

**MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING HELD AT 4:30 P.M.
MAY 18, 2004
CITY COMMISSION CHAMBERS, 210 SAMS AVENUE
NEW SMYRNA BEACH, FLORIDA**

The Hearing of May 18, 2004 was called to order at 4:35 p.m. Answering to roll call:

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

Also present were Code Enforcement Supervisor Lynne Kunkle, Code Enforcement Officer Barbara Bobelak, City Attorney George Beazley and John Hagood, Assistant City Manager.

APPROVAL OF MINUTES

April 20th, 2004 Hearing

Jay Crocker made a motion to approve the minutes as amended; seconded by John Shelby. Motion carried unanimously on roll call vote 6-0.

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

OLD BUSINESS:

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.

At the Hearing on the 16th day of March 2004, the Board entered an Order continuing this case until the 18th day of May 2004.

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

Ms. Kunkle explained to the Board that the building permit had been obtained by the owners, bringing this case currently into compliance.

Susan Ellis made a motion to find the subject property in compliance; seconded by John Shelby. Motion carried unanimously on roll call vote 6-0.

NEW BUSINESS:

CASE NO: C20040054T Jeff Gehris
P & J Consulting, Inc.
208 Canova Drive
New Smyrna Beach, FL 32169

Violation Location: 556 Third Avenue

- A. Permitting or causing to be permitted the alteration of a sign without the required permit.

Derek Hannula, General Manager and John Bower, Assistant Manager were present and sworn for testimony.

Mr. Hannula testified that the application for the sign permit had been submitted to the City and that Mr. Gehris cannot obtain the permit for approximately six weeks because he is out of town. Further, Mr. Hannula asked the Board for a continuance to allow them enough time to obtain the permit.

Officer Bobelak's recommendation to the Board was to continue this case until the July 20, 2004 Hearing.

John Shelby made a motion to continue this case to the July 20, 2004 Hearing; seconded by Carol Kerrigan. Motion carried unanimously on roll call vote 6-0.

CASE NO: C2004029OA Robert Sinn
4304 W. 125th Terrace
Leewood, KS 66209

Violation Location: 1215 North Atlantic Avenue

- A. Permitting or causing to be permitted the construction of a dune walkover in violation of the construction standards for dune walkovers.
- B. Permitting or causing to be permitted the construction of a dune walkover east of the City Construction Setback Line and the DNRCCC Line without City Commission approval and state and local permits.

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

Officer Bobelak informed the Board the subject property is in compliance.

CASE NO: C2004-0304H Michael Scott Wood
P.O. Box 1465
New Smyrna Beach, FL 32170-1465

Violation Location: 2506 Hill Street

- A. Permitting or causing to be permitted a vacant structure to exist that has deteriorated to the point it is not longer in a safe, secure and sanitary condition.
- B. Permitting or causing to be permitted the exterior property to be overgrown with weeds.
- C. Permitting or causing to be permitted the exterior of the structure to be inadequately maintained, structurally unsound and unsanitary which poses a threat to the public health, safety and welfare.
- D. Permitting or causing to be permitted exterior structural members that have deteriorated to the point they are not longer capable of safely supporting the imposed dead and live loads.
- E. Permitting or causing to be permitted exterior walls that have deteriorated to the point they have holes and breaks.
- F. Permitting or causing to be permitted a roof that has deteriorated to the point it no longer is sound, tight and admits rain to the interior portion of the structure.
- G. Permitting or causing to be permitted an exterior staircase that has deteriorated to the point it is incapable of supporting the imposed loads.
- H. Permitting or causing to be permitted the deterioration of the interior of the structure to the point it is no longer in good repair, structurally sound and in sanitary condition.
- I. Permitting or causing to be permitted the deterioration of interior structural members to the point they are no longer structurally sound and capable of supporting imposed loads.
- J. Permitting or causing to be permitted the deterioration of the interior surfaces that to the point they are not longer clean and sanitary.

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

Phillip Ryan, Building Inspector was sworn for testimony.

Mr. Ryan testified, giving the Board some of the code enforcement history on this property, which included a permit for remodeling in 2001, that the work outlined within the scope of the permit had not taken place and the permit expired.

Mr. Ryan testified that the structure had been inadequately maintained and was structurally unsound and unsanitary. Further Mr. Ryan testified that interior and exterior structural members have deteriorated to the point they are no longer capable of supporting the imposed loads they were designed to support.

Mr. Ryan submitted pictures to the Board, he had taken on November 11, 2003, as exhibit 1, for the Board's review, and further testified to the condition of the structure by explaining to the Board that the structure was open and unsecured, open to pigeons, and has a rotted roof deck, rotted eaves, trusses, fascia and soffits through out the roof structure. Further Mr. Ryan explained to the Board that one of the two columns supporting the roof system is resting on a single block and that an electrical hazard had been remedied by the Building Department, by having the power shut off at the pole.

Ms. Kunkle submitted a copy of a fax to the Board for their review, she received on May 18, 2004, from the owner requesting a continuance. Ms. Kunkle further testified that she received a telephone call and had spoken to an unidentified gentleman who claimed to be the property owner's father, but had never spoken to the owner of record as was indicated in the fax.

Ms. Kunkle submitted additional pictures to the Board, as exhibit 2, taken by Officer Bobelak on May 18, 2004, and explained to the Board the structure and property are in the same condition today as it was on November 11, 2003 and that there had been no attempt to clean the property as was also indicated in the fax.

Steve Ferraro was sworn for testimony.

Mr. Ferraro testified that he is an adjacent property owner and that this property has been a problem for him for approximately ten years.

Mr. Ryan recommended the Board consider the demolition of this structure.

Ms. Kunkle stated that she supported Mr. Ryan's recommendation.

Carol Kerrigan made a motion to give Michael Scott Wood ten (10) days to secure the structure, thirty (30) days to bring the property into compliance or demolish the structure or face a fine of \$250.00 per day, and in the event Michael Scott Wood fails to comply within the time specified the City is authorized to abate the nuisance; seconded by Jay Crocker. Motion carried unanimously on roll call vote 6-0.

CASE NO: C2004-0339

**Anthony G. Decamillas
402 Flagler Avenue
New Smyrna Beach, FL 32169**

Violation Location: 402 Flagler Avenue

- A. Permitting or causing to be permitted a vacant structure and premises to exist in an unclean, unsafe, unsecured and unsanitary condition.

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

Ms. Kunkle testified that the property had been posted because the mailing address is the same as the property address, but has since been in touch with the owner. Further Ms. Kunkle testified that a good faith effort had been made over the weekend, by the owner, and that she was recommending the Board continue this case to the July 20, 2004 Hearing.

John Shelby made a motion to continue this case to the July 20, 2004 Hearing; seconded by Susan Ellis. Motion carried unanimously on roll call vote 6-0.

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 no one was present to represent this case.

Ms. Kunkle submitted a copy of a letter from Attorney Mark Hall requesting a continuance. Ms. Kunkle stated that she supported Attorney Hall's request because she did not want to see the replacement trees planted on this property if the owner was going to build on the lot and these same trees would have to be removed again. Further, Ms. Kunkle stated that vacant lots do not have utilities, therefore water may not be provided for the trees and that the owner can not count on rain, since this is the dry season time of the year.

Jay Crocker made a motion to continue this case until the July 20, 2004 Hearing; seconded by John Shelby. Motion carried on roll call vote 6-0.

CASE NO: C2004-0355

Elias Industries, Inc.
1500 Airway Circle
New Smyrna Beach, FL 32168

Violation Location: 706 Canal Street

- A. Permitting or causing to be permitted a vacant structure, which has not been maintained in a clean, safe and sanitary condition.

Bob Kayat was sworn for testimony.

Mr. Kayat testified that he agrees with the violations and if granted a continuance to the July Hearing, he feels he could have his permit and the rehabilitation started.

Jay Crocker made a motion to continue this case to the July 20, 2004 Hearing; seconded by John Shelby. Motion carried unanimously on roll call vote 6-0.

CASE NO: C2004-0358

Sun Beach Club Condo
Michael Friedman, President
4232 S. Atlantic Avenue
New Smyrna Beach, FL 32169

Violation Location: 4232 S. Atlantic Avenue

- A. Permitting or causing to be permitted the clearing of the required landscape buffer from the subdivision entrance.
- B. Permitting or causing to be permitted the removal of a tree(s) without the required tree removal permit.

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

Ms. Kunkle testified that Jim Coomber had obtained the permit and that the buffer had been restored, bringing the property into compliance.

CASE NO: C2004-0359 Win-San Club Condo Association
111 N. Atlantic Avenue
New Smyrna Beach, FL 32169

Violation Location: 111 N. Atlantic Avenue

- A. Permitting or causing to be permitted a swimming pool to exist without the required barrier, which is a minimum of 48 inches.
- B. Permitting or causing to be permitted a swimming pool to exist without access gates that are self-closing and equipped with self-latching locking devices located no less than 54 inches from the bottom of the gate.

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

Ms. Kunkle testified that she has a copy of a signed contract with a fence company that will be installing gates and or gates and fencing to secure the pool area and is withdrawing this case.

CASE NO: C20040361S Jeff Gehris
P & J Consulting Inc.
208 Canova Drive
New Smyrna Beach, FL 32169

Violation Location: 601 E. Second Avenue

- A. Permitting or causing to be permitted the designation of a parking lot without site plan review and approval.
- B. Permitting or causing to be permitted electric work without the required permit.

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

Officer Bobelak informed the Board the subject property is in compliance.

CASE NO: CE2003019P Jennie Lee Tobias &
Johnnie Lee Logan
424 Palm Street
New Smyrna Beach, FL 32168

Violation Location: 424 Palm 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.

Ms. Kunkle testified that the Board had authorized the City Attorney to foreclose on this property, but the current owner has a potential purchaser and the City Commission on May 11, 2004 reduced the lien of \$28,700.00 to \$500.00 provided there was a closing and the new purchaser cleaned the property within fourteen (14) days. In the event there was not a closing, the lien amount would revert back to its original amount and continue to accrue at \$100.00 per day.

John Shelby made a motion to reduce the lien to \$500.00 provided there was a closing on the property and the new purchaser cleans the property within fourteen (14) days, however, in the event the property is not sold to this purchaser the lien amount will revert back to its original amount and the fine will continue to accrue at \$100.00 per day; seconded by Susan Ellis. Motion carried unanimously 6-0.

DISCUSSION:

None

ADJOURNMENT:

John Shelby made a motion to adjourn the meeting at 5:33 p.m; seconded by Jay Crocker. Motion carried unanimously on roll call vote 6-0.

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:

Cindy Steele

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