

**AGENDA**  
**Meeting of the Prosper**  
**Board of Adjustment/Construction Board of Appeals**  
108 W. Broadway St., Prosper, Texas  
Town of Prosper Municipal Chambers  
Tuesday, August 29, 2017, 6:00 p.m.

1. Call to Order / Roll Call.

**REGULAR AGENDA**

(If you wish to address the Board of Adjustment/Construction Board of Appeals during the regular agenda portion of the meeting, please fill out a "Speaker Request Form" and present it to the Building Official prior to the meeting. Citizens wishing to address the Board of Adjustment/Construction Board of Appeals for items listed as Public Hearings will be recognized by the Chair. Those wishing to speak on a non-Public Hearing related item will be recognized on a case-by-case basis, at the discretion of the Board of Adjustment/Construction Board of Appeals.)

2. Consider and act upon the appointment of a Chair and Vice-Chair.
3. Consider and act upon minutes from the June 6, 2016, Regular Board of Adjustment/Construction Board of Appeals meeting.
4. Conduct a public hearing concerning a substandard structure located at 1450 Cedar Ridge Drive, in the Town of Prosper, and thereafter discuss, consider and take action regarding said substandard structure.
5. Board member orientation.
6. Possibly direct Town staff to schedule topic(s) for discussion at a future meeting.
7. Adjourn

Note: The order in which items are heard on the agenda is subject to change.

**CERTIFICATION**

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted on the inside window at the Town Hall of the Town of Prosper, Texas, a place convenient and readily accessible to the general public at all times, and said Notice was posted on Friday, August 25, 2017, at 5:00 p.m. and remained so posted at least 72 hours before said meeting was convened.

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Robyn Battle, Town Secretary

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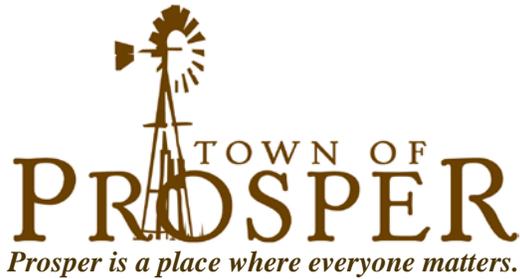
Date Noticed Removed

Pursuant to Section 551.071 of the Texas Government Code, the Board of Adjustment/Construction Board of Appeals reserves the right to consult in closed session with its attorney and to receive legal advice regarding any item listed on this agenda.

**NOTICE**

Pursuant to Town of Prosper Ordinance No. 13-63, all speakers other than Town of Prosper staff are limited to three (3) minutes per person, per item, which may be extended for an additional two (2) minutes with approval of a majority vote of the Board of Adjustment/Construction Board of Appeals.

**NOTICE OF ASSISTANCE AT PUBLIC MEETINGS:** The Prosper Board of Adjustment/Construction Board of Appeals Meetings are wheelchair accessible. For special services or assistance, please contact the Town Secretary's Office at (972) 569-1011 at least 48 hours prior to the meeting time.



**MINUTES**  
**Meeting of the Prosper**  
**Board of Adjustment/Construction Board of Appeals**  
108 W. Broadway St., Prosper, Texas  
Town of Prosper Municipal Chambers  
Monday, June 6, 2016, 6:00 p.m.

**1. Call to Order / Roll Call.**

The meeting was called to order at 6:00 p.m.

Board members present: Chair Bob Wierschem, Vice Chair Ane Casady, George Dupont, Tracy Kirl, Phyllis Hoffschwelle, and alternate Brent Wells

Staff present: Alex Glushko, Senior Planner; Jonathan Hubbard, Planner; and Pamela Clark, Planning Technician

**CONSENT AGENDA**

**2. Consider and act upon minutes from the February 1, 2016, Regular Board of Adjustment/Construction Board of Appeals meeting.**

Motioned by Dupont, seconded by Kirl, to approve the Consent Agenda. Motion approved 5-0.

**REGULAR AGENDA**

**3. Conduct a Public Hearing, and consider and act upon a request for a Variance to allow for an existing setback encroachment of an accessory structure on a single family residential lot, located at 12C Grindstone Drive. (V16-0001).**

*Glushko:* Summarized the request and provided a brief history on the property. Notified that three (3) Public Hearing Reply Forms have been received, not in opposition to the request. Recommended approval of the request

*Hamilton:* Explained that the encroachment was discovered when a survey was done for the property.

*Dupont:* Inquired about measures the Town has in place to ensure similar incidents are prevented in the future.

*Glushko:* Informed Board of current Building Inspections Division staffing levels and associated responsibilities.

Motioned by Kirl, seconded by Hoffschwelle, to approve. Motion approved 5-0.

**4. Possibly direct Town staff to schedule topic(s) for discussion at a future meeting.**

No items were discussed.

**5. Adjourn**

Motioned by Hoffschwelle, seconded by Dupont, to adjourn. Motion approved 5-0 at 6:13 p.m.

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**Pamela Clark, Planning Technician**

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**Chair/Vice Chair**



**DEVELOPMENT SERVICES**  
**August 29, 2017**

*Prosper is a place where everyone matters.*

**To: Construction Board of Appeals**

**From: Alex Glushko, AICP, Senior Planner**  
**Todd White, Building Official**  
**Trish Eller, Code Compliance Officer**

**Re: 1450 Cedar Ridge Drive, Prosper, Texas**

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**Agenda Item:**

Conduct a public hearing concerning a substandard structure located at 1450 Cedar Ridge in the Town of Prosper, and thereafter discuss, consider and take action regarding said substandard structure.

**Background Information:**

On August 26, 2016, the single family residential structure, located at 1450 Cedar Ridge Drive in the Cedar Ridge Estates subdivision, generally located north of First Street and east of Hays Road, was struck by lightning, resulting in a fire. Please refer to the attached location map – Exhibit A. The structure suffered significant damage to the roof and attic (the first picture in the attached set of pictures, attached as Exhibit B, depicts the damaged roof). The property is owned by Debbie P. Khy.

The damaged roof was covered by tarps, but at a later date the tarps were removed, exposing the hole in the roof. Beginning in April, 2017, the Town's Code Compliance Officer, Trish Eller, began to receive complaints from the neighbors regarding the exposed roof and the damaged structure's negative impact on the neighborhood. Upon meeting with the owner, Ms. Eller learned that a previous contractor had been retained but did not finish the job. Another contractor was retained but was informed by the Town's Building Inspections Division that the needed repairs required repairs to the structural members of the roof and that simply decking the exposed area would not be sufficient to meet the building codes.

During this period, the adjacent neighbors continued to contact Ms. Eller, demanding that action be taken. On May 4, 2017, Ms. Eller issued a citation to the property owner for failure to repair the roof. The Town's Municipal Court has subsequently reset the trial dates. Per request of the property owner, the Court reset the latest date to September 7, 2017. A time line of events and communications with staff is attached as Exhibit C.

On August 16, 2017, Town staff was given permission by the property owner to enter the premise and conduct a courtesy inspection. The results of this inspection is attached as Exhibit D.

On August 21, 2017, a residential remodel permit was issued to Corp. Roofing Company to repair the damaged rafters and re-roof the affected area. On August 22, 2017, a tarp was re-applied to the entire structure as depicted in the final set of pictures.

While staff is hopeful that the exterior of the structure will be repaired to mitigate the negative impacts on the neighborhood, staff desires for the Construction Board of Appeals (CBOA) to set a firm date for completion of the repairs due to the amount of time that has elapsed since the structure was damaged.

**Duties and Powers of the CBOA:**

Per Chapter 3, Building Regulations, of the Town's Code of Ordinances, the CBOA has the authority to make a determination that a structure qualifies as a substandard structure, as defined and described herein, such structure shall automatically be deemed to be a danger to the public health and welfare, a public nuisance, and in violation of this article. Compliance is required with any orders issued by the CBOA relating to the repair, removal, or demolition of the substandard structure.

Per Subsection 3.12.008 of Chapter 3 of the Code of Ordinances, the CBOA is authorized to find that a structure is a substandard structure if:

- 1) The building or structure has been damaged by fire, earthquake, tornado, wind, flood, vandals or any other cause, to such an extent that the structural strength or stability thereof is subject to partially or fully collapsing.
- 2) The building or structure was constructed or maintained in violation of any provision of the town's building codes, fire code or any other applicable ordinance or law of the town, county, state, or federal government.
- 3) Any wall or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle one-third (1/3) of its base.
- 4) The foundation or the vertical or horizontal supporting members are twenty-five (25) percent or more damaged or deteriorated.
- 5) The nonsupporting coverings of walls, ceilings, roofs, or floors are fifty (50) percent or more damaged or deteriorated.
- 6) The structure has improperly distributed loads upon the structural members, or they have insufficient strength to be reasonably safe for the purpose used.
- 7) The structure or any part thereof has been damaged by fire, water, earthquake, wind, tornado, vandalism, or other cause to such an extent that it has become dangerous to the public health, safety and welfare.
- 8) A portion of a building or structure remains on a site when construction or demolition work is abandoned.
- 9) A door, aisle, passageway, stairway, fire escape or other means of egress is not of sufficient width or size, or is damaged, dilapidated, obstructed or otherwise unusable, or so arranged so as not to provide safe and adequate means of egress in case of fire or panic.
- 10) The structure, because of its condition, is unsafe, unsanitary, or dangerous to the health, safety or general welfare of the town's citizens including all conditions conducive to the harboring of rats or mice or other disease carrying animals or insects reasonably calculated to spread disease.
- 11) The structure has been found to contain molds which are known to be harmful to humans, and that remediation of such mold contamination would exceed fifty (50) percent of the value of the structure.
- 12) Whenever the building or structure has been so damaged by fire, wind, tornado, earthquake or flood, or has become so dilapidated or deteriorated as to become:
  - A. An attractive nuisance to children;
  - B. A harbor for vagrants, criminals or trespassers; or as to
  - C. Enable persons to resort thereto for the purpose of committing unlawful acts.

- 13) A portion of the building or member or appurtenance thereof (e.g. porch, chimney, signs) is likely to fall, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- 14) The building or structure has any portion, member or appurtenance, ornamentation on the exterior thereof which is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of safely resisting wind pressure, snow, ice, or other loads.
- 15) The electrical system is totally or partially damaged, destroyed, removed or otherwise made inoperable, unsafe or hazardous.
- 16) The plumbing system is totally or partially damaged, destroyed, removed or otherwise made inoperable or unsanitary.
- 17) The mechanical system or any portion of the mechanical system is totally or partially damaged, destroyed, removed or otherwise made inoperable or unsafe.
- 18) The building or structure, because of obsolescence, dilapidated condition, deterioration or damage, is detrimental to the sale, loan or taxable values of surrounding properties or which renders such surrounding properties uninsurable or which constitutes a blighting influence upon the neighborhood or which constitutes an eyesore so as to deprive owners or occupants of neighboring property of the beneficial use and enjoyment of their premises or which presents an appearance which is offensive to persons of ordinary sensibilities.

At a minimum, staff believes the subject home is a substandard structure, meeting the above-noted criteria numbers 1, 7, 12, 14, 15, 16, 17, and 18.

Per Subsection 3.12.009 of Chapter 3 of the Code of Ordinances, “if at the public hearing evidence is provided that a substandard structure exists, the town shall require the owner, lienholder, or mortgagee of the building to repair, remove, or demolish the building within thirty (30) days, unless it is proven at the hearing that the work cannot reasonably be done in thirty (30) days. If the construction board of appeals allows more than thirty (30) days for the building to be repaired, removed, or demolished, the construction board of appeals shall establish specific time schedules for the work to be commenced and finished and shall require the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the building official.”

**Legal Obligations and Review:**

Notice of the Public Hearing was provided to the property owner in accordance with Subsection 3.12.009 of Chapter 3 of the Code of Ordinances.

**Attached Documents:**

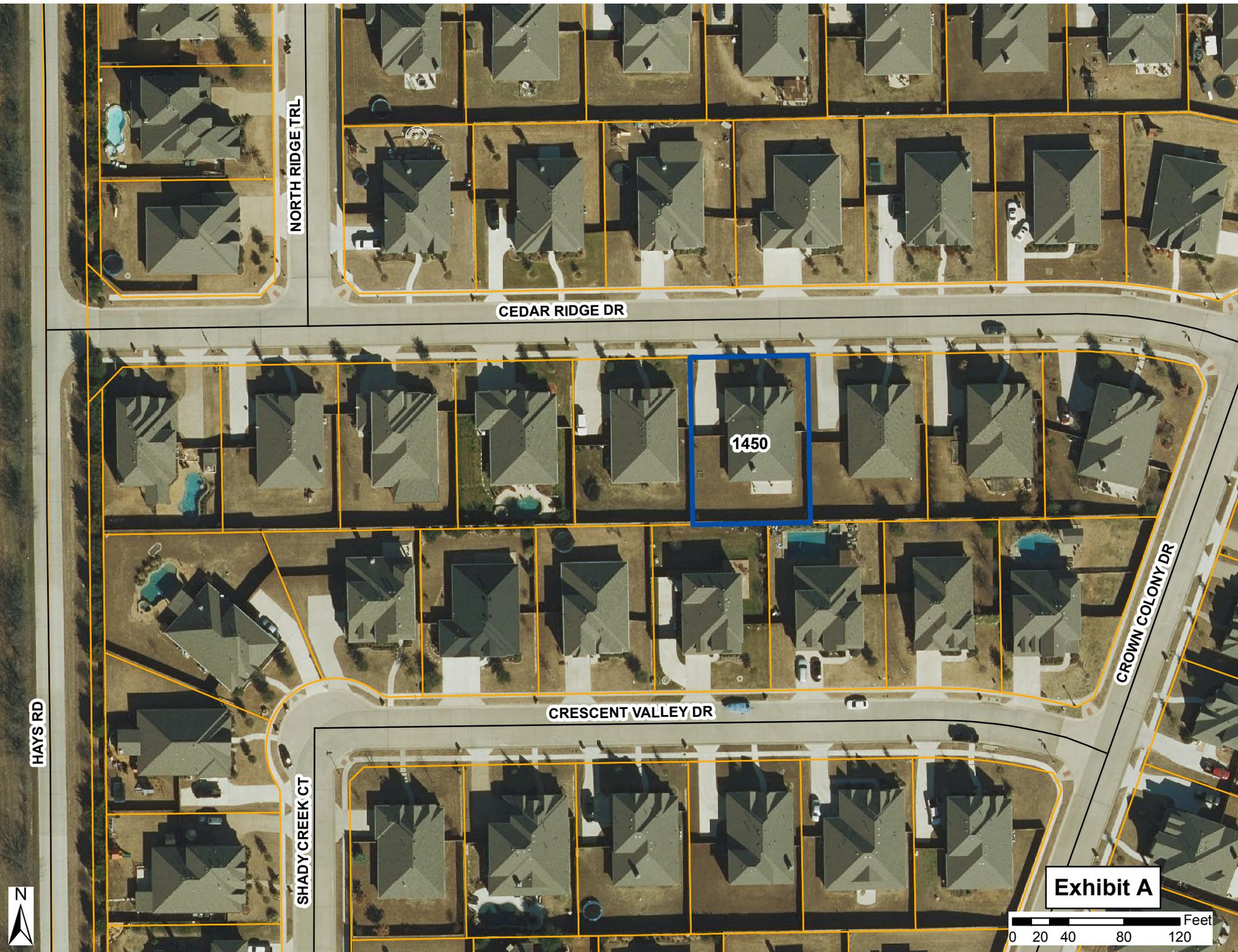
- Exhibit A – Location Map
- Exhibit B – Site Photos
- Exhibit C – Time Line of Events since April 6, 2017
- Exhibit D – August 16, 2017 Inspection Observations

**Town Staff Recommendation:**

As noted above, if the evidence supports that a substandard exists, the CBOA shall require the building to be repaired, removed, or demolished within thirty (30) days, unless it is proven at the hearing that the work cannot reasonably be done in thirty (30) days. Staff believes the required repairs can be completed within thirty (30) days and recommends the Board determine the house located at 1450 Cedar Ridge Drive is a substandard structure and order the property owner to take all measures necessary to repair the structural elements of the roof, including installation of shingles, in accordance with all applicable codes, by September 28, 2017.

**Proposed Motion:**

I move to determine the structure located at 1450 Cedar Ridge Drive, Prosper, Texas is a substandard structure and further order the property owner to take all measures necessary to repair the structural elements of the roof, including installation of shingles, in accordance with all applicable codes, by September 28, 2017.



NORTH RIDGE TRL

CEDAR RIDGE DR

1450

CROWN COLONY DR

CRESCENT VALLEY DR

HAYS RD

SHADY CREEK CT

Exhibit A

0 20 40 80 120 Feet



**Site Photos**

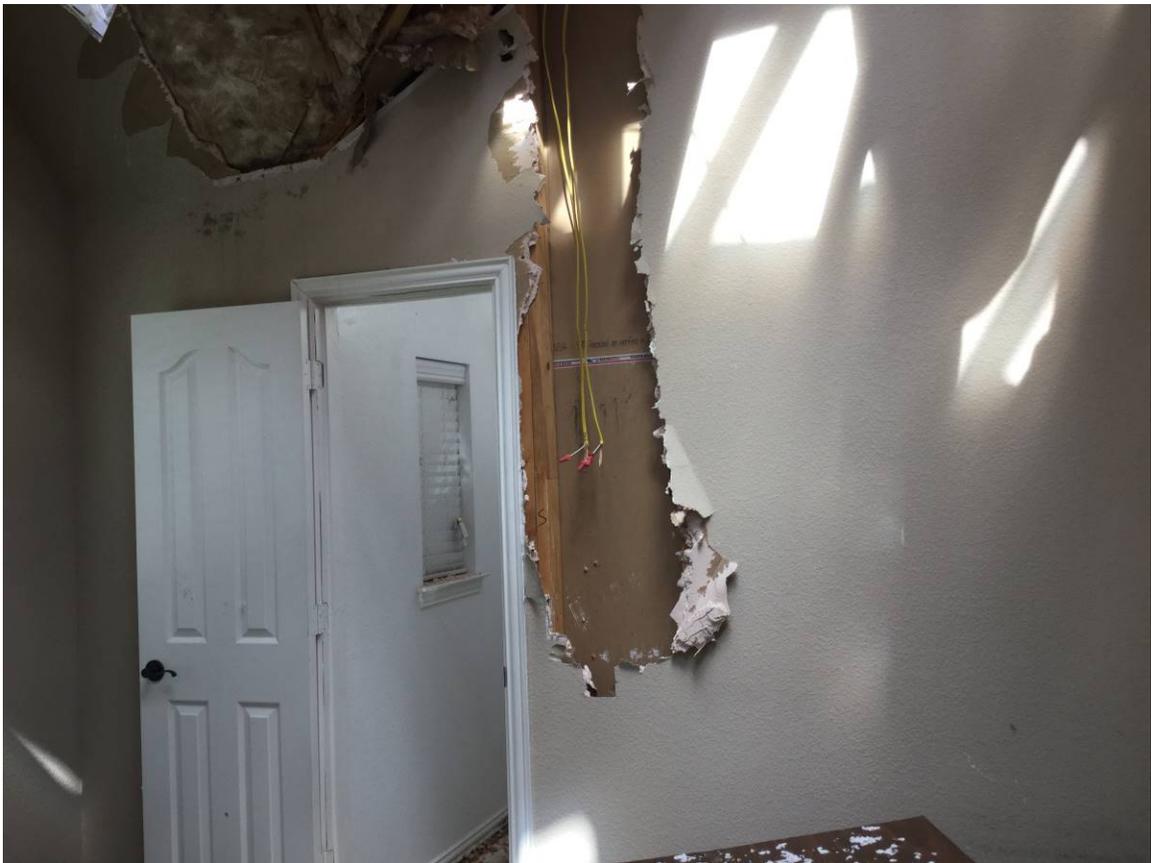














## Recently Tarped Structure



TIME LINE OF TOWN STAFF COMMUNICATIONS & EVENTS  
1450 CEDAR RIDGE  
FIRE DAMAGED STRUCTURE

- 1) April 6, 2017: Trish Eller, Code Compliance Officer, received a complaint about the subject property having a tarp on it for months. Ms. Eller inspected the property and issued a notice to the owner to repair the roof.
- 2) April 2017: Ms. Eller spoke with the owner, Debbie Khy, who stated that she was working on getting the structure repaired, that there had been a fire, and she was having difficulty with the insurance company paying the claim.
- 3) April 2017: During a conversation between Ms. Eller and the owner, the owner stated that she had hired a contractor, but he took off with \$13,000.00 and did not finish the job.
- 4) May 4, 2017: Ms. Eller determined that the owner of the property was not working on the issue in good faith. A citation was issued, with a court date set for June 15, 2017.
- 5) June 15, 2017: Court date was reset to July 20, 2017.
- 6) July 5, 2017: Contractor started working on the structure after obtaining a permit for the roof after taking off the tarp. The neighbor stayed in contact with Ms. Eller about the progress of the roofing contractor. Ms. Eller was informed by the homeowner that the contractor was quitting the job.
- 7) July 6, 2017: Ms. Eller inspected the structure and found tarps on the roof with one area exposed. It had rained during the evening of July 5, 2017, which would have left the interior of the structure exposed to the elements.
- 8) July 7, 2017: Ms. Eller issued a courtesy notice by mail and by placing it on the door of the subject property of the intention of the Town to take a case to the Construction Board of Appeals.
- 9) July 7, 2017: Steve Signor, Senior Building Inspector, spent an hour and a half with the subject property owner on site. He inspected the house including the attic, and noted that the rafters have to be replaced before the roof can be installed. In addition, there was no appearance of mold and the structure does not need to be condemned. The owner of the property had stopped the roofer from installing the roof on top of the burnt rafters.
- 10) July 11, 2017: Mr. Signor was informed that the contractor is pulling out of the contract and building permit. The property owner indicated that she paid \$7,000.00 in this instance.
- 11) July 12, 2017: Ms. Eller received multiple e-mails from the neighbor at 1460 Cedar Ridge about the neighbor wanting permission to go onto the property to move some building supplies off of the grass. Ms. Eller explained that she could not give permission, because she is not the property owner. He threatened "extreme legal" measures if Ms. Eller did not cooperate with his wishes. The owner of 1460 Cedar Ridge then asked the HOA Board permission to go onto the property to remove building supplies off of the grass. Ms. Eller inspected property, and found no roofing supplies in public view. The weeds were not out of compliance.
- 12) July 17, 2017: Received e-mails and a call about the mold that could potentially be in the house. Ms. Eller called the homeowner to set up an appointment so she could go into the structure to look for mold. They agreed to meet at the house on July 20, 2017 to do a mold inspection. Ms.

Eller received phone call from a resident who insisted that the group of homeowners are going to the television stations if something is not done about the roof and mold. The caller wanted the Town to pay for a Mold Specialist to go into the house and test for the presence of mold. Ms. Eller explained that the Town does not have a mechanism or law that would allow this type of inspection. He stated that he is going to the Mayor about this matter. Ms. Eller contacted a local Mold Specialist, and asked if there is mold in the house, could it be released through the open roof and infect the residents? His response:

*"Hi, Ms. Eller.*

*Good question. Highly unlikely to cause any issues BUT not impossible. Mold in the outdoor air is normal. It's when the levels are elevated indoors that health problems can occur. It would have to be pretty significant in the affected house, the wind just right, and an open window or fresh air intake in the adjoining houses. If the neighbors have any mold sensitivities, they may notice with those conditions.*

*If you have any other questions or want to discuss further, feel free to call me.*

*Best regards,*

*Katie Vrana*

*TDSHS MRC 1362*

*972.564.0477 office*

*469.878.4276 cell*

*972.692.7684 fax*

*[www.IAQM.com](http://www.IAQM.com)*

*Aircheckone.com*

- 13) July 20, 2017: Case was set for Trial by Judge for August 17, 2017.
- 14) Ms. Eller received an email from a neighbor who insisted that she have a mold expert conduct the inspection today. Ms. Eller responded that she does not have a mold expert or the means to force the homeowner to have the structure inspected for mold. Ms. Eller received a call from the owner of the damaged home who stated that she is having to get back to work, since she has spent a half day in court, and would have to meet Ms. Eller on another day. According to David Ritter, Prosecuting Attorney, the case was set for trial with a Judge on August 17, 2017.
- 15) August 2, 2017: Ms. Eller received notice that a continuance of the trial by the Judge that was set for August 17, 2017 was reset to September 7, 2017. Ms. Eller left a message with the homeowner but not receive a returned call. Second citation issued on August 2, 2017 for failure to repair the dilapidated roof.
- 16) August 7, 2017: Ms. Eller was asked by neighboring property owner to hold an emergency meeting regarding the Construction Board of Appeals, and to put plywood up over the exposed roof.
- 17) August 8, 2017: Ms. Eller was informed that a citizen from the neighborhood was going to speak in front of Council on this date about the dilapidated roof, and to ask the Council for an emergency

- meeting of the Construction Board of Appeals. Ms. Eller spoke to the subject owner of the property who stated that she has a new contractor to fix the roof in two (2) weeks from this date.
- 18) August 9, 2017: Ms. Eller received a call from the subject owner of the property who stated that the contractor will be the same one that Scott Crisman, President of the HOA in Cedar Ridge had recommended.
  - 19) August 14, 2017: Notices of a Public Hearing were sent to both the owner Debbie P. Khy, and Bloomfield Homes the mortgage company on the deed record.
  - 20) August 16, 2017: Ms. Eller received a call from Bloomfield Homes who stated they sold the house on June 9, 2010.
  - 21) August 16, 2017: Staff was informed from a title company that there is no mortgage on the property.
  - 22) August 16, 2017: The subject property owner gave staff permission to enter the home to conduct a visual inspection. During the inspection, Building Inspection staff noticed substantial water damage due to the open roof, damaged structural elements that were caused by the fire and plumbing, mechanical and electrical components that will need to be repaired. Ms. Khy indicated that she and her friend, Mr. Roger Clark, would tarp the roof within the next 24 hours to prevent any further water damage to the structure. Mr. Clark stated that they had already had two contractors bid the repair project and will be getting one more bid. They were informed that a residential remodel permit will be required, and all contractors are required to be registered through the Town. They were advised that once they selected a contractor, staff will meet the contractor onsite to discuss the scope of the project and the permitting process.
  - 23) August 18, 2017: Ms. Eller contacted the subject property owner and asked for the roofing contractor's contact information. Ms. Khy stated the contractor was on vacation until Monday and would have to ask the contractor if it was alright to have his information released. Ms. Eller explained to Ms. Khy that if the work does not begin in five days, then the roof needs to be tarped. In addition, she told Ms. Khy that the contractor must obtain a Residential Remodel Permit.
  - 24) August 21, 2017: Todd White, Building Official, received a bid in the amount of \$19,000 from Dunaway Construction to repair the damaged framing members and re-roof the affected area.
  - 25) August 21, 2017: A Residential Remodel permit was issued to Corp. Roofing LLC to repair the damaged framing and re-roof the affected area.
  - 26) August 22, 2017: Corp. Roofing installed tarp on the roof.
  - 27) August 22, 2017: The Town received an estimate from a second Roofing Contractor, and the representative stated that it would be too unsafe for his crew to get on the roof. In addition, the contractor stated that he does not believe that the plywood could be nailed in properly into the burnt rafters, and the plywood may just slip off of the roof.
  - 28) August 22, 2017: The Town received an estimate of \$16,500 from Evans Demolition to demolish the structure.

August 16, 2016

1450 Cedar Ridge  
Prosper, TX 75078

**Exterior Inspection:**

- Gas Service: No
- Electrical Service: No
- Water Service: No
- Roof is missing on the left side of the home.
- Front door is secured from the inside. All other doors and windows are in place and operational.

**Interior Inspection:**

**Garage-**

- Unable to inspect due to the large amount of furniture being stored in this area.

**Foyer:**

- Holes are present in the ceiling and walls.
- Duct work not properly terminated.
- Electrical in ceiling not properly terminated.

**Study:**

- The exterior wall appears to have extensive water damage.
- Holes are present in the ceiling and walls.
- Duct work not properly terminated.

**Bedroom 2:**

- The exterior wall appears to have extensive water damage.
- Holes are present in the ceiling.
- Duct work not properly terminated.
- Electrical in ceiling not properly terminated.
- Damaged water line in ceiling.

**Bedroom 3:**

- Walls appear to have water damage.
- Ceiling joist not full bearing.
- Exhaust duct are not properly connected.
- Holes are present in the ceiling.

**Master Bedroom:**

- Walls appear to have water damage.

#### **Hall bath/Utility Room:**

- The exterior wall appears to have extensive water damage.
- Holes are present in the ceiling.
- Duct work not properly terminated.
- Electrical in ceiling not properly terminated.

#### **Dining Area:**

- Holes are present in the ceiling.
- Duct work not properly terminated.
- Walls appear to have water damage.

#### **Kitchen/Breakfast area:**

- Walls appear to have water damage.

#### **Family Room:**

- Walls appear to have water damage.

#### **Attic:**

- Replace all fire damaged roofing members.
- Newly added floating beam needs to be properly braced and terminate on load bearing points.
- Properly re-deck and re-roof the damaged area after structural elements have been repaired.
- Properly connect and support rafter splices.
- There was no attic insulation present at the time of this inspection.
- Electrical for mechanical unit is damaged and not properly terminated.
- Exhaust ducts are not connect throughout the attic.
- A/C ducts are not connect throughout the attic and appear to have water damage.

A Residential Remodel permit is required and all contractors are to be registered with the Town.

All repairs are required to be in accordance to the 2012 International Residential Code.

Mold remediation shall be in compliance with the Texas Department of State Health Services rules and regulations.

All walls with insulation should have the sheetrock fully removed and the water-damaged insulation replaced.

Repair/replace all damaged plumbing, mechanical, electrical and building components.