

Town of Blowing Rock

Request for Council Action

FROM: Kevin Rothrock, Planning Director
SUBJECT: Miller Condemnation Order – Ord 2018-16
TO: Mayor and Council
DATE: November 13, 2018
REQUESTED BY: Kevin Rothrock / John Warren

Public Hearing Yes No Not required NA
Properly Advertised Yes No Not required NA

BACKGROUND:

The draft ordinance attached authorizes the Building Code Official to have the Miller house and other structures at 712 Possum Hollow Road to be demolished and hauled away. The property has been condemned and staff has received no response from the property owner after multiple attempts.

ATTACHMENTS:

Staff report and draft ordinance 2018-16

STAFF RECOMMENDATION:

Approve the draft ordinance to authorize the Building Code Official to have structures demolished and hauled away. If property owner does not complete by December 10, 2018, the Building Code Official will have completed.

MEMORANDUM

To: Mayor Charlie Sellers and Blowing Rock Town Council

From: Kevin Rothrock, Planning Director

Subject: Miller/Henson Property – 712 Possum Hollow Rd

Date: October 29, 2018

Below is a brief history of the condemnation process for the structure at 712 Possum Hollow Road. The property is in a life estate for Ms. Francis Henson in which Mr. Jeff Miller is the primary contact. Apparently, Ms. Henson is still living and the trustees don't have full control of the property.

- Jesse Horner (Feb 2006-Spring 2013) received multiple complaints and was actually asked to condemn the house when Jeff Miller still lived there. Jesse condemned the property and ordered it to be closed and secured later, around 2010-2012. The property has remained deserted until now.
- Last fall (2017) the condemnation process started again with the intent to demolish along with another property in Sunrise Cove. Notice was sent by certified mail and received stating a hearing was scheduled 30 days from the notice.
- Fall 2017 - A few days before the hearing Jeff Miller calls to say he is working in Florida and would like to postpone another 30 days.
- Fall 2017 - A few days before the second hearing date Jeff Miller calls again with a hardship story. Another 10 days are granted over the phone and Mr. Miller is informed that an order to demolish will be issued and the appeal process is explained. To date, no response from Mr. Miller.
- An order was given to demolish within six months. This is the normally accepted time frame unless there is immediate and imminent danger to life and safety.
- August 2018 - the Town Attorney recommends starting the notification process again due to the fact that one of owners was not notified. There is some confusion on this issue but it was decided that in the best interest of the Town that the other owner also be notified. The deed lists Jeff Miller as the owner but it is also listed in a life estate with Frances Henson listed as the owner. The notification process was completed again with no response including two public notices according to NC General Statutes.
- August 2018 - The second order to demolish was given according to NC General Statutes, but again with no response.
- Bid invitations for demolition were sent to several contractors before October 15.
- Ordinance No. 2018-16 is attached for consideration by Town Council to demolish all the structures at 712 Possum Hollow Road. To satisfy the 60-day required notice, the owner has until December 10, 2018 to demolish and remove. If not completed by the owner, demolition by the Town-selected contractor could possibly start December 12 if everything is lined up as staff has prepared. After demo and removal, the Town will place a lien against the property for the associated cost of demolition/removal.

**AN ORDINANCE DIRECTING THE BUILDING CODE OFFICIAL TO DEMOLISH
AND REMOVE A STRUCTURE AT 712 POSSUM HOLLOW ROAD**

ORDINANCE # 2018-16

WHEREAS, Frances Henson and Jeffrey Allen Miller are the owners of structures located at 712 Possum Hollow Road, Blowing Rock, North Carolina, 28605, further described by Watauga County Tax Parcel # 2817-37-2939-000; and

WHEREAS, on August 11, 2017, pursuant to North Carolina General Statute 106A-426(a), the Building Code Official conducted an inspection of said structures and based on that inspection condemned said structure. At that time, a notice was affixed stating the building had been condemned as unsafe; and

WHEREAS, on September 17, 2018, the Building Code Official served the owner a Notice of Condemnation and Hearing by certified mail (7017 3380 0000 9233 7971); and

WHEREAS, on October 3, 2018 at 11:00 a.m., the Building Code Official conducted a Hearing on violations of Chapter 160A-426 of the North Carolina General Statutes, for the property located at 712 Possum Hollow Road, Blowing Rock, North Carolina, of which no one appeared at said Hearing nor providing contrary evidence; and

WHEREAS, on October 10, 2018, the Building Code Official served the owner an Order to Demolish and Remove the Structures at 712 Possum Hollow Road, Blowing Rock, North Carolina, by certified mail (7016 2070 0000 3276 9749), and

WHEREAS, said owner or legal representative of the owner made no appeal of the Order to the Town Council within 10 days following the issuance of the Order pursuant to N.C.G.S. 160A-430; and

WHEREAS, there has been insufficient compliance with said Order in that said structure has not been demolished and removed, and remains dilapidated and unfit for human habitation, and constitutes a public health, safety, and fire hazard.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Town Council of the Town of Blowing Rock, pursuant to North Carolina General Statute 160A-432(b), that:

Section 1. The continued existence of said structures in the current unsafe condition would be detrimental to the health, safety, morals, and welfare of the Town of Blowing Rock in that the structure would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, and would cause or contribute to blight and the deterioration of property values in the area.

Section 2. The owner has not complied with the Order to demolish and remove the structure as required by N.C.G.S. 160A-429.

Section 3. On or after December 10, 2018, the Building Code Official is hereby authorized and directed to proceed to demolish and remove the structure located at 712 Possum Hollow Road, Blowing Rock, North Carolina in accordance with the order to the owner thereof dated October 10, 2018 and in accordance with the North Carolina Statutes 160A-432.

Section 4. The cost of removal or demolition shall constitute a lien against the real property upon which the cost was incurred. The lien shall be filed in the Office of the Town Tax Collector, and shall have the same priority and be collected in the same manner as the lien for special assessments in Article 10 of General Statutes Chapter 160A. The Town shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The Town shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the Clerk of Superior Court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

Section 5. This Ordinance shall be recorded in the Office of the Register of Deeds in Watauga County and shall be indexed in the name of Jeffrey Allen Miller in the grantor index.

Section 6. This Ordinance shall become effective upon its adoption.

Adopted this the 13th day of November 13, 2018.

Charlie Sellers, Mayor

Attest:

Hilari H. Hubner, Town Clerk