

CODE ENFORCEMENT BOARD MINUTES
Wednesday, April 12, 2023 – 1:30 p.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Chairman, Eric Price; Vice Chairman, Stephen McDonald; Members: Christopher Bryant, Frank Pizzichillo, Linda Hillman, Ken Daige and Eva Lauer **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. March 8, 2023

Mr. Price made a motion to approve the minutes of the March 8, 2023 Code Enforcement Board meeting. Mr. Pizzichillo seconded the motion and it passed unanimously.

B) Agenda Additions, Deletions and Adoption

Ms. Jamila McGee, Code Enforcement Officer, who has been sworn in, pulled Case #23-CE-12998 – Jeffrey A. Hall and Patricia R. Hall from today's agenda. She reported that they came into compliance after receiving the Notice of Hearing.

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

None

B) Non-Compliance / Compliance Reports

1. Request for Board Order

- a. **CASE #22-CE-12904 / 0735J**
VIOLATOR: 1559 Highland Associates LLC / Miriam Ashery, Agent
VIOLATION: Land Development Code Violation – walls and windows installed without a permit; doors and windows in disrepair or are not weather tight and water tight – Code Sections 60.21 (b)(1); 22-181; 305.7; 305.10; 305.12.1
VIOLATION ADDRESS: 1559 Highland Avenue, Vero Beach, Florida 32960
(Failure to comply)

Ms. McGee reported that the civil penalty has been paid and the property is not in compliance. The original compliance date was December 16, 2022. The property owner is requesting 180-days to come into compliance.

Mr. Daige asked if permits were pulled for the windows, the exterior door and the wall. Ms. McGee reported that they applied for the permits on April 10th, however they have not been approved yet.

The Deputy City Clerk swore in Mr. Roderick Waller.

Mr. Roderick Waller, General Contractor, who has been sworn in, said the door and window permits have not been issued yet. They are waiting on engineering to determine if the wall could stay or if they have to tear it down.

Mr. Price moved that the Board finds that there is a violation, that the violation continues, that the Board issues a Board order to correct the violation within 180-days from the date of the Board order or continuing civil penalties in the amount of \$50.00 per day shall commence on the original compliance date of December 16, 2022, until corrected and that the initial civil penalty has been paid. Mr. Daige seconded the motion and it passed unanimously.

- b. **CASE #22-CE-12943 / 3248M**
VIOLATOR: Annabel V. Robertson
VIOLATION: Land Development Code Violation – Deck requires after-the-fact City approval and a building permit from the Indian River County Building Department – Code Section 60.21 (b)(1)
VIOLATION ADDRESS: 2461 18th Avenue, Vero Beach, Florida 32960
(Failure to comply; Failure to pay \$50.00 civil penalty)

Ms. Melody Sanderson, Code Enforcement Officer, who has been sworn in, reported that Code Compliance was issued by the City and as of today a permit has not been applied for. The civil penalty has not been paid. She said that she spoke with Ms. Robertson (violator) prior to the start of today's hearing and because there was a mix up at the Property Appraiser's site as to the actual address, Ms. Robertson did not receive the warning or the citation. Also, Ms. Robertson was not advised by the Planning Department when she received the Code Compliance that she needed to apply for a building permit. Ms. Sanderson asked that the Board finds that there is a violation, that the violation continues, and that the Board issues a Board order to correct the violation within 90-days from the date of the Board order or continuing civil penalties in the amount of \$50.00 per day shall commence on the original compliance date of February 14, 2023, until corrected and to pay the initial civil penalty of \$50.00.

Mr. Bryant asked Ms. Robertson if she was prepared to pay the \$50.00 today.

Ms. Annabel Robertson, who has been sworn in, answered yes.

Mr. Price moved that the Board finds that there is a violation, that the violation continues, that the Board issues a Board order to correct the violation within 90-days from the date of the Board order or continuing civil penalties in the amount of \$50.00 per day shall commence on the original compliance date of February 14, 2023, until corrected and to pay the initial civil penalty of \$50.00. Mr. Pizzichillo seconded the motion and it passed unanimously.

- c. **CASE #23-CE-12998 / 0821J**
VIOLATOR: Jeffrey A. Hall and Patricia R. Hall
VIOLATION: Land Development Code Violation – Fence and pergola installed without Code Compliance Certification from the City of Vero Beach Planning Department or building permits from the Indian River County Building Department – Code Section 60.21 (b)(1)
VIOLATION ADDRESS: 914 Jasmine Lane, Vero Beach, Florida 32963
(Failure to comply)

This item was pulled from today's agenda.

- d. **CASE #23-CE-13078 / 3309M**
VIOLATOR: Complete Marine Services of Vero, Inc. / John Kistler, Jr., Agent
VIOLATION: Vehicles and trailers are being parked/stored within the onsite stormwater retention area; Failure to maintain screening landscaping; Vehicle and trailer storage in 25' drainage and maintenance easement along the eastern property line; Unapproved ingress/egress at northeastern corner of the property; Unapproved use of and damage to the right-of-way; Signing and marking for accessible space has not been maintained and is not in compliance with the approved site plan or the accessibility requirements of the Florida Building Code – Code Sections 60.21 (b)(2); 60.24 (4)
VIOLATION ADDRESS: 2915 Aviation Boulevard, Vero Beach, Florida 32960
(Failure to comply)

*Please note that all evidence submitted for this case is on file in the City Clerk's office.

Ms. Sanderson reported that the property is owned by the City of Vero Beach Airport and Complete Marine Services of Vero, Inc. is the tenant. No request for a hearing on the citation was received so a hearing to contest the citation has been waived and the violation is deemed admitted by the violator. The complaint was originated by Airport staff and the citation was issued on February 22, 2023, with service of the citation by certified mail. The civil penalty has been paid and there are no enforcement costs.

Mrs. Danessa Chambers, Assistant City Engineer, who has been sworn in, reported that she was on the property about a week ago and Airport staff did an inspection on the property yesterday morning and they are making an effort to comply. They were about 30% complete when she was on the property and were about 50% complete yesterday. She reported that they still need to do the white striping within the ADA parking area, there is some use of ingress/egress within the right-of-way that is in an

unapproved area that has become destabilized so those areas have to be re-sodded, and there were boats parked within the retention area and within the side yard of the building.

Mr. Chuck Garris, Attorney, who has been sworn in, said that he has been practicing here since 1976 and he hasn't seen a case like this since that period of time. The reason that he has not seen anything like this was because he has not seen any real cooperation from the City. He said that he wrote a letter to Mr. Jason Jeffries on March 10th and Mr. Jeffries acknowledged receiving the letter and said that he referred it to the City Attorney. Mr. Garris said that he did not receive anything from anyone regarding his letter until the Notice of Hearing was delivered to the registered agent. He said that Airport staff, Mr. Jeffries, and the City Attorney all knew that he was involved. He said there was no reason for this hearing to take place. He said when there is an attorney involved and there are negotiations this should never had gotten to this point. He reported that there is a right-of-way along the eastern portion of the property that does not belong to the City that is included within the portion of the property that his client rents, but it is owned by the Water Management District and is being utilized by the Water Management District and by the utilities. That is why there is some destabilization. It is not from his client's use of the property.

Mr. Price said asked are they using it as an inress/egress. Mr. Garris said the Drainage District is.

Mr. Price asked if his client has been using it. Mr. Garris said that his client was using it until they had a meeting and then his client ceased using it. However, it is being used by the Drainage District and there is a significant marking where their trucks go down to dredge.

Mr. Price said so your argument is not that his client shouldn't be using it, but that the damage that was done was not done by his client. Mr. Garris said it was not his client. He stated that his client uses light vehicles and the damage was done by heavy vehicles.

Mr. Pizzichillo said there were seven (7) separate violations, which he would read and would like Mr. Garris to comment on them. The first was there were vehicles and trailers being parked/stored within the onsite stormwater retention area. He asked is that correct.

Mr. Garris said that is no longer correct. He said that when he originally met with the City he was told that it was in the lease, which it was not. He was then told that it was in the site plan, which it was not. He said there was correspondence between his client's engineer and the City by fax about 10-years ago when they did the site plan modification and the engineer agreed not to utilize the property for boat storage, but it was not in the site plan.

Mr. Pizzichillo said the second violation was for failure to maintain screening landscaping pursuant to the approved landscape plan. Mr. Garris said there were some plants that died and almost all of them have been replaced.

Mr. Pizzichillo said the third violation was vehicle and trailer storage in a 25-foot drainage and maintenance easement along the eastern property line. Mr. Garris said there is no storage in that area.

Mr. Price said storage could also mean parked vehicles. He asked were their vehicles there. Mr. Garris said in order to turn to the back from his client's property they have to go through that area, but they are not there permanently. He said they might be there for half an hour.

Mr. Pizzichillo said so you are saying that this violation was not true. Mr. Garris said it would depend on their definition. He said they are allowed to use the property.

Mr. Daige said if he was hearing this correctly, this area was needed to do their work so this was not going to stop. Mr. Garris said it is their only access. He said they have to turn the boats in that area and he did not think it was a violation.

Mr. Pizzichillo said the fourth violation was unapproved ingress/egress at the northeastern corner of the property and no permit has been submitted or approved. Mr. Garris said from time to time people have used it, but that is the access easement that belongs to the Drainage District. He said that his client is not using it.

Mr. Pizzichillo said the fifth violation was unapproved ingress/egress at the southeastern corner of the property. Mr. Garris said that is the only place they can turn in order to get down the back road to the other property.

Mr. Daige said so this is needed. Mr. Garris said it is needed, but they are not storing anything there.

Mr. Pizzichillo said the sixth violation was unapproved use of and damage to the right-of-way. Mr. Garris said that is what they already discussed. He said that his client did not cause any damage. This damage was done by heavy trucks.

Mr. Pizzichillo asked if his client ever used that portion of the property. Mr. Garris said that his client used it to park their personal vehicles, but they stopped using it after they held their first meeting.

Mr. Pizzichillo said the seventh violation was signing and marking for accessible space has not been maintained and is not in compliance with the approved site plan. Mr. Garris said that he thought it was completed. He said it was stated today that the striping was not done, however it was done. He said they had an approved painter paint it. He said they were going to comply, but he thought it was completed.

Mrs. Chambers showed on the screen an aerial photograph of the property (Exhibit A-1 on file in the City Clerk's office).

Mr. Price referred to the area to the right that showed four (4) boats. He asked is that area leased to Complete Marine Services of Vero. Mrs. Chambers answered no. She said that area is Airport owned property that is not leased to a tenant and it is not to be used by anyone other than the Airport.

Mr. Bryant asked could Complete Marine Services of Vero lease the property if they wanted to. Mrs. Chambers answered yes.

Mr. Bryant asked when the photograph was taken. Mrs. Chambers thought it was in 2021 and it is the latest aerial that they have.

Mr. Price said so the boats might not be there now.

Mrs. Chambers said they do have code enforcement cases starting as early as 1997 with parking issues in the retention area and offsite.

Mr. Price referred to the property on the right and asked would the ingress/egress outlined in red at the bottom of the aerial be permitted.

Mrs. Chambers said it is a drainage right-of-way so they would have to get approval. She said the orange square is the drainage easement that is within the leased area. The drainage right-of-way is not

currently within their leased area. She said the drainage easement is actually City used. The City maintains that canal with their equipment so it is not because of third party use. She said the City's use is not frequent enough to cause any substantial damage. The City only maintains them once a quarter so it is not enough to destroy the stabilization.

Mr. Price asked what needs to be done to comply.

Mrs. Chambers said they shouldn't be using anything for storage or parking that wasn't approved on the site plan for storage or parking or for vehicular access that wasn't approved for vehicular access. If they need to make some modifications to their approved permit to accommodate their needs then they would need to submit for a permit before they start using the area. She referred to the aerial photograph and explained that the area outlined in blue could not be used for parking; the area outlined in orange can't be used for parking, storage, or access unless permitted otherwise; the area outlined in red and the areas outlined in purple should not be used and because they have become destabilized they need to be re-sodded; and the area outlined in green is where the ADA space is located. She said that Mr. Garris was correct in that they did do the blue stripping, however they have not done the white striping or the handicap symbol.

Ms. Lauer asked where is the area that Mr. Garris mentioned was necessary for them to turn the boats around. Mrs. Chambers said it was the drive isle outlined in orange.

Mrs. Hillman questioned so the area outlined in blue was retention and parking was not allowed. Mrs. Chambers said that is correct. She noted that the green space area just north of the area outlined in blue was also a retention area. She said they could pave that area for parking and put the retention underground. However, as it exists today the City would not allow parking in that area.

Mr. Price asked if there were any boats in the retention areas at this time. Mr. Garris said not when he was on the property last week and there were no boats on City property.

Mrs. Hillman asked if she was correct that the red and purple areas along Aviation Boulevard were the areas that needed to be re-sodded. Mrs. Chambers said the the red and purple areas including the culvert, so it would be the three (3) areas along Aviation Boulevard and the area south within the drainage right-of-way.

Mr. Garris said the areas on the right was not on their property.

Mrs. Hillman said but they were using it. Mr. Garris said no. He said they were being used by a lot of people daily. He said putting sod there without irrigation was throwing money away.

Mrs. Chambers said no one was using those areas daily. She said they could see by the photograph that there was one (1) heavy user of those areas and it was the heavy use that would cause the destabilization. During her inspection they were still maneuvering in those areas, which was a week or two ago and during Airport staff's inspection yesterday they still were maneuvering equipment.

Ms. Lisa Ross, Commercial Leasing Property Administrator, who has been sworn in, said as of yesterday she has seen a tremendous improvement. She submitted a packet that included some photographs of boats and trailers into the record (Exhibit A). She said the boats that were in the retention area are now blocking the entry and exit of the property.

Mr. Price said they were close to coming into compliance and are arguing about being forced to comply by repairing the damage to the ingress/egress areas.

Mrs. Chambers explained that the areas outlined in red and purple were the areas that needed to be re-stabilized with sod.

Mr. Daige asked what was a reasonable time frame for them to comply. Mrs. Chambers felt that 30-days was more than sufficient time to replace the sod and to paint the ADA parking area.

Mr. McDonald questioned what happens if they put down the sod and the sod dies.

Mrs. Chambers said they should put down Bahia and use some type of watering system for about 30-days. After that they would be considered in full compliance. Once it is stabilized then they would not be in violation unless they continue to use the area.

Mr. Price moved that the Board finds that there is a violation, that the violation continues, that the Board issues a Board order to correct the violation within 60-days from the date of the Board order or continuing civil penalties in the amount of \$500.00 per day shall commence on the original compliance date of March 10, 2023, until corrected and that the initial civil penalty has been paid. Mr. Pizzichillo seconded the motion and it passed unanimously.

- e. **CASE #22-CE-12590 / 3415M**
VIOLATOR: Edgar Valdes
VIOLATION: Public nuisance; couch in front yard – Code Section 38-31 (b)(5)
VIOLATION ADDRESS: 2175 33rd Avenue, Vero Beach, Florida 32960
(Rehearing – Code Section 2-306 a 4)

Ms. Sanderson reported that this case is before the Board for a rehearing. She reported that the citation was issued on June 17, 2022, by property posting and within two (2) days the posting was removed. This case came before the Board in July, 2022, for non-compliance and they were given seven (7) days to correct the violation. The violation was not corrected so the Board order was recorded. After the Board order was recorded she received a telephone call from the neighbor stating that he was the one responsible for the couch that was in the front yard. When the property came into compliance the case was brought back before the Board to find them in compliance. She said the lien came up when the property owner applied for financing. She said it was presumed that the neighbor was checking the mail, but was not giving it to Mr. Valdez so Mr. Valdez was unaware that he had a citation. She asked that the Board rehear this case and that they excuse Mr. Valdez from the fine that was assessed because he had no knowledge of this.

Mr. Edgar Valdez, property owner, who has been sworn in, said it was not his couch.

Mr. Price asked what is the fine.

Ms. Sherri Philo, Deputy City Clerk, reported that the amount owed was the continuing civil penalty of \$2,400.00, the initial civil penalty of \$50.00, plus costs.

Mr. John Turner, City Attorney, asked why is this matter coming up at this time.

Mr. Valdez said that he was trying to get an equity loan and that is when he found out that there was a lien on the property. He then called the City to find out what occurred.

Mr. Turner said that he was not questioning his testimony. He explained that he needs to make sure the procedure they are following is correct. He said there has been a lien filed, which normally liens cannot be addressed by the Board but by the City Council. He asked that they take a 10-minute break.

Mr. Price asked was the violation against Mr. Valdez. Ms. Sanderson answered yes because the couch was on his property.

Mr. Price questioned that Mr. Valdez didn't appear because he didn't know about it. Ms. Sanderson said that is correct.

Mr. Valdez said that he was going back and forth to Houston.

Ms. Sanderson said that he thought his neighbor was getting his mail and taking care of everything, however his neighbor never told him that there was an issue.

The Board took a six (6) minute break at 2:50 p.m.

Mr. Turner recommended that the applicant submit an application to the City Council to have the lien removed. He said that he would put this item under his matters on next week's City Council meeting agenda. His recommendation would be that the lien be removed and that the \$100.00 fee for filing the application.

6. OLD BUSINESS

None

7. NEW BUSINESS

None

8. ADMINISTRATIVE MATTERS

None

9. CLERK'S MATTERS

None

10. ATTORNEY'S MATTERS

None

11. CHAIRMAN'S MATTERS

None

12. MEMBER'S MATTERS

None

13. ADJOURNMENT

Today's meeting adjourned at 2:59 p.m.

/sp