

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD  
HEARING HELD AT 4:30 P.M.  
July 15<sup>th</sup>, 2008  
UTILITIES COMMISSION, DEBERRY ROOM, 3<sup>RD</sup> FLOOR, 200 CANAL STREET,  
NEW SMYRNA BEACH, FLORIDA

The Hearing of July 15<sup>th</sup>, 2008 was called to order at 4:30 p.m. Answering to roll call:

Carol Kerrigan, Chairperson  
John Shelby, Vice Chairperson  
Michael Slayton  
Pat Arvidson  
Keith Gerhartz  
Ken Taylor

Also present were Code Enforcement Supervisor Lynne Kunkle, Code Enforcement Officer Barbara Bobelak, Assistant City Attorney Greg McDole, Development Services Director Mark Rakowski, Chief Building Official Richard McFadden, Chief Planner Gail Henrikson, City Horticulturist Marissa Moore, Engineering Technician Michelle Martin and Administrative Specialist Claudia Soulie. Board member Jay Crocker was absent.

**DISCLOSURE OF EX PARTE COMMUNICATIONS:**

Mr. Slayton stated that he was approached by somebody involved with the property at 602 N. Atlantic Ave., Bldg. 2, in regards to getting an extension on his compliance time set by the Code Board at the June 2008 hearing and Mr. Slayton referred him to Code Enforcement Staff.

**APPROVAL OF MINUTES**

**Mr. Slayton made the motion to approve the minutes of the May 20<sup>th</sup>, 2008 hearing; seconded by Mr. Shelby. Motion carried on roll call vote 6- 0.**

**SWEARING OF CITY STAFF:**

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

**OLD BUSINESS:**

**C2008-0110: Michael A. Monette, Sr. & Marie J. Monette Cheston Street**

**PARCEL ID: 7440-12-00-0022, LEGAL DESCRIPTION: N 133.50 FT LOT 9 EXC W 10 FT CAMARY MAUD GROVES SEC 3 S & W OF NEW ELEANORE AVE & PART OF FORMER ELEANOR AVE BETWEEN SEC 2 & 3 PER OR 4094 PGS 2639-2642 PER OR 5693 PGS 3670-3671**

- (A) Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of §38-111. of the City Code of Ordinances.
- (B) Permitting or causing to be permitted the operation of a business without having paid the required business license tax in violation of §74-146. of the City Code of Ordinances.
- (C) Permitting or causing to be permitted the operation of a business (storage and rental) without an approved site plan in violation of §303.01 of the Land Development Regulations.
- (D) Permitting or causing to be permitted filling of low lot areas within the required yard areas without the required Stormwater Management permit in violation of §604.02 B. (3) i. of the Land Development Regulations.
- (E) Permitting or causing to be permitted recreational equipment to be used as living, sleeping or housekeeping purposes in violation of §802.06 of the Land Development Regulations.

April 15, 2008: Case continued until the 15<sup>th</sup> day of July, 2008.

No one was present to represent this case.

Ms. Bobelak submitted pictures of the property to the Board and stated that no changes had occurred since the last hearing.

The Code Board asked questions pertaining to the photos and a possible compliance timeframe for items A - E.

Ms. Bobelak stated that Mr. Monette was given a date when he had to have the necessary siteplan(s) submitted by. Ms. Bobelak continued that as of today he had not complied nor been in touch with City Staff.

Ms. Bobelak recommended the Code Board find the property in violation and levy a per-day fine.

**Mr. Taylor made the motion to find the above case in violation and to give Mr. Monette ten (10) days to come into full compliance or face a fine of \$100 per day for each and every day the violations exist; seconded by Mr. Gerhartz. Motion carried on roll call vote 6-0.**

**NEW BUSINESS:**

**C2007-0779: Kevin G. Wynne 313 Normandy Ave. [POSTED 6.20.08]**

Permitting or causing to be permitted construction (deck & trellis) without the required permit in violation of §26-171. of the City Code of Ordinances.

No one was present to represent this case. Mr. Richard McFadden was sworn for testimony.

Ms. Bobelak submitted photos to the Code Board showing that the property had been posted on June 20<sup>th</sup>, 2008 and the trellis and decking in question. She showed the photos to Mr. McFadden for validation and he concurred.

Mr. McFadden stated that the owner of the property had submitted several plans and permit applications in 2006 and 2007, which were all denied due to a lack of information on the plans. The latest re-submittal occurred in July of 2008.

Ms. Bobelak recommended the Code Board find the property in violation and fine them \$50 per day should they fail to comply with the Board's Order.

**Mr. Gerhartz made the motion to find this case in violation and give the respondent fourteen (14) days from today's date to obtain the required permit(s) or face a fine of \$50 per day for each and every day the violations exist; seconded by Mr. Shelby. Motion carried on roll call vote 6-0.**

**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.

No one was present to represent this case.

Ms. Bobelak submitted pictures taken on 10/26/07 that showed that 19 trees had been removed from the above property. Staff also submitted an aerial shot showing the canopy cover prior to the tree removal.

Mr. Gerhartz asked for clarification on how the fines/fees for unauthorized tree removal were being calculated. Ms. Kunkle deferred this question to Marissa Moore, City Horticulturist, who was sworn for testimony. Ms. Moore explained what cross sectional area was normally being used and that this was very difficult in this case, since these trees had been cut very close to the ground. Mr. Rakowski, Director of Development Services, was sworn for testimony and clarified the formula used and how many replacement trees would be required in this matter.



Michelle Martin, Engineering Technician was sworn for testimony and stated that the Engineering Department would have to charge Mr. Waters double inspections fees, but that the Building Department had agreed to waive their double permitting fees and only the Engineering Department would review the permits. Ms. Martin offered to expedite these permits as much as she could.

**Mr. Slayton made the motion to continue this case until the August 19<sup>th</sup>, 2008 hearing; seconded by Ms. Arvidson. Motion carried on roll call vote 6-0.**

**C2008-0542: Williams Real Estate & Management Sugar Mill Dr. & Pioneer Trail**

- (A) Permitting or causing to be permitted more than the allowable number of real estate signs upon the subject property in violation of §604.14 C. of the Land Development Regulations. (Parcel numbers 7315-03-00-00C1 and 7315-03-00-00C4)
- (B) Permitting or causing to be permitted the erection of real estate signs in excess of five and one-half square feet without a permit in violation of §604.14 C. of the Land Development Regulations. (Parcel numbers 7315-03-00-00C1 and 7315-03-00-00C4)
- (C) Permitting or causing to be permitted banner signs on the subject property in violation of §604.14 G (1) 7. of the Land Development Regulations located at the entrance of Sugar Mill Gardens Subdivision on Sugar Mill Drive.
- (D) Permitted or causing to be permitted off-site directional signs on vacant lots in violation of §604.14 G (1) 15. of the Land Development Regulations located on parcel 7315-03-00-0990.

Mr. Dale Williams, Williams Real Estate, was present and sworn for testimony. Mr. Williams stated that he had been in touch with City staff soon after he had received the violation notice and some issues had been rectified already. Mr. Williams testified that he felt that it would be a hardship for larger subdivisions not to be allowed to use directional signage to guide potential buyers to the model homes. Mr. Williams also said he felt that the City's sign ordinance should be revised.

Ms. Bobelak showed photos depicting the signs in question and had Mr. Williams validate the photos.

**Mr. Slayton made the motion to find this case in violation and give the respondent five (5) business days to come into compliance or face a fine of \$75 per day for each and every day the violations exist; seconded by Ms. Arvidson. Motion carried on roll call vote 6-0.**

**REPEAT BUSINESS:**

None

**DISCUSSION:**

**ADJOURNMENT:**

**Mr. Slayton made the motion to adjourn at 5:30 pm and all agreed.**

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:

Claudia Soulie  
Administrative Specialist  
% City Hall  
210 Sams Avenue  
New Smyrna Beach, FL 32168-9985  
Telephone: 386.424.2265  
Fax: 386.424.2148