

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING HELD AT 4:30 P.M.
MAY 16TH, 2006
UTILITIES COMMISSION, 3RD FLOOR, DEBERRY ROOM, 200 CANAL STREET
NEW SMYRNA BEACH, FLORIDA

The Hearing of May 16th, 2006 was called to order at 4:32 p.m. Answering to roll call:

Michael E. Slayton (Chairperson)

John Shelby (Vice Chairperson)

Maggie Hawk

Jay Crocker

Elliott Hoffman

Susan Ellis (Absent)

Carol Kerrigan (Absent)

Also present were Code Enforcement Supervisor Lynne Kunkle, Code Enforcement Officer Barbara Bobelak, City Attorney Frank Gummey and Administrative Specialist Inga Campbell.

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.

Chairperson Slayton stated for the record there were no disclosures.

APPROVAL OF MINUTES

April 18th, 2006

Jay Crocker made a motion to approve the minutes as written; seconded by Elliott Hoffman. Motion passed unanimously on roll call vote 5-0.

SWEARING OF CITY STAFF:

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

OLD BUSINESS:

C2006-0107: Keith G. Schultz

[Served]

Violation of §38-31 of the City Code of Ordinances by permitting or causing to be permitted storage of inoperable vehicles upon the subject property located at 2549 Crestwood Avenue.

Violation of §38-111 of the City Code of Ordinances by permitting or causing to be permitted discarded and abandoned waste material and weeds and undergrowth upon the subject property located at 2549 Crestwood Avenue.

April 18, 2006: The Board found this case in violation and gave Mr. Schultz fifteen (15) days to come into compliance or face a fine of \$50.00 per day for each and every day this case is not in compliance after May 3, 2006. The fine calculated to date totals \$650.00 for a total of thirteen (13) days.

Chairperson Slayton stated for the record there was no one present to represent this case.

Ms. Bobelak stated Keith Schultz signed the green card on April 22, 2006 and there had been no contact with the property owner. Ms. Bobelak testified Mr. Schultz had removed a couple of the vehicles and attempted to clean up some of the waste material. Ms. Bobelak stated she took photographs of the property today showing the accomplishments. Ms. Bobelak submitted the photographs to the Board for their review. *Ms. Bobelak stated there was a fine already running on this property and Staff recommended continuing this case until July 18, 2006 since the property owner had made an attempt.*

Mr. Crocker asked Ms. Bobelak if any of the remedies were completed prior to the drop-dead date.

Ms. Bobelak stated on May 4, 2006 Mr. Schultz had begun the clean-up process and at least two of the vehicles had been removed from the property.

Mr. Crocker asked Ms. Bobelak how many vehicles there were in total.

Ms. Bobelak testified to her knowledge there were four (4) vehicles on the property.

Mr. Crocker stated he was half done on the cars and asked Ms. Bobelak if the other stuff, as discarded waste material and weeds, was being worked on.

Ms. Bobelak stated the property owner is working on the clean up of the waste material.

Chairperson Slayton asked Ms. Bobelak if she had any communications with this property owner.

Ms. Bobelak stated she had had no communications whatsoever with the property owner.

Chairperson Slayton asked Ms. Bobelak if she had made a recommendation.

Ms. Bobelak restated her recommendation was to continue this case until the July 18, 2006 meeting.

Mr. Hoffman asked if the motor home was operational.

Ms. Bobelak stated that vehicle is on the neighbor's property.

Mr. Crocker asked Ms. Bobelak if the red pick-up truck was one of the alleged inoperable vehicles.

Ms. Bobelak stated the red pick-up truck was not listed as one of the inoperable vehicles.

Mr. Crocker stated he would take Ms. Bobelak's word that there was improvement because he could not tell from the photographs.

Jay Crocker made a motion to continue this case until the July 18, 2006 meeting; seconded by John Shelby. Motion passed unanimously on roll call vote 5-0.

NEW BUSINESS:

C2006-0037: Kathy Kerrigan Dowall

[Served]

Violation of §26-171 of the City Code of Ordinances permitting or causing to be permitted construction (exterior stairs) without the required permits located at 321 Faulkner Street.

Chairperson Slayton stated for the record there was no one present to represent this case.

Mr. Crocker stated there was a notation listed on the agenda update stating the green card was not returned by the United States Postal Service (USPS). Mr. Crocker asked Ms. Bobelak if that was still the case at this moment.

Ms. Bobelak stated that on the USPS online tracking system showed that this had been signed for on April 22, 2006 giving jurisdiction.

Ms. Bobelak stated the property owner had been in touch with her and stated paperwork had been submitted to the Building Department. Ms. Bobelak stated she checked the permitting system; however, there had been nothing entered showing the property owner had submitted paperwork. Ms. Bobelak stated the property owner called again stating the permit package would be submitted on the following Monday and as of today the package had still not been submitted.

Chairperson Slayton asked Ms. Bobelak if any of the building inspectors been out to inspect the stairs.

Ms. Bobelak stated to her knowledge the building inspectors had not been to the residence.

Chairperson Slayton asked if these stairs had been built to code.

Ms. Kunkle stated Staff had no idea if these stairs were built to code at this time.

Mr. Crocker stated if these stairs were a safety hazard this Board might want to expedite its remedial measures.

Ms. Bobelak submitted photographs for the Board's review taken by her today.

Chairperson Slayton asked Ms. Bobelak if she had spoken with the property owner after the permit package was supposed to be submitted.

Ms. Bobelak testified she had not spoken with the property owner after that conversation.

Mr. Hoffman asked Ms. Bobelak if these were replacement stairs or new stairs.

Ms. Bobelak stated she was unaware if there were stairs there previously.

Ms. Kunkle stated there were stairs there previously and these were replacement stairs.

Mr. Hoffman asked Ms. Bobelak if there was an ordinance regarding second floor stairs stating the stairs must be steel (like a fire escape) or if wood was allowed.

Ms. Kunkle stated to her knowledge she had no idea.

Mr. Hoffman stated if the property owner did not build these stairs she must have had a contractor.

Ms. Bobelak testified the property owner stated she had a contractor but Staff is unsure as to who built and installed the stairs.

Ms. Kunkle stated she witnessed the property owner and a gentleman there when the stairs were being erected when Staff asked for a Stop Work Order to be placed there by the Building Department to determine if the person doing the work was a handyman or a licensed contractor. Ms. Kunkle stated if it were a licensed contractor who built the stairs, there would have been no problem getting the permit. Ms. Kunkle stated she dealt with a specific gentleman one day when Ms. Bobelak was not there who brought in the application package for the permit but did not realize the contractor had to have his signature notarized and was to bring it back the following Monday or Tuesday at the latest and never showed up again. Ms. Kunkle stated she did not have specific dates and this was prior to Ms. Bobelak dealing directly with the property owner.

Ms. Bobelak stated Staff's recommendation would be to give the property owner five (5) days for her to get in touch with the Building Inspector to get started on the paperwork and after that give an additional thirty (30) days to complete the project.

Mr. Crocker asked Ms. Bobelak if this Board were to do what Staff recommended how would the property owner receive word that this is what the Board ordered.

Ms. Bobelak stated the property owner would receive a Board Order that states what this Board required to bring this property into compliance.

Mr. Crocker asked if the property owner would receive this Board Order within five (5) days.

Ms. Bobelak stated the property owner would have five (5) days from receipt of the Board Order.

Ms. Kunkle stated she wanted to add to her testimony that it was March 3, 2006 when she spoke with the gentleman who stated he would return the package with the notarized contractor's signature and did not.

John Shelby made a motion giving the property owner five (5) days from receipt of the Board's Order to start the permitting process with the Building Department or face a \$20.00 per day fine and have the project completed by the July 18, 2006 meeting.

Mr. Hoffman asked Mr. Shelby if he was stating the fine would be per day until the paperwork was completed with the City.

Mr. Crocker stated he understood the motion to be \$20.00 per day until the property owner contacts the Building Department.

Seconded by Elliott Hoffman. Motion passed unanimously on roll call vote 5-0.

C2006-0094: Jimmie Kaye Walker

[Served]

Violation of §74-146 of the City Code of Ordinances by permitting or causing to be permitted a business operation (Courtyard) without having paid the occupational license tax located at 501 S. Dixie Freeway.

Violation of Ordinance 1-91 of the Land Development Regulations by permitting or causing to be permitted the prohibited outdoor display and storage in a B-3 Zoning District located at 501 S. Dixie Freeway.

Chairperson Slayton stated for the record there was no one present to represent this case.

Ms. Bobelak stated Kaye Walker signed the certified return receipt on May 3, 2006. Ms. Bobelak stated Ms. Walker had been in touch with Tim Murphy, Zoning Technician for the City and her paperwork had been started for the occupational license. Ms. Bobelak stated the outdoor displays had been removed. Ms. Bobelak recommended continuing this case until July 18, 2006.

Maggie Hawk made a motion to continue this case until the July 18, 2006 meeting; seconded by Elliott Hoffman. Motion passed unanimously on roll call vote 5-0.

C2006-0236: Laura Johnson

[Served]

Violation of §26-171 of the City Code of Ordinances by permitting or causing to be permitted construction (fence) without the required permits located at 214 Ocean Drive.

Chairperson Slayton stated for the record there was no one present to represent this case.

Ms. Bobelak stated confirmation from USPS.com that this notification was delivered on April 22, 2006. Ms. Bobelak stated Staff had been in touch with the fence company that installed the fence who is working with the property owner to bring in the surveys and begin the permitting process. Ms. Bobelak stated this was a miscommunication between the fence contractor and the property owner. Ms. Bobelak recommended continuing this case until the July 18, 2006 meeting.

Mr. Crocker made a motion to continue this case until the July 18, 2006 meeting.

Mr. Hoffman asked Ms. Bobelak if this fence conformed to the height and width and all that of the City.

Ms. Bobelak stated it did comply being a four (4) foot fence that appears to be on the property line, which is why the survey is necessary. Ms. Bobelak stated the fence contractor did bring in a survey and the fence contractor was to come in this afternoon but had not arrived prior to this meeting.

Mr. Shelby asked if this fence contractor was licensed.

Ms. Bobelak stated the fence contractor was licensed and registered with the City.

Seconded by John Shelby. Motion passed unanimously on roll call vote 5-0.

DISCUSSION:

Mr. Crocker stated after looking through the minutes and asked if it would be too terribly onerous to ask that the minutes reflect the Staff's recommendation because he would like to read back and know whether the Board followed the recommendation of Staff.

Ms. Campbell stated if Staff's recommendation was stated for the record it would be typed within the minutes.

ADJOURNMENT:

Jay Crocker made a motion to adjourn; seconded by John Shelby. All agreed and the Board adjourned at 4:49 pm.

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:

Inga Campbell
Administrative Specialist
% City Hall
210 Sams Avenue

New Smyrna Beach, FL 32168-9985
Telephone: 386.424.2242
Fax: 386.424.2143