

Tryon Daily Bulletin, Thurs., Apr. 9, 1992

Dream House Near Columbus Became Nightmare For Spartanburg Couple

Jack and Janice Farrell thought they were building their dream home when they started construction on their new house in Polk County in the summer of 1991.

By fall of that year they began to suspect that the dream was not all it had seemed, and by winter they could see that it was turning into a full-fledged nightmare.

The young Spartanburg couple had searched for the ideal piece of land for several years and finally settled on five wooded acres just outside of Columbus.

"We had dreamed about owning a piece of land just like this one, even prayed about it," Janice Farrell says. They had plans drawn up by residential designer Barbara Ricci who had several local contractors bid on them.

The Farrells eventually chose Bittle Construction Co. because John Bittle had responded quickly and efficiently with a reasonable estimate. The Farrells were careful to check with previous customers to see if they were satisfied with their finished homes. They got glowing reports from several.

Construction began in August and the Farrells spent weekends watching their dream take shape. But soon they began to notice things that bothered them.

They say that expensive Pella windows were left out in the weather with minimal covering and that the contractor attempted to replace the furnace they'd requested with an outdated, less-efficient model.

Then Barbara Ricci began to show them basic construction techniques that she felt were not correct and were, in her opinion, violations of the N.C. Building Code.

"As I went to the job site and saw these problems, I was surprised and shocked that the work was not up to par because I was used to seeing good work from the builders here in Polk County," Ms. Ricci asserts. "I told Mr. Bittle's foreman and then Mr. Bittle himself, but nothing was corrected."

She says she wanted to give Bittle the opportunity to remedy

things before she spoke to the owners, but he wouldn't cooperate. "I finally realized I'd have to call the Farrells and tell them," Ricci says.

Ricci said she met with the couple and Mr. Bittle several times after that to discuss needed corrections, but she says the contractor did not follow through.

With the next county inspection drawing near, Ricci and the Farrells each spoke with the Polk County Building Inspector's Office to ask that special attention be paid to several problems they felt were code violations. They say Randolph McDaniel, who was Chief Inspector at the time, expressed appreciation to them for raising the red flag on those items. He said those things would be double checked on inspection.

To their surprise, the Farrells received a call from Bittle after county inspector Fred Seelow had been there the next day. He informed them that the house not only met code, it exceeded it. When a call to Mr. Seelow verified that the house had indeed passed with flying colors, they were shocked and puzzled. How could a trained inspector have overlooked such obvious flaws? they wondered.

At this point the Farrells viewed a North Carolina Public Television documentary entitled "Crumbling Dreams". As they watched, they began to suspect that their predicament was not unique to them or to Polk County. The film documented stories similar to their own that were being played out all over North Carolina. The list of disgruntled homeowners was long and discouraging, but the video also put the Farrells in contact with North Carolina Homeowner's Association President Jim Parker. He had some shocking news for them.

"We learned that North Carolina is very lax with their residential contractors," Janice Farrell says. "They are not required to be licensed at all unless the homes they are building are valued at over \$45,000. Even when they are licensed, they don't have to be bonded, and they're only required to take a short open-book test to get that license."

A check with Mark Selph, Secretary-Treasurer of the North Carolina Licensing Board for General Contractor's, proved this correct with the exception

of the open-book test for residential contractors. As of January 1992, the five-hour test is no longer open-book.

Parker also provided them with statistics that showed North Carolina does not discipline its contractors for violations as often as neighboring states do. According to the N.C. Homeowner's Association, 100 contractors lost their licenses in Florida, 57 in Virginia, and 37 in South Carolina in 1990.

Mark Selph admits that only 5 out of 16,000 contractors in North Carolina lost their license in 1990, but says that you can't make comparisons between states because statutes differ so widely. He adds that the Board has only two field investigators to handle complaints against its 16,000 licensed contractors. Jim Parker asserts that this compares unfavorably with other states.

In spite of this news, Jack and Janice Farrell were not daunted. With the guidance of the North Carolina Homeowner's Association, they say they took steps to resolve their situation. The couple immediately began to document in photos and on video tape everything they felt might be a building code violation in their house.

The next step they took was to halt construction and hire Southeastern Architects, an independent engineering firm, to inspect the house. Southeastern's report detailed 22 problems in such areas as chimney, roof, deck and foundation construction and truss installation.

In addition, the couple asked George Birmingham, a private building consultant with almost 50 years experience as a builder, to evaluate their situation. Birmingham spent hours inspecting the house and his verdict was not good. He enumerated close to 50 problems in his final report including missing or faulty foundation piers and footings, improperly installed shingles, improper truss installation, sloppy masonry and mismatched flue liners.

He concluded his eight page report with the comment, "...I am amazed they got the house built this far without a major collapse or failure with this building." In a telephone interview with *The Bulletin*, he characterized the Farrell's house as "a glaring example of poor workmanship."

Subsequent inspections by Westinghouse Environmental and Geotechnical Services confirmed much of George Birmingham's findings and found particular fault with the foundation. The Westinghouse summary reads in part: "It is our opinion that these discrepancies represent poor construction practices and adversely affect the soundness of the foundation system." The report concludes: "Because of the overall poor foundation construction practice, it will be very difficult to correct all foundation concerns."

Armed with this evidence, the couple filed a formal complaint against Mr. Bittle with the North Carolina Licensing Board for General Contractors. In a return letter from the Board, they learned that allegations of fraud are difficult to prove unless an action has been brought in court.

So the Farrells then filed a suit in civil court in Polk County, charging John Bittle with breach of contract, fraud, breach of fiduciary relationship, and unfair and deceptive trade practices.

Durham attorney Robert Chambers says, "Mr. Bittle has not lived up to his responsibility to properly supervise the work of his subcontractors on the Farrell's house. He not only failed to meet the plans and specifications of this custom-designed home, but according to the reports of engineers, he failed to even meet minimum N.C. building codes." He adds that a builder may have a good reputation, but his work is no better than that of the subcontractors he hires for each job.

With the three engineering studies in hand, the couple met with John Bittle, his engineer and an attorney at the house site in early March. The Farrells say that the builder refused to take responsibility for problems the studies detailed, claiming instead that there was only one corner of the house out of alignment.

In a recent telephone interview, John Bittle said, "The Farrells sent me a letter and refused to let me go back and correct things. I have volunteered to take care of anything that's my responsibility."

Janice and Jack Farrell also filed a formal complaint against

(Continued on Next Page)