

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING HELD AT 4:30 P.M.
SEPTEMBER 18, 2007
UTILITIES COMMISSION, DEBERRY ROOM, 3RD FLOOR, 200 CANAL STREET,
NEW SMYRNA BEACH, FLORIDA

The Hearing of September 18, 2007 was called to order at 4:30 p.m. Answering to roll call:

Michael E. Slayton, Chairperson

John Shelby, Vice Chairperson

Maggie Hawk (Absent)

Jay Crocker

Elliott Hoffman

Carol Kerrigan (Absent)

Thomas Wheeler

Also present were Code Enforcement Supervisor Lynne Kunkle, Code Enforcement Officer Barbara Bobelak, Assistant City Attorney Greg McDole, and Administrative Specialist Tammy Dickerson.

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.

None

APPROVAL OF MINUTES

Hearing held on August 21, 2007

Jay Crocker made a motion to accept the Minutes of the August 21, 2007 hearing; seconded by John Shelby. Motion carried unanimously on roll call vote 5-0.

Workshop held on May 30, 2007

Jay Crocker made a motion to accept the Minutes of the Workshop held on May 30, 2007; seconded by John Shelby. Motion carried unanimously on roll call vote 5-0.

C2007-0336:
[IN COMPLIANCE 9.06.07]

James C. McCague

[SERVED]

Violation of §26.171. of the City Code of Ordinances by permitting or causing to be permitted construction (decks) without the required permit located at 2611 Belmont Avenue.

Violation of §802.06 of the Land Development Regulations by permitting or causing to be permitted recreational equipment to be used as living, sleeping or housekeeping purposes located at 2611 Belmont Avenue.

C2007-0415:
[IN COMPLIANCE 9.10.07]

James & Karen Owens, Tr.

[SERVED]

Violation of §26-171. of the City Code of Ordinances by permitting or causing to be permitted construction (fence installation) without the required permit located at 3208 S. Atlantic Avenue.

C2007-0552:
[IN COMPLIANCE 9.07.07]

Lynn & Judith Jennings

[SERVED]

Violation of §504.01. L. of the City Code of Ordinances by permitting or causing to be permitted short-term rentals in an R-1 Zoning District located at 1202 Commodore Drive.

C2007-0720:

Michael & Tammy Chisholm

[SERVED]

Permitting or causing to be permitted a business operation (home occupation) that is not permitted in the R-2 Zoning District per the Land Development Regulations located at 104 Inlet Shores Drive.

Michael Chisholm was present and sworn for testimony.

Mr. Chisholm testified that he disagreed with the allegations and that he was providing a service to the community by picking up discarded items and hauling them to Holly Hill. Further, Mr. Chisholm testified that the items he picks up sometimes remain at his home for a few hours or a day before being hauled away.

Ms. Kunkle asked that Mr. Chisholm verify pictures taken of his property at various times over the past one year and submitted the pictures to the Board for their review.

Ms. Kunkle testified that this is a business operation that is not permitted in the R-2 Zoning District. A home occupation is permitted, and that you may use up to 20% of the cumulative floor area of the home, but you cannot change the residential character of the home by adding a separate entrance, sign, or storage on the property. Further Ms.

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Kunkle pointed out that as the Board reviews the pictures; they can see how the items change, and that this case was based on the operation of a business in lieu of the previous case that was made on the storage of discarded and abandoned waste material.

David Owens was sworn for testimony.

Mr. Owens testified to the condition of the property and that this is a continuing problem for the neighborhood and submitted pictures, from the previous week, of Mr. Chisholm's property for the Board's review.

James Speer was sworn for testimony.

Mr. Speer also testified to the condition of the property and the ongoing problem.

Jay Lovett was sworn for testimony.

Mr. Lovett explained that in his opinion that selling materials is a business operation.

Jay Crocker made a motion finding that Mr. Chisholm has not violated the Ordinance as stated; seconded by John Shelby. Motion carried 4-1 with Chairperson Slayton casting the dissenting vote.

REPEAT BUSINESS:

None

DISCUSSION:

Mr. Crocker asked if the workshop with the City Commission had been scheduled. Ms. Kunkle explained to the Board that the request had been sent to the City Clerk's office.

Mr. Shelby inquired about the status of the Lot Maintenance Ordinance. Ms. Kunkle responded that the proposed ordinance had been sent to the City Manager for review and as an option in the previous case.

ADJOURNMENT:

Mr. Crocker made a motion to adjourn; All agreed and the Board adjourned at 5:09 p.m.

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
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