

CITIZENS CODE ENFORCEMENT BOARD

NOTICE OF HEARING

July 21, 2009

Members:

John Shelby (Chairperson)
Michael Slayton (Vice Chairperson)
P.J. (Pat) Arvidson
Keith Gerhartz
Ken Taylor
Katharine (Kathy) L. Cooley
Vacant seat

THIS SHALL SERVE AS YOUR OFFICIAL NOTIFICATION of a hearing of the Citizens Code Enforcement Board, to be held on TUESDAY, July 21st, 2009 at 4:30 P.M. in the DEBERRY ROOM, 3RD FLOOR, UTILITIES COMMISSION, 200 CANAL STREET, New Smyrna Beach, Florida, for consideration of the following:



John Shelby, Chair
Citizens Code Enforcement Board

I. ROLL CALL

II. 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.

III. APPROVAL OF MINUTES

May 19th, 2009

IV. SWEARING OF CITY STAFF

V. CASES IN COMPLIANCE WITH THE BOARD'S ORDER:

VI. OLD BUSINESS:

C2007-0179: Sunset Marine 101 Due East [HAND DELIVERED]

Permitting or causing to be permitted construction (boat dock cover) without the required permit in violation of §26-171. of the City Code of Ordinances.

May 20, 2008: Case continued until the 19th day of August, 2008 hearing.

September 16, 2008: Case continued until the 17th day of February, 2009 hearing.

February 17, 2009: The Board found the case in non-compliance and gave the respondent until June 1, 2009 to come into compliance or face a \$250.00 per day fine.

Fine Totals:

Twelve thousand seven hundred fifty dollars (\$12,750.00) for a total of 50 days. (June 2, 2009 – July 21, 2009)

**C2007-0829: Gilbert L. Dannehower [HAND DELIVERED]
 137 Cunningham Dr.**

Permitting or causing to be permitted tree removal without the required tree removal permit in violation of §604.051 A. of the Land Development Regulations.

Mr. Dannehower is requesting a modification to the Board's Order dated July 15, 2008.

July 15, 2008: The Board found Gilbert L. Dannehower in violation and gave Mr. Dannehower 30 days to bring the property into compliance. Mr. Dannehower failed to comply with the Board's Order and the fine of \$250.00 per day started on the 18th day of August, 2008.

August 19, 2008: The Code Enforcement Board's Hearing was cancelled due to Tropical Storm Fay.

September 16, 2008: Gilbert L. Dannehower requested a modification to the Board' Order dated July 15, 2008. The Board modified the Order giving Mr. Dannehower until September 15, 2009 to come into compliance. Mr. Dannehower is to provide the Board with quarterly reports with the first report due on December 16, 2008.

January 20, 2009: The Code Enforcement Board reviewed the first quarterly report submitted by Mr. Dannehower. The Code Enforcement Board rejected the report and requested any correspondence between Mr. Dannehower and D.E.P. be forwarded to Code Enforcement Staff.

March 17, 2009: The Code Enforcement Board reviewed Mr. Dannehower's contract with Biological Consulting Service, Inc., Biological Consulting Service, Inc. submitted a letter requesting to meet with Mr. Dannehower and an email submitted to Ms. Kunkle from Joe Young, Biological Consulting Service, Inc., confirming the meeting with a representative from D. E. P.

C2008-0259: Carol Ann Felber, Etal 700 Wayne Avenue [POSTED]

Permitting or causing to be permitted construction (installation of windows and enclosed garage) without the required permits in violation of §26-171. of the City Code of Ordinances.

May 20, 2008: The Board found the respondent in violation and required that the necessary permits be obtained within two (2) weeks of the date of receipt of this order or two (2) weeks from the date the property being posted. Further the respondent shall pay a fine of \$200.00 per day for each and every day the violation continued past the 6th day of June 2008.

May 19, 2009: The Board made a motion to continue this case until the 21st day of July, 2009 giving the respondent time to pull the appropriate permits.

Fine Totals:

Eighty-two thousand dollars (\$82,000) for a total of 347 days. (June 7, 2008 – July 21, 2009)

C2008-0448: Lena Joseff 7 Lynn Court [POSTED]

Permitting or causing to be permitted the construction of an accessory structure without the required permit(s) in violation of §105.1 of the Florida Building Code.

May 19, 2009: The Board found the respondent in violation and required that the necessary permits be obtained to bring the property in compliance on or before the 21st day of July, 2009.

C2008-0994: Sally M. Hicks 1714 N. Indian River Rd. [SERVED]

Permitting or causing to be permitted hedges on an atypical lot on the outer property line to exceed four (4') feet in height in violation of §803.03 B. atypical lots of the Land Development Regulations.

April 21, 2009: The Board tabled this case.

C2009-0039: Steve's Automotive 539 N. Dixie Freeway [SERVED]

- A. Permitting or causing to be permitted the operation of a business (Steve's Automotive) without having paid the business license tax in violation of Article V. Occupational Licenses §74-146. of the City Code of Ordinances:
- B. Permitting or causing to be permitted alterations and/or installation of a sign(s) without the required permit in violation of §604.14 D of the Land Development Regulations.

- (C) §38-113. Waste material, discarded and abandoned items. – permitting or causing to be permitted discarded and abandoned waste material upon the subject property.

City of New Smyrna Beach Code of Ordinances – Section 70 titled STREETS SIDEWALKS AND OTHER PUBLIC PLACES

- (D) §70-38. Obstruction and encroachments on public streets – permitting or causing to be permitted an encroachment (fence and sign) upon the city right-of-way.

International Property Maintenance Code – Section 302, titled EXTERIOR PROPERTY AREAS

- (E) §302.1 Sanitation. – permitting or causing to be permitted the exterior property that has not been maintained in a clean, safe and sanitary condition.
- (F) §302.3 Sidewalks and driveways. – permitting or causing to be permitted driveway to exist that has not been kept in a proper state of repair, and maintained free from hazardous conditions.
- (G) §302.7 Accessory Structures – permitting or causing to be permitted laundry and/or storage structure to exist that has not been maintained in good repair.
- (H) §302.8 Motor vehicles. – permitting or causing to be permitted storing an inoperable vehicle upon the subject property.

International Property Maintenance Code – Section 304, titled EXTERIOR STRUCTURE

- (I) §304.1 General. – permitting or causing to be permitted exterior of structures to exist that have not been properly maintained in good repair posing a threat to the public health, safety and welfare.
- (J) §304.6 Exterior walls. – permitting or causing to be permitted exterior walls to exist that are not free from holes and loose or rotting materials.
- (K) §304.13.1 Glazing. – permitting or causing to be permitted windows to exist that have not been maintained free from cracks and holes.

International Property Maintenance Code – Section 307, titled RUBBISH AND GARBAGE

- (L) §307.2.2 Refrigerators. – permitting or causing to be permitted refrigerator, washer and dryer that are not in operation to be stored on the premises without first removing the doors.

International Property Maintenance Code – Section 605, titled ELECTRICAL EQUIPMENT

(M) §605.1 Installation. – permitting or causing to be permitted electrical equipment and wiring to exist that have not been properly installed and maintained.

City of New Smyrna Beach Land Development Regulations – Section 803.03 Regulations Pertaining to Fences, Walls and Hedges:

(N) §803.03 A. Typical Lots – permitting or causing to be permitted hedge to exceed four (4') feet in height along the front property line.

Location of Violation: 221 Condict Street, Unit 9

Section(s) of Code in Violation and Description:

International Property Maintenance Code – Section 602.1, titled HEATING FACILITIES

(O) §602.1 Facilities required. – permitting or causing to be permitted a dwelling unit to exist that without heating facilities.

**C2009-0193: E & S Enterprises of Volusia County, Inc. [SERVED]
1523 S. Dixie Freeway**

- (A) Permitting or causing to be permitted a business operation (American Auto Tire Service) without having paid the business license tax in violation of §74-146. of the City Code of Ordinances.
- (B) Permitting or causing to be permitted a violation of the temporary certificate of occupancy by failing to meet the landscape requirements as submitted on the landscape plan in violation of §604.05 D. Landscape Plan, of the Land Development Regulations.
- (C) Permitting or causing to be permitted the installation of signs over the bay doors without the required sign permit in violation of §604.14. of the Land Development Regulations.

- (A) Permitting or causing to be permitted weeds and undergrowth upon the subject property in violation of §38.111., Weeds, trash, and certain excavations declared nuisances, of the City Code of Ordinances.
- (B) Permitting or causing to be permitted an accessory structure (fence) to exist that has not been maintained structurally sound and in good repair in violation of §302.7, Accessory Structures., of the International Property Maintenance Code, 2006 Edition.

VIII. REPEAT BUSINESS:

IX. ADJOURNMENT:

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:

Claudia Soulie
Administrative Specialist
% City Hall
210 Sams Avenue
New Smyrna Beach, FL 32168-9985
Telephone: 386.424.2265
Fax: 386.424.2148