

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING HELD AT 4:30 P.M.
FEBRUARY 15th, 2005
CITY COMMISSION CHAMBERS, 210 SAMS AVENUE
NEW SMYRNA BEACH, FLORIDA

The Hearing of February 15th, 2005 was called to order at 4:30 p.m. Answering to roll call:

Maggie Hawk, Chairperson
John Shelby, Vice Chairperson
Michael E. Slayton
Jay Crocker
Elliott Hoffman
Carol Kerrigan
Susan Ellis

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

APPROVAL OF MINUTES

January 18th, 2005

Jay Crocker made a motion to approve the minutes; seconded by John Shelby. Motion passed unanimously on roll call vote 7-0.

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

OLD BUSINESS:

CASE NO: C2004-0354 Tiro Beachwear, Inc.
701 3rd Avenue
New Smyrna Beach, FL 32169

Violation Location: Saxon Drive

- A. Permitting or causing to be permitted the removal of 14 trees without the required tree removal permit.

Chairperson Hawk noted for the record that no one was present to represent this case.

Ms. Kunkle requested a continuance until the March 15th, 2005 meeting based on a conversation she had earlier that day with the owner.

Michael Slayton made a motion to continue the case until the March 15th, 2005 meeting; seconded by John Shelby. Motion passed unanimously on roll call vote 7-0.

CASE NO: C2004-0649 Michael J. Reed
909 Canal Street
New Smyrna Beach, FL 32168

Violation Location: 909 Canal Street

- A. Permitting or causing to be permitted dirt bike activities on the subject property.
- B. Permitting or causing to be permitted the construction of ramps and the creation of a dirt bike track upon the subject property.
- C. Permitting or causing to be permitted ramps in the required side yard.

Michael J. Reed was present and sworn for testimony.

Ms. Kunkle submitted pictures she had taken earlier that day for the Board's review and testified that Mr. Reed was in compliance.

Jay Crocker made a motion to find the subject property was in compliance; seconded by John Shelby. Motion carried unanimously on roll-call vote 7-0.

CASE NO: C2004-0962

R & B LLC
96 Cedar Dune Drive
New Smyrna Beach, FL 32169

Violation Location: 690 3rd Avenue

- A. Permitting or causing to be permitted discarded and abandoned waste material upon the subject property.
- B. Permitting or causing to be permitted the placement of garbage containers at the roadside for pickup prior to sundown on the day next proceeding the regularly scheduled collection day.
- C. Permitting or causing to be permitted deviation from the approved site plan:
 - 1. The parking lot is not completely paved and striped.
 - 2. A portion of the paved parking lot is covered with dirt.
 - 3. The landscaping has not been completed and a portion of the landscaping that has been installed has not been properly maintained.
 - 4. Provide the revised landscape sheet to Development Services.
 - 5. The bike rack has not been installed.
 - 6. The fence, six feet in height, has not been erected along the north property line.
 - 7. The storage/construction shed must be removed.
 - 8. The bumper stop at parking space number seven (7) is broken and needs replaced.
 - 9. Provide access to the dumpster (blocked by curbing which needs to be removed) and remove the construction debris from the dumpster enclosure so as to free this area for the storage of trash and garbage.
 - 10. Provide ten (10) parking spaces along the south property line or amend the site plan by removing two (2) seats.

Chairperson Hawk noted for the record that no one was present to represent this case.

Ms. Kunkle testified that she had spoken with the owner earlier that day and he was not feeling well and unable to attend the hearing.

Further, Ms. Kunkle discussed the list of violations with the Board explaining which ones are in compliance and that the owner was requesting a continuance because he was unable to get a paving contractor.

Tom Diggins, a neighbor, was present and sworn for testimony. Mr. Diggins submitted pictures of Beachside Tavern for the Board's review and discussed the issues and his feelings regarding the matter.

John Shelby made a motion to impose the fine and authorize the City Attorney to record a lien; seconded by Carol Kerrigan. Motion carried unanimously on roll-call vote 7-0.

CASE NO: C2004-1035 Advanced Mobile Systems
Sebastian Paris
426 S. Myrtle Avenue
New Smyrna Beach, FL 32168

Violation Location: 502 N. Dixie Freeway

- A. Permitting or causing to be permitted prohibited signs (banner signs) upon the subject property in violation of §604.14 G (1) 7. of the Land Development Regulations.
- B. Permitting or causing to be permitted more than the maximum allowable number of signs upon the subject property in violation of §604.14 G (1) c. of the Land Development Regulations.

Chairperson Hawk noted for the record that no one was present to represent this case.

Ms. Bobelak withdrew the case.

CASE NO: C2004-1081 Ed and Donna Ruby
Motts Indian River Lodge, Inc.
PO Box 817
New Smyrna Beach, FL 32168

Violation Location: 1210 S. Riverside Drive

- A. Permitting or causing to be permitted a vacant structure and premises to exist that has not been maintain in a clean, safe, secure, and sanitary condition in violation of §301.3 of the International Property Maintenance Code, 1998 Edition.
- B. Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of §302.4 of the International Property Maintenance Code, 1998 Edition.

Ed Ruby was present and sworn for testimony.

Mr. Ruby testified that the demolition contractor had moved the heavy equipment onto the site and that the debris and gazebo had been cleaned up and the lot had been mowed so he felt he was in compliance.

Ms. Kunkle explained to the Board that Mr. Ruby now has an active demolition site, and agreed that Mr. Ruby was in compliance.

Michael Slayton made a motion finding the Indian River Lodge in compliance; seconded by John Shelby. Motion carried unanimously on roll-call vote 7-0.

NEW BUSINESS:

CASE NO: C2005-0006 Dora Brown, Life Estates
538 Julia Street
New Smyrna Beach, FL 32168

Violation Location: 538 Julia Street

- 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 discarded and abandoned waste material upon the subject property in violation of §38-113 of the City Code of Ordinances.

Chairperson Hawk noted for the record that no one was present to represent this case.

Officer Bobelak reported the subject property is in compliance.

CASE NO: C2005-0007 Floretta Smith
900 Roper Street
New Smyrna Beach, FL 32168

Violation Location: 540 Julia Street

- 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 discarded and abandoned waste material upon the subject property in violation of §38-113 of the City Code of Ordinances.

Chairperson Hawk noted for the record that no one was present to represent this case.

Officer Bobelak informed the Board this case is in compliance.

CASE NO: C2005-0049 Franklin & Carol Stuart
C/O N & R Autobroker
539 N. Dixie Freeway
New Smyrna Beach, FL 32168

Violation Location: 539 N. Dixie Freeway

- A. Permitting or causing to be permitted major recreational equipment to be used as living, sleeping or housekeeping purposes in violation of §802.06 of the Land Development Regulations.
- B. Permitting or causing to be permitted a commercial building to be used a living quarters in violation of the Land Development Regulations, Ordinance No. 1-91 – B-3 Highway Service Business District.

Chairperson Hawk noted for the record that no one was present to represent this case.

Officer Bobelak reported the subject property is in compliance.

CASE NO: C2005-0054 Joey Price
603 Downing Street
New Smyrna Beach, FL 32168

Violation Location: 605 Downing Street

- A. Permitting or causing to be permitted storage of construction equipment in a residentially zoned district in violation of the Land Development Regulations Ordinance 1-91 – R-5 Multi-Family Residential Zoning District.
- C. Permitting or causing to be permitted the storage of commercial vehicles in excess of one (1) ton rated capacity in violation of §802.03 D. of the Land Development Regulations.

Chairperson Hawk noted for the record that no one was present to represent this case.

Officer Bobelak reported the subject property is in compliance.

CASE NO: C2005-0056 Ernest Carter & Rhonda Spellers
538 N. Myrtle Avenue
New Smyrna Beach, FL 32168

Violation Location:

Vacant lots at 911 Roper
Parcel Number: 7418-03-03-0360

Vacant lots on Brook Street
Parcel Number: 7418-03-03-0310

- A. Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of §38-112. of the City Code of Ordinances.

Chairperson Hawk noted for the record that no one was present to represent this case.

Ms. Kunkle reported the subject property is in compliance.

CASE NO: C2005-0059 Vanguard Property Mgmt., Inc.
300 River Bluff Dr.
Ormond Beach, FL 32174

Violation Location: 536 Mary Avenue

- A. Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of §38.112. of the City Code of Ordinances.

Chairperson Hawk noted for the record that no one was present to represent this case.

Ms. Kunkle submitted pictures of the overgrown lot to the Board for their review and testified that she had taken the pictures earlier that day.

Michael Slayton made a motion to find the subject property in violation and to give the owner 10 days to bring the property into compliance or face a fine of \$100.00 per day for each and every day the property remains in violation; seconded by John Shelby. Motion passed unanimously on roll call vote 7-0.

CASE NO: C2005-0060

Mabel Russ
601 N. Volusia Street
St. Augustine, FL 32095

Violation Location: 538 Mary Avenue

- A. Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of §38-112. of the City Code of Ordinances.

Chairperson Hawk noted for the record that no one was present to represent this case.

Ms. Kunkle submitted pictures of the overgrown lot to the Board for their review and testified that she had taken the pictures earlier that day.

John Shelby made a motion to find the subject property in violation and to give the owner 10 days to bring the property into compliance or face a fine of \$100.00 per day for each and every day the property remains in violation; seconded by Jay Crocker. Motion passed unanimously on roll call vote 7-0.

CASE NO: C2005-0061

Marian Clark
1920 Parrish Street
Philadelphia, PA 19130-2021

Violation Location: 474 Palm Street

- A. Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of §38-112. of the City Code of Ordinances.

Chairperson Hawk noted for the record that no one was present to represent this case.

Ms. Kunkle submitted pictures of the overgrown lot to the Board for their review and testified that she had taken the pictures earlier that day.

The Board questioned Ms. Kunkle as to the height of the weeds and undergrowth and Ms. Kunkle testified that the weeds and undergrowth were at least knee high in some areas of the lot.

Michael Slayton made a motion to find the subject property in violation and to give the owner 10 days to bring the property into compliance or face a fine of \$100.00 per day for each and every day the property remains in violation; seconded by John Shelby. Motion passed on roll call vote 5-2 with Carol Kerrigan and Jay Crocker as the dissenting votes.

CASE NO: C2005-0063

Raymond Davis
317 Sheldon Street
New Smyrna Beach, FL 32168-6654

Violation Location: 449 Palm Street

- A. Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of §38-112. of the City Code of Ordinances.

Chairperson Hawk noted for the record that no one was present to represent this case.

Ms. Kunkle submitted pictures of the overgrown lot to the Board for their review and testified that she had taken the pictures earlier that day.

Jay Crocker made a motion to find the subject property in violation and to give the owner 10 days to bring the property into compliance or face a fine of \$100.00 per day for each and every day the property remains in violation; seconded by Carol Kerrigan. Motion passed unanimously on roll call vote 7-0.

CASE NO: C2005-0064

Freddie Hay
520 Mary Avenue
New Smyrna Beach, FL 32168-6651

Violation Location: 435 Palm Street

- A. Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of §38-112. of the City Code of Ordinances.

Chairperson Hawk noted for the record that no one was present to represent this case.

Ms. Kunkle submitted pictures of the overgrown lot to the Board for their review and testified that she had taken the pictures earlier that day.

Jay Crocker made a motion to find the subject property in violation and to give the owner 10 days to bring the property into compliance or face a fine of \$100.00 per day for each and every day the property remains in violation; seconded by John Shelby. Motion passed unanimously on roll call vote 7-0.

DISCUSSION:

None

ADJOURNMENT:

There being no further business the Hearing adjourned at 5:30 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:

Amy Thomas,
Administrative Specialist
% City Hall
210 Sams Avenue
New Smyrna Beach, FL 32168-9985
Telephone: 386.424.2265
Fax: 386.424.2143