



CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS (CBA)

Vacant, Chairman, Division 1 Contractor
Vacant, Vice-Chairman, Division 1 Contractor
Peter Robinson – General Contractor
Donald E. McCall, Sr. – Electrical Contractor
Duane M. Weise – Code Administrator
Rev. Hugh King – Member General Public
Gayle Lafferty – Member General Public
Bryant Jenks – Engineer
Vacant – Plans Examiner
Vacant – Fire Safety Inspector
Vacant – Architect

The Construction Board of Adjustment and Appeals will meet at 12:00 pm on **Tuesday, March 26, 2013** in the **COMMISSION CHAMBERS** of the County Administration Building, 1801 27th Street, Vero Beach.

AGENDA

1. Call to Order

2. Approval of Minutes of March 28, 2008.

3. Election of Chair and Vice-Chair

4. Appeal of "Notice of Violation" at 6640 Old Dixie Highway

5. Discussion

6. Adjournment

cc: Joseph A. Baird, County Administrator
William K. DeBraal, Assistant County Attorney
Robert Keating, AICP, Community Development Director
Jose Guanch, Building Official
Misty Pursel, Commissioner Assistant
Scott Johnson, Webmaster
Press Journal

Anyone who needs a special accommodation for his meeting may contact the County's ADA (Americans with Disabilities Act) coordinator at 567-8000, ext/ 1223 at least 48 hours in advance of the meeting. Anyone who may wish to appeal any decision made at this meeting will need to ensure that a verbatim record of the proceedings is made, which includes testimony and evidence upon which the appeal is based.

CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

There was a meeting of the Indian River County (IRC) Construction Board of Adjustment and Appeals (CBAA) on Wednesday, December 14, 2011 at 12:00 p.m. in the Commission Chambers of the County Administration Building, 1801 27th Street, Building "A", Vero Beach, Florida.

Present were members: **Chairman Pete Clements** and **Peter Robinson**, Division 1 Contractor Appointees; **Dave Meek**, Plumbing Contractor Appointee; **Dave Stokes**, Mechanical Contractor; **Reverend Hugh King** and **Gayle Lafferty**, Member General Public Appointees.

Absent was **Donald McCall**, Electrical Contractor Appointee; **Mark Dean**, Mechanical Contractor Appointee; and **Dean Luethje**, Engineer Appointee (all excused).

Let the record show there is a vacancy for an architect member.

Also present was IRC staff: **William DeBaal**, Assistant County Attorney; **Jose Gaunch**, Building Official; **Betty Beatty-Hunter**, Contractor Licensing Investigator; and **Darcy Vasilas**, Commissioner Assistant, District 3.

Call to Order (10:56:03)

Chairman Clements called the meeting to order and the secretary administered the testimonial oath to those who would be testifying at today's meeting.

Chairman Clements asked if there were any corrections or additions to the agenda.

ON MOTION BY Mr. Robinson, SECONDED BY Ms. Lafferty, the members voted unanimously (6-0) to approve the agenda as presented.

Item #2 - Approval of Minutes of March 25, 2008 (10:58:38)

ON MOTION BY Mr. Robinson, SECONDED BY Ms. Lafferty, the members voted unanimously (6-0) to approve the minutes of the March 25, 2008 as presented.

Item #3 – Election of Chair and Vice-Chair (10:56:55)

Attorney DeBraul asked for nominations for 2011 Chairman of the Construction Board of Adjustments & Appeals.

Mr. Robinson nominated Mr. Clements. There were no other nominations and the Board voted unanimously (6-0) to re-elect Mr. Clements as the Chairman of the Construction Board of Adjustments & Appeals for 2011.

The floor was opened for the election of Vice-Chairman of the Construction Board of Adjustments & Appeals for 2011.

Mr. Robinson nominated Mr. Meeks, but he declined the nomination.

Mr. Robinson then nominated Ms. Lafferty who also declined the nomination.

Rev. King nominated Mr. Robinson who in turn nominated Rev. King, who declined the nomination.

Mr. Clements called the vote for Mr. Robinson to serve as the Vice-Chairman of the Construction Board of Adjustments & Appeals for 2011 and the vote was unanimous (6-0).

Item #4 – Appeal of Condemnations of 6645 46th Drive and 6655 46th Drive – (11:01:56)

Ms. Vasilas administered the testimonial oath to all those wishing to speak on this matter.

Mr. Jose Gaunch, IRC Building Official, related the buildings in question were permitted in February and March, 2005. There had been no construction activity for the past 4.5 years and the permits had been expired for the past 4 years. Staff started receiving complaints on the property from the neighbors so he went to the site to investigate after receiving a request from Crystal Falls Property Owner's Association. He was told children play on the structures and there were rodents present. Staff's position was the properties qualified as those found to be dangerous to the life, health, or safety of the public according to the Indian River Property Maintenance Code 403.06.

Photographs were submitted into evidence which showed both properties and the Notices of Violation issued on March 31, 2011 giving the Respondent 30 days to secure new permits and work to commence with a completion date of 180 days to have all violation conditions completely corrected and the building or structure to be brought into full compliance; or secure the necessary permits and demolition to commence within 30 days of the Notice and full compliance achieved within 60 days.

If the Respondent failed to take the required action within the time stated, the Building Official may cause demolition to be done by Indian River County or the City of Vero Beach and all costs incurred would be charged against the property and the owner of record.

Mr. Manuel Vieira, related he bought the lots approximately three years ago with the structures already there. He had anticipated finishing the houses but the housing market was bad and the money was no longer available. He asked for more time to finish up the work. Mr. Vieira did not feel there was anything dangerous on the properties but did note the rebar was sticking up from the foundations and no one should be playing on the slabs.

Mr. Robinson requested clarification of the condition of the lots when Mr. Vieira purchased them. Mr. Vieira responded he bought the properties as they were; he had never applied for the building permits and the impact fees totaling \$4,300 was paid by the original builder, MGB Construction.

Chairman Clements asked how long of an extension would Mr. Vieira need to complete the construction. Mr. Vieira responded he would need approximately 6 months but his concern was when the houses were complete they would sit there vacant and unable to sell due to the current housing market conditions.

Mr. Meek inquired if Mr. Vieira was trying to sell the lots. Mr. Vieira replied he did not want to sell the lots; he wanted to build the houses on them.

Mr. Robinson queried if it would be more cost-effective to just bulldoze the property.

Mr. Gaunch pointed out the Building Codes had changed at least three times since the construction had started and would be changing again on March 15, 2012. The wind speed for our area would be going up

to 160 miles per hour, minimum. That factor alone may affect the existing construction.

Mr. Stokes asked if there was liability insurance for the properties. Mr. Vieira replied there was liability insurance.

Attorney DeBraal inquired if the rebar and PVC sticking out of the slab on the lot at 6645 46th Drive would still be viable, if the Respondent were to continue to build. Mr. Gaunch stated the PVC would have to be replaced and as far as the rebar, that may be able to be salvaged.

Chairman Clements stated he looked at the property this morning and as a general contractor, it was his opinion the PVC was not deteriorated at this point. The rebar does have safety caps and he felt it could be used.

Mr. Robert Borelli, 8895 49th Court, Vero Beach, stated he was the president of the Crystal Falls Property Owners Association, and proceeded to read a statement dated December 14, 2011 that was distributed to the Board and is on file in the Commission Office. The statement asked the Board to deny the appeal for an extension of the condemnations of 6645 46th Drive and 6655 46th Drive.

Attorney DeBraal asked Mr. Borelli if he had received a response to his letter dated July 24, 2009 to Chillberg Construction. Mr. Borelli responded he had not and explained in the process of the letter going out the owner of Chillberg Construction sold the property to Mr. Vieira. Mr. Borelli pointed out there was also no response to a March 26, 2011 letter to Mr. Vieira where the Property Owners Association had demanded plans for the properties.

Chairman Clements stated this was a difficult decision for the Board to make and asked for comments from the Board members.

Attorney DeBraal reviewed this was an appeal from a determination of the Building Official or a Department Head and rather than the matter going before the Board of County Commissioners, the matter comes especially to this Board. Mr. Vieira had asked for additional time in which to either pull a building permit or pull a demolition permit for the structures.

(11:52:34)

ON MOTION BY Mr. Meek, SECONDED BY Ms. Lafferty, the Board voted unanimously (6-0) to deny the appeal for an extension of the condemnations of the structures on 6645 46th Drive and 6655 46th Drive from Mr. Vielra and uphold the Indian River County Building Director's Notice to Demolish.

Item #5 – Adjournment

There being no further business, the meeting was adjourned at 1:06 p.m.



THE BOARD OF COUNTY COMMISSIONERS
OF INDIAN RIVER COUNTY, FLORIDA

IN THE MATTER OF:

NORTH COUNTY CHARTER SCHOOL

CASE NO. 13-01

NOTICE OF HEARING

YOU ARE NOTIFIED that the CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS INDIAN RIVER COUNTY intends to hold a meeting on Tuesday, March 26, 2013 at 12 noon in the County Commission Chambers, County Administration Building, 1801 27th Street, Vero Beach, FL 32960. The following topics will be discussed:

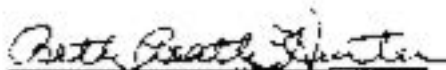
Notice of Appeal by North County Charter School, Inc.

Staff received a Notice of Appeal dated January 8, 2013 (attached) from North County Charter School, by Ken Miller, as Finance/Business Manager of North County Charter School, located at 6640 Old Dixie Highway, Vero Beach, Florida. The manager, Ken Miller as manager of the property appeals the Notice of Violation issued by the Building Official of Indian River County dated December 21, 2012. North County Charter School, Inc. appeals the following:

1. **Notice of Violation. County Ordinance 400.02;** Staff reports that the owners and those having an interest in the property located at 6640 Old Dixie Highway Vero Beach, Florida were issued a Notice of Violation (Attached) on December 21, 2012. The notice provided that within thirty (30) days a permit must be secured for a range that was installed without a commercial cooking hood and all violation conditions completely corrected and the building or structure brought into full compliance with the above referenced codes within sixty (60) days.

North County Charter School, Board of Directors is represented by Ken Miller, Manager of Business & Finance.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent by U.S. Mail to Ken Miller, North County Charter School 6640 Old Dixie Highway Vero Beach FL 32967 and Joel Tyson, North County Charter School 6640 Old Dixie Highway Vero Beach, FL 32967 this 28 day of February, 2013 and by E-Mail to Ken Miller at verokenmll@aol.com and Joel Tyson at info@nccharter.org on February 28, 2013.



Betty Beatty Hunter
Assistant to Building Official
Indian River County
1801 27th Street
Vero Beach, FL 32960
Telephone: (772) 226-1800
Facsimile: (772) 770-5333

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance.

Please contact the Clerk's Office at 2000 16th Avenue, Vero Beach, Florida at (772) 770-5185, Ext. 183 within two (2) working days of your receipt of this notice. If you are hearing impaired or voice impaired, call 1(800) 955-8771.

TO: Indian River County Board of
Adjustments and Appeals

C/O: Indian River County
Building Department

RE: Notice of Violation

DATE: January 08, 2013

Dear Sirs,

We are in receipt of your Notice of Violation and are not in agreement with your charges. Therefore, we are appealing and requesting an administrative hearing.

Our address is 6640 Old Dixie Hwy. Vero Beach, Florida 32967. Legal description is: COM AT NW COR OF SW ¼, RUN S ON ¼ SEC LINE 297 FT TO NW COR OF CHURCH PROPERTY, SAID PT ALSO BEING POB, FR POB, RUN E 175 FT, TH N 54.61 FT TO W R/W LINE US HWY #1, TH SELY ALONG W R/W LINE OF US HWY #1 A DIST 342.19 FT, TH W 466 FT, MORE OR LESS, TO E R/W LINE OLD DIXIE HWY, TH NWLY ALONG E R/W LINE OLD DIXIE HWY 119 FT, MORE OR LESS, TO A PT IN ¼ SEC LINE, TH N 75 FT, MORE OR LESS, TO POB; LESS A POR FOR OLD DIXIE HWY RD R/W AS DESC IN OR BK 2291 PG 1704. TAX I.D.#: 32-39-10-00000-1000-00030.D

The charges made by Indian River County are *"There is a range that was installed without proper permits and without a commercial cooking hood."* Further charges by Fire Inspectors are *"4.1.1 Cooking equipment used in processes producing smoke or grease-laden vapors shall be equipped with an exhaust system that complies with all the equipment and performance requirements of this standard."*

1. Our school is not aware of any requirement to get a permit for adding a single electric line and circuit breaker, nor have we been informed by the county of the specific code violation.
2. County building Inspector did in fact inspect the electric line and circuit breaker to the two burner cook top and found nothing in violation at that time.
3. The school has never used the two burner range to do anything except heat water for cooking pasta. We have never produced smoke or grease-laden vapors as charged.

Our school has been harassed for seven months regarding this issue and it is time to stop. Obviously, the whole complaint by the different county departments (Health, Fire & Building) is based on not what we are doing but, "by what we could possibly do" to quote your fire inspector.

We look forward to your reasoning for the harassment by the aforementioned departments. It has always been the school's policy to do what is right and we have done what we believe to be right for fifteen years (check the record). By the same token we have an obligation to the taxpayers whose money we operate with, to spend their money wisely and not frivolously. Installing a fire suppression system and a commercial range hood to vent water vapors would be a true waste of taxpayer dollars. We have ten tons of air conditioning in the cafeteria to do that task.

Sincerely,



Ken Miller

Finance/Business Mgr.
North County Charter School, Inc.

cc: Joe Flescher

Tim Zorc

Bob Solari

CEMFIL MAIL

NORTH COUNTY ELEMENTARY
CHARTER SCHOOL

6640 Old Dixie Highway • Vero Beach, FL 32967



7012 1640 0002 4607 9726

Indian River County Building Dept.
1801----27th Street
Vero Beach, Florida 32960

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JAN 09 2013

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administrative hearing.

, Florida 32967. Legal description is: COM AT
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INE OLD DIXIE HWY 119 FT, MORE OR LESS, TO
TO POB; LESS A POR FOR OLD DIXIE HWY RD
: 32-39-10-00000-1000-00030.0

*There is a range that was installed without
ng hood." Further charges by Fire Inspectors
producing smoke or grease-laden vapors shall
ies with all the equipment and performance*

ent to get a permit for adding a single electric
n informed by the county of the specific code

ect the electric line and circuit breaker to the
n violation at that time.

5. The school has never used the two burner range to do anything except heat water for
cooking pasta. We have never produced smoke or grease-laden vapors as charged.

UNDELIVERED MAIL

NORTH COUNTY ELEMENTARY
CHARTER SCHOOL

6640 Old Dixie Highway • Vero Beach, FL 32967



7012 1640 0002 4607 1726

Indian River County Building Dept.
1801----27th Street
Vero Beach, Florida 32960

1099E036601



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NOTICE OF VIOLATION

DATE: December 21, 2012

TO: North County Charter School, Inc.
6640 Old Dixie Highway
Vero Beach, FL 32967

Address of building or structure: 6640 Old Dixie Highway

Legal Description: COM AT NW COR OF SW 1/4 OF NE 1/4, RUN S ON 1/4 SEC LINE 297 FT TO NW COR OF CHURCH PROPERTY, SAID PT ALSO BEING POR FR FOR, RUN E 175 FT, TH N 87.5 FT, TH E 237 FT, TH N 54.61 FT TO W R/W LINE US HWY #1, TH SELY ALONG W R/W LINE OF US HWY #1 A DIST 342.19 FT, TH W 466 FT, MORE OR LESS, TO E R/W LINE OLD DIXIE HWY, TH NWLY ALONG E R/W LINE OLD DIXIE HWY 119 FT, MORE OR LESS, TO A PT IN 1/4 SEC LINE, TH N 75 FT, MORE OR LESS, TO POB; LESS A POR FOR OLD DIXIE HWY RD R/W AS DESC IN OR BK 2291 PG 1744

Tax I.D.#: 32-39-10-00000-1000-00030.0

NOTICE IS HEREBY GIVEN that the above-referenced building or structure is hereby declared **UNDER NOTICE OF VIOLATION** by the undersigned Building Official. The following listed conditions have been documented and determined to have rendered the building or structure **IN VIOLATION** of the provisions of the Florida Building Code, and/or the Code of Ordinances of Indian River County or the City of Vero Beach:

1. There is a range that was installed without proper permits and without a commercial cooking hood.

THE FOLLOWING ACTION IS REQUIRED and ordered by the Building Official and must be commenced within or completed by the time specified:

EITHER: Correct the violation: All required permits must be secured and the repair work commenced within thirty (30) days from the date you receive this notice and continue to completion with all violation conditions completely corrected and the building or structure brought into full compliance with the above-referenced codes within 60 days;

OR: REMOVE the equipment and it's electrical service: All required permits must be secured and the demolition work commenced within thirty (30) days from the date you receive this notice and continue to completion with the property brought into full compliance with the above-referenced codes within 60 days.

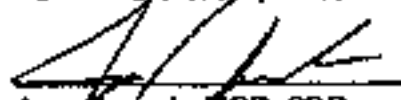
IF YOU FAIL TO TAKE THE REQUIRED ACTION within the time stated, the Building Official may cause demolition to be done by Indian River County or the City of Vero Beach and all costs incurred will be charged against the property and the owner of record. Such costs of demolition shall be a special assessment lien against the subject property, which lien may be foreclosed and the subject property sold at public sale to satisfy the lien.

NOTICE OF RIGHT TO APPEAL: Any person or entity having any legal interest in the subject property may appeal this Notice and Order to Indian River County Board of Adjustments and Appeals or the City of Vero Beach Board of Building Appeals. Such appeal shall be in writing and filed with the Building Official within thirty (30) days from the date of service of this notice and must contain the following information: (1) Identification of the building or structure concerned by street address or legal description; (2) A statement identifying the legal interest of each appellant; (3) A statement identifying the specific order or section being appealed; (4) A statement detailing the issues on which the appellant desires to be heard; and (5) The legal signature of all appellants and their official mailing address.

FAILURE TO APPEAL IN THE TIME SPECIFIED WILL CONSTITUTE A WAIVER OF ALL RIGHTS TO AN ADMINISTRATIVE HEARING.

Further information regarding this Notice and Order may be obtained by contacting the undersigned Building Official at telephone number 772-226-1260 or at the Building Department Office in the Indian River County Administration Building, 1601 27th Street, Vero Beach, Florida 32960.

INDIAN RIVER COUNTY/
CITY OF VERO BEACH
BUILDING DEPARTMENT


Jose Guanche, MCP, CBO
Building Official

John Duran

From: Jose Guanch [jguanch@irogov.com]
Sent: Thursday, December 13, 2012 2:21 PM
To: John Duran
Subject: FW: Commercial Kitchen Hoods

John,

To further clarify, the email below is specifically intended to address the unpermitted range at the North County Elementary Charter School, 6640 Old Dixie Highway, Vero Beach, FL 32967.

Thanks,

Jose Guanch, CBO, MCP
Building Official / Building Director
Indian River County & City of Vero Beach
1801 27th Street
Vero Beach, FL 32960
[website](#)
"The best things in life aren't things"
Art Buchwald

From: Jose Guanch
Sent: Thursday, December 13, 2012 11:37 AM
To: John Duran
Cc: Richard D. Marini
Subject: Commercial Kitchen Hoods

John,

Recently the question has come up as to whether or not a type-I hood is required to be installed over a residential type range used in a commercial type setting.

The Florida Building Code Mechanical volume specifically addresses this by stating the following:

- **507.2 Where required.** A Type I or Type II hood shall be installed at or above all commercial cooking appliances in accordance with Sections 507.2.1 and 507.2.2. Where any cooking appliance under a single hood requires a Type I hood, a Type I hood shall be installed. Where a Type II hood is required, a Type I or Type II hood shall be installed.
- **DEFINITION: COMMERCIAL COOKING APPLIANCES.** Appliances used in a commercial food service establishment for heating or cooking food and which produce grease vapors, steam, fumes, smoke or odors that are required to be removed through a local exhaust ventilation system. Such appliances include deep fat fryers; upright broilers; griddles; broilers; steam-jacketed kettles; hot-top ranges; under-fired broilers (charbroilers); ovens; barbecues; rotisseries; and similar appliances. For the purpose of this definition, a food service establishment shall include any building or a portion thereof used for the preparation and serving of food.
- **507.2.3 Domestic cooking appliances used for commercial purposes.** Domestic cooking

Data For Parcel 32391000000100000030.0

Base Data

Parcel: 32391000000100000030.0
Owner: NORTH COUNTY CHARTER SCHOOL, INC
Site Address: 6640 OLD DIXIE HWY, VERO BEACH, FL 32967



Mailing Address

Address: 6640 OLD DIXIE HWY
City State Zip: VERO BEACH, FL 32967

Property Information

Tax Code: 7
Property Use: 8300 - COUNTY BOARD OF PUBLIC I
Neighborhood: 990143.00 SR 510-GRD HASR/E-US1 M8B
Real Appraiser & Date: WB - WAYNE BIBEAU - 1/25/2012

Legal Description - [Click here for full legal description](#)

Secondary Owners

No additional owners found.

Photos



[Click here to view all photos](#)

Notes

Notes: [Click here to view available images through Bing Maps.](#)

[Report Discrepancy](#)

Inspection Report
820 U.S. Highway 1
Vero Beach, FL 32960
12/19/12

I did an inspection at the above listed address pursuant to a report from the Indian River County Fire Department of a car damaging the building. Upon inspection of the building the following items were noted:

1. The south and east wall have been structurally compromised at the office lobby location
2. The exterior door on the east elevation has been damaged
3. The window on the south elevation has been broken.
4. Receptacles on the south and east walls have been damaged.

A design professional will be required to design a repair and a permit will be required before any work is to commence on the repairs. Mike Schlitt is on site at the time of this notice building temporary shoring and a temporary wall to close the building up. He did state he was in contact with an engineer and would pull the appropriate permits required. I posted the building with an unsafe structure sticker and left a copy of this report.

Shawn Doutrich
Building Inspector
Indian River County