

**CODE ENFORCEMENT BOARD  
MEETING  
NOVEMBER 25, 2009**

**MEMBERS PRESENT:** Jim Stevens, Chairman  
Norman Ashworth, Tom Bailey, Richard Kresge,  
Vic Poitras, Ed Viola, Albert Wiker

**OTHERS PRESENT:** Teri Tubbs, Zoning Official; David Levin, City Attorney; George Karaffa, Police Officer; Randy Wright, Maricela Perdomo, Code Compliance Officers; David McCarty, Code Compliance Coordinator; Ronald Siegrist, Kevin Shirley, Donald Boccio

**CALL TO ORDER/ANNOUNCEMENTS**

- A. Roll Call
- B. Next Scheduled Meeting - December 23, 2009
- C. Election of Vice Chairman
- Mr. Stevens opened the floor for nominations for Vice Chairman.
  - Mr. Bailey NOMINATED Mr. Viola for Vice Chairman.
  - Mr. Viola declined and NOMINATED Mr. Ashworth.
  - Mr. Ashworth declined and NOMINATED Mr. Kresge.
  - Mr. Bailey MOVED, Mr. Viola SECONDED to close the nominations. MOTION CARRIED UNANIMOUSLY.
  - As there were no other nominations, Mr. Kresge was appointed Vice Chairman by acclamation.

**APPROVAL OF MINUTES**

- A. Meeting of October 28, 2009
- Mr. Viola MOVED, Mr. Ashworth SECONDED approval of the October 28, 2009 minutes. MOTION CARRIED UNANIMOUSLY.

**NEW BUSINESS**

- Recording Secretary Kelly swore in all participants.

**Note: Item A was heard following Item B.**

- A. 09-38260 - ZONING OFFICIAL - TERI TUBBS

Respondent: Gerda Craig, Trustee

Address of Violation: 2543 Brazilia Court

Violation of Section 26-3.13(m), Installing a fence in a way not consistent with the requirements of this ordinance; Section 7-32(a)(1), Construction of a fence without a valid building permit; Section 7-32(a)(5), Failure to remove a portion of the fence in violation after notified to do so.

- Mr. Stevens noted the respondent, Ms. Gerda Craig, was not present, confirming there was no objection to entering a plea of not guilty on her behalf.
- Ms. Teri Tubbs, Zoning Official, stated on April 29, 2009, Ms. Craig applied for a building permit to construct a fence at 2543 Brazilia Court, located in the City limits within the Special Residential Overlay (SRO) District. She noted the submitted site plan showed a proposed fence to be constructed along the east property line to a point 25 feet from the right-of-way (ROW) of Brazilia Court, adding no residential structures were depicted on the site plan. She stated Ms. Craig's permit application was approved, and Permit #09-112235 was issued on April 30, 2009. She continued on or about June 4, 2009, the City determined Permit #09-112235 was issued in error in view of the fact it purported to authorize construction of the fence within the front yard of the property, explaining fences were not allowed in any front yard per Section 3.13(m) of the City Code. She acknowledged the site plan did not depict the proposed fence's relationship to the architectural front of any building on the property; however, inspection of the site confirmed Ms. Craig had constructed a fence within the prohibited area. She explained the City notified Ms. Craig by certified letter dated June 4, 2009, that because Permit #09-112235 was issued in violation of Section 3.13(m), it was invalid and therefore revoked. She stated this letter advised the City would issue a replacement building permit authorizing construction of a fence to extend no further toward the street than a point parallel to the architectural front of the residential structure and further advised the portion of fence extending closer to the street than that which was authorized would need to be removed. She mentioned the certified letter was received by Ms. Craig on June 6, 2009. She noted on or about July 23, 2009, Ms. Craig advised the City Manager of her intent to seek reimbursement for the expenses incurred to comply with the City's June 4, 2009 letter, adding this letter also acknowledged Permit #09-112235 had been revoked by the City because it was issued in error. She explained at its regularly scheduled meeting of August 5, 2009, City Council considered Ms. Craig's reimbursement request and, as a gesture of good will, without admitting any wrongdoing or liability, agreed to reimburse Ms. Craig for her itemized expenses. She pointed out on August 18, 2009, the City received a certified mailing from Ms. Craig declining acceptance of the City's reimbursement and returning same. She advised on September 21, 2009, replacement Permit #09-113376 was hand delivered to Ms. Craig requiring removal of the portion of fence extending closer to the street than the architectural front of the residence within 14 days of receipt. She mentioned the approved fence location was shown on an exhibit attached to the permit. She testified on or about September 24, 2009, Ms. Craig delivered a document

entitled "Notice" in which she stated she "did not consent to a new permit for my existing fence." She stated on September 26, 2009, she responded to Ms. Craig's "Notice" to advise if the replacement permit was rejected, the fence would be deemed to have been constructed without a lawfully issued building permit. She noted the letter further advised Ms. Craig her rejection of the replacement permit would be cause for removal of the fence in its entirety. She continued her testimony, stating on September 29, 2009, Ms. Craig delivered a "Second Notice" again stating she would not consent to issuance of replacement Permit #09-113376. She confirmed the fence remained in place and in violation as of an October 6, 2009 inspection. She summarized Ms. Craig's failure to comply as well as her statements made in the above mentioned Notices were deemed to be a rejection of Permit #09-113376; thus, on October 7, 2009, the City closed Permit #09-113376 due to the respondent's rejection of the permit. She concluded these actions were violations as follows: Section 7-32(a)(1), constructing a fence without a valid building permit; Section 26-3.13(m), fence located within front yard within the SRO District; Section 7-32(a)(5), failure to remove after notice.

- City Attorney David Levin questioned Ms. Tubbs' responsibility as Zoning Official, specifically with respect to fences.
- Ms. Tubbs replied she reviewed and approved permit applications and site plans.
- City Attorney Levin clarified the purpose of that review was to ensure consistency with required Land Development Regulations (LDRs). He confirmed the subject fence was built pursuant to a permit, which was subsequently revoked when the City discovered the fence did not comply with City Code. He asked if the respondent was offered an opportunity to obtain a replacement permit for the fence in a position which complied with City Code.
- Ms. Tubbs replied affirmatively, stating Ms. Craig was also advised there would be no charge for that replacement permit.
- City Attorney Levin asked if Ms. Craig had rejected the City's replacement permit.
- Ms. Tubbs replied affirmatively.
- City Attorney concluded there was currently no lawful permit in place for the fence in its existing position. He clarified City Code required all fences to be permitted.
- Mr. Viola MOVED, Mr. Bailey SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Viola MOVED, Mr. Bailey SECONDED to find the respondent guilty of violations of Sections 7-32(a)(1), 7-32(a)(5) and 26-3.13(m) based upon the evidence and testimony presented, to order the respondent to obtain a no charge replacement permit within 7

days of receipt of the Board's Order and to have the portion of the fence extending beyond the architectural front of the house removed within 14 days of receipt of the Board's Order or to remove the fence in its entirety within 14 days of receipt of the Board's Order or be subject to a fine of up to \$250 per day and to issue a Cease & Desist Order from any future violations of Sections 7-32(a)(1), 7-32(a)(5) and 26-3.13(m) or be subject to a fine of up to \$250 per day for each day the property remained in violation. MOTION CARRIED UNANIMOUSLY.

- Mr. Viola clarified the City was willing to issue a no charge permit for removal of the fence. He confirmed the respondent was being given an opportunity to eliminate the violations prior to imposition of any fine.
- City Attorney Levin asked if the respondent had been properly served a notice for this hearing.
- Ms. Tubbs replied affirmatively, stating the notice was sent by certified mail.
- Mr. Wiker asked if this would be a non-issue if the City had issued a permit correctly denoting City Code.
- City Attorney Levin replied that was correct, stating staff took appropriate action when their mistake was discovered.
- Mr. Wiker confirmed this case had been addressed at length in the local newspaper.
- Mr. Viola interjected he did not believe same was relevant to the issues at hand.
- Mr. Wiker explained he was simply asking a question.
- Mr. Stevens confirmed this discussion would be more appropriately held under Member Comments.

**Note: Item B was heard prior to Item A.**

**B. 09-38426 - POLICE OFFICER - GEORGE KARAFFA**

Respondent: Ronald A. Siegrist

Address of Violation: 3941 Tamiami Trail

Violation of Section 23-18(b), Unlawful parking in a handicap zone.

- Mr. Ronald Siegrist, respondent, entered a plea of not guilty.
- Police Officer George Karaffa stated on November 2, 2009, at 1:39 a.m., while on regular patrol, he observed a vehicle parked in a clearly marked handicap zone without a handicap placard. He displayed a photograph of the subject vehicle, stating he determined ownership of the vehicle through Police Dispatch. He concluded he then issued Citation #140703.
- Mr. Bailey MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.

- Mr. Siegrist agreed with Officer Karaffa's testimony; however, he explained his vehicle broke down at the start of the parking aisle, adding he and his wife were forced to push the car into the first available space, which happened to be a handicap parking zone. He confirmed he had the vehicle towed early the next morning, displaying a receipt for automobile repairs.
- Mr. Viola asked if Mr. Siegrist had left a note on his vehicle.
- Mr. Siegrist replied he had not.
- Mr. Poitras asked if there were any other available parking spaces.
- Mr. Siegrist replied affirmatively; however, he explained at 80 years of age, he and his wife had simply pushed the vehicle to the first available space.
- Mr. Kresge asked when the vehicle broke down.
- Mr. Siegrist replied 9:00 to 9:30 p.m. He requested the Board's forgiveness of the fine.
- Mr. Bailey MOVED, Mr. Ashworth SECONDED to find the respondent guilty and to impose no fine and no Court costs.
- VOTING AYE: Ashworth, Bailey, Wiker.
- VOTING NAY: Kresge, Poitras, Viola, Stevens.
- MOTION FAILED.
- Mr. Kresge MOVED, Mr. Viola SECONDED to find the respondent guilty and to impose a fine of \$100 plus \$25 Court costs.
- VOTING AYE: Kresge, Poitras, Viola, Stevens.
- VOTING NAY: Ashworth, Bailey, Wiker.
- MOTION CARRIED.

**Note: Item A was heard prior to Item C.**

**C. 09-38252 - CODE COMPLIANCE OFFICER - RANDY WRIGHT**

Respondents: Donato, Vincent and Connie Boccio, Property Owners

Address of Violation: 540 Gold Tree

Violation of Section 26-3.13(g), Parking commercial vehicle in the yard in the SRO zoning district; Section 26-3.13.(l), Parking or storing a boat and trailer on the property in the SRO district; Section 26-3.13(h), Parking or storing a commercial van, boat and trailer in the yard on the property in the SRO district.

- Mr. Kevin Shirley, respondents' attorney, stated his clients denied the subject allegations.
- Mr. Stevens confirmed a plea of not guilty was entered on behalf of the respondents.
- Mr. Randy Wright, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, stating he received several complaints from neighbors regarding a boat, trailer and van being parked on the vacant lot adjacent to

540 Gold Tree on more than one occasion. He noted Mr. Donato Boccio, respondent, indicated he would remove the boat. He continued he had advised Mr. Boccio the van, which was marked with business advertising, must also be removed, stating the respondent had covered the lettering; however, the City Attorney's re-interpretation of the City Code confirmed the van must be removed from the premises. He reported a Statement of Violation/Notice of Hearing was served on November 7, 2009, by certified mail. He announced as of November 13, 2009, the boat had been removed but the van remained on site.

- Mr. Ashworth MOVED, Mr. Viola SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Shirley requested clarification of the above mentioned change in interpretation, particularly with regard to the boat.
- Mr. Wright replied City Code stated the boat could not be placed in the driveway or side yard without a boat maintenance permit, stating the City had previously been issuing 15 day boat maintenance permits; however, boats were now allowed to remain on site from 7:00 a.m. to 7:00 p.m., or a 2 day boat maintenance permit could be obtained. He explained during the subject time period, Mr. Boccio's boat remained for two to three days at a time.
- Mr. Shirley asked if Mr. Wright had been advised of the reason the boat was not moved from the yard.
- Mr. Wright replied Mr. Boccio informed him he was experiencing difficulty obtaining title for the boat, which was unregistered, adding the respondent also had no place to store the boat.
- Mr. Shirley asked if Mr. Boccio had informed Mr. Wright either the marina or the manufacturer was attempting to unlawfully seize the boat.
- Mr. Wright replied he did not recall same, stating Mr. Boccio had informed him he would store the boat at a friend's house. He reiterated the respondent had advised him of his difficulty in obtaining title from the marina where he purchased the boat; however, he pointed out the boat had been stored illegally regardless of any issues related to its registration.
- Mr. Shirley confirmed the boat had been moved, asking if Mr. Wright was aware of any violations since approximately November 13, 2009.
- Mr. Wright replied he was not, acknowledging he was no longer the Code Compliance Officer responsible for the subject area. He stated he understood the van's advertising had been covered, adding the boat and trailer nuisances had been abated.

- Mr. Shirley then requested clarification of the City Attorney's re-interpretation of the City Code with respect to the van, asking when that change had been published.
- Mr. Wright replied he was unsure of the exact date; however, he confirmed he explained the recent change to Mr. Boccio approximately three to four weeks earlier. He clarified he informed Mr. Boccio covering the advertising on the van would no longer be sufficient. He mentioned the van was too large to be stored in the respondent's garage.
- Mr. Shirley questioned the basis for Mr. Wright's determination of the van being a commercial vehicle as defined by City Code.
- Mr. Wright replied lettering advertised Mr. Boccio's business, adding cleaning equipment was stored inside the van.
- Mr. Shirley asked if Mr. Boccio owned another vehicle primarily used for pleasure.
- Mr. Wright replied he believed the respondent's wife owned a car; however, he was unaware of any other vehicle owned by Mr. Boccio.
- Mr. Shirley clarified Mr. Wright could not confirm the van was used exclusively for commercial purposes. He asked if the above mentioned cleaning equipment was readily visible from outside.
- Mr. Wright replied it was not.
- Mr. Shirley asked if Mr. Wright felt the van would appear to be a commercial vehicle from the right-of-way (ROW) by any means other than the advertisement which was placed on magnetic signs.
- Mr. Wright replied the advertisement was painted directly on the van as opposed to by magnetic signage; thus, it could not be removed. He acknowledged he would not assume the van was a commercial vehicle if there was no lettering.
- Mr. Viola recalled a similar case involving signs on trucks being used for advertising purposes, confirming City Code prohibited same.
- City Attorney Levin asked if Mr. Wright considered the van depicted in the photographs a commercial vehicle.
- Mr. Wright replied affirmatively.
- Mr. Viola asked if the violation had been eliminated, i.e., had the advertising been covered.
- Mr. Wright replied he was unsure as he was no longer responsible for the subject territory.
- City Attorney Levin interjected there seemed to be some misconception with respect to two different provisions of City Code. He explained the provision to be considered this date was relative to parking of a commercial vehicle in the SRO district, adding another

provision allowed for parking of pick-up trucks or passenger vehicles with lettering on same provided the lettering was removed or otherwise covered between certain hours of the night; however, this provision did not address the subject vehicle as it was neither a pick-up truck nor a passenger car. He acknowledged City Council could certainly amend the ordinance to cover the respondent's van as well; however, they had chosen not to do so. He clarified the question this date was whether or not this was a commercial vehicle, adding if so, the Board must determine whether it was parked in violation of the City Code as stated above.

- Mr. Shirley agreed the issue was whether the van, by its very nature, was considered a commercial vehicle. He agreed the van was a commercial vehicle when actively displaying a business; however, if the lettering was covered so as not to be exposed to the neighborhood, there should be no reason the van could not be allowed to remain. He asserted there was no way to determine the van was a commercial vehicle other than by the advertising.
- Mr. Viola asked if the signage had ever been covered.
- Mr. Shirley replied affirmatively, stating Mr. Boccio had magnetic appliqués to cover the advertising.
- City Attorney Levin reiterated an argument in favor of a change to City Code would be better addressed directly to City Council, maintaining this was not the appropriate forum for testimony relative to what the respondent felt was an unreasonable ordinance. He clarified the Board must determine whether the respondent's van was a commercial vehicle being parked illegally.
- Mr. Shirley interjected he was arguing due process, specifically whether or not the respondent was placed on sufficient notice that this particular vehicle was commercial in the absence of the lettering. He expressed uncertainty an alleged violation of Section 26-3.13(g) necessarily placed Mr. Boccio on notice his van was a commercial vehicle. He agreed the issue should be brought to City Council's attention, asking the Board to abate any potential sanctions until that time.
- Mr. Stevens asked if City Code allowed parking on the grass in the side yard.
- City Attorney Levin replied it did not. He clarified the lettering advertised a carpet and upholstery cleaning business, asking if the van was used in furtherance of this business.
- Mr. Boccio replied affirmatively.
- City Attorney Levin asked if the carpet and upholstery cleaning business was a commercial endeavor taken for money or profit.
- Mr. Boccio replied affirmatively.

- Mr. Shirley asked if Mr. Boccio owned any other vehicles.
- Mr. Boccio replied he did not.
- Mr. Shirley clarified the vehicle was also used for pleasure.
- Mr. Boccio agreed, stating he used the vehicle daily, more for personal than business related purposes.
- Mr. Shirley confirmed the van contained commercial equipment in the rear of the van, asking if same was visible from the outside.
- Mr. Boccio replied it was not.
- Mr. Bailey opined the van was a commercial vehicle.
- Mr. Viola concurred.
- Mr. Stevens asked if the van had commercial license plates.
- Mr. Boccio replied it did not.
- Mr. Kresge clarified the alleged violations were related to both the boat and the van. He further clarified the violations had been eliminated.
- Mr. Viola asked where the van was being stored.
- Mr. Boccio replied in his driveway; however, the lettering was covered when parked at home.
- Mr. Wright mentioned he had suggested the respondent repaint the van and use magnetic signage for advertisement of his business.
- City Attorney Levin interjected commercial vehicles, regardless of lettering as described above, were prohibited from being parked within the SRO district other than inside an enclosed garage or for a limited period during the day when engaged in construction. He asserted this was not a change in interpretation of the LDRs.
- Mr. Wiker clarified Mr. Wright's recommendation to paint the van and utilize magnetic signage would not be applicable.
- City Attorney Levin concurred.
- Mr. Wiker asked if Mr. Wright would have determined the van was a commercial vehicle if there was no lettering on same.
- Mr. Wright replied he would probably not have even noticed the van.
- Mr. Wiker commented it appeared there were no viable options available to Mr. Boccio.
- Mr. Viola stated while he did not agree with the literal interpretation of the Code, the Board and staff were charged with enforcing same.
- Mr. Kresge asked if the respondent intended to address this issue with City Council.
- Mr. Shirley replied he believed that was Mr. Boccio's only recourse.

- Mr. Kresge MOVED, Mr. Viola SECONDED to find the respondent guilty and to issue a Cease & Desist Order for any future violations or be subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.
- D. 09-38379 - CODE COMPLIANCE OFFICER - MARICELA PERDOMO
  - Respondent: Gordon B. Johnston, Jr., Property Owner
  - Address of Violation: 825 Via Tunis
  - Violation of Section 26-8.11(e), Standards of property maintenance, grass and weeds over twelve (12) inches in height in landscaping; Section 26-8.11(g), Property maintenance, outside storage; Section 26-3.13(n), Garbage containers stored outside of walled in area; Section 26-8.11(b), Standards of property maintenance, broken awnings and boarded up window.
- Mr. Stevens noted the respondent was not present, confirming there was no objection to entering a plea of not guilty on his behalf.
- Ms. Maricela Perdomo, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, stating on October 27, 2009, she received a complaint regarding the condition of this property and its landscaping. She mentioned she had received various complaints regarding this property in the past. She advised inspection of the property revealed the following: tall weeds throughout the landscaping; overgrown shrubs; outside storage in between bushes; tarps; bricks; one bag of mulch; one bag of salt; poles; wood; plywood; one barrel; cage; ladders; pavers; trashcans; bins; other miscellaneous items scattered throughout. She stated she also observed two broken window awnings on the side of the property and a boarded up window in the rear. She announced a Statement of Violation/Notice of Hearing was issued and received on October 30, 2009. She noted the board over the window in the rear had been removed while all other violations remained as of November 24, 009.
- Mr. Ashworth confirmed the house was inhabited.
- Mr. Viola stated it appeared the property simply needed to be cleaned up.
- Ms. Perdomo agreed, explaining she was required to present the case to the Board after receiving several complaints from the respondent's neighbors who were quite upset.
- Mr. Viola MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Viola MOVED, Mr. Poitras SECONDED to find the respondent guilty and to issue a Cease & Desist Order for any future violations or be subject to a fine of up to \$250 per

day if the property was not maintained within 14 days of receipt of the Board's Order.  
MOTION CARRIED UNANIMOUSLY.

**OLD BUSINESS**

A. 09-37665 - CODE COMPLIANCE OFFICER - RANDY WRIGHT

Respondent: Douglas & Darla Wilder

Address of Violation: 530 Corto Andra

Violation of Section 26-8.11(g), Standards of property maintenance, accumulation of miscellaneous personal property throughout the yard; Section 26-8.26, Temporary structures prohibited, large storage container in the yard; Section 26-8.11(c), Standards of property maintenance, grass and/or weeds over twelve (12) inches; Section 7-32(a)(1), Failure to obtain building permit.

- Mr. Stevens noted the respondents were not present, confirming there was no objection to entering a plea of not guilty on their behalf.
- Mr. Wright announced this case had been continued from the Board's previous meeting, providing a review of testimony given at the September and October 2009 meetings. He reported the shed had been permitted and had passed a final inspection on November 24, 2009.
- Mr. Viola MOVED, Mr. Ashworth SECONDED to dismiss Case #09-37665. MOTION CARRIED UNANIMOUSLY.

**OTHER BUSINESS**

A. 05-27373, 02-21532, 93-3358 - ZONING OFFICIAL - TERI TUBBS

Respondent: Thomas and Antoinette Harris

Address of Violation: 432 Carmalita Street

Order recorded three months or more; recommendation for foreclosure of liens on the property.

- City Attorney Levin announced several liens totaling over \$13,000 had been recorded against the subject property for 3 or more months, stating per Florida Statutes, the Board could authorize him to foreclose on those liens. He mentioned this was not a homestead property nor was it in foreclosure, expressing hope the property owners would take corrective action once this action was initiated.
- Mr. Bailey requested clarification of the original violations.
- Ms. Tubbs replied trash, rubbish and debris, visual blight and unlicensed/ inoperative vehicles. She also expressed hope this action would prompt the respondents to eliminate the violations and maintain their property.
- Mr. Viola MOVED, Mr. Ashworth SECONDED to authorize the City foreclose its liens on the subject property. MOTION CARRIED UNANIMOUSLY.

- Mr. Ashworth suggested setting an arbitrary limit to take this type of action when liens reached a certain figure.
- City Attorney Levin agreed, stating he believed there was greater interest in pursuing these liens due to the large number of same resulting from the current economic climate. He mentioned he was also working on an ordinance which would authorize the City to perform work on such properties to be paid through a special assessment.

#### **MEMBER COMMENTS**

- Mr. Viola spoke in opposition to the practice of utilizing parked vehicles for advertisement, citing several examples of same. He then apologized for interrupting Mr. Wiker earlier, explaining he simply did not wish to see that situation revisited.
- Mr. Wiker accepted Mr. Viola's apology, stating he did not intend to be out of line. He acknowledged he was not a long standing member of this Board; however, he understood questions could be asked without members taking issue with same.
- City Attorney Levin advised once a change in the LDRs was discovered, staff investigated whether any other permits had been issued in error over the past 12 months. He announced one such permit was discovered, adding action had been initiated to attain compliance. He then wished everyone a Happy Thanksgiving.

#### **ADJOURNMENT**

- Meeting Adjourned: 10:19 a.m.

---

Jim Stevens, Chairman

---

Mary Kelly, Recording Secretary