calls for, which is notification to the owners of the hearing. It is a formal hearing to make sure the property owner fully understands the code violations and what needs to happen and what the Town's remedies are. This was a hearing with the Town's staff. It is referred to as a notice of hearing.

Attorney Matthews - When did you sit down with Mr. Hunt and the Town Staff and the Town Attorney and have this hearing?

Mr. Leggett - I held a hearing on December 5, 2008 here at the Town Hall and Mr. Hunt did attend.

Attorney Matthews - Did he speak on his behalf?

Mr. Leggett - He did. He talked for himself.

Attorney Matthews - Did you address the violations in the notice?

Mr. Leggett - We did not review them step by step but he had his copy of the notice with him and we had ours. We did not read them one by one. We talked about the building in general and the deterioration that all those defects represented.

Attorney Matthews - Do you remember how many violations were listed?

Mr. Leggett - I think I counted 19.

Attorney Matthews - Based on this hearing, did you issue a finding of fact and order?

Mr. Leggett - I did.

Attorney Matthews – Is this a fair and accurate copy of the findings of fact and order that you issued? How did you send this notice to Mr. Hunt?

Mr. Leggett - This is fair and accurate. We sent it certified mail with return receipt requested and we also sent a copy regular mail.

Attorney Matthews - In the order did you make an ultimate conclusion as to whether the property was dilapidated?

Mr. Leggett - I did. I classified it as substandard dilapidated - that is one of the standards of the code.

Attorney Matthews - Did you base that decision from the code that states that dilapidation constitutes it would take more than 50% of the home value in order to repair?

Mr. Leggett - That is correct. That is the standard.

Attorney Matthews - And is it your understanding that the property owner has two rights - either repair the property or demolish it?

Mr. Leggett - That is correct.

Attorney Matthews - In the order – did you include specific dates on which the property must have completed certain progress?

Mr. Leggett – Yes.

Attorney Matthews - Did you list a date the property must be bush hogged?

Mr. Leggett - I did. I ordered it in the Finding of Fact and Order that the mowing and bush hogging be complete by December 24, 2008.

Attorney Matthews - Did you list a date to obtain the permit?

Mr. Leggett - Yes I did. He was to obtain a building permit and zoning permit by December 31, 2008.

Attorney Matthews – What was the ultimate completion date in which Mr. Hunt was to have every violation repaired on his property?

Mr. Leggett - February 13, 2009. It should have been complete with all repairs and improvements to the property.

Attorney Matthews - Is it your understanding that Mr. Hunt has appealed that decision?

Mr. Leggett - It is. I understand that he has appealed it and that is why we are here.

Attorney Matthews - Do you believe that Mr. Hunt has appealed the finding of dilapidation?

Mr. Leggett – No.

Attorney Matthews - Do you believe that Mr. Hunt simply is appealing the time frame?

Mr. Leggett - That is my understanding. He is asking for more time.

Attorney Matthews - In his appeal, did he list a date on which he could obtain his permits?

Mr. Leggett - He did. In his original paperwork to the Town I believe he indicated that he could get permits by sometime in January. He stated that he could bush hog the property by January 13 and to receive the necessary permits.

Attorney Matthews - Have you had an opportunity to verify with the Town whether Mr. Hunt obtained a permit?

Mr. Leggett – Yes, I have.

Attorney Matthews - What was your finding?

Mr. Leggett - He has not obtained a zoning permit required by the Town nor has he gotten a building permit from the County.

Attorney Matthews - Have you had an opportunity to inspect the property?

Mr. Leggett - I was there last Thursday and I went back by again today.

Attorney Matthews - Has Mr. Hunt bush hogged the property?

Mr. Leggett - No.

Attorney Matthews - Has Mr. Hunt done anything or is there any evidence that there has been progress made on the building?

Mr. Leggett - I find no change since it was bush hogged six months ago.

Vice-Chairman Steele - Were the dates to get the permit and the bush hogging discussed and agreed to at the December 5 meeting or were those dates just set in your December 18 order?

Mr. Leggett - We met and talked about what needed to be done. After talking at the hearing, I went back and came up with that timeline.

Vice-Chairman Steele - This was the first time Mr. Hunt got actual notices with specific dates?

Mr. Leggett - I think he received it January 6.

Attorney Matthews - He made this appeal on December 29. So we are sure he received it by then but then he states in the appeal he received it Christmas Eve.

Vice-Chairman Steele - He may have received the regular mail. He clearly did not receive certified mail until the 6th of January.

Attorney Matthews - We are sure that he had received it by December 29, the date of the application.

Vice-Chairman Steele - They can't start any construction or rehab until they get a permit – right? They had six weeks to complete the entire construction and get it from its current dilapidated state until it was fit for occupancy. Is that a realistic time frame?

Mr. Leggett - Basically what you are talking about is rough-in wiring, plumbing and mechanical. Yes, I think you could do it. You would have to hustle. That was one of the things that we talked about during the hearing. After the hearing, I continued talking with staff. I suggested that when the 13th comes up and he has been working diligently, and the building exterior is finished, windows and doors are in and he has made a lot of progress inside, I think it would be justifiable to think about granting some more time. A building permit under state law is valid six months from the date of issue.

Vice-Chairman Steele - One of the real complaints is that he has done absolutely nothing since bush hogging the property that one time.

Ms. Sharp – You cite the roof failing to comply. I was curious if he has replaced the roof?

Mr. Leggett – Parts of the roof are still exposed. There is paint peeling. There is a lot of work yet to be done.

Chairman Dow - From the notice of hearing which occurred on December 5, I want to make sure that no time table was agreed on at that meeting for the completion and correction of those violations. It was just making sure he understood that he was in violation and what those were.

Mr. Leggett - And hearing his request for more time to finish the property.

Chairman Dow – On December 19 was really the earliest time and first time that he saw the time frame?

Attorney Matthews - His appeal states, if you look at the handwritten page, that he received it the day before Christmas.

Chairman Dow - In between the original courtesy letter of March 25 and the notice of the hearing, you stated that you went by and inspected to see what was going on. Did you ever speak or have contact with him?

Mr. Leggett - Never. He is not out there.

Chairman Dow - How big is this tract?

Mr. Leggett – Two to three acres.

Chairman Dow - Is it part of a subdivision?

Ms. McCollum – No.

Chairman Dow - Are you aware of when Weddington established minimum housing regulations?

Attorney Matthews - It appears, based on code, that it was enacted October 9, 2006.

Chairman Dow - This code was put in 2006. The house at that point was not in Weddington. The house was there prior to his plans.

Mr. Hunt – When you say dilapidated – you said you did not go into the structure to look at it you looked at it from down below? I have been up in the structure and it is not dilapidated. You have not contacted me at all since I got the first letter.

Mr. Leggett - I phoned you several times.

Mr. Hunt - You did not leave me a message saying we are going to demo your house.

Mr. Leggett - We don't ever make that threat. We go through a well defined process in the code to give the owner the opportunity to bring it up to code. In this case the options were to fix it and bring it to code or we will tear it down. If we go through the process that we are going through tonight and we get to the end of it and the owner hasn't done it that is when we would come back to the Town board and say now we are proposing a demolition ordinance to tear it down. This is what we talked about during the hearing. We explained the process that is required by state law and local housing code and where it can ultimately wind up. That discussion occurred in the planner's office. We talked about this. The owner indicated to us that he wanted to finish the project.

Chairman Dow - And that was on December 5?

Mr. Leggett - Yes. The conversation centered more on getting permits and getting it going again rather than if you do not, we will tear it down. We were trying not to make it like a threat.

Mr. Hunt - Did you mention that I called Weddington back and could not get a permit before the date? They said no you have to get it on the plat and get a new survey. I made an effort to get that done. That was an action that I did do. I tried to get this done and they said we can't do it now. I did not get any of this other stuff done because you have the appeal. Did you acknowledge my appeal? Did you acknowledge that I brought my survey in to show you that I was progressing?

Vice-Chairman Steele - When did you bring your survey in?

Mr. Hunt - December 29.

Mr. Leggett - We did acknowledge that you filed your appeal on December 29.

Attorney Brown – Was it your earlier testimony that you never talked to him after December 5?

Mr. Leggett - That is correct. I met with Mr. Hunt here on December 5. I then issued that order for him to do those four things. One of which was to get a building permit.

Attorney Brown - When you brought the survey in, who did you physically see?

It was advised that it was Kim Woods.

Attorney Brown - Do you remember the date that you brought that in?

Mr. Hunt – December 29.

Chairman Dow - I want to verify that this survey does or does not have the house plat on it?

Attorney Matthews - No. This is the survey he submitted on 12/29 for a zoning permit. It lacks all seals, surveyor notations and does not comply with the setback requirements.

Mr. William Scott - Thank you very much for letting me speak. My name is William H. Scott. I live at 3311 Beulah Church Road with my wife and family. We have resided at that residence for over 30 years. We have been in Union County since 1978. We were in the County until we were annexed along with the questioned property at the time. This house was moved on Saturday morning at 8:00 a.m. December 21, 2002. It was parked just 10 feet from the road, approved by the Highway Patrol at that time by the movers. The movers were cited for numerous damages to property. He was paying with a checkbook for the amount of damage done down Beulah Church Road in moving the house. It sat there, in spite of my complaints to North Carolina DOT and the County, obstructing my driveway, making it extremely dangerous for myself and my family to get out of our driveway. In September 2003, on Labor Day Weekend, the house was moved from its spot to the site where it sits now. It was not put on a foundation at that time. It was sitting on a box of a moved house. The moving company had the house parked so close to my property, when they moved their truck and removed the house from its original site to the site where it is now, they drove across my property with a 20 ton house moving truck making extreme ruts in my property. They said they would refill the ruts – they never did. I had to do it myself. I let that go. They moved the house to its present site a few months later. They jacked the house up approximately 20 feet in the air with pilings underneath the house until they built the foundation and then they lowered the house down to the foundation at that time. That was approximately the first part of 2004 that it was actually put down on its foundation. Later that year I spoke to Mr. Hunt's wife. She was there on the property with a friend and I questioned her as to when they would be doing the work on the house. This was the spring of 2004. They hoped to start the work within a couple of weeks. They hoped to be in the house before the end of the year. I never saw her again on the property. Numerous times during this period I called Mr. Hunt on the phone. Sometimes I reached him, sometimes not. My main contention has been he does not keep the property up. He did dump approximately 10 to 20 dump truck loads of dirt along the front of the property which has since grown up in brush and debris. It has never been cleaned off except by me. I have gone up there with the weed eater. The property is extremely dangerous for myself and my family to exit our driveway. Many people are speeding and we can't see until we clear the brush. I thanked Mr. Hunt last year in the spring (approximately May) when they bush hogged their property. The only problem was, they bush hogged all the property except the berm. They could not get up on that berm to cut that debris down. I had to cut it down myself. It was never touched again all of last year. I tried to cut it down in the fall of this year as the brush died off. My wife got mad at me and said it was not my responsibility. In addition to the construction that was done on the house, he dug out a hole approximately 20 feet deep to put that house in. The dirt has never had any sediment guards put on. They

have rerouted a natural drainage creek and concentrated all the runoff on to my property. It caused my driveway to washout. It caused me to lose a pipe that went under my driveway. I replaced the pipe. I built retaining walls of brick to stop the water flow and I put approximately 400 feet of rip rap rock from the edge of my driveway to the edge of my property to control the water runoff from this property. It is so bad – it goes over the rip rap and almost floods my driveway even now. Prior to the rip rap it had cut a ditch into my property approximately 4 feet deep. I have spoken to Mr. Hunt on numerous occasions. He has promised to do things. He has promised to keep the property clean and I have been ignored. I was ignored by the County. It has been over 6 years since this has been going on. We are going into our 7th year. I have been ignored by DOT. To put this off any longer is absolutely ridiculous. All my neighbors have complained to me “Why don’t you do something about that property”? I have been trying and no one will listen to me. It has devalued my property because of the water runoff – the damage to my driveway. The fact that every time I go out of my house I look right straight to a 15 foot high pile of red clay and a dilapidated house. We have had police on the site where kids have gotten up into the property. I don’t know if anyone has been injured but the police had to escort children back to their homes that were camping out at the house. We had just a month and a half ago, children on the property that were kicking off the plywood siding off the side of the house so they could use it to jump their bicycles on these huge mounds of dirt. Someone could easily be hurt on the property and still no one has done anything. I have listened to the statements of where I will do something in two weeks. You just get ignored. I would like this information to be of help to the Town. I would appreciate it being considered. I thank you for letting me speak early because I have another appointment. My wife is present and will remain for the rest of the hearing.

Mr. Hunt – You never mentioned anything about the driveway.

Mr. Scott - I did not mention that – I just cleaned it up myself. I did speak to you and I called you last spring after you had cleaned up the property and said thank you very much. I told you at that point, nothing had been cleaned up on the berm. You said you would get it taken care of and it was never touched again. I did it myself.

Mr. Hunt - My point is – you had monetary damage to your property – I was never notified. If you would have told me, I would have paid for it to be repaired.

Mr. Scott - I fixed it.

Mr. Hunt - I apologize. It is my procrastination that has messed you up.

Chairman Dow - Can you explain these two pieces of paper – what they are and what they are relevant to?

Mr. Hunt – The original survey of the property. I submitted to the Town of Weddington and said here is my survey and here is my septic tank.

Chairman Dow - The relevance of these is something we can all decide.

Attorney Brown - Was your earlier testimony that you brought those to Town Hall December 29?

Mr. Hunt - Yes, when I did the appeal.

Chairman Dow - December 29 – you came in and until that point you were unaware that you needed a building permit. You came in the 29th and found out you needed a foundation survey?

Mr. Hunt – Yes. That is when I filed my appeal and decided to wait on the appeal to see what happens.

Attorney Brown - When did you receive the actual notice? Your appeal notice says you received on December 24. Is that correct?

Mr. Hunt - I think so. The day before Christmas.

Attorney Bobby Sullivan - Mr. Hunt did ask for six months. There is a provision in the Town Code that we think bears on that. Is it acceptable for Ms. Matthews to expand on that?

Attorney Matthews - In the code that you received in your packet – Chapter 14 of the Minimum Housing Standards, if you look on Section 14-55 (b)(2) you will note that the maximum amount of time that Mr. Leggett could have given Mr. Hunt to repair his property was 90 days. You are sitting in Mr. Leggett's position as the local Town Inspector during the appeal. The maximum he could have given Mr. Hunt in December was 90 days.

Chairman Dow - How many days has it been?

Attorney Matthews – 51.

Attorney Brown - Is it your understanding that was what you have the power to grant?

Mr. Leggett - That is correct. The code allows up to 90 days and I took that into consideration as I thought about all the things we talked about in our hearing.

Attorney Brown - Why did you choose 51 instead of 90?

Mr. Leggett – I looked at the calendar and took into account the amount of time that has already lapsed on this and the amount of progress that has been made. I felt that was a good date. I had conversations with the Planner at the time and also the Town Attorney to make sure I was not too lenient or strict. I have to make the final determination.

Mr. Richard Sahlie – I live at 8126 Lake Providence Drive. I am a member of the Lake Providence Property Owners Association. The President of the Lake Providence Property Owners Association, Reggie Sutton wrote a letter which I would like to enter as part of the record: The homeowners in Lake Providence would like to see some action taken with regard to the property located on Beulah Church Road. This vacant home has been sitting on stilts for several years and is an eyesore as well as a possible danger in our community. We would like to see immediate action taken and for no more delays to be granted. We would like for this home to either be removed or brought up to code. The date of the letter is January 24, 2009. For reference, the Lake Providence Subdivision lies to the North of this subject property and semi-circle around to the South of the property. It is very important to the owners of the property in that area and we feel like this is a great detriment to the value of the property in our area. We would ask for immediate action – no more delays.

Attorney Brown - Are you a member of the board?

Mr. Sahlie – No.

Attorney Brown - Are you an officer?

Mr. Sahlie - I am not but I was designated by the President of the Homeowners Association.

Attorney Brown - He is unavailable tonight for a reason?

Mr. Sahlie - He is out of town. I am a member of the Association.

Attorney Brown - Do you know that the Board formally approved the submittal of that letter?

Mr. Sahlie - I don't know what kind of communication there was. There is another member of the Board here tonight.

Attorney Brown - I am trying to figure out the authority of the letter in the absence of the President.

Mr. Robert Vaughn - I was made aware of the Board meeting tonight and Reggie's intent to represent the Homeowners Association at the meeting. There was mention made of sending communication here. He asked for a couple of the Board members to be present. I am a Board Member.

Attorney Brown - Did you ever take a vote or any action to authorize the President?

Mr. Vaughn - We did not. It was communication by email to the Board members.

Attorney Brown - Did anyone object to that action?

Mr. Vaughn - Not that I saw.

Attorney Brown - How many Board Members are there?

Mr. Vaughn - I believe seven. There was an email that I received notifying the Board of this meeting and wanting representation at it against the property. Has anyone been able to ascertain whether there is financial capability to improve the property on the part of the owners?

Chairman Dow - I can't see that it is relevant from our standpoint. It is a violation of code.

Mr. Hunt - I thank you for letting me speak tonight. Sorry to all of the Lake Providence people. It has been wrong for me not to get the property done quicker. I know my responsibility is to get it fixed up or you have to demo it. I am going to repair the property. I should have done it earlier.

Attorney Matthews - I would simply ask that the Board keep in mind that this has been going on now for in excess of 10 months. Mr. Hunt has done nothing except for one incident of bush hogging the property in order to maintain it and get it to code. I want to make you aware that at the time Mr. Leggett issued the order the maximum amount of time he could allow Mr. Hunt to bring the property into full repair was 90 days and the Council has adopted provisions stating that you have the full power that Mr. Leggett has. To the extent that you would disagree, I would ask you keep in mind that any additional amount of time granted needs to be in consideration of the fact that Mr. Hunt has had well in excess of 90 days. He has had 330 days in excess there of. We would ask that you deny this appeal

Chairman Dow closed the public hearing.

Chairman Dow - The way I read the 90 days was that was the authority our inspector had. Should it come to an appeal we were given all of his authorities. Are we limited to 39 more days? If so why are we listening to an appeal for six months?

Vice-Chairman Steele - Are there any fines associated with these violations?

It was answered no.

Attorney Brown - I do not think you are bound by that. You certainly have the powers to step into the shoes of the building inspector. I do not think that limits you.

Ms. Lowe – Is Mr. Hunt financially capable of going ahead with this?

Chairman Dow - I don't know if that is relative.

Ms. Lowe - If he does not have the money – why would we extend the time?

Vice-Chairman Steele - I think you have to give him an opportunity but I think we can also put milestones in that if he doesn't have either the financial or other ability to get the job done on those milestones then he's lost the opportunity to go forward. My view is that Mr. Hunt's handling of this situation is deplorable and inexcusable. The statute doesn't take into account the six or eight months from May 2008 until the receipt of the actual order from the Town directing him to do things within a certain amount of time. As a practical manner, my view is that it was impossible for him to do what was required in the time frame allowed. I think we should set up a series of milestones, that if they are not met then the right to go forward would cease. For example by February 6 he should have the property cleaned up, bush hogged, and the mounds of dirt to be cleared off and to secure the house by boarding windows, doors, etc. so vagrants or children will not have access to the interior of the house. It is going to take some time to get a foundation survey. I think it will take a minimum of 30 days or around March 1 or thereabouts to actually have a building permit issued by Union County. I do not think there is any way to do the amount of construction required to get a certificate of occupancy in 90 days. If he gets it cleaned up but does not get the building permit by March 1, then that is it! I would give six months to get a CO. I would say that after 90 days, if there had not been substantial progress with maybe 40-50% of the construction renovation completed within that period of time, then there is no reason to wait another 90 days before the hammer falls. That is the time frame I am looking at. February 6 to get property cleaned up and secured. March 1st for building permit from the County. September 1 would be the deadline to get a CO. June 1st is for the Town to have someone inspect the property. Essentially, you have to meet each date in order to enter the next phase with the CO by September 1st.

Attorney Brown - Does it have septic or sewer?

Chairman Dow - One of his stumbling blocks is that he did not have a foundation survey. We don't require a foundation survey – do we?

Ms. Sharp - To get the original building permit, you have to have a survey. This is assuming it is a blank piece of property. I am not talking about where a house is going to be moved. If you walked into the zoning officer with a blank piece of property and you wanted to build a house. You would come in with a survey showing hand drawn where it was going to be.

Chairman Dow - I am not so sure that we haven't somehow required more than we were supposed to.

Attorney Brown - Even if that were the case, I don't think he has technically appealed your requirement.

Vice-Chairman Steele - Basically the milestone would be to get a building permit. I don't think we have to bother ourselves with what is required to get a building permit.

Ms. Sharp - Union County will not issue a building permit unless he has something from Weddington. We have to specify all the setbacks. Whether that can be hand drawn on the plat or if it has to be an actual survey showing the foundation, we will have to check.

Chairman Dow - We need to nail down what is 50%. Mr. Leggett will be the one that might be responsible for making sure that these milestones have been reached. Can we leave that up to his discretion?

Vice-Chairman Steele - March 1 deadline on the CO – there is no discretion involved. There is on cleaning up the property – although that is going to be real easy. The only tougher one will be whether there has been substantial progress towards the completion. I think Mr. Leggett is the appropriate person to make that final decision.

Chairman Dow - I think safety is our primary concern. We need to make sure it is boarded up so children can't access it and the property is mowed.

Ms. Sharp - My concern is that on March 1st he had this permit from Union County and if nothing is done, we have to go three months before we can jump in again. I guess I want some sort of assurance that there is progress during that three month time period. I don't know how we do that fairly and efficiently to be able to monitor it. You could get your permits and then wait three months. I don't mind coming up with a time table but I think there needs to be another milestone or two in there to be assured that work has begun.

Attorney Brown - During that first 90 day period, on a monthly basis, he has to meet with our building inspector and give him a report of all the things he did in the previous month and provide a schedule of what he intends to do in the coming month.

Ms. Sharp - What happens if he comes back April 1st and has not done anything

Attorney Brown - Maybe to make this milestone type of approach work effectively, I was going to suggest that the Board retain jurisdiction over this matter. Obviously the Town of Weddington has to do some things in order for him to get a building permit. We probably want to make sure that he comes back before this board for any deadline that is missed or alleged to be missed. We retain jurisdiction over it, we have another hearing on that component of it and make a ruling about whether to move forward. If the inspector feels there is not diligence being made staff could bring that matter to the board and ask for a hearing.

Ms. Sharp - I like the idea that at the end of one month this is what is accomplished.

Chairman Dow - Can we leave it more open?

Attorney Brown - You have to contemplate the evidence that you have heard tonight about the time frames that have elapsed already. How you structure your milestones and time frames and how much time you give has to relate to that as well as to basic sense of reality and fairness with getting this done and also some consideration that enough is enough. If you don't get a plumber you don't get a plumber. Time is up. You have to balance that. You have the option of leaving the deadlines currently in the findings.

Mr. Steele - The further you go down towards construction completion the greater the incentive is to finish it and not risk having the thing demolished. I don't think you have to nail down the specifics. You can also use some fuzzy words like continuous, substantial progress, etc. You still have to have some measurable standard. That is why I chose the three months. It is half way through the construction

process. You don't want to be arguing over what is continuous and what is substantial. They may be okay for the first 30 days but it may not be when you look at it and it is clear that only 10% of the work has been done after three months. You need to have the ability to say he has not met the schedule and call a halt to it.

Chairman Dow - The inspection report calls for rough-in in 90 days. At that point I think he would be well into it financially. I don't think you would have to worry about him walking away from it.

Attorney Brown - If he does not meet his September 1 deadline, I don't think this Board has the power to issue an order to demolish it. It would have to go to the Town Council. You would make a finding to the Town Council to the fact that the deadline has not been met.

Ms. Masurat - If we were to do something like this and let's say March 1st comes and he did not do what he said he would do, what is the process? Who will pay to demolish and who will clean up that property?

Attorney Brown – If we follow the structure the person would come back to you immediately and make some finding and a final determination that the deadline has or has not been met. If the deadline has not been met, then the extension stops. Then your task is over and then it goes to staff and Town Council. There is a process to follow. Ordinarily you give the owners a certain amount of time to demolish it themselves. If that is not done, you get an ordinance approved by the Town Council and it will direct the Town to tear it down and to assess those charges against the owner as a lien on the property.

Chairman Dow - Do we come to a conclusion or motion? There are no facts here. Should we substantiate with some findings of fact?

Attorney Brown - There really aren't specified findings. I think you would have a motion and a second and what is the course of action.

Ms. Sharp - I like the concept. What I would like to see is that as Mr. Brown suggested that our officer gets with the property owner or has communication of some sort on a monthly basis and if work is not progressing and a whole month has gone by and nothing has changed, then I want him to contact us and we have another meeting. Otherwise, we wait and leave all this until June 22. I don't want to see us wait until June to find out nothing has been done. We need to know that work is being accomplished. The question came up how do you measure it? Basically, once a month, if he makes contact with the homeowner, get some receipts that materials have been bought. Get some copies of bills that people have been paid or something to show that work is being accomplished.

Vice-Chairman Steele - Is it feasible on a month to month basis to require the property owner to meet with the Town representative on the site to review the progress?

Ms. Sharp – How about they must meet on site sometime during the first week of the month?

Chairman Dow – We are incurring the cost to do this because of a gentleman that has delayed for five years. I don't think the citizens of Weddington should have to pay our specialist to meet Mr. Hunt out there to make sure he is doing what he needs to be doing. If Mr. Hunt wants to pursue this and shows earnestly that he wants to do it – how do we arrange it?

Attorney Brown - Just say get it done by the deadline.

Chairman Dow – I think it should be reasonable. The reason we are entertaining this is no one wants a dug out basement sitting there. Everybody would benefit if the homeowner finishes the work. It has been

there five years. If we go 30 days beyond the March building permit time – I do not think it is a big deal. Rather than going to the expense of having Mr. Leggett go out there. It has to be cleaned up and boarded up and not accessible right away from a safety standpoint. He has to bring a building permit in here on March 1. We have been fair, we have bent over backwards. We are not going to pay for it.

Ms. Sharp - Clean and secure the property by February 6, provide proof of obtaining the Union County Building Permit by March 1 to the Zoning Administrator and a certificate of occupancy by September 1.

Vice-Chairman Steele - Not only clean and secure the property by February 6 but keep it that way and keeping the grass and brush down so the berm does not get overgrown.

Ms. Sharp - I would at least like to have something in the middle. If we are not going to do something in the middle at least go back to June 1 to verify that the work is done.

Chairman Dow – I do not want any gray area. It seems to me when I watch houses being built it looks like everything is done in a month and a half and it is not 20% built.

Ms. Sharp – It seems to me when I have seen houses being built the exterior is done first and then all the interior finish is done after that point in time. Could we set a date by when the exterior must be completed? Is it reasonable to have the exterior work completed by June 1 and then give him another three months inside the house to get the cabinets and fixtures, paint and carpet to get his CO?

Vice-Chairman Steele - If you are talking wood, windows, and siding - yes. Painting – maybe not.

Chairman Dow - You want something in between. The idea is to give him a chance and make sure it is finished. Then we go back and rough in electrical and plumbing inspections done by a certain date. That is a fairly costly thing. Can we require that?

Attorney Brown – Do your first two milestones the 6th and the 1st and then grant a preliminary extension either to your May 18 or your June 22 meeting. You retain jurisdiction over this matter and you require the applicant to come back and testify before you and make your final decision on whether to grant an additional extension through September 1 based on the evidence you hear. It will be worth the expense to have Mr. Leggett inspect the premises so that his testimony can be heard. You initially grant a preliminary extension, require a rehearing on progress and make your own decision on whether to extend to September 1.

Vice-Chairman Steele made the following motion:

That we grant additional time as requested in the appeal subject to the following conditions:

- A. The Board of Adjustment will retain jurisdiction over this matter during the progress of construction and repair.
- B. The property is to be cleaned and the structure secured no later than 5:00 p.m. on February 6, 2009 and the property and structure are to remain in such condition throughout the repair period.
- C. A building permit to perform the necessary repairs shall be issued by Union County no later than March 1, 2009.
- D. Prior to the Board of Adjustment's May 18, 2009 Meeting, a written progress report is to be submitted by the property owner together with a written progress assessment from the Town's Code Enforcement Inspector that must show progress is substantial and continuing on the

repairs to the property. If so, the Board will consider an additional extension to a final completion date of September 1 to obtain the certificate of occupancy from Union County.

Ms. Lowe seconded the motion, with votes recorded as follows:

AYES: Lowe, Masurat, Sharp and Vice-Chairman Steele
NAYS: None

Ms. Sharp moved to continue the hearing until further action on this matter is contemplated. Ms. Lowe seconded the motion, with votes recorded as follows:

AYES: Lowe, Masurat, Sharp and Vice-Chairman Steele
NAYS: None

Item No. 4. Election of Chairman and Vice-Chairman. Ms. Sharp moved to elect Jack Steele as Chairman of the Board of Adjustment. Ms. Masurat seconded the motion, with votes recorded as follows:

AYES: Perryman, Buzzard, Lowe, Masurat and Sharp
NAYS: None

Ms. Sharp moved to elect Rob Dow as Vice-Chairman of the Board of Adjustment. Ms. Masurat seconded the motion, with votes recorded as follows:

AYES: Perryman, Buzzard, Lowe, Masurat and Sharp
NAYS: None

Item No. 5. Approval of Minutes.

A. Consideration of Approval of March 24, 2008 Special Board of Adjustment Meeting Minutes.

Ms. Masurat moved to approve the March 24, 2008 Special Board of Adjustment Meeting minutes. Ms. Sharp seconded the motion, with votes recorded as follows:

AYES: Perryman, Buzzard, Lowe, Masurat, Sharp and Vice-Chairman Steele
NAYS: None

Item No. 6. Adjournment. Ms. Sharp moved to adjourn the January 26, 2009 Special Board of Adjustment Meeting. Ms. Lowe seconded the motion, with votes recorded as follows:

AYES: Perryman, Buzzard, Lowe, Masurat, Sharp and Vice-Chairman Steele
NAYS: None

The meeting adjourned at 9:20 p.m.

Robert C. Dow, Chairman

Attest:

Amy S. McCollum, Town Clerk