

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING HELD AT 4:30 P.M.
JULY 20, 2004
CITY COMMISSION CHAMBERS, 210 SAMS AVENUE
NEW SMYRNA BEACH, FLORIDA

The Hearing of July 20, 2004 was called to order at 4:35 p.m. Answering to roll call:

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

Also present were Code Enforcement Supervisor Lynne Kunkle, Code Enforcement Officer Barbara Bobelak, Mike Dyer, Acting City Attorney, and Tammy Dickerson, Administrative Specialist.

APPROVAL OF MINUTES

May 18th, 2004 Hearing

John Shelby made a motion to approve the minutes; seconded by Elliot Hoffman. Motion carried 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: C2004-0032D

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.

At the Hearing on the 16th day of March 2004 the Board entered an Order giving Lee's Air Conditioning, Inc., 10 Calendar days to contact the City and either apply for a permit to demolish the structure or apply for a permit to rehabilitate the structure.

At the Hearing on the 20th day of April 2004 the Board entered an Order continuing this case until the July 20th, 2004 Hearing.

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

Ms. Kunkle explained to the Board that the owner had received demolition approval from the Historic Preservation Commission and that the contractor had obtained the demolition permit and that she was waiting for the contractor to actually demolish the structure.

Jay Crocker made a motion to continue the case to August 17, 2004; seconded by John Shelby. Motion carried unanimously on roll call vote 7-0.

CASE NO: C20040054T

In compliance
6/30/04

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.

At the Hearing on the 18th day of May 2004 the Board entered an Order continuing this case until the July 20th, 2004 Hearing.

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

Ms. Bobelak stated that the case is in compliance.

Michael Slayton made a motion to find the case in compliance; seconded by John Shelby. Motion carried unanimously on roll call vote 7-0.

CASE NO: CE2004-0185D Tony D. & Theresa Kelly
1900 E. Gateway Drive
New Smyrna Beach, FL 32168

Violation Location: 609 Dora Street

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

At the Hearing on the 20th day of April 2004 the Board entered an Order finding Tony D. & Theresa Kelly in violation and continued this case until the 20th day of July 2004.

Tony Kelly & Theresa Kelly were present and sworn for testimony.

Mr. Kelly explained to the Board that their loan had been approved and they were trying to get the sealed drawings but that the architects are backlogged due to the amount of construction taking place in the area.

Michael Slayton made a motion to continue this case to October 19th, 2004; seconded by John Shelby. Motion carried unanimously on roll call vote 7-0.

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.

At the Hearing on the 18th day of May 2004 the Board entered an Order giving Michael Scott Wood (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.

Paul Baggett was present representing this case and was sworn for testimony.

Mr. Baggett testified that he had sealed drawings in hand and was prepared to rehabilitate the structure. Further, Mr. Baggett explained to the Board that he felt he could obtain the building permit and have the rehabilitation started within thirty (30) days and completed by Christmas, if the Board would grant him the time.

Mr. Baggett also asked that the Board reconsider the fine.

Carol Kerrigan made a motion to continue this case to August 17, 2004; seconded by Michael Slayton. Motion carried unanimously on roll call vote 7-0.

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.

At the Hearing on the 18th day of May 2004 the Board entered an Order continuing this case until the 20th day of July 2004.

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

Ms. Kunkle informed the Board that the structure had been secured and the property cleaned bringing the subject property into compliance.

Jay Crocker made a motion to find this case in compliance; seconded by Susan Ellis. Motion carried unanimously on roll call vote 7-0.

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.

At the Hearing on the 18th day of May 2004 the Board entered an Order continuing this case until the 20th day of July 2004.

Attorney Mark Hall was present and representing this case. Michael Sharabani was also present and sworn for testimony.

Mr. Hall explained to the Board that his client felt that he should not have to come before this Board since the Board had fined Crown Tree Service for removing the trees without a permit. Mr. Hall requested the Board either consider a dismissal or a continuance for sixty (60) days giving Mr. Sharabani time to develop a site plan.

Ms. Kunkle testified that Crown Tree Service was in violation because they cut the trees without a permit, and that Mr. Sharabani, as the property owner had to share in the responsibility. Further, Ms. Kunkle testified that if the trees had the required inspection Mr. Sharabani may not have gotten approval to remove the trees because the trees had to be dead, dying or diseased, a storm threat, or within the footprint of a proposed structure, and that to her knowledge, did not apply to this situation.

Mr. Crocker explained to Mr. Sharabani that the fine levied against Crown Tree Service was also due to the fact it was a repeat offense.

Jay Crocker made a motion to continue this case to September 21, 2004; seconded by Michael Slayton. Motion carried unanimously on roll call vote 7-0.

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.

At the Hearing on the 18th day of May 2004 the Board entered an Order continuing this case until the 20th day of July 2004.

The new owner of 706 Canal Street, Neil Chapman, was present and sworn for testimony.

Mr. Chapman testified to the Board that he is currently going through the building department's plan review process.

Michael Slayton made a motion to continue this case to September 21, 2004; seconded by John Shelby. Motion carried unanimously on roll call vote 7-0.

NEW BUSINESS:

CASE NO: C2004-0228 John R. & Deborah W. Swiderski
139 Park Avenue
New Smyrna Beach, FL 32168

Violation Location: 139 Park Avenue

- A. Permitting or causing to be permitted storage of a semi trailer in a residential zoned (R5) area.

John & Deborah Swiderski were both present and sworn for testimony.

Ms. Swiderski testified that the trailer had been on their property since 1996 when they defunct the company they owned at the time, but had not charged for the storage of the trailer since 1997. Ms. Swiderski further testified that she and Mr. Swiderski had received a letter from Attorney Robert Thurlow which stated they could not move the trailer or they could be charged with grand theft.

Mr. Swiderski addressed the Board with his concerns of being charged with grand theft and the condition of the trailer, and whether or not it could be removed.

Mr. Crocker questioned Ms. Swiderski as to the date of Mr. Thurlow's letter.

Ms. Swiderski testified that the date on Attorney Thurlow's letter was 1999.

John Shelby made a motion finding John R. & Deborah W. Swiderski in violation and gave John R. & Deborah W. Swiderski until October 19, 2004 to bring the subject property into compliance or face a fine of \$50.00 per day and for this case to appear before the Board again on October 19, 2004; seconded by Jay Crocker. Motion carried unanimously on roll call vote 7-0.

CASE NO: C2004-0330 Glenn J. & Catherine Milne
1630 N. Atlantic Avenue
New Smyrna Beach, FL 32169

Violation Location: 2604 N. Dixie Freeway

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

Robert Milne was present and sworn for testimony.

Mr. Milne testified that the property belongs to his parents and that it has been for sale but his mother has now been presented with an offer to purchase the property through her realtor. Mr. Milne further explained it looked as though his mother would be accepting the offer and needed the necessary time to proceed with the transaction.

Ms. Kunkle asked Mr. Milne to verify that the pictures she had taken earlier that morning were an accurate representation of the structure, and Mr. Milne agreed that they were.

Ms. Kunkle presented the pictures to the Board for review.

There was further discussion between the Board and Mr. Milne as to the condition of the structure, the fire damage, the length of time the structure had been in its present condition and whether or not the structure was open and accessible.

John Shelby made a motion to continue this case until October 19, 2004 provided Glenn J. and Catherine Milne secured the building within ten (10) days; seconded by Michael Slayton. Motion carried 6-1 with Carol Kerrigan as the dissenting vote.

CASE NO: C20040351 Robert Lasic
2623 Nordman Avenue
New Smyrna Beach, FL 32169

Violation Location:701 Conrad Drive

- A. Permitting or causing to be permitted a structure to exist without the city sewerage system.

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

Ms. Bobelak informed the Board this case is in 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.

Katie Vandervlugt was present and sworn for testimony.

Ms. Vandervlugt explained to the Board that the permit had been pulled but the gates have not yet been installed. Ms. Vandervlugt asked the Board for additional time.

Michael Slayton made a motion to find Win-San Club Condo Association in violation and give Win-San Club Condo Association until August 17, 2004 to bring the subject property into compliance; seconded by John Shelby. Motion carried unanimously 7-0.

CASE NO: C2004-0377

Emilio & Luz A. Cirelli
354 Pinewoods Rd.
Ormond Beach, FL 32174

Violation Location: 415 Palm Street

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

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

Ms. Kunkle testified that at least 90% of the lot is covered with very tall weeds and undergrowth. Ms. Kunkle also testified to a telephone conversation between the property owner and herself where as the property owner stated that he had mowed the property.

Officer Bobelak testified to a conversation she had with the property owner on July 16, 2004, where as the property owner told her the property had been mowed.

John Shelby made a motion to give Emilio & Luz A. Cirelli ten (10) days to bring the property into compliance or face a fine of \$25.00 per day;seconded by Susan Ellis. Motion carried unanimously on roll call vote 7-0.

CASE NO: C2004-0378

Jewel G. Freeman & Fearne M. Parker
P.O. Box 310728
Jamaica, NY 11431-0728

Violation Location: 405 Palm Street

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

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

Ms. Kunkle informed the Board that they did not have jurisdiction because the property owner did not accept the certified mail and it had been returned, therefore not meeting the notice requirements.

DISCUSSION:

None

ADJOURNMENT:

John Shelby made a motion to adjourn the hearing at 5:53 p.m; seconded by Michael Slayton. Motion carried unanimously on roll call vote 7-0.

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:

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