

# ***Building Code Board of Appeals***

## ***Agenda***

**June 6th, 2019  
Council Chambers  
749 Main Street  
6:30 PM**

- I. Call to Order
- II. Roll Call
- III. Approval of Agenda
- IV. Approval of Minutes
  - May 2nd, 2019
- V. Public Comments on Items Not on the Agenda
  - Comments from Ted Hine
- VI. Regular Business
- VII. Discussion
  - By Laws
- VIII. Update
- IX. Staff Comments
  - Chad Root, CBO
- X. Board Comments
- XI. Date of next meeting
  - Upon request
- XII. Discussion Items for Next Meeting
- XIII. Adjourn

# **Building Code Board of Appeals**

## **Meeting Minutes**

**May 2nd, 2019  
City Hall, Council Chambers  
749 Main Street  
6:30 PM**

**Call to Order:** Matt Berry called the meeting to order at 6:30 PM.

**Roll Call** was taken and the following members were present:

**Board Members Present:**

Ed Novik  
Matt Berry  
Steve Knapp

**Board Members Absent:**

Peter Giese  
Mason Gatto

**Staff Members Present:**

Chad Root, Chief Building Official  
Julie Burgener, Building Permit  
Technician

**Others Present:**

Dianne Creswell, City Attorney  
Severy Creek, owner Steve Loudon  
John Gstalder, Severy Attorney

**Approval of Agenda:**

**Knapp** moved and **Novik** second a motion to approve the agenda as prepared by staff. Voice vote. Motion passed 3-0.

**Approval of Minutes:**

**Knapp** moved, **Novik** second a motion to approve the February 21, 2019 minutes as prepared by staff. Voice vote. Motion passed 3-0.

**Public Comments on Items not on the Agenda:**

None heard.

**Regular Business:**

**Election of Board Secretary:**

**Novik** nominated and made a motion for Julie Burgener to serve as board secretary, **Knapp** second. Motion passed, voice vote, 3-0.

Severy Creek Show Cause Hearing

Berry called the hearing to order. Berry states this is a request to suspend or revoke a contractor's license due to alleged violations of one or more provisions of Municipal Building Codes. Berry states procedure for the hearing.

- A. Opening Statements
- B. Presentation of Evidence by city(including witnesses)
- C. Presentation by Licensee(Severy Creek, owner Steve Loudon or attorney, Mr. Gstalder(including witnesses)
- D. Additional Rebuttal Evidence by either side
- E. Closing Statements

Berry states the hearing is being recorded and exhibits admitted, marked and identified before admission.

Board Member disclosures: none

Commencement of hearing:

Chad Root, Chief Building Official (CBO), appearing for the city and John Gstalder, appearing for Severy Creek owner, Steve Loudon. Both state they are ready to proceed. Berry asks any speaking at the hearing take the oath. Berry recites the oath.

Berry makes record of the hearing being the Show Cause, Written Statement and evidence in the packet. Creswell states that all present have received the Show Cause, Written Statement and evidence in the packet and will be entered as evidence now or when presented during testimony.

Opening Statement by City:

Chad Root states that an affidavit was received by resident Ted Hine, on March 14,2019 for revocation of a contractor's license. He was one of two owners that Loudon installed a roof without a permit. Root states Hine was upset with no permit issued and the direction Loudon went with installing the roof first, then pulling the permit once he realized Ted wanted a permit. Root states the affidavit says that Loudon returned Hine's roof to install drip edge after Hine realized there was no permit or inspection. Root states the city records also found 1160 Hillside Lane was completed without a permit. Others were completed without a mid-roof inspection--some covered too far for mid roof inspection, others he did not want to comply with building code. Root states liens went out to resident's homes due to Loudon not paying his sub-contractors.

Opening Statement by licensee's attorney, Mr. Gstalder.

Gstalder states the importance of the board's function and states the seriousness of this decision. Gstalder states these are honest mistakes. Gstalder states Loudon has nothing to gain by not pulling a permit because insurance pays for them. Two fell through the cracks due to having too many. Gstalder states Loudon paid 2x the

amount for one of the permits and 4x the amount for the other. Gstalder states that Loudon attained permits once he discovered no permit was pulled. Loudon is a longtime resident, raised his kids and has coached in Louisville. Gstalder states Loudon has helped a lot of residents after the June 2018 hail storm with the insurance process and temporary fixes. Gstalder states these were honest disputes with the inspectors regarding ice and water shield. Loudon has never abandoned a customer. The statements of liens were a "notice of intent" to lien, not a recorded lien. Gstalder hopes this is not an appropriated case for revocation/suspension of license.

Presentation of Evidence by city:

Roots states Hines is not available as a witness. Berry states and marks the evidence in the packet as exhibit A. Berry asks for objection. Gstalder has an objection due to the fact Ted Hine is not available and the affidavit is a conclusion, not fact. Berry states it is prudent to accept the signed affidavit as evidence as it was approved. Exhibit A is admitted. Root states the affidavit must meet criteria in order to present to the board. Roots presents the following-1. Alleged fact, a roof was installed without a permit. 2. Alleged fact, no call for required inspections. 3. Alleged fact, no mid roof inspection-per land management code. 4. Alleged fact, 611 w. Sagebrush too much roof covered for inspection-land management code. 5. Alleged fact, 1160 Hillside Lane, no mid roof inspection. 6. Alleged fact, 1160 Hillside, no permit issued. 7. Alleged fact, 583 Manorwood lane, inspector had corrections but were never corrected, no ice and water shield 8. Alleged fact, several expired permits, 1004 Turnberry, 592 McCaslin, 269 S McCaslin. 9. Alleged fact, failure to pay his sub contractors.

Cross Exam by Gstalder: Gstalder asks was a permit eventually pulled on 318 South PI? Root states a permit has been pulled and is ready for final inspection. Root states the mid roof was not done. Shingles were pulled back for a spot check and the mid roof inspection passed. Gstalder asks 516 Grant, a permit was pulled Root states there was a permit issued. Gstalder asks if there was a mid-off. Root states too much was covered so no inspection took place. Gstalder restates too much of the roof was covered in order to perform a mid-roof inspection but the inspection were called in. Gstalder states, 1160 Hillside did not get a permit, then asks Root—did they get a permit. Root states after paying penalties Loudon did get a permit for 1160 Hillside. Gstalder asks, what the status is of that permit Root states he believes it has passed the final inspection. Gstalder asks if the city was aware Loudon was disputing the necessity of installing ice and water shield over a porch. Root stated he did not know that. Gstalder asks were Turnberry, and the two McCaslin addresses granted extension. Root states he would have to look into the permitting software to be sure. Gstalder states in the packet and the city's paperwork it shows extensions were granted. Gstalder asks if Root knows of any liens being recorded in Boulder County Land Records. Root states that he is aware that residents calling him are asking why they were getting liens on their property. Gstalder repeats the same question. Roots states he is not aware of recorded liens.

City Response to Cross Exam: none

**Board Questions to the city:**

Novik asks what is the length of time for a building permit. Root-180 days and another 180 after each passed inspection. Novik asks if this is modified in light of the hail storm. Root responds it is standard unless extension is requested before permit expires and the contractor has shown reasonable cause for extension. Knapp asks why one-third of Severy Creek inspections have failed and if it is normal. Root responds, at first it is, but once the contractor understands what is required in Louisville that number drops.

**Presentation of Evidence by Licensee(attorney Gstalder):**

Berry accepts the evidence from Severy Creek as exhibit A. Gstalder interviews Steve Loudon, owner of Severy Creek. Loudon states his background, bought a house in 1989, raised his kids, member of rotary and coached at LMS. He has been roofing since 2009 and works in Boulder County, Douglas County, Lakewood, Front Range and Wyoming. Loudon states he has not had a contractor's license revoked. Loudon states Hunter Loudon, his son, helps with permits and insurance. Since hail storm in 2018, Severy Creek has pulled about 100 reroof permits, 95 completed, four pending due to insurance. There are five residential and four commercial open permits presently. Loudon uses subcontractors to install all roofs. Gstalder asks if Loudon was aware no permit was issued for Ted Hine. Loudon states he requested a permit be pulled by texting or talking to Hunter with no follow up. Loudon states his subs showed up to start the job—he heard there was no permit so stopped the job and got a permit. Loudon's testament is he thought a permit was pulled and he started the roof. Loudon states he does not know if they completed the roof before the permit was issued. Loudon states Ernie Mullen or Ted Hine told Loudon there was no permit. Loudon paid for the permit plus \$100. Gstalder presents a letter to the board stating he gave Ted Hine an upgrade in shingles plus Ted received additional money from insurance due to his efforts. Loudon states Ted does not want to pay him. Loudon emailed Chad Root saying he would do anything to pass roof inspections. Loudon states he tore off entire section of roof to show installation was correct with no charge to Ted Hine. Loudon states that Ted said he was not happy with the city's process. Loudon stated Root says a final inspection is being held off pending this hearing. Gstalder requests another item into evidence as Article B. The letter states 516 Grant was completed without a mid-roof inspection. Loudon recalls the address of his good friend, Bill Ryan, and states his subs went too far on the mid roof so shingles were removed. A permit was issued and re inspection occurred and roof finalized. Loudon states 611 Sagebrush was the same situation and Severy Creek installed the roof according to manufactures specs. Gstalder presents a BBB testimony into evidence. Berry accepts it as exhibit C. Loudon states there was a mix up between 1160 and 1169 Hillside. Loudon paid 4x the original permit for 1160 Hillside. Gstalder asked if Loudon has learned his lesson from this. Loudon states he has had two approvals without hiccups. Gstalder asks Loudon if he can tell the board he understands this issue. Loudon states he signs off on all reroofs now and take it

very serious. Gstalder asks why Loudon refused to obey an order. Loudon states it is one of his very best friends in Louisville and they installed Ice and Water Shield beyond what it needed. The roof is completed and has an upgraded shingle. Gstalder presents a testimony from Frank Mendicino saying he is happy with his reroof-583 Manorwood. Berry accepts it as Exhibit D from licensee. Gstalder inquires about three expired permits. Loudon replies they have been granted extensions. Gstalder asks about alleged liens. Loudon states the home of James Medina had some issues and he was asked to fix the roof. Loudon states the leak did not come from the installation but because the house was old. Loudon states he was not going to pay his sub-contractor until they fixed the leak. Loudon states that, in turn the sub-contractor presented an intent to file a lien at 211 Lafayette St. Loudon states he and his subcontractor went back out to the house and fixed the leak. Loudon states James Medina paid his balance and was very happy. Gstalder asked if the roof decking was rotted and full of holes. Loudon states he thought it was from the swamp cooler. Loudon states he fixed the decking, reroofed, insulated and replaced ductwork, although it was not a Severy Creek problem---and at no charge. Gstalder inquires about failed inspections. Gstalder questions the math of one third being failed. Gstalder asks if Jenny Lane prepared the report. Loudon states he thinks so. Gstalder asks if Jennie Lane is here tonight. Loudon replies, no. Gstalder asks if there is a failed inspection does it mean it is a bad installation. Loudon replied, no, it may need, for example, more flashing. Gstalder asks if Loudon is putting on "F" quality roofs. Loudon states no. Gstalder presents letter from a Severy Creek customer, the Favres, stating they are pleased with their roof. The second page is from another pleased customer. Loudon states he has given upgrades, extra rows of ice and water shield, and works with commercial insurers. Gstalder asks Mike Favre to speak about Loudon. Favre introduces himself (no address stated) and states they were happy with roof installation and it is his second reroof since living in Louisville. Favre states Loudon had a good crew. Favre states he does not know a lot about roofing so he let Loudon work out the details with the insurance. Favre says there was an issue with gutter, but was corrected within a few days. Gstalder moves to accept Favre testimony in to evidence. Berry allows it as exhibit E. Gstalder asks Loudon if he understands that the building inspectors are not happy with him. Loudon states that he thinks so and that there were a couple roofs, like the one on Manorwood, at his best friend's house, was an issue with timing and work load---then states he understands. Gstalder asks what has Loudon done to remedy working without a permit and covering too much of the roof? Loudon states the workload is lower and he is managing the projects better. Loudon states- he takes this serious and it matters to him, to his family, and is a proud member of Louisville.

#### City of Louisville Cross Examination:

Root states the inspections he asked Lane to prepare showed requested inspections when the job had not been started---that is why it is a failed inspection. Root states this shows the number of failed inspection and why. Root states the city spends time and money to look at these projects. Root requests that a statement be corrected---the statement in which inspectors "don't like Loudon". Root states Loudon has had multiple roofs started without permits and several missed mid roof inspections. Root

states, the Hine affidavit states Severy Creek Roofing completed the roof without a permit, then asked for payment, then realized Ted asked for a permit—then came to the city for a permit. Root states it's these violations, over and over again, is why the city is here tonight.--it's not because the inspectors don't like Steve Louden. Root states there has been a big change for the better, but overall permits had not been pulled, nor inspections called, which in turn, creates a hardship for the residents. Gstalder points out that what Root says, in regard to Hines, is hearsay.

**Questions from the Board to Licensee:**

Novik asks Louden of 100 permits pulled in 2018-19 in Louisville and how many other in other cities? Louden replies less than 30. Knapp asks Louden where his subcontractors live. Louden replies-Denver area.

**Board Member Final Questions:**

Berry restates the entire packet is Exhibit A. Knapp asks- who is Isaias Huizar? Root replies-he is our full time senior roof inspector. Knapp asked a question regarding the Huizar letter. Root replies the Louden situation was discussed several times in the office and Root called to meet with him. Knapp asks have things improved since? Root replies there is a huge increase in compliance. Berry asks when the date of the Louden meeting was. Root says first part of March. Louden concurs. Novik asks under normal conditions what is the turnaround time for inspections. Root replies, mid-roof inspections were always next day due to exposure of roof. Novik asks what the turnaround time is for a permit to be issued. Root replies on a normal basis it would be over the counter, during the post hail storm up to 30 days.

**Closing Statements:**

Root states the City is here on behalf of the resident. Hine's affidavit in which Severy Creek completed the roof without a permit, then asked for payment, then realized Ted asked for a permit—then came to the city for a permit. Plus the work was substandard and pictures of additional drip edge led the city to look at other issues with Louden. Root states the contractor should not continue to work in this manner.

Gstalder states Louden has deep roots in the city and most of his work is in Louisville. Gstalder states that the work Louden has started would be messy if his license is suspended. Louden was moving too quick and his subs were moving too quick. Louden understands the problem and is going out to the job before calling inspections. Louden puts good roofs on and does not abandon people. Gstalder states he hopes you find it not necessary to revoke/suspend Severy Creek's license.

Berry asks for any further matters: none

Berry closes the hearing.

Deliberations:

Novik states he has asks his questions and would like to make a statement. Knapp states he would like more discussion and asks for board options. Berry clarifies suspension and revocation and the city recommends nine months suspension. Knapp asks—he does not have to stop what work he has but cannot apply for new permits. Berry replies, yes. Gstalder points to Sec 4 pg.11 in the Bylaws. Berry states the recommendation of the city staff may conflict with the Bylaws. Gstalder reiterates page 11,12, 7(a and b)-- if license is suspended or revoked all works stops. Berry asks for a response from Root. Root states the city's thought is Louden can finish the work that has been started if the homeowners want him. Knapp states Louden deserves something but suspension is too far because this is his home and where he works. Berry interjects does the licensee meet the requirements for suspension or revocation. Knapp states he feels there has been a positive change in Louden. Knapp states he should not be told to stop work he started, but do something so he carries on in a positive direction. Novik restates evidence presented. Novik states he does not see distinction in suspension or revocation and this would be an item addressed in the Bylaws at a different time. Novik states Louden has had difficulty managing his work in a storm of this magnitude. Novik states in light of these facts Louden does not meet the criteria for suspension/revocation. Berry states Louden meets item C1--a licensee conducts their business in a manner contrary to the condition of the license. Berry states if calling inspections, taking a gamble hoping it's ready or going to pass inspection is not OK (item C). Knapp states these items could have been fixed if an inspector was available and there should be (inaudible). Novik states perhaps there should be a probationary period rather than suspension. Novik states the Bylaws do not take into account extenuating circumstances. Berry asks Root, is it normal to have inspections next day? Root replies, yes, if you call in the day before, before 4pm. Berry asks Louden, did the city show up next day for midroofs. Louden replies most mid roof inspections were next day. Berry asks were any mid roofs inspections covered on those inspections. Louden replies, the only one he knows of is 516 Grant. Berry revisits evidence with Louden. Berry asks the board for a motion.

Action:

**Novik** moves and **Knapp** seconds that insufficient evidence has been presented to revoke or suspend Severy Creek's contractor's license. Berry polls Novik, Knapp and Berry. The motion passes, voice 3-0.

**Discussion Items: None**

**Staff Comments: None**

**Board Comments:**

Knapp comments that the city staff needs to be more careful and not let it happen again. Berry comments that the staff went above and beyond what was necessary in order to keep roofs safe and correctly installed. Knapp states the city needs to do better than what they have done. And Louden did not deserve to be put out of business.

**Date of Next Meeting:**

Upon Request

**Discussion Terms for Next Meeting:**

Novik states the board should take the Bylaws into consideration and advisement which explores a third alternative.

**Adjourn:**

Knapp moves to adjourn Novik seconds the motion passed unanimously by voice vote. The meeting is adjourned at 8:50pm.

DRAFT