

**MINUTES OF THE CITIZEN CODE ENFORCEMENT BOARD
HEARING HELD 4:30 P.M.
MARCH 16TH, 2004
CITY COMMISSION CHAMBERS, 210 SAMS AVENUE
NEW SMYRNA BEACH, FLORIDA**

The Hearing of March 16th, 2004 was called to order at 4:30 p.m. Answering to roll call:

Maggie Hawk, Chair Person
John Shelby, Vice Chair Person
Michael Slayton
Jay Crocker
Susan Ellis
Elliott Hoffman
Carol Kerrigan

Also present were Code Enforcement Supervisor Regina Lynne Kunkle, Code Enforcement Officer Barbara Bobelak, City Attorney George Beazley and Cindy Steele, Administrative Specialist

APPROVAL OF MINUTES

February 17th, 2004

Jay Crocker made a motion to approve the minutes of the Hearing held on February 17th, 2004; seconded by. Motion carried unanimously on roll call vote 7-0.

ELECTION OF OFFICERS

Susan Ellis made a motion to retain Maggie Hawk as Chairperson; seconded by John Shelby. Motion carried unanimously on roll call vote 7-0.

Michael Slayton made a motion to retain John Shelby as Vice-Chair; seconded by Maggie Hawk. Motion carried unanimously on roll call vote 7-0.

Regina Lynne Kunkle, Code Enforcement Supervisor was sworn for testimony.

OLD BUSINESS:

CE-032-01-02O: Raymond Lubrani
803 Oakwood Avenue

New Smyrna Beach, FL 32169
Violation Location: 803 Oakwood Avenue

- A. Permitting or causing to be permitted construction without the required permit(s).
- B. Permitting or causing to be permitted the storage of building materials on a residential lot for which a building permit is not in effect.
- C. Permitting or causing to be permitted the storage of vehicles without current license plates on a residentially zoned lot.
- D. Permitting or causing to be permitted the storage of two (2) pieces of major recreational equipment in the front yard.
- E. Permitting or causing to be permitted discarded and abandoned waste material upon the subject property.
- F. Permitting or causing to be permitted the open storage of inoperable vehicles.

Mr. Raymond Lubrani was present to represent this case and was sworn for testimony.

Mr. Lubrani stated he has a purchase offer for the two 50-foot by 130-foot lots.

Sue Perry was present to represent this case and was sworn for testimony.

Ms. Perry stated the prospective buyer wants to demolish the existing building and construct three units, but current zoning allows only one single-family home on each lot.

Jay Crocker made a motion to continue the case until September 21st, 2004 to allow for a small-scale amendment; seconded by Carol Kerrigan. Motion carried unanimously on roll call vote 7-0.

CE2003018C: Lizzie Colley, Estate
C/O Dorothy C. Miller
P.O. Box 8371
Ft. Lauderdale, FL 33310-8371

Violation Location: 549 Charlovix Street

- A. Permitting or causing to be permitted weeds and undergrowth upon the subject property.

Ms. Hawk stated for the record no one is present to represent this case.

Ms. Kunkle reported the lien on the property was recorded on September 13th, 2003.

Michael Slayton made a motion to authorize the City Attorney to foreclose on the property; seconded by Carol Kerrigan. Motion carried unanimously on roll call vote 7-0.

CE-035-01-02P: Jennie Lee Tobias &
Johnnie Lee Logan
424 North Palm Street
New Smyrna Beach, FL 32168

Violation Location: 424 North Palm Street

- A. Permitting or causing to be permitted weeds and undergrowth upon the subject property.

Ms. Hawk stated for the record no one is present to represent this case.

Ms. Kunkle reported the lien on the property was recorded on September 13th, 2003.

John Shelby made a motion to authorize the City Attorney to foreclose on the property; seconded by Michael Slayton. Motion carried unanimously on roll call vote 7-0.

CE2003028P: Carol Baker
512 Duss Street
New Smyrna Beach, FL 32168

Violation Location: 423 Palm Street

- A. Permitting or causing to be permitted a dwelling unit to exist without sanitary facilities all maintained in good working condition and properly connected to an approved water and sewer system, and without every plumbing fixture and water and waste pipe properly installed and maintained in good sanitary working condition free from defects, leaks, and obstructions.
- B. Permitting or causing to be permitted a dwelling unit to exist without a supply of both cold and hot water connected to the kitchen sink, lavatory, and tub or shower.
- C. Permitting or causing to be permitted a dwelling unit to exist without heating facilities which are properly installed and maintained in a safe and good working condition and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at

every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 120°F (49°C).

- D. Permitting or causing to be permitted a dwelling unit to exist without heating facilities which are properly installed, maintained in safe and good working conditions, and are capable of safely and adequately heating all habitable rooms and bathrooms.
- E. Permitting or causing to be permitted a dwelling unit to exist without a kitchen containing (1) food preparation surfaces impervious to water and free from defects which could trap food or liquid, (2) shelving, cabinets or drawers for the storage of food and cooking and eating utensils, (3) freestanding or permanently installed cookstove, and (4) mechanical refrigeration equipment for the storage of perishable foodstuffs.
- F. Permitting or causing to be permitted a dwelling unit to exist without adequate garbage disposal facilities or garbage storage containers.
- G. Permitting or causing to be permitted a dwelling unit to exist without an approved listed smoke detector.
- H. Permitting or causing to be permitted a dwelling unit to exist without (1) every habitable room or space containing two separate and remote receptacle outlets, (2) bedrooms having, in addition, at least one wall switch controlled lighting outlet, (3) the kitchen, having two separate and remote receptacle outlets and a wall or ceiling lighting outlet controlled by a wall switch, (4) every hall, water closet compartment, bathroom, laundry room or furnace room having at least one ceiling-mounted or wall-mounted lighting outlet and (5) at least one receptacle outlet provided in the bathroom and laundry room.
- I. Permitting or causing to be permitted a dwelling unit to exist without exterior walls being free of holes, breaks, loose or rotting boards or timbers.
- J. Permitting or causing to be permitted a dwelling unit to exist with roofs that are not structurally sound and maintained in a safe manner without defects, which might admit rain or cause dampness in the walls or interior portion of the building.
- K. Permitting or causing to be permitted a dwelling unit to exist without the windows being substantially weathertight, watertight, rodent proof, and in sound working condition and good repair.
- L. Permitting or causing to be permitted a dwelling unit to exist without the window sashes being fully supplied with glass windowpanes or an approved substitute, which are without open cracks or holes.
- M. Permitting or causing to be permitted a dwelling unit to exist without the window sashes being properly fitted and weathertight within the window frame.
- N. Permitting or causing to be permitted a dwelling unit to exist without the windows required for light and ventilation for habitable rooms being capable of being easily opened and secured in position by window hardware.

- O. Permitting or causing to be permitted a dwelling unit to exist without the exterior door(s) being substantially weathertight, watertight, and rodent proof and in sound working condition and good repair.
- P. Permitting or causing to be permitted a dwelling unit to exist without the exterior door(s) being provided with properly installed hardware that is maintained to insure reasonable ease of operation to open, close and secure in an open or closed position.
- Q. Permitting or causing to be permitted a dwelling unit to exist without the exterior door frames being properly maintained and affixed with weather-stripping and thresholds as required to be substantially weather tight, watertight and rodent and insect resistant when the door is in a closed position.
- R. Permitting or causing to be permitted a dwelling unit to exist without exterior door jambs, headers and moldings securely attached to the structure, maintained in good condition without splitting or deterioration that would minimize the strength and security of the door in a closed position.
- S. Permitting or causing to be permitted a dwelling unit to exist without screens on all exterior openable windows and doors used or required for ventilation.
- T. Permitting or causing to be permitted a dwelling unit to exist without the required protective treatment on all exterior wood surfaces.
- U. Permitting or causing to be permitted a dwelling unit to exist with evidence of deterioration of structural elements rendering the structure unsound and incapable of carrying normal loads.

Ms. Carol Baker was present and sworn in for testimony.

Ms. Baker stated she has done a lot of work and she is trying to comply and she will keep trying until it's done. Ms. Baker reported since the last meeting she has applied for the required permits and inspections but has not received them as of this meeting.

Ms. Kunkle reported there were two different orders and fines and the board needed to decide which one to go with.

Michael Slayton made a motion to go with the original order and continue this case until the April 20, 2004 meeting; seconded by John Shelby. Motion carried unanimously on roll call vote 7-0.

CE2003037S: Beachside Realty of Volusia County, Inc.
Susan Hounsom
315 Flagler Avenue
New Smyrna Beach, FL 32169

Violation Location: 707 Sandpiper

- A. Permitting or causing to be permitted the installation of a garage door without the required permit.

Attorney Mark Hall was present to represent Ms. Susan Hounsom.

Mr. Hall stated Ms. Hounsom was in compliance and asked the fine be reduced.

Carol Kerrigan made a motion to reduce the fine to \$725.00; seconded by Michael Slayton. Motion carried on roll call vote 6-1 with Jay Crocker as the dissenting vote.

CE2003052P Norman & Peggy LaForce
151 Gary Avenue
Oak Hill, FL 32759

Violation Location:327 Palm

- A. Permitting or causing to be permitted the erection of a fence without the required building permit.

Mark Hall was present to represent the Estate of Norman LaForce.

Mr. Hall stated a permit had been applied for and asked for a continuance until the April 20th, 2004 meeting.

Ms. Kunkle stated the City staff supports Mr. Halls recommendation.

Jay Crocker made a motion to continue this case until the April 20th, 2004 meeting; seconded by John Shelby. Motion carried unanimously on roll call vote 7-0.

CE2003053S Dan Grisell
1615 Pine Tree Drive
Edgewater, FL 32132

Violation Location:Vacant Lot on Saxon

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

Dan Grisell was present and sworn for testimony.

Mr. Grisell stated he was unaware of his case on the board's February agenda.

Jay Crocker made a motion to vacate the order entered on February 17, 2004 and place this case on the April 20th, 2004 agenda; seconded by John Shelby. Motion carried unanimously on roll call vote 7-0.

CE2003054M Reginald Copeland
C/O Melvin C. & Elizabeth Copeland
10 Raintree Drive
Port Orange, FL 32127

Violation Location:536 N. Myrtle Avenue

- A. Permitting or causing to be permitted the repair of a residential structure without the required permit.

Ms. Hawk stated for the record no one is present to represent this case.

Ms. Kunkle stated no permit has been issued and the property is not in compliance.

Michael Slayton made a motion to post the property and continue the case until the April 20th, 2004 Hearing; seconded by John Shelby. Motion carried unanimously on roll call vote 7-0.

NEW BUSINESS:

CASE NO: C2004-0032D Lee's Air Conditioning, Inc.
4700 Maple Lane
Edgewater, FL 32141

Violation Location: 527 Dora Street

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

Ms. Hawk stated for the record no one is present to represent this case.

Ms. Kunkle submitted pictures of the property and stated no one has contacted the office.

John Shelby made a motion to find the property in violation and give them have 10 calendar days to contact the City and apply for a permit to demolish or repair the building or face a fine of \$250.00 per day for each and every day the said violation continues past the 26th day of March 2004; seconded by Michael Slayton. Motion carried unanimously on roll call vote 7-0.

CASE NO: CE2004-0141

Dianne Lynn
536 Faulkner St.
New Smyrna Beach, FL 32168

Violation Location: 536 Faulkner Street

- A. Permitting or causing to be permitted an accessory structure (shed) to be erected within the required side yard setback in violation of the R-4 Zoning District of the Land Development Regulations.

Ms. Julia Silsby McCash was present and sworn in for testimony.

Ms. McCash reported her mother lives at 532 Faulkner and the building next door was put on the property line.

Ms. Glenda Silsby Hicks was present and sworn for testimony.

Mr. Rick McFadden, Chief Building Official was present and sworn in for testimony.

Mr. McFadden stated a stop work order was posted on the slab. The accessory structure is less than 1 ft. from the property line.

Ms. Kunkle submitted a certificate of zoning to the Board.

Michael Slayton made a motion to find the property in violation and the property owner has until the 20th day of April 2004 to move the building or face a fine of \$150.00 dollars per day for each and every day the said violation continues; seconded by John Shelby. Motion carried unanimously on roll call vote 7-0.

CASE NO: CE2004-0153H

Eric P. & Bonnie S. Hoffman, Co-Trustees
2802 Hill Street
New Smyrna Beach, FL 32169

Thomas R. Mueller
2802 Hill Street
New Smyrna Beach, FL 32169

Lincoln Trust Company
Trustee FBO Thomas R. Mueller
2802 Hill Street
New Smyrna Beach, FL 32169

Violation Location: 2802 Hill Street

- A. Permitting or causing to be permitted the remodeling of a structure without the required permit(s) in violation of §304.00 A. of the Land Development Regulations.
- B. Permitting or causing to be permitted a single-family dwelling to be converted into a duplex in violation of the R-6 Zoning District of the Land Development Regulations.

Eric Paul Hoffman was present and sworn for testimony.

Thomas Mueller was present and sworn for testimony.

Mr. Hoffman & Mr. Mueller stated they had just bought the house in May and they hired a contractor and resubmitted for a permit.

Ms. Kunkle stated the City recommended continuing the case until the May 18th, 2004 Hearing.

Jay Crocker made a motion to continue the case until the May 18th, 2004 Hearing; seconded by John Shelby. Motion carried unanimously on roll call vote 7-0.

Ms. Kunkle asked for a 5-minute recess.

Ms. Hawk called for a 5 minutes recess at 5:45 P.M.

Ms. Hawk reconvenes the Hearing at 5:50 P.M.

CASE NO: CE2004-0184A Carole S. LeBeau
116 Lagoon Ct.
New Smyrna Beach, FL 32169

Violation Location: 2310 S. Atlantic Avenue

- A. Permitting or causing to be permitted a structure to exist where the overhead span of open conductors does not have a vertical clearance of eight (8') feet or more above the surface of the roof in violation of §225-19. of the National Electrical code, 1996 Edition.

Ms. Hawk stated for the record no one is present to represent this case.

Ms. Kunkle reported she was concerned with the low overhead open conductors at the residence.

The Board discussed how to proceed with the safety issue and planned to try to locate the owner.

Rick McFadden stated you could literally stand on the deck and reach out and touch it.

Carol Kerrigan made a motion to find the property in violation of the National Electrical Code and authorize the city to abate the nuisance if the owner does not come into compliance within two weeks of the order and pay a fine for each and every day the said violation continues past the 30th day of March 2004; seconded by Jay Crocker. Motion carried on roll call vote 6-0 with Maggie Hawk abstaining.

ADJOURNMENT:

Maggie Hawk made a motion to adjourn the meeting at 6:06 P.M.; seconded by Jay Crocker. Motion carried unanimously on roll call vote 7-0.

Pursuant to Florida Statutes 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 secretary of the Citizens Code Enforcement Board listed below prior to the Hearing:

Cindy Steele
Administrative Specialist
% City Hall
210 Sams Avenue
New Smyrna Beach, FL 32168-9985
(386) 424-2265