

SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT: Kenneth Coyne Appeal of the Findings & Order of the Building Contractor Examiners Board, Case No. 03-05-004B

DEPARTMENT: Planning & Development **DIVISION:** Building & Fire Inspection

AUTHORIZED BY: Don Fisher **CONTACT:** Tom Helle **EXT.** 7338

Agenda Date 08/26/03 Regular Consent Work Session Briefing
Public Hearing – 1:30 Public Hearing – 7:00

MOTION/RECOMMENDATION:

- 1. Uphold the Findings and Order of the Building Contractor Examiners Board suspending Mr. Kenneth Coyne’s permitting privileges; or
- 2. Reverse the Findings and Order of the Board and reinstate Mr. Kenneth Coyne’s permitting privileges; or
- 3. Continue this request to a time and date certain.

BACKGROUND:

Mr. Kenneth Coyne is appealing the decision of the Building Contractor Examiners Board, case number 03-05-004B. Mr. and Mrs. Andy Sorenson, complainant, contracted with Byrd Development Company to construct a two story addition onto the rear of their home. Byrd Development then entered into a joint venture agreement with Mr. Coyne to secure the permit and manage the project. On 5-29-02, the permit was issued. Byrd Development is not licensed with Seminole County.

The walls, roof, and floor structures were constructed followed by the connection between the new addition and the existing home; this process required the roof of the home to be exposed. The connection was completed but the roof was not adequately made water resistant and water intruded into the home causing damage. The Sorensens filed a complaint with the Building Division.

Staff contacted Mr. Coyne who stated that he would contact the Sorensens to resolve the matter. Staff inspected the site followed by a letter to Mr. Coyne outlining major problems with the project and requested a plan of action to remedy the situation. Since no response was received, the matter was brought before the Contractor’s Examiners Board for remedy. Mr. Coyne was cited for, “allowing work to continue in an unworkman like manner”, in accordance with Seminole County Code, Section 40.34(2);

Reviewed by: SA
Co Atty: _____
DFS: _____
Other: _____
DCM: _____
CM: TH
File No. rpdb01

In violation of the Florida Building Code;
without following industry standards and practices; and,
without following good engineering practices.

At the meeting of May 15, 2003, the Building Contractor Examining Board found Mr. Coyne in violation of , commencing work on an addition and allowing it to continue in an unworkman like manner inconsistent with general construction practices and suspended his permitting privileges for 7 years in Seminole County. Mr. Coyne is appealing said Findings and Order.

STAFF RECOMMENDATION:

Staff recommends the Board of County Commissioners uphold the decision of the Building Contractor Examiners Board.

Attachments

1. Copy of evidence package that was presented to the Board.
2. Excerpt of Hearing Minutes Case 03-05-004B. (Unofficial)

SEMINOLE COUNTY

SEMINOLE COUNTY
BUILDING CONTRACTORS EXAMINERS BOARD

CASE # 03-05-004B

vs.

KENNETH ROBERT COYNE

LICENSE # CGC023082

CHAIRMAN: Bobby VonHerbulis, (BV)

MEMBERS: Bill Miller, (BM)
James Gamble, (JG)
Marti Chan, (MC)
Charles Mitchell, (CM)

DEFENDANT: Kenneth Robert Coyne, (KRC)

OTHER SPEAKERS: Karen Consalo, County Attorney, (KC)
Larry Goldman, (LG)
Tom Helle, Deputy Building Official, (TH)
Fernanda Jones, (FJ)
Andrew Sorrensen, (AS)
Vicky Sorrensen, (VS)
Recording Secretary, (RS)

CGC023082, Inspector, Tom Helle, Seminole County Deputy Building Official.

Mr. Tom Helle stated a permit was pulled by Mr. Coyne to construct a two story addition to the Sorrensen residence and as the pictures show. The permit was issued in June of 2002. He received a call on or about March 10th of this year from the homeowners, asking for help. Mr. Helle and Mr. Watson made a visit to the site. Mr. Helle sent a 30 item letter to Mr. Coyne and asked Mr. Coyne that within seven days of the receipt of this letter to present a plan of action on how he proposes to fix the problem and handle the scenario. Mr. Coyne had not responded to the letter and is now brought to the Board for a violation of Section 40.34 (a)(2), which states that the Contractor allowed the work to continue in an unworkman like manner per Seminole County Code.

Mr. Coyne stated Mr. Fernanda Jones was his on site manager for this project and Mr. Coyne was unaware of the numerous violations on the project until he was contacted by Mr. Helle. Mr.

Coyne met the property owners and went through everything identifying numerous situations that may not have been up to substantial construction.

Mr. Coyne stated he has called plumbing contractors, electrical contractors, carpenter contractors, and Steel Con, who is a truss manufacturer, in an effort to “put this house back into a semblance of where it should be”.

Mr. Coyne stated that in November of last year, Mr. Sorrensen, in phone conversations, told Mr. Jones he did not particularly care for his action on that property, more he was relieving him of all responsibility. Mr. Coyne stated he was not aware of any remissions until Mr. Helle called him.

Mr. Jones stated he talked to Andy (Sorrenson) on Saturday, October, 12, 2002, which is when Mr. Sorrenson terminated him. This is the condition of the property as of October the 10th. *(Long pause while Mr. Jones looks through his documents and produces photos for the Board Members to view on the overhead).* We were relieved of responsibility on the property and fired by Mr. Sorrensen that Saturday.

Mr. Jones stated he is a superintendent for Mr. Coyne, working in a joint venture agreement for approximately five or six years, and has run other jobs for Mr. Coyne.

Mr. Sorrenson stated he learned something here today that he didn't know. In February of 2002 they had the screen porch torn off their house, the carport roof torn off and demolition started. Mr. Sorrenson asked Mr. Jones, by the way, do you have the permit for this? Mr. Jones told him, “You don't need a permit for demolition, I have applied for all that.” Mr. Helle stated that a permit was required for the demolition. No demolition permit was ever issued that Mr. Sorrenson knows of as of February 15th, 2002. He had been looking for a permit for a month and a half before that and kept getting run around, run around, lied to, run around and he actually came out to the County to see the status of my permit. Mr. Sorrenson stated Mr. Jones didn't even turn in the request for any permit until two months after he demolished the Sorrenson house. *Mr. Sorrenson submits photos for Board Members to view showing cut off eaves and water running in since February of 2002. Discussion ensues regarding the photos submitted.*

Mr. Sorrenson stated a permit was received in June of 2002. Meanwhile water was still running in his house. Mr. Sorrenson made a couple trips to the County asking “What is it that is stopping this permit process?”

Mr. Sorrenson stated when the permit was received was when he found out Mr. Jones didn't have a license, but he was using Mr. Coyne's license. Mr. Sorrenson stated Mr. Jones told him, “Don't pay anybody until I authorize the payment so that the work has been done correctly.”

Mr. Sorrenson stated that Mr. Jones instructed him to pay Mr. Cecil Freeman to put the trusses up. Mr. Sorrenson then stated he was not paying any more money until this passes framing inspection. Mr. Sorrenson stated at this time he was not aware that the job was not up to Code and, by mid January, he contacted Seminole County's Building Department.

Per Chairman Bobby VonHerbvilis's questioning, Mr. Sorrenson stated that, as a mortgage broker, he has had dealings in the past with Mr. Fernanda Jones, the owner of Byrd Development, with whom he signed the contract for the work on his house. Mr. Sorrenson also stated he didn't even know Mr. Jones did not have a license until he got the permit, nor has Mr. Sorrenson ever met or seen Mr. Coyne.

Per Mr. James Gamble's questioning, Mr. Sorrenson stated he was paying Mr. Jones a fee and he was paying subcontractors directly. Mr. Sorrenson made checks payable Mr. Jones or to Byrd Development, and another one, Consortium Development, which is another one of Fernanda. Jones' companies. Mr. Sorrenson stated he never made payments to Mr. Coyne.

Mr. Charles Mitchell stated he was confused about who had done all the work on the two story addition, as there were discrepancies in the pictures.

Mr. VonHerbvilis stated that was the purpose of this hearing. That's what we are supposed to sort out.

Mr. Helle stated, "That's correct. When Mr. Sorrensen called me and expressed his concern, the first thing I did was call Mr. Coyne to find out what was going on, get the two of them together and try to reconcile without coming to this point. When I first talked to Mr. Coyne, he did not even remember the job, and so I put the two of them together and we got to this point. When Mr. Sorrensen called me, I went out and viewed the site, that's the way the site, the home looked, and the addition looked the day I was there. I know that he's contracted with someone else. They are re-engineering the plans, re-drawing the plans, and getting another contractor involved.

Mr. VonHervulis stated, we have Mr. Coyne, who is the licensed contractor on this permit, and my question to you is, does Mr. Coyne legally qualify as the General Contractor for Byrd Development?

Mr. Jones stated, "Yes. What we did when we set up Byrd Development, we are a state licensed development company for land development and home building. We asked the State how we could set up as a minority if we do not have a construction license. They said you can be a developer under the development guidelines, you can hire contractors to build for you. We turned around and did another agreement with Mr. Coyne to be a superintendent on the site that we hire for contractors. That's all we simply did.

Mr. Jones stated that Mr. Coyne is not licensed to qualify Byrd Development; he was hired as an individual contractor. Mr. Jones also stated that Mr. Coyne would show up on the job when he was called to check the inspection. Mr. Jones stated, "I call Ken, I say, "Ken, we finished the footings", when we did the footings and the slab. "I say, "We finished the footings, the rod is in there. I need you to come by and check." He would come by and check the inspection. "Yes, go ahead and call for an inspection Fernanda." When we got the block walls done before our downpours and the knock-out once everything was done. "Ken, the knock-outs are done, the rods are in, will you come by and inspect?" He comes by, checks, inspects. "Go ahead Fernanda, you

can call for the inspection.” We do that on every phase of the project, and we had inspections passing all the way up until we were told to leave the project.”

Mr. Jones stated he took the permit papers, filled them out, took them to Mr. Coyne, had him to get them notarized and signed, submitted document, came back and submitted the documentation to the Building Department after he had signed it. The permit was paid for by Mr. Sorrensen directly.

Mr. Jones stated he has a license from the State for Land Development and they are State Certified as a Land Development Company. Mr. Coyne has pulled permits for Mr. Jones since 1992.

Mr. Jones stated he signed his name where it asks for Contractor’s Representative on the Seminole County Building permit on this job. Mr. Coyne was hired as the Contractor and then Mr. Coyne comes back and hires Mr. Jones as the Superintendent. Mr. Coyne came out and did every inspection prior to the Building Department inspection when Mr. Jones called him.

Mr. Coyne stated, “At this point I think that we are being accused of doing something after the fact; when Mr. Jones was told not to come and do anymore work, there was an awful lot of construction done there, in fact about 95% of the deficiencies were done in that period of time by unauthorized contractors supervised and ordered by Mr. Sorrensen. We did not build anything past a certain point. We authorized nobody to do anything past that October date when Mr. Sorrensen told Mr. Jones not to show up anymore.”

Mr. Coyne also stated, “It’s my opinion that Mr. Sorrensen did not want either Mr. Jones or myself to take any more of this contract. He should have called the Seminole County Building Department and said he would like to have another contractor or finish the project himself, and in that case, I would have been ordered by Mr. Helle and I would have written a letter and said that I will approve and I will rescind anything I have to do with that permit.”

Mr. VonHerbulis stated to Mr. Coyne that is your responsibility to do that. It is my understanding that if you’re told not to come back, this is an open permit.

Mr. Coyne stated, “Well, what you’re saying is exactly right except it was done without authorization. We didn’t ask the subs to come do it. We didn’t order the material. We didn’t do this, we didn’t do that.”

Mr. VonHerbulis stated to Mr. Coyne, “Sir, you’re digging a deeper hole. You may want to let Mr. Sorrensen come up and answer his questions because the hole that I am hearing is not only going from unworkman like manner but it has gone to about three other different counts as I’ve been keeping track.”

Mr. Sorrensen stated he served on the Board of Byrd Development and Consortium Development.

Mr. Bill Miller requested a recommendation.

Mr. Larry Goldman stated that prior to this hearing, they had discussed the possibility of a three year suspension but he would prefer to modify that to a permanent suspension which might be more appropriate due to the incriminating evidence that's been presented by the Contractor and the person who actually did the work

Mr. Mitchell stated, the Contractor commenced work on a large two story addition and allowed the work to continue in an unworkman like manner. He didn't supervise it. I don't know who all this work was done under. And so, the major error is from the Contractor not notifying the County that he's off the job.

Mr. VonHerbulis stated that in hard terms is considered abandonment.

Mr. Miller stated the law is clear. There is a Contractor who signed a permit and took on that responsibility of that licensure in complying with the laws of the state of Florida and Seminole County. Unfortunately, he entrusted work to other people and things happened. Whether they are by contracted people, business people or the owners, but it happened and that is not in our preview today. What we have is the record as submitted by Seminole County Staff as to the conditions on the job and that is what we have to make our decision on.

Mr. Helle stated there were no records of any other violations by this Contractor.

Mr. Miller stated this Contractor indicated I believe it was 1982 that he's been in the business with no other infractions. I cannot excuse him for the part he did not play in the proper management of this job.

Mr. Miller also stated that as it's the first violation that we have record of, perhaps the two years that the County Building Official was going to recommend would be more in order.

Mr. VonHerbulis stated, "I'll be honest with you. I disagree with you. I think by their own admission of the backwardness of the organization, as far as him being the Superintendent, or him being the Contractor and hiring me back as the Superintendent, and vice versa, back and forth, we not only have work that was done out there on the job prior to a permit being pulled, that is one violation. Two, we have blatant information that there was no supervision done or little if any supervision by the Contractor. Three, we have the abandonment of the project be it under order of the owner or not, it is the Contractor's responsibility to cease that permit and to have knowledge of it. He didn't have knowledge of it for several months from Mr. Jones that the project had even supposedly ceased. The work being as an unworkmanship like manner is I think prior to the date of their supposed termination and after, which, unfortunately still falls under his license if he didn't revoke his license. So I'm counting at least four violations of this and their knowledge of it and everything makes me believe that I don't want them pulling permits in this County, ever. I think it is blatant. I think that it is trying to skirt the system with a development thing, in my opinion. And I firmly, firmly agree with the Staffs recommendation. The chairman is not going to make a recommendation but I am just so you know how I feel about it."

Mr. Miller stated to Mr. VonHerbulis, “Just to comment. You used the word of their in the plural. Unfortunately, it is Mr. Coyne in the singular. And I support the comments you made about them in the plural and how more than a single person should be involved in whatever punishment that is rendered here. But, is beyond our ability and capability, and that is part of the point that I was making is that there is no excuse on Mr. Coyne’s part but, the addition negligence involvement here, we can’t touch.”

Mr. Larry Goldman stated the Staff’s recommendation is permanent suspension in Seminole County and a letter to follow with the State with permanent suspension and a fine.

After much discussion the Board made a Motion.

Motion

I make a motion that we suspend Mr. Coyne’s license in Seminole County for a period of ten years.

Motion by James Gamble; Seconded by Bill Miller with discussion; Motion is withdrawn by James Gamble. Second is withdrawn by Bill Miller. No vote was made.

2nd Motion

Motion made to suspend Mr. Coyne’s license for the length of time not to exceed seven years.

Karen Consalo addresses the Board to request that the motion be made for a definite period of time.

Marti Chan’s reply to this request, “Seven years.”

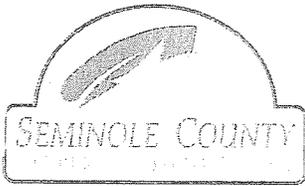
Motion by Marti Chan; Seconded by James Gamble; Motion carries 5-0.



Board of Building Contractor Examiners

Case No.: 03-05-0004

Name: Kenneth Coyne



CASE NO. 03-05-0004

VIOLATION FACTSHEET

Contractor Name:	Kenneth Coyne
License No.:	CGC023082

Contractor Address:	942 Delfino Place
	Lake Mary, FL 32746

Date of Violation:	3-10-03
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Location of Violation:	224 Woodlake Drive
	Maitland, FL 32751

Complaint received from:	
Name:	Andy Sorenson
Address:	224 Woodlake Dr
	Maitland, FL 32751
Date received:	On or about February 10, 2003.

Statement of Violation:	
(a) Facts: Contractor commenced work on large two story addition. Contractor allowed the work to continue in an unworkman like manner, per Seminole County Code Chapter 40 section 40.34(a)(2).	
(b) Applicable Rules, Regulations, Ordinances and Statutes:	
Seminole County Code Chapter 40, Section 40.34(a)(2).	

Attached supporting Documents:			
<input type="checkbox"/>	Initial Complaint	<input type="checkbox"/>	Lien(s)
<input type="checkbox"/>	Inspection Report	<input type="checkbox"/>	Releases of Lien(s)
<input checked="" type="checkbox"/>	Photographs		
<input checked="" type="checkbox"/>	Copies of applicable Rules, Regulations, Ordinance, and/or Statutes		
<input checked="" type="checkbox"/>	Other (Please List) Copy of letter sent to the contractor by Seminole County.		

Deputy Building Official



February 24, 2003

CERTIFIED 7002 0510 0000 8538 6104

Kenneth Coyne, CGC02308
942 Delfino Pl.
Heathrow, FL 32746

RE: SORENSON ADDITION, 224 WOOD LAKE DR., PERMIT #02-4263

Dear Mr. Coyne:

At the request of the homeowners, an inspection was conducted by Paul Watson, Chief Building Inspector and me. At present, there are no subcontractors listed on this permit. Following is a list of problem areas that must be corrected:

1. The work that has been completed to date does not match the reviewed/permitted plans.
2. The site is not equipped with a Port-o-Let.
3. The straps that tie the first and second floor walls together are incorrectly installed, not tight, and attached with non-approved screws.
4. The sub-facia is not nailed into the wood at the trusses.
5. The typical wall section doesn't match the walls that were constructed.
6. Drywall screws are not an approved method of attaching straps.
7. Wall sheathing missing fasteners. Attachment detail for sheathing calls for gun nails, screws were used.
8. Oriented Strand Board has been exposed to the weather longer than the manufacturer permits, which has resulted in de-lamination in numerous roof and wall panels.
9. Numerous areas of Oriented Strand Board show signs of mildew.
10. The addition as constructed does not allow enough room for stairs to be constructed according to code.
11. Beams are not anchored to floor or bond beam.
12. Plumbers strapping has been used for a column to beam connection, but the product is not listed for such use.
13. There is a wood Glu-Lam beam at the carport/garage supporting masonry which is in violation of Code.
14. The beam described in #13 has 3/8" bolts penetrating it approximately 48" O.C.

15. The plywood sub-floor in the second floor is water damaged and is deteriorating.
16. Numerous straps are missing from the trusses.
17. All exterior and bearing walls need double 2X4 top plates and a single 2X4 bottom plate.
18. There is a single truss carrying the exterior wall.
19. Headers of appropriate size lumber are required for all openings.
20. Jack studs are required to support Headers.
21. Cripple studs are required above headers.
22. Top plates must be joined together.
23. There is a low hanging truss that interferes with the required bathroom door height.
24. There are 4X6 posts bearing on single 2X4 studs.
25. There are straps attached via screws into the edge of the wood beam.
26. The gable ends of the addition do not have the required X-braces installed.
27. The truss engineering package for the design of the trusses is missing.
28. The electrical service was relocated without the required permits and inspections and is in an unsafe condition.
29. The temporary fence securing the new swimming pool is not installed.
30. There are numerous leaks in the existing home that are a result of improperly timed roof tie-ins at the addition to existing roofs.

This list shows a lack of supervision by the licensed contractor.

Within seven (7) days of the date of receipt of this letter, the contractor shall provide to the building division as well as the homeowners, a plan of action to show how this condition is to be corrected. Failure to do so will result in the matter being referred to the appropriate disciplinary Board for further action.

If you have questions, I may be contacted at 407.665.7338.

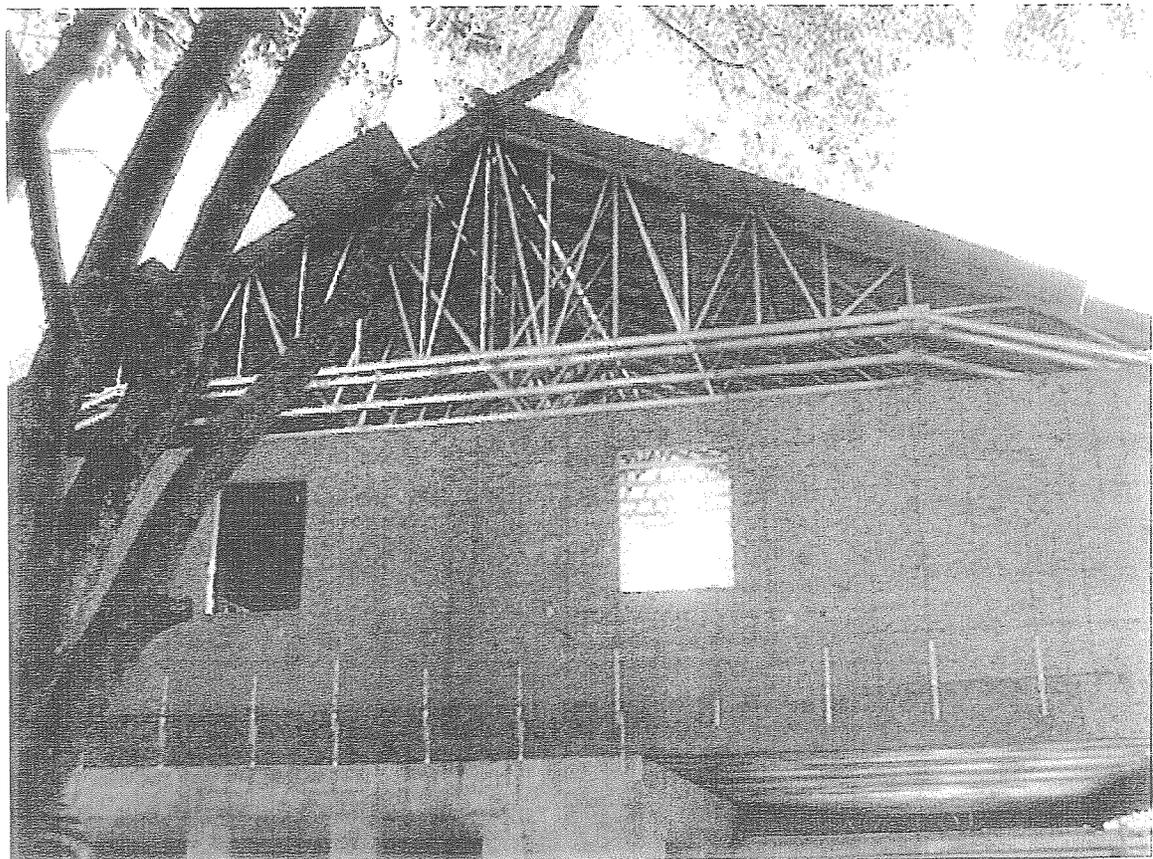
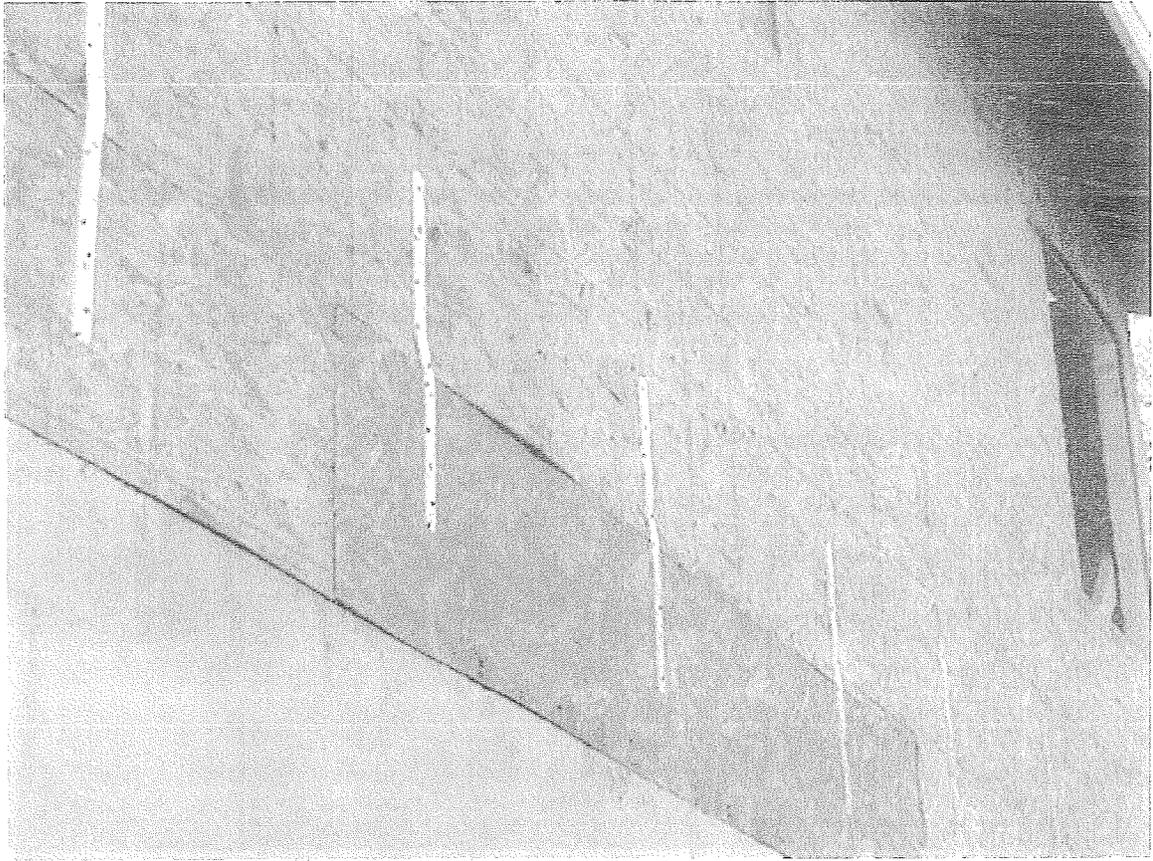
Sincerely,



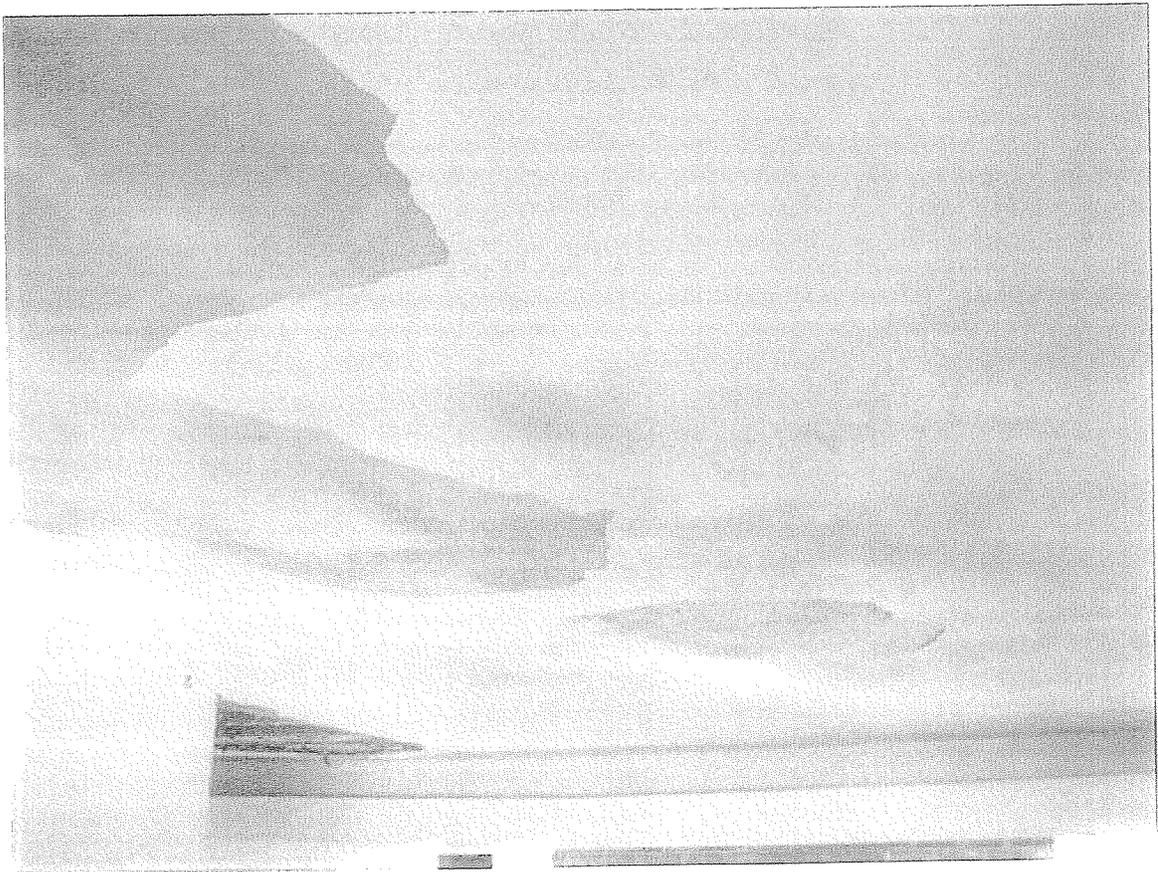
Tom Helle,
Deputy Building Official

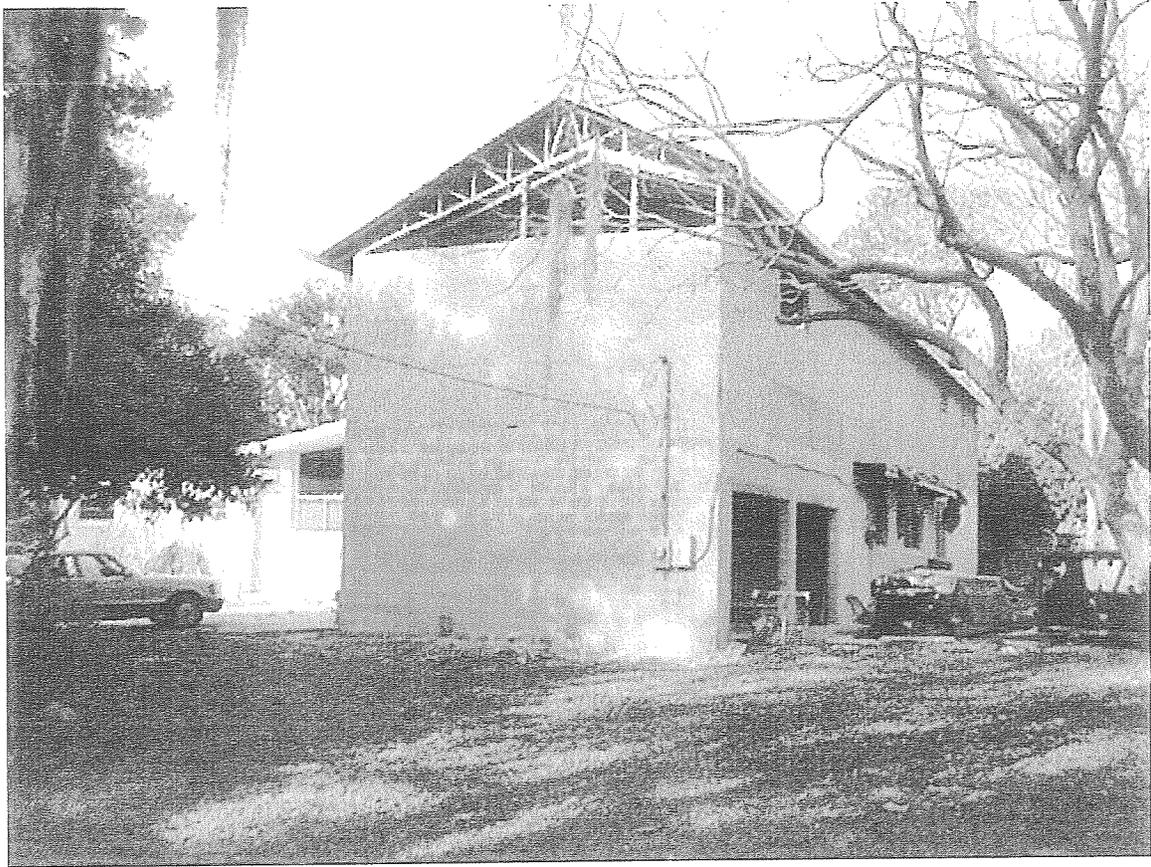
TH/dv

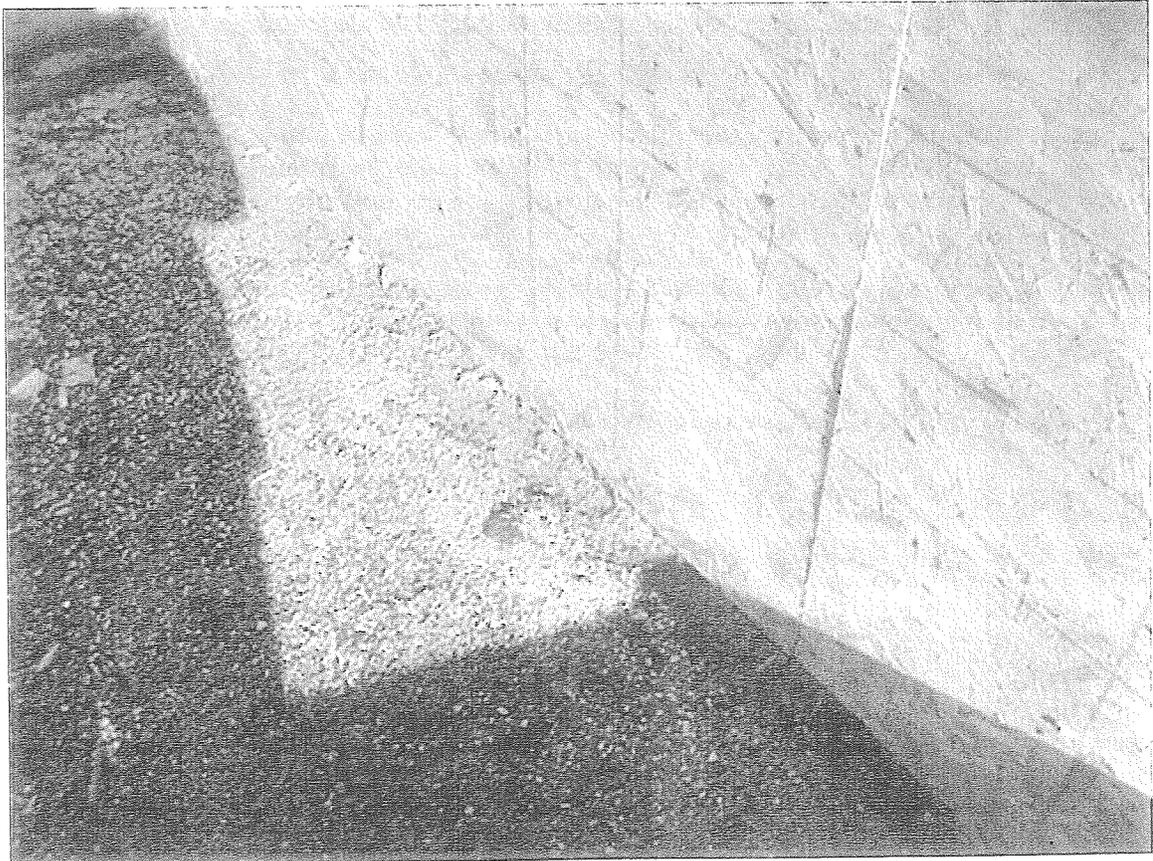
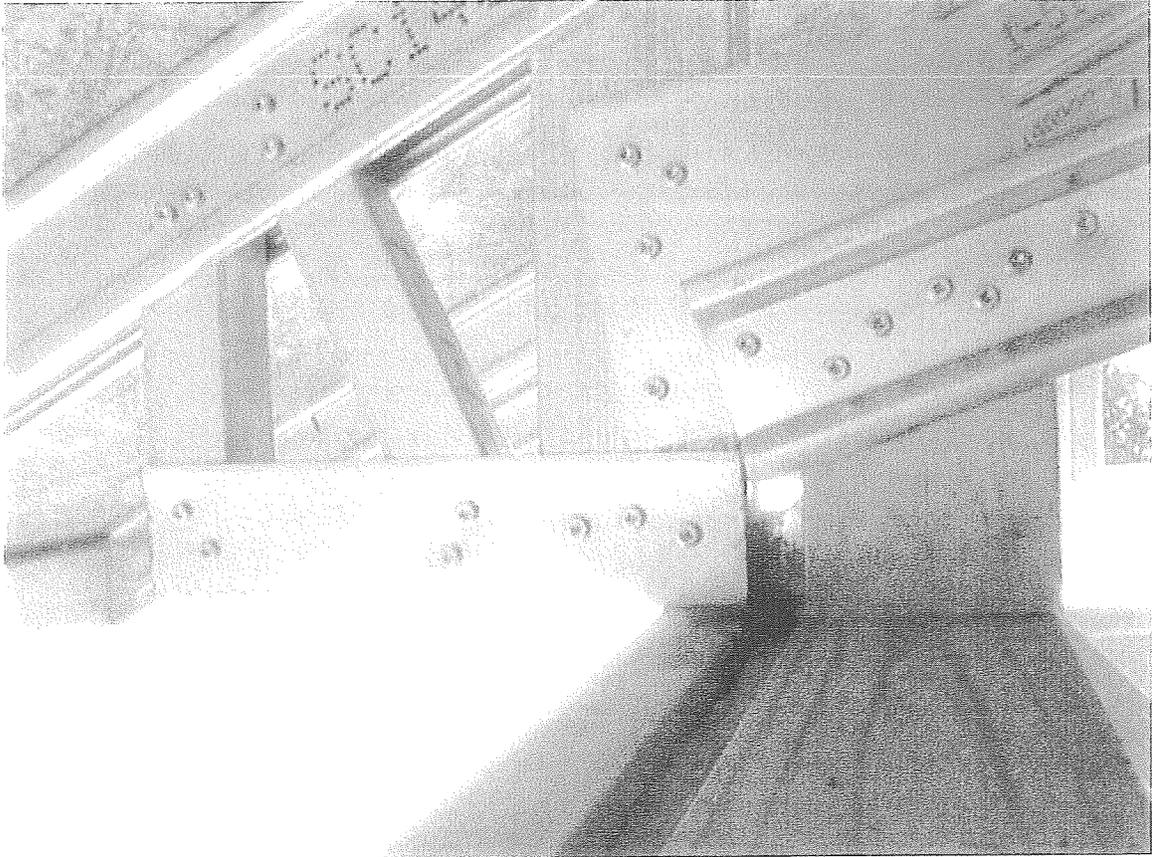
cc Mr. & Mrs. Andrew Sorenson

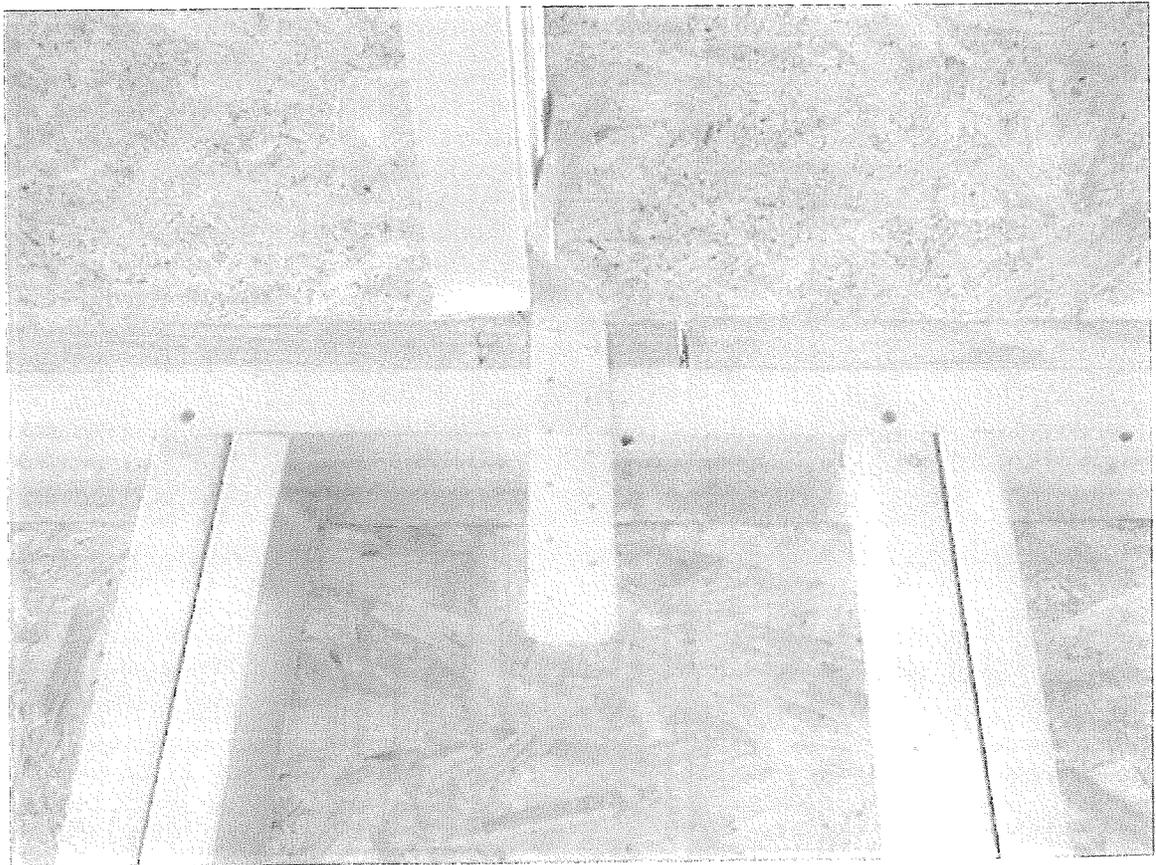
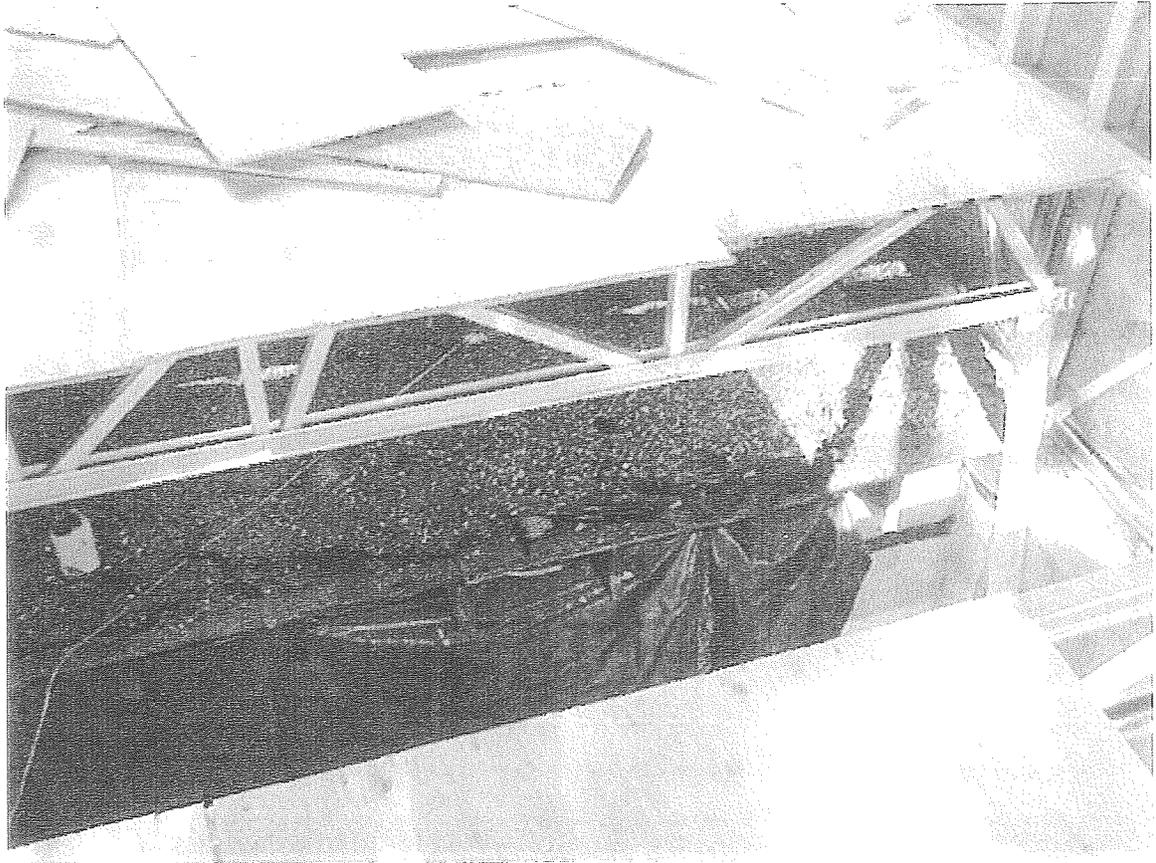


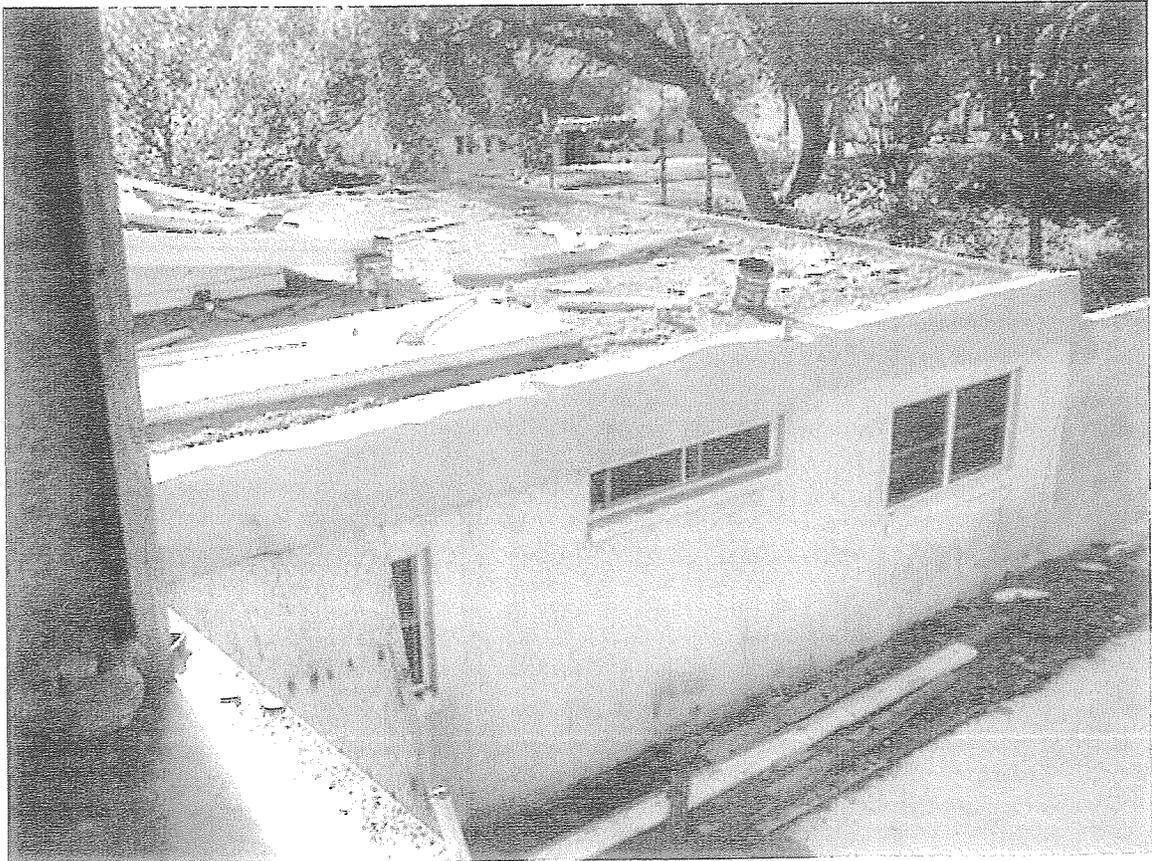
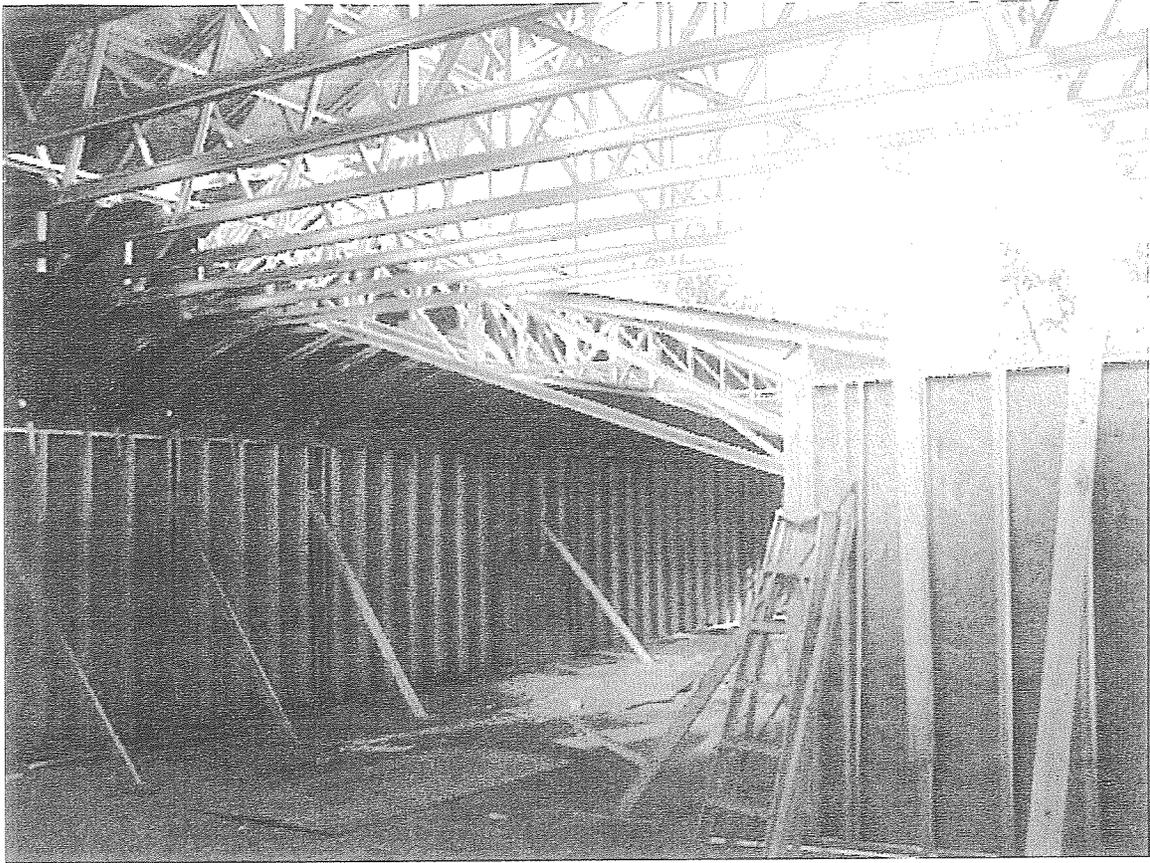














BUILDING AND CONSTRUCTION

Class of Certificate	Expiration Date
Building contractors	September 30, 1991
Electrical contractors and journeymen electricians	September 30, 1992
Mechanical contractors	September 30, 1991
Plumbing contractors and journeymen plumbers	September 30, 1992
Swimming pool contractors	September 30, 1991
Well drilling or pump installation or repair contractors	September 30, 1992

(b) Any certificate of competency required herein which is not renewed within ninety (90) days after its expiration shall be void and the holder thereof shall not be issued another such certificate.

(c) Nothing in this Section shall be construed to authorize a person to operate without an appropriate and current certificate of competency or state certification.

(§ 18, Ord. No. 72-9, 10-10-72; §§ 18, 21, Ord. No. 73-1, 1-2-73; §§ 34, 38, Ord. No. 73-3, 3-13-73; § 20, Ord. No. 73-10, 8-28-73; § 18, Ord. No. 73-17, 10-15-73; § 19, Ord. No. 77-18, 5-24-77; § 6-33, SCC, 9-27-77; § 4, Ord. No. 92-1, 2-25-92).

Sec. 40.34 Certificate revocation or suspension.

(a) A board created herein shall have the power to direct restitution from the licensee and recommendation to the Construction Industry Recovery Fund (CIRF) through the Florida Construction Industry Licensing Board (FCILB), revoke or suspend a certificate of competency or withhold the issuance of permits for state certified contractors for which it is the issuing authority if its holder should:

(1) Misrepresent any material fact in the application for a certificate or for a permit.

(2) Continue performance of building work in a negligent, incompetent or unworkmanlike manner inconsistent with general construction practices, or manufacturer's recommendations or specifications.

(3) Engage in the business or act in the capacity of a contractor or certificate holder without a valid occupational license.

(4) Contract in a name other than that registered with the Building Department.

(5) Abandon any contract for the performance of work without legal grounds to do so.

(6) Divert property or funds received pursuant to a contract for construction, alteration, repairing, remodeling, or demolition of any building.



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Licensee Information

Name: **COYNE, KENNETH ROBERT (Primary Name)**
INDIVIDUAL (Alternate Name)

Main Address: **942 DELFINO PLACE**
LAKE MARY, Florida 32746

Lic. Location: **2525 LAKE HALLY WOODS DRIVE**
GOTHA, FL 34734
Orange

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License Information

License Type: **Certified General Contractor**

Rank: **Cert General**

License Number: **CGC023082**

Status: **Current, Active**

Licensure Date: **06/29/1982**

Expires: **08/31/2004**



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