



CODE ENFORCEMENT & APPEALS BOARD HEARING

04/28/17

6:00 P.M.

CITY HALL COMMISSION CHAMBERS

204 ASH STREET

FERNANDINA BEACH, FL 32034

1. CALL TO ORDER/ROLL CALL/ DETERMINATION OF A QUORUM

1.1. SEAT CHAIR

1.2. SEAT ALTERNATE TO MEMBER SEAT

2. APPROVAL OF MINUTES

2.1. JULY 7, 2016 REGULAR HEARING MINUTES

Documents:

[2016 07-07 CEAB RM Minutes Draft.pdf](#)

3. OLD BUSINESS

3.1. MARCO DESTIN, INC., ALVIN'S ISLAND, 1576 SADLER ROAD, CASE 13-00098

Violation(s) of the City of Fernandina Beach Land Development Code exist: Sections 74-62 thru 74-66; 74-72 thru 74-75, Local Business Tax Receipts; and Chapter 5.03.03 Signs Permits Required. *Update to the Board.*

4. NEW BUSINESS

4.1. DELORES M MCNEIL ESTATE, 1109 GUM STREET, CASE 17-0005

Violation(s) of the City of Fernandina Beach Land Development Code exist: Sections 42-116, Cleaning of lots; and Section 42-173, Wrecked or Inoperable motor vehicles on private property declared a nuisance and prohibited. *Requesting Board determination of the case.*

4.2. MARK O'BRIEN, TAYLOR RENTAL CENTER, 400 S. 8TH STREET, CASE 17-0007

Violation(s) of the City of Fernandina Beach Land Development Code exist: Sections 42-116, Cleaning of lots; Maintenance of Structures; and continuing violation of Chapters 5.03.04 (c), Inspection of signs, (d) Unsafe signs and signs violating the Land Development Code and (LDC), (f) Maintenance of signs of the City of Fernandina Beach Land Development Code. *Requesting Board determination of the case.*

4.3. HATCHER, BARBARA & JACKSON, LINWOOD & JACKSON, MARSHA ETAL, 809 S. 12TH STREET, CASE 17-00016

Violation(s) of the City of Fernandina Beach Land Development Code exist: Sections 42-116 (a & b), Cleaning of lots; Maintenance of Structures; Maintenance of Structures; and 42-173 Wrecked or inoperable motor vehicles on private property declared a nuisance and prohibited. *Requesting Board*

determination of the case.

4.4. WAYNE B. WILLIAMS, 524 DIVISION STREET, CASE 17-00021

Violation(s) of the City of Fernandina Beach Land Development Code exist:
Sections 42-173, Wrecked or inoperable motor vehicle on private property.

Requesting Board determination of the case.

5. BOARD BUSINESS

6. ADJOURNMENT

Quasi-Judicial – Denotes that the item must be conducted as a Quasi-Judicial hearing in accordance with City Commission established procedure and Florida Statutes.

All members of the public are invited to be present and be heard. Non-English speaking individuals may request a language or sign interpreter at least ten (10) working days prior to this meeting. Persons with disabilities requiring accommodations in order to participate should contact the City Clerk at (904) 310-3115 or TTY/TDD 711 (for the hearing or speech impaired).

For information regarding this matter, please contact the Community Development Department (904) 310-3135. If any person decides to appeal any decision made by the Code Enforcement & Appeals Board with respect to any matter considered at such meeting he/she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be made.

1. **Call to Order** – Vice-Chair Desilet called the hearing to order at 5:35 pm.

Roll Call/Determination of Quorum

Members Present

Andre' Desilet, Vice-Chair
Cynthia Crow
Marlene Chapman (alternate)

Henry Byrd
Adam D. Kaufman
Gail Shults (alternate)

Members Absent

Benjamin Morrison, Chair
Scott Steffen

Carlton "Buddy" C. Boyd

Others Present:

Tammi Bach, Board Attorney
Michelle Forstrom, Code Compliance Officer
Cathy Sabattini, Recording Secretary

Member Chapman and Member Shults were seated as voting members for this meeting due to the absence of Member Steffen, Member Boyd, and Chair Morrison.

2. **Approval of Minutes** - The Minutes of the May 16, 2016 Special Hearing Minutes were presented for approval. **A motion was made by Member Kaufman, seconded by Member Byrd, to approve the Minutes. Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

3. **New Business**

Board Attorney Bach outlined the procedures for the quasi-judicial hearings. Member Kaufman explained he knows Mr. Goldman and his wife. He reported that he briefly spoke to Mr. Goldman in passing that he would be at this hearing, but they did not talk about the specifics of the case. There were no other ex parte communications to be disclosed by the board. Recording Secretary Sabattini administered the oath to the parties that were about to present testimony.

- 3.1. **Carolyn E. Riddle, 4187 South Fletcher Avenue, Case 14-00047** - Violation(s) of the City of Fernandina Beach Code of Ordinances continue to exist (after granting an extension): Sections 42-116 (b), Cleaning of lots; Maintenance of Structures. ***Requesting board determination of the case.***

The board deviated from the agenda and heard this case second on the agenda since there was no representative present for the case at this time.

- 3.2. **Louis E & Susan W Goldman Jr, 201 Front Street, Case 16-00024** - Violation(s) of the City of Fernandina Beach Code of Ordinances exist:Section 42-116 (a &b), Cleaning of lots; Maintenance of Structures. ***Requesting board determination of the case.***

Ms. Forstrom entered the staff report and all the evidence into the record. Mr. Goldman was presented a copy of the staff report and he did not have any objection to entering the items into the record. Ms. Forstrom presented details of the case as outlined in the staff report including that on November 22, 2011 Ms. Adrienne Burke and she conducted a historic district assessment and during the assessment they took pictures of properties of concern. She stated over the next few years they kept an eye on the property and were in contact with Mr. Goldman about cleaning it up. She explained on May 16, 2016 a code case was opened for this property after talking with Mr. Goldman where she requested he bring the property into compliance, and was told that he was not going to put any more money into this property. She recapped the findings from June 17, 2016 where some of the crumbling structure and debris had been removed. She reported the property was still in violation and no demolition permits had been applied for. She recommended assessing \$100.00 per day, per violation until the property was brought into compliance and permits have been pulled; and to recover administrative fees incurred until compliance is achieved.

Member Crow questioned the number of violations. Ms. Forstrom replied one. She clarified she used two sections of code, but it all falls under unsafe structure. Member Chapman inquired if there were any fines up to this point. Ms. Forstrom replied no and explained there had not been a case because she had been working with Mr. Goldman to resolve this without having to go that route. Member Crow inquired if the correction was just demolition. Ms. Forstrom replied demolition and cleaning up of the property. Member Kaufman questioned about fencing the property off. Ms. Forstrom stated it was still a nuisance. Member Kaufman commented if it was a safety hazard you prevent access. There was some discussion about the violation of Section 42-42 nuisance and 42-116 - Maintenance of Structures. It was noted since this was in the Community Redevelopment Area (CRA) Mr. Goldman could not put up a privacy fence, because it would have to be a fence that could be seen through for the view.

Mr. Louis Goldman, 23 South 6th Street, questioned what the second section was that was cited. Ms. Forstrom replied it was mainly Section 42-116 with regard to maintenance of structure. Mr. Goldman presented each of the board members with a copy of Section 42-116 and read (a) into the record. He pointed out there was no vegetation on the lot, and if there is some it was not over 12 inches. He referred to all debris and rubbish and stated Ms. Forstrom's pictures showed some riprap under the fence. He pointed out this property is zoned Industrial Waterfront (IW) and explained that debris and rubbish accumulates on industrial property. He stated he removed some debris and cleaned it up a bit. He expressed his opinion this wasn't a health hazard and it doesn't provide any sanctuary for illegal activities. He commented the determination of unsightly was in the eyes of the beholder. He stated he didn't see where he was in violation of (a), and then read into the record 42-116 (b). He questioned the board if they saw in the picture any danger to surrounding property, any sanctuary for illegal activities, or a hazard to the public. He referred to unsightly appearance and questioned whose opinion makes it unsightly. He also questioned the board if he was in violation of 42-116.

Member Kaufman questioned Ms. Forstrom what would bring this property into compliance. Ms. Forstrom replied demolition. Member Crow inquired about the date of Mr. Goldman's photo. Mr. Goldman replied two days ago. The board reviewed the photos for this case and it was noted there was not a safety fence around this property. Ms. Forstrom pointed out there

was a no trespassing sign posted on the property. She explained since 2011 different parts of this structure have fallen into the river, and there are gaping holes. She stated the structure continues to deteriorate and fall into the water. There was a review of the photos for this structure and some discussion about what had been removed.

Vice-Chair Desilet noted in the staff report that Mr. Goldman secured an environmental resource permit and Army Corps permit for this property. He questioned if that was for the replacement of this dock structure. Mr. Goldman replied he has a permit from the Department of Environmental Protection (DEP) and the Army Corps of Engineers (ACOE) to put a 45 foot wide bulkhead out. He stated the property is 55 feet wide and the riprap was going to go on the sides. Vice-Chair Desilet questioned to construct the improvements permitted would all of the existing structure have to be demolished. Mr. Goldman replied yes.

Vice-Chair Desilet questioned if the demolition Ms. Forstrom was referring to for compliance was the removal of the decking that is falling in, the pilings, or everything above water. Ms. Forstrom replied the dock/deck structure because it continues to fall into the water. Member Shults questioned if Mr. Goldman was willing to pay for demolition. Mr. Goldman explained he spent \$5,000 to move the riprap and take down part of the tilted concrete. He estimated the cost of the demolition to be around \$30,000 because you need a crane and a barge to haul it off. He briefly explained how the structure that is there prevents erosion of the upland portion of this property, and that without it there would be no upland.

Board Attorney Bach explained she did a Butler Act Claim for the City Marina and the City was able to get many acres of submerged lands released. She stated the only evidence the City needed was what was there prior to 1951. She commented they could look at Sanborn Maps, and the aerial photographs were really good from the University of Florida from the 1940's. She pointed out if Mr. Goldman or his neighbors wanted to make a claim like that she has the paperwork. There was a brief discussion about dealing with the State on this. There was further discussion about this case noting that debris had been cleaned up, but there was still an issue with the crumbling unsafe structure that was in disrepair. It was noted there was concrete on top of the wooden structure.

Mr. Goldman pointed out there are nine properties on the waterfront north of Brett's and four parcels to the south of Brett's. He questioned how many of those were in violation of the same ordinance. Ms. Forstrom replied she was working with two that are in violation. She pointed out as long as they are working with her to bring their property into compliance they are not brought before the board, but if they stop doing that they will get a letter and if they still don't come into compliance the case will be brought before the board. Mr. Goldman commented he contacted the other owners and no one else got a letter like this. He stated if he was in violation then every property there has a violation like that. There was a brief discussion about this and Mr. Goldman expressed his concern that this was selective Code Enforcement. The board also had some discussion about protecting the public from access to the unsafe structure, and it was noted that the structure was still in disrepair.

The public hearing was opened at this time.

Mr. Lynn Williams, 1899 South Fletcher, briefly commented that the waterfront looks better than the pictures from the 1940's and 1950's. He noted that unsightly was in the eyes of the beholder. He referred to safety and pointed out there is a fence on the property and you don't go through it easily. He explained when you look at what is developable along the waterfront it is very small, and eventually there will be money to purchase those properties to build a park and leave the buildings standing. He agreed with Mr. Goldman there are a number of unsightly problems along the waterfront. He pointed out the area is industrial waterfront and the idea of enforcing a higher standard seems to be an unfair thing to do.

Mr. Chip Ross, 210 North 3rd Street, reported he called Code Enforcement about why the properties along Front Street were not in compliance with the code. He pointed out the Land Development Code (LDC) applies to all properties, and whether it was fair or not was not the question. He stated the law applies as written to the entire City. He referred to safety and pointed out it was a deteriorating structure that people could walk out on and it was unsafe. He referred to the photos in the packet, and reported he also complained to the DEP who was in the process of looking at these properties. He expressed his opinion all the crumbling concrete, crumbling piers, and the wood should be removed. He requested the board to enforce the law on this property, and pointed out the way to change things is one property at a time.

Mr. Goldman commented other than "not exceed 12 inches" everything else was subjective to whoever is looking at the property. He stated he didn't see where there was a violation of that.

The public hearing was closed at this time.

Vice-Chair Desilet referred to the statement that removing the structure would create a vulnerability to erosion and inquired if there was any seawall in place. Mr. Goldman explained there was just earth that goes down the bank. Vice-Chair Desilet pointed out riprap is basically broken concrete and it is a legitimate stabilizing mechanism if permitted by the DEP and the ACOE to be placed along the shore to stabilize that area.

Member Crow pointed out when you read Section 42-116 it says maintenance of structure it doesn't say maintenance of residential structures or maintenance non-residential. She stated she was comfortable since it says "structure" that it applies to this. Vice-Chair Desilet explained as far as the DEP and the ACOE this was absolutely a structure. Board Attorney Bach pointed out since it doesn't say residential or call out particular zoning categories it applies to all properties in the City. She explained the board will come to their conclusion based on everything that was said and what they are reading. There was some deliberation about the information presented and it was noted that each case comes individually to the board. The board had some discussion about this case and the idea of making a barrier to block access off from the public as protection from the unsafe structure. There was a discussion of whether there was a violation on this property.

A motion was made by Member Kaufman, seconded by Member Crow, to find the property in violation of Section 42-116 (b) as a hazard to the public. Member Shults commented you have to set a precedence somewhere, and if you don't it is just going to

accelerate. She pointed out something has to be started somewhere. **Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

There was a brief discussion about this property that was on the market for sale, but there were not any prospects for it right now. Member Kaufman inquired if staff's position was demolition. Ms. Forstrom replied she didn't believe a fence was going to stop the structure from deteriorating. Member Kaufman questioned if there was something other than a fence that was not demolition that would bring the property into compliance. Ms. Forstrom replied not that she knew of, but if there was something Mr. Goldman could bring that would suffice as well. Vice-Chair Desilet inquired if it was the board's responsibility to dictate what compliance is or was that the discretion of the Code Enforcement Officer. Board Attorney Bach replied it is both, and explained ultimately the board decides. She pointed out when there is demolition of a residential structure there is a structural engineer report and they find out if there are any hazardous things such as asbestos, etc. She stated the board couldn't order demolition tonight. Ms. Forstrom explained if Mr. Goldman can show her there was something else that would bring this property into compliance she was for it, because ultimately she wants compliance. She stated if there was a report that shows what can be done to bring this property into compliance without demolition she was more than happy to go over that with him. There was further discussion about this noting that demolition may be taking the structure down creating riprap to enforce the uplands. It was noted Mr. Goldman would need to come up with a plan to bring this into compliance and that would take some time.

Mr. Goldman questioned what compliance would be. Vice-Chair Desilet expressed his opinion if Mr. Goldman were to engage a professional to evaluate the property and issue a report indicating what steps are necessary to stabilize the property and address the public safety issue that would be taken into account. There was further discussion about compliance and the concerns about the decking that was falling apart. The board had some deliberation about an appropriate motion for this case.

Mr. Ross reported the DEP was currently investigating this piece of property and probably has come up with a remedial plan. He suggested contacting the DEP prior to making a decision, and explained the DEP indicated to him they were going to contact each individual owner. There was a brief discussion about what the DEP was looking at, and a discussion about securing the property with a fence. Board Attorney Bach explained that if the board thought a fence would be an immediate solution to keep the public safe then the board would order that a fence be installed and give a deadline for that. She stated the case would be kept open and at a future meeting the board would be given an update. There was further deliberation about an appropriate motion for this case. **A motion was made by Member Crow, seconded by Member Byrd, that the respondent pay the administrative fees incurred to date and pay that within 30 days; and that within 60 days the property be fenced in a manner to restrict public access; and in the event that a fence is not put up in 60 days that a fine will accrue at \$50.00 a day until compliance with this order. Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

3.1. Carolyn E. Riddle, 4187 South Fletcher Avenue, Case 14-00047 - Violation(s) of the City of Fernandina Beach Code of Ordinances continue to exist (after granting an

extension): Sections 42-116 (b), Cleaning of lots; Maintenance of Structures. ***Requesting board determination of the case.***

Vice-Chair Desilet reported he had seen these photographs before, and his firm, Gillette & Associates, was contacted about a structural assessment for this property. He stated he didn't personally do any inspections. Ms. Forstrom explained this case was going to be on the February agenda, but it was pulled due to not receiving the certified card back. She presented details of the case as contained in the staff report, which started back in 2014 from a complaint by a neighbor. She explained on May 10, 2016 she hand delivered notice to both the property in violation and the owner's residence (2nd Notice of Violation/Notice of Hearing). She reported she has not heard from anyone since October 27, 2015 when an extension was requested and granted, and the property was still in violation and no building permits have been applied for. She recommended a fine of \$100.00 per day until this property is in compliance and permits have been applied for and issued by the Building Department, and to recover administrative fees incurred until compliance is achieved. She referred to the picture dated May 10, 2016 and explained the beam has fallen even more and the deck was collapsing more. She reported she was told there have been realtors and people looking at the house on that deck.

Member Crow inquired if the respondent received the notice. Ms. Forstrom explained she posted the property for this hearing, because they would not pick up the certified letter. She stated she was by the property a couple of times, and the notice was gone. Ms. Sabattini reported that the agenda was mailed to the respondent at their Will Hardee address. It was noted proper notice was given to the respondent. Member Crow noted the letter addresses the disrepair of the outside staircase and the deck. She questioned if there was anything that addresses the gap in the deck railing. Ms. Forstrom stated that was covered by deck.

It was noted the respondent was not in attendance and there were no public comments at this time.

Member Crow inquired how long it would take to bring the property into compliance. Ms. Forstrom explained she couldn't give them more than 30 days per Statute 162. She stated if they start working on it then she can give an extension. **A motion was made by Member Crow, seconded by Member Chapman, to find the respondent in violation of Section 42-116 (b). Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

There was some discussion about an appropriate motion and the idea of giving the respondent 30 days to apply for permits, which would be a start to bring this property into compliance. Included in the discussion was making the access to the structure safe or to restrict access to the stairs. Member Chapman reported she had looked at this house with a realtor, and explained there was a door underneath the deck for access. She commented this house is a tear down and there was no feasible way to repair this home. She stated the inside stairs are fine, and the realtor said that the property was vacant for about 7 years. She provided further comments about this structure. Member Kaufman suggested the Building Official take a look at this property to see if it was an unsafe structure. Member Byrd noted that temporary supports were installed underneath the deck. He pointed out the property owner would need to show

that it has been made safe. There was further discussion and deliberation about how to proceed with this case. **A motion was made by Member Crow, seconded by Member Chapman, that within 10 days the respondent make access to the structure be made safe including but not limited to all exterior stairs and decks or within 10 days restrict access to the structure; and within 30 days apply for permits to bring the property into compliance; and that the respondent pay all administrative fees; and in the event no action is taken within 10 days a fine of \$100.00 a day will accrue until into brought into compliance and if no permits are pulled within 30 days an additional fine of \$100.00 a day will be assessed. Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

4. Board Business

4.1 Update - Alvin's Island, 1575 Sadler Road, Case 13-00098 - Board Attorney Bach reported the City filed the lawsuit and was waiting for them to be served. She explained she asked for injunctive relief so that they have to tear down the sign. She pointed out they don't have a business license either, and they cannot obtain one unless they are in compliance with the City's code. There was a brief discussion about this and it was noted that the fine was still accruing.

Next Meeting – The next regular meeting would be August 4, 2016.

5. Adjournment - There being no further business to come before the Code Enforcement and Appeals Board, the meeting was adjourned 7:58 pm.

Secretary

Benjamin Morrison, Chair