

CODE ENFORCEMENT BOARD MINUTES
Wednesday, January 12, 2022 – 1:30 p.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Chairman, Eric Price; Vice Chairman, Linda Hillman; Members: Stephen McDonald, Frank Pizzichillo, Christopher Bryant, Richard Kennedy and Ken Daige **Also Present:** Code Enforcement Officer, Melody Sanderson; Code Enforcement Officer, Jamila McGee; City Attorney, John Turner and Deputy City Clerk, Sherri Philo

1. CALL TO ORDER

Today's meeting was called to order at 1:30 p.m.

2. PLEDGE OF ALLEGIENCE

The Chairman led the Board members and the audience in the Pledge of Allegiance to the flag.

The Deputy City Clerk swore in staff and the audience present for today's meeting en masse.

3. PRELIMINARY MATTERS

A) Adoption of Minutes

1. December 8, 2021

Mr. Price made a motion to adopt the minutes of the December 8, 2021 Code Enforcement Board meeting. Mrs. Hillman seconded the motion and it passed unanimously.

B) Agenda Additions, Deletions and Adoption

Ms. Melody Sanderson, Code Enforcement Officer, pulled Case #21-CE-12021 – Jarrett T. Bass and Case #21-CE-12046 – Riomar Cove Homeowners Association, Inc. / Robert Lewis, Agent from today's agenda.

Mr. Price made a motion to adopt the agenda as amended. Mr. McDonald seconded the motion and it passed unanimously.

4. UNLICENSED CONTRACTORS/CITATIONS

None

5. EVIDENTIARY HEARINGS

A) Citation Appeals

1. CASE #21-CE-12116 / 3231M

VIOLATOR: George Boulahanis

VIOLATION: Occupy or use land or structure without first obtaining all appropriate development permits and approvals pursuant to Chapter

64, Article I, Development review and complying with their terms and conditions – Code Sections 60.21 (b)(2); 60.24 (4)

VIOLATION ADDRESS: 2625 10th Court, Vero Beach, Florida 32960

Ms. Sanderson reported that the violation cited was for occupying or use of land or structure without first obtaining all appropriate development permits or approvals pursuant to Chapter 64, Article I, Development Review of the City Code, and complying with their terms and conditions. This constitutes a violation as this is a multifamily residential use of three (3) units of the property in R-1, Single-Family Residential Zoned District. She reported that Mr. Jeffries would be speaking on this case. Mr. Boulahanis is present today to appeal the citation and would be speaking first.

Mr. George Boulahanis, property owner, who has been sworn in, stated that he purchased the home in the early 1990's from his father-in-law. His father-in-law purchased the home from Mr. George Ireland. He said that he was present when his father-in-law was negotiating the deal with Mr. Ireland and he asked Mr. Ireland if this was legal. Basically, what Mr. Ireland told them was that during or after the war there was a shortage of housing and that this was allowed. He said the property is the same as it was since before the early 1990's so he was shocked to receive this citation. He stated that he did a search on the property with Indian River County and they don't have any record of any permits. He said that he told the County that the building is there so there must be permits and he was told that the permits were lost when they were transferred from the City to the County years ago.

At this time, Mr. Jeffries entered the meeting.

Mr. Price asked Mr. Boulahanis to have a seat and allow Mr. Jeffries to speak.

Ms. Sanderson reported that this case was initiated on a complaint made to the Planning and Development Department. The property was for sale and someone realized that it had multi-units and it came to the attention of the Planning and Development Director.

At this time, the Deputy City Clerk swore in Mr. Jason Jeffries.

Mr. Jason Jeffries, Planning and Development Director, who has been sworn in, reported that the property was for sale as three (3) units in a Single-Family Zoning District. Upon research of the information they have in the Planning and Development Department, staff found that the structures were built in 1940, which at that time the City was under the 1926 Zoning Code and that Zoning Code did allow apartments or multi-family on this property. However, the 1948 Zoning Code zoned this property R-1, Single-Family Residential as it is currently zoned. The City atlas on file, which is dated 1970, shows this property as being a single-family structure. The Polk Directory dated 1996 showed a single address for this site and that it was vacant. Staff also did research in their office, as well as the Indian River County Building Department for permits. He explained that all the records of the City were transferred to the Indian River County Building Department. Therefore, if any type of permits were issued on this property the County would have the information on microfiche and they did not find any permits on file. It was City staff's determination that up until 1996 or later, it has been a single-family structure and it was zoned single-family so there would not have been a legal way to convert it to three (3) units.

Mr. McDonald did not understand.

Mr. Jeffries explained that it was zoned single-family in 1948.

Mr. McDonald asked was it the area that was zoned single-family or this particular house.

Mr. Jeffries said this property was zoned single-family in 1948. It shows in the City's records that in 1970 it was existing as single-family.

Mr. McDonald asked how can you zone a multi-family unit to a single-family unit. He said this was built in 1940 under the 1928 zoning, which allowed multi-family.

Mr. Jeffries explained that you have to follow the rules at the time when you make the conversion.

Mr. McDonald said that doesn't make sense.

Mr. Pizzichillo asked are they paying taxes as a single-family or multi-family.

Mr. Jeffries reported that the Property Appraiser has this listed as a single-family.

Mr. Pizzichillo said then all these years they were listed as single-family and have been paying less than they should have been paying.

Mr. Jeffries reported that the property is zoned as a single-family.

Mr. McDonald noted that it was built under the 1928 Zoning Code and multi-family was allowed under that Code.

Mr. Jeffries explained that any changes made to a piece of property has to conform to the regulations as they currently exist.

Mr. McDonald asked what does Mr. Boulahanis have to do, tear it down.

Mr. Jeffries answered no. He explained that the single-family was converted to a duplex, which would have to be converted back to a single-family use.

Mr. Daige said when staff did the research and went to the Property Appraiser's office they were repaying taxes as a single-family residence. Therefore, they are paying taxes as a single-family.

Mr. Jeffries said that is correct.

Mr. Daige asked Ms. Sanderson if she had photographs of the property.

Ms. Sanderson thought that Mr. Jeffries also wanted to state that the property record card shows two (2) structures on the property. She said the house in the front is a duplex and the building in the back is the third unit.

At this time, Ms. Sanderson handed the Board information that she obtained from Realtor.com and the Property Appraiser's website (on file in the City Clerk's office as Exhibit A).

Mr. Jeffries said the Property Appraiser does show two (2) constructed single-family structures built in 1940. He explained that they could continue to have the two (2) single-family structures, but the front unit was converted into a duplex, which is not a permitted use in this zoning district. He said it appears from their research that the front structure was converted into a duplex and the structure in the back is a single-family structure. He explained that the two (2) single-family structures can remain as two (2) individual single-family structures on this property. However, there are no permits or any type of documentation that the structure in the front was legally converted into a duplex. He said they did not find any record that any type of building or electrical permits were pulled.

Mr. McDonald questioned so there is no record of this anywhere.

Mr. Jeffries said that is correct.

Ms. Sanderson reported that the Utility Department only has one (1) meter on the property.

Mr. McDonald said they don't have any idea how this was built.

Mr. Jeffries said the two (2) structures were built in 1940.

Mrs. Hillman asked if she was correct that both structures were being taxed as one (1) piece of property.

Mr. Jeffries noted that the Property Appraiser has it listed as a single-family use.

Mrs. Hillman questioned for both.

Mr. Jeffries said that is correct.

Mr. Price asked Mr. Boulahanis when he purchased the property.

Mr. Boulahanis said it was in 1991 or 1992.

Mr. Price asked at that time, how many families were living on the property.

Mr. Boulahanis answered three (3).

Mr. Price asked how many families were living in the front building.

Mr. Boulahanis answered two (2).

Mr. Price asked how many were living in the back building.

Mr. Boulahanis answered one (1).

Mr. McDonald said Mr. Boulahanis mentioned in his opening remarks that records were lost.

Mr. Boulahanis said that is what he was told.

Mr. McDonald asked who told him that.

Mr. Boulahanis said a person at the County.

Mr. Pizzichillo asked if he made any internal renovations on either structure.

Mr. Boulahanis answered no.

Mr. Pizzichillo questioned so you didn't do any plastering or electric work.

Mr. Boulahanis answered no.

Mr. Price said your statement was that you purchased the property as it is now.

Mr. Boulahanis said that is correct.

Mr. Price questioned and now you are trying to sell it.

Mr. Boulahanis said that he did try to sell it, but he has changed his mind.

Mr. Daige said this issue came to light since the property was up for sale. He said there are non-conforming structures on the property so this will come up again when a title search is done and the property goes up for sale. What he is hearing is that there are three (3) units on the property that are all occupied. He said it sounds like some of the things are non-conforming because people are living there that shouldn't be living there.

Mr. Price said the title search didn't pick it up when Mr. Boulahanis purchased the property.

Mr. McDonald asked Mr. Boulahanis if he had a mortgage on the property when he purchased it.

Mr. Boulahanis said that he still does.

Mr. McDonald said then there was a title search done.

Ms. Sanderson noted that he purchased the property from his father-in-law.

Mr. Boulahanis said that he had to take out a mortgage in order to pay him.

Mr. Price said the gray area here is if it was pre-existing as a three (3) family versus a two (2) family.

Mr. Bryant said it could have been made three (3) when it was built back in the 1940's.

Mr. Boulahanis said they don't know. He reported that there are front doors, back doors, three (3) mailboxes, and an electric meter that they can charge the tenant for the electric.

Mr. Pizzichillo said if it is being taxed as single-family then that is a starting point because as far as he is concerned they cannot sell the property as a one (1) family unit when in fact there are three (3) units. He said there is a severe conflict.

Mr. McDonald questioned the only solution being offered is to tear down the walls and turn it into a one (1) family unit with a separate building. He asked what is going to happen to the families.

Mr. Boulahanis said they are long-term tenants and he would need time to find them some place to live.

Mr. Bryant said that he doesn't know how it was constructed in 1940.

Mr. Price asked Mr. Boulahanis if he has any photographs of the property prior to him purchasing it.

Mr. Pizzichillo said that he would like to see a picture of the buildings because it could give them some idea of when they were built.

At this time, Mr. McDonald passed down the information submitted as Exhibit A to Mr. Pizzichillo.

Mr. Price said the Board can't change the Code and they can't make the City accept this one way or the other.

Mr. McDonald asked if there was any type of exemption possible.

Mr. Pizzichillo asked Mr. Turner if they could go into closed session to speak with him.

Mr. John Turner, City Attorney, said they have two (2) separate units on the property. The problem is that the front unit was converted from a single-family to a duplex, which is multi-family and the area is not zoned for that use.

Mr. McDonald asked do they know when it was converted.

Mr. Turner said they don't have any facts on when it was done. There is no evidence to show who or when it was converted so at the present time it is non-conforming.

Mr. Price said if they had proof that it was done before 1948 then it would be grandfathered in.

Mr. Turner said they don't have any proof.

Mr. McDonald said they don't have any proof that it wasn't.

Mr. Turner said the evidence has established what the condition is, the history of the zoning, and what the condition is today. If it is a non-conforming use of the property then that has to be addressed.

Mr. McDonald said if this was originally built in 1940 as two (2) units and they don't have any indication that it wasn't...

Mr. Turner said there were two (2) units.

Mr. McDonald said two (2) separate buildings with two (2) units within one building.

Mr. Turner explained that the presumption is that the duplex was permitted or authorized at the time in the 1940's then it is going to be grandfathered in at the present day and there is no violation.

Mr. McDonald said they don't have any information of any kind to prove that.

Mr. Bryant said it would have to be up to Mr. Boulahanis to prove that.

Mr. Price felt that the Board should give him time to prove this one way or the other. He asked what kind of proof would Mr. Boulahanis need to prove that it was a duplex prior to 1948.

Mr. Jeffries answered permit records, plans, etc.

Mr. Price asked how common is it to get plans that far back.

Mr. Jeffries said it is common. He said their records go back to the 1940's and even the 1930's.

Mr. McDonald asked about seeing the original plans.

Mr. Jeffries explained that the plans would just show the elevation.

Mr. McDonald said so there would be no specifics about when it was a duplex.

Mr. Jeffries said that is correct. He said in looking at the pictures of the building, the structure appeared to be a single-family residential structure. He said that normally a duplex has two (2) front doors and this building does not have that.

Mr. McDonald asked were there permits pulled from 1940 to now that indicates there was any change to the building.

Mr. Jeffries answered no. He reported that if the building was damaged and they were to come in and request to build the structure, Chapter 64 of the City Code states that the burden of proof is on the property owner to prove that it was constructed in that manner in order to be able to reconstruct it in a non-conforming status.

Mr. McDonald asked if there are no plans, what is Mr. Boulahanis supposed to do.

Mr. Jeffries said City staff has done everything they could in looking for records and they couldn't find anything that shows that the front unit was a duplex.

Mr. Price said you are not showing that it wasn't either.

Mr. Jeffries said in his professional judgement, if you looked at the structure and it obviously looked like it was built as a duplex they would concede that it was built as a duplex. However, it appears to be a single-family structure. It is just that they took the front two (2) rooms and divided them off from the rest of the structure.

Mr. Pizzichillo asked Mr. Turner if it was possible that a title search could tell the Board something about when the building was actually built and how many units were in it.

Mr. Turner said that he was not sure.

Mr. Pizzichillo asked would the information be on the deed. He asked Mr. Jeffries if he researched the deed.

Mr. Jeffries answered no. He explained that deeds normally just reference the lot number, block number, subdivision, etc.

Mr. Price questioned so the City does not have any plans when the building was originally built.

Mr. Jeffries said that is correct.

Mr. Price asked are they sure that the building in the back was always single-family.

Mr. Jeffries said that is what the Property Appraiser records show. It shows that the building was built in 1940, that it was 822 square feet with one (1) bathroom and one (1) bedroom, a total of three (3) rooms.

Mr. Price asked does it show two (2) kitchens for the other building.

Mr. Jeffries said the front unit shows 1,038 square feet with one (1) bathroom and two (2) bedrooms. He said so how could they have two (2) units with only one (1) bathroom.

Mr. Price asked what proof would Mr. Boulahanis need that there was a duplex in front prior to 1948.

Mr. Jeffries said if the Board wanted to give Mr. Boulahanis more time to research, he could check to see if the Historical Society or the Library has the old Sandler Maps. He said that he doesn't know how long Sandler Maps were done for the Vero Beach area, but they would have sufficient information.

Mr. Price asked what about notarized statements from the neighbors.

Mr. Jeffries noted that they would need to find someone who knew it was a duplex prior to 1948. He explained that they just need sufficient information to determine that it was legally established, which they haven't found yet.

Mr. McDonald asked is there any way he could apply for some type of exemption.

Mr. Jeffries answered no.

Mr. McDonald questioned so there is no variance.

Mr. Jeffries answered no. He explained that they can't violate the City's intensity requirements.

Mr. Daige said the other thing is that they have three (3) units and it shows on the tax records that they are collecting taxes for one (1) unit.

Mr. McDonald said they think that, but he hasn't seen any evidence of that.

Mr. Boulahanis said there are three (3) bathrooms on the property, one (1) in each unit.

Mr. Pizzichillo questioned how many kitchens.

Mr. Boulahanis said there are two (2) kitchens in the front building and one (1) kitchen in the back building.

Mr. Pizzichillo questioned the number of bedrooms.

Mr. Boulahanis said one unit in the front building has two (2) bedrooms and the other unit has one (1) bedroom.

Mr. Price said the Board wants to believe what Mr. Boulahanis is saying, but they can't go by what he is saying. The worst case is that Mr. Boulahanis would have to kick someone out of the front building and convert it back to single-family. The other option is to provide enough proof to the City that it was a duplex prior to 1948 and he didn't know if Mr. Boulahanis could do that.

Mr. Boulahanis said it doesn't look very promising.

Mr. Price said there are records that the Library might have. He explained to Mr. Boulahanis that the Board would either give him more time to try to provide proof or the Board would have to tell him that he is in violation and it has to be rectified and if not then he would be fined. He said the Board cannot change the Code. He did not think that Mr. Boulahanis wanted to tear out a bathroom and a kitchen or kick out his tenants. He said if what Mr. Boulahanis was saying was true that it was done before 1948 then he would have to prove that to the City.

Mr. Pizzichillo felt that the Board should give him a reasonable amount of time to do some research.

Mr. Daige agreed. He said if it turns out that it was just not going to work it would give him time to figure out what he is going to do with the people who are currently living on the property. He asked Ms. Sanderson if the penalty was due now on the property.

Ms. Sanderson answered no. She explained that a penalty was assessed, but if he has time to prove his case ...

Mr. Daige said that he would like to give him time, but he doesn't want to see a penalty to keep accruing.

Mr. Bryant asked what are the lease terms for the two (2) tenants in the front building. He asked when does their lease term expire.

Mr. Boulahanis said that he did not have the exact date with him, but it is renewed every summer.

Mr. Pizzichillo suggested that Mr. Boulahanis do some research on this.

Mr. Boulahanis said that he wants to do some research, but it doesn't look promising. He said that he doesn't think this is fair, but life isn't fair and he understands that. He said that he doesn't want any trouble. He just wants to do what he is supposed to do and get it right.

Mr. Price said if the property was modified after 1948 and there are no permits it was done illegally.

Mr. Boulahanis said that he could not testify to anything before the 1990's. He said the only knowledge he had was what he was told by the previous owner.

Mr. Price said that Mr. Jeffries suggested that Mr. Boulahanis check with the genealogy department at the Library.

Mr. Pizzichillo said the Census Bureau might have some information.

Mr. Daige said that he was fine with allowing at least 120-days because there are people living in the unit and it is hard to find a place to rent right now. He said that he is okay with allowing 120-days and if the Board feels more time is needed, he is okay with that as well.

Mr. McDonald said what they have is a situation where the City is not able to demonstrate that this is a violation and he felt that went beyond unfair. He said that they have a situation where the City is stating that there is no proof and therefore he is in violation.

Mr. Pizzichillo said maybe the burden of proof is on both entities, the individual and the City.

Mr. Price said the burden of proof is on the property owner.

Mr. Turner explained that the City has the burden to bring the charge forward based upon reasonable investigation of the facts and to present those facts to the Board to establish a case or a reasonable basis for bringing the case forward and this particular case shows that this unit is not in compliance under the current zoning, so it cannot be used as a duplex. That is what they are bringing forward. It is up to the property owner to state that he has the right to continue using this as multi-family because it was built before the current zoning was adopted. If he could establish that it was built before then that would be his defense. If the property owner presented that case and the evidence establishes that he has a defense then there would be a finding of no violation. In a sense there is an initial burden on the Code Enforcement Officer to come forward with the case based upon a reasonable investigation and by providing evidence to bring the case before the Board. It is then that the defendant has to establish a defense as to why it is not a violation.

Mr. McDonald said the only facts that have been brought forward is that this house was built in 1940.

Mr. Turner said the Board has to review the facts that are presented to them to make a decision. It can't be anything that is irrelevant. It has to be facts that they can rely on that are presented to them under oath to make their findings.

Mr. Price questioned so the Board could still give him 120-days.

Mr. Turner answered yes. He explained that the Board has the authority to allow time to investigate, to correct, etc. The question is the burden of proof. He said the Board has to be satisfied that based upon the evidence to make a finding. It has to be based upon something and someone has to bring that information to the Board in a proper setting in compliance with due process.

Mr. Price questioned Mr. Boulahanis' statement.

Mr. Turner said Mr. Boulahanis' statement is as credible as Ms. Sanderson's statement because it is done under oath subject to cross examination and the Board makes the determination as to credibility.

Mr. Price said so the Board could throw the case out. They could state that they believe Mr. Boulahanis.

Mr. Turner said the Board could do that.

Mr. Price said even if the Board threw this case out, it would still come back before the Board because the property is zoned as R-1.

Mr. Daige said it will come back up again. He said that he wanted to make sure that the individual could work with the Code Enforcement Department and the Planning and Development Department, as well as check with some of the suggestions given for him to try to find more information and if it works out for him that would be fantastic. Mr. Daige felt that 120-days was sufficient.

Mr. Price made a motion to give him (Mr. Boulahanis) until May 10th.

There was no second made to this motion.

Mr. Price explained that they are giving him time to see if he can give the Board any proof.

Mrs. Hillman said they would be giving him 120-days for research. It is her opinion that it is up to the property owner to prove that in fact it was a duplex from the 1940's.

Mr. McDonald said that is not what Mr. Turner said. What Mr. Turner said was that the City is obliged to present facts that this is in violation. Mr. McDonald said all the City has provided was that it was built in 1940. He said there are no permits, which could also be assumed that there were no changes, which the Board could then conclude that it was a duplex from day one.

Mr. Tuner requested a 10-minute break.

The Board took a break at 2:14 p.m. and the meeting reconvened at 2:24 p.m.

Mr. Turner read in part Code Section 2 (q) – Board Determination, *“The determination of the board for purposes of a contested code enforcement citation shall be limited to fact-finding as to whether or not the violation alleged did occur or exists and, if so, whether the person or entity named in the citation is responsible for that violation. The findings and determination of the board shall be based on a preponderance of the evidence presented at the hearing and the interpretation and application of the code provisions alleged to be violated as such interpretation and application is determined by the designated administrative authority of the city. If the board finds the violator responsible for a correctable violation, the board shall determine a reasonable time period within which correction of the violation must be made If the Board finds that the violator is not responsible for the violation alleged in the code enforcement citation, the violator shall not be liable for the payment of any civil penalty or costs, absent reversal of the board's findings after an appeal.”* He said that is what the Board's job is today. He then read in part Code Section 64.27 (q) – Nonconforming structures and premises, *“The burden shall be on the applicant (in this case the violator) to establish by establish by competent substantial evidence the location, dimensions, area and*

cubical content of a structure as it existed pre-damage,” or precondition. Mr. Turner said that he added the word “precondition” to this sentence. He then continued, *“The city may require reasonable supporting information from the site plan applicant, including without limitation, pre-existing and new surveys, copies of pre-existing building plans and proposed building plans and proposed building plans, certified copies from the public records...”* He said that is what Mr. Jeffries was referring to. He said they have the complaint brought by Code Enforcement of the violation and what that complaint is based on. That evidence is presented to the Board for their consideration. Then they have the defense of the violator who stated that is the way it was before he bought it. He said that is what the Board has to consider. They also have to consider for approving a non-conforming structure, the provisions of the Land Development Code that the property owner has to prove it. He has to bring that evidence forward. Mr. Turner said it was his opinion that is proper consideration to be entered into deliberations.

Mr. Price said it almost sounds like Mr. Boulahanis just needs to prove that he didn’t turn the building into a duplex.

Mr. Turner thought the issue was what the building was before 1948 when the zoning code was changed. If Mr. Boulahanis brings in evidence that shows it existed that way before the zoning code was changed, that would be his defense. He said the Board has to believe by preponderance of the evidence.

Mr. McDonald felt that the only evidence they have is that the house was built in 1940 and there is no evidence of any changes. He said logic says that it was always a duplex and therefore it is not in violation.

Mr. Turner wondered if there was a condition that could be an order entered that if this property was ever sold, transferred, assigned, etc., or if its use has changed that it would have to be corrected and brought back to single-family.

Mr. McDonald said that makes sense. He said that is exactly what he would like to do.

Mr. Jeffries felt a reasonable solution would be to allow a long period of time to be in conformance or if sold maybe they could use a Code Enforcement Agreement.

Mr. McDonald felt that Mr. Turner’s recommendation was the way the Board should go, which would be some type of amendment or exemption that states as long as Mr. Boulahanis owns the property he is exempt from this rule and if it changes hands in any way then the new owner would be held responsible.

Mr. McDonald made a motion that this violation be tabled indefinitely for the period of ownership of Mr. Boulahanis and that the fines be waived for him, but if this property changes hands that the new owner would be required to meet the R-1 zoning requirements.

Mr. Daige said it is out in the open that the property is non-conforming and the Board has questions on that. He said there are three (3) units on the property, a duplex and a single residence and it is only being taxed as a single-family. He felt to have the proper tax on it, because the City collects ad valorem taxes, they need to make sure that these properties are assessed properly and if there is a problem the Tax Assessor needs to find out from the City. It is out in the open so they can’t just push it aside. He said it is the City’s responsibility to handle this matter.

Mrs. Hillman said the problem that she has is that they were going to push this off onto new owners to rectify the problem that is here and has been here.

Mr. McDonald said they don't know that there is a problem. That is the point. He said this could be in compliance. They just don't have any records that indicate that one way or the other.

Mr. Daige said that he would prefer just to give time, and he thinks 120-days is reasonable, to give them time to work with the proper people to figure out what is going on and if it's not going to work it is not going to work. We are not going to put stipulations on it. Let's just give him some time, there are no fines occurring, and hopefully it will work out. If it doesn't work out it gives the landlord time to talk to his tenants so they can start looking for a place, but all that will come together as they are looking into it. That is why he said 120-days.

Mr. Pizzichillo asked is that your motion.

Mr. Daige said that is his motion.

Mr. Pizzichillo seconded the motion.

Mr. Turner asked the Deputy City Clerk if she was clear on the motion.

Ms. Sherri Philo, Deputy City Clerk, said that she was not clear on the motion.

Mr. Daige made it a motion that the Board gives this individual until May 10, 2022 (120-days).

Ms. Philo noted that there was a motion on the floor, however she did not think the motion was seconded. She explained that the motion would die for lack of a second unless the motion was withdrawn.

Mr. McDonald withdrew his motion.

The motion on the floor passed unanimously.

Mr. Price explained to Mr. Boulahanis that he has 120-days to find some information to prove what he is stating.

Mr. McDonald explained that the Board is allowing him 120-days to work with the City Planner to come up with either evidence that there is no violation because it was a duplex prior to 1948 and/or to come back with some type of an agreement that says as long as he owns the property that it would be treated as multi-family even though it is in the R-1 zoning district, but if it changes hands the new owner would be responsible for bringing it into compliance.

Mr. Boulahanis said that he appreciates the fact that the Board is doing this kind of thing to get this straightened out, but he would not want to put this on someone else. He said that he plans to come into compliance. He is not here to start any trouble. He just wants to know what compliance is so that he would be clear from that day forward.

B) Non-Compliance / Compliance Reports

1. Request for Board Order

a. CASE #21-CE-12021 / 3348M

VIOLATOR: Jarrett T. Bass

VIOLATION: Gravel added to drive, right-of-way, and new walkway without obtaining Code Compliance Certification – Code Sections 64.05 (a)(b)(10)(a)

VIOLATION ADDRESS: 2316 19th Avenue, Vero Beach, Florida 32960

(Failure to comply)

This item was pulled from today's agenda.

b. CASE #21-CE-12046 / 3357M

VIOLATOR: Riomar Cove Homeowners Association, Inc. / Robert Lewis, Agent

VIOLATION: Failure to maintain stormwater management structures and stormwater mitigation measures in the River Cove Lane community – Code Section 73.28

VIOLATION ADDRESS: Riomar Cove Lane, Vero Beach, Florida

(Failure to comply; Failure to pay \$50.00 civil penalty)

This item was pulled from today's agenda.

c. CASE #21-CE-12095 / 0308J

VIOLATOR: Kevin and Brittany Walsh

VIOLATION: Vehicle restrictions on private property – Code Section 74-82 (a)

VIOLATION ADDRESS: 1646 Highland Avenue, Vero Beach, Florida 32960

(Failure to pay \$50.00 civil penalty)

Ms. McGee reported that the property is in compliance and the civil penalty has not been paid.

Mr. Price moved that the Board finds that there was a violation, the violation has been corrected and that the Board issues a Board order to pay the initial civil penalty of \$50.00. Mr. McDonald seconded the motion and it passed unanimously.

d. CASE #21-CE-11761 / 3330M

VIOLATOR: Xinjing Yin

VIOLATION: Interior demolition and alterations without a building permit from the Indian River County Building Department – Code Section 22-181; 22-106 – Interior demolition and alterations without a building permit from the Indian River County Building Department

VIOLATION ADDRESS: 2326 Bonita Avenue, Vero Beach, Florida 32962

(Property found in compliance on November 22, 2021. The initial civil penalty of \$50.00 has been paid. There are

continuing penalties of \$50.00 per day that commenced on July 7, 2021, and continued through November 21, 2021, for a total of 138 days x \$50.00 per day for a total of \$6,900.00, plus costs of recording and City Attorney fees)

Ms. Sanderson requested that the Board finds that the property is in compliance as of November 22, 2021, to cease the continuing civil penalties as of November 21, 2021, and to pay the accrued continuing penalties and costs.

Ms. Xinjing Yin, property owner, who has been sworn in, reported that she has been working with an engineer, but he is very busy. She explained to him that she needed to get the work done because if it was not done within a certain amount of time that she would be fined. He told her that he would send a letter to the Code Enforcement Officer. She said that she submitted the letter to Ms. Sanderson, which was before the deadline to come into compliance.

Mr. Price said the Board gave her 60-days to come into compliance. However, she was not found in compliance until November 22, 2021, which was about 90-days.

Ms. Yin said that they were not able to get it done by the compliance date because the engineer was so busy.

Mr. McDonald asked Ms. Sanderson if Ms. Yin was in communication with her. He asked if she was aware of the delays.

Ms. Sanderson reported that she received the letter from the engineer on October 21st, which stated that he had been retained and that everyone was busy. At this time, Ms. Sanderson presented the letter to the Board (on file in the City Clerk's office as Exhibit A).

Mr. Price explained that because the property was not brought into compliance by the compliance date a lien was placed on the property. The Board cannot remove the lien, however it is possible that the City Council could.

Mr. Turner explained that she would have to appear before the City Council through an application process to request some type of lien reduction or some type of leniency on the amount due. The Code Enforcement Board does not have that authority.

Mr. Pizzichillo asked who would she need to see.

Ms. Sherri Philo, Deputy City Clerk, reported that the application for a request for lien reduction is available on the City's website.

Mr. Pizzichillo explained to Ms. Yin that she needs to do her due diligence and get the paperwork and follow through with it in order to appeal. He asked Ms. Yin if she understands.

Ms. Yin said a little.

Mr. Price asked Mr. Turner if the Board could make a recommendation to the City Council.

Mr. Turner answered no. He said there is nothing in the presentation to explain mitigation at this point. The only thing they have of record is the letter presented.

Mr. Price explained to Ms. Yin that if she doesn't want to pay \$6,900.00 in penalties, plus costs, then she needs to do the application and speak before the City Council.

Mr. Price moved that the Board finds the property in compliance as of November 22, 2021, to cease the continuing penalties as of November 21, 2021, and to pay the continued penalties and costs and that the initial civil penalty has been paid. Mr. McDonald seconded the motion and it passed unanimously.

Mr. Price explained to Ms. Yin that she does have other options and he would encourage her to pursue them.

- e. **CASE #21-CE-12052 / 3361M**
VIOLATOR: Kaleigh Rhea Ann Romine
VIOLATION: Sanitary facilities violation; property occupied without water service – Code Sections 22-181; 302.1
VIOLATION ADDRESS: 1413 25th Avenue, Vero Beach, Florida 32960
(Property found in compliance on December 15, 2021. There are continuing penalties of \$150.00 per day that commenced on October 27, 2021, and continued through and including December 14, 2021, for a total of 49 days x \$150.00 per day for a total of \$7,350.00, along with the initial civil penalty of \$150.00, the costs of enforcement of \$55.62, plus costs of recording and City Attorney fees.)

Ms. Sanderson reported that the property was found in compliance on December 15, 2021. She requested that the Board finds the property in compliance as of December 15, 2021, that they cease the continuing penalties as of December 14, 2021, and to pay accrued continuing penalties and costs.

Mr. Price moved that the Board finds the property in compliance as of December 15, 2021, to cease the continuing penalties as of December 14, 2021, and to pay the accrued continued penalties and costs including the initial civil penalty of \$150.00. Mr. McDonald seconded the motion and it passed unanimously.

- f. **CASE #21-CE-11986 / 3326M**
VIOLATOR: Timothy B. Young
VIOLATION: Public nuisance – weeds, grass, or undergrowth at a height of more than 12-inches – Code Section 38-31 (a)(b)(1)
VIOLATION ADDRESS: 2512 Atlantic Boulevard, Vero Beach, Florida 32960
(Property found in compliance on November 30, 2021. The initial civil penalty of \$250.00, along with the cost of enforcement of \$61.38 has been paid. There are continuing penalties of \$250.00 per day that commenced on October 19, 2021, and continued through and including November 29, 2021, for a total of 42 days x \$250.00 per day for a total of \$10,500.00. The original Board order has not been recorded to date. Therefore, currently there are no costs of recording or City Attorney fees.

Ms. Sanderson reported that the civil penalty and enforcement costs have been paid and the property has come into compliance. She requested that the Board finds the property in compliance as of November 30, 2021, to cease the continuing penalties as of November 29, 2021. She reported that Mr. Sullivan is present to speak on this case.

Mr. Price asked if the property is still in compliance.

Ms. Sanderson answered yes.

Mr. Charles Sullivan Jr., who has been sworn in, reported that Mr. Tim Young (violation) is his second cousin and suffers from severe anxiety. He reported that it has been years since he has been able to work. He has a lot of trouble communicating and a lot of the time he will not answer his door. Mr. Sullivan reported that he has some commercial property so what he did was put Mr. Young's property on their rotation in order to keep the grass mowed. He said they are aware of some other fines and asked if there was a way out at this time.

Mr. Price thought there was a lien on the property.

Ms. Philo reported that there is not a lien on the property for this case in that the Board order has not been recorded.

Mr. Sullivan said there are liens that he is aware that the Board could not do anything about, which he would need to appeal them to the City Council.

Mr. Price explained that they need to address each case separately.

Ms. Sanderson recommended because of the other liens on the property, staff would support this since this Board order has not been recorded and that the Board understand the circumstances under which it was created.

Mrs. Hillman asked Mr. Turner if the Board could make a motion to wipe out the fine.

Mr. Turner said they could make a motion, but it may not be adopted. He said a motion to mitigate a lien has to go before the City Council. If this is not under a lien status then there are things that the Board can do. He has not seen where penalties have been totally removed because there are costs.

Mr. Price said the costs have been paid.

Ms. Sanderson said staff supports reducing it completely in that there are other cases that would have to be argued.

Mr. Daige said that he was satisfied with what Ms. Sanderson just stated, as well as the statement from Mr. Sullivan that the property was going to be taken care of. He said if the Board can let this case go they should let it go.

Mr. Price moved that the Board finds that there was a violation, that the violation has been corrected and that the Board issues a Board order reducing the continuing penalties from \$10,500.00 to zero and that the civil penalties and enforcement costs have been paid. Mr. Daige seconded the motion and it passed unanimously.

Mr. Turner requested that they add to the motion that this case is closed.

Mr. Daige moved that this case is closed. Mr. Pizzichillo seconded the motion and it passed unanimously.

- g. CASE #19-CE-10417 / 2184M**
VIOLATOR: Timothy B. Young
VIOLATION: Public nuisance – weeds, grass, or undergrowth at a height of more than 12-inches – Code Section 38-31 (a)(b)(1)
VIOLATION ADDRESS: 2512 Atlantic Boulevard, Vero Beach, Florida 32960
(Property found in compliance on November 30, 2021. There are continuing penalties of \$100.00 per day that commenced on October 15, 2019, and continued through and including November 29, 2021, for a total of 777 days x \$100.00 per day for a total of \$77,700.00, along with the initial civil penalty of \$100.00, the costs of enforcement of \$61.58, plus costs of recording and City Attorney fees.

Ms. Sanderson reported that the Board finds the property in compliance as of November 30, 2021, to cease the continuing penalties as of November 29, 2021, and to pay the accrued continuing penalties, enforcement costs, recording costs, and City Attorney fees.

Mr. Price moved that the Board finds the property in compliance as of November 30, 2021, that they cease the continuing penalties as of November 29, 2021, and to pay accrued continuing penalties and costs, along with the initial civil penalty and enforcement costs. Mr. McDonald seconded the motion and it passed unanimously.

Mr. Price explained to Mr. Sullivan that there is an appeal form to fill out to go before the City Council.

- h. CASE #21-CE-11717 / 3326M**
VIOLATOR: Timothy B. Young
VIOLATION: Public nuisance – weeds, grass, or undergrowth at a height of more than 12-inches – Code Section 38-31 (a)(b)(1)
VIOLATION ADDRESS: 2512 Atlantic Boulevard, Vero Beach, Florida 32960
(Property found in compliance on November 30, 2021. There are continuing penalties of \$150.00 per day that commenced on July 5, 2021, and continued through and including November 29, 2021, for a total of 148 days x \$150.00 per day for a total of 22,200.00, along with the initial civil penalty of \$150.00, plus costs of recording and City Attorney fees.

Ms. Sanderson requested that the property be found in compliance as of November 30, 2021, to cease the continuing penalties November 29, 2021, and to pay the accrued civil penalties, recording costs and City Attorney fees.

Mr. Price moved that the Board finds the property in compliance as of November 30, 2021, that they cease the continuing penalties as of November 29, 2021, and to pay accrued continuing penalties and costs, along with the initial civil penalty of \$150.00, recording costs and City Attorney fees. Mr. McDonald seconded the motion and it passed unanimously.

6. OLD BUSINESS

None

7. ADMINISTRATIVE MATTERS

None

8. CLERK'S MATTERS

None

9. ATTORNEY'S MATTERS

None

10. CHAIRMAN'S MATTERS

None

11. MEMBER'S MATTERS

None

12. ADJOURNMENT

Today's meeting adjourned at 3:07 p.m.

/sp