

THE CITIZEN CODE ENFORCEMENT BOARD
NOTICE OF HEARING
TO BE HELD AT 4:30 P.M.
July 20, 2010
ADMINISTRATIVE OFFICE BUILDING, 120 N. CAUSEWAY
NEW SMYRNA BEACH, FLORIDA

Members:

John Shelby (Chair)
Michael Slayton (Vice Chair)
P.J. (Pat) Arvidson
Keith Gerhartz
Ken Taylor
Katharine (Kathy) L. Cooley
Megan Badgley

THIS SHALL SERVE AS YOUR OFFICIAL NOTIFICATION of a hearing of the Citizens Code Enforcement Board, to be held on TUESDAY, JULY 20, 2010 at 4:30 P.M. at the, **City of New Smyrna Beach, Administrative Office Building, 120 N. Causeway, New Smyrna Beach, Florida**, for consideration of the following:



Michael Slayton, Vice Chairperson
Citizens Code Enforcement Board

I. ROLL CALL:

II. DISCLOSURE OF EX PARTE COMMUNICATIONS:

Members of the Citizens Code Enforcement Board are asked to please disclose, for the record, the substance of any ex parte communications that have occurred prior to this public hearing.

III. APPROVAL OF MINUTES:

May 18, 2010

IV. SWEARING OF CITY STAFF

V. OLD BUSINESS:

C2007-0829:

Gilbert L. Dannehower
137 Cunningham Dr.

(SERVED)

Permitting or causing to be permitted tree removal without the required tree removal permit in violation of §604.051 A. of the Land Development Regulations.

July 15, 2008: The Board found Gilbert L. Dannehower in violation and gave Mr. Dannehower 30 days to bring the property into compliance. Mr. Dannehower failed to comply with the Board's Order and the fine of \$250.00 per day started on the 18th day of August, 2008.

August 19, 2008: The Code Enforcement Board's Hearing was cancelled due to Tropical Storm Fay.

September 16, 2008: Gilbert L. Dannehower requested a modification to the Board' Order dated July 15, 2008. The Board modified the Order giving Mr. Dannehower until September 15, 2009 to come into compliance. Mr. Dannehower is to provide the Board with quarterly reports with the first report due on December 16, 2008.

January 20, 2009: Review of the first quarterly report per the Board's Order dated the 16th day of September 2008.

March 17, 2009: Review of the second quarterly report per the Board's Order dated the 16th day of September 2008.

July 21, 2009: Review of the third quarterly report per the Board's Order dated the 16th day of September 2008.

August 18, 2009: The Board modified its Board Order dated the 16th day of September and extended the compliance date from September 15, 2009 to November 17, 2009.

November 19, 2009: The Board modified the Board Order dated the 16th day of September 2008 and extended the compliance date from September 15, 2009 to January 19th, 2010.

January 19, 2010: The Board modified their Order dated the 16th day of September 2008 and extended the compliance date from September 15, 2009 to March 16th, 2010.

March 16, 2010: The Board modified their Order dated 16th day of September 2008 and extended the compliance date from September 15, 2009 for 90 days from the 16th day of March, 2010 or until July 19th, 2010.

VI. NEW BUSINESS:

NONE

VII. REPEAT BUSINESS:

C2010-0537:

**Fences and Pavers By Design, Inc.
1848 Renzulli Road**

Permitting or causing to be permitted construction without first obtaining the required permit in violation of §26-172. of the City Code of Ordinances, titled Penalties for work commencing before permit issuance.

February 16th, 2010 the Board entered an Order finding Vadim Abuzov, Fences and Pavers By Design in violation of §26-172. of the City Code of Ordinances.

VIII. ADJOURNMENT:

Pursuant to Florida statute 286.0105, if an individual decides to appeal any decision made by the Citizens Code Enforcement Board with respect to any matter considered at this hearing, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. Such person must provide a method for recording the proceedings. In accordance with the Americans with Disabilities Act (ADA), persons needing assistance to participate in any of these proceedings should contact the Administrative Specialist of the Citizens Code Enforcement Board listed below prior to the hearing:

Administrative Specialist
% City Hall
210 Sams Avenue
New Smyrna Beach, FL 32168-9985
Telephone: 386.424.2137
Fax: 386.424.2206

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING
HELD AT 4:30 P.M. – MAY 18, 2010
COMMISSION CHAMBERS, 210 SAMS AVENUE, NEW SMYRNA BEACH, FLORIDA

- I. The Hearing of May 18, 2010, was called to order at 4:30 p.m. Answering to roll call were:

John Shelby (Chair)

Keith Gerhartz

P.J. Arvidson

Ken Taylor

Katherine Cooley

Present were Code Enforcement Supervisor Lynne Kunkle; Code Enforcement Officer Barbara Bobelak; Assistant City Attorney Greg McDole; and Permit & License Technician Dorlisa Pogany. Megan Badgley, and Michael Slayton were absent.

II. **DISCLOSURE OF EX PARTE COMMUNICATIONS:**

Members of the Citizens Code Enforcement Board were asked to please disclose, for the record, the substance of any ex parte communications that occurred prior to this public hearing.

Mr. Shelby stated that there were none.

III. **APPROVAL OF MINUTES**

March 16, 2010

Mr. Taylor made a motion to approve the minutes of the March 16, 2010 hearing as written; seconded by Ms. Arvidson. Motion carried unanimously on roll call vote 5-0.

IV. **SWEARING OF CITY STAFF**

Regina Lynne Kunkle, Code Enforcement Supervisor, and Barbara Jo Bobelak, Code Enforcement Officer, were sworn for testimony.

V. OLD BUSINESS:

C2009-0575:

**Carol Baker
423 Palm Street**

Permitting or causing to be permitted a residential structure to exist that has not been properly maintained in a safe and sanitary condition in violation of §101.6 of the Standard Housing Code 1997 Edition.

- Hole in roof admitting rain
- Hole in floor
- Electric wiring in electric panel box
- Heat/air unit
- Protective coating

Ms. Baker was present and was sworn for testimony.

Ms. Baker stated that the work that was required by the Board had been completed, and inspected. Further Ms. Baker testified that additional repairs were found that needed to be addressed.

Mr. Gerhartz questioned if this new work was in relation to the Board's previous order, and requested a staff recommendation.

Officer Bobelak testified that the additional work is outside the scope of the Board's previous order and recommends finding Ms. Baker in compliance.

Mr. Gerhartz made a motion to find Ms. Baker in compliance; seconded by Mr. Taylor. Motion passed unanimously upon roll call vote 5-0.

C2009-0729:

Upper Deck Bar & Grill

1414 S. Atlantic Avenue

- A) Permitting or causing to be permitted the operation of a business (Upper Deck Bar & Grill) without a business license tax receipt in violation of the City Code of Ordinance Chapter 74 Taxation* §74-141. Duration and expiration of licenses and delinquent licenses.
- B) Permitting or causing to be permitted the placement of signs on public property in violation of the Land Development Regulations §604.14 B. Prohibited signs.
- C) Permitting or causing to be permitted the installation of a sign without first obtaining the required permit in violation of the Land Development Regulations §604.14 D. Permits.

Danny Hunt was present and was sworn for testimony.

Mr. Hunt stipulated to the violation with an explanation to the Board.

Ms. Arvidson made a motion to find the Upper Deck Bar and Grille in compliance and reduce the fine to zero dollars; seconded by Ms. Cooley. Motion passed unanimously upon roll call vote 5-0.

C2010-0087: Helen Elaine & Martin Pell 607 Downing Street

Permitting or causing to be permitted construction without first obtaining the required permit in violation of Chapter 26 BUILDINGS AND BUILDING REGULATIONS, §26-172. of the City Code of Ordinances.

Helen Elaine Pell was present and sworn for testimony.

Ms. Pell testified that she paid the contractor \$200.00 to pull permits at the start of the project, but that when she asked the contractor for the permit, he would not produce it.

Mrs. Pell stated that she is currently working with the city to get the permit, but has to appear before the Board of Adjustments for a variance. Further, Ms Pell testified that she received a letter from the Board of Adjustments stating that they moved the hearing to June 17, 2010.

Ms. Kunkle recommends finding Mrs. Pell in violation; continue the case to allow Ms. Pell time to meet with the Board of Adjustments to get the variance; and bringing the case back to the August 17, 2010 Hearing.

Mr. Taylor made a motion to find Mr. and Mrs. Pell in violation and to continue this case to the August 17, 2010 Hearing; seconded by Mr. Gerhartz. Motion passed unanimously upon roll call vote 5-0.

C2010-0320: Michael & Lisa Moody 800 Conrad Drive

Permitting or causing to be permitted storage of two (2) or more pieces of major recreational equipment upon the subject property in violation of the Land Development Regulations §802.00 Storage on Residential Lots.

Officer Bobelak stated this case is in compliance.

Ms. Arvidson made a motion to find Michael and Lisa Moody in compliance; seconded by Ms. Cooley. Motion passed unanimously upon roll call vote 5-0.

VI. NEW BUSINESS:

None

VII. REPEAT BUSINESS:

None

A motion was made to adjourn; Mr. Gerhartz interjected with a request for discussion. Discussion between the Board Members and code enforcement staff ensued regarding the City's Sign Ordinance and methods of enforcement.

VIII. ADJOURNMENT:

Mr. Gerhartz made the motion to adjourn; seconded by Ms. Arvidson. All agreed and the hearing adjourned at 5:26 pm.